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Date	Training	Lead	Document	Attendance
30 September 2016	Induction Program	Nick O'Connor (former Group Mgr Governance)	 Councillor+Induction +28+September_28+	
12 October 2016	Code of Conduct – Clr Induction	Nick O'Connor (former Group Mgr Governance)		
19 October 2016	Ethical Behaviour – Clr Induction	Lindsay Taylor, Lindsay Taylor Lawyers	 Schedule.pdf  Module+1.2+Roles+ &+Responsibilities+-  Module+1.2+Roles+ &+Responsibilities+c  Module+2.1+Defama tion+by+Councillors+  Module+2.2+Confide ntiality+Obligations+  Module+2.3+Delegat ions+to+the+General	

			 Module+2.4+Disorder+Misconduct+Corruj  Module+2.6+General+Legal+Liability+and	
19 October 2016	Working as a Team - Induction	Sophie Bruce, UTS Centre for Local Government	 Wingecarribee+councillor+teambuilding+	
24 October 2016	LG Act Review - Induction	Nick O'Connor (former Group Mgr Governance)		
26 October 2016	Code of Conduct - Induction	Chris Shaw, Shaw Reynolds	 Code of Conduct presentation by Chris	
26 October 2016	Planning knowledge & responsibilities of Councillors - Induction	Chris Shaw, Shaw Reynolds	 Planning knowledge and responsibilities of	
16 January 2017	Councillor Induction Feedback	Danielle Lidgard	 FW_ Councillor Induction 2016 Feedb	
1 February 2017	Team Building Creating an Action Plan	Nick O'Connor (former Group Mgr Governance)	 Clr Briefing Team Building Workshop - (
1 February 2017	Related Party Transactions	Nick O'Connor (former Group Mgr Governance)	 Related Party Disclosures Policy.ppt	

15 February 2017	General Legal Liability and Obligations of Councillors	Lindsay Taylor, Lindsay Taylor Lawyers	 Module 2 6 General Legal Liability and Ob	
15 February 2017	Retention of confidential business papers by Councillors	Lindsay Taylor, Lindsay Taylor Lawyers	 Retention of Confidential Business	
15 February 2017	Local Government Amendment (Governance and Planning) Act 2016	Lindsay Taylor, Lindsay Taylor Lawyers	 Module - Local Government Amendr	
10 – 12 March	Executive Certificate for Elected Members – Cllr Graham Andrews	LGNSW	 1311_001.pdf	Approved by Mayor & GM
14 June 2017	Councillor Expenses Policy	Nick O'Connor (former Group Mgr Governance)	 Councillor Expenses and Facilities Policy 20	
5 July 2017	Councillor Expenses Policy	Nick O'Connor (former Group Mgr Governance)	 Councillor Expenses and Facilities Policy 20	
2 August 2017	Code of Conduct	Chris Shaw, Shaw Reynolds & Associates	 Wingecarribee SC Code of Conduct Train	
9 August 2017	Councillor Expenses Policy	Nick O'Connor (former Group Mgr Governance)	 Councillor Expenses and Facilities Policy 20	
22 November 2017	Draft Model Code of Conduct	Nick O'Connor (former Group Mgr Governance)	 Draft Code of Conduct.pptx	

14 February 2018	Draft Code of Meeting Practice and Councillor Induction and Professional Development Guidelines	Nick O'Connor (former Group Mgr Governance)	 COMP and Clr Professional Developr	
14 May 2018	Undertaking General Manager Performance Reviews, Clr Nelson	Australian Institute of Directors	 FW_ Re_ Delegates Report Peter Nelson 1	
25 July 2018	Point of Order	Barry Paull	 A Point of Order (002).pptx	
6 March 2019	The Model Code of Conduct 2018 – Key Changes	Lindsay Taylor, Lindsay Taylor Lawyers	 LTL PPT - New Model Code of Conduct - Pre	
6 March 2019	New Model Code of Meeting practice	Lindsay Taylor, Lindsay Taylor Lawyers	 LTL PPT - New Model Code of Meeting Prac	
3 April 2019	Code of Conduct + Code of Meeting Practice	Danielle Lidgard/Richard Mooney		
5 June 2019	Code of Conduct + Code of Meeting Practice – Post exhibition updated	Danielle Lidgard/Richard Mooney	 Clr Briefing CoMP and CoC.pptx	
4 September 2019	Councillor Involvement in Active Land & Environment Court Litigation	Mark Pepping/Ian Lacy		
9 October 2019	Model Code of Conduct Consultation – Gifts & Benefits submission report	Danielle Lidgard	 Clr Brifing - OLG Gifts and Benefits Cor	

2 September 2020	Amendments to Code of Conduct	Danielle Lidgard	 Clr Briefing Code of Conduct.pptx	
30 September 2020	Roles & Functions Code of Conduct	Maire Sheehan (part of Performance Improvement Order)		All Councillors
7 October 2020	Code of Meeting Practice Councillor Workshop	Maire Sheehan (part of Performance Improvement Order)	 CoMP Wingecarribee October 2020.pptx	All Councillors (Clr Halstead only AM session due to medical appointment)
7 October 2020	Motion Procedure	Maire Sheehan (part of Performance Improvement Order)	 motion procedure Wingecarribee.pdf	All Councillors (Clr Halstead only AM session due to medical appointment)
8 October 2020	Individual Mediation sessions with Councillors <ul style="list-style-type: none"> - Clr Gair - Clr Andrews - Clr Halstead - Clr Scandrett - Clr Turland 	Norm Turkington (part of Performance Improvement Order)		
9 October 2020	Individual Mediation sessions with Councillors <ul style="list-style-type: none"> - Clr McLaughlin - Clr Nelson - Clr Whipper 	Norm Turkington (part of Performance Improvement Order)		

15 October 2020	Mediation session between - Clr Turland and Acting General Manager, Mr Barry Paull - Clr Turland and Clr McLaughlin	Norm Turkington (part of Performance Improvement Order)		
19 October 2020	Mediation session between - Clr Turland and Clr Gair	Norm Turkington (part of Performance Improvement Order)		
21 October 2020	All Councillors mediation session	Norm Turkington (part of Performance Improvement Order)		
10 March 2021	Code of Conduct	Danielle Lidgard		

Clr Training related info

Date	Training	Lead	Document
2 MY 2016	Enquiry from Jane King Latte Life	Australian Institute of Company Directors	 FW_ RE_ Question .msg
28 September 2016	Enquiry from Clr Scandrett	Australian Institute of Company Directors	 FW_ RE_ AICD NSW _ Upcoming Illawarra D
22 November 2016	Enquiry from Clr Scandrett	Australian Institute of Company Directors	 FW_ Fwd_ Continued professional developr

25 July 2017	Enquiry from AICD	Australian Institute of Company Directors	 FW_ FW_ Continued professional developr  1 August - minutes extract.doc
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Office of
Local Government

COUNCILLOR HANDBOOK

OFFICE OF LOCAL GOVERNMENT
IN COOPERATION WITH
LOCAL GOVERNMENT NSW

OCTOBER 2016

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FOREWORD

FROM THE MINISTER FOR LOCAL GOVERNMENT

Congratulations on your success at the recent local government elections, new and returning councillors alike. Your communities have shown great faith in your commitment to the local area and I know this is a responsibility you will not take lightly.

With the opportunities brought by local government reform, this is a great time to be a councillor. The reforms bring bright prospects of better infrastructure and services that residents deserve, as well as opportunities for you as local leaders to spearhead these initiatives.

Although challenging at times, your service will have a profound impact on your local community both now and into the future.

It is an honour and a privilege to serve as a councillor. In fulfilling your duties with the integrity expected of a government official, this handbook is a vital resource. It outlines how to meet the wide range of obligations that a local government elected representative in New South Wales has.

It will play a strong part in ensuring that you are fully prepared for the role and give the community comfort that it has civic leaders well supported and skilled as they perform their duties.

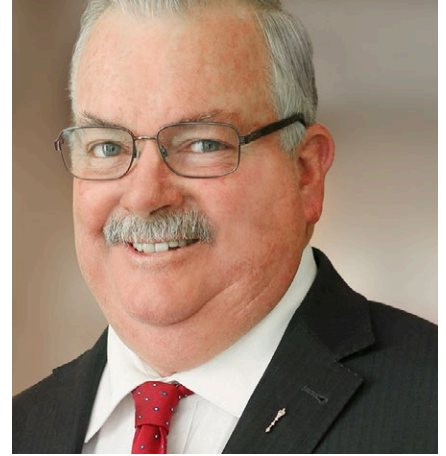
This handbook will serve throughout your term as a reference guide. In conjunction with workshops run by the Office of Local Government, you will develop your skills as a councillor and be kept up to date on issues affecting your responsibilities, particularly during this important time of reform.

Again, my warm congratulations to you on your successful election and I wish you the best in your role as local leaders of your communities.

A handwritten signature in black ink that reads "Paul Toole". The signature is fluid and cursive, with the first name "Paul" and last name "Toole" clearly distinguishable.

The Hon Paul Toole MP

Minister for Local Government



FOREWORD

FROM THE PRESIDENT OF LOCAL GOVERNMENT NSW

If you are reading this guide as a new councillor, I congratulate you on joining the council and thank you for taking up a role that can make a real difference to the community that you represent. If you have already served as a councillor and are reading this guide to make sure you understand the latest and most important aspects of your role, then I commend you for your ongoing public service.

Local government is the closest sphere of government to communities. As councillors, you have been democratically elected as community advocates to protect local interests and find ways to improve local areas through community consultation and engagement.

Councillors also communicate the needs and concerns of their community to State and Australian Government, industry and the media.

Councils in NSW provide a wide array of services and facilities to their communities and are the custodians of significant public resources and assets. Councillors have the important role of ensuring their community's needs are adequately met within their budget limits. You have the opportunity to work together with your fellow councillors and with the support of your council's administration to achieve local goals.

The community expects their elected councillors to maintain the highest standards of conduct, as well as observe their legal obligations to support effective decision-making processes. While being a councillor can at times be challenging, it's also an extremely satisfying experience and provides a unique opportunity to not only interact with the community, but also to influence the vision and strategic direction of your local area.

Engaging in learning, training and development will be essential in gaining and maintaining the knowledge and experience you need. For many years Local Government NSW has encouraged the professional development of councillors to ensure their effectiveness both as a member of a governing body and as an elected representative.

We are very pleased to be working in partnership with the Office of Local Government on this publication that will guide and support you through your term as a councillor.

Cr Keith Rhoades, AFSM
President
Local Government NSW



INTRODUCTION

Being a councillor is a significant privilege and challenge. New councillors will have a lot to learn as quickly as possible. Returning councillors need to be up to date with changes that impact the sector and to continue to develop their knowledge. This handbook will help new and returning councillors to be effective in the role.

The term of councils commencing in September 2016 will see significant changes to the way councils are governed through legislative and other reforms. Some of the changes that have already commenced include:

- » changes to the prescribed roles of mayors, councillors and general managers
- » a requirement for councillors to swear an oath or take an affirmation of office
- » an extension of the term of office for mayors elected by councillors from one to two years
- » external audit being overseen by the Auditor General

Some other important reforms that will be rolled out over this term include:

- » a requirement for councils to provide induction training and ongoing professional development
- » changes to the way in which ethical standards are prescribed and enforced
- » mandating an internal audit, risk and improvement committee
- » a new performance measurement framework for councils
- » changes to the way ethical standards are regulated
- » changes to the Integrated Planning and Reporting framework

All these changes are designed to improve the way councils exercise their functions and to assist them to meet the high standards of performance and internal governance that their communities are entitled to expect of them.

To help you hit the ground running, the following page contains a summary of the five things every councillor needs to know to achieve better outcomes for their community.

5 key things every councillor needs to know

How to achieve better outcomes for your community

Leadership

Be an effective leader of your local community by:

- » setting the vision and direction for your community without getting involved in the day-to-day operations of your council
- » balancing your advocacy role with the need to work as a team with other councillors to make decisions that benefit the whole community
- » balancing short and long term community needs and interests
- » fostering and maintaining positive internal and external relationships

Open decision-making

Ensure effective participation in council business by:

- » making informed decisions through good preparation and involvement
- » following your council's Code of Meeting Practice and/or legislation on meetings
- » drawing on the information and assistance that the general manager can provide to councillors in making their decisions

Conduct

Conduct yourself in a way that enhances and maintains the credibility of your council and local government as a whole by:

- » acting lawfully, honestly, transparently and respectfully in line with your council's Code of Conduct
- » exercising care and diligence in carrying out your functions
- » ensuring your relationships with the general manager and staff are based on trust and mutual respect, following clear and agreed protocols about staff contact

Accountability

Be accountable for understanding and meeting your community's needs by:

- » engaging and consulting with your community
- » responsibly managing your council's money and assets to meet current and future needs
- » considering the long term consequences of your decisions
- » ensuring the requirements of the Integrated Planning and Reporting framework are met

Learning

Take responsibility for your ongoing learning and professional development by:

- » regularly assessing your learning needs
- » actively seeking opportunities to acquire further knowledge and skills
- » contributing your knowledge and skills to the development of local government as a whole

Purpose of this handbook and how to use it

While the '5 key things every councillor needs to know' summary is a helpful start, it's important that you have a comprehensive understanding of your role and responsibilities to be an effective councillor.

This handbook is the go-to resource for all councillors during their electoral term and includes links to other useful resources when more information is needed in relation to a particular issue.

It provides more detail on the issues covered in a series of workshops that will be held for new and returning councillors following the local government elections in September 2016.

This handbook is also available on the Office of Local Government's website electronically for ease of access.

If you still have queries after reading this handbook, there are a number of key organisations that may be able to assist.

We have provided a list of these organisations and their contact information in [Appendix 2 - Key organisations](#).



Section 1

AN OVERVIEW OF LOCAL GOVERNMENT IN NSW

1.1 Local government

Local government in NSW employs over 45,000 people and spends more than \$10.3 billion annually. The services it provides range from traditional town planning and waste management to community development, environmental protection, economic development and much more.

Councils can order people to do certain things, such as demolish a building or restrain a dog. They can also issue orders to ensure that public amenity is not compromised; for example, to prevent a noise nuisance, or the operation of an inappropriate business in a residential area. Increasingly, councils are playing a role in not just delivering services to their community but also shaping the future of the community by working with local people to develop and deliver a vision for each place.

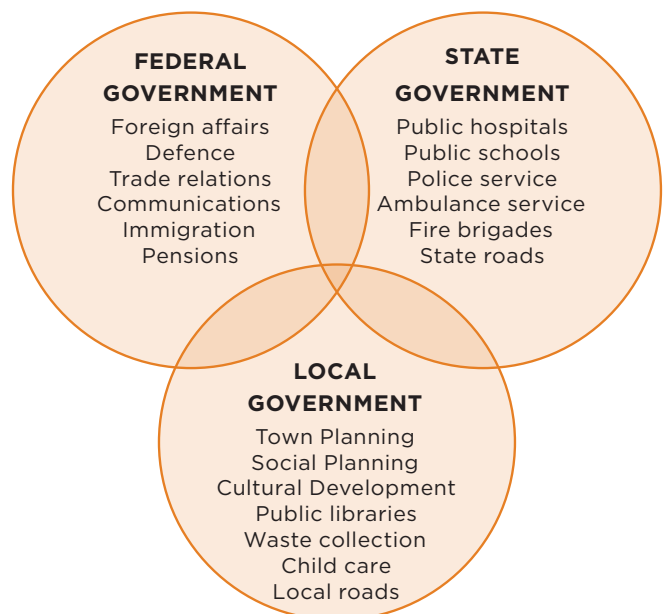
Councillors play a vital role in meeting the needs of local communities. They serve their communities by listening to people in the local area and then representing those views on council. They make decisions that can change local communities and environments.

The communities that councillors represent are made up of a mix of people with different needs and interests from a diverse range of backgrounds. Effective councils are made up of councillors that reflect this mix.

Local government is often called 'the third sphere' of government in Australia. It is an elected system of government directly accountable to the local community.

Each council is an independent, statutory body responsible for administering its local government area.

'The council' comprises all the elected representatives, or councillors, who work together to govern their local community. The council provides leadership to its local community.



The three spheres of government and examples of their responsibilities

For further information about the specific services provided by councils, see [*Services and functions that councils provide*](#), on page 13.

1.2 Fit for the Future

The NSW Government has been working with local councils since 2011 to achieve the shared vision of strengthening local communities.

The Fit for the Future program is the NSW Government's plan to create a stronger, modern system of local government that will deliver the high-quality infrastructure and services that communities across NSW deserve.

Since the launch of Fit for the Future in September 2014, significant progress in working towards this vision has been made, with the creation of new councils, modernising the Local Government Act (the Act), establishing new models of regional coordination with Joint Organisations and starting to address the unique issues facing the communities of the Far West of NSW.

The next phase of reform builds on these achievements as well as the consultation, research and independent reviews conducted since 2011.

Fit for the Future includes a number of integrated initiatives and is delivered through three key programs, each working to build stronger councils and stronger communities.

Fit for the Future has three programs:

Program 1 — Creating stronger councils

- » Create new councils
- » Establish Joint Organisations for regional NSW
- » Develop whole-of-government solutions for Far West NSW communities

Program 2 — Improving council performance and governance

- » Support 'not fit' councils to become 'fit'
- » Deliver programs to improve council capability, with an initial priority on financial sustainability
- » Support rural councils to deliver the services their communities need
- » Provide new powers to intervene in financially unsustainable councils
- » Deliver tools to support improved leadership and governance

Program 3 – Strengthening the system of local government

- » Create streamlined, modern legislation
- » Improve financial systems, including rating, access to TCorp and Financial Assistance Grants reforms
- » Develop stronger accountability systems for councils, including Auditor-General oversight and performance improvement tools and frameworks

The broad range of initiatives delivered through Fit for the Future recognise that there is no 'one-size-fits-all' approach to local government, with different solutions required to address the varied circumstances and needs of communities across the State.

The NSW Government is committed to working collaboratively with councils as the next stage of reform is delivered over the coming years.

Councillors are encouraged to become familiar with the Fit for the Future program and the opportunities available for you to contribute to strengthening local communities.

More information on Fit for the Future is available at www.fitforthefuture.nsw.gov.au or by contacting the Office of Local Government.

1.3 The principles for local government

All councillors should read and be familiar with the principles prescribed under the Local Government Act 1993 to guide the exercise by councils of their functions, decision making, community participation, sound financial management and integrated planning and reporting

The *Local Government Act 1993* has been amended to prescribe new principles for local government. The object of the principles is to guide councils to carry out their functions in a way that facilitates strong, healthy and prosperous local communities.

Under these principles, in exercising their functions, councils should:

- » provide strong and effective representation, leadership, planning and decision-making
- » carry out their functions in a way that provides the best possible value for residents and ratepayers
- » plan strategically, using the Integrated Planning and Reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community
- » apply the Integrated Planning and Reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements
- » work co-operatively with other councils and the State Government to achieve desired outcomes for the local community
- » manage lands and other assets so that current and future local community needs can be met in an affordable way

- » work with others to secure appropriate services for local community needs
- » act fairly, ethically and without bias in the interests of the local community
- » be responsible employers and provide a consultative and supportive working environment for staff.

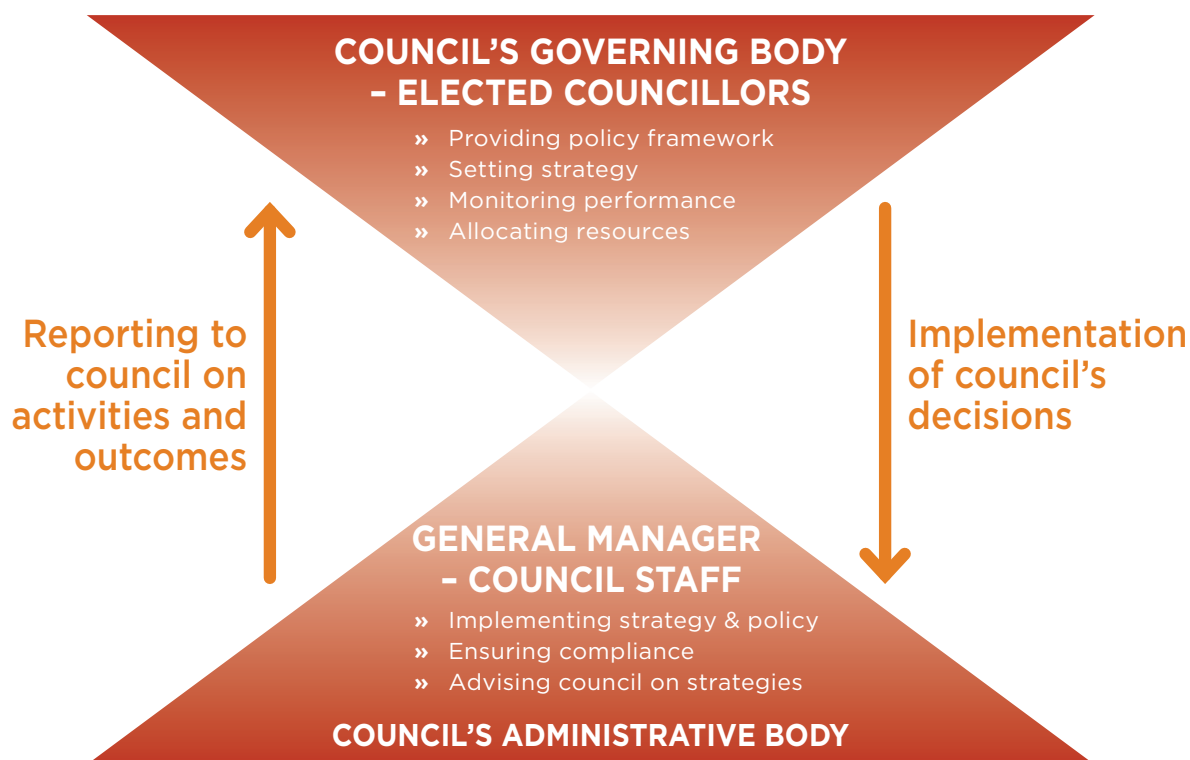
When making decisions, councils should:

- » recognise diverse local community needs and interests
- » consider social justice principles
- » consider the long term and cumulative effects of actions on future generations
- » consider the principles of ecologically sustainable development
- » ensure their decisions are transparent and that decision-makers are accountable for decisions and omissions.

Councils should also actively engage with their local communities through the use of the Integrated Planning and Reporting framework and other measures.

The Act also prescribes principles of sound financial management and integrated planning and reporting, which are discussed in more detail below.

1.4 A council's structure



Key Relationships

Between five and 15 elected councillors hold office as 'the council' for four years. The elected council's role may be compared to that of the board of a public company or a more complex version of a board that oversees a local club; the elected council oversees the activities of the council but is not involved in the day-to-day running of the council. The 'shareholders' of a public company can be likened to a local community.

Many councils delegate functions to specialist committees that include councillors, council staff

and members of the public. These committees provide councillors with the opportunity to participate in council decision-making at a more detailed level.

Councils employ staff to administer the council. The general manager is the most senior member of staff and is responsible to the council for carrying out council decisions and policy and overseeing the day-to-day operation of the council.

The general manager provides the link between the elected council and its employees. While all council staff have a duty to carry out council decisions, they are responsible to the general manager, not the councillors. Individual councillors cannot direct staff in their day-to-day activities. However, this is counterbalanced by the responsibility of general managers to provide information, guidance and support to councillors to make good decisions.

1.5 Services and functions that councils provide

Councils provide a very wide range of services and functions. Broadly, these may be grouped into five categories, as shown below.



Services and functions that councils provide

Examples of services that fall into each of these categories are given below. These represent a sample only.

Providing and maintaining infrastructure

Providing an appropriate and affordable level of infrastructure is one important contribution a council makes to its community. For example, councils provide and maintain local roads, bridges, public car parks, footpaths, sporting fields, parks and art galleries. Outside of metropolitan areas, councils are also responsible for water and sewerage. Councils must consult with their local community about providing and maintaining these public assets.

Planning for sustainable development

Councils have a major role in providing long term strategic planning for a local government area as well as town planning, zoning and sub-divisions. They engage communities in key planning decisions that will affect the growth of their communities. They seek to integrate planning for infrastructure with the strategic planning of land use so that infrastructure that supports growth is funded and delivered.

and use their regulatory powers to prevent pollution or restore degraded environments.

Councils also have environmental protection responsibilities under other legislation. For example, councils are responsible for noxious weed control under the *Noxious Weeds Act 1993*.

They also carry out activities to preserve access and amenity to the environment, such as recycling, street cleaning, regulating parking and management of vegetation including bush land reserves.

Supporting the community

Councils regularly consult with and assess the needs of their community with a view to supporting the community and its development. They provide a range of services, including some aimed at groups in the community with special needs.

Community services include libraries, sport and recreation facilities, home care services such as 'meals on wheels', swimming pools, playground facilities and child care centres.

Supporting economic development

Many councils contribute to economic development by working with local businesses, coordinating economic development groups/activities/events and providing tourism services and facilities.

Safeguarding public health

Councils help maintain high standards of public health and reduce the risk of exposure to a wide range of diseases through activities such as food shop inspections, waste disposal, pest and vermin control and hazardous material containment. They also ensure public safety through controlling dogs and cats (or companion animals).

1.5.1 Why does local service provision vary between councils?

Councils can choose the range and quality of services they provide, based on discussions with their community about their needs and what they want to pay for. This is done through the Integrated Planning and Reporting framework process, which is explained in more detail later.

1.6 How are councils funded?

On average, councils receive 21 per cent of their regular income from ordinary land rates, which is paid by landowners. Councils can also charge for services such as waste management, and water supply and sewerage (outside metropolitan areas). Charges must be used specifically for the purposes for which they are collected.

Councils can get additional income from fees for things like parking and the use of publicly owned facilities like swimming pools, halls and other user-pays services. Fees can also be charged for giving information, supplying products or processing applications.

All councils receive a Financial Assistance Grant every year, which is paid by the Australian Government through the State Government. The amount of the grant varies from council to council. Councils receive grants from other sources from time to time. For example, Roads and Maritime Services may make a grant for work on a particular road.

Councils may borrow funds for any purpose. Councils may also invest funds and receive income from the interest. Ministerial Investment and Borrowing Orders and associated guidelines provide the framework in which councils may invest and borrow.

Council revenue is discussed in further detail in [Section 6—Financial Management](#).

1.7 Legal framework

Councils work within the laws established by the NSW Parliament. The *Local Government Act 1993* provides a legislative framework reflecting modern community expectations, and gives councils broad powers to plan for and provide local community services and facilities. The Act is administered by the Minister for Local Government through the Office of Local Government.

Councillors have a wide range of legislative responsibilities with which they need to acquaint themselves.

As well as the *Local Government Act 1993*, there are a number of other laws which councils are responsible for implementing.

For example, councils have responsibilities for animal control under both the *Companion Animals Act 1998* and the *Impounding Act 1993*; for building and development controls under the *Environmental Planning and Assessment Act 1979*; for environmental protection under the *Protection of the Environment Operations Act 1997*; for the control of noxious weeds under the *Noxious Weeds Act 1993*, and for the provision, maintenance and management of roads under the *Roads Act 1993*.

The *Local Government Act 1993* provides councils with broad service powers. At the same time, if a council takes action or makes a decision without the necessary legislative authority, it may be held by a court of law to be acting beyond its power. If a council's power is not exercised in the manner prescribed by Parliament, it may be deemed not to have been exercised at all.

Councils must take care to exercise their powers properly. Otherwise their decisions, and any resultant actions, may be declared void by a court, often with consequent financial loss.

When a council has to make a decision involving a value judgement, it must do so with fairness and justice. Natural justice requires that the decision be unbiased and that everyone whose rights and interests are affected is given an opportunity to express their views before the decision is made. Adequate notice of the decision should also be given so that any right to be heard can be exercised.

A council may be liable for actions carried out negligently that result in damage or injury to persons or property. This liability extends to the actions of employees or other people to whom the council's functions have been delegated.

However, councillors and employees will not incur personal liability where the matter complained of was done in 'good faith' for the purpose of executing any Act. 'Good faith' can be broadly defined in this context as something done honestly.

1.7.1 Limited legal protection

The *Local Government Act 1993* provides councillors with a level of protection from civil liability action for undertaking council-related and council-endorsed activities as a councillor.

Protection from civil liability is only provided where a councillor's actions are undertaken in the manner referred to in the relevant sections of the Local Government Act 1993, including in good faith and for purposes related to council activities.

Councillors must read and understand sections 731, 732 and 733 of the *Local Government Act 1993*, which provides protection. In the event that a councillor does not understand an issue, it is the obligation of that councillor to seek and be guided by their own legal advice. Councils are required to have an adopted 'Payment of Expenses and Facilities for Mayors and Councillors' policy which may outline the circumstances where the council will reimburse an elected representative's legal expenses.

In relation to defamation action, a council may be sued for defamation, although it cannot itself sue for defamation. Individual councillors and council employees may also be sued for defamation, whether in their private or public capacities.

Generally speaking, councillors at meetings of council (or council committees) are protected from defamation by the defence of 'qualified privilege', but only to enable them to speak freely and publicly in undertaking their duties in council meetings.

Any comment or statement a councillor makes at a council meeting must be relevant to the council business, made in good faith and without malice.

SECTION 2

ROLES, RESPONSIBILITIES AND RELATIONSHIPS

The importance of trust and mutual respect within the council team and between council and senior management cannot be underestimated.

Councillors can have a major and positive impact on the health and well-being of the whole community.

A good working relationship between councillors, the mayor, the general manager and other council staff is fundamental to an effective council.

Councillors must also have an understanding of how to manage external relationships, with the community, the media and other organisations including State agencies.

The roles of key people in councils, including councillors and the general manager, are defined in the *Local Government Act 1993* and are discussed in detail below.

2.1 Roles and responsibilities

2.1.1 Role of a councillor

The role of the governing body of a council

Councillors comprise the governing body of a council in the same way that a Board of Directors is the governing body of a corporation. The *Local Government Act 1993* prescribes the collective role of a council's governing body as follows:

- » to direct and control the affairs of the council in accordance with the Act
- » to provide effective civic leadership to the local community
- » to ensure as far as possible the financial sustainability of the council
- » to ensure as far as possible that the council acts in accordance with the principles for local government (as described above) and the plans, programs, strategies and policies of the council
- » to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council
- » to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the

community strategic plan) of the council and for the benefit of the local area

- » to keep under review the performance of the council, including service delivery
- » to make decisions necessary for the proper exercise of the council's regulatory functions
- » to determine the process for appointment of the general manager by the council and to monitor the general manager's performance
- » to determine the senior staff positions within the organisation structure of the council
- » to consult regularly with community organisations and other key stakeholders and keep them informed of the council's decisions and activities
- » to be responsible for ensuring that the council acts honestly, efficiently and appropriately.

As members of the governing body, and in the interests of ensuring the organisation operates effectively to achieve the best outcomes for the community, councillors should endeavour to work constructively with council staff that are responsible for implementing council decisions.

This need is reflected in the Act which requires the governing bodies of councils to consult with the general manager in directing and controlling the affairs of the council.

The role of individual councillors

The Act prescribes the role of individual councillors as follows:

- » to be an active and contributing member of the governing body
- » to make considered and well informed decisions as a member of the governing body
- » to participate in the development of the Integrated Planning and Reporting framework
- » to represent the collective interests of residents, ratepayers and the local community
- » to facilitate communication between the local community and the governing body
- » to uphold and represent accurately the policies and decisions of the governing body
- » to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor.

The Act makes it clear that councillors are individually accountable to the local community for the performance of the council.

In the case of councils divided by wards, councillors have an obligation to make decisions that are in the best interests of the community as a whole, not just the ward that elected them.

While councillors are free, subject to their obligations under the council's Code of Conduct, to advocate a position on matters that are before the council for a decision, once a decision has been made they are required to 'uphold' the policies and decisions of the council.

The requirement to uphold the policies and decisions of the council should be read in the context of the implied freedom of political communication under the Australian Constitution. In practical terms, councillors remain free to speak about the policies and decisions of the council but they must accept and abide by them and must not misrepresent them.

Councillors' oath of office

Under the *Local Government Act 1993*, councillors are obliged to take an oath or affirmation of office at or before the first meeting of the council after they are elected. In doing so, councillors are required to swear or affirm that they will undertake the duties of the office of councillor in the best interests of the local community and the council and that they will faithfully and impartially carry out the functions to the best of their abilities.

The oath or affirmation of office operates as a mechanism for inducting councillors into their role and reinforcing for them the seriousness of the responsibilities and duties that role entails.

A councillor who fails, without a reasonable excuse, to take the oath or affirmation of office, will not be entitled to attend council meetings until they do so and will be taken to be absent without leave.

If a councillor is absent without leave for three consecutive ordinary council meetings their office is automatically declared vacant and a by-election must be held.

What does a councillor do as a 'member of the governing body'?

One of the most important roles of a councillor is to participate in policy decision-making on behalf of the community.

Councillors must work as a team to make decisions and policies that guide the activities of the council. Policies can be defined as the principles and intent behind the programs that a council implements.

This includes setting the broad, strategic direction for the local community. To do this, councillors have to understand their community's, characteristics and needs, and the types of services required to meet these needs.

The key responsibilities of the council's governing body in working with and through the general manager are to:

- » prepare and adopt the community strategic plan, delivery program and operational plan
- » develop the policy framework for their council in relation to the council's regulatory functions
- » develop and oversee the delivery of the council's strategic plans that shape the future direction for the local area
- » make sure that taxpayers' money is spent in the best interest of the community
- » make sure that the council is fulfilling its regulatory functions appropriately by developing policies
- » make sure that the general manager, through performance measurement in his or her employment contract, carries out all of council's policies, plans and strategies appropriately
- » provide accountability to the community by reporting on the outcomes of council's activities
- » monitor and review the performance of the council.

In doing all of these things councillors must consider the principles for local government as outlined in *Section 1* of this publication.

Council will benefit by analysing its activities from time to time, including asking how it is spending its time, where its priorities should be and whether it has the balance of its priorities right.

What does a councillor do as 'an elected representative'?

A councillor's role as an elected representative is to provide an essential link between the community and council.

Councillors are expected to represent the interests of the community, provide leadership, and communicate and promote the interests of the council to other levels of government and relevant bodies.

Councillors have a responsibility to make decisions in the best interest of the whole community when deciding on the provision of services and the allocation of resources.

Councillors also need to provide leadership and guidance to the community. This is especially important when communities face challenges, such as climate change, drought, high unemployment or skill shortages.

How do councillors balance their roles?

Councillors must attempt to find a balance between the obligation to represent the interests of individual constituents and the need to make decisions on behalf of the whole community. This dilemma can cause some interesting debates in council.

Councillors need to display leadership and integrity to help ensure that the decisions they make as a member of the governing body are in the best interest of all the community.

Councillors can best help individual members of the community by satisfying themselves that their council's policies are being carried out correctly. If a councillor thinks that a policy needs changing, they need to debate this in a full meeting of council. It is inappropriate for a councillor to informally attempt to ignore or alter a policy in order to satisfy the demands of special groups.

The community expects every councillor to understand and provide representation on all council activities. So it is important that councillors quickly become familiar with the whole council area and the important issues affecting their community.

Councillors may find [*Appendix 1 – Skills and knowledge checklist*](#) useful in assisting them to identify the skills and knowledge they need to perform their role effectively.

Determination of the organisation structure

After consulting with the general manager, the *Local Government Act 1993* requires the governing body of council to determine:

- » the senior staff positions within the organisation structure of the council
- » the roles and reporting lines (for other senior staff) of holders of senior staff positions
- » the resources to be allocated towards the employment of staff.

The general manager is responsible for determining non-senior staff positions within the organisation structure of the council but must do so in consultation with the governing body.

The Act requires the positions within the organisation structure of the council to be determined to give effect to the priorities identified in the council's community strategic plan and delivery program.

The general manager is responsible for the appointment of staff in accordance with the organisation structure determined by the council and the general manager and the resources approved by the council. The general manager is also responsible for the management, direction and dismissal of staff.

In the case of senior staff, the general manager may only appoint or dismiss senior staff after consultation with the council. It is important to note that while the general manager should consider the views of the governing body of the council in making a decision to appoint or dismiss a senior staff member, the ultimate decision to do so rests with the general manager and not the governing body. It is therefore not open to the governing body of the council to direct the general manager on the appointment or dismissal of senior (and any other) staff.

Appointment and oversight of the general manager

The Act also requires all councils' governing bodies to appoint a person to be general manager.

The Office of Local Government has prepared *Guidelines for the Appointment and Oversight of General Managers* with the assistance of Local Government NSW (LGNSW) and Local Government Professionals Australia, NSW.

The Guidelines provide a checklist for councillors to refer to when considering:

- » the recruitment and appointment of general managers
- » re-appointment of general managers or ending contracts
- » conducting performance reviews of general managers
- » engaging in the day-to-day oversight of general managers.

The Guidelines aim to promote a consistent approach across NSW councils to the recruitment, appointment and oversight of general managers. They are issued under section 23A of the *Local Government Act 1993*. The [*Guidelines*](#) are available on the Office of Local Government's website at www.olg.nsw.gov.au.

2.1.2 Role of the mayor

The mayor is considered to be the voice of the council and the leader of the community.

Popularly elected mayors hold office for four years. Mayors who are elected by their fellow councillors hold office for two years.

The role of the mayor on a council is that of the 'first among equals'. The mayor has the same role and responsibilities as councillors but has additional responsibilities that reflect their leadership role.

Under the Local Government Act 1993, the role of the mayor is to:

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

2.1.3 Role of the general manager

The general manager's role is to implement council decisions without undue delay and carry out functions imposed by legislation.

A council's governing body monitors the implementation of its decisions via reports by the general manager to council.

The general manager is the most senior employee of a council and is the only member of staff selected and appointed by councillors. The general manager is appointed on a renewable, fixed-term, performance-based contract for a maximum period of five years.

Under the Act the general manager has the following functions:

- » to conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council
- » to implement, without undue delay, lawful decisions of the council
- » to advise the mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the council
- » to advise the mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the council and other matters related to the council
- » to prepare, in consultation with the mayor and the governing body, the council's community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report
- » to ensure that the mayor and other councillors are given timely information and advice, and the administrative and professional support necessary to effectively discharge their functions

- » to exercise any of the functions of the council that are delegated by the council to the general manager
- » to appoint staff in accordance with the organisation structure determined by the council and the general manager and the resources approved by the council
- » to direct and dismiss staff
- » to implement the council's workforce management strategy
- » any other functions that are conferred or imposed on the general manager.

A governing body of council may by a resolution delegate certain functions to the general manager. The general manager may, in turn, delegate functions to other staff with some exceptions. However, the general manager still retains responsibility to ensure that any sub-delegated function is carried out appropriately.

2.1.4 Role of council staff

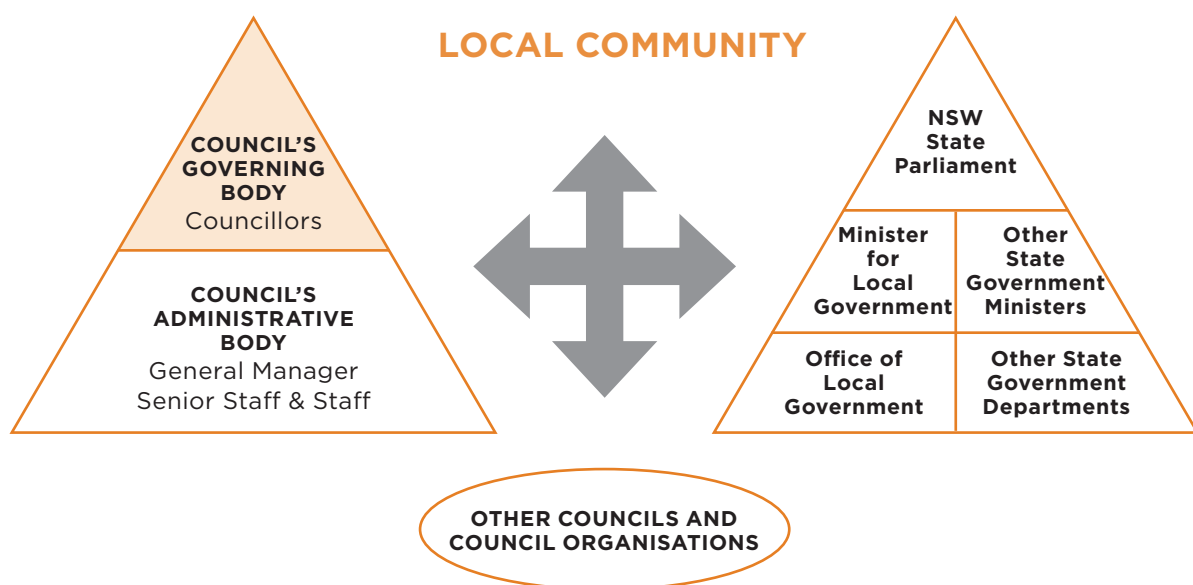
General managers employ council staff to carry out the day-to-day operations of the council and implement council policies and other decisions, as directed by the general manager.

The general manager is the primary link between the elected body and its employees.

Council staff are responsible to the general manager, who is responsible for the conduct and performance of council staff.

2.1.5 Role of the Minister for Local Government and the Office of Local Government

The Minister for Local Government is responsible for overseeing local government in NSW, including administration of the *Local Government Act 1993* under which local councils and county councils operate.



The Minister ensures councils operate within the law and the NSW Government's policies relating to local government.

The diagram below shows the relationship between NSW state and local governments and the community:

The Office of Local Government (OLG) is an executive agency of the NSW State Government. The OLG is responsible to the Minister for Local Government and is the Minister's key adviser on local government matters. The OLG is a source of expertise for the NSW Government on all local government issues, including finance, infrastructure, governance, performance, collaboration and community engagement.

The OLG also undertakes important regulatory functions, such as conducting investigations, and supports and advises the Chief Executive and the Minister for Local Government in the exercise of their statutory powers to respond to council under-performance and official misconduct.

The OLG also implements the decisions of the Minister and the NSW Government relating to local government, which includes delivering programs across NSW to strengthen councils and to build local government capacity. In carrying out its functions, the Office of Local Government strives to work collaboratively with the NSW local government sector.

2.1.6 Role of Local Government NSW

Local Government NSW represents general purpose councils, special purpose councils and the NSW Aboriginal Land Council. LGNSW's objective is to strengthen and protect an effective, democratic system of Local Government across NSW by supporting and advocating on behalf of member councils and delivering a range of relevant, quality services.

LGNSW is headed by a President, two Vice Presidents (Metropolitan/Urban and Regional/Rural), Treasurer and a Board of Directors. All Board members are elected democratically every two years at the LGNSW annual conference.

The LGNSW annual conference is an important opportunity for councillors to be updated about important issues for local government, vote on policy directions and network with other councillors.

LGNSW produces a range of member-focused publications, newsletters and updates, including a weekly e-newsletter which can help you stay up to date on topical issues and events.

2.1.7 Role of Local Government Professionals Australia, NSW

Local Government Professionals Australia, NSW is the peak body for local government professionals and managers. It seeks to ensure the organisation and its members are industry leaders and are at the forefront of good practice, change, innovation and the continuous improvement of local government.

The goal of Local Government Professionals Australia, NSW is to provide advocacy, networking, leadership, learning and support for members. It represents and supports professional practice by upholding a code of conduct and assists its members and councils with professional development and a range of council improvement services.

Further information and contact details for these organisations and other key State Government agencies may be found in [Appendix 3—Key organisations](#).

2.1.8 Joint Organisations of Councils

Joint Organisations (JOs) are a key component of the NSW Government's commitment to achieve strong, modern local government in NSW. During 2015, five regions piloted different models for regional collaboration through a JO.

The pilot process informed the development of the model that was consulted on during June 2016 and demonstrated that JOs can work for regional communities.

Once the necessary legislative changes are made, JOs will provide a forum for local councils, the NSW Government and others to work together on regional strategic priorities and on things that matter most to regional and rural communities, such as jobs, education and transport.

JOs will give communities a stronger voice, improve collaboration between the State and local governments and make it easier to undertake important projects across council boundaries.

Based on the lessons learned from the JO pilots and the community consultation, the NSW Government has developed a model that would see JOs created as statutory bodies corporate under the *Local Government Act 1993*. All councils in NSW outside of Greater Sydney and the Far West will be required to be a voting member of a Joint Organisation.

Under the preferred model, JOs would be required to undertake core functions at the regional level including:

- » strategic planning and priority setting
- » intergovernmental collaboration
- » regional leadership and advocacy.

JOs would also be able to undertake other functions, like offering shared services delivery for member councils.

It is also proposed that a JO Board would be made up of mayors of all member councils with equal voting rights, and a nominee of the NSW Department of Premier and Cabinet as a non-voting member. Each JO Board would also have the option of inviting other, non-voting members to participate including neighbouring councils, cross border councils and county councils.

Please note, at the time this Handbook was printed, the enabling legislation for JOs had not yet been introduced into the NSW Parliament.

2.1.9 Role of Regional Organisations of Councils (ROCs)

Most councils in NSW belong to a Regional Organisation of Councils or ROC. These are voluntary alliances of councils. Section 355 of the *Local Government Act 1993* provides that a function of a council may be exercised by a voluntary Regional Organisation of Councils.

Councils may also create a ROC through an incorporated association or other legal structure. ROCs undertake a broad range of functions on behalf of member councils in the areas of:

- » regional advocacy and research
- » regional strategic planning
- » service provision (either to the public or to member councils)
- » information sharing and problem solving.

However, the balance between these functions varies widely between ROCs. This reflects the resourcing provided by member councils to ROCs, the varied size and geographic location of member councils and regional priorities as established by member councils.

2.2 Managing internal council relationships

A good working relationship between councillors, the mayor, the general manager and other council staff is fundamental to an effective council.

The following section provides an overview of the various relationships between councillors and other internal council officials and staff. This issue is dealt with in greater detail in the professional development program for councillors run by Local Government NSW.

2.2.1 Relationship between the mayor and the general manager

The relationship between the mayor and the general manager is the most important one in a council and can have a significant impact on the council's performance.

As their relationship is often subject to community and media scrutiny it is important for the mayor and general manager to have a transparent and supportive working relationship. Should conflict or significant differences of opinion arise, both the mayor and the general manager should work to ensure that they are resolved in a timely manner, and not in the public eye.

The mayor and general manager also exercise key leadership roles within the organisation. The mayor also has a key role in the appointment of the general manager and therefore requires a full understanding of the general manager's role and responsibilities.

2.2.2 Relationship between councillors and the general manager

The quality of the relationship between a general manager and councillors is vital to a healthy and effective organisation. Public inquiry outcomes show that where this relationship breaks down, the organisation may become dysfunctional and communities lose confidence in the council.

Indicators of good working relationships between councillors and managers

(adapted from material provided by the UTS Centre for Local Government)

- » Councillors who publicly express faith in general managers and staff
- » General managers who support councillors in their role and who consider ways to improve their levels of support
- » A clear understanding about how councillors ask questions and receive information from staff, and a formal communication protocol which matches everyday practice
- » Informal briefings and discussions in which councillors can ask for advice and discuss their position on key decisions
- » Opportunities for staff who are experts in their area to put forward their experiences and opinions to councillors to inform key decisions
- » Council decisions which are seen as being based on merit rather than 'the numbers game'
- » Relationships which are characterised by respect, good humour and good faith.

The general manager is made accountable to their council principally through their contract of employment. The role of the governing body, led by the mayor, is to oversee the general manager's performance in accordance with the Standard Contract.

The relationship between the general manager and the council is managed through the general manager's contract of employment.

The Office of Local Government has standardised the contract of employment for general managers in consultation with the local government sector.

The standard contract provides for the performance of the general manager to be formally reviewed at least annually against the agreed performance criteria for the position. The agreed performance criteria are set out in an agreement that is signed within three months of the commencement of the contract. A council may also undertake interim performance reviews as appropriate.

The general manager must sign a performance agreement with the council. Other senior staff must sign a performance agreement with the general manager. These performance agreements should reflect the activities, performance targets and performance measures as outlined in the council's delivery program.

Monitoring and reviewing the general manager's performance

Performance management is an essential part of good management practice. It provides not only a means to monitor the council's performance but also a means to recognise and reward good performance and to manage under-performance.

The development of a performance agreement and regular review of the general manager's

performance against the criteria set out in the agreement establishes links between the council's and the general manager's objectives and priorities and helps improve the council's performance.

It is recommended that the general manager's performance be reviewed by a panel of councillors. Where a panel is formed, it is further recommended that the whole process of performance management be delegated to the panel.

It is also recommended that the role of the review panel should include:

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

This process provides a good forum for constructive discussion and feedback.

Councillors selected to take part in the panel should have received training on the performance management of general managers.

Although the composition of the panel is up to the governing body, the usual mix is the mayor, the deputy mayor and one councillor nominated by the governing body. The general manager should also have the option of nominating another councillor to the panel.

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

Councillors not on this panel should provide comments and feedback to the mayor in the week prior to each review session. The result should be reported to a closed meeting of council or a committee of council.

While there may be instances where immediate action is necessary, it is generally expected that

termination of a contract on the basis of poor performance would be the last resort.

The panel should maintain the confidentiality of the review process, including the paperwork and content of the review. In some instances the information may be potentially damaging. Local Government NSW can provide an independent facilitator to support the review process.

2.2.3 Relationships between councillors and staff

The general manager is the crucial link between councillors and staff.

Generally, requests for assistance or information should go through the general manager, except where he or she has authorised another council officer to undertake this role.

Similarly, if a staff member needs to talk with a councillor or the mayor, approval should be obtained from the general manager or the

appropriate authorised officer. Where authority is given to another council officer, it is the general manager's responsibility to monitor, as far as practicable, that the policy is being observed.

Individual councillors do not have the right to direct council staff in their day-to-day activities.

Councillors must not contact a member of council staff on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager.

It is sometimes necessary for councillors and staff to interact and work together so that informed decisions can be made and positive outcomes achieved. Mutual respect, sharing of information and open debate are hallmarks for successful relationships between councillors and staff.

Sharing information	Demonstrating respect	Ensuring open debate
<ul style="list-style-type: none"> » Regular meetings between the general manager and councillors » Briefing sessions for councillors which are well attended » Clear protocols about councillor contact with staff which are agreed and implemented, including a systematic approach to responding to councillor requests 	<ul style="list-style-type: none"> » Honouring the Code of Conduct » Meeting behaviour which is characterised by respectful language, even in difficult times » Staff and councillors presenting a united front in public forums » Media statements which refrain from personal criticism » Joint participation in community engagement activities » Support for professional development for councillors, managers and staff 	<ul style="list-style-type: none"> » Support for professional development for councillors, managers and staff » Briefing sessions which enable both councillors and staff to contribute freely » Council records which include staff recommendations, council resolutions and a rationale if the two differ

Good working relationships between councillors and staff

(adapted from material provided by the UTS Centre for Local Government)

Personal interaction between councillors and staff

The Office of Local Government's *Model Code of Conduct for Local Councils in NSW* together with councils' adopted protocols or procedures govern the interactions between councillors and staff that relate to council business while they are undertaking their public duties.

However, the Model Code of Conduct does not prevent councillors and staff communicating. It is a normal part of community life that council staff and councillors would be, from time to time, present at the same social or community events. However, in such situations both parties should ensure that council business is not discussed.

The Model Code of Conduct is discussed in further detail in [Section 3.1](#).

2.3 Managing external relationships

2.3.1 The importance of community engagement

While participatory democracy is an important part of local government decision-making it is essential that councils have a clear, robust and structured community engagement process in place. This helps ensure that the best decisions are made for the whole community, including 'the silent majority'.

Councillors are the representatives of the community. Therefore, they are accountable to the community. It is important that the community is able to contact and meet with councillors to discuss and contribute their views and ideas. Councillors should therefore spend time undertaking formal and informal community engagement. This helps ensure that a council's policies and programs are acceptable to, and meet the needs of, the community.

When a council is developing important policies, strategies and plans, such as a council's community strategic plan, delivery program or operational plan, it is required by law to put the drafts on public exhibition and consider all the comments or submissions received.

The *Local Government Act 1993* also requires councils to adopt a community engagement strategy to guide its engagement with the local community when developing their plans, policies and programs (other than routine administrative matters).

The Act also contains other important mechanisms to enable a council to more formally engage and consult with its community. For example, a council may conduct a poll on an

important issue to get an understanding of the community's views on a matter, such as whether to impose an environmental levy.

Councils may also hold constitutional referendums on some matters such as whether to increase or decrease the number of councillors, whether to divide an area into wards or abolish wards, or whether to change the method of election of the mayor.

Effective engagement

The community engagement process needs to be robust, collaborative, inclusive and sustainable.

Community engagement is a mechanism to assist councillors to understand and incorporate the public will and community concerns into decision-making. Community engagement should not be viewed as a 'box-ticking' exercise, or something that is only undertaken to pacify the vocal minority.

Good community engagement involves a two-way flow of information. Community engagement can be a very effective way of increasing community understanding of an issue, and a way to increase support for council policies and decisions.

Councils should ensure that the community engagement process is robust, collaborative and inclusive. They can do this by clearly defining the issues in question, identifying all relevant stakeholders and giving them the opportunity to participate, and by allocating sufficient time to the process. Councils should also provide clear feedback to the community on the outcomes of any engagement activities.

This can help councils to ensure the sustainability of community engagement. If community members feel that they have the opportunity to actively participate in engagement activities and that their participation is meaningful, they may

be more willing to participate in the process in the future.

More information about effective community engagement is included in [*Appendix 6—Tips for effective community engagement*](#).

Methods for engaging with the community

While councillors are generally constrained by the inherent costs associated with undertaking large-scale engagement activities, the following information is provided as a guide to the various methods of smaller scale community engagement available to councillors.

Community engagement will only provide the views of a sample of the community. When planning engagement activities, consideration should be given to what is the most appropriate form of engagement for the audience and the circumstances.

Different methods of community engagement include:

- » **Face-to-face** – Public meetings are the most common method of sharing information. They are a useful way to provide members of the community with direct access to the councillors. However, care must be taken to ensure that meetings are held in public venues appropriate to the size and make up of the audience. Meetings should also be well-facilitated and conducted in a structured and orderly fashion. Options include small, targeted meetings; larger, open public meetings; or a series of ongoing meetings.
- » **Surveys** – Surveys can be useful for collecting information from a small sample of the community on specific issues. However, the usefulness of surveys can be limited for community members who have literacy or language difficulties.
- » **Letter writing** – Letters can take the form of formal mass mail outs to a broad cross-section of the community or smaller scale personal

letters to targeted groups and individuals. Letters should be well-researched and appropriate in content and style. Like surveys, the usefulness of letter writing can be limited for community members who have literacy or language difficulties.

- » **Telephone** – Telephone can be a useful way of directly contacting individual members of the community. It is particularly useful in the case of targeted community engagement, as the more broad-scale telephoning of individuals can be a time consuming exercise. Consideration should be given to the timing and appropriateness of phone contact as many people consider this invasive, particularly evening calling. The usefulness of telephone consultation can also be limited for members of the community who experience language and speech difficulties.
- » **Social media** – Most councils have Facebook® pages which can be updated continually to reach community members in real-time to share information, seek feedback or answer questions. Some councils and councillors contribute to public information sharing about various issues and events through Twitter. A number of councils also have YouTube channels and produce clips on various topics including local infrastructure projects. Advances in digital technology have also allowed councils to develop smartphone apps to assist residents and ratepayers interact with them on a range of issues. Links to further information about social media can be found in [*Appendix 5—Dealing with the media*](#).

Additional resources on community engagement

The Office of Local Government's Integrated Planning and Reporting webpage contains information and links to additional resources on effective community engagement.

2.3.2 Accountability

Councillors are accountable to the community through community engagement, open and transparent decision-making, as well as regular planning and reporting.

Ultimately, councillors are accountable to the community every four years on election day. However, at all times, council decision-making should be transparent. Fundamentally, community engagement processes are designed to promote a culture of accountability to the local community.

Implicitly, the needs of the community should be reflected in the decisions of council.

Councils must regularly provide information to the public, which demonstrates:

- » the council is being administered in accordance with the *Local Government Act 1993*
- » the council is allocating resources consistent with its vision and strategic plan as well as the corporate objectives stated in the community strategic plan
- » the performance of the council is monitored and reviewed to ensure council objectives are being pursued
- » the interests of all the community is served
- » each councillor is acting with integrity.

Further information about reporting requirements for councils can be found in *Section 5—Sound planning and reporting*.

2.3.3 Other external relationships

Building and maintaining good working relationships with other organisations helps to sustain an effective council. Councils should foster relationships with key organisations including other councils, other state and Australian government agencies, representative

and industry bodies, and local industry and local community organisations.

The contact details for a number of key organisations and a brief description of their roles are contained in *Appendix 2 – Key organisations*.

Strategic collaboration

Strategic collaboration is an umbrella term for how councils work together. Collaboration can take many forms including alliances, partnerships and business clusters.

Its purpose is to reduce duplication of services, provide cost savings, access innovation, enhance skills development and open the way for local communities to share ideas and connect with others. Good collaboration enhances understanding of each other's roles and functions, provides a basis for sharing information and expertise and creates opportunities to work better together. It requires mature relationships based on shared information and a culture of collaboration, negotiation and trust.

Councils collaborate through regional organisations of councils. The creation of Joint Organisations will create further opportunities for articulating regional objectives and collaboration between councils at a regional level.

A core function of Joint Organisations will be intergovernmental collaboration, which brings together all levels of government on policy development, service design or service delivery, including infrastructure priority setting. To enable effective intergovernmental collaboration, the Regional Director for each region will be a non-voting member of the Joint Organisation and the Executive Officer of the Joint Organisation will be a member of the Department of Premier and Cabinet led Regional Leadership Group.

More information on Regional Organisations of Councils and Joint Organisations is provided in [Section 2](#) above.



2.4 Effective decision-making

The great majority of a councillor's work involves making important decisions about a council's direction and development. It is critical for all councillors to have the skills and information needed to make well-informed decisions that benefit council and the whole community.

To make effective and well-informed decisions, councillors must understand how to evaluate the range of plans, proposals, strategies and other matters that will constantly be before council.

All reports before a council should:

- » enable councillors to assess the council's ability to achieve its strategic goals as articulated through its Integrated Planning and Reporting framework
- » provide information which is linked to the council's approved strategic or project plans (including community strategic plan, delivery program and operational plan), and the budgets that support those plans
- » assist councillors in assessing the merits of a proposal, or any other matter before council, and make well-informed decisions.

Prior to making decisions councillors should ask four key questions:

- » What impact will the decision have on the community (including residents and ratepayers) and the environment in both the immediate and long term?
- » What impact will the decision have on council's finances both in the immediate and long term?
- » How does this decision fit in with the long-term direction of the council?
- » Are all of the relevant materials and facts available to make an informed decision?

In addition, specifically in relation to project proposals before the council, the first step in the process is to ensure that the proposal makes sense and that each part is logically supported with sound analysis and actions.

Some additional questions to ask include:

- » Will the performance measures contained in the proposal enable council to adequately monitor its progress and measure if it is achieving the desired outcome?
- » Does the proposal provide value for money?
- » Is the cost-benefit acceptable?

Other important issues relating to decision-making are also covered in [Section 5—Sound planning and reporting](#) and [Section 6—Financial management](#).

2.4.1 Meeting papers

Council papers are the 'tools' used most often by councillors to make decisions. Meeting or business papers should be of sufficient quantity and quality to allow all councillors to do their job properly and effectively.

All the reports councillors receive should contain sufficient information to allow them to be able to assess council's performance and make appropriate, well-informed decisions.

Council meeting papers are likely to include:

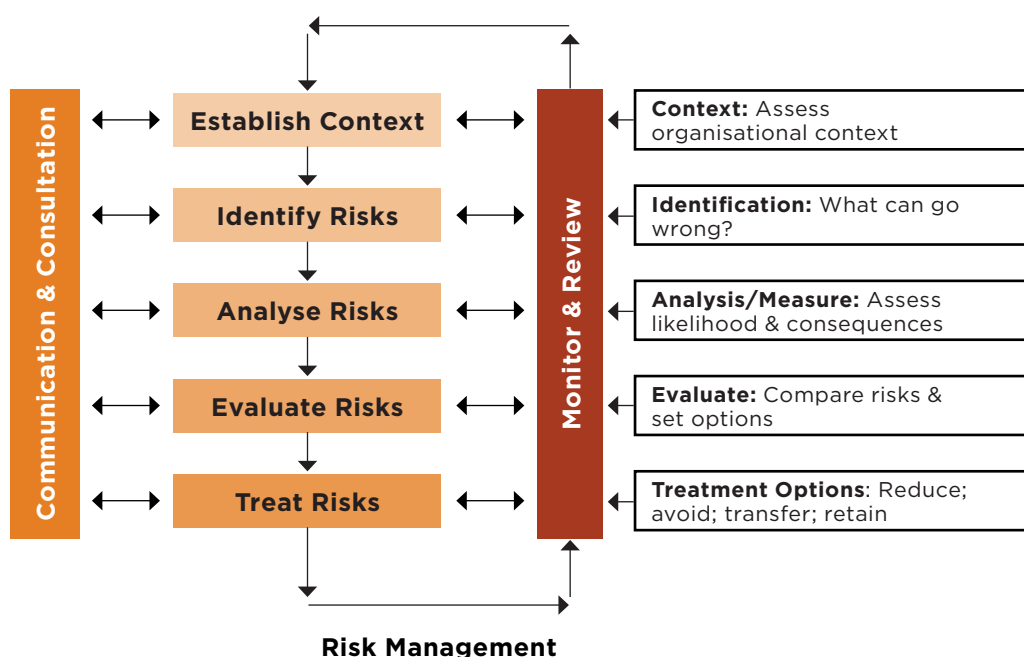
- » reports from the general manager
- » reports from senior staff in charge of the main functional areas of council such as environmental services, corporate services, engineering, community services and strategic and commercial services
- » reports on special projects or programs, as well as exceptional events or matters which involve council activities or impact on council business.

The papers may also include copies of minutes from council committee meetings.

Further information about good meeting practice can be found in [Section 4—Making the most of meetings](#).

2.5 Risk management

It is now well established that risk management is an essential part of effective corporate governance. Risk management is a process through which an organisation can systematically identify risks to its operation; analyse, evaluate and treat those risks; and implement a systematic process for the ongoing monitoring and review of the management of risks.



Risk management

The diagram above illustrates the cyclical nature of risk management. Councils should continually monitor and review their risk management strategies and practices, and also ensure that effective consultation is undertaken in all stages of the process.

By understanding the potential risks they face, councils are better prepared to take appropriate action to minimise the impact of adverse risks and maximise opportunities to benefit from positive risks.

Good risk management should be forward looking and assist in making good business decisions.

Through proactive risk management treatment, the following outcomes can be achieved:

- » higher level of service delivery
- » more efficient, effective and economic allocation of resources
- » improved responsiveness and flexibility
- » increased accountability and transparency.

The administrative body of council, led by the general manager, has primary responsibility for the design and operation of the risk management and internal control framework of the council.

However, good governance in local government relies on the robust independent review of management, finances, risks and operations by council's governing body and a properly constituted audit committee which reports regularly to council's governing body.

As members of the governing body responsible for deciding the direction of council, councillors are responsible for determining the amount of risk exposure that the council is prepared to take. By having a risk management process in place councillors are able to make these decisions in a more accountable and transparent way.

Consequently, residents and ratepayers can be better informed about the reasons underpinning council decisions and this will result in greater confidence and trust in council's decisions.

The benefits for councillors of risk management include:

- » assistance in assessing proposals and allocating resources
- » assurance that the council has appropriate controls in place and is managing its compliance obligations appropriately
- » consequently freeing the councillors to focus on the key strategic business of council.

Risk management is a very valuable support to good governance. It provides the community with confidence that council is being managed in a responsible and accountable manner.

2.6 Other resources

The Governance Health Check (GHC) is a self-audit guide to good governance in local government. It is delivered through an online service called eConnect that councils can subscribe to.

The GHC was jointly developed by the Independent Commission Against Corruption and Local Government Professionals Australia, NSW. The GHC is designed to give councils a simple tool to identify key elements of corporate governance in a NSW local government context and to measure their progress in relation to each of these elements.

Councillors should check with their general manager to see if their council has access to the Governance Health Check, which is available to Local Government Professionals Australia, NSW eConnect subscribers.

SECTION 3

CODE OF CONDUCT AND ACTING ETHICALLY

The role of a councillor is a public one.

Local communities rightly expect the highest standards of conduct of those they elect to hold office in a council. Failure to comply with these standards can undermine community confidence in individual councils and the local government sector as a whole. It also erodes the trust the community confers on their elected representatives.

For this reason, councillors—like other council officials such as staff and delegates of councils—are obliged to comply with prescribed ethical and behavioural standards in the performance of their role.

These standards are prescribed under the *Model Code of Conduct for Local Councils in NSW* (Model Code). All councils are required to adopt a Code of Conduct based on the Model Code. Breaches of a council's Code of Conduct are to be dealt with in accordance with the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW* which, like the Model Code, is prescribed under the *Local Government (General) Regulation 2005*.

Councillors may face disciplinary action by the Office of Local Government or the NSW Civil and Administrative Tribunal for serious or repeated breaches of these standards under the misconduct provisions of the *Local Government Act 1993*.

Penalties include suspension from office for up to six months or disqualification from holding office in any council for up to five years. Councillors who have been suspended on three or more occasions for misconduct are automatically disqualified from holding office in any council for five years.

Whenever councillors appear in public, even though they may not be doing anything related to their council position, they are usually seen as acting in their councillor role and judged in this light. This means the position of councillor

is really a '24/7' one. Councillors therefore need to act at all times in a way that does not bring disrepute to either themselves or their council.

Acting ethically is not just about avoiding or managing conflicts of interests. It also applies to the interactions of councillors with council staff, members of the public, use of resources and any personal benefits councillors might obtain.

3.1 The Code of Conduct

The adoption of a Code of Conduct is an important means of ensuring councillors are responsible for their own conduct, for making decisions ethically and for being accountable to their communities.

Councillors need to make difficult decisions that do not always have unanimous support in the community. In order to maintain the confidence of the community, councillors must ensure that these decisions are made in an ethical and impartial manner.

The Model Code of Conduct provides the foundation for ethical decision-making in local government. All councils must make and adopt a code of conduct based on this document. The Model Code sets the minimum standards of conduct for council officials in carrying out their functions.

The Model Code is prescribed by regulation. It is underpinned by procedures for dealing with breaches of the Code and provisions in the Act to impose sanctions.

The Model Code is necessarily a complex document that has been built as a result of feedback from councils and to tackle risks of corruption or other damaging behaviour.

To help councillors understand their obligations, the Office of Local Government has developed a summary document, explaining the standards

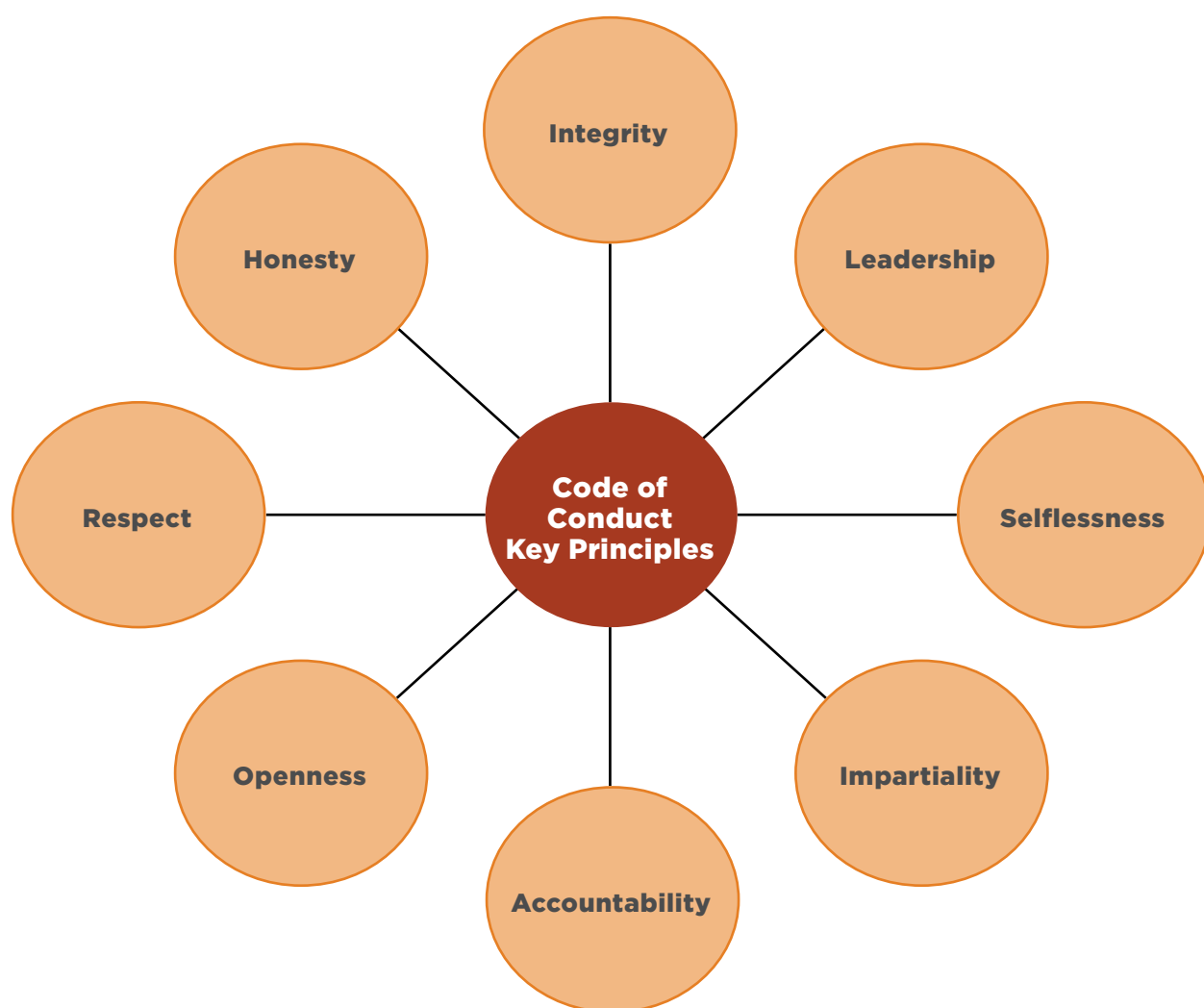
of behaviour expected and what happens when these are not met. This is contained in [Appendix 7—Standards of conduct for council officials](#).

Councillors are expected to comply with all the provisions in their council's Code of Conduct, which is based on the Office's [Model Code of Conduct](#) (available on the Office of Local Government's website at www.olg.nsw.gov.au).

3.1.1 General obligations

The Model Code of Conduct sets the standards of ethical and appropriate conduct for council officials in relation to their general conduct, conflicts of interests and personal benefit, relationships between council officials, access to council resources and information, and maintaining the code's integrity.

The obligations of council officials under the Model Code are informed by eight key principles: integrity, leadership, selflessness, impartiality, accountability, openness, honesty and respect.



Key principles of the Model Code of Conduct

Councillors have certain general conduct obligations under the Model Code of Conduct. Specifically, councillors must:

- » act lawfully, honestly and with care and diligence in carrying out their functions
- » not conduct themselves in a manner that is likely to bring the council into disrepute
- » treat others with respect
- » consider issues consistently, promptly and fairly
- » not harass or discriminate against others
- » ensure that development decisions are properly made
- » not participate in binding caucus votes except in relation to nominations and elections.

In relation to binding caucus votes, councillors are permitted to discuss a matter before a meeting with other councillors and voluntarily agree to a shared position on a matter. However, they must retain their individual discretion and remain free to determine a matter on its merits.

3.1.2 Ethical decision-making

Key questions that councillors should ask themselves to ensure that their decisions are ethical and sound are:

- » Is the decision or conduct lawful?
- » Is the decision or conduct consistent with council's policy and with council's objectives and the code of conduct?
- » What will the outcome be for the councillor, work colleagues, the council, persons with whom they are associated and any other parties?
- » Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?
- » Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

If councillors are uncertain about an action or decision, they should seek advice from the general manager. They may also wish to seek their own independent legal advice.

Councillors should exercise due care in undertaking their functions by acquainting themselves with the requirements of the *Local Government Act 1993*, their council's Code of Conduct, the details of the matters they are dealing with, and any factors which may affect their involvement in decision-making.

3.1.3 Conflicts of interest (pecuniary, non-pecuniary and political donations)

A conflict of interest exists where a reasonable and informed person would perceive that a councillor could be influenced by a private interest when carrying out their public duty.

The importance of following the principles of ethical decision-making cannot be underestimated. There is significant potential for conflicts of interest to arise in the course of a councillor's role as an elected person, resident of the local area they represent and member of the governing body of council. Conflicts of interest must be managed appropriately.

Councillors must consider how a reasonable person who is informed about the situation would view it.

Pecuniary conflicts of interest

Pecuniary conflicts of interest arise where councillors, or certain persons or entities that are associated with a councillor, are reasonably likely to make or lose money because of a decision the council might make. In such a case the Act requires the councillor to declare the interest and withdraw from the meeting while the matter is being debated and voted on.

Councillors also need to submit an annual written return of interests to the council including information on real property (meaning land and anything attached to it, including buildings), gifts, interests and positions in corporations, sources of income, and debts.

These may give rise to a pecuniary interest at a meeting and are made publicly available to make sure councillors are seen to be acting openly and honestly in the decisions they make.

Non-pecuniary conflicts of interest

Non-pecuniary conflicts of interest commonly arise out of family or personal relationships, through an association a councillor, or someone close to them, may have through involvement in a sporting, social or other kind of group or association. The political views of a councillor do not constitute a private interest.

The greater a councillor's involvement with the club or organisation, the greater the likelihood of a real or perceived conflict of interest.

The Model Code recognises two forms of non-pecuniary conflicts of interest: *significant* and *less than significant*.

An example of a significant non-pecuniary conflict of interest could be where the councillor is an active member and involved in the running of a sporting club that submits a development application to the council for a major extension of its facilities.

In this instance there may be a public perception that the councillor's activities with the club would make it difficult for the councillor to view the matter before the council impartially. When the matter comes before council, the councillor needs to consider whether or not he or she has a significant conflict of interest and, if so, must disclose the nature of the conflict and refrain from participating in the discussion and voting on the matter.

By contrast, if a councillor is merely a member of a large club and utilises its facilities via membership, it is unlikely that this membership alone would conflict with their role as a councillor representing the views of the residents and ratepayers generally.

However, a councillor should still consider if this raises a less than significant conflict of interests and if so, he or she should disclose this, as well as the nature of the interest and a brief explanation of why no further action is required in the circumstances. It always remains open for councillors to take additional steps to manage any perception of a conflict of interests.

Political donations

Councillors should be aware that matters before councils involving election campaign donors may also give rise to a non-pecuniary conflict of interests. The Model Code contains a number of provisions to assist councillors to identify, disclose and appropriately manage conflicts of interests that may arise as a result of political donations they have benefited from.

In particular, where a councillor has received or knowingly benefited from a reportable political donation of \$1,000 or more in the last four years, and the donor has a matter before the council, the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and remove themselves from consideration of the matter. This obligation applies to donations received in relation to council, State and Federal election campaigns.

Donations of under \$1,000 may also give rise to non-pecuniary conflicts of interests in certain circumstances (e.g. because of the nature of the relationship between the councillor and the donor) that must be disclosed and managed in accordance with the requirements under the Model Code of Conduct.

3.1.4 Gifts and benefits

Councillors may find they are offered gifts or benefits such as free tickets to major sporting or other events. These gifts could be offered innocently and in good faith or they could be an attempt to influence. The Model Code places an obligation on councillors not to accept gifts or benefits of more than token value. However, these may often be attractive and there are circumstances where they can be difficult to refuse.

Councillors need to think about how the community might perceive their acceptance of these gifts. Feelings of obligation can arise by accepting a gift. Members of the public might think a councillor's ability to make impartial decisions has been compromised.

In circumstances where a gift or benefit cannot reasonably be refused or returned, councillors are required to surrender it to council and ensure that it is recorded in the council's gifts register.

3.1.5 Access to information and resources

Councillors are entitled to such information necessary for the performance of their functions. However, this is counterbalanced by the obligation to use this information appropriately and to maintain the integrity and security of confidential information.

A council's Code of Conduct also discusses how a councillor can get access to information and other council resources such as the expertise of council staff. Access to council staff expertise must happen through the general manager, or in accordance with a system that is put in place to facilitate and coordinate councillor requests for information or action.

3.1.6 Appropriate lobbying

The Model Code of Conduct and the Local Government Act 1993 recognise that appropriate lobbying of councillors is a normal part of the democratic system and that councillors have a representative role in considering the views of their constituents and communicating with them.

Councillors would be aware that at some time they are likely to be lobbied by a wide range of people including individuals, organisations, companies and developers. It is essential that councillors understand the difference between appropriate and inappropriate lobbying, and do not engage in lobbying which could be considered inappropriate or unlawful and likely to undermine community confidence in a council's decision making.

Inappropriate lobbying usually involves an attempt to obtain preferential consideration or treatment based on factors other than the merits of a matter.

The Independent Commission Against Corruption has produced a brochure which contains specific information about all aspects of lobbying local government councillors.

Appropriate vs inappropriate lobbying

Examples of appropriate lobbying behaviours are:

- » keeping records of meetings with lobbyists or objectors
- » holding meetings in appropriate locations such as council offices
- » ensuring other people are present
- » making sure that any information obtained when being lobbied is available to council staff and other councillors.

Examples of inappropriate councillor conduct that could occur during lobbying include:

- » disclosing confidential information while being lobbied
- » accepting a political donation in return for a favourable exercise of discretion during decision-making
- » giving undertakings to an interested party prior to consideration of all the information relevant to a decision.

3.1.7 Reporting breaches

Code of Conduct breaches

Any person may make a complaint alleging a breach of the Code of Conduct.

Suspected breaches of the Code of Conduct by councillors, members of staff of council (excluding the general manager) or delegates should be reported to the general manager in writing. Allegations that the general manager has breached the Code of Conduct should be reported to the mayor in writing.

It is important that alleged Code of Conduct breaches are dealt with appropriately and in accordance with the prescribed procedures for doing so. Councillors must not therefore make allegations of suspected breaches of the Code at council meetings or in other public forums. To do so would constitute a breach of the Code of Conduct

Pecuniary interest breaches

Complaints regarding non-disclosure of a pecuniary interest may be made by anyone to the Office of Local Government. These may be investigated and referred to the NSW Civil and Administrative Tribunal (NCAT) for decision. Significant penalties may apply to councillors who don't meet their obligations in this area.

Public Interest Disclosures

The *Public Interest Disclosures Act 1994* aims to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and serious and substantial waste in the public sector.

The purpose of this Act is to ensure that public officials who wish to make disclosures under the legislation receive protection from reprisals, and that matters raised in the disclosures are properly investigated.

3.1.8 Maintaining the integrity of the Code of Conduct

For a council's Code of Conduct to be effective, people need to have confidence in the integrity of the Code of Conduct, the processes for dealing with allegations of breaches and the outcomes. Certain types of conduct have the effect of undermining this confidence.

Examples of conduct of this type include:

- » publicly making allegations without reporting them so they can be properly and fairly considered in accordance with prescribed code of conduct processes
- » making complaints for political or improper purposes
- » leaking information about an investigation to embarrass someone or to attack the investigation process
- » taking reprisal action against the complainant or a person who has dealt with a complaint.

Where respect and confidence in a council's Code of Conduct is lost, it becomes difficult for a council to promote and enforce appropriate standards of conduct. This often results in a council becoming unable to govern itself and the loss of community confidence in the council.

For this reason, the Office of Local Government views conduct that undermines confidence in a council's Code of Conduct seriously. Such conduct would be in breach of the Code of Conduct. Under the prescribed procedures, councils are obliged to refer such conduct by councillors to the Office of Local Government. Such behaviour constitutes misconduct and may result in suspension for up to six months or disqualification from holding office for up to five years.

3.2 Councillors and public comment

It is common for councillors to be asked by journalists to comment on council policy or decisions.

There are certain protocols that councillors must follow when responding to the media on council policy or decisions.

Many councils have a policy which permits only the mayor, the general manager or the public officer to speak on behalf of the council. In such cases individual councillors remain free to make personal comments to the media but not to speak on council's behalf.

When speaking publicly, councillors should ensure that they clarify whether or not they are acting on behalf of council and/or as an individual councillor.

A level of qualified privilege applies to councillors under the law, which recognises that councillors may need to speak freely and publicly in the discharge of their civic duties.

However, this should be treated with caution. Qualified privilege covers only statements made at a council or committee meetings in the discharge of a councillor's duties which are pertinent to the business of local government. Such statements also need to be made in good faith and must not be made maliciously.

Councillors are subject to defamation law and it is contrary to law to injure another person's reputation in the eyes of society through the written word, pictorially or in speech.

If a councillor becomes aware of media interest in a particular aspect of council business that could be contentious, they should consider bringing it to the attention of the general manager.

To help create a positive, safe and harmonious organisational culture, councillors should endeavour to work out any issues or differences of opinion privately, not publicly, and especially not through the media.

Further information about the relationship between councillors and the media can be found in [*Appendix 5—Dealing with the media.*](#)



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SECTION 4

MAKING THE MOST OF MEETINGS

4.1 How councils debate and make decisions

Council meetings are important because they are the mechanism through which councillors make decisions regarding policies and programs of the council to meet the needs of the community. Decisions of a council can only be made by resolution at a properly convened meeting.

Councillors are expected to attend all council meetings and all meetings of any committee of which they are a member, unless leave is sought and approved. Councillors need to do a good deal of reading in preparation for meetings.

A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

As all council decisions are made on a majority basis, councillors need to understand the meeting process and the need to work as a team to get the best outcome for the community. For this, councillors need good communication skills to state their position as well as a willingness to listen to diverse views and compromise when necessary.

The success of meetings depends on councillors working as a team, respecting diverse opinions and allowing all points of view to be heard. Meeting success also depends on following good meeting practices.

4.2 How often council meetings are held and how they are conducted

Council meetings must be conducted in accordance with the Local Government Act 1993 and Regulation, and council's Code of Meeting Practice, if it has one.

How and when council meetings are held is up to each council to decide, although the *Local Government Act 1993* requires every council to meet at least 10 times a year, each time in a different month.

Some councils meet only once a month. Many larger councils meet more frequently because they have a higher volume of business. Councillors should be given at least three days' notice of regular meetings, unless there are extraordinary circumstances that make it important to have a more urgent meeting.

All formal council meetings must be held in accordance with requirements in the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* (Regulation) and the council's Code of Meeting Practice, if it has one, and Code of Conduct.

This is because meeting procedures contribute to good public decision-making and increase council's transparency and accountability to its community.

The public has the right to see the agenda and business papers for each meeting, free of charge, and attend all council meetings and council committee meetings except in special circumstances outlined in the Act (see the section below on *closing meetings*).

Role of the mayor or chairperson at meetings

The mayor is usually the chairperson unless he or she is absent or wishes otherwise. The chairperson maintains order at the meeting and keeps discussions to the point and to the agenda, amongst other things. This helps ensure meetings are conducted with decorum and decisions are made in an open, transparent way.

While councillors have one vote each, the chairperson has a casting vote if there is a split decision. Therefore, it is particularly important that the chairperson sees that the debate is conducted in a fair and orderly manner, regardless of his or her own views about the issue under discussion. The chairperson may exercise their second or 'casting' vote as he or she sees fit.

Role of the general manager and staff at meetings

The general manager can attend council meetings but is not permitted to vote. However, the council may resolve to exclude the general manager from a meeting if it is dealing with matters relating to the general manager's employment or standard of performance.

Some councils also have other senior staff attend meetings for the purpose of answering any technical questions that arise out of the council's business papers. This can be an effective way of ensuring that councillors understand the issues before them.

The presence of council staff at meetings should not be used to raise matters that are not on the meeting agenda or that do not reasonably arise from the business papers. Such conduct does not promote a positive and healthy working relationship between the governing body and the administrative arm of council.

The Regulation allows questions to be put to council staff at meetings through the general manager. However, staff are entitled to reasonable notice of the question and sufficient

time to respond. A staff member is entitled to refuse to reply to a question. The chair of the meeting is expected to make sure these questions are put succinctly, directly and without debate.

Quorum

There must be a quorum for a council meeting to take place (section 368 of the Act). A quorum is the majority of councillors who hold office at the time of the meeting and therefore does not include councillors who are suspended from office. For example, if a council has nine councillors then the quorum will be five councillors.

Agendas

It is important that meetings only deal with matters listed on the agenda in the order in which they are listed. This allows councillors and members of the public to follow the items being debated and the decisions being made. If the order of the agenda is to be changed it should be done so by a resolution at the beginning of the meeting.

The Regulation requires that the only business to be transacted at a council meeting is the business that is already before the council, business that relates to a matter already before the council and business of which the required notice has been given.

A matter for which required notice has not been given can only be dealt with if a motion is passed to have the matter dealt with and the chairperson rules it is of great urgency.

Motions

A motion is a proposal to be considered by council at a meeting. It is a request to do something or to express an opinion about something. A motion formally puts the subject of the motion as an item of business for the council.

The number of motions put forward by a councillor cannot be limited. As long as notice and other procedures are followed, a councillor can put forward as many motions as they wish.

When putting forward motions councillors need to balance their civic responsibility for representing the interests of the community with their obligation to use council's resources effectively and efficiently.

Voting

In order to vote at a meeting a councillor must be present. There is no available mechanism for proxy voting.

If a councillor is present at a meeting during voting they are taken to have voted whether they intended to or not. Clause 251 of the Regulation states that a councillor who is present at a meeting but fails to vote is taken to have voted in the negative.

The only way for a councillor to abstain from voting is to leave the meeting.

Closing meetings

All meetings of a council are open to the public unless they have been closed in the limited circumstances set out in Section 10A of the *Local Government Act 1993*. It is important that councillors familiarise themselves with the details of this section of the Act. This states that councils may only close their meetings to the public to consider:

- » personnel matters concerning individuals—this does not include matters relating to councillors
- » personal hardship of residents or ratepayers
- » commercial-in-confidence information
- » material which if disclosed would prejudice the maintenance of law
- » security matters
- » legal advice
- » information regarding items of Aboriginal significance
- » matters considered under the council's Code of Conduct.

Section 10B of the *Local Government Act 1993* further limits the powers given to a council by section 10A to close its meetings to the public.

Section 10B provides that a council meeting should only be closed to preserve the relevant confidentiality, privilege or security. In determining whether the discussion of a matter in an open meeting would be contrary to the public interest, embarrassment to the council, councillors or its employees is irrelevant.

Apart from the circumstances prescribed under section 10A in which it is permissible for councils to close their meetings, all other council decisions must be made in an open and transparent manner. This ensures transparency and accountability of council decision making and encourages community participation in the decision-making process.

Resolutions or recommendations made at a closed part of a council meeting must be made public by the chairperson of the meeting as soon as practical after the closed part of the meeting has ended. For example, the chairperson would read out the resolutions passed in the closed part of the meeting when the meeting is re-opened and the minutes of the ordinary meeting will record the words of the resolution passed in the closed part of the meeting.

A resolution or recommendation should be phrased in such a way as to protect any confidential detail. This allows the public to know what the council or committee has decided at the closed part of the meeting without revealing confidential information.

The committee of the whole

When the rules of debate are suspended while a specific matter is debated, this is referred to as a 'committee of the whole'. Councils will form a committee of the whole to overcome the limits on the number and duration of councillor speeches referred to in clause 250 of the *Local Government (General) Regulation 2005*.

For example, clause 250 states that a councillor must not speak on a matter for more than five minutes. If a council resolves to move into a committee of the whole to consider a matter, a councillor can speak for more than five minutes on that matter.

Moving into a committee of the whole does not close the meeting to the public. However, where a council closes part of a meeting under section 10A of the Act, the council may also move into committee of the whole if it wants to suspend the rules of debate for that part of the meeting.

Recommendations made by a committee of the whole should be put to the council meeting when the rules of debate are resumed, and included in the council's minutes.

In a closed meeting that has resolved into a committee of the whole, the committee's recommendations as well as the resolutions passed in the closed part of the council meeting must form part of the council's minutes of the meeting.

Mayoral minutes

Clause 243(1) of the Regulation states that the mayor may put to a meeting, without notice, any matter which the council is allowed to deal with or which the council officially knows about. This covers any council function under the Act or other legislation, or any matter that has been brought to the council's attention, for example, by letter to the mayor or the general manager.

The mayor may move that a mayoral minute be adopted without the motion being seconded. Mayoral minutes should not be used to introduce, without notice, matters that need research or a lot of consideration by the councillors before coming to a decision. These types of matters would be better placed on the agenda, with the usual period of notice being given to councillors.

4.3 Different types of council meetings

There are three main types of formal council meetings which must be conducted in accordance with the *Local Government Act 1993* and Regulation, and the Code of Meeting Practice, if a council has one:

Ordinary council meetings

These meetings are the forum where the governing body conducts its core business. The general manager is responsible for giving each councillor and the public at least three days' notice of the time and place of each meeting as well as the agenda and business papers for that meeting.

It should be noted that if a councillor is absent from three or more consecutive ordinary meetings without leave, their office automatically becomes vacant.

If a councillor is going to be absent from an ordinary meeting of council, that councillor must apply for a leave of absence. Merely offering or accepting an apology is not enough.

Extraordinary council meetings

Extraordinary meetings may be called on occasions to address business that cannot be postponed. Three days' notice is not required for these meetings if the meeting is called in an emergency (section 367 of the Act).

Council committee meetings

In addition to council meetings, councils can establish committees to oversee specific functions, projects or programs and report back to the council on those matters. A council committee is one where all the members of the committee are councillors. The committee must be chaired by the mayor or a Chair elected from its membership or by the council. The mayor does not have to be the Chair of the committee.

The meetings of council committees should also be conducted in accordance with the meeting rules prescribed under the Act and Regulation and council's Code of Meeting Practice, if the council has adopted one.

Each councillor, whether a member of a committee or not, is entitled to attend and speak at a meeting of a council committee. However, only councillors who are members of the committee are entitled to put business on the committee's agenda, move or second a motion at the committee meeting, or vote at the meeting.

Code of Meeting Practice

Ordinary and extraordinary council meetings and meetings of committees comprising wholly of councillors must be conducted in accordance with the meeting rules prescribed under the Act and Regulation.

Councils may currently choose to adopt their own Code of Meeting Practice. This Code must incorporate the provisions of the Act and Regulation and may not be inconsistent with them (section 360 of the Act). If a council has adopted a Code of Meeting Practice, its meetings must comply with its provisions as well. A Code of Meeting Practice must be developed in consultation with the community and be made publicly available.

Recent amendments to the Act provide for the prescription of a model Code of Meeting Practice comprising of mandatory and non-mandatory provisions. When these amendments commence, all councils will be required to adopt a code of meeting practice that at least incorporates the mandatory provisions of the model meeting code.

Other meeting types

The following meeting types may involve councillors but are not formal meetings. These meetings do not have to be conducted in accordance with the meeting rules prescribed under the *Local Government Act 1993* and

Regulation, and a council's adopted Code of Meeting Practice, if it has one:

Advisory committees

These differ from council committees and membership can include non-councillors. While the meeting procedures in the Act and the Regulation do not apply, good meeting protocols should be maintained. Councils should, at minimum, ensure that all committees meet basic accounting and governance standards, as appropriate.

Workshops or briefing sessions

Councils may hold workshops for the purpose of conducting in-depth discussions on certain topics. Formal decisions are not made at workshops but these sessions provide the time needed to explore more important or complex issues in detail. A workshop may involve councillors, council staff and invited participants.

Workshops should not be used for detailed or advanced discussions where agreement is reached and/or a de-facto decision is made. Any detailed discussion or exchange of views on an issue, and any policy decision from the options, should be left to the open forum of a formal council or committee meeting.

The Office of Local Government recognises the value of workshops or information sessions in developing councillor knowledge and expertise, and in assisting them to discharge their role as public officials. However, where briefing sessions are held in relation to development applications or business enterprises, a council needs to remember its obligations and responsibilities under its Code of Conduct, and community perceptions in terms of unfair advantage and transparency of process.

4.4 Other resources

Office of Local Government – Meetings Practice Note No. 16

The Office of Local Government has issued *Meetings Practice Note No. 16* to help councils conduct their meetings appropriately. It is not designed to be a complete guide to meeting procedures but it does cover frequently asked questions.

Meeting procedures contribute to good public decision-making and increase council's transparency and accountability to its community. While legislation sets out certain procedures that must be followed in council and committee meetings, meeting procedures vary between councils. These differences usually reflect local cultural practices and priorities.

The Practice Note is a guide for councils, councillors and members of the public. It does not give legal advice. Councils may seek their own legal advice on any issues of concern.

A copy of the *Meetings Practice Note* is available on the Office's website at www.olg.nsw.gov.au.

Office of Local Government—Guidelines on the Closure of Council Meetings to the Public

The Office of Local Government has also issued guidelines to assist councils to meet their statutory obligations when closing their meetings to the public.

The Office recognises there will be occasions where councils are required to consider information which, by its nature, is confidential and ought not to be publicly disclosed. The Act recognises that on such occasions, the public interest in protecting confidential information will outweigh the public interest in ensuring accountability through open meetings.

This publication offers practical guidance on how councils can appropriately weigh these competing public interests and ensure that they comply with their obligations under the Act when closing meetings to the public. They do this by addressing commonly asked questions that have been raised with the Office about the closure of council meetings and provide best practice examples.

These guidelines are also available on the Office of Local Government website.

Other publications

Publications such as *Joske's Law and Procedures at Meetings in Australia* give general guidance on running meetings.

However, councillors should be mindful that such publications may provide information which is different to that outlined in this section.

Where such contradictions exist, the *Local Government Act 1993* and Regulation, and the council's Code of Meeting Practice should be followed.

SECTION 5

SOUND PLANNING AND REPORTING

Planning decisions affect communities, the environment and quality of life and usually have long-lasting consequences.

Councillors are involved in overseeing the development of, carrying out of and reporting on many council plans and activities.

Councils are responsible for different types of planning, including community strategic planning and land use planning. Some council plans and reports have strict legal requirements about what needs to be included in them and how and when a council needs to consult with its community during their development.

5.1 Community strategic planning

Community strategic planning is the process by which a council, with its community, establishes a vision for the future of the local government area, and develops goals, objectives, strategies and actions to achieve that future. To perform their role effectively, councillors need to actively participate in determining the strategic direction for the community and the planning process supporting it.

Councils develop a hierarchy of plans which fall out of the Community Strategic Plan, known as the Integrated Planning and Reporting framework. The Diagram below illustrates the framework:



Integrated Planning and Reporting Framework

The plans councils prepare under the Integrated Planning and Reporting framework must adequately address the quadruple bottom line:

- » social and community considerations
- » economic considerations
- » environmental considerations
- » civic leadership and governance considerations.

The plans must also prepare councils for a sustainable future, one that ensures that future generations aren't left with an unsustainable legacy as a result of irresponsible decisions made now.

The Integrated Planning and Reporting framework recognises that councils don't exist in isolation, but are part of a larger natural, social, economic and political environment that influences and shapes their future direction. Nor do council plans exist in isolation: land use and infrastructure planning has social, environmental and economic outcomes, and vice-versa.

The Integrated Planning and Reporting framework opens the way for councils and their communities to have important conversations about funding priorities, service levels, preserving local identity and planning in partnership for a more sustainable future.

5.1.1 An overview of the Integrated Planning and Reporting framework

Integrated Planning and Reporting principles

The following principles for strategic planning apply to the development of the Integrated Planning and Reporting framework by councils under the *Local Government Act 1993*:

- » councils should identify and prioritise key local community needs and aspirations and consider regional priorities

- » councils should identify strategic goals to meet those needs and aspirations
- » councils should develop activities, and prioritise actions, to work towards the strategic goals
- » councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- » councils should regularly review and evaluate progress towards achieving strategic goals
- » councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals
- » councils should collaborate with others to maximise achievement of strategic goals
- » councils should manage risks to the local community or area or to the council effectively and proactively
- » councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.

Community Strategic Plan

The community strategic plan is the highest-level plan that a council will prepare.

The plan identifies the community's main priorities and aspirations for the future (at least 10 years), and plans strategies for achieving these goals.

While councils prepare community strategic plans on behalf of their communities, they are not wholly responsible for implementing the plan. Other partners such as State agencies, community groups and business may also be engaged in delivering the long-term objectives of the plan.

The community strategic plan is reviewed and updated by each new council following its election.

Community Engagement Strategy

Councils must prepare and implement a community engagement strategy for engagement with the local community in the development and review of the community strategic plan and other plans, policies and programs (other than routine administrative matters). The community engagement strategy must be based on the social justice principles of access, equity, participation and rights.

As a result of recent amendments to the *Local Government Act 1993*, councils will soon be required to adopt a more broadly-based community engagement strategy for engagement with the local community when developing all of their plans, policies and programs and for the purpose of determining their activities other than routine administrative matters.

Delivery Program

The delivery program translates the community strategic plan goals into actions. It is each newly-elected council's commitment to the community, outlining what it intends to do toward achieving the goals of the community strategic plan.

It becomes the single point of reference for all principal activities undertaken by Council during that term of office. All plans, projects, activities and funding allocations must be directly linked to the four-year delivery program.

Operational Plan

The delivery program is supported by an annual operational plan. This document spells out the details of the delivery program, identifying individual projects and activities that will be undertaken in that year to achieve the commitments of the delivery program.

The operational plan is supported by a detailed budget and a statement of revenue policy, which also sets the fees and charges for that year.

Resourcing Strategy

The resourcing strategy resources the implementation of the community strategic plan, delivery program and operational plans. It consists of three components:

- » long-term financial planning (see 6.2.1 for further information)
- » workforce management planning
- » asset management planning (see 6.4.1 for further information).

Long-Term Financial Plan

Each council must prepare a long-term financial plan (at least 10 years), which is used to inform decision-making during the development and review of the community strategic plan and the delivery program.

The long-term financial plan is updated annually as part of the development of the operational plan, and is reviewed in detail as part of the review of the community strategic plan following each local government election.

Workforce Management Strategy

Each council must develop a workforce management strategy to address the human resourcing requirements of its delivery program.

The workforce management strategy therefore has a four-year minimum time frame.

Asset Management Planning

Councils must account for and plan for all the existing assets it owns, and plan for any new asset solutions proposed in the community strategic plan or delivery program.

To achieve this, councils must prepare an asset management strategy, incorporating an asset management policy, as well as asset management plans for each class of assets under the council's control. The strategy and plans must have a minimum 10-year time frame.

Asset management plans must identify service standards, and contain long-term projections of asset maintenance, rehabilitation and replacement costs.

Councils must report on the condition of their assets in their annual financial statements, in line with the *Local Government Code of Accounting Practice and Financial Reporting*.

Annual Report

The annual report is one of the key points of accountability between a council and its community.

It is not a report to the Office of Local Government or the NSW Government; it is a report to the community.

The annual report focuses on council's implementation of the delivery program and operational plan because these are the plans that are wholly the council's responsibility.

The report also includes some information that is prescribed by the *Local Government (General) Regulation 2005*. This information has been included in the Regulation because the NSW Government believes that it is important for community members to know about it—to help their understanding of how council has been performing both as a business entity and a community leader.

The annual report in the year of a local government election also includes a report as to the state of the environment in the local government area, specifically in relation to the objectives established for the environment by the community strategic plan.

An outgoing council will table a report at its final meeting, for inclusion in that year's annual report, which reports on the progress of implementing the community strategic plan.

The annual and end of term reports should each reflect the quadruple bottom line,

including reporting on social and community considerations, economic considerations, environmental considerations and civic leadership and governance considerations.

5.1.2 Roles and responsibilities of the mayor, councillors and general managers in strategic planning

The success of the planning process relies heavily on the commitment of the mayor and the general manager as well as all councillors. Without strong support and commitment, council will find it difficult to develop and implement a meaningful plan.

The Act prescribes specific responsibilities for the mayor, the governing bodies of councils, individual councillors and the general manager respectively in the development and implementation of councils' strategic plans and programs.

The mayor, as the leader of the council, is the public face of the planning process. The mayor is responsible for explaining the purpose of the community strategic plan to the community and for encouraging public support for the planning process.

The mayor is responsible for:

- » ensuring the timely development and adoption of the strategic plans and programs
- » promoting the effective and consistent implementation of the strategic plans and programs
- » promoting partnerships between the council and key stakeholders to deliver the council's strategic objectives
- » advising, consulting with and providing strategic direction to the general manager in relation to the implementation of the strategic plans.

The governing body is responsible for:

- » developing and endorsing the community strategic plan, delivery program and other strategic plans, programs, and strategies of the council
- » determining and adopting a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) and for the benefit of the local area, and
- » ensuring as far as possible that council acts in accordance with the plans, programs, and strategies of the council.

The ability of the mayor and councillors to capture a vision for the community's future, and to inspire others to participate in that future, will be fundamental to the success of the process.

It is important that all councillors support and are fully committed to the value of strategic planning. For this reason, each individual councillor has a statutory responsibility to participate in the development of the Integrated Planning and Reporting framework.

Similarly, the general manager has a pivotal role to play in mapping out the council's approach to the planning process and ensuring the community receives the information it needs to participate in a meaningful way.

The general manager will also be responsible for guiding the preparation of the community strategic plan and council's response to it via the delivery program.

She or he is responsible for implementing the delivery program and will report regularly on progress and ensure that it becomes a living document with regular updates and reviews, as required.

The general manager's clear understanding of the planning process and the way the various components are integrated will be fundamental to its success.

The general manager has an important leadership role to play in ensuring that each member of council's staff understands how their particular work activity contributes to achieving the objectives of the community strategic plan and what is expected of them in delivering its outcomes.

5.1.3 Assessing strategic plans

One of the most important roles of the governing body of a council is to endorse strategic plans.

As well as the community strategic plan, councils may prepare other strategic plans which are not required by legislation but which may assist in implementing the community strategic plan. These may include cultural plans, public health plans, economic development plans, environmental management plans and crime prevention plans.

In order to endorse strategic plans, councillors must be able to assess their appropriateness. Councillors should first be satisfied that the plan as a whole makes sense and that each part is logically supported with sound analyses and actions.

The questions in Section 2.4 *Effective decision-making* and in Section 6.2.1 *Long term financial planning* provide a starting point for councillors when assessing strategic plans. However, a framework such as the 'integrity model' may also assist councillors.

The integrity model asks the following questions:

- » **Comprehensibility:** Can you understand the plan and explain it to the community?
- » **Appropriateness:** Does the plan fit with the council's strategic direction and comply with its legislative and policy framework?
- » **Sustainability:** Are the assumptions underlying the plan valid and based on adequate financial, social and environmental analyses?
- » **Feasibility:** Is the council able to successfully respond to any challenges contained in the plan? Are council's resources sufficient to support the plan?
- » **Accountability:** Does the plan contain adequate performance measures so that management can report on the progress of the plan in a timely manner?

5.2 Land use planning

Land use planning refers to the long term development or conservation of an area and the establishment of a relationship between local objectives and regional goals.

The NSW Department of Planning and Environment is responsible for the administration of the *Environmental Planning and Assessment Act 1979* (EPAA, EP&A Act), which provides the framework for development decisions made by local government in NSW.

The objects of this Act include encouraging “the proper management, development and conservation of natural and man-made resources” and ecologically sustainable development.

In May 2016, the Minister for Planning announced plans to update key areas of land-use planning policy that the NSW Government is looking to improve, including community participation, plan making and development controls, local development, State significant proposals, improving governance and review processes, enforcement and reporting and promoting good design.

These reforms recognise the crucial role that councils play in engaging their communities about long-term planning priorities. Enabling legislation is expected to be introduced into Parliament later in 2016.

State Environmental Planning Policies & Local Environmental Plans

The planning framework in NSW is based on Environmental Planning Instruments. These planning instruments include State Environmental Planning Policies (SEPPs) and Local Environmental Plans (LEPs). SEPP and LEP Instruments are statutory plans made in accordance with Part 3 of the EP&A Act.

They exist to guide and control development and land use in NSW. Generally, SEPPs specify planning controls for certain areas and certain types of development. SEPPs can also identify the particular development assessment system that must apply to particular types of developments and identify the type of environmental assessment required for developments.

The NSW Government introduced a Standard Instrument for LEPs as part of its ongoing reform of the State's planning system. Councils are able to add to the template to set out detailed local planning rules addressing local issues within their area. More detailed information about LEPs and the planning system for NSW can be found on the NSW Department of Planning and Environment's website at www.planning.nsw.gov.au.

All local councils in NSW are planning and consent authorities for the purposes of the EPPA. In this role they are responsible for the development of a standardised LEP for their local government area and any amendments made to those LEPs.

LEPs may be made for all or part of a local government area and they determine the development status and controls to apply to any site within the area over which the LEPs have effect, and will guide and control planning decisions, through the establishment of zoning and relevant development controls.

LEPs provide a framework for the way land can be used in a particular area and are the main planning tool used to shape the future of communities and also ensure local development is done appropriately. Local councils develop and amend their LEPs in consultation with their local government communities and other relevant stake holders.

LEPs and amending LEPs are made by following the planning proposal and Gateway Determination processes set out in the EP&A Act, which is administered by the Department of Planning and Environment.

Development Control Plans (DCPs)

In addition to SEPPs and LEPs, local councils can adopt and implement development control plans (DCPs) in their local government areas. DCPs provide for more detailed planning and design guidelines and controls to support the objects of a council's LEP.

DCPs typically apply to specific types of development or specific areas of land, and provide detailed development guidelines and controls. DCPs outline controls and parameters for development proposals for these specific activities or areas.

DCPs are also prepared by councils in consultation with their local communities. DCPs provide a

detailed guideline that illustrates the controls that apply to particular types of development or particular areas in a council's area. To be valid, DCPs must generally conform to the provisions of the relevant LEP. Similar requirements exist for public exhibition as for LEPs.

Councils may choose to develop DCPs in order to:

- » identify development as advertised development, which then allows for notification of the proposal to adjoining owners/occupiers and notice being given in the local newspaper. Submissions on the proposal may then be made to the council prior to consideration of consent
- » provide additional notification requirements for certain types of developments
- » specify additional matters to be taken into account in making orders.

Environmental Impact Statements (EIS)

A development application for a project, identified as a designated development under the Regulations or a planning instrument, must be accompanied by an environmental impact statement (EIS).

Such projects are usually in the nature of major works such as industrial facilities, extractive industries and the like. In such cases, public exhibition of the application and any accompanying information for at least 30 days is required.

Objections to the proposal may be taken to the NSW Land and Environment Court if consent is granted subsequent to public submissions being received and considered by council as part of the evaluation process. If consent is refused, the applicant may also appeal the decision of the council.

Conditions of consent

A council may choose to allow a development subject to certain conditions. These conditions must generally be imposed for a planning purpose. They should be applied fairly, relate to the development and be reasonable. Conditions imposed in the consent are open to being tested by appeal to the NSW Land and Environment Court.

Regional strategic planning

The NSW Department of Planning and Environment is rolling out Regional Plans outside of the Sydney Metropolitan area, which will provide an overarching planning framework for local councils in regional areas to apply through their LEPs.

Each regional plan will be overseen by a Coordinating and Monitoring Committee, which will be jointly chaired by the NSW Department of Planning and Environment and the relevant Joint Organisation of Councils.

Greater Sydney Commission

The Greater Sydney Commission (GSC) was formed in 2015 to bring best practice planning and governance to Greater Sydney by integrating land use, transport and infrastructure planning and collaborating with State agencies, councils and the Australian Government.

The GSC comprises four Commissioners (including the Chief Commissioner) and six District Commissioners.

The GSC is developing District Plans for each of the six planning districts in consultation with local government and the broader community.

The GSC will also play a significant role in the operation of the Sydney Planning Panels, which will replace Joint Regional Planning Panels from July 2016.

5.2.2 Public land management

Councils have responsibilities under the *Local Government Act 1993* for the management of public land in their areas.

The Act defines public land as “any land (including a public reserve) vested in or under the control of the council”. However, public land does not include a road, Crown land, commons (as defined under the *Commons Management Act 1989*), land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or a regional park under the *National Parks and Wildlife Act 1974*.

Public land management is a complex area and council decisions relating to this issue can often be the subject of intense public interest and scrutiny. It is therefore important that councillors have an understanding of the area.

The Office of Local Government has prepared *Practice Note No.1—Public Land Management* to assist councils in their management of public land under the *Local Government Act 1993*. The Practice Note focuses on the requirements of the Act and related issues and covers areas such as the classification and reclassification of public land; plans of management; and leasing, licensing and the granting of other estates over community land.

A copy of the [*Public Land Management Practice Note*](#) can be downloaded from the Office of Local Government’s website: www.olg.nsw.gov.au.

Management of Crown land

Crown land comprises approximately half of all land in NSW and is managed primarily by the NSW Department of Primary Industries, Catchments and Lands.

However, councils are also responsible for the management of some parcels of Crown land retained or acquired by the State and set aside for specific public purposes, known as Crown reserves.

Crown reserves are often managed by reserve trusts and these trusts are responsible for the care, control and management of Crown land for the community.

Reserve trusts are established under the *Crown Lands Act 1989* and often a local council is the reserve trust manager. As reserve trust manager, a council has all the functions of a council under the *Local Government Act 1993* in relation to public reserves.

However, Crown land is specifically exempt from the land classification requirements in the *Local Government Act 1993*. This means that a council does not have to classify Crown land as either operational or community land.

The *Crown Lands Act 1989* and the *Crown Lands Regulation 2006* regulate the management of Crown land. The Crown Lands Act provides for plans of management for Crown reserves to be prepared in consultation with the community. As a reserve trust manager, a council may initiate the preparation of a plan of management in consultation with the NSW Department of Primary Industries, Catchments and Lands. A draft plan of management needs to be placed on public exhibition for at least 28 days.

Public comments are taken into account before the Minister for Primary Industries considers adopting the plan. If adopted, the plan becomes a regulatory instrument, which binds the reserve trust and can give statutory authority to other types of plans, such as conservation management plans for heritage components.

The NSW Department of Primary Industries, Catchments and Lands updated the Trust Handbook in 2009. This Handbook and further information about the responsibilities of councils as Crown reserve trusts on its website: http://www.ipma.nsw.gov.au/trusts/trust_handbook.

5.3 Natural Resource Management (NRM)

Natural resource management (NRM) is the management of natural assets including vegetation, land, water and soil in a manner consistent with the principles of ecologically sustainable development. Councils make a significant contribution to the management and protection of natural resources in NSW.

Councils have a range of functions, powers and responsibilities that can influence NRM, on both private and public land. These include:

- » **strategic and statutory planning:** including settlement or land use strategies, land use zonings and provisions or clauses in LEPs/DCPs
- » **plans of management:** including mapping natural assets or hazards
- » **development assessment:** including conditions of consent and development contributions
- » **incentive programs:** including rate rebates, free tree giveaways and acquisition programs for environmentally significant lands
- » **on-ground works:** including site-based rehabilitation projects, tree planting/revegetation projects/bush regeneration, roadside vegetation management, noxious & environmental weed control, wetland and/or water body restoration, water quality monitoring and stormwater management and control
- » **community engagement:** including information (brochures, website, and factsheets), community feedback, community focus groups, community standing advisory committees, and partnerships with local community groups.

Councils are encouraged to incorporate relevant national, State-wide and catchment priorities and targets into their land use and corporate planning processes in order to deliver an effective and coordinated approach to NRM.

In NSW, NRM is delivered on a regional basis through a variety of stakeholders, including all levels of government, Local Lands Services (which has replaced Catchment Management Authorities), Landcare, Bushcare and Coastcare Networks, landholders, and the general community.

Local lands services (LLS) work in partnership with local councils to ensure best practice management of natural resources, including weed management and pest control in areas under council jurisdiction.

LLS provide guidelines, training and incentive programs and assist councils with weed and pest management plans.

At a State level, Regional Plans are being rolled out by the NSW Department of Planning and Environment, which will provide an overarching planning framework for local councils in regional areas (except the Far West) to apply through their LEPs.

In the Sydney Metropolitan area, the overarching land use planning framework will be the six District Plans being developed by the Greater Sydney Commission in consultation with local government, and the broader community.



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SECTION 6

FINANCIAL MANAGEMENT

The responsibility and accountability for the financial management of a council rests with the governing body.

Although councillors are responsible and accountable for the financial management of a council, councillors should not be involved in the detailed assessment of complex financial figures.

Rather, councillors are responsible for making strategic decisions in relation to the financial management of the council that determines or affects the types of services, level of services and the strategic direction of the council.

Councillors need to know:

- » How does council get revenue to support its operations?
- » Are there restrictions on how this money can be spent?
- » What activities does council fund?
- » What information is required to assess the financial health of council?

6.1 Principles of sound financial management

Governing bodies of councils have the following responsibilities in relation to the financial management of councils:

- » to ensure as far as possible the financial sustainability of the council
- » to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) and for the benefit of the local area
- » to keep under review the performance of the council, including service delivery.

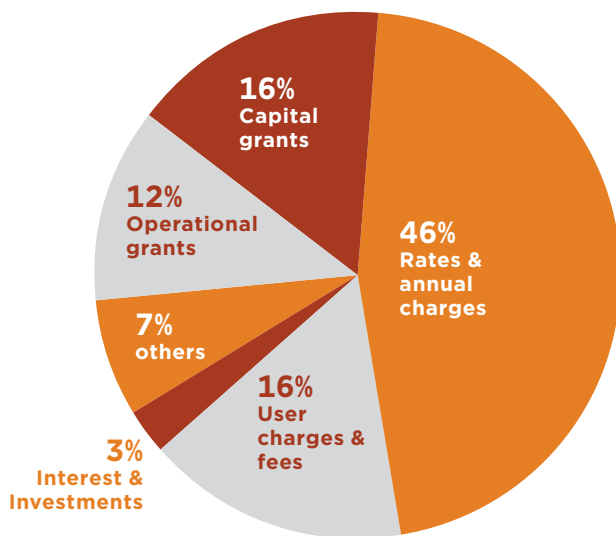
The *Local Government Act 1993* prescribes principles of sound financial management. These are intended to guide councils in the exercise of these and other functions in a way that facilitates local communities that are strong, healthy and prosperous.

The following principles of sound financial management apply to councils:

- » Council spending should be responsible and sustainable, aligning general revenue and expenses.
- » Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- » Councils should have effective financial and asset management, including sound policies and processes for the following:
 - > performance management and reporting
 - > asset maintenance and enhancement
 - > funding decisions
 - > risk management practices.
- » Councils should have regard to achieving intergenerational equity, including ensuring the following:
 - > policy decisions are made after considering their financial effects on future generations
 - > the current generation funds the cost of its services.

6.2 Sources of revenue

As discussed briefly in Section 1, councils obtain revenue from four main sources. These are rates and annual charges, user charges and fees, grants and other sources.



Sources of revenue for NSW Councils for 2014/15

6.2.1 Rates

Generally, a council's main source of revenue is from rates. Rates are local taxes that are levied on the basis of property values, issued by the Valuer General of NSW, within the local government area.

Growth in each council's total rates income is capped to a percentage each year roughly in line with inflation, which is announced by the Independent Pricing and Regulatory Tribunal (IPART).

Council staff will prepare the rates structure on this basis and it will form part of the revenue policy that the governing body will be required to approve.

Special variations

The council may seek to increase the rates above the allowed percentage with IPART approval through an application for a Special Rates

Variation under section 508(2) and 508A of the *Local Government Act 1993*.

In considering the decision to apply for a special variation, councillors should consider the purpose of the special variation, the impact that the decision will have on the community and council's finances.

The decision of a council to apply for a special variation should be a strategic decision and should be endorsed by the council prior to application.

Councils should also consider whether the decision fits with the strategic direction of the council and whether all the relevant materials and facts are available to make an informed decision.

When considering an application for a special variation, IPART takes into account issues such as how the variation will assist the council in meeting its long term strategic objectives, the level of community engagement undertaken by council about the proposal, the community's response to the proposal, and the financial position of the council.

6.2.2 Fees and charges

Annual charges

Under section 496 of the *Local Government Act 1993* a council must make and levy an annual charge for the provision of domestic waste management services for every parcel of rateable land for which the service is available.

Under section 496(a) and 496(b) of *Local Government Act 1993* a council may make and levy an annual charge for the stormwater management services and for the provision by the council of coastal protection services.

In addition, under section 501 councils can levy annual charges on each parcel of rateable land

for water supply services, sewerage services, drainage services and waste management services. There is also scope to allow annual charges on other services prescribed by the *Local Government (General) Regulation 2005*.

Fees

Councils can get additional income from fees for the use of publicly owned facilities like swimming pools, halls and other user-pays services. Fees can also be charged for giving information, supplying products or processing applications.

Setting of fees and charges

The amount of fees and charges are set by the council each year through the approval of the revenue policy, contained in the operational plan, by the governing body of the council.

Fees and charges should generally be set at a level that reflects the cost to council of providing those services.

A council cannot make and implement a rate or charge until: it has given public notice in its draft operational plan it has considered any submissions on the draft operational plan and resolved to adopt the plan.

6.2.3 Grants

Each year all councils receive a Financial Assistance Grant, which is paid by the Australian Government through the State Government's Grants Commission.

For 2016-17 the NSW Grants Commission will make recommendations on the distribution of an estimated \$712.09 million in grant entitlements to councils in NSW. The amount of the grant varies from council to council. The Financial Assistance Grant may be used for any council purposes.

Councils receive grants from other sources from time to time and may apply for specific grants for specific purposes or programmes. These grants are usually through the State and Australian

Governments. For example, the NSW Roads and Maritime Services may make a grant for work on a particular road.

6.2.4 Other revenue sources

Other sources of income include interest on investments, contributions and any gains made from the sale of assets.

Investments

Section 625 of the *Local Government Act 1993* allows councils to invest money that is not, for the time being, required by the council. Investments must be in line with the current Ministerial Investment Order and any guidelines issued by the Office of Local Government.

Each month an investment report must be presented at a council meeting by the responsible accounting officer (RAO). The RAO must take a 'prudent person approach' to investing council's money.

Given the responsibilities of the governing bodies of councils under the Act in relation to the oversight of the financial management of the councils, councillors should ensure that the council:

- » has an appropriate investment policy that guides the investment of ratepayers' funds in accordance with the council's charter
- » approves the investment policy by resolution
- » ensures that the policy is reviewed each year
- » ensures that there is open and transparent reporting of the council investments to council and ratepayers.

Borrowings

Section 621 of the *Local Government Act 1993* allows council to borrow at any time for any purpose allowed. Borrowings can take the form of an overdraft or loan and a council may give security for borrowings. Councils are required to adhere to the Ministerial Borrowing Order when borrowing. The borrowings are set by the governing body of the council each year through the approval of the revenue policy, contained in the operational plan.

6.3 Financial planning

A council's operational plan contains its revenue policy, which sets out how a council plans to pay for its activities. It gives details of council's estimated income and expenditure for the next year; sets out the rates, charges and fees; outlines council's pricing policy; and announces proposed borrowings.

It is very important that councillors are aware of what they are approving when they adopt the revenue policy.

Councillors should encourage the general manager to recommend options for cost-effective service delivery and strategies for raising revenue. Similarly, councillors should make suggestions and ask the general manager to report on their viability.

6.3.1 Long term financial planning

A long term financial plan is an important part of council's strategic planning process. This is where long term community aspirations and goals are tested against financial realities.

The strategic planning and reporting system reinforces the importance of the long term financial plan as a key decision-making and problem-solving tool for councillors.

The modelling that occurs as part of the long term financial plan provides information for councillors to consider financial issues at an earlier stage and to gauge the effect of these issues in the longer term, when making financial decisions for the council.

The following is an overview of the long term financial planning component of the proposed strategic planning and reporting system:

What are the general requirements for long term financial planning?

- » Each council must prepare a long term financial plan.
- » The long term financial plan must be used to inform decision making during the finalisation of the Community Strategic Plan and the development of the Delivery Program.

What is the minimum time frame for the long term financial plan?

- » The long term financial plan must be for a minimum of 10 years.

How often must the long term financial plan be reviewed?

- » The long term financial plan must be updated at least annually as part of the development of the Operational Plan. The long term financial plan must be reviewed in detail as part of the four yearly review of the Community Strategic Plan.

What is the basic structure of the long term financial plan?

- » The long term financial plan must include:
- » projected income and expenditure, balance sheet and cash flow statement
- » service standards to be provided
- » planning assumptions used to develop the plan
- » sensitivity analysis—highlights factors/assumptions most likely to affect the plan
- » financial modelling for different scenarios e.g. planned/optimistic/conservative
- » methods of monitoring financial performance.

6.4 Allocation of revenue

While the general manager is accountable to the governing body for the council's financial performance, as members of the council's governing body councillors are accountable to the residents and ratepayers for the appropriate allocation of council monies.

In order to discharge this responsibility, it is essential that councillors receive adequate financial reports from the general manager so they can assess the financial health of council and ensure that finances have been properly accounted for.

Similarly, in making decisions and assessing the sustainability of the council, it is essential that councillors are provided with sufficient information to determine if the council can afford to undertake the activity, assess the cost-benefit of any proposed activity or project, and monitor that council activities and projects are being undertaken within budget.

Key questions for councillors when assessing plans and projects

- » Is the strategy in the best interests of the community?
- » How does it address community wants and needs?
- » How does it fit with council's vision and goals?
- » What would be the impact of demographic, social or environmental change on the proposal?
- » Will the performance indicators contained in the proposal enable council to adequately monitor the progress of the plan and measure if it is achieving the desired outcome?
- » Does it provide value for money? Is the cost-benefit acceptable?

6.5 Asset management

When making investment decisions about assets, councillors need to consider their full lifecycle cost, not simply the immediate construction/purchase price.

An asset is defined as "a resource controlled by a council as a result of past events and from which future economic benefits are expected to flow to the council".

NSW local government is the custodian of approximately \$89 billion of community infrastructure assets. These assets include roads, water and sewerage assets, drains, bridges, footpaths, public buildings, recreational facilities and parks and gardens. They enable councils to provide services to the community.

As custodians, councils are responsible for effectively accounting for and managing these assets and having regard to the long term and cumulative effects of their decisions.

The term 'asset management' describes the process for 'whole of life' asset management from planning, purchase, operation, maintenance to disposal of assets. It also encompasses integration of asset and service outcomes.

6.5.1 Asset management planning

A strong and sustainable council requires a strong asset management planning process to ensure that its assets are managed in the most appropriate way to deliver the services that the community needs.

To ensure that this is achieved council's asset management planning must be integrated with all of its strategic planning processes.

Asset management decisions should be informed by the evaluation of alternative means of service provision, full lifecycle costing, and performance measurement and monitoring.

Informed decision making recognises the long-lived character of infrastructure assets and the need to plan and budget for them on a full lifecycle basis beginning with the identification of a service need and the means to meet that need.

The strategic planning and reporting system reinforces the importance for councillors to consider all aspects of their council's services and programs when undertaking asset management planning. Asset management planning should not be done in isolation.

The following is an overview of the asset management planning component of the strategic planning and reporting system:

What are the general requirements for asset management planning?

- » Each council must account for and plan for all of the existing assets under its ownership, and any new asset solutions proposed in its community strategic plan and delivery program.
- » Each council must prepare an asset management strategy and asset management plan/s to support the community strategic plan and delivery program.

What is the minimum time frame for the asset management strategy and plan/s?

- » The asset management strategy and plan/s must be for a minimum time frame of 10 years.

What is the basic structure of the asset management strategy?

- » The asset management strategy must include an overarching council endorsed asset management policy.
- » The asset management strategy must identify assets that are critical to the council's operations and outline risk management strategies for these assets.
- » The asset management strategy must include specific actions required to improve council's asset management capability and projected resource requirements and timeframes.

What is the basic structure of the asset management plan(s)?

- » The asset management plan(s) must encompass all the assets under a council's control.
- » The asset management plan(s) must identify asset service standards.
- » The asset management plan(s) must contain long term projections of asset maintenance, rehabilitation and replacement costs.

How should councils assess the condition of their assets?

- » Councils are encouraged to adopt the following five-category model for assessing the condition of their assets.

»

Level	Condition	Description
1	Excellent	No work required (normal maintenance)
2	Good	Only minor work required
3	Average	Some work required
4	Poor	Some renovation needed within 1 year
5	Very poor	Urgent renovation/upgrading required.

Asset management condition assessment model

What asset management reporting must councils do?

- » Councils are encouraged to use the five-category assessment model for reporting on the condition of their assets in their annual financial statements in line with the *Local Government Code of Accounting Practice and Financial Reporting*.

6.6 Capital expenditure

As councils are responsible for the prudent management of community resources, it is important that they undertake a capital expenditure review as part of their normal planning processes before committing to any major capital projects.

The council will need to consider the following before commencing any capital expenditure that is expected to cost in excess of 10 per cent of the council's annual ordinary rate or \$1 million, whichever is the greater (GST exclusive):

- » Is the need for the additional facilities identified in the council's delivery program and asset management strategy?
- » Capacity of council to conduct the project: does the Long-Term Financial Plan indicate financial capacity?
- » Priority of the project in relation to existing capital commitments and future works: does it achieve an objective of the community strategic plan?
- » Alternatives to the proposed works.
- » All financial implications of the project.
- » Community support for the project: does it achieve a desired community outcome?
- » Accountability for project through regular reporting to the council.

Councillors are required to vote on capital projects and they should make sure that they are satisfied that the above requirements have been reported adequately to enable them to make an informed decision.

In addition to the minimum requirements for capital expenditure projects, projects forecast to exceed \$10 million council will also be required to complete a:

- » business/management project plan
- » risk management plan
- » probity plan
- » tender evaluation.

For more information, councillors can read the [*Capital Expenditure Projects Guidelines*](#) on the Office of Local Government website: www.olg.nsw.gov.au.

Further information on effective decision making can be found in *Section 2—Roles, responsibilities and relationships*.

6.7 Financial reporting

Council's governing body should regularly receive a number of financial reports including:

- » budget: with a comparison to the actual results on a quarterly and yearly basis
- » forecasts: projections of council's financial position into the future
- » balance sheet: statement of financial position showing the current value of council's assets, e.g. cash, receivables (debtors), inventory (stock), any prepayments, and the current state of council's liability i.e. creditors, borrowings, provisions, and unearned income
- » profit and loss: statement of financial performance detailing council's income and expenses
- » cash flow: showing cash receipts and cash payments to enable councillors to assess council's ability to pay its debts as and when they fall due and as such is a good measure of council's solvency.

These reports might be accompanied by commentary advising the governing body of any exceptional or unexpected items and explaining any anomalies that might be evident in the reports, as well as ratio analysis of council's performance.

There are three types of ratios commonly used to analyse and assess financial performance:

1. Liquidity ratios that allow assessment of the organisation's ability to pay debts: current ratio and quick ratio.
2. Operating ratios that help assess efficient management of working capital and assets—'days debtors' and 'days creditors'—which respectively measure the number of days on average that accounts receivable are owing and the average time it takes to pay creditors.
3. Financing ratios that help in assessing comfortable use of liabilities compared with level of equity i.e. interest cover, debt to equity.

It is important that councillors are able to understand the financial reports presented to them in the council meeting papers so that they can properly monitor council's performance and discharge their responsibilities as members of council's governing body.

It is not sufficient for councillors to solely rely on the assurances of the staff.

While the general manager is accountable to the governing body for council's financial performance, councillors must feel appropriately informed and comfortable before signing off financial reports or agreeing to financial commitments.

Councillors must make sure that they ask enough questions to enable them to understand the financial situation of council. If the council's governing body feels that it has insufficient information on which to base a decision or monitor or assess a project or proposal it is important that the general manager is asked to provide further information.

Important questions to ask when evaluating financial reports include:

- » Are the council's results above or below the benchmarks?
- » Are the results improving or declining?
- » If they are declining:
- » What are the reasons for this?
- » What is council doing to improve this in the future? What does the long term financial plan show?

The financial ratios discussed above can provide councillors with valuable information to assist them in assessing one aspect of council's financial health.

The Office of Local Government has a number of benchmarks for various indicators that it uses to assess the financial health of councils.

6.8 Other financial management issues

6.8.1 Goods and Services Tax (GST)

Councils are required to submit a GST compliance certificate to the Office of Local Government every year.

The council is required to sign the GST compliance certificate for the period 1 July to 30 June and forward it to the Office of Local Government by 31 July each year. The statement is to be signed by the general manager and responsible accounting officer.

6.8.2 Formation of companies

Section 358 of the *Local Government Act 1993* allows for the formation of corporations and other entities by councils, but only with the Minister's consent.

An entity for the purposes of section 358 means any partnership, trust, joint venture, syndicate or other body (whether or not incorporated). It does not include any such entity that is of a class prescribed by the *Local Government (General) Regulation 2005* as not being within this definition. To date, the Regulation has not prescribed any class.

In applying for the Minister's consent under section 358, the council must demonstrate that the formation of, or the acquisition of the controlling interest in, the corporation or entity is in the public interest.

Applications are assessed by the Office of Local Government and referred to the Minister for approval. As part of the Office's assessment of a council's application, regard is given to the following:

- » Is the proposal consistent with the functions of the council or an existing service that the council provides? Councillors should ensure that the application is consistent with the functions of the council or an existing service that the council provides.
- » Will the proposed entity be legally separated from the council?
- » Is the council currently financially viable?

Further details on the formation of companies can be found on the Office of Local Government website at the link below:

<http://www.olg.nsw.gov.au/news/circular-07-49-criteria-applications-under-s358-formation-corporations-or-other-entities>

6.8.3 Public Private Partnerships (PPP)

A public-private partnership (PPP) is defined as an arrangement between a council and a private person for the purposes of providing infrastructure or facilities, or delivering services in accordance with the arrangement or both. Legislative provisions relating to PPP are set out in section 400B to 400N of the *Local Government Act 1993*.

A council must not enter into a PPP unless the council has provided the Office of Local Government with an assessment of the project to be carried out.

If the project is a significant project (defined as where the cost is more than \$50 million or council's contribution is more than 25 per cent of the council's annual revenue that is available for such projects) or if the Office of Local Government considers the project to have a high risk, the project will be referred to the Project Review Committee. The Minister may also refer any project to the Project Review Committee.

If their council is considering a PPP, councillors should consult the Office of Local Government's guidelines on the processes that councils are to follow. The [PPP guidelines](#) are available on the Office's website: www.olg.nsw.gov.au.

Section 7

SUPPORT FOR COUNCILLORS

7.1 Annual fees paid to councillors

Being a councillor is an important commitment to the local community but in NSW it is not a full time job. As such, councillors are not entitled to wages, workers compensation, sick pay etc.

However, under the *Local Government Act 1993* councillors are entitled to receive an annual fee for carrying out their duties. This is paid in monthly instalments in arrears.

The fee paid will depend on the size of the council, the number of people it serves and the assets it manages. A councillor in a small rural council will generally get paid less than a councillor in a big city council.

For 2016/17 the fees range from \$ 8,540 per year to \$ 37,640 per year. The mayor gets an additional fee for the additional duties he or she carries out.

The Local Government Remuneration Tribunal decides each year what councillor fees will be. Councils are not allowed to pay councillors more than the set councillor fee.

The fee is subject to tax, so councillors need to consider how it might affect their assessable income for tax purposes.

Councillors can request that they are paid below the fee fixed by the Tribunal if the full fee will adversely affect their entitlement to a pension, benefit or other allowance.

The Australian Tax Office (ATO) has made a definitive ruling (ATO ID 2007/205) that allows for councillors to redirect their annual fees into superannuation on a pre-tax basis. Councils need to determine for themselves, by council resolution and/or within an appropriate council policy, whether and how councillors may do this. Further information about this ruling can be obtained on the ATO's website: www.ato.gov.au or by calling 13 28 65.

A council may decide to reduce or withhold fees from a councillor if they do not attend meetings for more than three months. Councillors are not entitled to receive a fee if they are suspended from office.

Further information about fees can be found in the latest determination on fees from the Remuneration Tribunal, contact details for which are contained in [Appendix 2 – Key organisations](#).

Councillors are also encouraged to seek independent financial advice about issues relating to the fees they are paid.

7.2 Expenses and facilities

The *Local Government Act 1993* allows councils to cover some of the expenses that councillors incur in carrying out their duties. This includes training, travel and telephone expenses.

Councils must also provide some facilities to assist councillors to carry out their duties such as access to cars, computers, internet, fax machines, mobile phones, stationery or administrative assistance.

Councillors may only use the facilities provided to them for performing official duties. For example, a councillor cannot make personal calls from the mobile phone that the council gives them unless there is a mechanism for declaring and reimbursing private usage.

The range of expenses and facilities provided to councillors varies between councils. The council decides what expenses it will cover and what facilities it will provide as well as limits on these. This must be set out in a councillor expenses and facilities policy that is adopted at an open council meeting.

Council policies on the provision of expenses and facilities to councillors should ensure that councillors are not left out-of-pocket for performing their civic duties.

They should also ensure that expenses and facilities are reasonable, appropriate and provided in a transparent and accountable way.

There are guidelines about what councils can include in their policies. Councillor expenses covered by councils may include:

- » training courses
- » conferences
- » travel to and from meetings, conferences and training
- » accommodation, meals and refreshments
- » phone calls or internet use associated with councillor duties
- » the cost of providing care for children or other dependants while performing council duties
- » facilities such as mobile telephones, laptops, facsimile machines, stationery etc.

Councils are also encouraged to provide equipment and facilities to assist councillors with disabilities and special needs to access the services and information they need in order to perform their roles.

Further information about this issue can be found in the [Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW](#) available on the Office of Local Government's website: www.olg.nsw.gov.au.

Councillors should acquaint themselves with their council's councillor expenses and facilities policy.

7.3 Training and professional development

The roles and responsibilities of councillors are wide and varied, and there is a lot to learn. Councils should identify the training needs of their councillors and ensure that they have access to ongoing training and professional development throughout their term.

It is the responsibility of individual councils to identify the training and professional development needs of councillors, and to plan and deliver this training.

The Office of Local Government and Local Government NSW also provide a wide range of support for councillors, including training and induction programs. Councillors have a responsibility to participate in the training and professional development opportunities offered to them.

7.3.1 Councils

As soon as possible after the elections councillors should be briefed by council staff on the key tasks to be undertaken by the new council at its first meeting.

All councils should prepare and deliver an induction program that introduces new councillors to the council, its main policies and protocols and key staff.

Individual councils are strongly encouraged to develop and implement induction and continuing professional development programs for councillors based on a systematic training needs analysis. The nature of these programs will vary from council to council, as the analysis will identify different needs.

New councillors are encouraged to tell their council about their personal training needs.

For assistance in the development of these programs, councils should refer to the Office of Local Government's *Councillor Induction and Professional Development—A Guide for Councils*, available from: www.olg.nsw.gov.au.

7.3.2 Office of Local Government

The Office of Local Government is implementing the Councillor Development Strategy to assist councillors. Elements of this strategy include:

- » councillor workshops organised by the Office of Local Government in partnership with Local Government NSW. All councillors, including councillors who have served a previous term, are strongly encouraged to attend a councillor workshop after the local government elections
- » a guide to assist councils in the development of a council-based induction and ongoing professional development program (mentioned above).

7.3.3 Local Government NSW)

As a service to their members, Local Government NSW provides professional development and training specifically catering to the needs of councillors. Local Government NSW's Councillor Professional Development Program includes the following modules:

- » Community and Stakeholder Engagement
- » Chairing and Meeting Procedures
- » Elected Life—An Induction Program for Councillors
- » Executive Certificate for Elected Members
- » Financial Issues in Local Government
- » Good Governance Forum
- » Internal Audit
- » Know your Planning
- » Mayor's Weekend Seminar
- » Media Skills
- » Model Code of Conduct
- » Preventing Bullying and Harassment

Local Government NSW also provides a free mentoring service for mayors and councillors. These mentors provide confidential advice to support councillors in their role as elected representatives.

Information on these programs can be obtained by contacting Local Government NSW via the contact details provided in Appendix 2.

7.3.4 Local Government Professionals Australia (NSW)

Local Government Professionals Australia, NSW is a leading association representing the professionals in NSW local government.

Local Government Professionals Australia, NSW helps to strengthen the professional capability of its members by providing access to resources and support through events, networks, training and council services. It provides Local Government Induction Online Training courses as well as eConnect, an on-line information portal covering strategic management information on integrated planning and reporting, long term financial planning, and strategic asset management and workforce planning.

7.4 Other information and resources

New councillors may also benefit from establishing informal support networks and informal mentoring arrangements with more experienced councillors either in their council or in other councils. Many experienced councillors are often happy to mentor new councillors and share their knowledge and experience and provide advice.

Publications, such as *Bluett's Local Government Handbook NSW* by David Clark (17th edition, Lawbook Company, 2012) may also provide a handy reference for new councillors. It explains in detail how councils operate in NSW, their services and regulatory functions and gives an overview of relevant local government and planning laws. Many councillors have found it to be a valuable resource.

APPENDICES

APPENDIX 1 – SKILLS AND KNOWLEDGE CHECKLIST

APPENDIX 2 – KEY ORGANISATIONS

APPENDIX 3 – KEY LEGISLATION

APPENDIX 4 – USEFUL RESOURCES

APPENDIX 5 – DEALING WITH THE MEDIA

APPENDIX 6 – TIPS FOR EFFECTIVE COMMUNITY ENGAGEMENT

APPENDIX 7 – STANDARDS OF CONDUCT FOR COUNCIL OFFICIALS



APPENDIX 1

SKILLS AND KNOWLEDGE CHECKLIST

The most important attribute for you to possess in your role as a councillor is a desire help people and meet the current and future needs of your local community as a whole.

While you do not require any special formal qualifications to be a councillor, having or being able to develop certain skills, knowledge and attributes will help you to be effective in your role.

Councillor Skills

You may wish to use this checklist to identify areas where you require training or assistance. However, it is also important to recognise that many of these skills can be learned and developed over time.

☐ **Good communication skills**

This includes good listening and interpersonal skills, public speaking skills, the ability to accept alternative points of view as well as the ability to negotiate, mediate and resolve conflict.

☐ **Ability to engage with the community**

Effective councillors inform residents about important local issues or council policies and seek their views. Councillors should also have an understanding of why this is important and the various ways to consult, such as through meetings, the media, the Internet, public forums, debates and surveys.

It is important for councillors to consult with as wide a cross-section of the community as possible. Developing networks within the local community can provide a sounding board against which the impact of council policies can be assessed.

☐ **Problem solving and analytical skills**

This includes being able to get to the bottom of an issue and to think of different ways to resolve it, including advantages and disadvantages of each. It is also important for councillors to be able to think strategically and consider the long term impacts of council policies.

☐ **Teamwork skills**

This includes being able to work with others in meetings and on committees, and being able to complete any tasks on time that councillors agree to do.

Other councillors can be a valuable resource. Assuming they are not also newly elected, other councillors will already have a good idea of the main issues in the area and should have contact with key groups and individuals. They can show new councillors the ropes and introduce them to useful people.

☐ **Organisational skills**

This includes being able to plan and manage time, keep appointments and deadlines, make priorities and manage stress. Practical ways to do so include:

- » developing a filing system for paperwork and emails
- » learning to use existing council record keeping systems so as to prevent the duplication of information
- » prioritising what is needed to be read and responded to
- » having an effective diary management system

☐ **Leadership qualities**

This includes, for example, attributes such as energy and optimism, motivation, resilience, confidence, assertiveness, strategic thinking, advocacy, networking, active listening and negotiating.

☐ **Working collaboratively**

This includes understanding how to work with colleagues, organisations and the community to solve problems, gather resources and build alliances

☐ **Ethical accountable behaviour**

This includes being able to follow a code of conduct that involves, amongst other things, acting in the best interests of the community as a whole, transparent decision-making and accountability.

Councillor knowledge

Effective councillors understand the broader local government picture. It is important that councillors understand the structure of their council and its responsibilities to the community. This handbook is a useful reference tool for building that knowledge.

You should also remember that specialist council staff can provide information and advice on a wide variety of issues, but this must happen through the general manager, except where he or she has authorised another council officer to undertake the role.

☐ **Knowledge or understanding of strategic planning and financial reporting processes**

This includes an understanding of the importance and role of strategic planning and a comprehensive understanding of budgets, the budgetary process and financial reports.

☐ **Knowledge or understanding of social justice principles**

This includes having an understanding of why it is important to make sure all people in the community are treated equitably, have the right to be heard and are able to participate in public forums and events if they choose to. Groups of people whose voices are not always heard include Aboriginal people, people with a disability, people from culturally and linguistically diverse backgrounds, older people, women and young people.

☐ **Knowledge and understanding of local government functions**

This includes, for example, land use planning, environmental management and community development and services.

☐ **Understanding of relevant State Government legislation**

This includes, for example, the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*. For further relevant legislation see [*Appendix 2 – Key legislation*](#).

To develop your skills, take the opportunity to attend the various training opportunities offered by your council, the Office of Local Government, Local Government NSW and other bodies.

This further development can be in the form of face-to-face training, conferences and seminars on councillor interest topics, industry webinars, and eLearning modules.

TIPS FOR DEVELOPING SKILLS AND KNOWLEDGE

(adapted from: Improvement and Development Agency (I&DEA) UK – Councillor Guide 2011-12)

- » Talk to the mayor and other councillors.
- » Talk to the general manager.
- » Take up training courses offered by the council or other training bodies.
- » Read the council's strategic and operational plans to gain an overview of the council's agenda and priorities.
- » Learn how the council makes decisions and how you can influence these on behalf of the people you represent.
- » Take on new responsibilities with care—don't take on too much too soon.
- » Learn to manage the paperwork—learn what you need to read and what you don't, and don't hoard outdated or irrelevant material.
- » Set up a good filing system.
- » Concentrate on matters that interest you and learn them thoroughly.
- » Set up a schedule for visiting the key groups in your area over your first year—including faith groups, voluntary groups, major employers, schools, youth centres, tenants' and residents' associations.

APPENDIX 2

KEY ORGANISATIONS

Further information on local government can be obtained from the following organisations or their websites.

OFFICE OF LOCAL GOVERNMENT

Street address: (Nowra Office)

Level 1, 5 O'Keefe Avenue
NOWRA NSW 2541

Phone: (02) 4428 4100

TTY: (02) 4428 4209

Postal address: (Nowra Office)

Locked Bag 3015
NOWRA NSW 2541

Fax: (02) 4428 4199

Street address: (Sydney Office)

Level 9, 6 O'Connell Street
SYDNEY NSW 2000

Phone: (02) 9289 4000

Email: olg@olg.nsw.gov.au

Postal address: (Sydney Office)

PO Box R1772
ROYAL EXCHANGE NSW 1225

Fax: (02) 9289 4099

Website: www.olg.nsw.gov.au

LOCAL GOVERNMENT NSW

Street address:

Level 8, 28 Margaret Street
SYDNEY NSW 2000

Phone: (02) 9242 4000

Email: lgsw@lgsw.org.au

Postal Address:

GPO Box 7003
SYDNEY NSW 2001

Fax: (02) 9242 4111

Website: www.lgsw.org.au

Councillor Professional Development Program:

Phone: (02) 9242 4181/4081

Email: learning@lgsw.org.au

Fax: (02) 9242 4188

Website: www.lgsw.org.au

LOCAL GOVERNMENT PROFESSIONALS AUSTRALIA, NSW

Street/Postal address:

Level 10, 22 Market Street
SYDNEY NSW 2000

Phone: (02) 8297 1200

Email: nsw@lgprofessionals.com.au

Fax: (02) 9262 6705

Website: www.lgprofessionals.com.au

UTS CENTRE FOR LOCAL GOVERNMENT

UTS Centre for Local Government
(Part of UTS: Institute for Public Policy and Governance)

Street address:

Level 21, UTS Tower Building
15 Broadway
Ultimo NSW 2007

Postal address:

PO Box 123
BROADWAY NSW 2007

Phone: (02) 9514 7884

Email: clg@uts.edu.au

Fax: (02) 9514 2274

Website: www.clg.uts.edu.au

The UTS Centre for Local Government (UTS:CLG) is an autonomous unit within the University of Technology, Sydney, and is part of the UTS Institute for Public Policy and Governance (UTS:IPPG). UTS:CLG was established in 1991 and promotes a cooperative approach to local government education, research and development. The Centre's activities are diverse and include professional development programs for local government personnel and associated professionals, research into various aspects of local government and governance, and international programs and projects.

COUNCIL WEBSITES

Council website may be accessed by searching by the council's name, or via the website of the Local Government and Shires Associations (under 'Council websites') or from the Office of Local Government's website (under '[Local Government Directory](#)').

INDEPENDENT COMMISSION AGAINST CORRUPTION

Street address:

Level 7, 255 Elizabeth Street
SYDNEY NSW 2000

Postal Address:

GPO Box 500
SYDNEY NSW 2001

Phone: (02) 8281 5999

TTY: (02) 8281 5773

Email: icac@icac.nsw.gov.au

Fax: (02) 9264 5364

Toll Free: 1800 463 909

Website: www.icac.nsw.gov.au

The Independent Commission Against Corruption (ICAC) was established by the *Independent Commission Against Corruption Act 1988* to promote the integrity and accountability of public administration in NSW by:

- » investigating, exposing and preventing corruption involving or affecting public authorities or public officials, and
- » educating public authorities, public officials and members of the public about corruption and its detrimental effects on public administration and on the community.

The ICAC is a public authority, but is independent of the government of the day, and accountable to the people of NSW through the NSW Parliament.

NSW OMBUDSMAN

Street address:

Level 24, 580 George Street
SYDNEY NSW 2000

Postal Address:

As for street address.

Phone: (02) 9286 1000

TTY: (02) 9264 8050

Email: nswombo@ombo.nsw.gov.au

Fax: (02) 9283 2911

Toll Free: 1800 451 524

Website: www.ombo.nsw.gov.au

The NSW Ombudsman is an independent and impartial watchdog whose job is to make sure that the agencies they watch over fulfil their functions properly and improve their delivery of services to the public. The Ombudsman helps agencies to be aware of their responsibilities to the public, to act reasonably and to comply with the law and best practice in administration. The Ombudsman is independent of the government of the day and accountable to the public through the NSW Parliament.

NSW DEPARTMENT OF PLANNING AND ENVIRONMENT

Street address:

23-33 Bridge Street
SYDNEY NSW 2001

Phone: (02) 9228 6333

Toll Free: 1300 305 695

Email: information@planning.nsw.gov.au

Postal address:

GPO Box 39
SYDNEY NSW 2001

Fax: (02) 9228 6555

Website: www.planning.nsw.gov.au

The Department of Planning and Environment is responsible for the administration of the *Environmental Planning and Assessment Act 1979* and the *Heritage Act 1977*.

OFFICE OF ENVIRONMENT AND HERITAGE (OEH)

Street address:

Level 14, 59-61 Goulburn Street
SYDNEY NSW 2000

Postal address:

PO Box A290
SYDNEY SOUTH NSW 1232

Phone: (02) 9995 5000

Email: info@environment.nsw.gov.au

Fax: (02) 9995 5999

Website: www.environment.nsw.gov.au

OEH is responsible for the administration of the *Protection of the Environment Operations Act 1997* and the *Waste Avoidance and Resource Recovery Act 2001*.

TRANSPORT FOR NSW, ROADS AND MARITIME SERVICES (RMS)

Street address:

20-44 Ennis Road
MILSONS POINT NSW 2061

Postal address:

Locked Bag 928
NORTH SYDNEY NSW 2059

Phone: 131 782

Fax: (02) 8588 4105

Website: www.rms.nsw.gov.au

The RMS is responsible for the administration of the *Roads Act 1993* and the *Road Transport (Safety & Management) Act 1993*.

DEPARTMENT OF PRIMARY INDUSTRIES (DPI)

Street address:

161 Kite Street
ORANGE NSW 2800

Postal address:

Locked Bag 21
ORANGE NSW 2800

Phone: (02) 6391 3100

Fax: (02) 6391 3336

Website: www.dpi.nsw.gov.au

DPI is responsible for the administration of the *Noxious Weeds Act 1993*, *The Crown Lands Act 1989* and various other pieces of legislation relevant to local government.

Other Key Bodies

LOCAL GOVERNMENT GRANTS COMMISSION

Postal address:

Locked Bag 3015
NOWRA NSW 2541

Phone: (02) 4428 4132

Fax: (02) 4428 4199

Email: olg@olg.nsw.gov.au

Website: www.olg.nsw.gov.au

The primary function of the Local Government Grants Commission is to make recommendations to the Minister for Local Government on the allocation to local governing bodies in NSW of general-purpose grants under the provisions of the Commonwealth *Local Government (Financial Assistance) Act 1995*.

The Commission may also report on any matter referred to it by the Minister.

LOCAL GOVERNMENT BOUNDARIES COMMISSION

Postal address:

PO Box R1772
ROYAL EXCHANGE NSW 1225

Phone: (02) 9289 4000

Fax: (02) 9289 4099

Email: boundaries@olg.nsw.gov.au

Website: www.olg.nsw.gov.au

The Local Government Boundaries Commission is a statutory authority constituted under section 263 of the *Local Government Act 1993*. It has the function of examining and reporting on any matter referred to it by the Minister for Local Government regarding the boundaries of local government areas and the areas of operation of county councils. Section 263(3) specifies factors that the Boundaries Commission must have regard to when considering amalgamation or boundary alteration proposals.

NSW CIVIL AND ADMINISTRATIVE TRIBUNAL (NCAT)

Postal address:

NCAT Occupational Division
Level 10, John Maddison Tower
86-90 Goulburn Street
SYDNEY NSW 2000

PO Box K1026
HAYMARKET NSW 1240

Phone: 1300 006 228

Email:

Website: www.ncat.nsw.gov.au

NCAT was established on 1 January 2014 in response to the recommendations of the Legislative Council's Standing Committee on Law and Justice Inquiry into opportunities to consolidate tribunals in NSW. NCAT is empowered under the *Local Government Act 1993* to consider allegations of councillor misconduct and pecuniary interest breaches referred to it by the Office of Local Government. It is empowered to take disciplinary action against councillors with respect to such breaches including suspension from office and disqualification for up to five years.

LOCAL GOVERNMENT REMUNERATION TRIBUNAL

Postal address:

Level 14, Bligh House
4 – 6 Bligh Street
SYDNEY NSW 2000

Phone: (02) 9272 6006

Email: sarah.bradshaw@psc.nsw.gov.au

Website: www.remtribunals.nsw.gov.au

The Local Government Remuneration Tribunal is constituted under Chapter 9, Division 4 of the *Local Government Act 1993*. The member of the Tribunal is appointed by the Governor for up to three years and is assisted by two Assessors. It is responsible for categorising councils, county councils and mayoral offices to determine the range of annual fees to be paid to mayors, councillors, members of county councils and chairpersons in each category.

The Tribunal is required to make a determination by no later than 1 May each year and make a report to the Minister within 7 days of making that determination. The Report is to be published in the Government Gazette and also tabled in each House of Parliament.

Greater Sydney Commission

Postal address:

PO Box 257
PARRAMATTA NSW 2124

Phone: (02) 8289 6200

Website: www.greatersydneycommission.nsw.gov.au

The Greater Sydney Commission is constituted under the *Greater Sydney Commission Act 2015*. Its functions include to:

- » Advise and make recommendations to the Minister for Planning on matters relating to planning and development in the Greater Sydney Region
- » Report to the Minister on the implementation of plans or proposals relating to development in the Greater Sydney Region
- » Provide advice and make recommendations to the Minister on any impediments to plans or proposals relating to development in the Greater Sydney Region
- » Provide advice to the Minister on the application of any development fund created under section 129 of the *Environmental Planning and Assessment Act 1979*, relating to the acquisition of land in the Greater Sydney Region. This includes advice regarding the improvement of public open space, infrastructure and facilities at a regional or local level.
- » Assist local councils in the Greater Sydney Region, as well as state and Commonwealth agencies, to implement plans or proposals relating to development in the Greater Sydney Region.

APPENDIX 3

KEY LEGISLATION

1.1 Key Legislation

It is important that councillors have an understanding of the legislation under which councils have responsibilities. The following legislation falls within the portfolio responsibilities of the Minister for Local Government:

Local Government Act 1993

This is the primary piece of legislation governing councils and county councils in NSW. The purpose of the Act is to:

- » Provide the legal framework for the system of local government for New South Wales.
- » Set out the responsibilities and powers of councils, councillors and other persons and bodies that constitute the system of local government.
- » Provide for governing bodies of councils that are democratically elected.
- » Facilitate engagement with the local community by councils, councillors and other persons and bodies that constitute the system of local government.
- » Provide for a system of local government that is accountable to the community and that is sustainable, flexible and effective.

The *Local Government (General) Regulation 2005* supports the powers of councils under the Act.

Section 23A of the Act provides that the Chief Executive of the Office of Local Government may prepare, adopt or vary guidelines relating to the exercise by a council of any of its functions. A council must take any relevant guidelines issued under section 23A into consideration before exercising any of its functions.

The following guidelines have been issued by the Chief Executive or their delegate under section 23A:

- » [*Model Asbestos Policy, November 2012*](#)
- » [*Guidelines for the Appointment and Oversight of General Managers, July 2011*](#)

- » [*Capital Expenditure Guidelines, December 2010*](#)
- » [*Internal Audit Guidelines, September 2010*](#)
- » [*Investment Policy Guidelines, May 2010*](#)
- » [*Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, October 2009*](#)
- » [*Tendering Guidelines for NSW Local Government, October 2009*](#)
- » [*Guidelines for Council When Notification of an Intention to Use Fireworks is Received, October 2008*](#)
- » [*Stormwater Management Service Charge Guidelines, July 2006*](#)

Companion Animals Act 1998

The principal object of this Act is to provide councils with powers to ensure the effective and responsible care and management of companion animals (cats and dogs).

The Act also requires councils to promote awareness within its area of the requirements of this Act with respect to the ownership of companion animals, and to take such steps as are appropriate to ensure that it is notified or otherwise made aware of the existence of all dangerous and restricted dogs that are ordinarily kept within its area.

The *Companion Animals Regulation 2008* supports the powers of councils under the Act.

Swimming Pools Act 1992

This Act applies to swimming pools (both outdoor and indoor) that are situated, or proposed to be constructed or installed, on premises on which a residential building, a moveable dwelling or tourist and visitor accommodation is located. It does not apply to swimming pools that are situated, or proposed to be constructed or installed, on any premises occupied by the Crown or by a public authority.

The Act also provides the framework for swimming pool inspections, compliance and non-compliance certificates associated with swimming pool barriers.

The Act requires councils to take such steps as are appropriate to ensure that it is notified of the existence of all swimming pools to which the Act applies that are within its area. The Act also requires councils to promote awareness within their area of the requirements of this Act.

The *Swimming Pools Regulation 2008* supports the powers of councils under the Act.

Impounding Act 1993

This Act empowers councils and other authorised persons to impound and deal with animals and articles in public places and places owned or under the control of certain public authorities if, in the case of animals, they are unattended or trespassing or, in the case of articles, they have been abandoned or left unattended. It also provides for the release of impounded animals and articles that are claimed by their owners, and for the disposal of impounded animals and articles that are not claimed by their owners and, if they are disposed of by sale, to provide for the disposal of the proceeds of sale.

The Act also allows councils and impounding authorities to 'opt in' to take impounding action against boat trailers parked for more than 28 days. In any area where the provisions are applied, boat trailers must move at least every 28 days at least as far as a different block section of the same street. A Council must provide notice of at least 15 days before impounding a trailer.

The *Impounding Regulation 2008* supports the powers of councils under the Act.

1.2 Other key legislation under which councils have responsibilities

Environmental Planning and Assessment Act 1979 (EPAA) – Minister for Planning

Councils have a responsibility under the EPAA to encourage the proper management, development and conservation of natural and artificial resources for the purpose of promoting the social and economic welfare of the community and a better environment. The Act also requires councils to promote and co-ordinate the orderly and economic use and development of land.

Under the EPAA councils also have responsibility for:

- » consulting with relevant bodies in land use plan preparation
- » assessing and weighing the interests and demands of different sections of the community with those of the development applicant in the determination of planning policies and development applications
- » ensuring that Local Environmental Plans (LEPs) and development control decisions are related to the sound management of the environment and its resources
- » identifying local planning needs
- » developing policies addressing issues in the LEP
- » ensuring that responsibilities for Environmental Impact Assessment are met.

In May 2016, the Minister for Planning announced plans to update key areas of land-use planning policy that the Government is looking to improve, including: community participation, plan making and development controls, local development, State significant proposals, improving governance and review processes, enforcement and reporting and promoting good design.

Enabling legislation is expected to be introduced into Parliament later in 2016.

The *Environmental Planning and Assessment Regulation 2000* supports the powers of councils under the Act.

Protection of the Environment Operations Act 1997 (POEO) – Minister for the Environment

This Act provides councils with powers to protect, restore and enhance the quality of the environment, while having regard to the need to maintain ecologically sustainable development. The POEO Act also provides increased opportunities for public involvement and participation in environment protection, and to rationalise, simplify and strengthen the regulatory framework for environment protection.

The Act also aims to reduce risks to human health and prevent the degradation of the environment by the use of mechanisms that promote pollution prevention and improve the monitoring and reporting of environmental quality on a regular basis.

The *Protection of the Environment Operations (General) Regulation 2009*, *Protection of the Environment Operations (Clean Air) Regulation 2010*, *Protection of the Environment Operations (Noise Control) Regulation 2008* and *Protection of the Environment Operations (Waste) Regulation 2005* support the powers of councils under the Act.

Waste Avoidance and Resource Recovery Act 2001 – Minister for the Environment

This Act provides councils with powers to achieve integrated waste and resource management planning, programs and service delivery. The overall aim of the Act is to encourage the most efficient use of resources and to reduce environmental harm in accordance with the principles of ecologically sustainable development. The Act also aims to minimise the consumption of natural resources and the final disposal of waste by encouraging the avoidance of waste and the reuse and recycling of waste.

Threatened Species Conservation Act 1995 – Minister for the Environment

This Act protects threatened species in NSW. It places significant obligations on local councils due to cognate provisions in the EPAA in relation to councils assessing impacts of development proposals on listed threatened species, populations and ecological communities and their habitats. The *Threatened Species Conservation Regulation 2010* and the *Threatened Species Conservation (Biodiversity Banking) Regulation 2008* support the powers of councils under the Act.

Noxious Weeds Act 1993 – Minister for Primary Industries

This Act provides councils and county councils with powers to assist in reducing the negative impact of weeds on the economy, community and environment of NSW by establishing control mechanisms to prevent the establishment of significant new weeds, restrict the spread of existing significant weeds, and reduce the area of existing significant weeds. It also provides for the monitoring of and reporting on the effectiveness of the management of weeds.

The *Noxious Weeds Regulation 2008* supports the powers of councils and county councils under the Act.

The Biosecurity Act 2015 is due to commence in 2017 and this framework will replace the existing Noxious Weeds Act framework. For more details on this framework please refer to <http://www.dpi.nsw.gov.au/content/biosecurity/biosecurity-act-2015>.

Road Rules 2014– Minister for Roads, Maritime and Freight

This is the primary piece of legislation relating to parking control, including signage and road markings.

Road Transport Act 2013 – Minister for Roads, Maritime and Freight

This Act includes provisions for issue, service and payment of penalty notices; the liability of vehicle owners in relation to offences (including parking) and allows for the making of regulations regarding the parking of vehicles and parked or stopped vehicles on roads and road-related areas, including pay parking and parking offences.

Road Transport (General) Regulation 2013 – Minister for Roads, Maritime and Freight

This Regulation provides for the use of pay parking schemes including meters, tickets and coupons, parking permits and mobility parking scheme authorities. It also gives councils the ability to reach agreement with other councils in relation to common pay parking schemes and pass a resolution in relation to fixed fees in accordance with guidelines set by the RMS.

The application of monies raised from parking may be applied by councils at its discretion, but it is also subject to the requirements of the Local Government Act 1993. The parking authority must also meet all costs associated with administering and maintaining a pay-parking scheme.

The offences relating to parking are also contained in this Regulation. The Regulation also defines different classes of persons as authorised persons within the meaning of the Local Government Act 1993 for the purposes of s679 of the LGA (Penalty notices for certain offences).

Roads Act 1993 – Minister for Roads, Maritime and Freight

Local councils derive their powers as roads authority from the *Roads Act 1993*. In this capacity, they are responsible for the management of all public roads within their area, other than freeways, Crown roads or public roads controlled by another public authority, and private roads.

The *Roads Regulation 2008* supports the powers of councils under the Act.

Transport Administration Act 1988 – Minister for Roads, Maritime and Freight

This Act includes the power to delegate functions of Roads and Maritime Services and powers to regulate traffic management and safety, including traffic control devices and special event parking schemes, as well as the interrelationship with laws relating to local government.

Multicultural NSW Act 2000 – Premier jointly with the Minister for Multiculturalism

This legislation requires councils to implement the principles of multiculturalism. This is reinforced in the principles that apply to council decision making under the *Local Government Act 1993*. These require councils to recognise diverse local community needs and interests and to consider social justice principles when making decisions.

Coastal Management Act 2016 – Minister for Planning

When proclaimed, this legislation will introduce a modern legal framework with the tools needed to plan for and protect the coast, while balancing property owners' rights with free public access to beaches. The Act will commence in late 2016 after further public consultation on the new Coastal State Environmental Planning Policy and maps of the coastal management areas is finalised.

A Coastal Management Manual will also be released by Office of Environment and Heritage to assist councils in managing the coast under the new Act.

1.3 Legislation under which councillors have personal responsibilities

Councillors also have personal responsibilities to comply with the requirements of other Acts and Regulations. The following are only some of the legislation with which councillors must comply. The Local Government NSW can provide more detailed support to assist councillors meet their compliance obligations. Councillors should also seek advice and be guided by their general manager in compliance matters.

State Records Act 1998

This Act regulates the manner in which councils are required to manage their records. All correspondence received by a council and councillors in their official capacity could be considered records under this legislation.

It is unlikely that correspondence to councillors about a councillor's personal affairs would be included in the definition of a record. However, correspondence to councillors from residents and ratepayers about the personal matters of the residents and ratepayers as they relate to a council's business may be included.

Councils should have policies in place for the good management of council's records to assist councillors comply with this legislation. Compliance with the State Records Act 1998 will also assist in complying with related legislation such as the Government Information (Public Access) Act 2009 and the Privacy and Personal Information Protection Act 1998.

The State Records Regulation 2010 prescribes councils as State collecting institutions in relation to private records in a local studies or similar collection.

Government Information (Public Access) Act 2009

The *Government Information (Public Access) Act 2009* (the GIPA Act) establishes a proactive, more open approach to gaining access to government information. It:

- » authorises and encourages the proactive release of information by NSW public sector agencies including councils
- » gives members of the public a legally enforceable right to access government information
- » ensures that access to government information is restricted only when there is an overriding public interest against releasing that information.

The guiding principle of the GIPA Act is public interest. It is generally presumed that all government agencies will disclose or release information, unless there is an overriding public interest against doing so. Under the GIPA Act it is compulsory for agencies to provide information about their structure, functions and policies, and agencies are encouraged to proactively and informally release as much other information as possible.

An access application (also known as a formal application) should only need to be lodged as a last resort. Where access applications are needed, the GIPA Act outlines the process that applicants and agencies should follow, as well as the options for reviewing decisions about an access application.

Privacy and Personal Information Protection Act 1998

The *Privacy and Personal Information Protection Act 1998* (PPIP Act) outlines how New South Wales public sector agencies including councils manage personal information.

The PPIP Act prescribes 12 Information Protection Principles. These are legal duties that describe what NSW public sector agencies (including councils) must do when they handle personal information. They detail how personal information must be collected, stored, used and disclosed as well as rights to access personal information.

Work Health and Safety Act 2011

It is important that councillors ensure that they are familiar with the key provisions of the *Work Health and Safety Act 2011* (WHS Act). Councillors have the following duties under the WHS Act:

- » take reasonable care for their own health and safety
- » take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons
- » comply, so far as they are reasonably able, with any reasonable instruction that is given to them to ensure compliance with the WHS Act.

It is potentially an offence under the WHS Act to fail to comply with these duties.

Councillors must comply with the local WHS arrangements at council and have an WHS induction. Councils should have local policies dealing with arrangements for accessing workplaces and building sites.

Anti-Discrimination Act 1997

This legislation prohibits discrimination against any person on the basis of their race, gender, disability, religious beliefs, age, marital status, sexuality and carer's responsibilities.

These obligations are also reflected in the Model Code of Conduct for Local Councils in NSW.

1.4 Further information about NSW legislation

The *Local Government Act 1993* and all other NSW Acts and regulations may be accessed on the website of the Parliamentary Counsel's Office at www.legislation.nsw.gov.au.

APPENDIX 4

USEFUL RESOURCES

1.1 Roles, responsibilities and relationships

» [Office of Local Government's Directory of Policy Advice for Councils](#)

This contains policy advice provided to councils by the office through circulars, guidelines and practices notes. It covers a variety of common topics and also includes answers to Frequently Asked Questions. It is aimed primarily at council staff, but may serve as a useful information tool for councillors.

1.1.1 Personal responsibilities of councillors

» **Work Health and Safety Act 2011**

It is important that councillors ensure that they are familiar with the key provisions of the Work Health and Safety Act 2011 (the WHS Act). For more information about the WHS Act visit the [SafeWork](#) NSW Website.

» **Social justice**

As leaders of the community it is essential that councillors promote the social justice principles of equity, access, participation and rights for all people. This is consistent with the requirement in the *Local Government Act 1993* for councils' Community Strategic Plans and Community Engagement Strategies to be based on social justice principles.

To promote social justice councillors also need to be aware of and comply with personal responsibilities in relation to the following matters:

» **Anti-Discrimination**

[A Fact sheet for local government councillors - August 2011](#) is available to assist councillors to understand their responsibilities under anti-discrimination legislation. More detailed [Anti-Discrimination Guidelines for Local Councils - August 2011](#) have been prepared for councillors and council managers to assist councils comply with anti-discrimination legislation. These resources were prepared by

the Anti-Discrimination Board in conjunction with the Office of Local Government. For further information about the Anti-Discrimination Act 1997 visit the [Anti-Discrimination Board website](#).

» **Equal Employment Opportunity**

There are Equal Employment Opportunity (EEO) requirements specifically included in the *Local Government Act 1993*. For further information about EEO see the Department of Premier and Cabinet's [Equity and Diversity](#) webpage.

» **Principles of multiculturalism**

Councillors should also be aware of their council's responsibility to implement the principles of multiculturalism set out in the *Multicultural NSW Act 2000*. For further information about this Act see Multicultural NSW's website at www.multicultural.nsw.gov.au.

» **Ecologically Sustainable Development**

The *Local Government Act 1993* states that council decision-making should consider the principles of ecologically sustainable development. This requires the integration of economic and environmental considerations in decision-making processes.

A number of principles underpin ecologically sustainable development and can be used to guide our decision making and actions. They include:

- » the precautionary principle
- » intergenerational equity
- » biodiversity and ecological diversity
- » improved economic valuation including environmental factors.

1.1.2 Relationships

- » [Criteria for applications under section 358 of the Local Government Act 1993 – Formation of corporations or other entities](#)

This circular sets out the criteria for applications by councils under section 358 of the *Local Government Act 1993* to obtain the consent of the Minister for Local Government to form a corporation or other entity.

1.1.3 Managing performance

- » **Local Government Professionals Australia, NSW resources:**

Local Government Professionals Australia, NSW produces a number of ‘health check’ documents which are available to councils who subscribe to these services. Councillors should check with their general manager to see if council has access to the following documents:

- » [Governance Health Check](#)

The Governance Health Check (GHC) is a self-audit guide to good governance in councils that was jointly developed by Local Government Professionals Australia, NSW and ICAC. It is designed to give councils a simple tool to identify key elements of corporate governance in a NSW local government context and to measure their progress in relation to each of these elements. The GHC is delivered through an online service called eConnect that councils can subscribe to.

- » [Sustainability Health Check](#)

The Sustainability Health Check can be used to provide a robust assessment of council performance and organisational systems and is compatible with the Governance Health Check.

1.1.4 Appointment of general manager and senior staff

- » [Standard Contract of Employment for General Managers of Local Councils in NSW](#) and [Standard Contract of Employment for Senior Staff \(other than General Managers\) of Local Councils in NSW](#)—Office of Local Government

Standard contracts of employment were approved to ensure consistency and certainty in employment relationships at the management level in local government and reflect community expectations by providing greater transparency and accountability.

- » [Guidelines-for-the-Appointment-and-Oversight-of-General-Managers](#)—Office of Local Government

The purpose of these Guidelines is to assist councillors to be aware of their obligations under the *Local Government Act 1993* and the *Local Government (General) Regulation 2005* when recruiting, appointing, reappointing and overseeing general managers. It provides a summary of the essential matters that must be addressed by councils when engaging in these processes.

1.2 Code of Conduct and acting ethically

- » [Model Code of Conduct for Local Councils in NSW](#)—Office of Local Government

The Model Code of Conduct is prescribed under section 440 of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*. It prescribes the ethical and behavioural standards that all council officials, (including councillors, staff, members of council committees and delegates of council) are required to comply with.

All councils are required to adopt a code of conduct that incorporates the provisions of the Model Code.

- » [Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW](#)—Office of Local Government

These procedures are prescribed for the purposes of the administration of the Model Code of Conduct for Local Councils in NSW. They are made under section 440AA of the *Local*

Government Act 1993 and the Local Government (General) Regulation 2005.

Section 440AA requires every council to adopt procedures for the administration of their code of conduct that incorporate the provisions of the Model Code Procedures.

- » [*Pecuniary Interest Guidelines*](#)—Office of Local Government

These guidelines assist councillors to comply with their obligations under the pecuniary interest provisions of the *Local Government Act 1993*.

- » [*Self-Help Guide for the Completion of Returns Disclosing Interests of Councillors and Designated Persons Required Under Section 449 of the Local Government Act 1993*](#)—Office of Local Government

This self-help guide has been developed to assist in completing the section 449 return of interests form in order to comply with the provisions of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*.

1.3 Making the most of meetings

[*Practice Note No. 16: Meetings*](#)—Office of Local Government

This Practice Note was issued to provide guidance to councils on how to run their meetings. It is not meant to be a complete guide to meeting procedures, but it does include frequently asked questions.

[*The Closure of Council Meetings to the Public*](#)—Office of Local Government

This publication provides guidance to assist councils to comply with the *Local Government Act 1993* when closing their meetings to the public.

1.4 Financial Management – Integrated Planning and Reporting

Further information about financial management, long-term financial planning and asset management can be found at the [*Office of Local Government's Integrated Planning and Reporting*](#) webpage. Local Government Professionals Australia, NSW also provides [*e-connect*](#), an on-line information portal covering strategic management information on integrated planning and reporting, long term financial planning and strategic asset management (check if your council subscribes).

1.5 Support for councillors

- » [*Councillor Induction and Professional Development – A Guide for Councils*](#)

The guide provides information to assist councils develop and implement councillor induction and continuing professional development programs, including their content. Councils are strongly encouraged to implement such programs.

- » [*Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW 2009*](#)—Office of Local Government

These guidelines assist councils review and prepare their policies on the payment of expenses and the provision of facilities for mayors and councillors.



APPENDIX 5

DEALING WITH THE MEDIA

The following information has been developed by Local Government NSW.

The Local Government NSW's Local Government Learning Solutions team also presents 'handling the media' and 'social media' training courses, which are highly recommended for both new councillors and as a refresher for returning councillors.

Dealing with the media

Media regularly contact councils for comment on local issues, and councils rely on media to promote upcoming events and projects, and to voice their views on certain issues.

The media and councils need each other, but it is a sensitive relationship fraught with risk.

Most councils have media guidelines and the mayor is often the official spokesperson.

There are, however instances where a councillor is best placed to comment- either because the mayor isn't available, or it is an issue of particular interest/expertise to the councillor.

Below are some tips on getting the most out of the media and avoiding the pitfalls.

General

✓ Be accessible and responsive – journalists are simply doing their job and are the gateway to communicating council views, events and projects.

✓ Follow council policies and guidelines on media contact

! Nothing is really 'off the record' so be prepared for everything you say to a journalist to be used.

! Only say 'no comment' if you have a reasonable excuse (like the issue is in court). It is better to provide a general statement than nothing at all.

! Stick to matters of official council business—avoid personal comments about other issues and individuals.

If you are approached for an interview

- ✓ Know your subject and have an understanding of the likely questions and angle of the journalist's story.
- ✓ Ask yourself who the audience is and what you want to communicate to them.
- ✓ Devise a set of key messages that are short and precise and get your messages across.
- ✓ Practice! Even the most seasoned media performers have to prepare to get it right.
- ✓ If you don't know the answer to a question, do not make something up or guess. Simply say "I will have to get back to you", "I'll have to confirm" or repeat one of your key messages.
- ✓ Don't be afraid to pause while you think of the correct, and best, answer.
- ✓ Don't be persuaded to say something that isn't true, isn't your view or isn't appropriate for you to comment on.

For TV

- ☒ Avoid wearing dark or very bold colours – keep your outfit simple.
- ☒ No sunglasses!
- ☒ Don't fidget or shift your eyes.
- ☒ Keep your sentences short and sharp.
- ☒ Don't be afraid to show passion or some emotion, but control it.
- ☒ Repeat your key messages as much as possible.

Press releases

- ☒ Keep them to one page.
- ☒ Make the heading catchy and interesting.
- ☒ Make sure the first sentence captures the most newsworthy information.
- ☒ Keep sentences and paragraphs short and to the point.
- ☒ Make sure there are contact numbers for further comment at the bottom of the release.
- ☒ Ensure that spelling and grammar are accurate.

Social media

Most councils now use Twitter, Facebook®, LinkedIn®, Pinterest® and other social media to engage local communities. As an elected member you will need to find out what social media policies and guidelines exist for your council, and apply them accordingly.

Connected Councillors (Local Government Group, UK 2011) is a general guide for councillors in the United Kingdom and sets out the benefits of social media to support local leadership, how to get started using social media and on-line etiquette.

APPENDIX 6

TIPS FOR EFFECTIVE COMMUNITY ENGAGEMENT

The following checklist has been adapted from the NSW Government Regional Communities Consultative Council's *A summary guide to consulting with rural and regional communities*.

Identify the issue	<ul style="list-style-type: none">» What is the nature of the issue?» What needs to be discussed?» What are the possible options or contentious issues?
Identify the objective of the engagement activity	<ul style="list-style-type: none">» What are you aiming to achieve?» Why are you talking to the community?» What information do you need to find out?
Identify who you need to talk to	<ul style="list-style-type: none">» Who is affected by the issue?» Can target groups be identified?» What are the particular needs of different groups?» What particular activities should be included to ensure that all relevant stakeholders are able to be included (e.g. Aboriginal community members, young people, families, and people with disabilities)?
What techniques will be needed	<ul style="list-style-type: none">» Are the techniques appropriate for the audience?» What other methods could be utilised to reach the target audience?
Allocate sufficient resources to the process	<ul style="list-style-type: none">» Would a neutral facilitator assist?» Is consensus decision making a goal?» Has sufficient time been allocated to the engagement activity?
Involve participants in the process	<ul style="list-style-type: none">» Has sufficient information been provided to participants to enable informed participation?» Is written information concise and jargon free?» Are there appropriate aids to assist communication (e.g. interpreters and hearing loops), are special interests respected, and is the process understood?

Maximise the ability of the community to participate	<ul style="list-style-type: none"> » What are the most appropriate methods to contact participants? » Is the activity resourced sufficiently to take into account distance, travel time etc.? » Is the location appropriate for the participants (not just the council)? » Is childcare, aged care and disabled access provided? » Has adequate notice been given? » Have participants been encouraged to participate through personal contact? » Have cultural protocols been observed (eg: welcome to country)? » Can the expenses of low income participants be met? » Is a meeting the best way to achieve the desired outcome?
Realistic timetables	<ul style="list-style-type: none"> » Is the community engagement activity a one-off or ongoing? » Is the timetable practical and realistic? » What are the time barriers and what strategies are in place if they cannot be met to the community's satisfaction?
Resource management	<ul style="list-style-type: none"> » What resources are needed? » Is training or are external personnel needed? » Are existing community resources being used? » Can this engagement activity or meeting be undertaken within an existing community meeting process?
Outcomes	<ul style="list-style-type: none"> » Are the desired outcomes clear to everyone? » Are the outcomes agreed? » How will the outcomes be documented? » How will the information be used? » How will decisions be reached? » How will the community be informed of the outcomes?
Evaluation	<ul style="list-style-type: none"> » How will success be defined and measured? » How can the community participate in the evaluation process? » How is the evaluation recorded? » How are the results of the evaluation provided back to the community participants and wider community?

APPENDIX 7

STANDARDS OF CONDUCT FOR COUNCIL OFFICIALS

Council officials play a vital role in serving local communities.

To do this effectively you will want to uphold the highest standards of behaviour to ensure the public has trust and confidence in local government.

What are the expected standards of behaviour?

The following standards of behaviour are expected of council officials. You must:

- » not conduct yourself in a manner that is likely to bring the council into disrepute
- » act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions
- » treat others with respect at all times
- » consider issues consistently, promptly and fairly
- » not harass, discriminate against, or support others who do so
- » ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly
- » not participate in binding caucus votes
- » disclose and appropriately manage any conflict of interests
- » disclose and appropriately manage conflicts of interest arising from reportable political donations
- » not accept money or gifts of value and avoid situations that give rise to the appearance of securing favourable treatment
- » in the case of councillors, not direct council staff or influence staff in the exercise of their role
- » in the case of staff, ensure efficient and effective operation of the council's organisation and ensure the implementation of the decisions of the council without delay
- » use and secure information appropriately and do not disclose confidential information

- » use council resources ethically, effectively, efficiently and carefully in the course of official duties
- » not make complaints improperly, take detrimental action in response to complaints about standards of behaviour or disclose information about code of conduct matters.

Council officials include councillors, members of staff of council, administrators, members of council committees, conduct reviewers and delegates of council.

These standards are described in detail in the Model Code of Conduct for Local Councils in NSW. The code is a legal document that all officials are obliged to understand and follow. The Model Code forms the basis of each council's own Code of Conduct.

What happens if the standards are not met?

In the very small number of cases where council officials fail to follow this code, this will be dealt with in accordance with the procedure for administration of the Model Code.

Complaints about a breach of these standards by anyone other than the general manager are to be made at first instance to general manager. Complaints about the general manager are to be made to the mayor. Non-serious complaints will be resolved informally. Where the complaint cannot be resolved informally, a complaint may be formally investigated by an independent conduct reviewer.

Breaches of these standards by delegates or council committee members may result in the following action:

- » censure
- » requirement of apology
- » prosecution
- » removal or restriction of delegation.

Breaches by council staff may result in disciplinary action, termination or such other penalty permitted under the relevant industrial award.

Breaches by the general manager may result in the following action:

- » requirement for training
- » counselling
- » requirement for apology
- » findings of inappropriate conduct made public
- » action under the general manager's contract.

Breaches by councillors may result in the following action:

- » requirement for training
- » counselling
- » requirement for apology
- » findings of inappropriate conduct made public
- » censure
- » referral to the Office of Local Government for disciplinary action including but not limited to suspension for up to three months
- » referral by the Office of Local Government to the NCAT for suspension of up to six months or disqualification from holding civic office
- » automatic disqualification for five years on a third suspension for misconduct.



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Circular Details	Circular No 18-46 / 18 December 2018 / A621298
Previous Circular	<i>18-25 Status of the new Councillor Induction and Professional Development Guidelines</i>
Who should read this	Mayors / Councillors / General Managers / Council governance staff
Contact	Council Governance Team/ 02 4428 4100/ olg@olg.nsw.gov.au
Action required	Council to implement

New Councillor Induction and Professional Development Requirements

What's new or changing

- Amendments made to the *Local Government Act 1993* (the Act) by the *Local Government Amendment (Governance and Planning) Act 2016* in August 2016 saw the inclusion in the prescribed role of councillors under section 232 a responsibility *"to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor"*.
- In support of this, regulations have been made for induction and other professional development for mayors and councillors. The new requirements under the *Local Government (General) Regulation 2005* are outlined in the attachment to this circular. These requirements do not apply to joint organisations.
- The Office of Local Government (OLG) has prepared guidelines to assist councils to develop and deliver induction and ongoing professional development activities for their mayor and councillors in compliance with the proposed regulations. The Guidelines have been issued under section 23A of the Act.

What this will mean for your council

- Councils' induction and professional development programs are to consist of three elements:
 - *Pre-election candidate sessions* – these are to ensure prospective candidates are aware of what will be expected of them if elected (these are not mandatory but are encouraged)
 - *Induction program* – this aims to equip mayors and councillors with the information they need to perform their role effectively over the first few months and has a particular focus on building positive, collaborative relationships between councillors and with staff
 - *Professional development program* – this is to be developed in consultation with all councillors and delivered over the term of the council to build the skills, knowledge and personal attributes necessary to be an effective mayor or councillor.
- Councils will be required to report information in their annual reports on the induction and ongoing professional development activities offered to the mayor and each councillor. The reporting requirements are set out in the attachment to this circular.

Key points

- Councils will need to take immediate steps to develop and deliver a professional development program for the mayor and each councillor.
- Councils will need to deliver an induction program for any councillor elected at a by-election before the next ordinary elections.
- Councils will be required to prepare and deliver an induction program for the mayor and all councillors following the next ordinary elections.
- From next year, councils will be required to report on councillor induction and professional development in their annual reports.

Where to go for further information

- The Councillor Induction and Professional Development Guidelines are available on OLG's website at www.olg.nsw.gov.au.
- For further information, contact OLG's Council Governance Team on (02) 4428 4100.



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Attachment

The new councillor induction and professional development requirements under the *Local Government (General) Regulation 2005*

- The general manager is to ensure an induction program is delivered for newly elected and returning councillors and a specialised supplementary induction program for the mayor within six months of their election.
- The general manager is to ensure an ongoing professional development program is delivered for the mayor and each councillor over the term of the council for the purposes of assisting them to acquire and maintain the skills necessary to perform their role.
- The content of the ongoing professional development program to be delivered to the mayor and councillors is to be determined in consultation with the mayor and each councillor and is to have regard to the specific skills required by the mayor, each individual councillor and the governing body as a whole to perform their roles.
- Mayors and councillors must make all reasonable efforts to participate in the activities offered to them as part of an induction or ongoing professional development program.
- Councils are to publish the following information in their annual reports:
 - the name of the mayor and each individual councillor that completed council's induction program (where an induction program has been delivered during the relevant year)
 - the name of the mayor and each councillor who participated in any ongoing professional development program during the year
 - the number of training and other activities provided to the mayor and councillors during the year as part of a professional development program, and
 - the total cost of induction and professional development activities and any other training provided to the mayor and councillors during the relevant year.
- The above requirements do not apply to joint organisations.

Councillor Induction And Professional Development Guidelines

2018



COUNCILLOR INDUCTION AND PROFESSIONAL DEVELOPMENT GUIDELINES

2018

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About these guidelines

The *Councillor Induction and Professional Development Guidelines* (the Guidelines) have been issued under section 23A of the *Local Government Act 1993* (the Act) to assist general managers and council staff to develop, deliver, evaluate and report on the induction and professional development programs they are required to provide mayors and councillors under the *Local Government (General) Regulation 2005* (the Regulation). Councils are required to consider the Guidelines when

undertaking these activities. These Guidelines also apply to county councils, and where relevant, joint organisations.

The Guidelines have also been developed to ensure mayors and councillors are aware of the knowledge, skills and personal attributes expected of them in their civic roles under the Act, and of the support their council should be providing to ensure they are able to effectively fulfil their roles.

These Guidelines are divided into five parts:

Part A	explains the statutory requirements for induction and professional development programs for mayors and councillors in NSW.
Part B	guides councils on how to develop and deliver information sessions to potential candidates considering nominating for election.
Part C	guides councils on how to develop and deliver induction programs for newly elected and returning mayors and councillors.
Part D	guides councils on how to develop and deliver ongoing professional development programs that ensure mayors and councillors continue to develop their capabilities throughout their terms in office.
Part E	outlines how councils are to report on the induction and professional development activities offered to mayors and councillors and their participation in those activities.

It is acknowledged that many NSW councils already provide induction and ongoing professional development programs for mayors and councillors. It is also recognised that the needs and circumstances of councils vary as do the capabilities of individual mayors and councillors, as well as their development needs. The aim of the Regulation and the Guidelines is to ensure that all mayors and councillors across the state have access to such programs, and that the programs delivered by councils meet a consistent minimum standard. The Guidelines have also been designed to be used flexibly by councils and to accommodate, and in some cases build upon, existing programs.

These Guidelines include:

- details of the capabilities (ie the knowledge, skills and attributes) that mayors and councillors are required to have or to acquire in order to fulfil their roles effectively
- a framework for the development of pre-election information sessions for candidates, and induction and ongoing professional development programs for elected members
- information about the developmental stages of each program and what to consider at each stage, and
- checklists of the content that is required in candidate information sessions and induction programs for elected members.

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Introduction

Background

Mayors and councillors come from a diverse range of backgrounds and bring different knowledge, skills, perspectives and insights to their roles. This is one of the strengths of a democratic and representative system of local government.

However, few new mayors or councillors have extensive knowledge of the system of local government, how a council works, or the full scope of their roles and responsibilities when they assume office for the first time. Some are unaware of the need for mayors and councillors to work as a team, despite their political differences, to make decisions that are in the best interests of the community. There may be others who, if they had been fully aware prior to their election of the nature of the role of a mayor or councillor and of the time commitment involved, may not have nominated to stand.

The role exercised by mayors and councillors is a very demanding one and the community rightly has high expectations of the performance of the mayor and councillors. As the governing body of the council, mayors and councillors must work together as a cohesive team to meet the needs of the community. The multi-faceted nature of the roles also requires mayors and councillors to have a wide variety of skills, experience and knowledge, along with the time, passion and commitment to achieve results for the community.

From their first council meeting, mayors and councillors will be required to work together to make important decisions on behalf of their communities, and to take responsibility for those decisions. These decisions will impact on local communities, the services and infrastructure delivered by the council, and the local natural and built environments. They will often involve significant use of public money. Proper induction into their roles, and the building of the governing body as a unified

and collaborative team, are vital if mayors and councillors are to be effective from the start of their terms in office.

Some mayors and councillors may need to develop knowledge and skills in a broad range of areas that are unfamiliar to them in order to undertake their roles successfully. These may include, for example, understanding council meeting procedures or land use planning requirements or interpreting financial statements.

Even experienced mayors and councillors say they can find it challenging to keep abreast of changes to the legislative and policy context for local government as well as changes to their councils' policies and procedures.

Ongoing professional development and training, as well as early relationship building between councillors, is essential if the community is to be well served by their elected representatives on council.

Statutory requirements

The Act prescribes the roles and responsibilities of mayors and councillors both collectively as the governing body of the council, and as individual members of the governing body. It also places a responsibility on each mayor and councillor to make all reasonable efforts to acquire and maintain the skills necessary to perform their roles.

To assist mayors and councillors to meet this obligation, the Regulation requires general managers to deliver induction and ongoing professional development programs that will help mayors and councillors to acquire and maintain the skills necessary to perform their roles. Mayors and councillors have a reciprocal obligation to participate in these programs. Part A of these Guidelines further explains what is required of councils, mayors and councillors under the Regulation.

Each council is required to publicly report on participation in the council's induction and professional development program. Part E of these Guidelines outlines these reporting requirements.

Induction and professional development – an overview

Pre-election candidate information sessions

Whilst not a mandatory requirement, it is recommended that general managers begin induction and professional development activities by holding at least one candidate information session for people considering nominating for election prior to the election.

These sessions are to be designed to ensure potential candidates are fully aware and informed of what will be expected of them if they are elected. Part B of these Guidelines provides more information about how each council could develop and deliver candidate information sessions.

Induction programs

An induction program is a process used within many businesses, government agencies and non-government bodies to welcome new people to an organisation and to prepare them for their new roles.

An induction program ensures the organisation provides a person commencing a new role with all the information they need to do their job in the first few months. It also enables the person to become a useful, integrated member of the organisation, rather than being 'thrown in at the deep end' without understanding how to perform their role, or how it fits in with the rest of the organisation.

In the local government context, a good councillor induction program can build early positive relationships and teamwork between councillors, increase productivity and provide essential knowledge from the moment a mayor or councillor is elected. This can ensure newly elected mayors and councillors become more productive in a shorter period of time.

Councillor induction programs are mandatory in NSW under the Regulation. Part C of these Guidelines outlines how each council should develop its councillor induction program.

Professional development programs

A professional development program is any program which involves a deliberate and ongoing process of improving and increasing the professional knowledge, competence, skill and effectiveness of people in the workplace through professional development activities specific to their needs.

In local government, an effective professional development program can ensure mayors and councillors fill any skills or knowledge gaps they have that may otherwise prevent them from making the best possible contributions to their communities.

Ongoing professional development programs for mayors and councillors are mandatory in NSW under the Regulation. Part D of these Guidelines outlines how each council should develop its councillor professional development program.

Part A:

Statutory and Policy Context

Statutory requirements

Under section 232(1)(g) of the Act, all mayors and councillors have a responsibility to make all reasonable efforts to acquire and maintain the skills necessary to perform their roles.

To support this, the general manager is required under the Regulation to ensure the delivery of:

- an **induction program** for newly elected and returning councillors and a specialised supplementary induction program for the mayor within six months of their election, and
- an **ongoing professional development program** for the mayor and each councillor over the term of the council to assist them to acquire and maintain the skills necessary to perform their roles. The content of the ongoing professional development program is to be determined in consultation with the mayor and each councillor. It must be needs-based and reflect the specific skills, knowledge and personal attributes required by the mayor, each individual councillor and the governing body as a whole, to perform their roles effectively.

These requirements also apply to councillors and mayors elected during the term of a council to fill a casual vacancy.

Under the Regulation, mayors and councillors must make all reasonable efforts to participate in the activities offered to them as part of an induction or professional development program. Councils are also required to report on the participation of the mayor and councillors in these programs.

Principles, roles and responsibilities under the Act

Councils are required to apply the five sets of guiding principles prescribed under the Act in exercising their functions. These principles (outlined in **Appendix A**) seek to ensure that each council carries out its functions in a way that facilitates the creation of a strong, healthy and prosperous local community. Mayors and councillors must understand these principles and be able to apply them when exercising their functions.

The Act also prescribes the roles and responsibilities of mayors and councillors, both collectively as the governing body of the council, and individually as members of the governing body (these are outlined in **Appendix B**). Mayors and councillors must have a strong understanding of their prescribed roles and responsibilities under the Act in order to be able to fulfil them.

Councils must design their induction and professional development programs to ensure that mayors and councillors have the capabilities (ie the knowledge, skills and attributes) needed to apply the guiding principles and to effectively undertake their prescribed roles and responsibilities.

Reporting requirements

Mayors and councillors are ultimately accountable to the community that elects them for the performance of their duties.

To facilitate this accountability, councils are required under the Regulation to report each year in their annual reports on the participation of the mayor and each councillor in the induction and professional development program during that year.

The information to be reported includes:

- the name of the mayor and each individual councillor that completed council's induction program (where an induction program has been delivered during the relevant year)
- the name of the mayor and each councillor who participated in any ongoing professional development program during the year
- the number of training and other activities provided to the mayor and councillors during the year as part of a professional development program, and
- the total cost of induction and professional development activities and any other training provided to the mayor and councillors during the relevant year.

These reporting requirements do not apply to joint organisations.

Council policy

Each council needs to enshrine its commitment to uphold these statutory requirements and to the induction and ongoing professional development of mayors and councillors in all relevant council policies. This will ensure that councillor induction and professional development is embedded in council's values and operations, and that an effective induction and ongoing professional development program is implemented.

Each council should also ensure that its ongoing professional development program is accommodated by and reflected in its councillor expenses and facilities policy.¹ The expenses and facilities policy should make clear and adequate provision for relevant training and professional development activities as legitimate expenses.

Councils may also wish to consider other mechanisms to reinforce their commitment to ongoing professional development for the mayor and councillors, and develop a structured approach for realising this commitment in practice.

This may be done through developing and adopting a resolution or a charter as a statement of commitment to support ongoing professional development for the mayor and councillors.

Alternatively, councils may wish to develop and adopt a councillor induction and professional development policy. A model policy is provided in **Appendix C**.

Budget

Each council should allocate an annual budget to support induction and professional development activities to be undertaken in that year. Progress against expenditure of the budget allocation should be reported on a quarterly basis as part of the budgetary cycle.

Councils will need to determine the size of the budget allocation, which may change annually, depending on training needs. It is to be expected that costs will be higher in the first year of council's term due to the need to deliver an induction program. The delivery program financial estimates and the Long Term Financial Plan will reflect the varying training and development budget requirements over the term of the council.

¹ A councillor expenses and facilities policy must be prepared by each council in accordance with section 252 of the Act and the Office of Local Government's *Guidelines for the payment of expenses and the provision of facilities to mayors and councillors in NSW*.

Part B:

Pre-Election Information Session for Potential Candidates

Benefits of a pre-election candidate information session

It is vital that people who are considering nominating for election to a council have a solid understanding of the role before they nominate. This includes an understanding of what will be expected of them should they be elected, and the legislative boundaries they must work within.

Being fully informed will ensure that candidates who nominate have seriously considered whether they have the knowledge, skills and personal attributes required to fulfil the responsibilities of civic office (noting that the specific knowledge required can be developed if these skills and personal attributes are present). Being fully informed will also assist them to judge whether they will be able to effectively meet the demands of representing their community on council.

Whilst not a mandatory requirement, it is recommended that the general manager ensure at least one candidate information session is held prior to nomination day for people considering nominating for election to council.

The benefits of a pre-election information session/s include:

- candidates being fully informed about the:
 - roles and responsibilities of a mayor and/or councillor
 - legislation and council policies they are expected to comply with
 - time commitment required, and
 - skills, knowledge and personal attributes needed
- candidates being given the opportunity to learn from experienced mayors and councillors
- candidates being given the opportunity to ask council any questions about the role
- candidates being aware of the financial and other support available to them to fulfil the role of a mayor and/or councillor
- candidates understanding that their behaviour as a mayor and/or councillor will be governed by council's code of conduct and that there are penalties for breaches
- council being able to provide potential candidates ahead of time the key dates of any known events that they will be required to participate in during council's term if they are elected so they can make tentative arrangements to attend (for example, council meetings, induction)
- the community benefiting from each candidate seeking election based on a platform that reflects what they can and cannot do or achieve as councillor, and
- reduced tension and conflict due to newly elected mayors and councillors having a better understanding of their roles and what can be achieved by a unified governing body.

Delivering a pre-election candidate information session

Accessibility

The communities served by councils are diverse, and this should be reflected in the people elected to councils. Candidate information sessions therefore need to be highly accessible to ensure as many candidates as possible that wish to attend are physically able to. This includes the venue selected, transportation options available nearby, the time the session is held and the way information is presented and delivered, particularly for people who are visually or hearing impaired.

To ensure candidates that may not be able to attend due to mobility issues or their regional geographic location are not excluded, councils should publish as much information from the candidate information sessions as possible online. Councils, particularly those in regional areas, are encouraged to webcast candidate information sessions.

Timing

Councils can choose when to hold their candidate information session/s, but at least one session should be held before the deadline for nomination to allow potential candidates to be fully informed before they nominate for election. The session/s could be held at council premises, or another appropriate public venue/s, at a convenient time that will enable as many potential candidates as possible to attend. For councils divided into wards, councils could consider the benefit of holding sessions in different wards.

During the information session, councils are encouraged to recommend to candidates that they attend a council meeting/s or a council committee meeting/s to gain further insight into council decision making and meeting practice. The timing of candidate information sessions should allow for candidates to attend a meeting if they wish, and therefore would be best held before a council meeting.

Councils will need to ensure that the details of the candidate information session/s are well advertised in the local community (for example, the council's website, local radio, social media, newspapers, and/or any other effective means) so that any potential candidates are aware the information session/s is being held.

Content

A checklist of the content to be included in a candidate information session/s is provided in **Appendix D**. Recommended content covers the:

- role of council
- roles and responsibilities of the governing body, mayor, councillors, general manager and other staff
- legal and ethical responsibilities of the mayor and councillors
- time commitment required of a mayor and councillor
- support available to assist the mayor and councillors in their roles, and
- knowledge, skills and personal attributes required to successfully fulfil the roles of mayor and councillor.

Delivery

The candidate information session/s is best delivered by the person who is most able to engage attendees and deliver the content in a way that will achieve the outcomes sought. This person could be the general manager, another staff member or an external provider. If the information session/s is not presented by the general manager it is recommended that the general manager still be present to answer any questions.

Mayors or councillors from previous council terms may also be invited to provide an overview of their experience in council, and any significant issues they think potential candidates should consider before deciding whether to nominate. This could take the form of an informal talk, a panel discussion or a councillor question and answer session. Whilst they are welcome to attend, it is not appropriate to invite currently elected members to present at candidate information sessions as current members may choose to re-nominate for election. Current members, however, are able to attend as an audience member if they wish.

Consideration should be given to which delivery method, or combination of delivery methods, would best suit the information being conveyed and should recognise that attendees are likely to have a variety of learning styles.

Resource sharing

There are parts of each council's candidate information session/s that will be common to all councils, for example, the roles and responsibilities of mayors and councillors and the election process.

To achieve greater efficiency, councils are encouraged to share candidate information session resources or jointly hold parts of their session/s with other councils. Joint and regional organisations are also encouraged to develop and/or deliver regional candidate information sessions on behalf of their member councils that candidates can attend. These common sessions could be supplemented by member councils with individual sessions at each council or online content that provides local information specific to that council.

Printed and face-to-face training resources, such as the candidate information pack and other visual aids used in sessions, could also be shared between councils, or developed by joint or regional organisations on behalf of their member councils.

The NSW Electoral Commission provides a range of information and educational resources about the election process and the legal obligations of candidates when nominating and campaigning that council may wish to use. More information can be found at www.elections.nsw.gov.au and www.votensw.info.

Candidate information pack

Councils are encouraged to prepare a candidate information pack for attendees that provides key information for continued consideration after the information session/s. This can take the form of printed material presented in a folder that potential candidates can take away and read, or a dedicated

section on council's website that provides all the necessary information. The pack can also include any relevant information or resources made available by external bodies. The NSW Electoral Commission, for example, provides a range of educational resources that guide candidates through the election process.

3. Evaluation

It is recommended that the information session/s be evaluated by council to determine how effective it was in helping potential candidates understand what is involved in being a councillor or mayor, and to enable them to assess their suitability for these roles. Councils could do this by seeking the views of attendees at the end of a session.

For greater insight, councils may also consider surveying the councillors elected approximately six months after the election to assess whether they feel the session gave them an accurate view of their roles and responsibilities, or whether they would have benefitted from any other information being given at the sessions.

The outcomes achieved from the information session/s could include, at a minimum, potential candidates fully understanding:

- the roles and responsibilities of a councillor and mayor, including the knowledge, skills and personal attributes needed to perform these roles effectively
- the legislation, code of conduct and other council policies they will need to comply with
- the time commitment that will be required from them, and
- the financial and other support available to them to fulfil the role of a mayor and/or councillor.

The evaluation could assess whether these outcomes were achieved.

Part C:

Induction Program for Mayors and Councillors

Benefits of a councillor induction program

Holding an induction program for councillors (including a supplementary component for mayors) each council term is a mandatory requirement under the Regulation. The mayor and all councillors are expected to participate in all induction activities.

The induction program will enable the mayor and councillors to quickly become familiar with how the council works, the rules under which it operates and the complexities of the roles. It is a vital way to ensure new and returning mayors and councillors get the information they need to be effective leaders from the very beginning of the council's term.

It is important that the councillor induction program is not simply used to present dry facts. It is also a vital opportunity to talk with councillors and the mayor about the accepted values and behaviours of the council that they have become a part of.

The induction program is also an invaluable opportunity to sow the seeds for a governing body that functions as a strong, collaborative team. It provides the chance for the mayor and each councillor to understand what motivated their new colleagues to become councillors, and to bond as a team with a common focus on making a difference for the community. It can also be used as an opportunity to have early conversations about how they would like to operate as a team to work towards common goals and to identify success factors for council and the community. It can also establish clear roles and responsibilities and build trust and positive working relationships.

The induction program will benefit mayors and councillors by:

- providing them with access to essential information in a structured and consistent way that will assist them to function well in their role and to make informed and effective decisions from the start of their term in office

- enabling more active and rapid participation in the business of the council
- enabling them to meet, build rapport, share knowledge and experiences, and form positive working relationships with each other
- identifying common goals and a shared vision as a governing body
- introducing councillors to staff to help break down any 'us and them' divide and create one team working for the community whilst still recognising the legislated separation between the two groups
- providing an opportunity for appropriate role models and mentoring relationships to be established between experienced mayors and councillors and new councillors
- helping them to understand key legislation
- helping them to understand their prescribed roles and responsibilities
- briefing them on the 'big picture', and providing them with a clear understanding of council's health and performance
- enabling them to understand and agree on the key issues and tasks for the new council, and to build a vision for the governing body's term
- enabling them to understand key council information, policies and procedures
- enabling them to understand the council and the local government area
- enabling them to feel empowered with key information about the integrated planning and reporting processes and their opportunities for influence, and
- increasing their self-confidence in their ability to perform their roles.

An induction program should also be delivered for any councillors or a mayor elected during the term of a council to fill a casual vacancy.

Returning councillors

Because local government is complex and subject to change, the mayor and all councillors, both new and experienced, are expected to participate in the councillor induction program at the commencement of each council term.

Whilst returning councillors may already know much of the information provided in the induction program, their attendance at these sessions will demonstrate to new councillors that their roles and responsibilities are important. Returning councillors can also contribute valuable information and lessons learnt from previous council terms, and help build a positive and collaborative culture for the new governing body.

Important aspects of the induction program include building trust and positive relationships between the members of the new governing body, establishing working bonds, and the mayor and councillors determining how they can work together as a team. The mayor and all councillors need to be part of this process.

For returning mayors, council can assess the prior knowledge and experience of the returning mayor and provide refresher training as needed as part of the supplementary mayoral component of the induction program. This includes mayors elected midway through the council term who are also expected to undergo mayoral induction.

County councils

County councils are required to deliver an induction program for their member councillors. This includes new members who are appointed to fill a casual vacancy.

Induction programs for county councils are to be delivered as an external supplementary component of the induction program each member participated in at their home council.

This supplementary external component is to be delivered by the county council and focus on providing the councillor the information

they need to know about the county council in order to fulfil their role. This could include, for example:

- early functions required of members such as the election of the chairperson
- the functions and directions of the county council
- the county council's business activity strategic plan
- financial information
- applicable regulatory requirements (e.g. for water supply or sewerage infrastructure)
- staffing, and
- local issues.

County councils should also include team building activities in their induction programs (as described below) to set a positive and unifying foundation for the operation of the county council.

Joint organisations

Joint organisations are not required to deliver an induction program for the voting representatives who are elected to their board.

However, joint organisations may choose to deliver an induction program to all board members (including voting representatives and non-voting representatives) to ensure they understand their responsibilities and the role and functions of their joint organisation. Where joint organisations undertake operational functions or deliver services on behalf of member councils, it is strongly recommended that joint organisation board members receive a briefing on these and relevant financial information as part of any induction offered.

Joint organisations may also include team building activities (as described below) to set a positive and unifying foundation for the operation of the joint organisation.

Delivering a councillor induction program

Accessibility

Councillor induction programs need to be highly accessible to ensure that all councillors are able to attend, particularly those with mobility issues or other impairments which may cause attendance to be difficult. Councils should therefore select options which maximise the accessibility of induction sessions. This includes the venue selected, transportation options available nearby, the time the session is held and the way information is presented and delivered, particularly for the sight or hearing impaired.

Councils are also encouraged to publish as much induction material as possible online to enable councillors to access induction materials and other relevant council information when needed.

Planning

Councils should aim to have their induction programs finalised in time to provide potential candidates the proposed induction timetable at the candidate information session/s. Candidates can then make tentative arrangements to enable them to attend the induction program straight after the election if they are elected.

It is important that councillors feel welcome when they start their terms. This will send a supportive message that builds on the positive culture being encouraged for the governing body. Council should also ensure that the resources each councillor and the mayor needs are set up and ready when they start. This includes any IT equipment, office facilities or other necessary resources that will ensure they are productive from their first day in office.

Timing

The Regulation allows a maximum of six months for the delivery of the induction program to provide councils the flexibility to develop an approach that best meets the needs of its mayor and councillors.

The first induction training session should take place, where practical, as soon as possible after the results of the election are declared and prior to the first council meeting. It should aim to provide councillors and the mayor with the information they need to function effectively in their roles, including in meetings, until the rest of the induction program is delivered. At a minimum, this should include training in council's code of conduct, code of meeting practice, preparation for taking the oath of office and electing the mayor (if applicable). The rest of the induction program must be delivered within six months of the polls being declared.

The delivery of the components of the induction program should be timed to reflect the information the councillors and the mayor need in the first week, the first month and the first six months of council. In addition, the relevant components of the induction program should be delivered before the review of the council's community strategic plan, and before the adoption of its delivery program.

Some councils prefer to deliver the full induction program as soon as possible to provide councillors with all of the information and induction training they need from the start of their term in office. However, this approach runs the risk of councillors feeling overloaded with information.

Other councils prefer to deliver the induction program approximately six weeks after the election so that new councillors have the opportunity to gain some practical experience first. However, this approach runs the risk of councillors not being effective or lacking confidence during the weeks preceding the induction training.

Alternatively, some councils choose to use a mixture of these approaches by staging the induction program over a number of weeks. Ultimately, the optimum timing for delivery of an induction program will vary depending on local circumstances.

Content

A checklist of recommended content for induction programs for councillors and a supplementary program for mayors is provided at **Appendix E**.

There should be two core components of council's induction program:

- a knowledge-based component that ensures new mayors and councillors have the information they need to undertake their roles (this includes a supplementary component for the mayor), and
- a team-building component designed to bring councillors together to form a collaborative, positive and united governing body.

Knowledge component

In the first few weeks in particular, new mayors and councillors will need to know:

- their roles, responsibilities and legislative obligations
- what the council does and how the council operates, including an overview of integrated planning and reporting and land use planning
- their financial management responsibilities
- the key issues and tasks for the new council
- the legislation, rules, principles and political context under which councils operate
- the council's organisational structure and the roles and responsibilities of staff
- key council policies and procedures they must comply with
- the role of council meetings and how to participate effectively in them

- the support available to the mayor and councillors, and where they can go to get more information or assistance
- how to speak to the media appropriately and effectively, and
- information on the process for electing the mayor (where applicable).

Mayors will also need to know:

- the roles and responsibilities of the mayor as leader of the council, including ceremonial functions
- how to chair council meetings
- the role and functions of regional and other external bodies (including joint and regional organisations of councils) council is a member of
- how to oversee the general manager, including understanding recruitment processes and leading performance reviews
- how to lead council's integrated planning and reporting, and
- how to manage code of conduct complaints about the general manager.

Team building component

Team building activities should be held, where necessary, depending on the relationships that exist between councillors and how they are likely to function as a team. The activities should aim to ensure mayors and councillors, as a governing body, understand the need to:

- build relationships with each other based on trust and mutual respect
- contribute to a positive and ethical culture within the governing body
- encourage and facilitate collaboration with each other
- work towards consensus as members of the governing body for the benefit of the community
- manage alternative views within the governing body without damaging relationships
- champion and communicate the council's vision and strategic plans as a cohesive team

- respect the diversity of skills and experiences on the governing body, and
- communicate and uphold the decisions of council in a respectful way, even if their own positions are not adopted.

Activities should also help the mayor, as the leader of the governing body, to:

- act as a stabilising influence and show leadership, and
- promote a culture of integrity and accountability within council and when representing council in the community and elsewhere.

Structure and delivery

Each component of the induction program should be presented by the person who is best able to deliver the content and achieve the outcomes sought. This could be the general manager, another staff member or an external provider. Previous or current mayors or councillors may also be invited to provide an overview of their experiences on council, as might an experienced former or current mayor or councillor from outside the council.

The induction program should be conducted in a way that avoids the mayor and councillors being overloaded with information, particularly if this is at the expense of team building. This may be achieved by limiting the length of sessions, having a number of short sessions rather than one longer session and/or through the use of a range of delivery modes and materials.

Some councils structure their councillor induction programs intensively over two or more days – possibly a weekend – while others choose to hold shorter, evening sessions over several weeks. Others choose a combination of these two approaches.

Consideration should be given to which delivery method, or combination of methods, would best suit the information being conveyed and the different learning styles of councillors. Options could include:

- intensive blocks over two or more days (including weekends)
- evening or dinner sessions over several weeks
- a mix of regional and local level induction sessions
- informal briefings from the general manager and other senior staff
- guest speakers and presenters from other councils, state government agencies or other local government groups
- a guided tour of the council's administration building/s, depot, council facilities and local government area
- in-house workshops by council staff and/or professional training providers
- seminars and conferences
- panel discussions
- a mock council meeting or meetings
- training booklets and discussion papers distributed to councillors to work through at their own pace, and/or
- online information and training resources.

Where possible, presentations should be supported by written materials, including an induction manual or handbook that councillors can retain and refer to. Councils are also encouraged to publish these materials online for easy access by councillors.

Resource sharing

There are parts of each council's induction program that will be common to all councils, for example, councillor roles and responsibilities, statutory frameworks, the code of conduct, the code of meeting practice and media training.

To achieve greater efficiency, councils are encouraged to share common induction resources with other councils or jointly hold parts of their induction program with other councils. Joint and regional organisations are also encouraged to develop and/or deliver the common elements of their member councils induction programs on their behalf. These common sessions can be supplemented by member councils with individual sessions that provide local information and team building activities specifically for the elected members of that council.

Printed and face-to-face training induction resources could also be shared between councils, or developed by joint or regional organisations on behalf of their member councils.

The Office of Local Government also offers 'Hit the Ground Running' workshops, held shortly after each council election, which councils may wish to include in their induction program.

Induction manual

Councils should develop an induction manual or handbook to support councillors in the first weeks following the commencement of the council's term of office. This resource may also include relevant background reference material for the longer term, and printed or online resources specifically developed for new councillors. It could also include a copy of the Councillor Handbook which has been developed by the Office of Local Government for councillors. The induction manual may be provided prior to, at or after induction training.

How the information is presented in the induction manual will affect how useful it is. For example, some councils have found that a manual is most likely to be used if the information is presented in a folder. Some councils may consider also providing the information as an online resource. An online resource may be easier for councils to keep updated and can make topic searching easier for users. It will also provide councillors easier access to council information when needed.

Appendix F provides a checklist of the content that could be included in an induction manual or online resource. Recommended content includes:

- basic information about the council
- profiles (demographic, economic etc.) of the local government area
- information about council meetings
- key planning and policy documents and information
- key legislation
- information about support for councillors, and
- useful resources from other state government agencies and independent bodies and/or details about where they may be accessed.

It is suggested that online resources include hyperlinks to electronic versions of any plans, policies or other documents referred to in the councillor induction manual.

Casual vacancies

Under the Regulation, an induction program must also be delivered by a council for any newly elected mayor or councillor who is elected to fill a casual vacancy that arises during the council term.

Evaluation

Councils should evaluate the induction program to determine what elements worked well and whether there were any deficiencies that need to be addressed.

The methodology for the evaluation should be determined when the induction program is being developed to ensure that relevant data is collected. At a minimum, the evaluation should assess whether the induction program resulted in councillors and the mayor:

- understanding the need to build trusting and positive relationships with a common purpose as a team of councillors
- understanding the need to build a cohesive and positive culture for the governing body
- understanding the need to build a positive working relationship with the general manager and other staff
- understanding their roles and the roles of internal and external stakeholders, and feeling confident in their ability to perform their roles
- understanding key council information and how council works
- being aware of all relevant legislation and council policies and procedures, and being committed to complying with them
- understanding the key issues and tasks for the new council
- being able to make informed and effective decisions from the start of their term in office
- being able to effectively participate in council meetings and apply meeting rules correctly from the start of their term in office
- being able to fulfil their integrated planning and reporting responsibilities, including financial management responsibilities
- knowing how to speak to the media appropriately, and
- feeling confident in understanding and using financial information to manage the council's finances.

In the case of the mayor, being able to:

- act as a stabilising influence and show leadership in times of crisis
- build a positive working relationship with the general manager
- oversee the general manager, including leading recruitment processes and performance reviews
- chair council meetings
- undertake their ceremonial functions
- lead the council's integrated planning and reporting, and
- manage code of conduct complaints about the general manager.

Part D:

Professional Development Program for Mayors and Councillors

Benefits of a professional development program for mayors and councillors

Ongoing professional development for mayors and councillors is mandatory in NSW. It is an investment which will enhance the effectiveness of a council's performance in achieving its goals.

The benefits of an ongoing professional development program for councillors and mayors include:

- mayors and councillors representing their communities to the best of their ability
- mayors and councillors feeling confident and supported in their roles
- the governing body making decisions based on a full understanding of all the key issues and consequences
- improved performance of council overall
- greater understanding of, and compliance with, legal responsibilities
- better management of the council's finances and resources, and
- mayors and councillors developing skills and knowledge that they can take into their personal and professional lives.

Developing an ongoing professional development plan

As part of council's professional development program, an ongoing professional development plan must be developed for the mayor and each councillor. The program will span the council's term, with individual activities implemented over time according to priority. The mayor and each councillor is expected to complete all the activities included in their professional development plan.

Assessment

As a first step to developing individual plans, an assessment is required of the knowledge, skills and personal attributes the mayor and each councillor bring to their roles and a comparison made against those that they need to effectively serve their community. Councils may also have additional knowledge, skills or attributes that they need elected members to possess, reflecting the specific services or particular environmental, social or economic challenges facing their community.

Any deficit in knowledge, skills or attributes identified through the assessment process should form the basis of the professional development plans developed for the mayor and each councillor. This process should be undertaken for both new and experienced mayors and councillors.

Activities

The professional development plan developed for the mayor and each councillor must outline how their individual development needs are going to be met within the council term. Professional development activities should be prioritised according to need and approved by the general manager where council funds are required.

Professional development activities should, wherever possible, follow the 70/20/10 learning principle. The 70/20/10 principle requires that:

- 70% of learning activities are provided via learning and developing from experience – for example, on-the-job training, self-directed learning, developmental roles, problem solving, exposure and practice
- 20% of learning activities are provided via learning and developing through others – for example, personal or professional networks, coaching, mentoring, feedback, memberships and professional associations, and
- 10% of learning activities are provided via learning and developing through structured programs – for example, training courses, external or in-house workshops, seminars, webinars and other e-learning and briefing sessions conducted by the council, external training providers or industry bodies.

The 70/20/10 learning principle enables councils and elected members to take into account the varied learning styles the mayor and individual councillors have, as well as the time they have available for professional development, when selecting professional development activities. It also minimises the financial costs of delivering an ongoing professional development program by prioritising learning through on-the-job experiences and networking.

Resource sharing

There may be professional development activities that are common to all councillors or mayors. Councils are encouraged to share educational resources with other councils and/or jointly hold professional development activities with other councils. Joint and regional organisations are also encouraged to develop and/or deliver regional professional development activities on behalf of their member councils.

Timing

The timing of professional development activities for the mayor and councillors should be designed in such a way so as to not overload councillors with learning activities in the early part of council's term. The timing should reflect what knowledge and skills councillors and the mayor need at various points in council's term to undertake their roles.

For example, councils should ensure that the mayor and councillors have acquired the knowledge and skills necessary to effectively contribute to the review of the community strategic plan and the development of the delivery program before these activities are undertaken.

County councils and joint organisations

County councils should offer professional development activities that are relevant to their specific functions and operations and that may be necessary to support decision making in relation to those functions and operations.

While joint organisations are not required to deliver a professional development program, they should consider offering professional development activities relevant to any functions or services provided by the joint organisation on behalf of member councils to support any decision making required by the board in relation to those activities.

Local Government Capability Framework and 'PD in a Box'

Local Government NSW has developed a Local Government Capability Framework. This describes the knowledge, skills and personal attributes needed by mayors and councillors to represent their communities on council and to deliver community outcomes. These are listed in **Appendix G**.

The Framework is supported by 'PD in a Box', a free and confidential online portal that mayors and councillors can use to assess the knowledge and skills they bring to their role and self-identify gaps that require professional development. Mayors and councillors will receive an ongoing professional development plan through the portal, based on their input, which will suggest specific activities that they can participate in to build the skills and knowledge they need.

Councils are able to use this as a tool to support the development of ongoing professional development programs for their mayors and councillors.

The Local Government Capability Framework and PD in a Box can be found at www.lgnsw.org.au.

Evaluation

Councils are to evaluate their ongoing professional development program to assist the council to determine the program's effectiveness and to identify areas of possible improvement.

The outcomes of the professional development program should, at a minimum, include councillors and mayors demonstrating the core skills and knowledge areas listed in council's needs analysis.

The evaluation should assess whether these outcomes were achieved.

Part E:

Public Reporting

Holding elected office in a council is a role that carries with it significant responsibilities. All holders of elected offices in councils owe it to the communities that entrust them with this responsibility to ensure that they hold and maintain the skills necessary to exercise their functions effectively on behalf of the community.

Mayors and councillors are ultimately accountable to the community that elects them for the performance of their functions. For this reason, councils are required to publicly report each year in their annual report on the participation of the mayor and each councillor in the council's induction and professional development programs during that year.

The information published in the annual report is to include:

- the name of the mayor and each individual councillor that completed council's induction program (where an induction program has been delivered during the relevant year)
- the name of the mayor and each councillor who participated in any ongoing professional development program during the year
- the number of training and other activities provided to the mayor and councillors during the year as part of a professional development program, and
- the total cost of induction and professional development activities and any other training provided to the mayor and councillors during the relevant year.

These reporting requirements do not apply to joint organisations.

Appendix A:

Guiding Principles for Councils under the Act

General principles (section 8A(1))

Councils should:

- provide strong and effective representation, leadership, planning and decision-making
- carry out functions in a way that provides the best possible value for residents and ratepayers
- plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community
- apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements
- work cooperatively with other councils and the state government to achieve desired outcomes for the local community
- manage lands and other assets so that current and future local community needs can be met in an affordable way
- work with others to secure appropriate services for local community needs
- act fairly, ethically and without bias in the interests of the local community, and
- be responsible employers and provide a consultative and supportive working environment for staff.

Decision-making principles (section 8A(2))

Councils should:

- recognise diverse local community needs and interests
- consider social justice principles
- consider the long-term and cumulative effects of actions on future generations, and
- consider the principles of ecologically sustainable development

Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

Community participation principle (section 8A(3))

Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

Principles of sound financial management (section 8B)

Council spending should be responsible and sustainable, aligning general revenue and expenses.

Councils should:

- invest in responsible and sustainable infrastructure for the benefit of the local community
- have effective financial and asset management, including sound policies and processes for:
 - performance management and reporting
 - asset maintenance and enhancement
 - funding decisions, and
 - risk management practices
- have regard to achieving intergenerational equity, including by ensuring that policy decisions are made after considering their financial effects on future generations, and by ensuring that the current generation funds the cost of its services.

Integrated planning and reporting principles (section 8C)

Councils should:

- identify and prioritise key local community needs and aspirations and consider regional priorities
- identify strategic goals to meet those needs and aspirations
- develop activities, and prioritise actions, to work towards the strategic goals
- ensure that the strategic goals, and the activities developed to work towards them, may be achieved within council resources
- regularly review and evaluate progress towards achieving strategic goals
- maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals
- collaborate with others to maximise the achievement of strategic goals
- manage risks to the local community or area or to the council effectively and proactively, and
- make appropriate evidence-based adaptations to meet changing needs and circumstances.

Appendix B:

Roles and Responsibilities

under the Act

Governing body of a council (section 223)

The mayor and councillors collectively comprise the governing body of a council. The role of the governing body is to:

- direct and control the affairs of the council in consultation with the general manager
- provide effective civic leadership to the local community
- ensure as far as possible the financial sustainability of the council
- ensure as far as possible that the council acts in accordance with the principles prescribed under the Act and the council's plans, programs, strategies and policies
- develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council
- determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the council's strategic plans and for the benefit of the local area
- keep the performance of the council under review, including service delivery
- make decisions necessary for the proper exercise of the council's regulatory functions
- determine the process for the appointment of the general manager and for monitoring their performance
- determine the senior staff positions within the organisation structure of the council
- consult regularly with community organisations and other key stakeholders and keep them informed of the council's decisions and activities, and
- ensure that the council acts honestly, efficiently and appropriately.

The governing body is to consult with the general manager in directing and controlling the affairs of the council.

Individual councillors (section 232)

Councillors are individually and collectively accountable to the local community for the performance of the council. Each councillor has a responsibility to:

- be an active and contributing member of the governing body
- make considered and well informed decisions as a member of the governing body
- participate in the development of the council's integrated planning and reporting framework
- represent the collective interests of residents, ratepayers and the local community
- facilitate communication between the local community and the governing body
- uphold and represent accurately the policies and decisions of the governing body, and
- make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor.

The mayor (section 226)

The mayor is often considered the voice of the council and the leader of the community. While the mayor has the same roles and responsibilities as councillors, the mayor is essentially the “first among equals” and is expected to exercise a leadership role within a council. This leadership role is reflected in the mayor’s extra responsibilities.

The role of the mayor is to:

- be the leader of the council and a leader in the local community
- advance community cohesion and promote civic awareness
- be the principal member and spokesperson of the governing body, including representing the views of the council in regard to its local priorities
- exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council
- preside at meetings of the council and ensure that meetings of the council are conducted efficiently, effectively and in accordance with the Act
- ensure the timely development and adoption of the council’s strategic plans, programs and policies
- promote the effective and consistent implementation of the council’s strategic plans, programs and policies
- promote partnerships between the council and key stakeholders
- advise, consult with and provide strategic direction to the general manager in relation to the implementation of the council’s strategic plans and policies
- in conjunction with the general manager, ensure adequate opportunities and mechanisms for engagement between the council and the local community
- carry out the civic and ceremonial functions of the mayoral office
- represent the council on regional organisations and at inter-governmental forums at the regional, state and commonwealth levels
- in consultation with the councillors, lead performance appraisals of the general manager, and
- exercise any other functions of the council that the council determines.

Appendix C:

Model Councillor

Induction and Professional

Development Policy

Purpose

The purpose of this policy is to demonstrate X Council's² commitment to ensuring that the mayor and councillors have access to induction and ongoing professional development which will assist them to develop and maintain the skills and knowledge required to effectively perform their civic role and responsibilities under the *Local Government Act 1993* ('the Act').

Scope

This policy applies to all councillors of X Council, including the mayor.

Policy

Statement of commitment

X Council is committed to developing an induction and ongoing professional development program for the mayor and councillors to ensure they can fulfil their statutory roles and responsibilities. As part of this program, the mayor and each councillor will have a professional development plan that identifies specific gaps in their capabilities (ie their knowledge, skills and attributes) and identify professional development activities to build these capabilities.

Induction program

X Council will develop an induction program for new and returning councillors as well as a supplementary program for the mayor to ensure they are provided all the information they need to effectively fulfil their roles in the first few months of Council's term and feel confident in their ability to do so. The induction program will cover³:

- an orientation to council facilities and the local government area
- an overview of the key issues and tasks for the new council including council's community strategic plan, delivery program, operational plan, resourcing strategy and community engagement plan
- the legislation, rules, principles and political context under which councils operate
- the roles and responsibilities of councillors and the mayor
- Council's organisational structure, workforce management strategy and the roles and responsibilities of the general manager and council staff
- what Council does and how it operates, including an overview of integrated planning and reporting, land-use planning, natural resource management, financial management and asset management by Council
- key Council policies and procedures councillors must comply with including the code of conduct
- the role of Council meetings and how to participate effectively in them
- the support available to the mayor and councillors and where they can go to get more information or assistance, and
- information on the process for taking the oath of office and electing the mayor at the first council meeting (where applicable).

² Insert name of your council.

³ Each council is to list the topics it has included in its induction program. See Part C of these Guidelines for further information.

In the case of the mayor, the program will also cover:

- how to be an effective leader of the governing body and the council
- the role of the Chair and how to chair council meetings
- the mayor's role in integrated planning and reporting
- the mayor's role and responsibilities under the code of conduct
- the mayor's role and responsibilities in relation to the general manager's employment
- the mayor's role at regional and other representative bodies, and
- the mayor's civic and ceremonial role.

The mayor and councillors must have a working knowledge and understanding of these areas by the end of the induction program.

The induction program will also include team building activities to help the governing body establish itself as a cohesive and collaborative team focused on a common purpose with shared values and goals. Activities will aim to ensure mayors and councillors:

- identify how they would like to work together as a team and identify a common vision for the governing body
- build relationships with each other based on trust and mutual respect that facilitate collaboration
- contribute to a positive and ethical culture within the governing body
- work towards consensus as members of the governing body for the benefit of the community
- develop respectful negotiation skills and manage alternative views within the governing body without damaging relationships
- understand what supports or undermines the effective functioning of the governing body

- respect the diversity of skills and experiences on the governing body, and
- communicate and uphold the decisions of Council in a respectful way, even if their own position was not adopted.

Activities should also help the mayor, as the leader of the governing body, to:

- act as a stabilising influence and show leadership, and
- promote a culture of integrity and accountability within Council and when representing Council in the community and elsewhere.

The mayor and councillors, including those re-elected to office, must attend all induction sessions.

X Council will evaluate the induction program at the end of each council term to determine whether it has achieved these outcomes, and to identify and address areas for improvement.

Ongoing professional development program

An individual ongoing professional development plan will be developed for the mayor and each councillor to address any gaps in the capabilities (ie the knowledge, skills and attributes) needed to effectively fulfil their role.

Each professional development plan will span the council's term, and identify professional development activities that the mayor or councillor will participate in. Professional development activities will be prioritised according to need and approved by the general manager where council funds are required in accordance with council's councillor and expenses and facilities policy. The Mayor and councillors are expected to complete all the activities included in their professional development plan.

Professional development activities will, wherever possible, follow the 70/20/10 principle. The 70/20/10 principle requires that:

- 70% of learning activities are provided via learning and developing from experience – for example, on-the-job training, self-directed learning, developmental roles, problem solving, exposure and practice
- 20% of learning activities are provided via learning and training through others – for example, personal or professional networks, coaching, mentoring, feedback, memberships and professional associations, and
- 10% of learning activities are provided via learning and developing through structured programs – for example, training courses, external or in-house workshops, seminars, webinars and other e-learning and briefing sessions conducted by the council, external training providers or industry bodies.

The timing of professional development activities for the mayor and councillors will be designed in such a way so as to not overload councillors with learning activities in the early part of council's term. The timing will reflect what knowledge and skills councillors and the mayor need at various points in council's term to undertake their roles.

The mayor and councillors will be provided with as much notice as possible for upcoming induction and professional development activities.

Responsibilities

The mayor and each councillor are responsible for making themselves available to attend any development activities identified in the professional development plan. The mayor and all councillors must make all reasonable endeavours to attend and participate in the induction sessions and professional development activities arranged for them during the term of the council.

[Identify the role or responsible staff member] is responsible for planning, scheduling and facilitating induction and professional development activities for the mayor and councillors in consultation with the general manager.

The general manager has overall responsibility for X Council's induction and professional development program.

Budget

An annual budget allocation will be provided to support the induction and professional development activities undertaken by the mayor and councillors. Expenditure will be monitored and reported quarterly.

Approval of training and/or expenses

Professional development activities that require council funds are to be approved by the general manager in accordance with X Council's Councillor Expenses and Facilities Policy.

Evaluation

Council will evaluate the professional development program at the end of each council term to assess whether it was effective in assisting the mayor and councillors to develop the capabilities required to fulfil their civic roles.

Reporting

The general manager of X Council will publically report each year in Council's annual report:

- the name of the mayor and each individual councillor that completed council's induction program (where an induction program has been delivered during the relevant year)
- the name of the mayor and each councillor who participated in any ongoing professional development program during the year
- the number of training and other activities provided to the mayor and councillors during the year as part of a professional development program, and
- the total cost of induction and professional development activities and any other training provided to the mayor and councillors during the relevant year.

Appendix D:

Candidate Information Session

Content Checklist

Topic Area	Suggested Content
Role of council	<ul style="list-style-type: none"> • The role and responsibilities of local government • The guiding principles under the Act that govern council's functions • The purpose of council and committee meetings
Roles and responsibilities of councillors and staff under the Act	<ul style="list-style-type: none"> • The roles and responsibilities of the governing body and individual councillors under the Act, including in relation to integrated planning and reporting • The roles and responsibilities of the mayor as leader of the governing body, including oversight of the general manager • The strategic nature of the roles of elected members compared to the operational roles of the general manager and council staff • The regional and other bodies the council is a member of and the roles of those bodies
Legal and ethical responsibilities	<ul style="list-style-type: none"> • Requirement to take an oath of office • Requirement to meet the ethical standards prescribed under the Act and councils code of conduct, including managing pecuniary and non-pecuniary interests • Outline of the legal responsibilities of councillors under the Act and their personal responsibilities under other legislation, for example in relation to: <ul style="list-style-type: none"> - work health and safety - anti-discrimination - privacy - public access to information - record keeping and records management • Outline of any council policies that councillors will be expected to comply with, for example: <ul style="list-style-type: none"> - councillor and staff interaction policy - code of meeting practice - code of conduct - councillor expenses and facilities policy - conflicts of interest policy - gifts and benefits policy - councillor induction and professional development policy
Skills and knowledge	<ul style="list-style-type: none"> • Outline of the knowledge, skills and personal attributes needed to perform the roles of a councillor or mayor • Outline of the additional knowledge, skills and personal attributes required by the mayor

Topic Area	Suggested Content
Time commitment	<ul style="list-style-type: none"> • Participation in council's councillor induction program • Participation in the mayor's supplementary induction program • Expected attendance at council meetings, including meeting days, times, frequency and possible duration • Preparation required for council meetings, for example: <ul style="list-style-type: none"> - attending pre-meeting briefings - reading business papers - ensuring councillors have a full understanding of issues requiring decisions • Potential participation in other meetings, for example extraordinary council meetings, regional bodies, external bodies • Potential attendance at community events, ceremonies and other functions • Responding to media requests and inquiries • Potential participation in formal community consultation processes • Answering letters, emails and phone calls from residents and ratepayers as well as participating in regular informal conversations • Participation in any other activities that are likely to arise and require the mayor or councillors' time
Support available to assist councillors in the role	<ul style="list-style-type: none"> • The annual fees paid to councillors and the mayor • Council's expenses and facilities policy • Council's induction and professional development program for councillors and the mayor • The responsibility of the general manager and staff to provide timely information and advice and the administrative and professional support necessary for councillors to effectively discharge their functions
Ways to gain further understanding	<ul style="list-style-type: none"> • Attendance at a council meeting/s or council committee meeting/s to observe council decision making and meeting practice • NSW Electoral Commission website and other educational materials

Appendix E:

Induction Program

Content Checklist

Topic area	Suggested content
Establishment of a well-functioning governing body	<ul style="list-style-type: none"> • Team building activities to help councillors and the mayor: <ul style="list-style-type: none"> - identify how they would like to work together as a team - understand why each councillor is in office and help identify a common purpose and bond between councillors - identify a common vision for the governing body - identify what a successful term in office will look like for council and the community and what is needed from individual councillors and the mayor to achieve this - identify accepted values and behaviours - build relationships with each other based on trust and mutual respect - contribute to a positive and ethical culture within the governing body - value and develop teamwork and collaboration skills - work towards consensus as members of the governing body for the benefit of the community - manage alternative views within the governing body without damaging relationships - develop respectful negotiation and conflict resolution skills - champion and communicate the council's vision and strategic plans as a cohesive team - respect the diversity of skills and experience of the other members of the governing body - communicate and uphold the decisions of council in a respectful way, even if their own position was not adopted - understand what supports or undermines the effective functioning of the governing body - identify appropriate council meeting practice and behaviours - understand their opportunities for influence
Orientation to council facilities and local government area	<ul style="list-style-type: none"> • Guided tour of the council facilities available to councillors, for example, chambers, offices, utilities • Guided tour of the local government area including council facilities, significant sites and projects • Introduction to council staff to help build a positive team culture between the governing body and administration (whilst respecting the legislated separation between the two)

Topic area	Suggested content
Overview of the key issues and tasks for the new council	<ul style="list-style-type: none"> • The demographic profile of the local government area • Council's current social and economic health and performance • The key social, environmental and economic concerns facing the community • The key issues and tasks the new council will need to address • Any issues faced by previous councils or useful historical information that may impact or assist the new council • The current community strategic plan and the process that led to its development, including its role in informing the new council's activities • Council's current delivery program, operational plan, resourcing strategy and community engagement strategy • Regional and other bodies council is a member of and the roles of those bodies • Overview of council's assets
Legal and political context of local government	<ul style="list-style-type: none"> • The relationship of state and commonwealth governments to local government • The statutory framework that applies to local government • Each of the guiding principles under the Act that govern council's functions • The key accountabilities of the council to the community, the NSW Government and oversight agencies • The roles and responsibilities of oversight agencies such as the: <ul style="list-style-type: none"> - Office of Local Government - Department of Planning and Environment - Environment Protection Authority - NSW Audit Office - Independent Commission Against Corruption, and - NSW Ombudsman • The role and responsibilities of the Minister for Local Government

Topic area	Suggested content
Roles and responsibilities of councillors and staff	<ul style="list-style-type: none"> • The process for electing the mayor (if applicable) • The roles and responsibilities of the governing body and individual councillors under the Act including: <ul style="list-style-type: none"> - the strategic nature of their role compared to the operational roles and responsibilities of the general manager and council staff and the limits on councillors role or direction in operational matters - the different roles of the governing body and the general manager in determining council's organisational structure - councillors obligations under council's code of conduct and the <i>Work Health and Safety Act 2011</i> in their dealings and behaviour towards the general manager and staff • The role and responsibilities of the mayor under the Act including: <ul style="list-style-type: none"> - the mayor's civic and ceremonial role and the functions they exercise under this - the mayor's responsibility for exercising day-to-day oversight, monitoring ongoing performance and leading annual performance reviews of the general manager • The roles and responsibilities of the general manager and council staff under the Act including: <ul style="list-style-type: none"> - the responsibility of the general manager and staff to provide timely information and advice to the mayor and councillors and the administrative and professional support necessary to discharge their functions - council's protocol or policy on councillor and staff interaction and how councillors can request assistance or information from staff or forward constituent requests to staff • The regional and other bodies the council is a member of and the roles of those bodies • How to speak to the media appropriately and effectively • Financial and other delegations • Integrated planning and reporting responsibilities

Topic area	Suggested content
Overview of the key functional areas of council operations and staffing	<ul style="list-style-type: none"> • Council's organisational structure • The role and responsibilities of each business unit or functional area within council, for example: <ul style="list-style-type: none"> - planning and other regulatory functions - assets and infrastructure - financial management - community services - governance - internal audit - teams responsible for implementing key council policies, strategies or programs • Council's workforce management strategy • An overview of the requirements of the <i>Guidelines for the Appointment and Oversight of General Managers</i> released by the Office of Local Government • An overview of the general manager's contract of employment, performance agreement and key performance indicators

Topic area	Suggested content
Legal and ethical responsibilities and risk management	<ul style="list-style-type: none"> • Preparation for taking the oath or affirmation of office • All legislation that councillors are expected to comply with, for example in relation to: <ul style="list-style-type: none"> - local government - work health and safety - anti-discrimination - privacy - public access to information - record keeping and records management - tendering and procurement • All council policies and protocols that councillors will be expected to comply with, for example: <ul style="list-style-type: none"> - councillor and staff interaction policy - code of meeting practice - code of conduct - conflicts of interest policy - councillor expenses and facilities policy - gifts and benefits policy - councillor induction and professional development policy - risk management and internal audit policy - media policy • In relation to council's code of conduct: <ul style="list-style-type: none"> - how to identify, disclose and manage pecuniary and non-pecuniary interests - the process for making and managing code of conduct complaints under the <i>Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW</i> - the consequences of a breach of council's code of conduct - the definition of "corrupt conduct" under the <i>Independent Commission Against Corruption Act 1988</i> and the potential consequences of engaging in corrupt conduct • Participation in the councillor induction and professional development program • How the council manages risk, including: <ul style="list-style-type: none"> - council's risk management framework - the role of the Audit, Risk and Improvement Committee - council's internal audit function - external audit

Topic area	Suggested content
Decision-making	<ul style="list-style-type: none"> • The purpose of council meetings • Prescribed meeting rules and council's code of meeting practice • The role of the chair • How to use closed meetings appropriately • What an orderly, effective and efficient council meeting looks like and how it is conducted • How councillors should prepare for a council meeting, including pre-meeting briefings • The role of business papers and meeting minutes and how to understand and interpret them • The role of committees, the committee structure adopted by the council and the functions of each of council's committees
Strategic planning	<ul style="list-style-type: none"> • The statutory requirements for integrated planning and reporting, including its conceptual basis, guiding principles and reporting requirements • How integrated planning and reporting is conducted by council including: <ul style="list-style-type: none"> – council's integrated planning and reporting frameworks, timelines and processes – the mayor's and councillors' roles – community consultation and participation – change management processes – reporting mechanisms
Land use planning	<ul style="list-style-type: none"> • Overview of the land use planning system, including: <ul style="list-style-type: none"> – relevant legislation – the role of council in land use and development approvals – the development assessment and approval process under the <i>Environmental Planning and Assessment Act 1979</i> – the role of independent panels, including Joint Regional Hearing Panels and Independent Hearing and Assessment Panels, in relation to development approvals – the delegations made with respect to development assessments and approvals – the role of environmental planning instruments and how to interpret them – the environmental planning instruments that apply to council's area and the development control plans adopted by council – delegations – the role of oversight agencies, for example, the Department of Planning and Environment and the Greater Sydney Commission – the role of the Minister for Planning

Topic area	Suggested content
Natural resource management	<ul style="list-style-type: none"> • Council's public land management responsibilities and the statutory requirements that apply to public land management • Council's natural resource management responsibilities and the regulatory frameworks under which it exercises its functions
Water management (for councils that are water utilities)	<ul style="list-style-type: none"> • Council's water management responsibilities and the regulatory frameworks under which it exercises its functions • Drinking water quality and public health responsibilities • Integrated Water Cycle Management – including water security and asset planning • Water utility operation and performance monitoring
Financial processes and financial management	<ul style="list-style-type: none"> • The responsibility of councillors for the financial management and sustainability of the council under the Act • Council's long-term financial plan and other components of council's resourcing strategy, including revenue sources • How to interpret and understand the financial information contained in financial reports prepared by council
Asset management	<ul style="list-style-type: none"> • Asset management planning requirements • Council's asset management strategy
Customer services and complaints handling	<ul style="list-style-type: none"> • Council's complaints handling process and how councillors should handle constituents' concerns
Support available to assist councillors in their role	<ul style="list-style-type: none"> • The annual fees paid to councillors and the mayor • Council's expenses and facilities policy • Ongoing professional development for the mayor and councillors • The responsibility of the general manager and staff to provide timely information and advice and the administrative and professional support necessary for councillors to effectively discharge their functions
Supplementary topics for mayor	<ul style="list-style-type: none"> • How to be an effective leader of the governing body and the council • The role of the chair and how to chair council meetings • The mayor's role and responsibilities under the code of conduct • The mayor's role in integrated planning and reporting • The mayor's role and responsibilities in relation to the general manager's employment: <ul style="list-style-type: none"> – the requirements of the mayor under the <i>Guidelines for the Appointment and Oversight of General Managers</i> released by the Office of Local Government – how to conduct day-to-day oversight of the general manager including in relation to credit card use and other expenses, and – how to lead recruitment and performance reviews of the general manager • The mayors role on the regional and other bodies they attend on behalf of the council and council's position on the key issues under consideration by these bodies • The mayor's civic and ceremonial role and the community functions the mayor will be expected to attend

Appendix F:

Councillor Induction Manual

Content Checklist

Topic area	Suggested content
Governing body	<ul style="list-style-type: none"> • Summary of the shared purpose, goals, vision and success markers identified by the governing body during the induction process • Summary of the values and behaviours identified by the governing body during the induction process that will characterise the council term
Basic information about the council	<ul style="list-style-type: none"> • Organisational chart and outline of key function and service areas, including those of senior staff • Information and/or chart showing the relationships between councillors and council staff and decision-making processes • List of council facilities and map of the local government area • How to use council's IT system/s • How to raise work, health and safety issues • List of regional bodies and committees council is a member of
Profile of the local government area	<ul style="list-style-type: none"> • Information about council wards • Population statistics • Useful information about the local government area • Useful information about key issues or tasks for the new council
Information about council meetings	<ul style="list-style-type: none"> • Council's code of meeting practice • Agenda and minutes of recent meetings • Meeting times and venues • Deadlines related to meetings, business papers and minutes • List of council committees and their composition
Key planning and policy documents and information	<ul style="list-style-type: none"> • Integrated planning and reporting documents, for example, the current community strategic plan, delivery program, operational plan, community engagement strategy and resourcing strategy, workforce management strategy etc. • List of financial and other delegations • Most recent annual report • End-of-term report of last council term • Council policy documents, including council's: <ul style="list-style-type: none"> - policy register/list of policies - code of conduct - councillor expenses and facilities policy - information access policy - councillor and staff interaction policy and protocol - gifts and benefits policy - media policy - conflicts of interest policy - council's risk management framework and relevant internal audit, external audit and risk management related documents • Any other relevant plans, policies and procedures

Topic area	Suggested content
Key legislation	<ul style="list-style-type: none"> • Copy of key legislation or relevant excerpts from legislation • Information about the key legislation and regulation under which council exercises its functions, for example: <ul style="list-style-type: none"> • <i>Local Government Act 1993</i> • <i>Local Government (General) Regulation 2005</i> • <i>Environmental Planning and Assessment Act 1979</i> • <i>Protection of the Environment Operations Act 1997</i> • <i>Work Health and Safety Act 2011</i> • <i>State Records Act 1998</i> • How to access up-to-date versions of the legislation online (www.legislation.nsw.gov.au)
Information about support for councillors	<ul style="list-style-type: none"> • How to make a request or claim under council's expenses and facilities policy • Information about the induction and professional development program • Contact details of council officer/s that councillors may contact for information

Topic area	Suggested content
Other useful resources and/or details about where they may be accessed	<ul style="list-style-type: none"> • Induction program presentations and materials • Contact details for key organisations such as the Office of Local Government and Local Government NSW • The <i>Councillor Handbook</i> released by the Office of Local Government • Bluett's Local Government Handbook NSW • A copy of useful publications and guidance material produced by NSW Government agencies and other bodies (where relevant) in relation to: <ul style="list-style-type: none"> - capital expenditure, tendering and procurement (Office of Local Government, Department of Finance, Services and Innovation) - the <i>Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW</i> (Office of Local Government) - the <i>Guidelines for the Appointment and Oversight of General Managers</i> (Office of Local Government) - the <i>Internal Audit Guidelines</i> (Office of Local Government) - land-use planning and development approvals processes (Department of Planning and Environment) - public interest disclosures (NSW Ombudsman) - access to information and privacy (Information and Privacy Commission) - fraud and corruption (Independent Commission Against Corruption, NSW Audit Office) - external audit (NSW Audit Office) - annual reviews and performance audits of local government (NSW Audit Office) - anti-discrimination (Anti-Discrimination Board of NSW) - council rating determinations (Independent Pricing and Regulatory Tribunal) - councillor and mayoral remuneration (Local Government Remuneration Tribunal)

Appendix G:

Local Government

Capability Framework

Personal attributes

	Clr	Mayor
Manage self		
Talks to the mayor/councillor, general manager and other councillors about own role and responsibilities, and seeks feedback	✓	✓
Pursues responsibilities with energy, drive and commitment	✓	✓
Manages own time effectively, balancing demands in line with council priorities	✓	✓
Shows awareness of own strengths and areas for growth	✓	✓
Looks for and takes opportunities to develop knowledge and skills as a councillor	✓	✓
Honestly examines personal motivation and capability as mayor		✓
Reflects on and integrates feedback, showing a capacity and willingness to modify own behaviours		✓
Display resilience and adaptability		
Is flexible and willing to change their mind in light of new information	✓	✓
Stays calm and objective in challenging situations	✓	✓
Advocates constructively for an idea or position, even in the face of strong, contrary views	✓	✓
Listens when challenged and seeks to understand criticisms before responding	✓	✓
Stays positive and perseveres in the face of resistance or setbacks	✓	✓
Accepts public feedback and responds in a thoughtful and considered way	✓	✓
Reads situations quickly and shows leadership in times of crisis		✓
Acts as a stabilising influence in challenging and emotionally charged situations		✓
Act with integrity		
Is open, honest and consistent in words and behaviour	✓	✓
Tells the truth and admits to own mistakes	✓	✓
Maintains confidentiality	✓	✓
Takes steps to clarify ethical issues and seeks advice when unsure what to do	✓	✓
Follows the code of conduct, legislation and policies applicable to councillors/mayors	✓	✓
Speaks out against illegal and inappropriate behaviour and perceived conflicts of interest	✓	✓
Helps councillors understand their obligations to comply with the codes of conduct, legislation and policies		✓
Identifies and discusses ethical issues with councillors		✓
Promotes a culture of integrity within council and in dealings external to council		✓

	Clr	Mayor
Demonstrate accountability		
Prepares appropriately for council meetings	✓	✓
Acts in the public interest and observes the highest standards of personal conduct at all times	✓	✓
Takes responsibility for fulfilling the role of councillor/mayor to the best of their ability	✓	✓
Is transparent in actions and decision making, declaring potential conflicts	✓	✓
Models the highest standards of accountability, providing transparency to enable public scrutiny		✓
Provides advice on strategies taken by council to be accountable, transparent and efficient		✓

Relationships

	Clr	Mayor
Communicate and engage		
Clearly communicates ideas and arguments	✓	✓
Adjusts tone, pace and message for different audiences	✓	✓
Listens when others are speaking and asks appropriate, respectful questions	✓	✓
Shows sensitivity to cultural, religious and other individual differences when interacting with others	✓	✓
Uses communication channels that are suitable for the diversity in the community	✓	✓
Creates opportunities for people to engage with council and contribute to public disclosure and debate	✓	✓
Community and customer focus		
Keeps up to date on current issues affecting the community	✓	✓
Shows pride in and talks positively about the community and region	✓	✓
Commits time and energy to serving the community	✓	✓
Works towards social, environmental and economic sustainability in the community/region	✓	✓
Collects and uses broad community feedback to identify opportunities for improvement	✓	✓
Builds effective relationships with a range of people who reflect the diversity in the community	✓	✓

	Clr	Mayor
Work collaboratively		
Shares information with other councillors about community issues, stakeholders and activities	✓	✓
Is respectful of council staff and receptive to their advice	✓	✓
Shows respect for the diversity of skills and experience on the governing body	✓	✓
Initiates collaborative forums on issues facing the community	✓	✓
Works together with stakeholder networks for the benefit of the community and region	✓	✓
Encourages councillors to work collaboratively		✓
Builds a productive working relationship with the general manager based on clear expectations, trust and respect		✓
Supports positive relations between the general manager and the governing body		✓
Builds partnerships between council and external stakeholders that are of strategic value to council		✓
Facilitates and supports strategic collaboration with other councils to benefit the broader region		✓
Influence and negotiate		
Uses understanding of political processes and networks to develop a negotiation strategy	✓	✓
Listens to contrary points of view and endeavours to find common ground	✓	✓
Influence others with a fair and considered approach and sound arguments	✓	✓
Avoids starting from an entrenched position and is willing to give and take	✓	✓
Wins concessions without damaging relationships	✓	✓
Establishes and maintains relationships outside council in order to find common ground and further council's position		✓
Anticipates points of contention and plans negotiations accordingly		✓
Steers discussion and debate towards achieving an acceptable outcome		✓

Results

	Clr	Mayor
Plan and prioritise		
Identifies and pursues critical priorities and sets aside less critical activities	✓	✓
Contributes to setting clear performance goals that include quality measures	✓	✓
Considers council performance reports and rollover of projects when making new plans	✓	✓
Considers the impact of changes, e.g. government policy/economic conditions and budgets, on strategic plans	✓	✓
Incorporates sound risk management principles into strategic planning	✓	✓
Works with the general manager to translate strategic direction into a delivery program and operational plan		✓
Monitors progress against the delivery program and operational plan		✓
Considers council's current and potential future role within the community and region when planning		✓
Think and solve problems		
Gathers and investigates information from a variety of sources	✓	✓
Asks questions to get to the heart of the issue and define the problem clearly	✓	✓
Considers the broader context and long-term impacts of policy options	✓	✓
Works with others to assess options and identify appropriate solutions	✓	✓
Create and innovate		
Thinks about issues and opportunities from different viewpoints	✓	✓
Looks for non-obvious solutions	✓	✓
Encourages independent thinking and new ideas from others	✓	✓
Explores innovative solutions with long-standing community-wide impact	✓	✓
Deliver results		
Monitors and provides advice on the delivery of customer/community focused services	✓	✓
Instigates and champions initiatives to deliver community outcomes	✓	✓
Identifies and addresses potential risks to the achievement of council goals	✓	✓
Engages with senior staff about strategies to improve council performance		✓

Resources

	Clr	Mayor
Finance		
Uses basic financial terminology appropriately	✓	✓
Makes informed contributions to debate about the allocation of financial resources	✓	✓
Demonstrates respect for public funds and the obligation to manage council resources responsibly	✓	✓
Is aware of financial risks and strategies to manage and minimise these	✓	✓
Is able to discuss implications of council's long term financial plan, audited financial statements and budget reviews	✓	✓
Identifies and supports opportunities to generate revenue and attract investment	✓	✓
Promotes the role of sound financial management and its impact on council effectiveness		✓
Assets and tools		
Engages in strategic planning to ensure the organisation's assets support delivery of the strategic plan	✓	✓
Makes informed contributions to debate about the allocation of assets to community priorities	✓	✓
Supports asset risk minimisation strategies, plans and outcomes for council	✓	✓
Promotes the role of councils as custodians of community assets	✓	✓
Ensures asset management decisions consider long term financial sustainability	✓	✓
Promotes the role of sound asset management and its impact on long term financial sustainability		✓
Technology and information		
Uses a range of technologies to communicate and engage with the community	✓	✓
Supports the introduction of new technologies to improve the efficiency and effectiveness of the council	✓	✓
Procurement and contracts		
Exercises commercial acumen in reviewing and approving council contracts and tenders	✓	✓
Makes decisions on council tenders according to value for money, probity and community benefit	✓	✓

Civic leadership

	Clr	Mayor
Represent communities		
Makes themselves available to discuss issues and council activities with members of the community	✓	✓
Seeks to understand the range of views on complex issues in the community	✓	✓
Raises issues that are important to constituents with council	✓	✓
Treats all people in the community impartially and champions their right to be heard	✓	✓
Uses a variety of approaches to gather views from a range of individuals and organisations		✓
Advocates for local interests in dealings with external stakeholders, including other sectors and governments		✓
Inspire direction and purpose		
Demonstrates passion, enthusiasm and personal dedication to council's vision for the community	✓	✓
Champions the community strategic plan and communicates the way forward	✓	✓
Encourages community involvement in council planning processes	✓	✓
Communicates the context and parameters surrounding council strategies and plans	✓	✓
Communicates the purpose and plans using a variety of channels to reach many audiences		✓
Regularly communicates progress against the community strategic plan		✓
Govern responsibly		
Contributes constructively to debate in council	✓	✓
Works towards consensus as a member of the governing body	✓	✓
Contributes to a positive and ethical culture within the governing body	✓	✓
Participates responsibly in exercising council's employer functions in relation to the general manager	✓	✓
Acts in a way that preserves the health and safety of people in the council workplace	✓	✓
Leads constructive council meetings with a view to reaching consensus		✓
Cultivates a positive and ethical culture within the governing body		✓
Works with the general manager to ensure legal and regulatory frameworks are applied consistently by council		✓
Sets clear performance standards for the general manager and monitors progress		✓
Regularly discusses performance with the general manager and addresses performance issues early		✓

	Clr	Mayor
Make quality decisions		
Makes considered decisions on merit in the public interest	✓	✓
Considers information about the context and regulatory environment before making decisions	✓	✓
Considers financial and budget implications, including value for money, in making decisions	✓	✓
Explains council decision-making process to constituents	✓	✓
Communicates the decisions of council in a respectful way, even if own position was not adopted	✓	✓
Assists the community to understand council decisions in context, considering priorities and constraints	✓	✓
Ensures council works through issues, considering all relevant information, before making decisions		✓
Ensures council considers financial and budget implications in making decisions		✓



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Foreword from the Minister for Local Government



Local residents who know the area and can offer solutions to issues that are causing concern in the community are ideal candidates to be councillors.

Local councils play an important role in leading and shaping their communities

Local councils provide the infrastructure and services that local people need, and they ensure that community resources are managed responsibly.

Statewide, local councils spend nearly \$10 billion per year on services and facilities and provide employment for more than 50,000 people.

Serving your community by becoming a councillor is a rewarding and challenging experience. Local councils need leaders who reflect the diverse nature of their communities and understand what matters to local people – leaders who are willing to stand up and make a positive difference.

There are more than 1,400 councillors across NSW and they come from all walks of life. But some groups are currently under-represented and we need to do more to ensure councils reflect the diversity of their communities.

In the 2012 local government elections, women made up just 27% of local councillors and only 19% of mayors, even though half of the state's population are women. Only 16% of NSW councils had elected representatives who identified as Aboriginal or Torres Strait Islanders. Only 8% of councillors spoke a language other than English at home and just 4% of councillors were aged under 29. Clearly, some voices are not being heard.

The NSW Government is committed to improving opportunities for all community members to participate in local leadership, and the upcoming council elections are particularly important, with the first elections for our 20 new councils. This opens a new chapter for these communities to build a shared direction and a prosperous future together. I would encourage prospective candidates to read this guide and reflect on the role they might play in helping to shape their community.

Many people hesitate to stand for office because they are unsure of what the role involves, or whether they have the right skills to become a councillor. This guide will help you to make that important decision. We have made some recent changes to the Local Government Act to ensure that the role of councillor is much clearer and that people elected to office receive the help and support they need to develop their leadership and professional skills.

If you have a passion for your community, and a willingness to learn new skills and work with others to make a positive difference, then I would encourage you to consider standing for your local council.

The Hon. Gabrielle Upton MP
Minister for the Environment
Minister for Local Government
Minister for Heritage

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NEXT STEPS: WHERE TO GET MORE INFORMATION

A photograph of a man and a woman smiling outdoors. The man, on the left, has a beard and is wearing an orange button-down shirt with sunglasses tucked into the pocket. The woman, on the right, has curly hair and is wearing a light blue button-down shirt. They are both looking towards the camera. The background is a blurred outdoor setting with trees and a yellow tent.

1

**Councillors:
ordinary
people
with an
extraordinary
passion
for their
community**

Who can be a councillor?



If you are passionate about your local community then you already have what it takes to become a councillor. Everything else you need to know about taking the step and nominating for election is in this guide.

There are no special qualifications to become a councillor other than a desire to serve your community. If you are eligible to vote at an election for your council, you can also stand as a candidate for election to the council. You'll benefit from the skills you develop – and you can learn most of these skills on the job.

“A councillor's role is important. The decisions a council makes and the services it provides can change local communities and environments.”

Being a councillor is a rewarding opportunity to:

- make decisions that help people in your local community
- influence the long term vision and direction for your community
- learn new skills, such as leadership, public speaking and advocacy
- work with diverse and passionate people on a range of issues
- balance the needs and priorities of your community
- show leadership and make the best decisions for your community.

More information about who can be a councillor is contained later in this guide.

Being a voice for the local community: why is diverse representation on council important?

“

Diverse representation helps to ensure the needs of different groups in the local community are taken into account when council makes decisions.

NSW is one of the most diverse and inclusive societies in the world.

Across the state, local communities are made up of a mix of people from a diverse range of backgrounds with different needs and interests. These groups include Aboriginal and Torres Strait Islander people, people from culturally and linguistically diverse backgrounds, people with a disability, women and young people.

However, there is an under representation of diverse groups of people among elected representatives and in the workforce of many NSW councils.

Local councils need diversity among councillors to reflect the diverse needs of community members.

If a community is diverse, their councillors should be too. This will lead to better leadership and decision making to create stronger councils and better outcomes for local communities.

Information and statistics on local government representation can be found in the Candidates and Councillors 2012 Report available at www.olg.nsw.gov.au.



Do you have what it takes to be a councillor?

As well as enthusiasm and a passion to improve your local community, you should be willing to embrace new skills and training to make being a councillor easier.

Helpful attributes for councillors include:

- communication skills, including listening and interpersonal skills, public speaking, networking, respecting different opinions, negotiation, mediation, and knowledge of conflict resolution
- problem solving skills and the ability to get to the core of problems and find solutions
- willingness to work as a team for the benefit of the community
- good organisation skills like time management and priority setting
- ability to understand financial reports, including budget processes
- readiness to engage effectively with the community
- understanding of social justice principles

- understanding of the role and services of local government and an ability to understand relevant state government legislation
- leadership qualities, including energy, motivation, resilience, confidence, assertiveness, strategic thinking and advocacy skills
- ethical and accountable behaviour, and a commitment to act in the best interests of the community as a whole.

While this may seem like a long list, as a councillor you will receive information and training to help you develop these skills. Being elected as a councillor is an opportunity to serve your community, and this opportunity involves a commitment of your time.

There is a range of factors that determine how many hours councillors spend each week on council activities, including the size of the council and the issues that arise.

Being a councillor is not without its challenges, including:

- substantial time commitment
- making decisions that are not always popular with the community
- being a single issue candidate, but not a single issue councillor
- balancing individual constituent needs with those of the wider community

- working with other councillors and people who may hold very different views to you
- balancing your commitments to the council and the community with your own family and work obligations
- experiencing an initial steep learning curve.

Being a councillor is a four-year commitment. It will absorb a lot of your time as councillors are expected to attend all council meetings.

The exact number of meetings depends on individual councils, but each council must meet at least 10 times a year. If you miss three consecutive council meetings without getting a prior leave of absence from the council, your office will automatically become vacant.

In the end, standing for council is a personal choice. Only you can understand your own circumstances and what the time commitment means for you. It is a good idea to talk to your family and friends about your plans to serve your community and run for election.



To get a good idea of the time it takes to be a councillor in your area, talk to a past or present local councillor.

How do councillors serve their communities?

Councillors work together to make decisions about what the council will do to meet community needs and how money should be spent in the best interests of the whole community.

Councillors are not involved in the day-to-day running of the council. That is the role of the general manager. More information about the role of a general manager is detailed later in this guide.

Different communities have different needs, and councillors can be involved in a range of issues. The size and make up of local communities, and whether they are in metropolitan, regional or rural areas, can impact the issues that councillors are involved in.



Councillors serve their communities by listening to people in the local area and then representing those views on council.

A councillor's role includes:

- attending council meetings, often in the evenings and usually at least once a month
- reading council business papers and preparing for council meetings
- reviewing council's strategic plans, policies and budget on a regular basis to check if progress is on target
- speaking to members of the community about their needs and concerns.

Other activities that a councillor might become involved in are:

- taking part in special council committees, such as local traffic or planning committees
- inspecting progress on council projects like road works or building a new library
- being aware of problems with council assets that need to be reported, such as damage to sports fields or broken signs
- participating in civic events, like presenting sporting and other awards and attending citizenship ceremonies
- representing council at events and conferences, such as the Local Government NSW Annual Conference.



What are councillors' ethical obligations?

Councillors are expected to comply with the ethical standards outlined in the Model Code of Conduct for Local Councils in NSW.

It is important that communities have confidence in the integrity of their local councils, the councillors they elect and the decisions those councillors make. Councillor misconduct can erode that trust.

Serious breaches of councils' codes of conduct can carry significant penalties including suspension from office for up to six months. Councillors who are suspended on three or more occasions are disqualified from holding office in a council for five years.

Councillors must be mindful that their actions, including when acting in a private capacity, may have the potential to reflect badly on their council. For this reason, councillors are expected to observe the highest standards of personal conduct at all times.



2

Local government: what it is and why it matters



Councils in NSW provide a wide range of services and activities. What often first springs to mind when people think about the role of local government are services such as garbage collection. However, councils have a much wider and more important role than many people realise.

The big picture: How do federal, state and local governments relate?

Local government does not exist in isolation. It is important for councils to maintain strong relationships across different levels of government, between and within councils, and within the community

Federal, state and local governments each play distinct and important roles. The diagram below gives examples of the typical responsibilities of the three spheres of government in Australia.

Some parts of the NSW Government which are particularly important for councils to work with are:

- Office of Local Government,
- Department of Planning and Environment
- Office of Environment and Heritage.

Councils in NSW also have important working relationships with groups such as:

- Local Government NSW
- Local Government Professionals Australia (NSW)
- Australian Local Government Women's Association.

Three spheres of government



Guiding principles: How should councils operate?



The Local Government Act 1993 (the Act) outlines principles to help councils operate in a way that promotes strong, healthy and prosperous communities.

When exercising their functions, councils should:

- provide strong and effective representation, leadership, planning and decision-making
- carry out functions in a way that provides the best possible value for residents and ratepayers
- plan strategically, using the integrated planning and reporting framework to provide effective and efficient services and regulations to meet the diverse needs of the local community
- apply the integrated planning and reporting framework to achieve desired outcomes and continuous improvements
- co-operate with other councils and the state government to achieve desired outcomes
- manage lands and other assets to meet current and future community needs in an affordable way
- work with others to secure appropriate community services

- act fairly, ethically and without bias in the interests of the local community
- be responsible employers and provide a consultative and supportive working environment for staff.

In making decisions, councils should:

- recognise diverse local community needs and interests
- consider social justice principles
- consider the long term and cumulative effects of actions on future generations
- consider the principles of ecologically sustainable development
- ensure decision making is transparent and decision makers are accountable.

In exercising their functions, councils should actively engage with communities through the integrated planning and reporting framework and other measures.

Councils should also consider the principles of sound financial management prescribed by the Act in exercising their functions.

The community benefits: what services and functions do councils provide?

Councils provide services that fall under five broad categories. The list below provides a sample of some of the services provided by councils – but there are many other activities councils undertake.

The range and quality of services provided by a council is shaped by a number of factors, including the:

- availability of funds
- size, location and demographics of the area
- commitment to maintain existing services
- views, wishes and needs of the community.



Planning for sustainable development

Councils play a role in providing long term strategic planning for local government areas, as well as in town planning, zoning and subdivisions. In addition, councils are responsible for processing most development applications, building site and compliance inspections, building regulations and connections to water and sewerage.



Providing and maintaining infrastructure

Providing local infrastructure is an important contribution councils make to their communities. For example, councils provide and maintain local roads and bridges, public car parks, footpaths, sporting fields, parks, libraries and art galleries. Councils must consult with their communities about providing and maintaining these assets.



Protecting the environment

Councils regularly assess the state of their local environments, provide environmental programs and use their regulatory powers to prevent pollution or restore degraded environments. They carry out activities such as garbage collection and recycling, street cleaning, regulating parking, controlling dogs and cats and controlling noxious weeds.



Providing community services and development

Councils consult with and assess the needs of their communities, and use the information to target community development activities. They provide a range of services, including some aimed at groups in the community with special needs. Community services include libraries, retirement homes, home care services such as Meals on Wheels, swimming pools, playground facilities and child care centres.



Safeguarding public health

Councils help maintain high standards of public health and reduce the risk of exposure to a wide range of diseases through activities such as inspections of cafes and restaurants, waste management, pest and vermin control and hazardous material containment.



Money matters: services cost money, but where does it come from?

Councils raise money from the local community through rates, charges and fees. They can also borrow and invest money.

All councils receive a Financial Assistance Grant each year, which is paid by the federal government through the state government via the NSW Grants Commission.

The amount of the grant varies from council to council. Councils may also be eligible to receive grants from a variety of other sources.

3

Local government: how it works

Working relationships: how do councillors and staff work together?

A good working relationship between councillors, the mayor, the general manager and other council staff is fundamental to an effective council.

The roles of key people in councils, including councillors and the general manager, are carefully defined in the *Local Government Act 1993* to avoid any confusion.

What is the role of the governing body?

Councillors collectively comprise the governing body of a council.

Under the Act, the role of the governing body is to:

- direct and control the affairs of council in consultation with the general manager
- provide effective civic leadership
- ensure as far as possible the financial sustainability of council
- ensure as far as possible that council acts in accordance with the principles prescribed under the Act and other relevant plans, programs, strategies and policies of council
- develop and endorse the community strategic plan, and delivery program and other plans, programs, strategies and policies of council
- determine and adopt a rating and revenue policy and operational plans to ensure council resources are allocated appropriately
- regularly review council's performance, including service delivery
- make decisions that support the proper exercise of council's regulatory functions
- determine the process for appointing the general manager and managing their performance
- determine senior staff positions within the organisation structure of council
- consult with community organisations and stakeholders about council decisions and activities
- ensure council acts honestly, efficiently and appropriately.

What is the role of individual councillors?

Under the Act, each councillor has a responsibility to:

- be an active and contributing member of the governing body
- make considered and well informed decisions
- participate in developing council's integrated planning and reporting framework
- represent the collective interests of residents, ratepayers and the local community
- facilitate communication between the local community and the governing body
- uphold and accurately represent the policies and decisions of the governing body
- make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor.

Councillors are both individually and collectively accountable to the local community for the performance of the council.

Oath of Office

Under the Act, councillors are obliged to take an oath or affirmation of office either at or before the first council meeting after they are elected.

Councillors are required to swear or affirm they will carry out the duties of the office of councillor in the best interests of the local community and the council.

They must also swear or affirm they will faithfully and impartially carry out the functions of councillor to the best of their abilities.

This oath or affirmation is a mechanism for inducting councillors into the role. It also reinforces the seriousness of the responsibilities and duties of being a councillor.

A councillor who fails to take the oath or affirmation of office without a reasonable excuse, will not be entitled to attend council meetings until they do so.

If they miss three consecutive ordinary council meetings without a reasonable excuse, their office is automatically declared vacant and a by-election will be held.

What is the role of the mayor?

The mayor is often considered the voice of the council and the leader of the community.

While the mayor essentially has the same roles and responsibilities as a councillor, they are also expected to exercise a leadership role. This is reflected in their additional responsibilities.

Under the Act, the Mayor's role is to:

- be the leader of the council and a leader in the local community
 - advance community cohesion and promote civic awareness
 - be the principal member and spokesperson of the governing body, including representing the views of council about local priorities
 - exercise the policy-making functions of the governing body between meetings of the council, where necessary
 - preside at council meetings and ensure they are conducted efficiently, effectively and in accordance with the Act
- ensure council's strategic plans, programs and policies are developed and adopted in a timely way
 - promote the effective and consistent implementation of council's strategic plans, programs and policies
 - promote partnerships between council and key stakeholders
 - advise, consult with, and provide strategic direction to the general manager about council's strategic plans and policies
 - together with the general manager, ensure there are adequate opportunities and mechanisms for engagement between council and the local community
 - perform civic and ceremonial functions
 - represent the council on regional organisations and at regional, state and federal inter-governmental forums

- in consultation with councillors, lead performance appraisals of the general manager
- exercise any other functions that the council determines.

Mayors can either be elected by the community or by the councillors. If elected by the community, mayors hold office for the full four years. Mayors that are elected by councillors hold office for two years.

Check with your local council to learn how the mayor is elected.

What is the role of the general manager?

The general manager is responsible for implementing policies that are formulated and monitored by council.

They are the most senior council employee and the only member of staff selected and appointed by councillors.

The general manager is appointed on a renewable, fixed-term, performance-based contract for a maximum of five years.

Under the Act, the general manager's role is to:

- manage the day-to-day operation of council in accordance with council's strategic plans, programs, strategies and policies
- implement the lawful decisions of the council
- advise the mayor and governing body about council's strategic plans, programs, strategies and policies
- advise the mayor and governing body about consulting with the community

about council's strategic plans, programs, strategies, policies and other matters

- prepare the community strategic plan and council's community engagement strategy, resourcing strategy, delivery program, operational plan, and annual report in consultation with the mayor and governing body
- ensure the mayor and councillors are provided with timely information and advice and all necessary administrative and professional support
- exercise any functions of council that are delegated by council
- appoint, direct and dismiss staff in accordance with council's organisation structure and the resources approved by council
- implement council's workforce management strategy.

The general manager may delegate functions to other staff.

What is the role of council staff?

Councils employ staff such as town planners, engineers, building surveyors, librarians, environmental officers, rangers and childcare workers.

Council staff carry out the day-to-day operations of the council, and implement council policies and other decisions, as directed by the general manager.

4

Being a councillor: what help is available to you

What fees are provided to councillors?

Under the Act councillors are entitled to an annual fee, paid in monthly instalments. The fee depends on the size of the council, the number of people it serves and the assets it manages. For example, in 2016 the fees ranged from \$8,540 per year for a small rural council to \$37,640 for a big metropolitan council.

The mayor of a council also receives an additional fee.

The fees paid to councillors are subject to tax, and may affect your assessable income for tax purposes.

A council may decide to reduce or withhold fees if a councillor does not attend meetings for more than three months. Councillors who are suspended from office are not entitled to receive a fee.



What expenses and facilities can be accessed by councillors?



Councils are also encouraged to provide equipment and facilities to assist councillors with disabilities and special needs to access the services and information they need in order to perform their role.

As well as setting councillor fees, the Act allows councils to cover some of the expenses that councillors incur in carrying out their duties, including travel and telephone expenses.

The range of expenses and facilities provided to councillors varies between councils. A council decides what expenses it will cover and what facilities it will provide to councillors.

Councillor expenses covered by councils may include:

- training courses
- conferences
- travel to and from meetings, conferences and training
- accommodation, meals and refreshments while on council business.
- phone calls and internet use associated with councillor duties
- child care associated with councillor duties.

Councils may also provide facilities for councillors such as computers, fax machines, mobile phones, stationery or administrative assistance. Councils are also encouraged to provide equipment and facilities to assist councillors with disabilities and special needs to access the services and information they need to perform their role.

What training and professional development is available to councillors?

One of the great benefits of being a councillor is the opportunity to undertake structured professional development.

Under the Act, councillors must make all reasonable efforts to acquire and maintain the skills necessary to perform their role.

The Office of Local Government and Local Government NSW provide a range of support for councillors, including training and induction programs.

For example, Local Government NSW provides professional development and training specifically catered to the needs of councillors.

Local Government NSW's Councillor Professional Development Program includes the following modules:

- Community and Stakeholder Engagement
- Chairing and Meeting Procedures
- Elected Life—An Induction Program for Councillors
- Executive Certificate for Elected Members
- Financial Issues in Local Government
- Good Governance
- Know your Planning
- Mayor's Weekend Seminar
- Media Skills
- Model Code of Conduct
- Preventing Bullying and Harassment.

Local Government NSW also provides a free mentoring service for mayors and councillors. These mentors provide confidential advice to support councillors in their role as elected representatives.



The Office of Local Government and Local Government NSW provide a range of support for councillors, including training and induction programs.

Information on the program can be obtained by contacting Local Government NSW via the details provided at the end of this guide.

Individual councils are also expected to provide induction training and ongoing professional development for their councillors.

The nature of these programs varies from council to council.

As a new councillor, you will be encouraged to tell your council about your own training needs and to participate in training and professional development activities offered to you.

5

Making it happen: how you can stand for election



Check point: am I eligible to nominate as a candidate?

Anyone who is entitled to vote at council elections in NSW is also eligible to stand for election as a councillor.

Before setting off to become a councillor, ensure you are on the electoral roll for the council area and be clear that you're not disqualified from standing for office.

People disqualified from standing for office include people who are:

- currently serving a prison sentence
- convicted of certain election-related or criminal offences
- prohibited from managing companies
- suspended on three or more occasions for misconduct as a councillor
- current state members, if elected, may only hold office as a councillor if they resign from the Parliament before the first council meeting.

Serving judges, the returning officer for elections of the council and council employees are also excluded.



How do I nominate as a candidate?



Make sure you check and verify all information provided on nomination forms before lodgement, as it is an offence to make a false statement on election papers.

Getting the nomination process right is an essential step in becoming a councillor. It may sound like a complex process, but if you work through it step by step you will find it is much easier than it seems.

First you need to submit a nomination form. This can be submitted in one of two ways:

- you can be proposed for nomination as a candidate by at least two eligible proposers enrolled for the same ward or area as the one for which you are being nominated. It is wise to have more than two nominators in case it turns out that one is not eligible
- you can be proposed for nomination by the registered officer of a registered political party.

There are a number of forms to complete at this stage and these need to be officially lodged with the returning officer. These forms include a form of consent and a candidate information sheet. There is also a nomination deposit payable to the returning officer in cash or by bank cheque.

Completed nomination papers must reach the returning officer by noon on nomination day. The papers can be delivered personally, emailed, posted or faxed and the returning officer will provide a receipt if you ask for one.

How do I register as a candidate?



Make sure you do not accept political donations or make payments for electoral expenditure until you are registered.

Understanding when to be registered as a candidate for an election is an important part of your campaign. Registering for an election is a separate process to being nominated for an election.

Make sure you do not accept political donations or make payments for electoral expenditure until you are registered. There are important things you need to know about registering for an election:

- register with the NSW Electoral Commission before you accept any political donations or make payments for electoral expenditure
- if you are a member of a group of candidates your group must also be registered before accepting political donations and making payments for electoral expenditure
- every candidate and group must appoint an official agent when registering for an election
- your official agent is responsible for managing your election campaign finances and operating your campaign account
- your official agent must complete the NSW Electoral Commission's online training for agents or have certain accounting qualifications.

To register and appoint an official agent you need to submit a registration form. The form can be submitted to the NSW Electoral Commission in one of two ways:

- if you are a member of a group use the form to register the group, register each candidate in the group and appoint an official agent to the group and each candidate in the group
- if you are not in a group, or you are standing for mayor, use the form to register as a candidate and appoint your official agent.

If you are not registered you must not accept any political donations or make payment for electoral expenditure until noon on nomination day and you must still appoint an official agent.

Local government elections: when and how are they conducted?

Local government elections in NSW are generally held every four years on the second Saturday in September following a state government election.

Check with your local council when its next elections are to be held.

Councils can choose whether elections are administered by the general manager or the NSW Electoral Commissioner. The process for nominating and registering as a candidate is the same, regardless of who administers the elections.

Being ready: when and how will nominations be called?

Public notice of a council election must be given at least one week before nomination day. Look out for notices of the elections and the call for nominations in your local newspaper.

If there are more nominees than vacancies on council, public notice of a contested election is then given as soon as possible after the nomination day.

How are political parties registered for council elections?

While many candidates stand for election as independents, other candidates choose to affiliate themselves with a political party. Any party that has been registered with the NSW Electoral Commissioner for 12 months prior to the nomination day is entitled to nominate candidates for election. A party that is registered for state government elections is automatically registered for local government elections.

If you need further information on the registration of a political party, contact the NSW Electoral Commission, whose details are provided at the end of this guide.



What are the rules about election material?

To keep elections fair, and ensure voters are not misled, there are strict rules about the information that candidates and their supporters can publish or distribute.

All election material published or distributed from the day the election rolls close until election day must contain the name and address of the person who authorised the material. It must also contain the name and address of the printer.

For councils administering their own elections, the electoral material must be registered with the returning officer for that council.

All election material distributed on election day, including 'how to vote' cards, must be registered with the NSW Electoral Commission or, in the case of a council-run election, with the returning officer.

An application to register electoral material may be made between nomination day and eight days prior to election day.

Electoral advertisements and 'how to vote' material that contain misleading directions about how voters should cast their votes, are banned. Also prohibited is material that suggests a link between a candidate and a political party when no such link exists.

Rules also apply to where electoral material can be placed. These rules can be obtained from the NSW Electoral Commission's website. A person who publishes and distributes electoral material unlawfully can be fined or even dismissed from civic office under certain circumstances.



Counting the votes: how is it done?

In local government elections, votes are counted under either the proportional system or the optional preferential system.

Under the proportional system a candidate is required to gain a quota of votes, either directly or by transfer, in order to be elected. The percentage of votes required to be elected will vary, depending on the number of councillors to be elected. For example, if three councillors are to be elected to a ward, a candidate is required to receive just over 25 per cent of the votes to be elected.

Under the optional preferential system a candidate must receive an absolute majority (50 per cent plus one) of votes, either directly or by transfer, in order to be elected.

The voting system used will depend on the number of vacancies to be filled in a ward or undivided area. The NSW Electoral Commission website has more information on voting systems.

A candidate can make a written request for a vote recount up to 24 hours after being notified of the original count result. They must pay a deposit to cover the cost of the recount, and the deposit is refunded only if the recount changes the election result. In certain circumstances the NSW Electoral Commissioner can direct that a recount be conducted.

How are electoral expenses and donations managed and disclosed?

The election campaign finances of political parties, candidates, groups of candidates, councillors and others must comply with the requirements of the Election Funding, Expenditure and Disclosures Act 1981.

The objectives of the Act are to establish a fair and transparent election funding, expenditure and disclosure scheme in NSW; promote compliance with that scheme; and facilitate public awareness about political donations.

There are strict rules about who can make political donations in NSW and there are caps on political donations.

The NSW Electoral Commission regulates the Act and has the power to investigate and enforce breaches under the Act.

All candidates and groups of candidates must be registered with the NSW Electoral Commission for a local government election prior to accepting political donations or making payments for electoral expenditure.

All candidates and groups of candidates must appoint an official agent who is responsible for managing the candidate or group's political donations and electoral expenditure.

The political donations and electoral expenditure of political parties, candidates, groups of candidates, councillors and others must be disclosed to the NSW Electoral Commission following the end of each financial year.

The NSW Electoral Commission provides support and assistance to candidates and councillors to help them understand their legal obligations regarding political donations and electoral expenditure.

Go to the NSW Electoral Commission's website at www.elections.nsw.gov.au for more information.



6

Next steps: where to get more information

This guide has been prepared as an introduction to the role of councillors and the operation of councils. It is a starting point to help you decide whether you'd like to run in the next council election.

For more information about registration, nomination, election campaign finances, voting and other election processes, as well as important dates and deadlines, go to the NSW Electoral Commission website at www.votensw.info or www.elections.nsw.gov.au.

Further information on becoming a councillor in NSW can be obtained from the organisations listed on the following pages.

Office of Local Government

Street address:

5 O'Keefe Avenue
NOWRA NSW 2541

Postal Address:

Locked Bag 3015
NOWRA NSW 2541

Phone: (02) 4428 4100
Facsimile: (02) 4428 4199
TTY: (02) 4428 4209

Email: olg@olg.nsw.gov.au
Website: www.olg.nsw.gov.au

Local Government NSW

Street address:

Level 8, 28 Margaret Street
SYDNEY NSW 2000

Postal Address:

GPO Box 7003
SYDNEY NSW 2001

Phone: (02) 9242 4000
Facsimile: (02) 9242 4111

Email: lgnsw@lgnsw.org.au
Website: www.lgnsw.org.au

NSW Electoral Commission

Street address:

Level 25, 201 Kent Street
SYDNEY NSW 2000

Postal Address:

GPO Box 832
SYDNEY NSW 2001

Election enquiries: 1300 135 736
Phone: (02) 9290 5999
Facsimile: (02) 9290 5991
TTY: 133 677 then ask for 1300 135 736

Email: enquiries@elections.nsw.gov.au
Website: www.elections.nsw.gov.au

Independent Commission Against Corruption

Street address:

Level 7, 255 Elizabeth Street
SYDNEY NSW 2000

Postal Address:

GPO Box 500
SYDNEY NSW 2001

Toll Free: 1800 463 909
Phone: (02) 8281 5999
Facsimile: (02) 9264 5364
TTY: (02) 8281 5773

Email: icac@icac.nsw.gov.au
Website: www.icac.nsw.gov.au

NSW Ombudsman

Street address:

Level 24, 580 George St
SYDNEY NSW 2000

Postal Address:

As for street address

Toll Free: 1800 451 524
Phone: (02) 9286 1000
Facsimile: (02) 9283 2911
TTY: (02) 9264 8050

Email: nswombo@ombo.nsw.gov.au
Website: www.ombo.nsw.gov.au

Multicultural NSW

Street address:

Level 8
56 Station St East
Parramatta NSW 2150

Postal Address:

As for street address

Phone: (02) 8255 6767
Facsimile: (02) 8255 6868
TTY: (02) 8255 6758

Website: www.multicultural.nsw.gov.au

Australian Local Government Women's Association (NSW Branch)

Contact details for the President and other office bearers are available on the website.

Website: www.algwa.org.au

Council websites

NSW councils have their own websites. These may be accessed by searching by the council's name, or via the website of the Local Government NSW (under 'Council websites') or from the Office of Local Government's website (under 'Local Government Directory').

www.oig.nsw.gov.au

HIT THE GROUND RUNNING

2016 COUNCILLOR WORKSHOPS
ACHIEVING POSITIVE OUTCOMES
FOR YOUR COMMUNITY



Office of
Local Government

WELCOME

Program

10.00 - 10.35am	Welcome and overview
10.35 -11.25am	Civic leadership
11.25 -12.15pm	Making the most of meetings
12.15 -1.00pm	Lunch
1.00 -1.55pm	Planning and Integrated Planning & Reporting
1.55 - 2.05pm	Afternoon tea
2.05 - 2.50pm	Appropriate conduct and ethical decision making
2.50 - 3.20pm	Continued learning & professional development
3.20 - 3.30pm	Conclusion

Five key things

Leadership

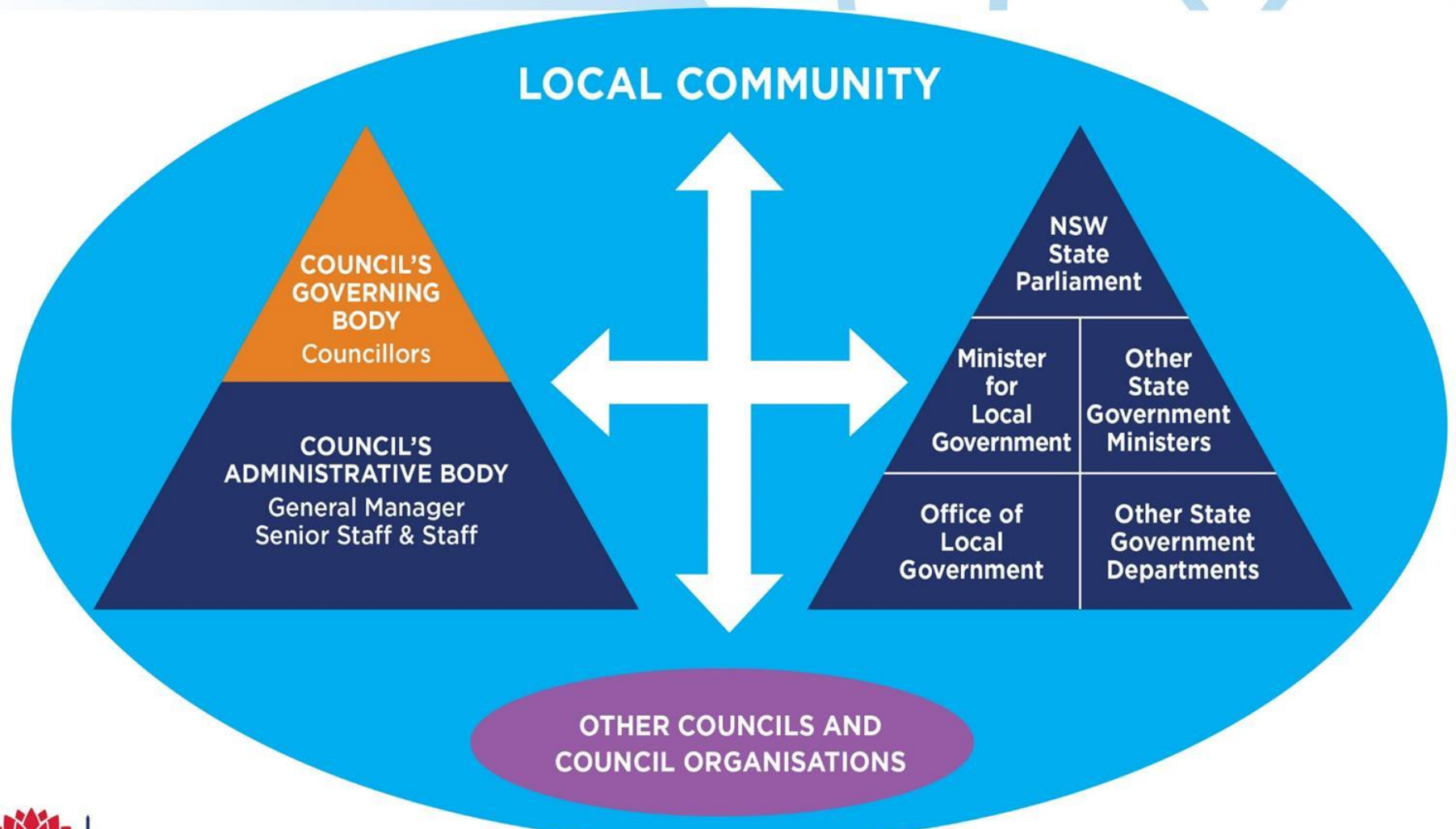
Open decision making

Conduct

Accountability

Learning

Local government in NSW



Discussion

For new councillors:

What are three important things you know your council does to deliver outcomes for the community?

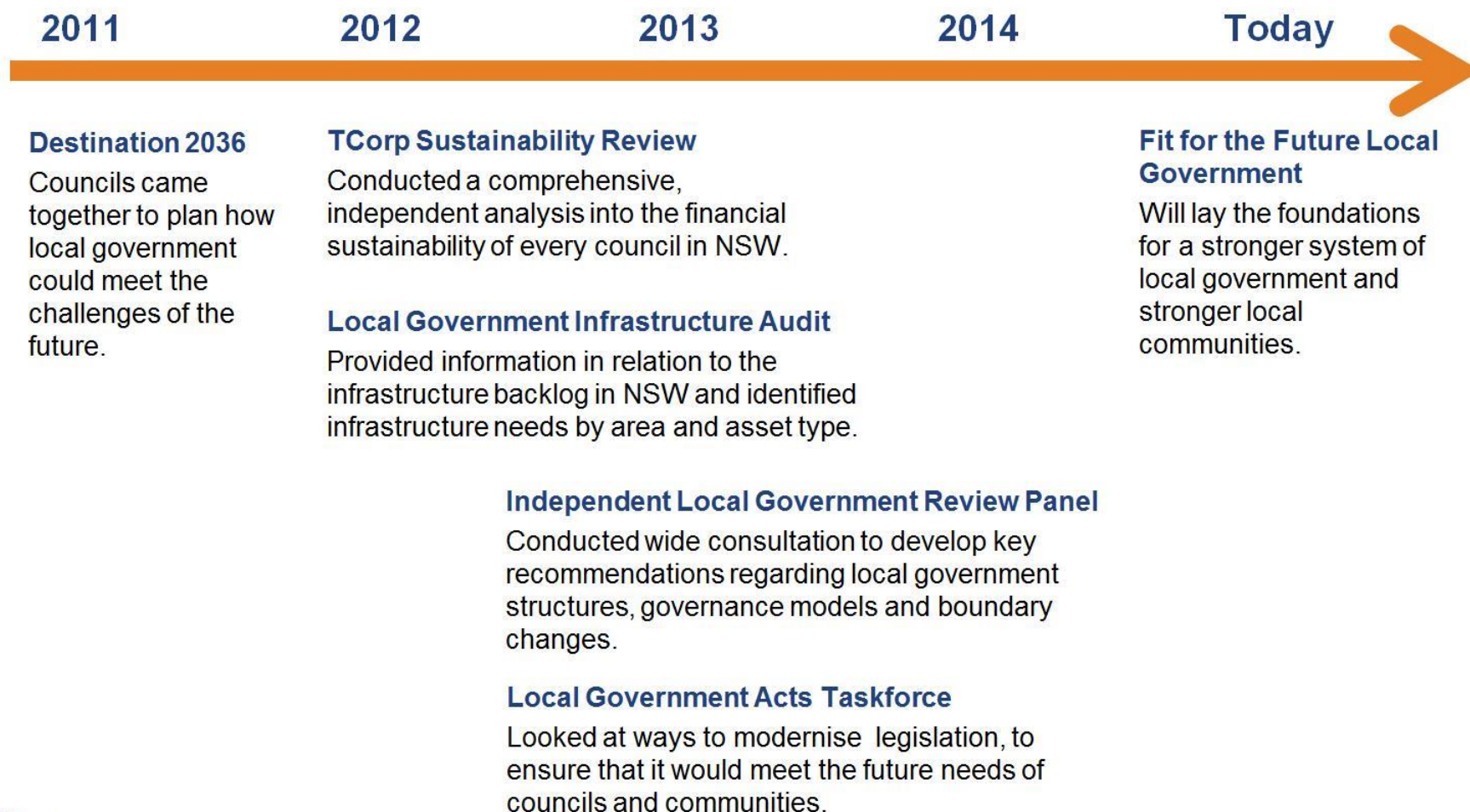
For returning councillors:

What are three important things your council does which may surprise some community members?

CHANGES TO LOCAL GOVERNMENT IN NSW



Preparations for change



Key reform program

CREATING STRONGER COUNCILS

- » Proposals to create new councils for Sydney and Regional NSW
- » Establish Joint Organisations for regional NSW
- » Far West initiative

IMPROVING COUNCIL PERFORMANCE AND GOVERNANCE

- » Not Fit to Fit
- » Improving council capability
- » Supporting rural councils
- » New intervention powers in financially unsustainable councils
- » Tools to support improved leadership and governance

STRENGTHENING THE SYSTEM OF LOCAL GOVERNMENT

- » Streamlined modern legislation
- » Improve financial systems, including rating and financial assistance grants
- » Develop stronger accountability systems for councils, including Auditor-General oversight and performance improvement tools

Creating stronger councils

- Proposals to create **new councils** across NSW
 - 19 new councils established May 2016
 - 1 new council established September 2016
- Establish **Joint Organisations** (JOs) for regional NSW
 - Pilots established late 2015
 - Expected to be implemented 2017
- Commenced **Far West Initiative**
 - Consultation on proposed model occurring late 2016
 - Model to be progressed 2017

Improving council performance and governance

- Support 'not fit' councils to become 'fit'
- Deliver programs to improve council capability
 - Initial priority on financial sustainability
- Support rural councils to deliver better services and infrastructure
- Deliver tools to support improved leadership and governance

Strengthening the system of local government

- Modernise the Local Government Act
- Improve financial systems
 - Review of Local Government Rating by IPART
 - Access to TCorp
 - Financial Assistance Grants
- Develop stronger accountability systems
 - Auditor-General oversight
 - Performance improvement tools and frameworks
- Integrity measures

Session 1: Achieving outcomes through civic leadership

Session overview

- Understanding what councils do
- Understanding roles in local government
 - governing body of the council
 - individual councillors
 - mayors
 - general managers
- Balancing councillor roles and responsibilities
- Building good working relationships

Guiding principles

- Strong effective representation, leadership, planning and decision-making
- Provide best value for community
- Use integrated planning and reporting to meet community needs and achieve outcomes and continuous improvement
- Work with other councils and NSW Government to achieve community outcomes
- Manage land and assets to affordably meet current and future community need
- Work with others to secure services to meet community need
- Act fairly, ethically and without bias in the interests of the community
- Be a responsible employer

UNDERSTANDING WHAT COUNCILS DO

Functions under *Local Government Act*

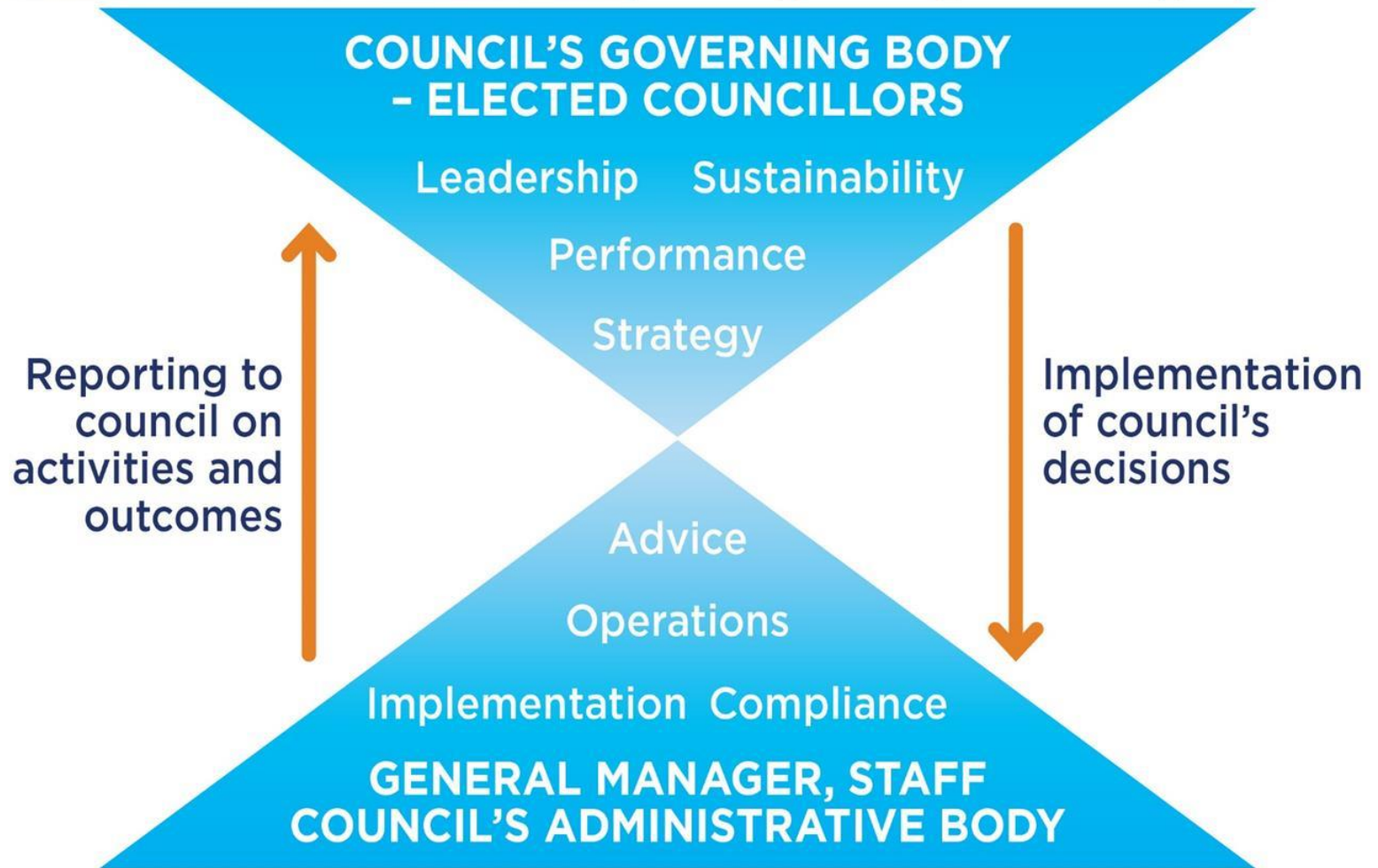
- Services eg waste, community services
- Regulation eg development approvals
- Enforcement eg prosecute offences
- Revenue eg rates, charges, investments
- Administration eg staff employment, financial reports
- Ancillary eg compulsory land acquisition

Functions under other Acts

- Safety of children around swimming pools
→ *Swimming Pools Act 1992*
- Environmental planning and development assessment
→ *Environmental Planning and Assessment Act 1979*
- Control of cats and dogs
→ *Companion Animals Act 1998*
- Local roads management
→ *Roads Act 1993*

UNDERSTANDING ROLES IN LOCAL GOVERNMENT

Council structure and key relationships



Discussion

What is your role as a councillor?

Role of a councillor

- The Act now prescribes:
 - a **collective role** of the governing bodies of councils, and
 - an **individual role** of councillors as members of the governing body

Role of governing body

- Direct and control council affairs in consultation with GM
- Provide effective civic leadership
- Ensure financial sustainability of the council
- Ensure compliance with statutory principles
- Develop and endorse IP&R
- Ensure optimal allocation of council's resources
- Monitor service delivery and performance of the council
- Support regulatory functions

Role of governing body cont.

- Appoint GM and monitor performance
- Determine senior staff positions in organisation structure
- Consult community stakeholders and keep them informed
- Ensure the council acts honestly, efficiently and appropriately

Role of individual councillors

- Be an active contributing member of governing body
- Make considered and well informed decisions
- Participate in integrated planning and reporting (IP&R) development
- Represent collective interests of the community
- Facilitate communication between community and governing body
- Uphold and accurately represent policies and decisions of governing body
- Acquire and maintain skills necessary to perform role

Understanding your role

“The real challenge as a councillor is to try to stay just at the right height in your helicopter – high enough to look at the big picture and not be bogged down in the details but low enough so that you don’t lose touch with what people need.”

Mathew Dickerson

Former Mayor of Dubbo City Council

Role of mayor

- Leader and council spokesperson
- Advances community cohesion
- Makes urgent decisions between council meetings
- Chairs council meetings
- Ensures consistent delivery of strategic plans
- Promotes stakeholder partnerships and community engagement
- Performs civic and ceremonial functions
- Represents council on regional organisations and intergovernmental forums
- Key connection between council and general manager

Role of general manager

- Manages day-to-day operations
- Implements council's decisions
- Advises and supports IP&R development, delivery and community consultation
- Provides councillors with adequate information and support
- Appoints, directs and dismisses staff
- Implements workforce strategy
- Performs any other functions delegated by governing body

General manager performance

Appointment contract

- Appointed by councillors, under standard contract
- Performance agreement should reflect:
 - delivery program targets
 - mutual understanding of expectations

Monitoring and review

- Performance reviewed against pre-determined criteria
- Mayor leads review process in consultation with councillors
- Many councils engage external facilitators to assist with review process

BALANCING ROLES AND RESPONSIBILITIES

Scenario

You have been elected to a council which needs to increase revenue in order to fund the commitments made in the Community Strategic Plan

1. What challenges might you face as a councillor in this situation?
2. How can you deal with the challenges?

Some responses

What challenges might you face as a councillor in this situation?

- Being elected by a small number in the community but required to represent interests of all
- Effectively communicating a council decision you don't agree with
- Making unpopular decisions in best interests of whole community

How can you deal with the challenges?

- Communicate clearly with residents the reasons for the decisions
- Ensure effective community consultation processes are in place before decisions are made
- Regular communication to community on council matters
- Follow proper process – have good community strategic plan in place

BUILDING GOOD WORKING RELATIONSHIPS

Discussion

What does a good working relationship between a councillor and general manager look like?

Indicators of a good working relationship

- Mutual trust, respect and good faith
- Councillors publicly supporting work of GMs and staff
- GM performance issues dealt with by appropriate channels
- Day-to-day operational matters left to GM
- Councillors follow agreed processes to seek information from GM and staff
- Regular meetings and briefings held for councillors to seek advice
- Confidentiality is respected
- Conflict dealt with professionally and quickly

SUMMARY

LOCAL Leadership

Be an effective leader of your local community by:

- setting vision and direction for your community without getting involved in day to day council operations
- balancing advocacy role with teamwork with other councillors to make decisions benefitting whole community
- balancing short and long term community needs and interests
- fostering and maintaining positive internal and external relationships

Session 2:

Achieving outcomes through making the most of meetings

Session overview

- Meetings basics
- Meeting types and rules
- Meeting roles
- Maintaining order
- Making meetings effective

MEETING BASICS



Meetings basics

- How the governing body exercises its functions
- To make decisions on council's strategic policy direction and consider various other issues
- Decisions only made by resolutions passed by a majority of councillors at properly convened meetings
- Council may delegate some functions, but not all

Legal requirements

Set by:

- Local Government Act
- Local Government (General) Regulation
- Council's Code of Meeting Practice (where adopted)

Code of Meeting Practice must incorporate provisions of the Regulation

MEETING TYPES AND RULES

Formal meeting types

- Ordinary council meetings
- Extraordinary council meetings
- Council committee meetings (where all members are councillors)

Other meeting types

Council committees where not all members are councillors/Advisory Committees

- Members may include non-councillors eg staff, community members

Workshops and briefings

- No formal decisions
- No agreement or de-facto decisions

Meeting rules

- Quorum
- Agenda
- Motions
- Voting
- Rescission motions/alterations
- Public attendance

Closing meetings

- **Personnel matters** (except councillors) eg GM contract
- **Personal hardship** eg ratepayer exemption
- **Commercial in confidence** eg negotiating sale of land
- **Prejudice maintenance of law** eg court case discussion
- **Security matters** eg security at airports
- **Legal advice** ie if concerning litigation/subject to privilege
- **Items of Aboriginal significance** eg nature of location of sensitive items of cultural significance
- **Code of conduct matters** ie investigation report by an independent conduct reviewer

In most cases, explanation needs to be given of why open discussion would not be in public interest

MEETING ROLES

Role of mayor

- Chairs meetings
- Ensures meeting rules are kept
- Ensures motions are lawful
- Keeps order
- Manages time
- Calls results of each vote
- Has a second or casting vote, if votes are tied
- May make mayoral minutes

Role of general manager and staff

- General manager
 - May attend, advise on meeting procedures and answer questions
 - May not vote
 - Is responsible for preparation of draft minutes
- Staff
 - Can attend to provide information and answer technical questions (via general manager)
 - Entitled to reasonable notice to answer questions

MAINTAINING ORDER



Discussion

What does an effective council meeting look and feel like?

Keeping order in meetings

- Respect Chair
- Maintain orderly conduct
- Rights to speak (formal meetings)
- Questions to other councillors – ask via Chair
- A councillor can move to dissent on a point of order, must put to council

Disorder in meetings

Disorder includes:

- Contravention of the Act or Regulation
- Motions with unlawful purpose
- Assault or threat of assault
- Insulting, making personal reflections, suggesting improper motives
- Behaviour inconsistent with maintaining order, or that brings council into disrepute

Meeting mayhem

Activity – ‘Meeting Mayhem’

1. How could order have been maintained more effectively?
2. Was the adjournment a good way to deal with the situation?
3. What are some things individual councillors can do to avoid this sort of situation?

MAKING MEETINGS EFFECTIVE

Be prepared

- Agenda, briefing papers and previous minutes provided in advance of the meeting
- Ask before the meeting if you need more information, or information in a different form to be able to understand it
- Be familiar with these before you get to the meeting

Ask key questions

- What is the impact on the community and council finances?
- What are the community interests?
- How does it align with the strategic direction?
- What are the demographic, environmental, social impacts?
- Does it provide value for money?
- Does it comply with legislation and council policy?
- How will performance be measured?

Top tips

- Follow rules
- Always treat each other, staff and members of public with respect
- Work as a team, respect diversity of opinion
- Be clear on terms of a proposed motion before voting
- Be mindful of time - postpone decision if insufficient information
- Be prepared

SUMMARY

LOCAL Open decision making

Ensure effective participation in council business by:

- making informed decisions through good preparation and involvement
- following your council's Code of Meeting Practice and legislation on meetings
- drawing on information and assistance the General Manager can provide

Session 3:

Achieving outcomes through planning and managing resources

Overview

- Introducing integrated planning and reporting (IP&R)
- Community Strategic Plan
- Long Term Financial Plan
- Responsibilities
- Summary

INTRODUCING IP&R

Introducing IP&R

Integrated Planning and Reporting Framework

IP&R framework



IP&R timeframes

Community Strategic Plan

- reviewed and endorsed by 30 June 2017 – ideally by March

Delivery Program and Resourcing Strategy

- adopted by 30 June 2017

Operational Plan

- adopted by 30 June each year

Long Term Financial Plan

- updated by 30 June each year

IP&R timeframes cont.

Annual Report

- completed by 30 November each year

End of Term Report

- tabled by outgoing council at final meeting

IP&R principles

- Identify and prioritise **community needs and aspirations** and consider **regional priorities**
- Identify **strategic goals** to meet community needs and aspirations
- Develop and prioritise **activities** to work towards the strategic goals
- Ensure strategic goals and activities can be achieved within **resources**
- Regularly **review and evaluate** progress towards achieving strategic goals

IP&R principles cont.

- Maintain an **integrated approach** to planning, delivering, monitoring and reporting on strategic goals
- **Collaborate** with others to maximise achievement of strategic goals
- Manage **risks** effectively and proactively
- Make appropriate evidence-based **adaptations** to meet changing needs and circumstances

COMMUNITY STRATEGIC PLAN

Engaging the community

- Community engagement underpins entire IP&R framework
- Must adopt and implement a broad community engagement strategy for developing
 - IP&R framework
 - Other plans, policies and programs
- Councillors have a key role in community engagement

Developing the Community Strategic Plan

- Prepared by the Council **on behalf of whole community**
- Asks and answers:
 - Where are we now?
 - Where do we want to be in ten years' time?
 - How will we get there?
 - How will we know we've arrived?
- Addresses Quadruple Bottom Line (QBL) issues:
 - social
 - environmental
 - economic
 - civic leadership

Discussion

1. How has your council developed its Community Strategic Plan?
2. What were the strengths in the process?
3. How could it be improved?

LONG TERM FINANCIAL PLAN



Developing the Long Term Financial Plan

Long-Term Financial Planning

Discussion

In your role as a councillor, what do you see as the benefits of the Long term Financial Plan?

Principles of sound financial management

- Council spending should be responsible and sustainable
- Councils should invest in responsible and sustainable infrastructure for the benefit of the local community
- Councils should have effective financial and asset management including sound policies and processes for:
 - performance management and reporting
 - asset maintenance and enhancement
 - funding decisions
 - risk management practices
- Councils should ensure intergenerational equity

RESPONSIBILITIES

Mayor

- Ensures timely development and adoption
- Promotes effective and consistent implementation
- Promotes partnerships between council and key stakeholders
- Advises, consults with and provides strategic direction to general manager on implementation

Governing body

- Develops and endorses Community Strategic Plan and Delivery Program
- Determines and adopts rating and revenue policy and operational plans to support the optimal allocation of council's resources to achieve strategic goals
- Keeps the performance of the council under review
- Ensures as far as possible the financial sustainability of the council

Individual councillors

- Participate in the development of the IP&R framework

General manager

- Advises mayor and governing body on development and implementation of council's IP&R framework
- Advises mayor and governing body on appropriate form of community consultation on council's IP&R framework
- Prepares, in consultation with mayor and governing body, all IP&R documents
- Conducts day-to-day management of council in accordance with council's strategic plans, programs and strategies

Discussion

What do you see as your role in the upcoming review of the Community Strategic Plan?

SUMMARY

IP&R councillor 'must' dos

- Ensure you are familiar with your council's IP&R documents
- Find out how your council's IP&R review will take place
- Satisfy yourself the Community Strategic Plan objectives remain valid
- If Long Term Financial Plan identifies unsustainable gaps, ask questions about service levels and planned expenditure
- Link decision making to Delivery Program and Long Term Financial Plan

Be accountable for understanding and meeting your community's needs by:

- engaging and consulting with your community
- responsibly managing your council's money and assets to meet current and future needs
- considering long term consequences of your decisions
- ensuring requirements of IP&R framework are met

Session 4:

Achieving outcomes through appropriate conduct and ethical decision making

Overview

- Model Code of Conduct
- Pecuniary interests
- Non-pecuniary interests
- Other obligations
- Breaches of the Code

MODEL CODE OF CONDUCT



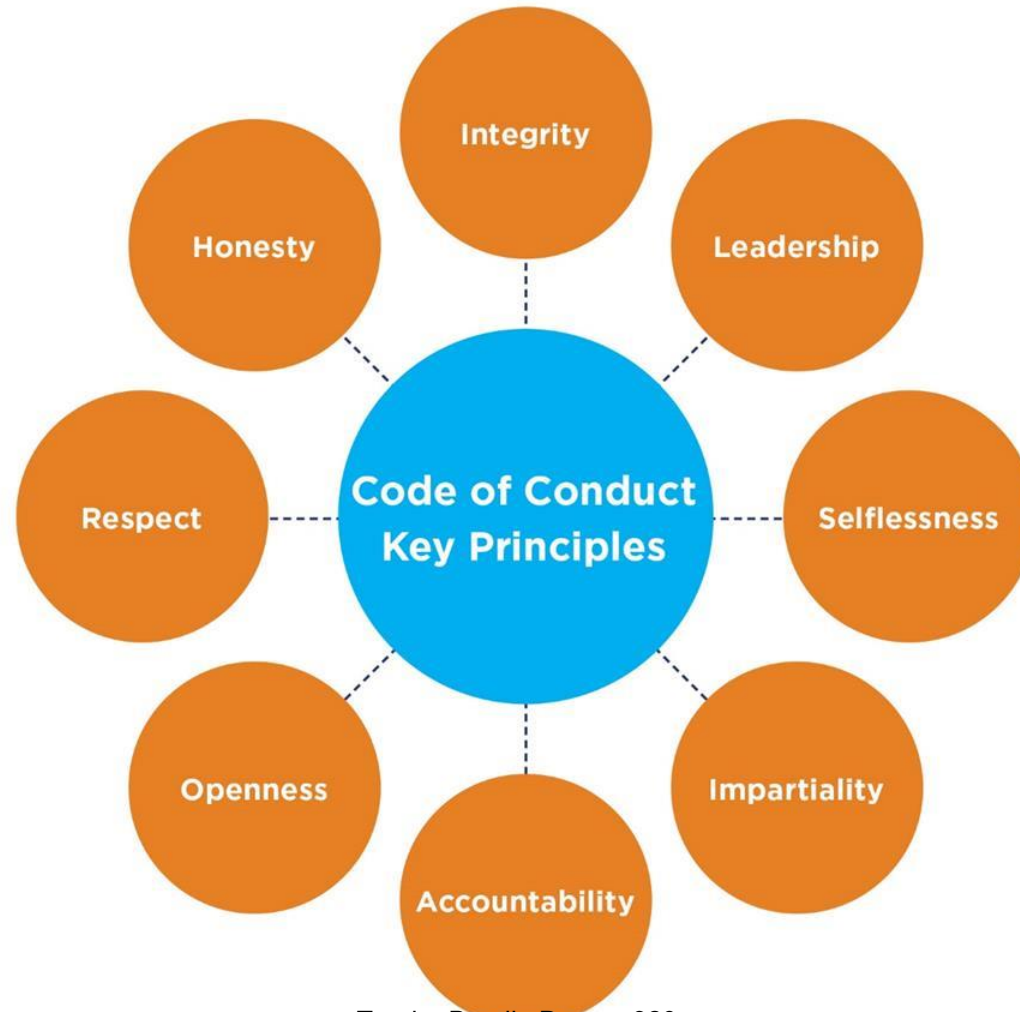
Summary of the Model Code

- Provides the foundation for ethical decision making in the local government sector
- Councils are required to adopt a Code of Conduct based on the Model Code of Conduct
- Councils can only add to or strengthen the requirements set out in the Model Code
- The Code applies to councillors, council delegates and council staff

Discussion

What kinds of behaviour do people expect from organisations and people who serve the public?

Principles of appropriate conduct and ethical decision making



Your key obligations

1. Make decisions ethically and appropriately
2. Manage conflicts of interests
3. Do not use your position for personal benefit
4. Use council resources and information correctly
5. Maintain appropriate relationships with other council officials

Making decisions ethically and appropriately

This includes:

- Acting lawfully, honestly and with care and diligence
- Considering issues consistently, promptly and carefully
- Making development decisions properly
- Protect yourself by ensuring appropriate lobbying

CONFLICTS OF INTERESTS



Definition

A conflict of interests exists when
**a reasonable and informed person
would perceive that
you could be influenced by a private interest
when carrying out your public duty.**

Types of conflicts of interests

- Two types:
 - **Pecuniary** (financial) conflict of interests
 - **Non-pecuniary** conflict of interests

PECUNIARY INTERESTS

Definition

An interest a person has in a matter because of
**a reasonable likelihood or expectation
of appreciable financial gain or loss**
to the person.

During council meetings

You must:

- Disclose you have a pecuniary interest
- Disclose the nature of the interest

You must not:

- Involve yourself in discussions
- Participate in the vote
- Be present at, or in sight of the meeting, during discussion or the vote

Disclosure of Interest returns

You must:

- Lodge within three months of election
- Lodge within three months of end of financial year
- Ensure information is accurate
- Consider lodging further return if circumstances change

Examples

Pecuniary Interest and Disciplinary Tribunal decisions

- Land affected by rezoning
 - 2 year disqualification
- Business affected by nearby development
 - 5 month suspension
- Participating in public forum at meeting
 - reprimand

NON-PECUNIARY INTERESTS

Types of non-pecuniary conflicts of interests

- **Significant** – remove the source or leave the meeting
- **Less than significant** – explain why no action is required

How do you know if you have a conflict of interests?

- Do you have a personal interest?
- Could you be influenced?
- Would a reasonable and informed person believe so?
- What is the nature of the interest?
 - significant
 - less than significant
- What are the steps to manage the conflict?

Scenario – ‘In a League of their Own’

Consider the scenario at Middletown Leagues Club and discuss:

1. Who has a conflict of interests?
2. What type of conflict of interests is it?
3. What do they need to do to appropriately manage the conflict?

OTHER OBLIGATIONS

Other key obligations

- No private benefit or advantage by virtue of your position
- Appropriate use of council information and resources
- Appropriate interactions with council staff and the public

Applying ethical principles in practice

Key questions:

- Is the decision or conduct lawful?
- Is it consistent with council's policy, objectives and code?
- What will the outcome be?
- Do the outcomes raise a conflict of interests or private gain?
- Is it in the public interest?

BREACHES OF THE CODE

What can your council do if you don't meet your obligations?

- Complaints about councillors are made to general manager
- Unless resolved at outset, complaints are referred to independent conduct reviewer
- Less serious breaches can be resolved informally
- More serious breaches may be investigated and result in penalties being applied by your council

Respecting your council's code of conduct

- You must not make complaints for an improper purpose
- You must not take detrimental action
- You must cooperate
- You must not make allegations publicly or disclose information about code of conduct matters

Serious breaches

- OLG can impose a range of penalties for misconduct, including suspension
- More serious matters may be referred to NSW Civil and Administrative Tribunal
- Tribunal can suspend for up to 6 months and disqualify for up to 5 years
- If suspended 3 times, councillors may not hold office as a councillor for 5 years

SUMMARY

Division of Local Government
Department of Premier and Cabinet

GUIDELINES FOR THE
APPOINTMENT & OVERSIGHT OF
GENERAL MANAGERS

An abstract graphic featuring a light blue background with white geometric shapes, including a large triangle and several lines, creating a modern, architectural feel.

July 2011

These are Director General's Guidelines issued pursuant to section 23A of the *Local Government Act 1993*.

ACCESS TO SERVICES

The Division of Local Government, Department of Premier and Cabinet is located at:

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NOWRA NSW 2541

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Fax 02 4428 4199

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SYDNEY NSW 2000

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SYDNEY SOUTH NSW 1235

Phone 02 9289 4000

Fax 02 9289 4099

Email dlg@dlg.nsw.gov.au

Website www.dlg.nsw.gov.au

OFFICE HOURS

Monday to Friday

8.30am to 5.00pm

(Special arrangements may be made if these hours are unsuitable)

All offices are wheelchair accessible.

ALTERNATIVE MEDIA PUBLICATIONS

Special arrangements can be made for our publications to be provided in large print or an alternative media format. If you need this service, please contact our Executive Branch on 02 9289 4000.

DISCLAIMER

While every effort has been made to ensure the accuracy of the information in this publication, the Division of Local Government, Department of Premier and Cabinet expressly disclaims any liability to any person in respect of anything done or not done as a result of the contents of the publication or the data provided.

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Premier & Cabinet
Division of Local Government
www.dlg.nsw.gov.au

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DEFINITIONS

Code of Meeting Practice means a code of meeting procedure complying with requirements set out in the *Local Government Act 1993* and the Local Government (General) Regulation 2005

GIPA means the *Government Information (Public Access) Act 2009*

Integrated Planning and Reporting:

Integrated Planning and Reporting Guidelines means the Guidelines issued by the Division of Local Government in 2009

Community Strategic Plan as prescribed under the *Local Government Act 1993*

Delivery Program as prescribed under the *Local Government Act 1993*

Operational Plan as prescribed under the *Local Government Act 1993*

Resourcing Strategy as prescribed under the *Local Government Act 1993*

LGSA means the Local Government and Shires Associations of NSW

LGMA means Local Government Managers Australia (NSW)

Model Code of Conduct means the Model Code of Conduct for Local Councils in NSW prescribed by the *Local Government Act 1993*

Ministerial Investment Order means any investment order approved by the Minister for Local Government under the *Local Government Act 1993*

Quarterly Budget Review Statements means the draft Guidelines issued by the Division of Local Government in October 2010

Senior Staff means senior staff as defined by the *Local Government Act 1993*

Standard Contract means the standard form of contract for the employment of the general manager approved by the Director General (or delegate) pursuant to section 338(4) of the *Local Government Act 1993*

Statutory and Other Offices Remuneration Tribunal means the Statutory and Other Offices Remuneration Tribunal (SOORT) as constituted under the *Statutory and Other Offices Remuneration Act 1975*

The Act means the *Local Government Act 1993*

The Regulation means the Local Government (General) Regulation 2005

PURPOSE

The purpose of these Guidelines is to assist councillors to be aware of their obligations under the *Local Government Act 1993* (the Act) and the Local Government (General) Regulation 2005 (the Regulation) when recruiting, appointing, reappointing and overseeing general managers. It provides a summary of the essential matters that must be addressed by councils when engaging in these processes.

These Guidelines are issued under section 23A of the *Local Government Act 1993* and must be taken into consideration by council's governing body when exercising council functions related to the recruitment, oversight and performance management of general managers.

These Guidelines should be read in conjunction with the following:

- Provisions of the Act and the Regulation 2005
- Local Government General Managers Performance Management Guidelines – LGSA & LGMA
- Practice Note 5: Recruitment of General Managers and Senior Staff – DLG
- The standard form of contract for the employment of the general manager

Any references to sections are references to sections of the Act. Where there are any inconsistencies between these Guidelines and the documents above (with the exception of the Act and Regulation 2005), the Guidelines prevail.

INTRODUCTION

The position of general manager is pivotal in a council. It is the interface between the governing body comprised of elected councillors, which sets the strategy and monitors the performance of the council, and the administrative body of the council, headed by the general manager, which implements the decisions of the governing body. The relationship between the general manager and the councillors is of utmost importance for good governance and a well functioning council.

The Act requires all councils' governing bodies to appoint a person to be general manager (section 334). The Guidelines provide a guide and checklist for councillors to refer to when considering:

- the recruitment and appointment of general managers
- re-appointment of general managers or ending contracts
- conducting performance reviews of general managers, and
- engaging in the day to day oversight of general managers.

They are designed to promote a consistent approach across NSW councils to the recruitment, appointment, and oversight of general managers.

There are appendices to the Guidelines which do not form part of the Guidelines.

These Guidelines were prepared with the assistance of the Local Government and Shires Associations of NSW (LGSA) and the Local Government Managers Association (NSW) (LGMA).

A. STAFFING OF COUNCIL

1. *Organisation structure*

A council should have sufficient and appropriately qualified staff for the efficient and effective delivery of its functions.

The Act requires the governing body of council to determine an organisation structure, the senior staff positions within that structure and the resources to be allocated towards the employment of staff (s332).

When considering the most appropriate organisation structure for council to adopt, the governing body of council needs to consider what human resources are necessary to successfully achieve the goals articulated in the council's Community Strategic Plan, Delivery Program and Resourcing Strategy. For this reason, a Workforce Strategy is an essential component of a council's Resourcing Strategy. A council's organisation structure should align with its Workforce Strategy and be designed to support its Delivery Program and the achievement of its Community Strategic Plan.

The governing body of council must approve and adopt their organisation structure by council resolution. Councils must review and re-determine the council's organisation structure within 12 months of an ordinary election.

Councils may review and re-determine the council's organisation structure at any other time. Generally a council should consider reviewing its organisation structure in the event of a significant change to its Community Strategic Plan, Delivery Program or Resourcing Strategy.

Councillors are entitled to access the council's organisation structure when required and upon request to the general manager.

2. *Appointment of Staff*

The only staff position that is appointed by the governing body of council is that of the general manager. The position of general manager is a senior staff position (s334).

The general manager is responsible for the appointment of all other staff (including senior staff) in accordance with the organisation structure and resources approved by the council's governing body (s335(2)).

However, the general manager may only appoint or dismiss senior staff after consultation with the governing body of council (s337).

B. RECRUITMENT AND SELECTION

1. *Requirements of the Local Government Act 1993*

As with the appointment of all council staff, the council must ensure that the appointment of the general manager is made using merit selection principles (section 349).

Recruitment using merit selection is a competitive process where the applicant who demonstrates that they have the best qualifications and experience relevant to the position is appointed.

Equal Employment Opportunity principles also apply to the recruitment of general managers (sections 349 and 344).

The recruitment process must be open and transparent, but the confidentiality of individual applicants must be maintained. A failure to maintain appropriate confidentiality may constitute a breach of the Act and/or Privacy legislation.

2. *The pre-interview phase*

The council's governing body is responsible for recruiting the general manager.

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

The selection panel should consist of at least the mayor, the deputy mayor, another councillor and, ideally, a suitably qualified person independent of the council. The LGSA and the LGMA can be contacted for assistance to identify suitable independent recruitment committee members and recruitment consultants. The selection panel membership should remain the same throughout the entire recruitment process.

Selection panels must have at least one male and one female member (other than in exceptional circumstances).

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

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

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

3. Interview Phase

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

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

Interviews should be kept confidential.

All written references must be checked.

A selection panel must delegate the task of contacting referees to one panel member. Other panel members should not contact referees.

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

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

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

Appropriate background checks must be undertaken, for example bankruptcy checks. For more guidance on better practice recruitment background checks, councils are referred to the Australian Standard AS 4811-2006 *Employment Screening* and ICAC publications, which can be found on the ICAC website at <http://www.icac.nsw.gov.au>.

4. Selection Panel Report

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

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

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

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

5. *Finalising the appointment*

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

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

The Standard Contract for the Employment of General Managers as approved by the Chief Executive of the Division of Local Government must be used. The Standard Contract (Annexure 3 of these Guidelines) is available in the 'Information for Councils', 'Directory of Policy Advice for Councils' section of the Division's website at <http://www.dlg.nsw.gov.au>.

The terms of the Standard Contract must not be varied. Only the term and the schedules to the Standard Contract can be individualised.

General managers must be employed for 1 – 5 years.

The contract governs:

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

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

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

6. *Record keeping*

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

C. ROLE OF THE GENERAL MANAGER

Councillors comprise the governing body of a council and make decisions by passing resolutions. It is the general manager's role to implement council decisions and carry out functions imposed by legislation. A council's governing body monitors the implementation of its decisions via reports by the general manager to council meetings.

1. *Key duties of all general managers*

The general manager is generally responsible for the effective and efficient operation of the council's organisation and for ensuring the implementation of the council's decisions without undue delay. The general manager carries out all their functions within the guidelines and policy framework approved by the council.

The general manager also has a role to play in assisting the governing body of council develop its strategic direction. The general manager is responsible for guiding the preparation of the Community Strategic Plan and the council's response to it via the Delivery Program. The general manager is responsible for implementing the Delivery Program and will report to the governing body of council on its progress and conduct regular updates and reviews.

The general manager is responsible for recruiting and appointing staff within the organisation structure determined by the governing body of council. This must be in accordance with the budget approved by the council's governing body and be for the purpose of carrying out the council's statutory functions and implementing council's Community Strategic Plan, Delivery Program and Operational Plan.

The general manager must consult with the governing body of council before appointing or dismissing senior staff. The general manager must report to the council at least annually on the contractual conditions of senior staff (cl.217 of the Regulation).

The general manager is responsible for performance management of staff, including staff discipline and dismissal.

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

The governing body of council may direct the general manager to provide councillors with advice or a recommendation, but cannot direct as to the content of that advice or recommendation.

Generally, requests by councillors for assistance or information should go through the general manager, except where he or she has authorised another council officer to undertake this role. The Guidelines for the Model Code of Conduct contemplate that a council should develop a policy to provide guidance on interactions between council officials. This policy should be agreed to by both the council's governing body and the general manager.

Councillors could reasonably expect general managers will report routinely on significant industrial issues and/or litigation affecting the council, particularly those that impact on the council's budget or organisation structure.

The general manager should ensure that the council meeting business papers are sufficient to enable the council to make informed decisions, as well as to allow councillors to properly monitor and review the operations of the council. This will assist councils in ensuring that they are complying with any relevant statutory obligations, keeping within the budget approved by the council and achieving the strategic goals set by the council in its Delivery Program and Operational Plan.

Councillors should receive a number of financial reports during the year, including the Quarterly Budget Review Statements included in the Code of Accounting Practice and Financial Reporting and which are referred to in the draft Quarterly Budget Review Statements Guidelines, reports required by the Regulation and any legislation. In addition, the council should receive at least quarterly a report about any significant litigation affecting the council.

Councillors should also receive reports, at least half yearly, on progress towards implementation of the Community Strategic Plan and Delivery Program (see clause 203 of the Regulation or page 20 of the Integrated Planning and Reporting Guidelines).

Clause 10 of the Model Code of Conduct sets out the obligations on general managers and council staff to provide councillors with information in order for councillors to carry out their civic functions.

Councillors have a right to sufficient information to make informed decisions. Applications for information under the *Government Information (Public Access) Act* 2009 (GIPAA) are available to everyone including councillors.

2. *Duties delegated to general managers*

A governing body of council may delegate certain functions to the general manager. A delegation of a council function must be made by a council resolution (Chapter 12 Part 3 ss 377-381 of the Act).

A governing body of council cannot delegate the functions set out in section 377(1) of the Act.

A council's governing body may not delegate the adoption of a Code of Meeting Practice, a Code of Conduct, or the endorsement of Community Strategic Plans, Resourcing Strategies, Delivery Programs and Operational Plans.

Each governing body of council must review its delegation of functions during the first 12 months of each term of office (s.380). To assist with this review, it is recommended that, within the first 6 months of the new term, the governing body of council reviews what functions have been delegated and to whom they have been delegated to determine if the delegation and the policies guiding those delegated decisions have been working effectively.

It should be noted that the general manager may sub-delegate a function delegated to him/her by the governing body of council (s378). However, the general manager still retains responsibility to ensure that any sub-delegated function is carried out appropriately.

Where functions are delegated to the general manager to perform on behalf of a governing body of council, it is important for the governing body of council to ensure there are policies in place to guide the decision making. The governing body of council should keep policies guiding the delegated decisions under regular review.

For example, where media liaison is delegated to the general manager, the governing body of council should adopt a media policy to guide statements to the media.

It is important that council's governing body ensure that proper records are kept of applications that are determined under delegation and that there is regular reporting on the implementation of delegated functions. This is essential so that council's governing body can be provided with assurance that the delegated function is being undertaken in accordance with any relevant council policies and regulatory framework, eg, development application decisions.

The council's internal audit function is another important internal control to ensure that delegated functions are complying with relevant policy and legislation. A well designed internal audit program should give council independent assurance that council's internal controls are working effectively.

Where authority to make a decision is delegated this does not remove a council's authority to make a decision.

Matters that fall outside the terms of a council policy, delegation, or day to day management (section 335), should be referred to the governing body of council for a decision.

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

Council's governing body is required to monitor and review the performance of the general manager as discussed in Section C, above. However, a council's governing body should delegate to the mayor the role of day-to-day oversight of and liaison with the general manager.

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

- approving leave
- approving expenses incurred
- managing complaints about the general manager.

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

Some of the key policies the governing body of council should have in place relate to:

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

The governing body of council should also ensure there are adequate policies in place with respect to expenditure of council funds, as well as adequate reporting requirements in relation to that expenditure.

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

Within 6 months of the date of these Guidelines, council's governing body should check to ensure these key policies are in place. They should then be kept under regular review.

E. PERFORMANCE MANAGEMENT

1. *General manager performance management framework*

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

The role of the governing body is to oversee the general manager's performance in accordance with the Standard Contract.

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

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

2. *Establishing the framework for performance management*

The council's governing body is to establish a performance review panel and delegate the task of performance reviews of the general manager to this panel. The extent of the delegation should be clear.

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

Performance review panels should comprise the mayor, the deputy mayor, another councillor nominated by council and a councillor nominated by the general manager. The council's governing body may also consider including an independent observer on the panel. Panel members should be trained in the performance management of general managers.

The role of the review panel includes:

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

The governing body of council and the general manager may agree on the involvement of an external facilitator to assist with the process of performance appraisal and the development of new performance plans. This person should be selected by the governing body of council or the performance review panel. The LGSA and the LGMA can be contacted for assistance to identify suitable independent facilitators to assist in the performance management process.

All councillors not on the panel can contribute to the process by providing feedback to the mayor on the general manager's performance.

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

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

The performance management report of any council staff member, including the general manager, should not be released to the public and should be retained on the appropriate confidential council employment file. Release of such personal information to other than the Performance Review Panel, the general manager and the councillors in confidence may be a breach of privacy legislation.

3. *Establishing the performance agreement*

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

As one of the general manager's key responsibilities is to oversee the implementation of council's strategic direction, it is important to align the general manager's performance criteria to the goals contained in the council's Community Strategic Plan, Resourcing Strategy, Delivery Program and Operational Plan.

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

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

- service delivery targets from the council's Delivery Program and Operational Plan;
- budget compliance;
- organisational capability;
- timeliness and accuracy of information and advice to councillors;
- timely implementation of council resolutions;
- management of organisational risks;
- leadership etc.

4. *Performance Review Process*

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

The assessment should include:

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

The performance review meeting should be scheduled with sufficient notice to all parties and in accordance with clauses 7.6 and 7.7 of the Standard Contract.

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

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

In undertaking any performance review, care must be taken to ensure that the review is conducted fairly and in accordance with the principles of natural justice and that the laws and principles of anti-discrimination are complied with. The

appointment by a council, in agreement with the general manager, of an external facilitator (see above) to advise on the process should assist council in complying with these laws and principles.

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

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

5. *Contract Renewal or Separation*

It is important that any decision by the governing body of council to renew a contract for the general manager and the term of that contract be reported back to an open meeting of council, together with the total amount of any salary package agreed to.

Termination of a contract on the basis of poor performance can only occur where there has been a formal review undertaken against the signed performance agreement where performance difficulties were identified and have not subsequently been remedied. For further discussion on separation or renewal of general managers' contracts, see section F, below.

6. *Reward and Remuneration*

An annual increase in the salary package, equivalent to the latest percentage increase in remuneration for senior executive office holders as determined by the Statutory and Other Offices Remuneration Tribunal, is available to the general manager under the Standard Contract on each anniversary of the contract.

Discretionary increases to the general manager's total remuneration package under the provisions of the Standard Contract may only occur after a formal review of the general manager's performance has been undertaken by the governing body of council and the governing body of council resolves to grant such a discretionary increase because of better than satisfactory performance.

Discretionary increases are intended to be an incentive for general managers to perform at their maximum throughout the life of the contract. Discretionary increases are also intended to encourage contracts of the maximum duration.

Any discretionary increases should be modest and in line with community expectations.

All discretionary increases in remuneration, together with the reasons for the increase, must be reported to an open meeting of council.

F. SEPARATION OR RENEWAL

1. *Termination of a general manager's employment*

The Standard Contract for general managers sets out how a general manager's contract can be terminated before its expiry date by either the governing body of council or the general manager (clause 10 of the Standard Contract).

Termination can be by agreement of both parties. The general manager may terminate the contract by giving 4 weeks written notice to the governing body of council.

A governing body of council may terminate the contract by giving 4 weeks written notice where the general manager has become incapacitated for 12 weeks or more, has exhausted their sick leave and the duration of the incapacity is either indefinite or for a period that would make it unreasonable for the contract to be continued.

Termination of a contract on the basis of poor performance may only occur where there has been a formal review undertaken against the signed performance agreement, where performance difficulties have been identified and have not been remedied as agreed. In these instances, the council must give the general manager either 13 weeks written notice of termination or termination payment in lieu of notice calculated in accordance with Schedule C of the Standard Contract.

A governing body of council may terminate the general manager's contract at any time by giving the general manager 38 weeks written notice or pay the general manager a lump sum of 38 weeks remuneration in accordance with Schedule C of the Standard Contract. If there are less than 38 weeks left to run in the term of the general manager's contract, a council can pay out the balance of the contract in lieu of notice.

In the circumstances set out at 10.4 of the Standard Contract, a council may summarily dismiss a general manager. The remuneration arrangements under these circumstances are set out in clause 11.4 of the Standard Contract.

Section 336 (2) of the Act sets out other circumstances where a general manager's appointment is automatically terminated.

2. *Suspension of General Manager*

The governing body of council may suspend the general manager. However, great caution should be exercised when considering such a course of action and it would be appropriate for a governing body of council to seek and be guided by expert advice from a person or organisation that is suitably qualified and experienced in such matters. The governing body may authorise the Mayor to obtain such expert advice.

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

Any decision to suspend a general manager should be taken by a governing body of council at a closed council meeting, having first carefully considered any independent expert advice obtained on the specific matter.

It would not be appropriate to seek advice from council human resources staff on the issue of suspending the general manager.

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

3. *Dispute resolution*

The Standard Contract contains a dispute resolution clause at clause 17.

These provisions are designed to encourage councils and general managers to attempt to negotiate agreement on disputes where they arise.

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

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

The governing body of council and general manager should agree on an independent mediator to mediate the dispute. The LGSA and LGMA can provide assistance to their members to identify a suitable mediator.

The Standard Contract allows the Chief Executive of the Division of Local Government to appoint a mediator where the parties cannot agree on one.

4. *Renewing a general manager's contract*

Clause 5 of the Standard Contract describes how a general manager's appointment may be renewed.

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

The governing body of council should ensure that the performance management terms of the new contract adequately reflect its expectations as to the general manager's performance.

The governing body of council should also have regard to the previous performance reviews conducted under previous contracts.

The process of deciding whether or not to offer a general manager a new contract should be that:

- a performance review is conducted
- findings and recommendations are reported to a closed council meeting in the absence of the general manager
- the closed meeting considers and decides whether or not to offer a new contract and on what terms as set out in the schedules to the contract
- the general manager is then advised of the governing body of council's decision in confidence by the mayor.

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

Appendix 1 - Performance Management Timelines

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

Appendix 2 - Stages of performance management

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

Appendix 3 – Standard Contract of Employment

STANDARD CONTRACT OF EMPLOYMENT

for

**GENERAL MANAGERS OF LOCAL
COUNCILS IN NEW SOUTH WALES**

Acknowledgements

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Contract of Employment

This Contract of Employment is made on

Date _____

between

Name of Council _____

[Referred to in this contract as "Council"]

Address _____

and

Name of Employee _____

[Referred to in this contract as "the employee"]

Address _____

1 Position

The position to which this contract applies is that of General Manager.

Note: A person who has held civic office in relation to Council must not be appointed to any paid position on the staff of Council within 6 months after ceasing to hold the office: section 354 of the Act.

2 Term

Subject to the terms and conditions in this contract, Council will employ the employee for a term of:

[Length of term] _____

Note: The term of this contract must not be less than 12 months or more than 5 years (including any option for renewal): section 338 of the Act.

commencing on [date] _____

and terminating on [date] _____

3 Definitions

3.1 In this contract, unless otherwise stated or indicated:

the Act means the *Local Government Act 1993*.

Code of conduct means the document within the meaning of section 440 of the Act adopted by Council and which incorporates the provisions of the model code.

Commencement date means the date that this contract commences as specified in clause 2.

Confidential information means any and all confidential information, data, reports, operations, dealings, records, materials, plans, statistics, finances or other agreements and things (other than that which is already in the public domain), whether written or oral and of whatever type or nature relating to property, assets, liabilities, finances, dealings or functions of Council or any undertaking from time to time carried out by Council.

Director-General means the Director-General of the New South Wales Department of Local Government.

Equal employment opportunity management plan means the document a council must prepare under Part 4 of Chapter 11 of the Act.

Minister means the New South Wales Minister for Local Government.

Model code means the Model Code of Conduct for Local Councils in NSW prescribed by the Regulation.

Month means a calendar month.

Performance agreement means the agreement referred to in clause 7.

Performance criteria means the criteria to which a performance review is to have regard.

Performance review means a review of the employee's performance conducted in accordance with the procedures under clause 7.

the position means the position referred to in clause 1.

the Regulation means the *Local Government (General) Regulation 2005*.

Senior executive office holder (New South Wales Public Service) means the holder of a senior executive position within the meaning of the *Public Sector Employment and Management Act 2002*.

Statutory and Other Officers Remuneration Tribunal means the Statutory and Other Officers Tribunal constituted under the *Statutory and Other Officers Remuneration Act 1975*.

Termination date means the date that this contract terminates as specified in clause 2.

3.2 Expressions in this contract corresponding with expressions that are defined in the Act have those meanings.

4 Contract operation and application

- 4.1 This contract constitutes a contract of employment for the purposes of section 338 of the Act, and governs the employment of the employee while in the position.
- 4.2 A reference in this contract to any Act or regulation, or any provision of any Act or regulation, includes a reference to subsequent amendments of that Act, regulation or provision.
- 4.3 A reference to a Schedule to this contract refers to a Schedule as may be varied in accordance with this contract, and applies whether or not the Schedule has been physically attached to this contract.
- 4.4 Where the mayor or any other person is lawfully authorised to act as Council or Council's delegate for the purpose of this contract, this contract will be construed as if:
- (a) any reference to Council includes a reference to that authorised person, and
 - (b) any reference to a requirement for Council's approval includes a reference to a requirement for that authorised person's written approval,
- 4.5 Any staff entitlement under a lawful policy of Council as adopted by Council from time to time and that is set out in Schedule A will apply to the employee unless this contract makes express provision to the contrary. Schedule A may be varied from time to time by agreement between the employee and Council, such agreement not to be unreasonably withheld.

Note: Only those policies that create entitlements are to be set out in Schedule A. Schedule A policies are distinct from those which create a *duty or function* as referred to in subclause 6.1.4 and which are *not* required to be set out in Schedule A.

- 4.6 Subject to clauses 7 and 13, the terms of this contract, as varied from time to time in accordance with this contract, represent the entire terms of all agreements between the employee and Council and replace all other representations, understandings or arrangements made between the employee and Council that relate to the employment of the employee in the position.

Note: The contract authorises the making of agreements that are linked to the contract. Clause 7 requires the parties to sign a performance agreement. Clause 13 allows either party to require the other to sign a confidentiality agreement for the purpose of protecting intellectual property.

5. Renewal of appointment

- 5.1 At least 9 months before the termination date (or 6 months if the term of employment is for less than 3 years) the employee will apply to Council in writing if seeking re-appointment to the position.
- 5.2 At least 6 months before the termination date (or 3 months if the term of employment is for less than 3 years) Council will respond to the employee's application referred to in subclause 5.1 by notifying the employee in writing of its decision to either offer the employee a new contract of employment (and on what terms) or decline the employee's application for re-appointment.
- 5.3 At least 3 months before the termination date (or 1 month if the term of employment is for less than 3 years) the employee will notify Council in writing of the employee's decision to either accept or decline any offer made by Council under subclause 5.2.
- 5.4 In the event the employee accepts an offer by Council to enter into a new contract of employment, a new contract of employment will be signed.

6. Duties and functions

- 6.1 The employee will:
 - 6.1.1 to the best of their ability, meet the performance criteria set out in the performance agreement as varied from time to time,
 - 6.1.2 carry out the duties and functions imposed by the Act and Regulation, or any other Act and associated regulations, which include but are not limited to:
 - (a) the efficient and effective operation of Council's organisation,
 - (b) implementing, without undue delay, the decisions of Council,
 - (c) exercising such of the functions of Council as are delegated by Council to the employee,
 - (d) appointing staff in accordance with an organisation structure and resources approved by Council,
 - (e) directing and dismissing staff,
 - (f) implementing Council's equal employment opportunity management plan,

- (g) consulting with Council prior to the appointment or dismissal of senior staff,
- (h) reporting to Council, at least once annually, on the contractual conditions of senior staff,
- (i) giving immediate notice to Council on becoming bankrupt or making a composition, arrangement or assignment for the benefit of the employee's creditors and providing Council, within the time specified by Council with any further information concerning the cause of the bankruptcy or of the making of the composition, arrangement or assignment,
- (j) subject to subclause 6.2.3, providing advice and recommendations to Council or the mayor if directed to do so,
- (k) not engaging, for remuneration, in private employment or contract work outside the service of Council without the approval of Council,
- (l) not approving, where appropriate, any member of Council staff from engaging, for remuneration, in private employment or contract work outside the service of Council that relates to the business of Council or that might conflict with the staff member's Council duties,
- (m) acting honestly and exercising a reasonable degree of care and diligence in carrying out the employee's duties and functions,
- (n) complying with the provisions of the code of conduct,
- (o) preparing and submitting written returns of interest and disclosing pecuniary interests in accordance with the Act and the Regulation,

Note: Sections 335, 337, 339, 341, 352, 353, 439, 440 and 445 of the Act.

- 6.1.3 carry out the duties and functions set out in Schedule B as varied from time to time by agreement between the employee and Council, such agreement not to be unreasonably withheld,

Note: Schedule B may include additional duties and functions, for example, those related to special projects.

- 6.1.4 carry out the duties and functions set out in the policies of Council as adopted by Council from time to time during the term of this contract,

- 6.1.5 observe and carry out all lawful directions given by Council, in relation to the performance of the employee's duties and functions under this contract,
- 6.1.6 work such reasonable hours as are necessary to carry out the duties and functions of the position and the employee's obligations under this contract,
- 6.1.7 obtain the approval of the Council for any absences from the business of Council,
- 6.1.8 promote ethical work practices and maintain a culture of integrity and professionalism where Council staff members treat each other, members of the public, customers and service providers with respect and fairness,
- 6.1.9 facilitate Council staff awareness of the procedures for making protected disclosures and of the protection provided by the *Protected Disclosures Act 1994*,
- 6.1.10 take all reasonable steps to ensure that actions and policies of Council accord with the strategic intent of Council,
- 6.1.11 take all reasonable steps to maximise compliance with relevant legislative requirements,
- 6.1.12 maintain effective corporate and human resource planning,
- 6.1.13 maintain the Council staff performance management system,
- 6.1.14 maintain satisfactory operation of Council's internal controls, reporting systems (including protected disclosures), grievance procedures, the documentation of decision-making and sound financial management,
- 6.1.15 develop procedures to ensure the code of conduct is periodically reviewed so that it is in accordance with the Act and Regulation and adequately reflects specific organisational values and requirements,
- 6.1.16 promote and facilitate compliance with the code of conduct ensuring that each councillor and Council staff member is familiar with its provisions, and
- 6.1.17 report to Council on any overseas travel taken by the employee or any Council staff member where that travel is funded in whole or in part by Council.

6.2 Council:

- 6.2.1 will provide adequate resources to enable the employee to carry out the duties and functions specified in subclause 6.1 and Schedule B,
- 6.2.2 will provide the employee with reasonable opportunities to participate in professional development initiatives relevant to the duties and functions under this contract subject to the operational needs of Council, and
- 6.2.3 will not direct the employee as to the content of any advice or recommendation made by the employee.

Note: section 352 of the Act.

7. Performance agreement and review

- 7.1 Within 3 months after the commencement date, the employee and Council will sign a performance agreement setting out agreed performance criteria.
- 7.2 In the event that the employee and Council are unable to agree on the performance criteria, Council will determine such performance criteria that are reasonable and consistent with the employee's duties and functions under clause 6 and in Schedule B.
- 7.3 The performance agreement may be varied from time to time during the term of this contract by agreement between the employee and Council, such agreement not to be unreasonably withheld.
- 7.4 Within 2 months after signing or varying the performance agreement, the employee will prepare and submit to Council an action plan which sets out how the performance criteria are to be met.
- 7.5 Council will ensure that the employee's performance is reviewed (and, where appropriate, the performance agreement varied) at least annually. Any such review is to have regard to the performance criteria.

Note: Council may review the employee's performance every 6 months or more frequently if necessary.

- 7.6 The employee will give Council 21 days' written notice that an annual performance review in accordance with subclause 7.5 is due.
- 7.7 Council will give the employee at least 10 days notice in writing that any performance review is to be conducted.

- 7.8 The structure and process of the performance review is at the discretion of Council following consultation with the employee.
- 7.9 The employee may prepare and submit to Council an assessment of the employee's own performance prior to a performance review.
- 7.10 Within 6 weeks from the conclusion of a performance review, Council will prepare and send to the employee a written statement that sets out:
- (a) Council's conclusions about the employee's performance during the performance review period,
 - (b) any proposal by Council to vary the performance criteria as a consequence of a performance review, and
 - (c) any directions or recommendations made by Council to the employee in relation to the employee's future performance of the duties of the position.
- 7.11 The employee and Council will, as soon as possible after the employee receives the written statement referred to in subclause 7.10, attempt to come to agreement on any proposal by Council to vary the performance criteria and on any recommendations by Council as to the future performance of the duties of the position by the employee.
- 7.11 Subject to the employee being available and willing to attend a performance review, Council undertakes that if a performance review is not held in accordance with this clause, this will not operate to the prejudice of the employee unless the employee is responsible for the failure to hold the performance review.

8. Remuneration

- 8.1 Council will provide the employee with the total remuneration package set out in Schedule C.
- 8.2 The total remuneration package includes salary, compulsory employer superannuation contributions and other benefits including any fringe benefits tax payable on such benefits.

Note: Compulsory employer superannuation contributions are those contributions required under the *Superannuation Guarantee Charge Act 1992* of the Commonwealth and any contributions required to be paid for an employee under a superannuation arrangement entered into by Council for that employee. See Schedule C.

- 8.3 Council may, on only one occasion during each year of this contract, approve an increase in the total remuneration package where the employee's performance has been assessed in accordance with a performance review as being of a better than satisfactory standard.
- 8.4 Any increase in remuneration approved under subclause 8.3 will not be paid as a lump sum.
- 8.5 On each anniversary of the commencement date, the total remuneration package will be increased by a percentage amount that is equivalent to the latest percentage amount increase in remuneration for senior executive office holders as determined by the Statutory and Other Officers Remuneration Tribunal.

Note: When making determinations referred to in subclause 8.5, the Tribunal takes into account key national economic indicators and movements in public sector remuneration across Australia, market conditions, the Consumer Price Index and wages growth as measured by the Wage Cost Index. Tribunal determinations are published in the Government Gazette and are available at www.remtribunals.nsw.gov.au. The Premier's Department issues periodic Memoranda summarising the Tribunals determinations. These Memoranda are available at www.premiers.nsw.gov.au.

- 8.6 The structure of the total remuneration package may be varied from time to time during the term of this contract by agreement between the employee and Council, such agreement not to be unreasonably withheld.
- 8.7 The total remuneration package, as varied from time to time, remunerates the employee for all work undertaken by the employee while in the position. No other remuneration, benefit, overtime or allowances other than those to which the employee may be entitled under this contract will be paid to the employee during the term of this contract.

9. Leave

9.1 General

- 9.1.1 Council will pay remuneration calculated in accordance with Schedule C to the employee proceeding on paid leave under this clause.
- 9.1.2 On the termination of this contract, and if the employee is not re-appointed to the position under clause 5 or appointed to any other position in Council's organisation structure, the Council will pay:
- (a) to the employee in the case of annual leave, or

- (b) to the employee or new employer council in the case of long service leave,

accrued but unused leave entitlements calculated at the monetary value of the total remuneration package as specified in Schedule C.

9.1.3 If the employee is re-appointed to the position under clause 5 or appointed to any other position in Council's organisation structure within 3 months after the termination of this contract, the employee will be taken to have continuing service with Council for the purpose of determining the employee's entitlement to annual leave, long service leave and sick leave.

9.1.4 Any leave accrued with Council standing to the credit of the employee immediately prior to entering into this contract will be taken to be leave for the purposes of this contract.

9.2 Annual leave

The employee is entitled to four weeks paid annual leave during each year of employment under this contract to be taken as agreed between the employee and Council.

9.3 Long service leave

9.3.1 The employee's entitlement to long service leave is to be calculated by the same method that applies to a non-senior member of Council staff.

9.3.2 Long service leave is transferable between councils in New South Wales in the same manner that applies to a non-senior member of Council staff.

9.4 Sick leave

9.4.1 The employee is entitled to 15 days paid sick leave during each year of employment under this contract provided that:

- (a) Council is satisfied that the sickness is such that it justifies time off, and
- (b) satisfactory proof of illness to justify payment is provided to Council for absences in excess of two days.

9.4.2 Sick leave will accumulate from year to year of employment under this contract so that any balance of leave not taken in any one year may be taken in a subsequent year.

9.4.3 Council may require the employee to attend a doctor nominated by Council at Council's cost.

9.4.4 Accrued but unused sick leave will not be paid out on the termination of this contract.

9.5 Parental leave

9.5.1 Parental leave includes supporting parent's leave, maternity leave, paternity leave and adoption leave.

9.5.2 The employee is entitled to the same parental leave that a non-senior member of Council staff would be entitled.

9.6 Carer's leave

The employee is entitled to the same carer's leave that a non-senior member of Council staff would be entitled.

9.7 Concessional leave

The employee is entitled to the same concessional leave that a non-senior member of Council staff would be entitled.

9.8 Special leave

Council may grant special leave, with or without pay, to the employee for a period as determined by Council to cover any specific matter approved by Council.

10 Termination

10.1 General

On termination of this contract for any reason the employee will immediately return to Council all property of Council in the employee's possession including intellectual property and confidential information and will not keep or make any copies of such property and information.

10.2 Termination date

The employment of the employee under this contract terminates on the termination date.

10.3 Termination by either the employee or Council

This contract may be terminated before the termination date by way of any of the following:

10.3.1 written agreement between the employee and Council,

10.3.2 the employee giving 4 weeks' written notice to Council,

10.3.3 Council giving 4 weeks' written notice to the employee, or alternatively by termination payment under subclause 11.1, where:

- (a) the employee has been incapacitated for a period of not less than 12 weeks and the employee's entitlement to sick leave has been exhausted, and
- (b) the duration of the employee's incapacity remains indefinite or is likely to be for a period that would make it unreasonable for the contract to be continued,

10.3.4 Council giving 13 weeks' written notice to the employee, or alternatively, by termination payment under subclause 11.2 where Council:

- (a) has conducted a performance review, and
- (b) concluded that the employee has not substantially met the performance criteria or the terms of the performance agreement,

10.3.5 Council giving 38 weeks' written notice to the employee, or alternatively, by termination payment under subclause 11.3.

10.4 Summary dismissal

10.4.1 Council may terminate this contract at any time and without notice if the employee commits any act that would entitle an employer to summarily dismiss the employee. Such acts include but are not limited to:

- (a) serious or persistent breach of any of the terms of this contract,

- (b) serious and willful disobedience of any reasonable and lawful instruction or direction given by Council,
- (c) serious and willful misconduct, dishonesty, insubordination or neglect in the discharge of the employee's duties and functions under this contract,
- (d) failure to comply with any law or Council policy concerning sexual harassment or racial or religious vilification,
- (e) commission of a crime, resulting in conviction and sentencing (whether or not by way of periodic detention), which affects the employee's ability to perform the employee's duties and functions satisfactorily, or in the opinion of Council brings Council into disrepute,
- (f) absence from the business of Council without Council approval for a period of 3 or more consecutive business days.

10.4.2 This contract is terminated immediately without notice if the employee becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit.

11 Termination payments

- 11.1 On termination of this contract under subclause 10.3.3, where written notice has not been given, Council will pay the employee a monetary amount equivalent to 4 weeks' remuneration calculated in accordance with Schedule C.
- 11.2 On termination of this contract under subclause 10.3.4, where written notice has not been given, Council will pay the employee a monetary amount equivalent to 13 weeks' remuneration calculated in accordance with Schedule C.
- 11.3 On termination of this contract under subclause 10.3.5, where written notice has not been given, Council will pay the employee a monetary amount equivalent to 38 weeks' remuneration calculated in accordance with Schedule C, or the remuneration which the employee would have received if the employee had been employed by Council to the termination date, whichever is the lesser.
- 11.4 On termination of this contract under subclause 10.3.1, 10.3.2, 10.4.1 or 10.4.2, Council will pay the employee remuneration up to and including the

date of termination calculated in accordance with Schedule C and any other payment to which the employee is entitled under this contract.

12 Expenses and credit cards

In addition to any duties or entitlements that may be set out in any relevant policies of Council as adopted by Council from time to time, the employee will:

- 12.1 keep such records of expenses, travel and motor vehicle use as required by Council from time to time,
- 12.2 be reimbursed by Council for expenses properly incurred on Council business, subject to Council's prior approval to this expense being incurred,
- 12.3 only use any credit card provided by Council for expenses incurred on Council business, and
- 12.4 return any credit card provided by Council on request from Council.

13 Intellectual property

- 13.1 Any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract is the sole property of Council and Council will unless otherwise agreed have the exclusive right to use, adapt, patent and otherwise register it.
- 13.2 The employee will immediately disclose to Council any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee after the commencement date to enable Council to ascertain whether it was discovered, developed or produced wholly outside and wholly unconnected with the course of employment under this contract.
- 13.3 To protect disclosures made in accordance with subclause 13.2, Council or the employee may require a confidentiality agreement to be signed prior to, during or immediately after discussion of the intellectual property being considered.

Note: IP Australia, the Commonwealth Government intellectual property agency, has developed a Confidentiality Agreement Generator for the purpose of preparing intellectual property confidentiality agreements. It is available at <http://www.ipaustralia.gov.au/smartstart/cag.htm>.

- 13.4 The employee assigns to Council by way of future assignment all copyright, design, design right and other property rights (if any) in respect to any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract.
- 13.5 At the request and expense of Council the employee will complete all necessary deeds and documents and take all action necessary to vest in Council any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract and obtain for Council the full benefit of all patent, trademark, copyright and other forms of protection throughout the world.

14 Confidential Information

The employee will not divulge any confidential information about Council either during or after the term of their employment under this contract.

15 Waiver

The failure of either the employee or Council to enforce at any time any provision of this contract or any right under this contract or to exercise any election in this contract will in no way be considered to be a waiver of such provision, right or election and will not affect the validity of this contract.

16 Inconsistency and severance

- 16.1 Each provision of this contract will be read and construed independently of the other provisions so that if one or more are held to be invalid for any reason, then the remaining provisions will be held to be valid.
- 16.2 If a provision of this document is found to be void or unenforceable but would be valid if some part were deleted, the provision will apply with such modification as may be necessary to make it valid and effective.

17 Dispute resolution

- 17.1 In relation to any matter under this contract that may be in dispute, either the employee or Council may:

- (a) give written notice to each other of the particulars of any matter in dispute, and
 - (b) within 14 days of receiving a notice specified in subclause 17.1(a), a meeting will be convened between Council (along with any nominated representative of Council) and the employee (along with any nominated representative of the employee) in an attempt to resolve the dispute.
- 17.2 The employee and Council will attempt to resolve the dispute at the workplace level.
- 17.3 Upon failure to resolve the dispute at the workplace level, the employee and Council will:
 - (a) refer the dispute to an independent mediator as agreed by the employee and Council, or otherwise as appointed by the Director-General,
 - (b) agree to participate in any mediation process in good faith, with such mediation to operate in a manner as agreed by the employee and Council, and
 - (c) acknowledge the right of either the employee or Council to appoint, in writing, another person to act on their behalf in relation to any mediation process.
- 17.4 The cost of the mediation service will be met by Council.
- 17.5 The employee and Council will each be responsible for meeting the cost of any advisor or nominated representative used by them.

18 Service of notices and communications

- 18.1 Any communication, including notices, relating to this contract will be in writing and served on the employee or Council at their last known residential or business address in accordance with subclause 18.2.
- 18.2 Any written communication including notices relating to this contract is taken to be served:
 - (a) when delivered or served in person, immediately,
 - (b) where served by express post at an address within New South Wales in the Express Post Network, on the next business day after it is posted,

-
- (c) where served by post otherwise in the ordinary course of postage, as set down in Australia Post's delivery standards, and
 - (d) where sent by facsimile, within standard business hours otherwise on the next business day after it is sent.

19 Variations

- 19.1 Where this contract provides that its terms may be varied, that variation will be by agreement in writing signed by the employee and Council.

Note: See clauses 4.5, 6.1.3, 7.3, 8.6 and 19.2.

- 19.2 Where the Director-General approves an amended or substitution standard form of contract for the employment of the general manager of a council, the provisions of this contract may be varied by agreement between the employee and Council to the extent that they are consistent with the provisions of that amended or substitution standard form of contract.

Note: See section 338 of the Act.

20 Other terms and conditions

- 20.1 The employee and Council acknowledge that they have sought or had the opportunity to seek their own legal and financial advice prior to entering this contract.
- 20.2 In accordance with section 731 of the Act, nothing in this contract gives rise to any action, liability, claim or demand against the Minister, the Director-General or any person acting under their direction.

21 Signed by the employee and Council

COUNCIL:

The Seal of

[Council name]

[Seal]

affixed by authority of a resolution of Council.

Signed
by Council

Date

Name of signatory
in full *[printed]*

Office held *[printed]*

Signed by Witness

Name of Witness
in full *[printed]*

THE EMPLOYEE:

Signed
by the employee

Date

Name of employee
in full *[printed]*

Signed by Witness

Name of Witness
in full *[printed]*

Schedule A – Council policies

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 4.5 and 19.1 of this contract.

This Schedule operates on and from

Date _____

For the purposes of subclause 4.5 of this contract, the following policies apply to the employee:

Signed by Council _____

Signed by the employee _____

Schedule B - Duties and functions

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 6.1.3 and 19.1 of this contract.

This Schedule operates on and from

Date _____

In addition to the duties and functions specified in clause 6 of this contract, the employee will carry out the following duties and functions:

Signed by Council _____

Signed by the employee _____

Schedule C - Remuneration

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 8.7 and 19.1 of this contract.

This Schedule operates on and from

Date _____

The Annual Total Remuneration Package is as follows:

\$ _____

The Total Remuneration Package is comprised of:

ANNUAL REMUNERATION	\$

The employee agrees and acknowledges that deductions under subclause 8.2 of this contract are made principally for the benefit of the employee and that the Council relies on that statement in providing the non-cash benefits requested by the employee.

In the case of an employee who is a member of a defined benefit division of the Local Government Superannuation Scheme (or equivalent) compulsory employer superannuation contributions are the long term or “notional” employer contribution, as advised by the Actuary for the Local Government Superannuation Scheme from time to time.

The employee’s superable salary will be the amount of the total remuneration package less the amount of compulsory superannuation contributions.

Signed by Council _____

Signed by the employee _____

Adopted Committee Structure 2016-2021

Following the election of a new Council, councillors are invited to review the structure of committees and advisory groups before officially adopting a framework.

Wingecarribee Shire Council (Council) originally endorsed a committee structure on 23 November 2016 for the 2016-2020 term. On 10 June 2020, Council extended this term by one year to 2021 to align with the extension to the Council term resulting from the decision by the NSW Government to postpone the 2020 local government elections due to the COVID-19 pandemic.

Councillor representatives and chairpersons were endorsed for a period of two years at the Ordinary Meeting of Council on 10 October 2018 (MN422/18).

Council moved to change the Adopted Committee Structure of the Heritage Advisory Committee on 24 July 2019 (MN357/19) with confirmation on 14 August 2019 (MN385/19), resulting in an increase to the number of community representatives on that Committee from three (3) to four (4).

For a three month period from 12 March 2021, Councillors are suspended from civic office as a result of a Suspension Order issued to Wingecarribee Shire Council by the NSW Minister for Local Government. The Suspension Order issued by the Minister also appointed Mr Viv May PSM as interim administrator of Council for the period during which Council is suspended by the Order. During the period of this appointment, Mr Viv May PSM has the following functions of Council:

- To perform the role and function of the governing body of Council under the Act and any other Act.
- To exercise the role of the governing body and councillors identified in sections 223, 232 and 226 of the Act.

On 24 March 2021, Council resolved to dissolve the Finance Committee effective immediately with the business previously considered at the Finance Committee to be considered at the Ordinary meeting of Council.

A complete list of all committees, advisory committees, community reference groups and sunset working groups for the 2016-2021 term is provided below.

Table 1- Adopted Committee Structure 2016-2021

Name	Purpose	Councillor and Community Membership
Advisory Committees		
Arts and Culture	Oversees the implementation of Council's Arts and Culture Strategic Plan	Three Councillor Representatives Eight community and industry representatives
Community Assistance Scheme	Oversee the allocation of Council grants and donations under the Community Assistance Scheme	Arts and Culture, Community Development, Sport and Recreation Committee chairs, plus one other Councillor as Chair
Community Development	Facilitate communication and support the implementation of sector strategies.	Four Councillor representatives Six community representatives Three agency representatives

Name	Purpose	Councillor and Community Membership
Demographics and Housing	Assist and advise on accommodating demand for housing in the Shire over the next 20 years	Three Councillor representatives Six community representatives
Economic Development and Tourism <i>(no longer active)</i>	Serve as a conduit between Council and the community in relation to information and initiatives related to Tourism and Economic Development	Three councillor representatives Ten sector group representatives Two agency representatives
Environment and Sustainability	To consider and advise on environmental and sustainability issues as they relate to the Shire with a major focus on the Environment Levy Program	Three Councillor representatives Five community representatives Four (non-voting) agency representatives
General Manager's Performance Review Committee <i>(not functioning until a General Manager is appointed)</i>	To review the General Manager's performance on a six (6) monthly basis (interim) and 12 monthly basis (final) and report back and provide advice to Council following the review, with an independent facilitator	Mayor, Deputy Mayor, Council-appointed Councillor, a General Manager-selected Councillor
Heritage Advisory Committee	To promote and raise the community's awareness of heritage. To provide advice to Council as required on the management of heritage within the Shire. To support the development, promotion and implementation of heritage activities and events	Two Councillor representatives Representative of Berrima District Historical and Family History Society Representative of the Southern Highlands Branch of the National Trust Representative of the Southern Highlands Branch of the Australian Garden of History Society Four community representatives with knowledge and/or experience in conservation of buildings, areas and other places of cultural significance
Local Emergency Management	The Local Emergency Management Committee is responsible for the preparation and review of plans in relation to the prevention of, preparation for, response to and recovery from emergencies in the local government area for which it is constituted	Chair: General Manager Non-voting Observer: Mayor Emergency Services Representatives

Name	Purpose	Councillor and Community Membership
Local Traffic Committee	Enable Council to meet its responsibilities to the Roads and Maritime Services (RMS) as part of the powers delegated to Councils by the RMS under the Transport Administration Act 1988 and in accordance with the "Guide to the delegation to councils for the regulation of traffic".	Two Councillor Representatives A Roads and Maritime Services Southern Region representative A representative of the NSW Police Force – Goulburn Local Area Command The Local Member of State Parliament for the relevant electorate (or their nominee)
Audit, Risk and Improvement	To provide independent assurance and assistance to Council on risk management, control, governance, performance and external accountability responsibilities	Two Councillor representatives Three community representatives, with one community representative being appointed to chair the committee
Southern Regional Livestock Exchange (no longer active)	Review and advise on policy, strategy and performance of Council's Southern Regional Livestock Exchange	Three Councillor representatives Four industry representatives
Sport and Recreation Committee	To advise the direction and strategies Council pursues for the use of sporting and recreational facilities.	Three Councillor representatives Five community representatives
Water and Sewer	Provide a forum for collaboration with external agencies on strategic water and sewer planning and delivery	Three Councillor representatives Agency representatives, as required
Wingecarribee Floodplain Risk Management	Oversee the implementation of floodplain management activities in the Shire Preparation and review of Floodplain Risk Management Plans for the Shire Implementation of Risk Management Plans in relation to Floodplain Management.	Two Councillor representatives Four community representatives Two agency representatives from the NSW Office of Environment (1) and Heritage, and the NSW State Emergency Service (1)
Community Reference Groups		
Access	Oversee the development and implementation of Council's Disability Inclusion Access Plan – reports to Community Development Committee	Six community representatives Four agency representatives
Joadja Conservation Management	To assist the owner or proprietor of 1760 Joadja Road, Joadja (Lot 11 DP 858859), also referred to as the Joadja Heritage Site, in conserving the heritage items on the site- reports to Heritage Committee	Two (2) representatives of the Joadja Heritage Site as nominated by the owners or proprietors of the Joadja Heritage Site Two (2) community members of the Heritage Committee as nominated by that Committee Other relevant persons as invited as required

Name	Purpose	Councillor and Community Membership
Seniors	To oversee the implementation of Council's Positive Ageing Strategy- reports to Community Development Committee	Six community representatives Six service providers or agencies
Tulip Time	To plan and promote a successful Tulip Time Festival that engages the community, increases visitation and showcases the region- reports to the Economic Development and Tourism Committee	Three Councillor representatives Five community representatives
Sunset Working Group		
Civic Centre Refurbishment (internal workgroup) <i>(no longer active)</i>	Internal working group to oversee the refurbishment of Council's Civic Centre.	Three Councillor representatives
Youth Strategy and Action Plan	Project specific working group - reports to Community Development Committee	As determined on a project basis
External Committees		
Illawarra Academy of Sport Board of Directors	The Illawarra Academy of Sport is a not-for-profit sporting organisation that exists to provide localised training and education opportunities for talented young athletes, coaches and administrators across the Illawarra region	Mayor (or appointed delegate)
Southern Joint Regional Planning Panel*	Joint regional planning panels provide independent, merit-based decision making on regionally significant development. Applications for regionally significant development are notified and assessed by a local council professional staff and then determined by the relevant regional panel	One Councillor representative
Southern Highlands Community Transport	Maintain a partnership between Wingecarribee Shire Council and Southern Highlands Community Transport Inc	One Councillor representative
Wingecarribee Community Safety	Maintain a partnership between Wingecarribee Shire Council, The Hume Local Area Command and community members in addressing local crime prevention, community safety and well-being issues. To monitor and create Community Safety initiatives for the Wingecarribee Community. To identify real and potential community safety problems.	Mayor as chair

* Note – Membership to the Southern Joint Regional Planning Panel is generally renewed every three years. Council last appointed a member (Clr Duncan Gair) in December 2020 for the period until 3 September 2021.



Wingecarribee Shire Council Committee Manual 2016-2021

Adopted by Council on
24 March 2021 (MN 98/21)



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Introduction

The purpose of this manual is to document the broad governance framework and appointment to committees for the 2016-2021 Council term. The manual is comprised of two sections. The first section of the manual deals with broad committee governance matters which apply to all forums, while the second part of the manual provides committee-specific terms of reference. The manual will be reviewed and updated to ensure it remains an accurate repository of all committee Terms of Reference and membership.

1 Committee Governance Structure

At its meeting on 23 November 2016 Council adopted its committee governance structure for the 2016-2020 term. The structure includes:

- Council committees
- Advisory committees
- Community reference groups
- Sunset working groups
- External committees

On 8 February 2017, Council adopted the Committee Manual 2016-2020. At its meeting on 10 June 2020, Council revised the duration of the committee governance structure by amending the Committee Manual 2016-2020 through the adoption of this manual which extended the term of Council's committees to 2021. This kept the term of Council's committees aligned with the Council term, which was extended following the decision of the NSW Government in March 2020 to postpone local government elections.

On 24 March 2021, Council resolved to dissolve the Finance Committee effective immediately with the business previously considered at the Finance Committee to be considered at the Ordinary meeting of Council.

A Council committee is one where all the members of the committee are councillors; however, not all Councillors must be members. The committee must be chaired by the Mayor or a Chair elected from its membership or by the Council.

Section 10(1) of the *Local Government Act 1993* states:

- (a) everyone is entitled to attend a meeting of the council and those of its committees of which all the members are councillors, and
- (b) a council must ensure that all meetings of the council and of such committees are open to the public.

In addition to Council committees, Council also supports a number of advisory committees, reference groups, working groups and external committees. These committees and groups provide a mechanism by which interested residents and stakeholders can provide input into council policy development, direction and practice. They are an important link in Council's communication and engagement strategies and are supported via other community engagement methods. Committees are established by Council to:

- Harness the views of the wider community;
- Assist Council in its understanding of, and approach to, specific or localised issues, initiatives or community assets; and

- Provide a structured approach to the ongoing involvement of community members in Council affairs and the democratic process.

An overview of the agreed structure which helps guide Council decision making is outlined in Table 1.

Table 1: Committee Structure 2016-2021

Advisory Committees	<p>Committees which include representatives of the community, other stakeholders or agencies. These committees provide advice to Council on a range of issues as specified in each committee's terms of reference. Councillors chair all of these committees except for the Audit, Risk and Improvement Committee.</p> <ul style="list-style-type: none"> • Arts and Culture • Audit, Risk and Improvement • Community Assistance Scheme • Community Development • Demographics and Housing • Economic Development and Tourism (<i>no longer active</i>) • Environment and Sustainability • Heritage • Local Traffic • Southern Regional Livestock Exchange (<i>no longer active</i>) • Sport and Recreation • Water and Sewerage • Wingecarribee Floodplain Risk Management
Community Reference Groups	<p>Groups established to support the functions of an Advisory Committee. These groups include Council staff and community representatives. There are no Councillor representatives other than for the Tulip Time Reference Group.</p> <ul style="list-style-type: none"> • Access • Joadja Conservation Management • Seniors • Tulip Time
Sunset Working Groups	<p>Groups established for a limited term for a specific purpose or to provide input on a specific project. They generally include representatives of the community, other stakeholders or agencies. These groups provide advice to Council on a range of issues as specified in each group's terms of reference.</p> <ul style="list-style-type: none"> • Civic Centre Refurbishment (<i>no longer active</i>) • Youth Strategy and Action Plan
External Committees	<p>Committees established by an external body and requiring a Council delegate.</p> <ul style="list-style-type: none"> • Illawarra Academy of Sport Board of Directors • Local Emergency Management Committee • Southern Joint Regional Planning Panel • Southern Highlands Community Transport Committee • Wingecarribee Community Safety Committee
Other	<ul style="list-style-type: none"> • General Manager's Performance Review Committee

2 Appointments

2.1 Elected Members

Councillor representatives to committees, including Chairpersons where applicable, are elected at a Council meeting. They are elected for a two-year term in alignment with the term of the Mayoral office. For 2020-2021, this is a one-year term due to the decision of the NSW Government to postpone local government elections from September 2020 to September 2021.

Prior to the expiration of the Councillor term on committees, a Councillor workshop is convened to discuss Councillor committee representatives. Following the workshop, a detailed report on the Councillor committee representatives is submitted to Council for ratification. The last committee elections were held on 9 September 2020 and 23 September 2020.

Councillor representatives elected to committees for the 2020-2021 term are outlined in Table 2. For a three month period from 12 March 2021, Councillors are suspended from civic office as a result of a Suspension Order issued to Wingecarribee Shire Council by the NSW Minister for Local Government. The Suspension Order issued by the Minister also appointed Mr Viv May PSM as interim administrator of Council for the period during which Council is suspended by the Order. During the period of this appointment, Mr Viv May PSM has the following functions of Council:

- To perform the role and function of the governing body of Council under the Act and any other Act.
- To exercise the role of the governing body and councillors identified in sections 223, 232 and 226 of the Act.

Table 2: Councillor Representatives for Advisory Committees and Reference Groups 2020-2021

Committee/Group	Councillor Membership	Councillor Representatives
Arts and Culture Advisory Committee	Three Councillor Representatives	Chair: Clr L A C Whipper Alternate Chair: Deputy Mayor G J Andrews Councillor: Clr P W Nelson
Audit, Risk and Improvement Advisory Committee	Two Councillor representatives	Councillor: Deputy Mayor G J Andrews Clr P W Nelson
Community Assistance Scheme Advisory Committee	Arts and Culture, Community Development, Sport and Recreation Committee chairs, plus one other Councillor as Chair	Chair: Mayor T D Gair Chair of Arts and Culture/Chair of Community Development: Clr L A C Whipper Chair of Sport and Recreation: Deputy Mayor G J Andrews
Community Development Advisory Committee	Four Councillor representatives	Chair: Clr L A C Whipper Alternate Chair: Deputy Mayor G J Andrews Councillor: Clr G M Turland; Clr I M Scandrett
Civic Centre Refurbishment Sunset Working Group <i>(no longer active)</i>	Three Councillor representatives	Chair: Alternate Chair: Councillor:
Demographics and Housing Advisory Committee	Three Councillor representatives	Chair: Clr G M Turland Alternate Chair: Clr I M Scandrett Councillor: Clr G McLaughlin
Economic Development and Tourism Advisory	Three Councillor representatives	Chair: Alternate Chair:

Committee <i>(no longer active)</i>		Councillor:
Environment and Sustainability Advisory Committee	Two Councillor representatives	Chair: Clr L A C Whipper Alternate Chair: Clr G M Turland
General Manager's Performance Review Committee <i>(not functioning until a General Manager is appointed)</i>	Mayor, Deputy Mayor, Council-appointed Councillor, a General Manager-appointed Councillor and independent facilitator	Chair: Mayor T D Gair Deputy Mayor: Clr G J Andrews Councillor: Clr P W Nelson General Manager's appointed Councillor: <i>Vacant</i>
Heritage Advisory Committee	Two Councillor representatives	Chair: Clr G McLaughlin Alternate Chair: Clr P W Nelson
Joadja Conservation Management Reference Group	Heritage Advisory Committee Chair	Chair: Clr G McLaughlin
Local Traffic Committee (Advisory)	Two Councillor representatives	Chair: Clr K J Halstead OAM Alternate Chair: Mayor T D Gair
Southern Regional Livestock Exchange (SRLX) Advisory Committee <i>(no longer active)</i>	Three Councillor representatives	Chair: Alternate Chair: Councillor:
Sport and Recreation Advisory Committee	Three Councillor representatives	Chair: Deputy Mayor G J Andrews Alternate Chair: Clr G M Turland Councillor: Clr G McLaughlin
Tulip Time Reference Group	Three Councillor representatives	Chair: Clr G M Turland Alternate Chair: Clr P W Nelson Councillor: Clr G McLaughlin
Water and Sewerage Advisory Committee	Three Councillor representatives	Chair: Clr G M Turland Alternate Chair: Clr K J Halstead OAM Councillor: Mayor T D Gair
Wingecarribee Floodplain Risk Management Advisory Committee	Two Councillor representatives	Chair: Clr K J Halstead OAM Alternate Chair: Clr G M Turland

2.2 Community and Stakeholder Representatives

There are a number of Council advisory committees, reference groups and working groups that require community or stakeholder representatives. This is outlined in the respective terms of reference for each committee or group included in this manual. Council appoints community and stakeholder representatives for the four-year council term, except for working group member appointments which are based on varying project lengths.

Ideally, a committee or group will have a complementary mix of interests, talents and experience as well as an understanding of the local community's needs and aspirations. The appointment of committee members is based on an assessment of each individual's likely contribution and the optimal combination of community representatives.

Community representatives, who are willing to volunteer their time and share skills and knowledge in a range of areas, are recruited through the nomination process. After Council calls for nominations for community membership, a selection panel consisting of the Mayor, committee/group Chair (except where the Chair is to be a community representative and has yet to be appointed) and the General Manager meet to short list the nominated community representatives. Applications are assessed on the extent to which they meet the relevant criteria adopted by Council. The outcomes of the nominations process and recommendations for appointment to committees and groups are reported to Council for decision-making.

Agencies and industry bodies can nominate any suitable candidate from their organisation to participate in a committee or group on which the stakeholder is represented. Generally, this should be the same person for each meeting; however, on occasions where that person is known in advance to be unavailable an alternative representative can attend on the stakeholder's behalf. When this occurs, the relevant committee support staff and the Chair must be informed prior to the meeting.

A community representative may resign at any time by advising his or her resignation to the relevant committee support staff member in writing. If a vacancy occurs for a community representative position within 12 months of the position being filled, the selection panel will reconvene to consider whether another person on the original short list is suitable and can be offered the position. Before the details of the recommended person are reported to Council for decision-making, this person must be contacted by committee support staff to determine if they remain available for the committee or group. This process can be repeated until a suitable candidate confirms his or her availability.

If there is no other suitable candidate available, or it is more than 12 months since the position was filled, then the position will be readvertised for nominations and the above selection process will be repeated.

Following the appointment of community and stakeholder representatives, an induction program is undertaken to ensure that they are aware of their roles and responsibilities as well as relevant Council policies and procedures.

Table 3: Community Representatives for Advisory Committees and Reference Groups 2017-2021

Committee/Group	Community Membership	Community Representatives
Arts and Culture Advisory Committee	Seven community representatives One agency representative	Peter Campbell Kristie Phelan Maisy Stapleton Dr Allan Stiles Megan Monte Michael Turczynski Mark Viner Agency: Southern Tablelands ARTS – Rose Marin Stand By: Sara Farmer
Community Development Advisory Committee	Six community representatives Three agency representatives	Monica O'Connor Annabel Julian Brown Ric Mejias Gavan McDonell Monica O'Connor <i>Vacant</i> Agency: <i>All vacant</i>
Demographics and Housing Advisory Committee	Six community representatives	Laurel Cheetham Nicholas Dyer Tristan Ryall Tony Ward

Committee/Group	Community Membership	Community Representatives
		Peter Wurfel Wendy Middleton (Argyle Housing)
Economic Development and Tourism Advisory Committee <i>(no longer active)</i>	Ten sector group representatives Two agency representatives	
Environment and Sustainability Advisory Committee	Five community representatives Four (non-voting) agency representatives	Patricia Hall Lyndall Dalley Paul Shanahan Clive West <i>Vacant</i> Agency: WaterNSW Malcolm Hughes <i>Vacant</i>
Heritage Advisory Committee	Representative of Berrima District Historical and Family History Society Representative of the Southern Highlands Branch of the National Trust Representative of the Southern Highlands Branch of the Australian Garden of History Society Four community representatives with knowledge and/or experience in conservation of buildings, areas and other places of cultural significance.	Dennis McManus Ian Stapleton Charlotte Webb Simon Bathgate Agency: Berrima District Historical and Family History Society – Linda Emery Southern Highlands Branch of the Australian Garden History Society – Laurel Cheetham Representative of the Southern Highlands Branch of the National Trust of Australia (NSW) – Ralph Suters
Audit, Risk and Improvement Advisory Committee	Three community representatives, with one community representative being appointed to chair the committee	Chair: Jan Edwards Paul Jeffares Jason Young
Southern Regional Livestock Exchange Advisory Committee <i>(no longer active)</i>	Four industry representatives	
Sport and Recreation Advisory Committee	Four community representatives	Andrew Bell Steven Foster Craig Madsen John Wood Stand by: David Brindley, Scott McKelvey
Water and Sewerage Advisory Committee	Three agency representatives	WaterNSW Alan Benson Department of Primary Industries Roshan Iyadurai NSW Environment Protection Authority

Committee/Group	Community Membership	Community Representatives
		Andrew Couldridge
Wingecarribee Floodplain Risk Management Advisory Committee	Four community representatives Three agency representatives	Karl Batshon Carl Peterson Mark Sainsbury Mark Williams Stand By: Laurel Cheetham Agency: NSW Office of Environment and Heritage John Murtage WaterNSW Ramen Charan State Emergency Services Anthony Kasoulis
Access Reference Group	Six community representatives Four agency representatives	Dympna Irwin Janet Laverty, OAM Pat Fulton Vesna Giles Kathryn C Steelman <i>Vacant</i> Agency: St Vincent De Paul Society (Ability Linker) Julie Sedgman House with No Steps Kylie Crawley Disability Services Australia Vanessa Webb
Joadja Conservation Management Reference Group	Two (2) representatives of the Joadja Heritage Site as nominated by the owners or proprietors of the Joadja Heritage Site Two (2) community members of the Heritage Committee as nominated by that Committee Other relevant persons as invited as required	Joadja Heritage Site: Elisa Jimenez Valero Jimenez Heritage Committee: Laurel Cheetham Linda Emery
Seniors Reference Group	Six community representatives Six service providers or agencies	Christina Jurd Gary Norwell Ingrid McCulloch Paul Broekhuizen Margaret Parkinson Nanette Taylor Agency: Wingecarribee Adult Day Centres Helen Denning
Tulip Time Reference Group	Two agency representatives Three community representatives	Ian Langford Colleen Loury Robyn Karakasch Agency: Southern Highlands Chamber of Commerce and Industry Steven Horton Bowral Lions Club Peter Fleming

3 Roles and Responsibilities

3.1 Chair

The Chair of a committee or group is responsible for the effective conduct of meetings, drawing on the expertise of each member, and for guiding the committee or group's work towards fulfilling the responsibilities established in the terms of reference. This is a vital position, which requires an effective Chair to:

- Conduct business in the order set out in the agenda.
- Keep discussion focused on the item as set by the agenda.
- Make sure that a decision has been reached before going onto the next item on the agenda.
- Maintain order and ensure the correct meeting procedures are being followed.
- Allow everyone to speak and be heard.
- Exercise a casting vote, as well as an original vote, whenever the voting on a motion is equal.
- Make sure a clear and accurate record is kept of all decisions.

The Chair is also responsible for approving the draft minutes of the meeting for submission to committee members, confirming that they are a correct and accurate record.

3.2 Committee and Group Members

Committees and groups consider reports made by staff, discuss options and make recommendations to Council. Through the recommendation of a committee or group a member can offer an alternate view, identify issues, advise Council about effective policy or services and represent the diverse demographics, views and interests of the local community.

All committee and group members are expected to:

- Understand the relevant legislative and regulatory requirements appropriate to Council.
- Contribute the time needed to review meeting agendas and other materials and understand the papers provided prior to a meeting.
- Apply good analytical skills, objectivity and good judgment.
- Express opinions frankly and ask questions.
- Fully consider motions before voting on them.

3.3 Committee Support Staff

Council provides administrative support for committees and groups in the form of committee support staff, who attend each meeting in a non-voting capacity. The responsible manager and a staff contact person are detailed in the terms of reference for each committee or group.

With the oversight of the responsible manager, the nominated staff contact is responsible for:

- Preparing the meeting agenda.
- Ensuring that relevant matters are brought before the committee or group.
- Distributing the agenda and minutes as per this manual.
- Arranging (or providing) the minute taking.
- Organising for the Chair to approve the meeting minutes.
- Reporting the meeting minutes to Council for adoption.
- Following up the implementation of action items arising from each meeting.

The relevant Manager is a liaison point for committee or group members regarding matters within the scope of the responsibilities detailed above only.

It is important for committee or group members to be aware that meetings are not a suitable forum for making an action request of Council staff. Such requests must be made through regular channels as detailed on Council's website.

3.4 Other Attendees

A Councillor who is not a member of a committee or group may attend the committee or group as an observer. However, the Councillor is not entitled to give notice of business for inclusion in the agenda for the meeting, to move or second a motion at the meeting, or to vote at the meeting. The Councillor as a courtesy should in advance of the meeting advise the Chairperson and staff contact person in writing of their intention to attend the meeting.

The General Manager or a Deputy General Manager may also attend and speak at a committee or group meeting. Other Council staff may attend at the invitation of the Chair or the responsible manager; for example, to speak on a particular agenda item. Council staff cannot move or second a motion at the meeting, or vote at the meeting.

4 Code of Conduct and Other Policies

All committee and group members must comply with the applicable provisions of Council's Code of Conduct in performing their duties, and should:

- Act honestly and in good faith.
- Actively participate in the work of the committee or group.
- Perform their duties in a manner that engenders public trust in the integrity, objectivity, and impartiality of the committee or group.
- Declare any perceived, potential, or actual conflict of interest in relation to any matter before the committee or group.
- Conduct the business of the committee or group with the care, diligence and skill appropriate to the role.

In regard to information obtained as a member of a committee or group, members must:

- Only access information needed for committee or group business.
- Not use that information for private purposes.
- Not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for themselves, or any other person or body, from any information to which they have by virtue of their position.
- Only release Council information in accordance with established policies and procedures and in compliance with relevant legislation.

Councillor representatives on a committee or group must also adhere to the Councillors' Access to Information and Interaction with Staff Policy. This includes the following provisions:

- Councillors must not give direction to or request staff to undertake work for the Councillor or for any other person.
- Committee Chairs may contact committee staff representatives to clarify a matter currently before the committee.

Where relevant, the provisions of Council's Code of Meeting Practice which apply to Council committees also apply to advisory groups, community reference groups and sunset working groups, except where said provisions conflict with the guidelines given in this manual.

5 Quorum and Apologies

A quorum will consist of a majority of committee or group members. Where the committee or group includes both Councillor and community or stakeholder representatives, a quorum will also require at least one Councillor member and one independent member.

If a quorum exists yet both the Chair and the alternate Chair are absent from a meeting, the first business of every such meeting is to elect a Chair for that meeting from the members present. The elected Chair must remain a Councillor or an independent member as required by the relevant terms of reference (i.e. Risk, Audit and Improvement Advisory Committee).

Where a quorum is not present the committee or group may hold an informal meeting to discuss the agenda and make notes; however, it is unable to make recommendations. If it is known in advance of a meeting that a quorum cannot be reached, the relevant staff contact person will inform members and liaise with the Chair and responsible manager to determine whether the meeting can be rescheduled.

As a courtesy, committee or group members should tender an apology when they know in advance that they cannot attend a meeting. This avoids delaying the opening of a meeting pending the arrival of such members, and enables Council staff to anticipate whether a quorum will be present. The apology should initially be tendered to the nominated staff contact person, who will subsequently inform the Chair.

A member who is absent from three consecutive meetings without tendering an apology or providing a reasonable explanation shall be asked to explain their absences to the committee or group. If the committee or group does not accept the explanation, it may recommend that Council declares the position vacant and requests that a new representative be selected.

6 Meeting Frequency

Committee or group meetings are held quarterly with the exception of the Demographics and Housing Advisory Committee which meets every six months and the Heritage Advisory Committee which meets every two months.

If the Chair receives a request for an extraordinary meeting either verbally at a committee or group meeting or in writing from at least two members, then the Chair may call an extraordinary meeting following consultation with the relevant Deputy General Manager. The purpose of this consultation is to determine whether there are adequate staff resources available to provide the necessary administrative arrangements for the extraordinary meeting. The Chair can be one of the two members requesting the extraordinary meeting.

Only matters stated in the meeting agenda may be dealt with at an extraordinary meeting.

A forward meeting plan, including meeting dates and where appropriate standing agenda items, will be agreed by the committee or group each year. The forward meeting plan will cover all responsibilities as detailed in the applicable terms of reference.

7 Agenda and Minutes

The nominated committee support staff must ensure that the agenda for each committee or group meeting states all matters to be dealt at the meeting. Prior to the finalisation of the agenda, the Chair (or through the Chair, a committee or group member) or the responsible manager may also propose to put a particular matter to the meeting.

Agenda items will only be considered for inclusion on the agenda if they are relevant to the scope of a committee or group's terms of reference and are submitted with due notice as detailed in Table 4. If a proposed item is not included on the agenda, committee support staff must notify the relevant member (including the reasons for this decision) prior to the distribution of the meeting agenda.

General business cannot be raised for consideration at a meeting, unless the Chair rules the matter as urgent. Should this occur the reasons for urgent consideration must be documented in the minutes.

In preparing an agenda, committee support staff are responsible for ensuring the timeframes detailed in Table 4 are adhered to.

Table 4: Timeframes for agenda preparation and distribution

Action completed	Number of working days prior to the meeting
Agenda items are finalised	15
General Manager / Deputy General Manager signs-off on the draft agenda	10
Agenda is distributed electronically to committee or group members	5
If requested, the Chair is briefed on the agenda	1-5

Full and accurate minutes of the proceedings for each meeting must be kept, and should record the following matters:

- Details of each motion moved at a meeting and of any amendments moved to it.
- The names of the mover and seconder of the motion or amendment.
- Whether the motion or amendment is passed or lost.
- If a motion is passed or lost on the casting vote of the Chair, a statement to that effect.

Committee support staff will also ensure that the meeting minutes are prepared and provided to the Chair for approval within five working days. The approved minutes will then be circulated to committee or group members within 10 working days.

All agendas and minutes are distributed electronically via email. Committee support staff are not responsible for printing and distributing hard copies of meeting agendas and minutes.

8 Reporting to Council

In carrying out their respective responsibilities, committees and groups must at all times recognise that primary responsibility for strategic decision making rests with the Council and the day to day management is the responsibility of the General Manager as defined by the *Local Government Act 1993*. Therefore, committees and groups can make recommendations to Council but do not have power to make decisions or direct staff.

The meeting minutes of committees and groups are to be reported at a Council meeting for consideration by Councillors. This should occur no later than the second Council meeting scheduled to take place after the minutes have been distributed to the committee or group members.

If in the minutes distinct recommendations are made, the decision of Council may be made separately on each recommendation. The recommendations of a committee or group are, so far as adopted by the Council, resolutions of Council.

9 Terms of Reference

This section of Council's Committee Manual outlines the Terms of Reference for each committee or group within Council's Committee Governance Structure for which is it responsible. This includes committees, advisory committees, reference groups, sunset working groups and one external committee. The terms of reference provide an overview of the each committee or groups:

- purpose;
- membership; and
- roles and responsibilities.

9.1 ARTS AND CULTURE ADVISORY COMMITTEE

► PURPOSE

The purpose of the Arts and Culture Advisory Committee is to advise on the implementation of Council's Arts and Culture Strategic Plan. In doing so it will assist in ensuring a coordinated, collaborative and strategic approach in the provision and planning of arts and cultural services, policies, programs, events and facilities in the Wingecarribee Shire.

The Arts and Culture Advisory Committee will provide an opportunity for community members with a knowledge and background in arts and culture to provide advice and guidance to Council on arts and cultural activities and opportunities within the Shire.

► MEMBERSHIP

The Advisory Committee will consist of the following members:

Councillor Chairperson
Alternate Councillor Chairperson
Councillor Members (1)
Community Representatives (7)
Agency Representative (1)

Responsible Manager: Group Manager Corporate & Community

Staff Contact: Cultural Development Officer

► ROLES AND RESPONSIBILITIES

The role of the Arts and Culture Advisory Committee is to:

- Monitor the implementation and review of the Arts and Culture Strategic Plan.
- Facilitate communication between the arts community (artists, arts organisations, event organisers, cultural services providers and community members) and Council in relation to arts and cultural matters.
- Provide advice on the planning and development of cultural infrastructure projects.
- Provide advice on arts and cultural related Council policies including the Public Art Policy.
- Provide representatives to participate on public art project advisory committees as they arise.
- Provide advice and recommendations relating to arts and culture proposals presented to the Committee by arts community members particularly in relation to funding sources and partnership opportunities.
- Assist in the evaluation of arts and culture related applications to Council's Community Assistance Scheme.
- Respond to requests for advice from the Southern Highlands Arts Fund.

9.2 AUDIT, RISK AND IMPROVEMENT ADVISORY COMMITTEE

› PURPOSE

The Audit, Risk and Improvement Advisory Committee has been established to promote good corporate governance. Good corporate governance of Council ensures that the people of the Wingecarribee Shire receive the services that they need in an effective and efficient manner, delivered with honesty and integrity.

The Audit, Risk and Improvement Advisory Committee performs a pivotal role in the governance framework by assisting the General Manager and the Council to carry out their responsibilities in the areas of audit, risk and organisational improvement. It provides independent oversight and monitoring of Council's audit processes, including the internal control activities.

› MEMBERSHIP

The Advisory Committee will consist of the following members:

Councillor Members (2)

Community Representatives (3)

One community representative will be appointed as chairperson of the Advisory Committee.

Responsible Manager: Group Manager Corporate and Community

Staff Contact: Senior Governance Officer

› ROLES AND RESPONSILITIES

The role of the Audit, Risk and Improvement Advisory Committee is to keep under review and provide advice and recommendations to Council with respect to the following matters:

- Risk management
- Control framework
- External accountability
- Legislative compliance
- Internal audit
- External audit

The Audit, Risk and Improvement Advisory Committee will apply the Audit, Risk and Improvement Advisory Committee Charter in carrying out these responsibilities.

9.3 COMMUNITY ASSISTANCE SCHEME ADVISORY COMMITTEE

› PURPOSE

The purpose of the Community Assistance Scheme Advisory Committee is to provide advice to Council on the allocation of Council grants and donations under the Community Assistance Scheme to ensure an accountable and equitable allocation of funds.

› MEMBERSHIP

The Advisory Committee will consist of the following members:

Councillor Chairperson

Councillor Members: Arts and Culture, Community Development, Sport and Recreation
Committee chairs (or alternate chairs if chair is on more than one
Committee)

Responsible Manager: Group Manager Corporate and Community

Staff Contact: Community Development Coordinator

› ROLES AND RESPONSILITIES

The role of the Community Assistance Scheme Advisory Committee is to provide advice and recommendations to the Council in respect to the following matters:

- To review guidelines for the operation of the Community Assistance Scheme.
- To receive and make the final recommendations to Council for allocations of grants and donations within the Community Assistance Scheme.

9.4 COMMUNITY DEVELOPMENT ADVISORY COMMITTEE

► PURPOSE

The purpose of the Community Development Advisory Committee is to monitor and review the development and implementation of sector strategies. In doing so, it will ensure a coordinated, collaborative and strategic approach to the provision and planning of community development services and facilities in the Wingecarribee Shire.

The Community Development Advisory Committee will provide an opportunity for community members and organisational representatives with a knowledge and background in community development to provide advice and guidance to Council on community development issues and trends impacting on the Shire.

► MEMBERSHIP

The Community Development Advisory Committee will consist of the following members:

Councillor Chairperson
Alternate Councillor Chairperson
Councillor Members (2)
Community Representatives (6)
Agency Representatives (3)

Responsible Manager: Group Manager Corporate & Community

Staff Contact: Community Development Coordinator

► ROLES AND RESPONSIBILITIES

The role of the Community Development Advisory Committee is to:

- Monitor and review the development and implementation of sector strategies.
- Facilitate communication between community sectors (service providers and community members) and Council in relation to community development matters.
- Provide advice on community development related Council policies.
- Support the development, promotion and implementation of community development activities and events.
- Assist in identifying gaps in community services in the Wingecarribee Shire.
- Assist in the evaluation of community development related applications to Council's Community Assistance Scheme.
- Provide advice and recommendations relating to community development proposals or issues particularly in relation to funding sources, collaborative opportunities and advocacy.
- Receive reports and recommendations from the Access Community Reference Group the Seniors Community Reference Group and the Youth Strategy and Action Plan Sunset Working Groups and refer recommendations to Council.
- Promote collaboration and communication with other Committees, community forums and networks including the Wingecarribee Community Services Forum, Highlands Child and Wingecarribee Youth Interagency, the Wingecarribee Aboriginal Cluster Group, the Wingecarribee Community Safety Committee, and the Arts and Culture Advisory Committee.

9.5 DEMOGRAPHICS AND HOUSING ADVISORY COMMITTEE

› PURPOSE

The purpose of the Demographics and Housing Advisory Committee is to provide advice to Council to ensure a coordinated, collaborative and strategic approach in the provision of residential land and housing opportunities to meet the needs of projected continued population growth in the Wingecarribee Shire.

The Demographics and Housing Advisory Committee will provide an opportunity for community members with a knowledge and background in regional planning, social planning, housing and demographics to provide advice and guidance to council on the provision of residential land and housing opportunities within the Shire.

› MEMBERSHIP

The Advisory Committee will consist of the following members:

Councillor Chairperson
Alternate Councillor Chairperson
Councillor Member (1)
Community Representatives (6)

Responsible Manager: Group Manager Planning, Development and Regulatory Services

Staff Contact: Coordinator Strategic Planning

› ROLES AND RESPONSILITIES

The role of the Demographics and Housing Advisory Committee is to provide advice and recommendations to the Council in respect to the following matters:

- The provision of residential zoned land to best meet the needs of projected future population.
- The provision of a suitable range of housing types in appropriate locations to best meet the needs of existing and future population.
- Opportunities for the provision of affordable housing.
- Opportunities for encouraging sustainable housing options.
- Application of relevant State, Regional and Local policies to the provision of housing.

9.6 ENVIRONMENT AND SUSTAINABILITY ADVISORY COMMITTEE

› PURPOSE

The purpose of the Environment and Sustainability Advisory Committee is to consider and advise on environmental and sustainability issues as they relate to the Shire with a major focus on the Environment Levy Program.

› MEMBERSHIP

The Advisory Committee will consist of the following members:

Councillor Chairperson

Alternate Councillor Chairperson

Community Representatives (5)

Agency Representatives (4)

Responsible Manager: Manager Environment and Sustainability

Staff Contact: Natural Resource Projects Coordinator

› ROLES AND RESPONSILITIES

The role of the Environment and Sustainability Advisory Committee is to provide advice and recommendations to Council in respect to the following matters:

- To monitor implementation of actions from Council's Environment Strategy.
- To advise on the delivery of the Environment Goals and Strategies from the 2031 Wingecarribee Community Strategic Plan.
- To monitor and review the progress of works and budgets under the Wingecarribee Environment Levy.
- To discuss and advise on strategic environmental issues.
- Provide input into the development or review of relevant environmental plans and policies.

9.7 HERITAGE ADVISORY COMMITTEE

► PURPOSE

The purpose of the Heritage Advisory Committee is to provide advice to Council on initiatives to promote and raise awareness of heritage matters, provide advice to on the management of heritage within the Shire and support the development, promotion and implementation of the heritage activities and events throughout the Shire.

► MEMBERSHIP

The Heritage Advisory Committee will consist of the following members:

- **Councillor Chairperson**
- **Alternate Councillor Chairperson**
- **Agency Representatives (3):**
 - Berrima District Historical and Family History Society
 - Southern Highlands Branch of the National Trust of Australia (NSW)
 - Representative of the Southern Highlands Branch of the Australian Garden History Society
- **Community Representatives (4):** who have skills and relevant experience including:
 - Qualifications in architecture, building, engineering, heritage conservation, town planning or related fields.
 - Proven interest and experience in the conservation of the built environment, natural environment, areas and other places of cultural significance.
 - Experience in practical procedures and techniques of heritage conservation.
 - Working knowledge of the NSW Heritage Act 1977, the Australia ICOMOS Burra Charter (1999) and the Environmental Planning and Assessment Act 1979.
 - Knowledge of the history and development of the Wingecarribee Shire.
 - Resident and/or property owner within the Wingecarribee Shire.

Responsible Manager: Group Manager Planning, Development and Regulatory Services

Staff Contact: Strategic Land Use Planner – Heritage

► ROLES AND RESPONSIBILITIES

The role of the Heritage Advisory Committee is to provide advice and recommendations to the Council on the following matters:

- Development and implementation of heritage policy, plans, strategies and programs.
- Heritage issues affecting the Wingecarribee Shire.
- The review of heritage listings, as required.
- Be notified of development applications relating to heritage properties or significant developments within heritage conservation areas listed under the Wingecarribee Local Environmental Plan.
- Planning and delivery of events for participation in the annual National Trust Heritage Festival, as required.

- Judging of the biennial Wingecarribee Heritage Awards.
- Oversight of the Joadja Conservation Management Group.

9.8 LOCAL TRAFFIC COMMITTEE

► PURPOSE

The Local Traffic Committees (LTC) is was established to enable Councils to meet their responsibilities to the Roads and Maritime Services (RMS) as part of the powers delegated to Councils by the RMS under the *Transport Administration Act 1988* and in accordance with the “Guide to the delegation to councils for the regulation of traffic”.

► MEMBERSHIP

The LTC consists of the following members:

Voting

- **Councillor Chairperson**
- **Roads and Maritime Services – Southern Region representative**
- **NSW Police Force – Goulburn Local Area Command representative**
- **The Local Member of State Parliament for Wollondilly or Goulburn (or their representative) depending on the location of the issue to be voted upon**

Non-Voting

- **Alternate Councillor Chair**
- **Berrima Buslines representative**
- **Southern Highlands Taxis, Hire Cars and Coaches representative**

Responsible Manager: Manager Assets

Staff Contact: Traffic Engineer

► ROLES AND RESPONSILITIES

The role of the LTC is to provide advice and recommendations to the Council in respect to the following matters:

- The authorisation of traffic control devices.
- The regulation of traffic for road works or special events.
- General advice on traffic and road safety matters.

9.9 SPORT AND RECREATION ADVISORY COMMITTEE

► PURPOSE

The purpose of the Sport and Recreation Advisory Committee is to ensure a coordinated, collaborative and strategic approach in the provision of sporting and recreational services and facilities within Wingecarribee Shire.

The Sport and Recreation Advisory Committee will provide an opportunity for community members with a knowledge and background in sport and recreation to provide advice and guidance to Council on related activities and opportunities within the Shire.

► MEMBERSHIP

The Advisory Committee will consist of the following members:

Councillor Chairperson

Alternate Councillor Chairperson

Councillor Member (1)

Community Representatives (4)

Responsible Manager: Manager Assets

Staff Contact: Asset Coordinator – Parks & Open Space

► ROLES AND RESPONSILITIES

The role of the Sport and Recreation Advisory Committee is to provide advice and recommendations to the Council in respect to the following matters:

- Strategic planning for Council's sporting and recreational facilities.
- Levels of service for facilities.
- Strategies to optimise use and equity of access to Council's sporting facilities.
- Input into the prioritisation of Capital & Renewal Projects.
- Consider Council Grants under the Community Assistance Scheme.

9.10 WATER AND SEWERAGE ADVISORY COMMITTEE

› PURPOSE

The purpose of the Water & Sewerage Advisory Committee is to coordinate discussions and actions between Council, Department of Primary Industries (DPI) Water, Water NSW and NSW Environment Protection Authority (EPA) and to assist Council in developing and implementing strategies and plans relating to provision of water and sewerage services by Council.

› MEMBERSHIP

The Advisory Committee will consist of the following members:

Councillor Chairperson

Alternate Councillor Chairperson

Councillor Members (1)

Agency Representatives (3)

- WaterNSW
- Department of Primary Industries
- NSW Environment Protection Authority

Responsible Manager: Manager Assets

Staff Contact: Manager Assets

› ROLES AND RESPONSILITIES

The role of the Water & Sewerage Advisory Committee is to provide advice and recommendations to the Council in respect to the following matters:

- Construction of new water & sewage treatment plants.
- Upgrade of existing water & sewage treatment plants.
- Modification of existing water & sewage treatment plants.
- Coordination of activities between Council and the relevant agencies, relating to provision of water & sewerage services to customers.
- Development and implementation of Water & Sewerage Strategies and Plans.

9.11 WINGECARRIBEE FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE

› PURPOSE

The purpose of the Wingecarribee Floodplain Risk Management Advisory Committee is to assist Council in the development and implementation of flood risk management plans for the areas under its jurisdiction.

› MEMBERSHIP

The Advisory Committee will consist of the following members:

Councillor Chairperson
Alternate Councillor Chairperson
Community Representatives (4)
Agency Representatives (3)

Responsible Manager: Manager Assets

Staff Contact: Manager Assets

› ROLES AND RESPONSILITIES

The role of the Advisory Committee is to provide advice, recommendations and assistance to Council in respect to the following matters:

- Develop and monitor implementation of flood risk management plans.
- Supervising and monitoring progress & findings of studies being undertaken in the various stages of the management plan.
- Providing input into known flood behaviour as part of the flood studies.
- Identifying management options & providing input into their consideration as part of the management studies.
- Identifying implementation strategies for the floodplain risk management plans.

9.12 ACCESS COMMUNITY REFERENCE GROUP

➤ PURPOSE

The purpose of the Access Community Reference Group is to monitor the implementation and review of the Disability Inclusion Action Plan. In doing so, it will assist in ensuring a coordinated, collaborative and strategic approach in the provision and planning of services and facilities for people with disability in the Wingecarribee Shire.

The Access Community Reference Group will provide an opportunity for community members and organisational representatives with a knowledge and background in disability related issues to provide advice and guidance to Council on access and inclusion, disability services, activities and opportunities for people with disability within the Shire.

➤ MEMBERSHIP

The Access Community Reference Group will consist of the following members:

Community Representatives (6)

Agency Representatives (4)

Responsible Manager: Group Manager Corporate & Community

Staff Contact: Ageing & Disability Officer

➤ ROLES AND RESPONSIBILITIES

The role of the Access Community Reference Group is to:

- Monitor the implementation and review of the Disability Inclusion Action Plan.
- Promote an awareness of disability issues within Council and the community.
- Facilitate communication between community members, disability service providers and Council on access and inclusion and disability related issues.
- Contribute information for consideration in other Council plans and policies relevant to the target group.
- Provide feedback and suggestions on programs and events to ensure the inclusion of people from the target group.

The Access Community Reference Group reports and makes any recommendations to Council through the Community Development Advisory Committee.

9.13 JOADJA CONSERVATION MANAGEMENT COMMUNITY REFERENCE GROUP

› PURPOSE

The purpose of the Joadja Conservation Management Community Reference Group is to assist the owner/s or proprietor of 1760 Joadja Road, Joadja (Lot 11 DP 858859), also referred to as the Joadja Heritage Site, in conserving the heritage items on the site through:

- The prudential expenditure of monies raised from the imposition of the caveats under the terms of the Joadja Heritage Site Deed, and
- The provision of specialist heritage advice.

› MEMBERSHIP

The Joadja Conservation Management Community Reference Group will consist of the following members:

Chairperson (Chairperson of the Heritage Committee)

Representatives of the Joadja Heritage Site as nominated by the owners or proprietors of the Joadja Heritage Site (2)

Heritage Committee Community Members (2) as nominated by that Committee

Responsible Manager: Group Manager Planning, Development and Regulatory Services

Staff Contact: Strategic Planner – Heritage

› ROLES AND RESPONSIBILITIES

The role of the Joadja Conservation Management Community Reference Group is to provide advice and recommendations to the Heritage Committee in respect to the following matters:

- Expenditure of monies held by Council raised from the imposition of the caveats under the terms of the Joadja Heritage Site Deed.
- Alternative sources of funding for specific heritage projects within the Joadja Heritage Site and assistance in applying for such funding.
- The management of heritage issues on the Joadja Heritage Site.
- Other relevant advice or assistance to the owners of the Joadja Heritage Site.

9.14 SENIORS COMMUNITY REFERENCE GROUP

➤ PURPOSE

The purpose of the Seniors Community Reference Group is to monitor the implementation and review of the Positive Ageing Strategy and Action Plan 2016 – 2026. In doing so it will assist in ensuring a coordinated, collaborative and strategic approach in the provision of services and facilities for older people in the Wingecarribee Shire.

The Seniors Community Reference Group will provide an opportunity for community members and organisational representatives with a knowledge and background in the seniors community sector to provide advice and guidance to Council on ageing issues, aged care services and activities and opportunities for older people within the Shire.

➤ MEMBERSHIP

The Reference Group will consist of the following members:

Community Representatives (6)

Agency Representatives (6)

Responsible Manager: Group Manager Corporate & Community

Staff Contact: Ageing & Disability Officer

➤ ROLES AND RESPONSIBILITIES

The role of the Seniors Community Reference Group is to:

- Monitor the implementation and review of the Positive Ageing Strategy 2016 – 2026.
- Identify projects that meet the objectives of the Positive Ageing Strategy.
- Promote an awareness of ageing issues.
- Facilitate communication between community members, aged care service providers and Council on issues relating to ageing and older people.
- Contribute information for other Council plans and policies relevant to the target group.
- Provide feedback and suggestions on programs and events to ensure the inclusion of people from the target group.

The Seniors Community Reference Group reports and makes recommendations to Council through the Community Development Advisory Committee.

9.15 TULIP TIME COMMUNITY REFERENCE GROUP

➤ PURPOSE

The purpose of the Tulip Time Community Reference Group is:

- To plan and promote a successful Tulip Time Festival that engages the community.
- Increase visitation and showcase the region.
- Operate within the allocated budget and to ensure that the Festival is conducted on a 'no cost to Council basis'.

➤ MEMBERSHIP

The Tulip Time Community Reference Group will consist of the following members:

Councillor Chairperson
Alternate Councillor Chairperson
Councillor Member (1)
Community Representatives (3)
Agency Representatives (2)

Responsible Manager: Manager Tourism and Events

Staff Contact: Tourism Coordinator

➤ ROLES AND RESPONSILITIES

The role of the Tulip Time Community Reference Group is to provide advice and recommendations to Council in respect to the following matters:

- To provide leadership, advice and input on the festival program and civic events connected with the festival.
- To provide advice on matters referred to the working group by council.
- To act as an internal and external forum for constructive commentary and guidance in relation to the Tulip Time Festival.

9.16 YOUTH STRATEGY AND ACTION PLAN SUNSET WORKING GROUPS

› PURPOSE

The purpose of the Youth Strategy and Action Plan Sunset Working Groups will be to support, review and monitor the implementation of the Wingecarribee Youth Strategy and Action Plan 2016-2026. In doing so, the Working Groups will assist in ensuring a coordinated, collaborative and strategic approach in the provision and planning of services and facilities for young people in the Wingecarribee Shire.

Project specific Sunset Working Groups will address different actions identified in the Wingecarribee Youth Strategy and Action Plan and provide an opportunity for young people and organisational representatives with a knowledge and background in youth related issues to provide advice and guidance to Council on activities and opportunities for young people.

› MEMBERSHIP

The Youth Strategy and Action Plan Sunset Working Groups will consist of the following members:

Youth Representatives: as determined on a project basis

Agency Representatives: as determined on a project basis

Responsible Manager: Group Manager Corporate and Community

Staff Contact: Youth Liaison Officer

› ROLES AND RESPONSIBILITIES

The role of the Youth Strategy and Action Plan Sunset Working Groups is to:

- Support, review and monitor the implementation of the Wingecarribee Youth Strategy and Action Plan 2016 - 2026 by assisting with and advising on specific actions in the plan.
- Identify projects that meet the objectives of the Wingecarribee Youth Strategy and Action Plan.
- Facilitate communication between young people, service providers and Council on youth related issues, services and activities.

Youth Strategy and Action Plan Sunset Working Groups report and make recommendations to Council through the Community Development Advisory Committee.

9.17 WINGECARRIBEE COMMUNITY SAFETY COMMITTEE (External Committee)

➤ PURPOSE

The purpose of the Wingecarribee Community Safety Committee is to maintain a partnership and facilitate communication between Wingecarribee Shire Council, the Hume Local Area Command (Police) and the community in addressing local crime prevention, community safety and wellbeing issues.

The Wingecarribee Community Safety Committee will implement, monitor and review the Wingecarribee Shire Community Safety Plan 2015-2020.

The Wingecarribee Community Safety Committee will provide an opportunity for community members and organisational representatives with knowledge and expertise in community safety to provide advice and guidance to Council on community safety and well-being issues within the Shire.

➤ MEMBERSHIP

The Advisory Committee will consist of the following members:

Chairperson Mayor

Hume Local Area Command (3)

Business Chambers of Commerce Representatives (2)

Liquor Accord Representative (1)

Community Representatives (4)

Responsible Manager: Group Manager Corporate & Community

Staff Contact: Community Development Coordinator

Federal and State Local Members of Parliament or their delegates are also invited to attend meetings.

➤ ROLES AND RESPONSIBILITIES

The role of the Wingecarribee Community Safety Committee is to:

- Facilitate communication between Council, Hume Local Area Command and community members in regard to community safety issues.
- Monitor, review and undertake specific projects in the Wingecarribee Shire Community Safety Plan 2015 – 2020.
- Provide advice to Council on trends in the community concerning public safety and wellbeing.
- Provide advice to the Hume Local Area Command on issues concerning public safety in the Wingecarribee.
- To assess community concerns by way of safety audits from time to time.
- Receive Police reports and updates on local crime trends and crime prevention initiatives.
- Provide feedback and recommendations to relevant Council Committees and the Hume Local Area Command for action and discussion.

9.18 GENERAL MANAGER'S PERFORMANCE REVIEW COMMITTEE

► PURPOSE

The focus of this Committee is to monitor and review the General Manager's performance in accordance with the performance agreement, agreed with the committee annually.

The Committee has been established following consideration of the Office of Local Government Guidelines for the Appointment and Oversight of General Managers.

► MEMBERSHIP

The Committee will consist of the following members:

Mayor
Deputy Mayor
Council Appointed Councillor
General Manager selected Councillor

Independent Facilitator: the Mayor and General Manager will agree on an external facilitator to assist with the process of performance appraisal and the development of new performance plans.

► ROLES AND RESPONSILITIES

The General Manager's Performance Review Committee has full delegation for the whole process of performance management, including discussions regarding performance, any actions that should be taken and the determination of the new annual performance agreement. All committee members should be trained in the performance management of general managers.

The role of the General Manager's Performance Review Committee is to:

- Conduct the performance reviews of the General Manager on an annual basis.
- Develop the General Manager's performance agreement. The performance agreement should contain but not be limited to key indicators that measure how well the general manager has met the council's expectations with respect to:
 - service delivery targets from the council's Delivery Program and Operational Plan;
 - budget compliance;
 - organisational capability;
 - timeliness and accuracy of information and advice to Councillors;
 - timely implementation of council resolutions;
 - management of organisational risks;
 - leadership
- Report the findings and recommendations of performance reviews to the governing body of council in a closed session.

The review of the General Manager's performance will be conducted annually with an interim review conducted at six months after determination of a new performance agreement and a final review at 12 months.

The performance management report of any council staff member, including the general manager, should not be released to the public and should be retained on the appropriate confidential council

employment file. Release of such personal information to other than the Performance Review Panel, the General Manager and the Councillors in confidence is a breach of privacy legislation.

LEADERSHIP

1.2 COUNCIL COMMUNICATES AND ENGAGES WITH THE COMMUNITY IN A DIVERSE, OPEN AND INCLUSIVE WAY

Adoption Date:	11 April 2018
Council Reference:	MN 136/18
Policy Owner:	Media and Communications Coordinator
Next review date:	April 2020
File Reference:	5125
Related Policies/Legislation:	<i>Local Government Act 1993</i> <i>Government Information (Public Access) Act 2009</i> <i>Copyright Act 1879</i> <i>Defamation Act 2005</i> <i>Privacy and Personal Information Protection Act 1998</i>
Related Documents:	Wingecarribee Shire Council Code of Conduct Communications Strategy, 2014 Community Engagement Strategy, 2014
Superseded Policy/GM Practice Note:	General Managers Practice Note No.3: Media Contact (for staff only)

OBJECTIVES

The objectives of this policy are:

- to clearly identify authorised spokespersons on behalf of Council
- to provide guidelines for authorised spokespersons when making statements regarding Council business
- to promote a professional and consistent corporate image
- to promote positive media relationships
- to minimise the possibility for miscommunication and negative publicity
- to provide direction to staff and Councillors about the personal and professional use of social media.



Media Policy

POLICY STATEMENT

Wingecarribee Shire Council is committed to engaging with its local community and recognises the important role media plays in communicating with the community we serve.

It is also accepted that rapidly evolving technology has transformed the way councils communicate and engage with their communities.

It is important that Council builds on its relationship with the media, both traditional and emerging social media, and the community while continuing to provide accurate, timely, informative and interesting content in-line with Council's vision and values.

This policy applies to all media and social media comment and activity on behalf of Council.

Council respects the right of Councillors and staff to maintain social media accounts and to interact on social media as a private citizen.

This policy does not impede the use of personal social media, rather, it provides direction on the use of social media should it overlap with Council business.

Staff need to be aware of the risks when personal usage overlaps with their professional lives.

Councillors and staff have the right to express personal opinion, however must make it clear that these are personal opinions and not necessarily the official view of Council.

SCOPE

This policy applies to:

- circumstances when authorised spokespersons are required to make comment or provide background information on matters under Council jurisdiction
- circumstances when Council wishes to engage with the media or community to release information relating to Council business
- individuals or groups wanting to set up social media accounts associated with Council
- all Councillors, employees, contractors and volunteers; and
- all comment to media regarding Council business and policy.

DEFINITIONS

For the purpose of this policy, media has been separated into the following categories.



Media Policy

Traditional media

The term commonly given to various means of traditional communication that reaches a broad cross-section of the community such as television, radio and print media.

Social Media

The term commonly given to web-based tools that allow users to publish, share and discuss content. Currently social media may include (although it is not limited to):

- social networking applications (e.g. Facebook, LinkedIn)
- micro-blogging (e.g. Twitter)
- video and photo sharing websites (e.g. Instagram, Flickr, YouTube)
- blogs hosted by media outlets (e.g. 'comments' on news articles)
- forums, discussion boards and groups (e.g. Google groups)

Journalists and the Press

- For the purpose of this policy, only accredited members of the *Australian Press Council* (APC) or affiliated members of the *Australian Communications and Media Authority* (ACMA) shall be recognised as members of the *Press* or *Journalists*. This includes any media-related function of Council, including formal response and Council Meetings.
- Council reserves the right to exercise its discretion when liaising with non-accredited representatives.
- Due to resourcing constraints, Council will only pro-actively engage with accredited journalists from 'traditional media' and respond to their enquiries.
- Bloggers, online commentators, community representatives and residents are encouraged to access Council's online digital Media Centre at media.wsc.nsw.gov.au to view Council's press releases, statements, photos and social media communications.

RESPONSIBILITIES

Statements relating to Council business and policy can be made to the media by:

- the Mayor;
- the Deputy Mayor when delegated;
- a Councillor nominated by the Mayor;
- Councillor Committee Chairpersons;
- the General Manager (or delegate);
- staff members nominated by the General Manager or, for non-controversial topics, the Media and Communications Coordinator.

In accordance with Section 226 of the *Local Government Act 1993*, the Mayor is the principal spokesperson for the governing body, including representing the views of the Council as to its local priorities.



Media Policy

The Mayor and his/her Councillor delegates may comment on matters relating to the business of Council or Council decisions.

Comments are to be made on behalf of Council.

Councillors have the right to express personal opinion but must ensure they clarify that any views expressed may not represent the official position or opinion of council.

For operational matters, the General Manager (or delegate) will be the official spokesperson.

Councillors and staff of Council will not provide comment on staff matters.

Any queries in relation to staff matters must be directed to the General Manager.

Authorised persons are entitled to decline comment.

Staff must notify and seek advice from the Media and Communications Coordinator prior to providing comment to the media in a professional capacity.

Staff and Councillors are entitled to provide comment in their capacity as a resident of the Wingecarribee Shire via either traditional or social media, however, staff and Councillors must:

- ensure it is clear that views expressed are their own
- not post or say anything that would bring Council into disrepute
- not act in a way that compromises their professional duties
- ensure any comment provided is based on fact and is not speculative
- ensure any comment is not perceived to be an official comment on behalf of Council where you have not been authorised to make such a comment
- ensure any confidential information is not divulged
- not post or say anything that has the potential to have a negative impact on your working relationships within the Council or with external parties
- not post or say anything that has the capacity to damage the Council's reputation or contains content about the Council that may be misleading, speculative or deceptive
- not post or say anything that is offensive, humiliating, threatening or intimidating to other Council officials or those that deal with Council.

PERFORMANCE MEASURES

The success of this policy will be measured by:

- zero or limited incidents of non-compliance with this policy.



BREACHES OF THE POLICY

Failure to comply with this policy may constitute a breach of employment terms and, depending on the circumstances, and/or a breach of the Wingecarribee Shire Council Code of Conduct.

Depending on the circumstances of the breach, disciplinary action may be warranted or referral of the breach may be made to other authorities.

APPROVED BY:

WINGECARRIBEE SHIRE COUNCIL

11 April 2018



PROCEDURES

The purpose of this procedure is to provide guidance to Councillors and staff when engaging in media activity.

1.0 Media releases and alerts

Staff may prepare draft media releases and alerts but they must be forwarded to Media and Communications staff for editing, formatting and distribution.

Media and Communications staff will ensure approval is sought from quoted Councillors and staff prior to release and must obtain approval from the relevant Manager, Deputy General Manager, General Manager and where appropriate, the Mayor prior to release.

Recognised media organisations and their representatives will be treated equally and without bias.

Releases and alerts will be uploaded to Council's Media Centre in a timely fashion for the benefit of staff, community groups and residents not on Council's distribution list.

2.0 Response to media enquiries

Media enquiries are to be dealt with by Media and Communications staff promptly and truthfully.

Where permissible, staff will always attempt to reply to reasonable media deadlines within mutually agreed timeframes.

As nominated by either the General Manager or Media and Communications Coordinator, when appropriate, a member of Council staff may become the official spokesperson on a specific issue, event or initiative to ensure consistency of message.

In the case of matters with possible legal consequences, such as official investigations, accidents, injuries or enquiries into business dealings or actions, statements must be authorised and approved by the General Manager.

All responses containing financial information must also first be approved by the Chief Financial Officer.

Council reserves the right to not comment on any matter at its discretion.

3.0 Radio, Television and Councillor Columns

The Mayor will be the 'face' of Wingecaribee Shire Council for all television interviews unless the interview is relating to an operational matter.

Where the Mayor is unavailable, the Mayor's delegated Councillor will generally fulfil the spokesperson role.



Media Policy

For operational matters, the General Manager (or delegate) will be the official spokesperson.

Alternatively the Mayor, General Manager or Media and Communications Coordinator may authorise a spokesperson for non-controversial matters.

Media and Communications staff will provide assistance in the drafting and submission of columns upon request from the Mayor.

4.0 Social media

Although Council considers social media to be an informal communication channel, we acknowledge that immediacy is one of the key benefits of social media and the community's expectation is for active communication.

Council subsequently operates a number of official social media accounts. These accounts are monitored by the Media and Communications team.

Those individuals or groups wanting to set up social media accounts associated with Council need to seek permission. A 'Social Media Approval Form' (see Appendix A) must be approved by the General Manager (or delegate) and returned to the Media and Communications Coordinator and the Communications Officer prior to engaging in conversation as a representative of Council.

In the event of a critical incident, publishing to social media sites will be the responsibility of Media and Communications staff unless otherwise authorised.

Council's social media sites are not a tool for reporting emergencies and life-threatening situations, please contact the following if required:

- Police, Ambulance and Fire Brigade - 000
- SES - 132 500

Council endeavours to maintain the currency and accuracy of information published on its social media sites, however, it does not guarantee that the information is current or that the data is free from defects or malicious code such as viruses.

Likewise, the inclusion of any link does not imply endorsement of that website and or organisation, service or person by Wingecarribee Shire Council. Council is not responsible for the content or reliability of links, or for any loss or inconvenience arising from their use.

Only content that is classified as public information may be posted.

As a general rule, social media will only be actively maintained during standard Council business hours.

Excellent customer service is paramount. However social media must not be used to action customer requests.



Media Policy

All customer service and action requests must be referred to Council's Customer Service Centre by phone, email, the corporate website or approved third-party apps such as 'Snap, Send, Solve'.

Requests in need of escalation should be brought to the attention of the Coordinator Customer Services and where possible a reference number should be sought to expedite the resolution.

Council acknowledges that social media, its associated technologies and platforms is a constantly evolving environment. As such, authorised Council staff will periodically review the choice of social media platforms utilised as communications tools by the organisation.

4.1 Dealing with offensive behaviour

Wingecarribee Shire Council encourages constructive dialogue through its social media sites.

Social media community members are asked to:

- show respect and not include content that is defamatory, derogatory, offensive, obscene, discriminatory or hateful to any person or organisation, including Council, its employees and other people or organisations
- ensure you do not harass or make personal attacks against other users, Council, Councillors or Council staff
- refrain from spamming (trolling) with multiple or repetitive posts
- not post personal or commercially sensitive material
- keep content relevant to Wingecarribee Shire Council and/or the Southern Highlands
- only post factual and accurate information.

Council reserves the right to remove any posts from its social media sites, at its discretion, that do not comply with Council's Media Policy or which Council considers otherwise inappropriate.

Users who breach these guidelines may be banned from accessing Council's social media sites.

5.0 Personal views of elected members

The policy does not inhibit the right of individual Councillors to express their own views with the media as long as they cannot be perceived to be an official comment or view on behalf of the Council and it does not place Council in a position of liability.

Statements made by Councillors are to be identified as their opinions only and as such do not necessarily represent the position of the Council.



Media Policy

When engaging with the media, Councillors must provide high quality leadership to the Council and community and must serve the overall public interest of the Shire.

Councillors should keep in mind their leadership role in Council and the community, and should express opinions consistent with community expectations of them as civic leaders.

As a courtesy, Councillors should notify the Media and Communications Coordinator prior to providing comment to the media where possible.

Councillors are reminded of their obligations under the *Local Government Act 1993* and the relevant provisions of the Wingecarribee Shire Council Code of Conduct and Model Code of Conduct For Local Councils in NSW.

6.0 Staff Comment

Members of staff are not permitted to speak with the media on Council business or policy unless prior approval is sought from the Media and Communications Coordinator.

The Media and Communications Coordinator will then delegate responsibility for any non-controversial issues in consultation with the responsible officer and notify the relevant Deputy General Manager.

Queries relating to operational matters, policy and staffing will be addressed to the General Manager (or delegate).

Staff should advise the Media and Communications Coordinator if contacted for comment.

Staff may express their views in a public debate in their capacity as a local citizen and not as a Council representative and should avoid any perception of conflict of interest.

7.0 Paid media advertising

Paid media advertising, sometimes referred to as display advertising, is the responsibility of the relevant Manager.

Design and content of advertising material should be undertaken in consultation with Media and Communications staff to ensure that it is consistent with brand guidelines.

8.0 Confidential information

As specified by the *Local Government Act*, Councillors and staff must not disclose or distribute material classified as confidential in briefing sessions or in reports presented to Council.

APPROVED BY:

WINGECARRIBEE SHIRE COUNCIL
11 April 2018



Appendix A

Social Media Approval Form

Civic Centre, Elizabeth St. Moss Vale, NSW 2577. PO Box 141, Moss Vale.

t. (02) 4868 0888 f. (02) 4869 1203 e. mail@wsc.nsw.gov.au



Corporate account details

Social network (e.g. Facebook, Twitter)	
Account name	

Primary administrator

Name	
Position	
Council division	
Phone	
Mobile	
Email	

Secondary administrator

Name	
Position	
Council division	
Phone	
Mobile	
Email	

What is the objective of the social media site?

--

Agreed time frame for administrators to reply to public questions?

--

Action to be taken in the event of inappropriate comments being posted?

--

In signing this document you agree to adhere to Wingecarribee Shire Council's Media Policy and Social Media Guidelines.

Primary administrator signature

Secondary administrator signature

Approved by Deputy General Manager

Approved by General Manager (or delegate)

POLICY MANUAL
(Post 1 July 1993)

SUBJECT: COUNCIL MATTERS

**POLICY TITLE: COUNCILLORS' ACCESS TO INFORMATION
AND INTERACTION WITH STAFF**

DIVISION: CORPORATE SERVICES - ADMINISTRATION

FILE NO: 101/13

OBJECTIVE:

Provide clear direction to staff regarding their obligation to assist Councillors and how Councillors can access Council records and interact with staff:

Provide a documented process on how Councillors can access Council records;

Ensure Councillors have access to all documents necessary for them to exercise their statutory role as a member of the governing body of the Council;

Ensure that Councillors receive advice to help them in the performance of their civic duty in an orderly and regulated manner;

Provide direction on Councillors' rights of access to Council buildings;

Provide a clear and consistent framework for the reporting of, and appropriate application of sanctions for, breaches of this policy; and

Be reviewed periodically to monitor its effectiveness and compliance.

CODE OF CONDUCT

Council's Code of Conduct, is important in determining standards of conduct for Councillors and staff and forms an important reference document for this policy.

STATUTORY ROLE OF COUNCILLORS AND STAFF:

Chapters 9 and 11 of the Local Government Act set out the statutory roles and duties of Councillors and the General Manager. The introduction to Chapter 9 states that *“each Council is a statutory corporation. The Councillors are the governing body of the corporation and they have the responsibility of directing and controlling the affairs of the Council in accordance with this Act.”*

The General Manager is generally responsible for the efficient and effective operation of the Council’s organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

The full statutory provisions are contained in **Appendix 1**.

POLICY STATEMENT:

1. ACCESS TO INFORMATION BY COUNCILLORS

(Refer Council's Code of Conduct: 9 Access to Information and Council Resources) – see **Appendix 4** (items 9.1 to 9.13).

- 1.1 Access to a Council file, record or other document will only be provided in accordance with this policy. This policy does not limit or restrict statutory or common law rights of access.
- 1.2 Councillors can request either the General Manager or the Public Officer to provide access to a particular Council record.
- 1.3 Councillors who have a personal (as distinct from civic) interest in a document of Council have the same rights of access as any other person. Such requests will be handled in accordance with Council’s Section 12 application procedures.
- 1.4 Councillors acting in their civic capacity, are entitled to access all Council files, records or other documents where that document is identified in Section 12 of the Local Government Act (see appendices) or to a matter currently before the Council. If requested, copies of documents will be provided at no charge.
- 1.5 Councillors may view development application files for determination by Council.
- 1.6 The General Manager shall not unreasonably decide that a document is not relevant to the performance of the Councillor’s civic duty and deny access to a Council document. If access to the document is refused, the General Manager must provide reasons for the decision. However, the General Manager’s decision may be overruled by the Council.
- 1.7 The General Manager or Public Officer shall keep a record of all requests by councillors for access to information (other than those listed in Section 12 of the Local Government Act). The details of these requests shall be noted on the appropriate file.

- 1.8 A Council file must not be made available by a Councillor for viewing by any person external to the Council. A Councillor is not entitled to take copies of any document on the file or to give a copy to a person external to the Council without the approval of the General Manager or Public Officer. Any approval given must be noted on the file. If a council document is forwarded to Councillors by the General Manager marked "confidential" it must not be copied or shown to any other person without the approval of the General Manager or by Council Resolution.
- 1.9 If a Council document is forwarded to Councillors by the General Manager marked "Confidential" it must not be copied or shown to any other person without the approval of the Mayor or General Manager or by Council resolution and the reasons for the "confidentiality" must be stated on the front cover. The Mayor or the General Manager may deem a document as being 'Confidential'.

2. INTERACTION BETWEEN COUNCILLORS AND COUNCIL STAFF

2.1 Councillors

Councillors seeking information on policy issues and day to day matters in the exercise of their statutory role as a member of the Council, should contact the General Manager or the Director for the carriage of the matter. The General Manager or Director may direct a Councillor to a Manager should the matter be specific to that Manager or an ongoing matter.

In interacting with staff Councillors must:

- 2.1.1 direct all enquiries for information (other than basic administrative matters) to the General Manager or appropriate Director;
- 2.1.2 restrict their business dealings with staff to work environments during business hours;
- 2.1.3 avoid overbearing or threatening behaviour;
- 2.1.4 not use electronic mail to broadcast personal and political views to staff or to direct staff.

Reference is also made to Council's Code of Conduct – "Obligations of Councillors" (see **Appendix 4**, items 8.1 and 8.2) & (Practice Note OHS:025-00 Customer Aggression)

2.2 Staff

- 2.2.1 Staff must ensure that Councillors receive advice to help them in the performance of their civic and statutory duties and must not withhold information from a Councillor if the information is available to other Councillors.
- 2.2.2 In interacting with Councillors, staff other than the General Manager, must not approach Councillors on staffing, industrial or political issues. Staff should not enjoy rights beyond those enjoyed by the general public.
- 2.2.3 Staff providing advice to Councillors must record/document the interaction as they would if the advice was provided to a member of the community.
- 2.2.4 Staff must avoid overbearing or threatening behaviour.

Reference is also made to Council's Code of Conduct – Obligations of Staff (see Appendix 4, items 8.4 and 8.5) & (Practice Note OHS: 025-00 Customer Aggression).

2.3 During meetings

The interaction between Councillors and staff at Council meetings and committee meetings is regulated by:

- 2.3.1 s.352 of the Local Government Act (staff are not subject to direction by Councillors as to the content of any advice or recommendations made);
- 2.3.2 cl.249 of the Local Government (General) Regulation; (a Councillor may through the General Manager, put a question to staff);
- 2.3.3 Council's Code of Conduct and;
- 2.3.4 Council's Code of Meeting Practice;
- 2.3.5 this policy;
- 2.3.6 you must respect the chair, other Council officials and any members of the public present during Council and committee meetings or other formal proceedings of the Council.

Appendix 3 details the provisions.

2.4 Outside of Meeting

- 2.4.1 The General Manager is responsible to the Council for performance and direction of all staff and day to day management of Council. Therefore, it is appropriate that all requests for information and approaches to staff outside the forum of a Council or committee meeting, be directed to the General Manager or a Director.
- 2.4.2 It is within the discretion of the General Manager to require Councillors to make an appointment with a senior officer, to put a request in writing, or to put it on notice to the Council to obtain detailed or otherwise time consuming information. The General Manager must indicate in writing, the reasons for refusing a request.
- 2.4.3 For all but straight forward advice on administrative/technical matters, Councillors should put their requests for information or advice in writing to be answered by the General Manager, Director, public officer or nominated staff member. Councillors may also submit a Section 12 request form to access information. These written requests then form part of Council records and can be filed appropriately.
- 2.4.4 If a Councillor is concerned about any refusal to provide information, they should firstly raise the matter with the General Manager (or the Mayor if it was the General Manager who refused to provide the advice). If the Councillor is still dissatisfied they should request the information by way of a Question on Notice to the Council.
- 2.4.5 Councillors must not attempt to direct staff as to the performance of their work or recommendations they should make. Staff must report all such attempts immediately to their Director or the General Manager.

- 2.4.6 Councillors must not request staff to undertake work for the Councillor or any other person.
- 2.4.7 A Councillor, member of staff or delegate must not take advantage of their official position to improperly influence other Councillors, members of staff or delegates in the performance of their public or professional duties for the purpose of securing private benefit for themselves or for some other person.

2.5 Correspondence

That Council embrace the principle of keeping Councillors and staff informed on current and potential issues through the exchange of information received in written, electronic and oral form.

- 2.5.1 Information on items currently before Council and of an urgent nature be immediately brought to the attention of Councillors and staff.
- 2.5.2 Items containing worthwhile information, advice from local members and local government issues not needing to be formally dealt with by Council, are to be placed in the Councillors' Weekly Circular.
- 2.5.3 Other items which are not deemed to be administrative or routine or can't be dealt with by staff under delegated authority shall be submitted to Council following investigation and preparation of a report.

3. Access to Council Offices

- 3.1.1 As elected members of the Council, Councillors are entitled to have access to the Council chamber, Councillors' room, committee rooms, Mayor's office, and public areas of the Council's buildings.
- 3.1.2 Councillors who are not in pursuit of their civic duties have the same rights of access to Council buildings and premises as any other member of the public.
- 3.1.3 A Councillor has no rights to enter staff-only areas without the express authorisation of the General Manager, a Director or Manager, or by resolution of the Council.
- 3.1.4 Councillors must ensure that when they are within a staff area they are cognisant of potential conflict or pecuniary interest matters and / or a perception that they may bring influence to bear on Council staff decisions and should conduct themselves accordingly.
- 3.1.5 Councillors seeking information on policy issues and day to day matters, in the exercise of their statutory role as a member of the Council, should contact the General Manager, or a Director,
- 3.1.6 Where a Councillor accompanies an applicant or objector to a meeting with a Council Officer to discuss an application or proposed application, the appropriate Director, or a staff member nominated by the Director, must be present.

Reference is also made to Council's Code of Conduct "Councillor Access to Buildings".

4. BREACHES OF THIS POLICY

(Refer Council's Code of Conduct: Section 10 – Reporting Breaches, Complaint Handling Procedures and Sanctions)

4.1 Inappropriate Interaction

Council's Code of conduct provides a number of examples of "*Inappropriate Interactions*" (refer item 8.8 of the Code of Conduct as follows) (also refer to **Appendix 2**)

- 4.1.1 Councillors approaching Council staff other than Directors or Managers for information on sensitive or controversial matters.
- 4.1.2 Council staff approaching Councillors directly on individual staffing matters.
- 4.1.3 Councillors approaching Council staff outside the Council building or outside hours of work to discuss Council business.
- 4.1.4 Council staff refusing to give information which is available to other Councillors to a particular Councillor because of the staff member's or Councillor's political views.
- 4.1.5 Councillors who have lodged a development application with Council, discussing the matter with Council staff in staff-only areas of the Council.
- 4.1.6 Councillors being overbearing or threatening to Council staff.
- 4.1.7 Councillors directing or pressuring staff in the performance of their work, or recommendations they should make or the making of decisions under delegated authority.
- 4.1.8 Council staff providing ad hoc advice to Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community.
- 4.1.9 Councillors approaching Council staff organisations; for example unions and associations; in relation to staffing matters that relate to individual staff members rather than broader industrial policy issues.
- 4.1.10 Council staff meeting with developers alone and outside office hours to discuss development applications or proposals.
- 4.1.11 Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by Council associated with current or proposed legal proceedings unless permitted to do so by Council's General Manager or, in the case of the Mayor, exercising their power under section 226 of the Act.

4.2 Reporting

- 4.2.1 All occasions of a Councillor or staff member not complying with this policy should be immediately reported to the General Manager.

- 4.2.2 Where the report relates to the conduct of a Councillor, the General Manager shall immediately report the matter to the Mayor who shall report the matter to the Conduct Committee.
- 4.2.3 Where the report relates to the conduct of staff, the General Manager shall deal with the matter according to the terms of employment of the staff member. Proven breaches should also be dealt with accordingly, that is, by counselling, disciplinary action or dismissal.
- 4.2.4 Where a Councillor believes that the General Manager has failed to comply with the policy, the Councillor shall immediately report to the Mayor who will report the matter to the Conduct Committee.
- 4.2.5 Before a report to the Conduct Committee by the General Manager (or the Mayor), the General Manager (or the Mayor) should undertake preliminary enquiries to establish the facts. The preliminary investigations may take any form the Mayor or General Manager considers appropriate, but must involve discussions with the staff member and/or Councillor involved. Natural justice principles need to be satisfied in dealing with an alleged breach.
- 4.2.6 The Council must decide whether a matter reported to it under this policy reveals a breach. The Council may take any steps provided for in this policy.

4.3 Sanctions

- 4.3.2 Council, having resolved that a Councillor has failed to comply with this policy, can, by resolution:
 - (i) require the Councillor to apologise to the person concerned;
 - (ii) request a formal apology;
 - (iii) counsel the Councillor;
 - (iv) reprimand the Councillor;
 - (v) resolve to make its decision on the matter public;
 - (vi) pass a censure motion at a Council meeting; (Council should not underestimate the power of public censure as a deterrent);
 - (vii) make public disclosures of inappropriate conduct; (such as making the community aware of the breach through the media or annual report);
 - (viii) refer the matter to an appropriate investigative body if the matter is serious; and or
 - (ix) prosecute any breach of the law.
- 4.3.2 Sanctions for staff, depending on the severity, scale and importance of the breach, may include:
 - (i) counselling the staff member;
 - (ii) instituting Council disciplinary proceedings; or
 - (iii) dismissal.

CONTACT:

For enquires relating to the Councillors' Access to Information and Interaction with Staff Policy please contact Manager Administration Services.

STATUTORY PROVISIONS FOR COUNCILLORS AND STAFF

Chapters 9 and 11 of the Local Government Act set out the statutory roles and duties of Councillors and the General Manager. The introduction to Chapter 9 states that *“each Council is a statutory corporation. The Councillors are the governing body of the corporation and they have the responsibility of directing and controlling the affairs of the Council in accordance with this Act.”*

Chapter 9 includes the following provisions.

1. The governing body (s.222)

The elected representatives, called “Councillors”, comprise the governing body of the Council.

2. The role of the governing body (s.223)

The role of the governing body is to direct and control the affairs of the Council in accordance with this Act.

3. The role of the Mayor (s.226)

The role of the Mayor is:

- to exercise, in case of necessity, the policy-making functions of the governing body of the Council between meetings of the Council;
- to exercise such other functions of the Council as the Council determines;
- to preside at meetings of the Council; and
- to carry out the civic and ceremonial functions of the Mayoral office.

4. The role of a Councillor as a member of the governing body (s.232(1))

The role of a Councillor is, as a member of the governing body of the Council:

- to direct and control the affairs of the Council in accordance with this Act (for example), input into preparation of Council’s management plan, financial plan and organisational structure);
- to participate in the optimum allocation of the Council’s resources for the benefit of the area (for example, providing input into deciding priorities for construction and maintenance work);
- to play a key role in the creation and review of the Council’s policies and objectives and criteria relating to the exercise of the Council’s regulatory functions, and
- to review the performance of the Council and its delivery of services, and the management plans and revenue policies of the Council.

5. The role of a Councillor as an elected person (s.232(2))

The role of a Councillor is, as an elected person:

- to represent the interests of the residents and ratepayers;
- to provide leadership and guidance to the community; and
- to facilitate communication between the community and the Council.

6. The role of the General Manager (s.335(1))

The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

7. The functions of the General Manager (s.335(2))

The General Manager has the following particular functions:

- to manage the Council on a day-to-day basis;
- to exercise such of the functions of the Council as are delegated by the Council to the General Manager;
- to appoint staff in accordance with an organisational structure and resources approved by the Council;
- to direct and dismiss staff; and
- to implement the Council's equal employment opportunity management plan.

Inappropriate Interactions

The ICAC/Department of Local Government publication *“Under Careful Consideration; Key Issues for Local Government”* provides a number of examples of inappropriate interactions.

- Councillors approaching junior members of staff for information on sensitive or controversial matters;
- members of staff approaching Councillors directly (rather than via their Director, staff representative or union delegate) on staffing or political issues;
- Councillors approaching staff outside the Council building or outside hours of work to discuss Council business;
- staff refusing to give information which is available to other Councillors to a particular Councillor because of the staff member’s or Councillor’s political views;
- Councillors who have a building application (BA) or development application (DA) before Council discussing the matter with junior staff in staff-only areas of the Council;
- junior staff being asked to answer questions or provide documents to Councillors who are overbearing or threatening;
- Councillors directing or pressuring staff in the performance of their work, or recommendations they should make; and
- staff providing advice to Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community.

Interaction between Councillors and Council Staff during Meetings

The interaction between Councillors and staff at Council meetings and committee meetings is regulated by:

- Section 360 of the Local Government Act
- Clause 249 of the Local Government (General) Regulation
- Council's Code of Conduct
- Council's Code of Meeting Practice

Section 360 of the Local Government Act enables the Council to make regulations in regard to the conduct of meetings, adopt codes of meeting practice and states that meetings must be conducted in accordance with the Code of Meeting Practice.

Code of Meeting Practice

3.18 Questions may be put to Councillors and Council employees

- 3.18.1 A Councillor:
- (a) may, through the chairperson, put a question to another Councillor; and
 - (b) may, through the chairperson and the General Manager, put a question to a Council employee.
- 3.18.2 However, a Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.
- 3.18.3 Any such question shall be in writing and must be put directly, succinctly, and without argument.
- 3.18.4 The chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this clause. (Pt.3 clause 22 Reg)

3.19 Mode of address

- 3.19.1 Councillors shall at all times address other Councillors by their official designation, as Mayor or Councillor, as the case may be; and with the exception of the chairperson, or any Councillor prevented by physical infirmity, shall stand when speaking during full Council meetings.(wsc)
- 3.19.2 No Councillor shall use offensive or unbecoming words in reference to any Councillor or make imputations of improper motives or personal reflections on Councillors. (wsc)

Relationship between Council Officials and Access to Council Records by Councillors

Obligations of Councillors

8.1 Each council is a statutory corporation. The councillors are the governing body of the corporation. Councillors have the responsibility of directing and controlling the affairs of the council in accordance with the Act.

8.2 Councillors must:

- Refrain from directing council staff other than by giving appropriate direction to the General Manager in the performance of council's functions by way of council or committee resolution, or by the Mayor exercising their power under section 226 of the Act (section 352).
- Refrain from, in any public or private forum, directing or influencing, or attempting to direct or influence, any other member of the staff or the council or a delegate of the council in the exercise of the functions of the member or delegate (Schedule 6A of the Act)
- Refrain from contacting a member of the staff of the council unless in accordance with procedures governing the interaction of councillors and council staff that have been authorised by the General Manager.
- Not contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor exercising their power under section 226 of the Act.

Role of the Mayor

8.3 The role of the Mayor is defined by section 226 of the Act

This role is the same whether the Mayor is popularly elected or elected by the councillors.

Obligations of staff

8.4 The General Manager is responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation of the decisions of the council without delay.

8.5 Members of staff of council have an obligation to:

- Give their attention to the business of council while on duty
- Ensure that their work is carried out efficiently, economically and effectively
- Carry out lawful directions given by any person having authority to give such directions
- Give effect to the lawful policies, decisions and practices of the council, whether or not the staff member agrees with or approves of them.

2. Access to information and Council resources. (Section 9 of Council's Code of Conduct.)

Councillors access to information

9.1 A council must provide access to the documents available under section 12 of the Local Government Act 1993 to all members of the public, and to councillors. A council must also

provide councillors with information sufficient to enable them to carry out their civic functions.

9.2 Any information that is given to a particular councillor in the performing of their civic duties must also be available to any other councillor who requests it.

9.3 Councillors who have an obligation to provide full and timely information to councillors about matters that they are dealing with in accordance with council procedures.

9.4 Members of staff of council have an obligation to provide full and timely information to councillors about matters that they are dealing with in accordance with council procedures.

9.5 Councillors have an obligation to properly examine and understand 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 council's charter.

Refusal of access to documents

9.6 The General Manager and Public Officer must act reasonably in deciding whether a document sought by a councillor should be made available under section 12 of the Local government Act 1993 or because it is relevant to the performance of the councillor's civic duty. The General manager or Public Officer must state the reasons for the decision if access is refused.

Use of Council Information

9.7 You Must

- Protect confidential information
- Only access information needed for council business
- Not use confidential information for any non-official purpose
- Only release confidential information if you have authority to do so
- Only use confidential information for the purpose it is intended to be used
- Only release other information in accordance with established council policies and procedures and in compliance with relevant legislation.
- Not use council information for personal purposes
- Not disclose any information discussed during a confidential session of a council meeting
- Comply with the requirements of the state Records Act 1998 S12(2) and create and maintain records of all documentation relating to Council business.

9.8 You must carry out your duties in a manner that allows council officials and the public to remain informed about local government activity and practices.

9.9 You must not use³ confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person.

9.10 You must 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 had access in the exercise of your official functions or duties by virtue of your office or position.

9.11 You must not use confidential information with the intention to improperly cause harm or detriment to your council or any other person or body.

Security of information

9.12 you must take care to maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.

9.13 When dealing with personal information you must comply with:

- The Privacy and Personal information Protection Act 1998
- The Health Records and Information Privacy Act 2002,
- The information Protection Principles and Health Privacy Principles,
- Council's privacy management plan
- The Privacy Code of Practice for Local government

Personal information is information or an opinion about a person whose identity is apparent, or can be determined from the information or opinion.

3. Statutory provisions (Access to Information)

Section 12 of the Local Government Act provides that the Council must provide access to the current version of certain Council documents free of charge to all members of the public. These documents are:

- Council's Code of Conduct
- Council's Code of Meeting Practice
- Annual Report
- Annual Financial Reports
- Auditor's Report
- Management Plan
- EEO Management Plan
- Council's Policy concerning the payment of expenses incurred by, and the provision of facilities, to, Councillors
- Council's Land Register
- Register of Investments
- Returns of the interests of Councillors, designated persons and delegates
- Returns as to candidates' campaign donations
- Agendas and business papers for Council and committee meetings (but not including, until the relevant date determined under Section 10E, business papers for matters considered when part of a meeting is closed to the public)
- Minutes of Council and committee meetings, but restricted, until the relevant date determined under Section 10E (in the case of any part of a meeting that is closed to the public), to the recommendations of the meeting
- Register of business papers and minutes referred to in Section 10E(6)
- Codes referred to in this Act
- Register of delegations
- Annual reports of bodies exercising delegated Council functions
- Applications under Part 1 of Chapter 7 for approval to erect a building, and associated documents

- Development Applications (within the meaning of the Environmental Planning and Assessment Act 1979) and associated documents
- Local policies adopted by the Council concerning approvals and orders
- Records of approvals granted, any variation from local policies with reasons for the variation and decisions made on appeals concerning approvals
- Records of Building Certificates
- Plans of land proposed to be compulsorily acquired by the Council
- Leases and licences for use of public land classified as community land
- Plans of Management for community land
- Environmental planning instruments, development control plans and plans made under Section 94AB of the Environmental Planning and Assessment Act 1979 apply to land within the Council's area
- Statement of Affairs, the summary of affairs and the register of policy documents required under the Freedom of Information Act 1989
- Department representatives' reports presented at a meeting of the Council in accordance with Section 433.

LEADERSHIP

OUR LEADERSHIP IS BASED ON MUTUAL TRUST TO FOSTER AND EMBODY VALUES OF RESPECT, RESPONSIBILITY, INTEGRITY AND ETHICAL GOVERNANCE

Adoption Date:	13 July 2016
Council Reference:	MN 348/16
Owner/Contact officer:	Group Manager Corporate and Community
Next review date:	July 2018
File Reference:	104/7
Related Policies/Legislation:	Code of Conduct GIPA Act

OBJECTIVES

The objectives of this policy are:

- Provide guidance to staff to assist Councillors to access Council records
- Provide guidance on how Councillors can access Council information and records
- Ensure that Councillors have access to all documents necessary for them to exercise their statutory role as a member of the governing body of the Council
- Ensure Councillors receive advice to help them in the performance of their civic office functions in an orderly, consistent and regulated manner
- Provide clear direction on Councillors' rights of access to Council buildings and work sites

POLICY STATEMENT

Wingecarribee Shire Council acknowledges that Councillors require access to Council information and staff in order to exercise their civic office functions under the *Local Government Act, 1993*. Interactions between Councillors and staff are necessary to facilitate the development of well-formed policies and decisions and to provide optimum service delivery for the Shire community. This policy governs the interaction of Councillors and Council staff and therefore it supplements and complements Council's Code of Conduct.



ACCESS TO COUNCIL INFORMATION BY COUNCILLORS

Council's Code of Conduct specifies that the General Manager must provide Councillors with information sufficient to enable them to carry out their civic office functions. Information for Councillors to base decisions on is primarily provided through Council reports and briefing sessions.

Councillors are entitled to access Council files, records or other documents where that document is identified as "open access information" under the GIPA Act. In some instances, Councillors may consider that additional information is required to carry out their civic office functions. In such cases, Councillors wishing to access Council information, other than "open access information" are required to lodge a request via Councillor Requests.

Councillors who have a private (as distinct from civic) interest in a document of Council have the same rights of access as any member of the public.

Procedure for Councillors to Access Council Information

Councillors wishing to access Council information, other than "open access information" as prescribed in the GIPA Act, must make application to the Public Officer by completing Council's online "Councillor Request".

The Public Officer, as appointed by the General Manager will assess if the information requested is relevant to the Councillor's civic office functions.

Councillor requests relating to the exercise of a Councillor's civic office functions will be processed as soon as possible and a response (or an interim response in the case of a complex Request) will be provided in accordance with the following guidelines:

- Same day response – information is easily accessible and no reference/investigation is required. Examples are:
 - Copy of a Council document e.g. Development Consent.
 - Request for basic information relating to an Agenda Item on the day of a Council meeting.
- One (1) to five (5) working day response – information is on hand but needs to be processed for release. Examples are:
 - Copy of submissions to an exhibited Development Application – documents are electronic and extra time required to extract and redact where appropriate.
 - Request containing a number of questions which may relate to more than one branch and where responses need to be collated into a single reply.
- Within 10 working days – investigation and research is required in order to provide the requested information. Examples are:



Councillors' Access to Information and Interaction with Staff Policy

- A comprehensive summary including Court Consent Orders for Planning Appeals.
- Copies of numerous Occupation Certificates where the files are stored offsite.
- Where this investigation and research is extensive and/or complex and the 10 working day timeframe cannot be met, the Councillor lodging the request will be notified within five (5) working days and provided with an indication of when the information may be forthcoming.

The Public Officer shall keep a record of all requests by Councillors for access to information (other than those documents identified as open access information under the GIPA Act or to a matter currently before the Council for determination).

Councillors seeking information for a private, as opposed to civic interest must lodge a GIPA application.

Review Rights

The Public Officer must act reasonably in considering a request for information and, if a Councillor's request is refused, reasons for the refusal must be provided. In the event that a request is refused the Councillor may either:

- Raise the matter with the General Manager and refer to the Code of Conduct which states that the General Manager must ensure Councillors are provided with information sufficient to enable them to carry out their civic office functions.
 - If the General Manager determines the Public Officer acted reasonably in the decision to refuse access to the Council information sought by a Councillor, a Councillor may lodge a formal application under the GIPA Act.
 - If a Councillor considers that there has been a breach of this policy by the General Manager he/she may lodge a complaint with the Office of Local Government.
- Make a formal application under the GIPA Act which will be processed in accordance with that Act.
 - For refusal of access under the Government Information (Public Access) Act 2009 (GIPA Act) a Councillor may ask for an internal review or an external review by the Information Commissioner. For more information go to www.ipc.nsw.gov.au.



INTERACTION WITH STAFF

Councillors and staff are all part of the same organisation working towards the same objectives – maintaining and improving the quality of life of all Shire residents. The relationships among Councillors and staff, particularly senior staff, need to be professional, co-operative and respectful. Each party requires the co-operation of the other in order to achieve their objectives. However, the statutory roles of Councillors and staff are different and there are regulatory provisions that clearly differentiate those roles.

The maintenance of appropriate, cordial and productive relationships provides Councillors with access to the information, knowledge and skills retained by the Council organisation; and staff with the benefit of community understanding and direct constituent views provided by the Councillors.

Procedures for Interaction with Staff

- Councillors may contact a General Manager, Deputy General Manager, Group Manager to discuss, or to make arrangements to meet to discuss, Council services or projects.
- Councillors must not make direct contact with other staff without the approval of the General Manager, Deputy General Manager or Group Manager and where such approval has been granted must not direct or pressure staff in the performance of their work.
- Councillors must not give direction to or request staff to undertake work for the Councillor or for any other person with the exception of Councillor support staff and work must be directly related to the performance of their civic office functions.
- Committee Chairs may contact committee staff representatives to clarify a matter currently before the committee
- Inappropriate interactions between Councillors and Council staff are set out in Council's Code of Conduct for Councillors and Staff.

ACCESS TO COUNCIL OFFICES AND BUILDINGS

- As elected members of the Council, Councillors are entitled to have access to the Council Chamber, Councillors' room, Nattai Room (Council briefings and official functions) and public areas of the Administration Building.
- Councillors while not in pursuit of their civic office functions have the same rights of access to Council buildings and premises as any other member of the public.
- Councillors must seek the prior consent of the relevant Deputy General Manager or the General Manager before entering a particular work area of Council.

SCOPE

This policy relates to all Council staff (including contractors) and Councillors.



Councillors' Access to Information and Interaction with Staff Policy

DEFINITIONS

Civic office function – refers to the role of a councillor as defined in s232 of the *Local Government Act 1993*.

RESPONSIBILITIES

Responsibilities for implementing this policy are shared between Councillors, Executive and staff as follows:

Councillors:

- To lead the community in their understanding of the *Councillors' Access to Information and Interaction with Staff Policy*
- Comply with Council's *Councillors' Access to Information and Interaction with Staff Policy*.

Executive:

- To communicate, implement and comply with the *Councillors' Access to Information and Interaction with Staff Policy*.

Group Manager Corporate and Community:

- Provide advice and assistance to Councillors and staff in relation to the *Councillors' Access to Information and Interaction with Staff Policy*.

Public Officer:

- Determine whether information requested by Councillors is relevant to their civic office functions
- Record all requests by Councillors for access to information (other than those documents identified as open access information under the GIPA Act or to a matter currently before the Council for determination).

Staff:

- Comply with the *Councillors' Access to Information and Interaction with Staff Policy*
- Seek clarification and guidance from the Group Manager Corporate and Community in relation to the *Councillors' Access to Information and Interaction with Staff Policy*
- Report breaches of this policy to relevant Manager/Group Manager.



PERFORMANCE MEASURES

The success of this policy will be measured by:

- Information requested by Councillors in relation to the exercise of their statutory role as a member of the governing body of the Council is provided in a timely manner and in accordance with the timeframes set out in this policy
- Councillor requests for access to information (excluding those documents identified as open access information under the GIPA Act or to a matter currently before the Council for determination) are recorded by the Public Officer
- Councillors receive advice to help them in the performance of their civic office functions in an orderly, consistent and regulated manner
- Councillors abide by the procedures for interaction with staff as set out in this policy
- Councillors obtain consent of the relevant Deputy General Manager or the General Manager before entering an area of Council other than those they are entitled to while in pursuit of their civic office functions.

APPROVED BY:

WINGECARRIBEE SHIRE COUNCIL

13 July 2016



Adopted by Council 13 May 2020
(MN128/20)



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1 OBJECTIVE

The objectives of this Code are to:

- 1.1 provide guidance as to how information sessions are to be conducted, including the role and powers of the Chair;
- 1.2 provide guidance regarding Council's expectations for conduct at information sessions; and
- 1.3 provide guidance as to expectations and obligations relating to confidentiality.

2 CHAIR

- 2.1 The General Manager is to preside as Chair at information sessions.
- 2.2 The General Manager may nominate a member of Council staff to preside as Chair at an information session in place of the General Manager.
- 2.3 The Chair is responsible for the good governance and order of information sessions.
- 2.4 At the commencement of an information session, the Chair shall state the following:
 - (a) That Councillors will not debate or otherwise formally consider any matter that is the subject of a presentation at an information session; and
 - (b) If confidential information arises during the course of an information session, that the attendees of the information session are not to disclose such information to any other person or body except as otherwise permitted by this Code, Council's Code of Conduct and Code of Meeting Practice, or any other relevant document or legislation.

3 ATTENDANCE

- 3.1 Information sessions are to be attended by:
 - (a) the General Manager, or member of Council staff nominated to preside as Chair at an information session in place of the General Manager; and
 - (b) the relevant Deputy General Manager; and
 - (c) any other member of Council staff who is required to attend because of their position or involvement in a matter that will be discussed at the information session, including, but not limited to, the relevant Manager or Group Manager.
- 3.2 Any other person invited by the General Manager to attend an information session may attend an information session.
- 3.3 Councillor attendance at information sessions is not compulsory, but is encouraged.
- 3.4 Information sessions are to be closed to the public, however members of the public may be invited by the General Manager to present to Councillors in relation to certain matters.
- 3.5 Where a presentation is to be given at an information session by a member of Council staff who is less senior than a Manager or Group Manager (in accordance

with Council's Organisational Structure), that member of staff's relevant Manager or Group Manager is to be present at all times during the time at which the member of Council staff is giving a presentation, consistent with the Councillors' Access to Information and Interaction with Staff Policy.

- 3.6 The attendance of all persons present at an information session must be recorded.

4 CONFLICTS OF INTEREST

- 4.1 Conflicts of interest arising in relation to matters that are the subject of an information session must be declared and managed in accordance with Council's Code of Conduct.

4.2 Pecuniary Conflicts of Interest

- (a) A Councillor or member of a committee of Council must, where the person is present at an information session at which a matter in which the person has a pecuniary interest is to be discussed, disclose the nature of that interest as soon as practicable.
- (b) A Councillor or a member of a committee of Council must not, at any time during which a matter in which they have a pecuniary interest is being discussed at an information session, be present or in sight of the information session in the same way that is required at a meeting of Council or a committee of Council under clause 4.29(a) of the Code of Conduct, except as otherwise provided by Part 4 of the Code of Conduct.

4.3 Non-Pecuniary Conflicts of Interest

- (a) A Councillor or a member of a committee of Council must manage significant non-pecuniary conflicts of interest arising in relation to an item of business to be discussed at an information session by managing the interest as if it were a pecuniary interest, in the same way that is required at a meeting of Council or a committee of Council under clause 5.10 of the Code of Conduct.

4.4 The following details concerning conflicts of interest must be recorded:

- (a) The name of the person declaring the interest;
- (b) The item to which the person's interest relates;
- (c) The nature of the interest (i.e. whether the interest is pecuniary or non-pecuniary);
- (d) A description of the interest; and
- (e) The way in which the interest was managed.

5 CONDUCT OF COUNCIL STAFF, COUNCILLORS AND OTHER ATTENDEES

- 5.1 The provisions of Council's Code of Conduct shall apply to information sessions as far as they are applicable.

5.2 Rulings of the Chair must be complied with.

- 5.3 Council staff, Councillors and other attendees at information sessions must not engage in bullying behaviour towards the Chair, other Council officials or any other person (including members of the public) present at an information session.

- 5.4 Council staff, Councillors and other attendees at information sessions must not engage in conduct that is disruptive to an information session, or that would otherwise be inconsistent with the orderly conduct of an information session.
- 5.5 Councillors may ask questions about matters which are the subject of a presentation at an information session.

6 CONFIDENTIALITY

- 6.1 Council staff and Councillors, in their capacities as Council officials, must:
- (a) only access Council information required for Council business, subject to clause 8.14 of Council's Code of Conduct;
 - (b) not use Council information for private purposes;
 - (c) not seek or obtain (in any manner whether directly or indirectly) any financial benefit or other improper benefit for themselves or any other person or body from any information accessible by virtue of the office or position held by the member of Council staff or Councillor;
 - (d) only release information in accordance with Council's approved policies and procedures, and in compliance with legislation (clause 8.9 Code of Conduct).
- 6.2 Council staff, Councillors or any other attendees must maintain the integrity and security of confidential information which comes into their possession in the course of an information session, or for which that person is otherwise responsible (clause 8.10 Code of Conduct).
- 6.3 Council staff, Councillors or any other attendees must:
- (a) only access confidential information to which the person is authorised to have access, and only access such information for the purposes of exercising official functions;
 - (b) protect confidential information;
 - (c) only release confidential information if the person is authorised to do so;
 - (d) only use confidential information for its intended purpose;
 - (e) not use confidential information obtained through an official position for the purpose of securing a private personal benefit or a private benefit for any other person;
 - (f) not use confidential information with the intention of causing harm or detriment to Council or any other person or body;
 - (g) not disclose confidential information discussed during any confidential forum, including an information session (clause 8.11 Code of Conduct).
- 6.4 Further to clause 6.3(b):
- (a) Members of Council staff who are to present on a confidential matter at an information session must take reasonable precautions to ensure that it is made clear that the information to be conveyed is confidential. This may include, but is not limited to, watermarking the word "Confidential" on any material or other document that will be presented or distributed at the information session (such as a PowerPoint presentation or other document that will be distributed to attendees).

- (b) Attendees who make any notes about confidential information presented at an information session, whether in handwritten, digital, or any other form, must ensure the integrity and security of those notes by taking reasonable precautions to ensure that no other person or body has access to or otherwise becomes aware of the contents of the notes. Such notes (or the contents of such notes) shall not be shared with, distributed to, or otherwise communicated to any other person or body without the consent of the General Manager.

6.5 Further to clauses 6.3(c) and 6.3(g), prior to the presentation of confidential information at an information session, the Chair is to make a statement to the effect that:

- (a) the confidential information is not to be disclosed by any attendee without the prior consent of the General Manager; and
- (b) disclosure of the confidential information without such consent may result in action being taken in accordance with Council's Code of Conduct.

7 BREACH OF THIS CODE

7.1 Breaches of this Code shall be handled in accordance with Council's Code of Conduct and Procedures for the Administration of the Code of Conduct.

8 INTERPRETATIVE PROVISIONS

In this Code:

- 8.1 **Attendee** means any person who is present at any time during an information session.
- 8.2 **Bullying behaviour** means bullying behaviour within the meaning of Part 3 of Wingecarribee Shire Council's Code of Conduct.
- 8.3 **Chair** refers to the General Manager, or a member of Council staff nominated by the General Manager to preside at an information session in place of the General Manager, whichever is applicable, in their capacity as Chair of an information session.
- 8.4 **Council** means Wingecarribee Shire Council.
- 8.5 **Committee of Council** has the same meaning as provided by Part 23 of Wingecarribee Shire Council's Code of Meeting Practice, which states that:
committee of the council means a committee established by the council in accordance with clause 21.2 of [the Code of Meeting Practice] (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 13.1 [of the Code of Meeting Practice].
- 8.6 **Council official** has the same meaning as provided by Part 2 of Wingecarribee Shire Council's Code of Conduct, which states that:
council official includes councillors, members of staff of a council, administrators, council committee members, delegates of council and, for the purposes of clause 4.16 [of the Code of Conduct], council advisers.

- 8.7 **Council staff** means the collective body of persons employed by Wingecarribee Shire Council, and includes the General Manager and Deputy General Managers, but does not include a Councillor.
- 8.8 **Councillor** has the same meaning as in the Dictionary to the *Local Government Act 1993*.
- 8.9 **Information session** means a meeting session held in which Councillors are provided with information by members of Council staff or other persons for the purpose of fully informing Councillors of significant or complex matters that are relevant to Wingecarribee Shire Council, but does not include a pre-meeting briefing session within the meaning of clause 3.32 of Wingecarribee Shire Council's Code of Meeting Practice.
- 8.10 **Non-pecuniary conflict of interest** means a conflict of interest in relation to a matter arising as a result of a non-pecuniary interest within the meaning of Part 5 of Wingecarribee Shire Council's Code of Conduct.
- 8.11 **Pecuniary interest** means a pecuniary interest within the meaning of Part 4 of Wingecarribee Shire Council's Code of Conduct.

DOCUMENT CONTROL

Version	Date	Notes
1.0 (this version)	13 May 2020	Initial adoption of document (MN128/20).

Related Documents and other Material

Code of Conduct

Code of Meeting Practice

Councillors' Access to Information and Interaction with Staff Policy

Local Government Act 1993

Procedures for the Administration of the Code of Conduct

Responsible Branch

Corporate and Community

Meetings Practice Note



Practice Note No 16

August 2009

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INTRODUCTION

This Practice Note was made to help councils run their meetings. It is not meant to be a complete guide to meeting procedures, but it does cover frequently asked questions.

As part of their Charter, councils are to involve councillors, council staff, members of the public and others in the development, improvement and co-ordination of local government (s.8 of the Act). How meetings are managed is an important part of achieving this goal.

Meeting procedures contribute to good public decision-making and increase council's transparency and accountability to its community. Councillors are accountable to their communities for the decisions that they make. Those decisions should be based on sound and adequate information. The conduct of effective meetings is an indicator of good governance. Well run meetings reflect an effective partnership and relationship between the governing body of council and council administration. (sections 232 and 439 of the Act)

While legislation sets out certain procedures that must be followed in council and committee meetings, beyond this meetings procedures vary between councils. These differences usually reflect local cultural practices and priorities.

Rules and suggestions on holding council meetings are in the *Local Government Act 1993* (the Act); the *Local Government (General) Regulation 2005* (the Regulation); the (former) Department of Local Government's 2008 "Model Code of Conduct for Local Councils in NSW" (the Model Code) and the "Guidelines for the Model Code of Conduct for Local Councils in NSW" (the Model Code Guidelines); and the relevant council's adopted Code of Meeting Practice (Meeting Code).

While publications such as Joske's *Law and Procedures at Meetings in Australia* give general guidance on running meetings, a council's meetings procedures must follow the Act, Regulation, Model Code and council's Meeting Code. Where there are any differences in what is said or required, the Act, Regulation and Model Code must be followed.

The Meeting Code is made by the council after public consultation. The Meeting Code cannot be inconsistent with the Act, the Regulation or the Model Code, but it can 'fill in the gaps'. Under section 440 of the Act, all councils must adopt a Code of Conduct that includes the provisions of the Model Code. The Model Code sets out minimum standards of behaviour (set down in the Regulations) for council officials in carrying out their duties (Part 2, Model Code).

All councillors, staff and community members participating in council meetings must act with good intentions and behave to the standard of conduct expected by

the community. The principles upon which the Model Code is based include integrity; leadership; selflessness; impartiality, accountability; openness; honesty and respect (Section 4, Model Code). Meetings must be run fairly and the procedures used should improve decision-making, not personal or political advantage.

Local councils are largely independent bodies, mainly responsible to their residents and ratepayers (rather than to the Minister for Local Government or the Division of Local Government, Department of Premier and Cabinet), for the way in which they operate. This includes the running of meetings. It is not the role of the Minister or the Division to direct councils on the day-to-day administration of their affairs.

This Practice Note has been made as a guide for councils, councillors and members of the public. It does not give legal advice. You should seek your own legal advice on issues of concern.

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PART 1 - BEFORE THE MEETING

1.1 Holding Meetings

1.1.1 When are ordinary council meetings held?

Ordinary council meetings are held on a regular basis, as decided by the council. Each council must meet at least ten (10) times a year, with each meeting being in a different month (s.365 of the Act). It is up to the council to decide when and where to have the meeting.

1.1.2 When is an extraordinary meeting held?

At least two (2) councillors can make a written request to the mayor to hold an extraordinary council meeting. The mayor can be one of the two councillors, but the mayor cannot call extraordinary meetings by him or herself without having a written request with another councillor's signature. The mayor must then 'call' the meeting, which is to be held as soon as practical but within fourteen (14) days after the request is made (s.366 of the Act).

Extraordinary meetings are not only held in 'extraordinary' circumstances. These meetings are usually held to deal with special business or where there is so much business to be dealt with that an additional meeting is required (cl.242 of the Regulation).

1.1.3 Where are council meetings held?

This is not covered by the Act or Regulation. Council may determine for itself the venue for its meetings. It may wish to hold its meetings in different locations from time to time.

In selecting a venue council should ensure that it:

- is accessible for people with disabilities;
- is adequate in size;
- has adequate facilities for the convenience and comfort of councillors, staff, and members of the public;
- has suitable acoustic properties.

1.2 Notice of Meetings

1.2.1 What notice has to be given to the public of ordinary council and committee meetings?

Councils must give public notice of the time and place of ordinary council and committee meetings (s.9 of the Act). The notice must be published in a local newspaper, indicating the time and place of the meeting (cl.232 of the Regulation). Notice can also be given in other ways if it is likely to come to the public's attention — for example, by a list or poster at the council's office or the library. More than one meeting may be advertised in a public notice.

Although no time period has been set between giving public notice and holding the meeting, it is expected that enough notice would be given so that the public can find out when and where the council is meeting.

1.2.2 What notice has to be given to councillors of ordinary council and committee meetings?

At least three (3) calendar days before a council or committee meeting, council's general manager must send each councillor a notice of the time, place and business on the agenda of the meeting (s.367 of the Act; cl.262 of the Regulation).

1.2.3 What notice has to be given of extraordinary council and committee meetings?

Public notice must be given of the time and place of extraordinary council and committee meetings (s.9 of the Act), but this does not have to be by publication in a local newspaper (cl.232 of the Regulation).

If an extraordinary meeting is called in an emergency, less than the usual three (3) days notice can be given to councillors (s.367 of the Act). The Act does not define 'emergency'. It could cover things other than natural disasters, states of emergency, or urgent deadlines that must be met. Initially the general manager would decide what is an 'emergency'.

1.2.4 Is a council decision invalid if proper notice was not given for that meeting?

A council decision will still be valid even if proper notice had not been given for the meeting in which the decision was made (s.374 of the Act), provided a quorum was present. If the meeting does not follow the Act, the Regulation, the Model Code or council's Meeting Code there may be a breach of the Act (s.672), but this does not mean that the decision is invalid (s.374 of the Act).

Any person concerned about the running of a meeting can apply to the Land and Environment Court to stop or fix a breach of the Act (s.674(1) of the Act).

1.3 Times of Meetings

1.3.1 What time should council meetings start?

This is not covered in the Act or the Regulation. Council could set the time of its meetings in the council's Meeting Code, but this should be flexible enough to allow meetings to be held at other times in special circumstances.

In setting the times for its meetings council's foremost consideration should be the convenience of councillors. Matters to be taken into account may include:

- employment or business commitments;
- carer responsibilities;
- safety issues (eg long travel distances at night).

There are good arguments for daytime meetings, for example, in large rural areas where councillors may have to travel long distances to attend meetings. There are also good arguments for early evening meetings, allowing councillors and members of the public with daytime jobs to attend the meetings.

There may be occasions where council may set the time and place of a meeting to suit a particular interest group which may be expected to attend.

1.4 Agendas and Business Papers

1.4.1 What must be in a meeting agenda?

The general manager must send each councillor notice of the business to be dealt with at the upcoming meeting (the agenda) (s.367 of the Act). Copies of the agenda must be available for the public at the council's offices and at the meeting, free of charge (s.9 of the Act). In addition councils should consider placing agendas on their websites.

The agenda must indicate all business arising from a former meeting; any matter that the mayor intends to put to the meeting; and any business of which 'due notice' has been given (cl.240 of the Regulation). The amount of time that is 'due notice' should be set under council's Meeting Code.

The general manager must include in the agenda for a meeting of the council any business of which due notice has been given (eg notice of motion, question on notice) except business that is unlawful (cl.240 of the Regulation).

1.4.2 What must be in the meeting business papers?

Business papers are documents relating to business to be dealt with at a meeting, for example, correspondence and reports from staff. Business papers should be provided as early before the meeting as possible. This gives councillors time to consider the issues and prepare for debate.

Council staff should, when preparing business papers which will be open to inspection by the public, avoid including personal identifiers such as names and addresses unless such information is required by legislation. An example of when such information would be required is a development application, in which case the name and address of the applicant must be provided.

1.4.3 Can payments made by council be included in council's business papers?

These payments are often called 'cheque warrants' and will list the names of persons and amounts paid by council for various reasons.

Cheque warrants do not have to be included in council's business paper. The requirement in the *Local Government Act 1919* that cheque warrants be included in council's business paper was removed in the *Local Government Act 1993*.

Cheque warrants usually contain 'personal information' covered by the *Privacy and Personal Information Protection Act 1998* (PPIPA). As a result, the Local Government and Shires Associations of NSW and Privacy NSW (the agency that looks after the PPIPA) believe that cheque warrants should not be included in business papers. The Division agrees with this position and covers this issue in our Circular to Councils No. 01/14 "Public Access to Council Documents", available from the Division's website at www.dlg.nsw.gov.au.

Payments made by councils can be found in council's quarterly review of the management plan (s.407 of the Act). You may request access to warrants outside of council meetings, but may be refused on privacy grounds.

1.4.4 Should development plans be included in the business paper?

Applications for development consent, called 'development applications', must come with different types of plans under the *Environmental Planning and Assessment Act 1979*.

The Act does not require a council to make copies of these plans available in its business papers. Because of privacy and copyright issues, development plans should not be included in the business papers. Instead, interested members of the public should be allowed to view these plans at the council's office. The plans could also be brought to council and committee meetings by council staff.

Copyright raises some very complex issues for councils, particularly in the area of development applications. Copyright in development plans ('a work') is usually held by the person who drew them. Copyright may be breached when a document is copied and distributed, but not when it is viewed or placed on public exhibition.

The *Environmental Planning and Assessment Act 1979* and other State legislation does not allow a council to ignore copyright law when it is dealing with development plans. It would be unwise for a council to give out copies of plans unless the copyright owner has given permission to do so.

1.4.5 Can additional information to that in the business papers be provided to councillors?

Yes. A council may direct its general manager to provide its councillors with additional information. If this is done, it is suggested that the additional papers be marked separately from the business papers so as to avoid any confusion. Additional information won't be automatically available to the public like the business papers.

Any information given to a particular councillor in the performance of that councillor's duties must also be available to any other councillor who requests it in accordance with council procedures (Clause 10.4 Model Code).

1.4.6 Can Staff Reports be included in the business paper?

The only reference to staff reports in the Regulation is in clause 243(3), which states that a recommendation made in a report by a council employee is, so far as it is adopted by the council, a resolution of the council. The procedure for presenting staff reports at council meetings is not covered by the Regulation - it is a matter for council's Meeting Code. Councils might consider requiring staff reports to be prepared on each agenda item before the meeting is held.

Staff reports are expected to contain sufficient information to enable the council to reach an informed decision.

1.4.7 Can council staff change the wording of a committee recommendation when including it in the agenda?

The general manager has to make sure that certain information is in the agenda (cl.240 of the Regulation). He or she can decide how this information is to be expressed.

Committee recommendations to the council are usually in the form of -
“The Committee recommends to the Council that...”.

The recommendation shown in the agenda should be the same as the one decided by the committee. When the council discusses the recommendation at the council meeting, it can adopt, amend and adopt, or reject the recommendation (cl.269 of the Regulation). A council amendment could alter the meaning or intention of the recommendation, or simply correct its wording.

1.4.8 How should a matter be treated if its subject is confidential and the motion will probably be discussed in the closed part of a meeting?

Certain matters, because of their confidential nature, may be considered in closed meetings. Parts of council meetings may be closed to the public to discuss the types of matters referred to in section 10A(2) of the Act. Although a council decides whether the public is to be excluded from part of a meeting, the general manager must first decide whether an item of business is *likely* to be discussed in a closed part of a meeting.

Section 9(2A) of the Act directs the general manager to indicate on the agenda (without details) that an item of business is likely to be discussed in a closed part of the meeting. For example:

“Item 5: Annual tenders for goods and services”

The agenda should also indicate the reason the item will be dealt with in the closed part of the meeting. For example:

“Item 5: Annual tenders for goods and services
Reason: Information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business (section 10A(2)(c)).”

The general manager must make sure that any details of this item are put in a confidential business paper (cl.240(4) of the Regulation). A council can disagree that an item should be discussed in a closed part of the meeting. In this case, the item would be discussed during the open part of the meeting.

Sections 9, 10A and 664 of the Act and Section 10 of the Model Code deal with confidential information.

1.4.9 Can a council decide that notices of motion on its agenda will not have any supporting notes or comments from staff?

Yes. While clause 240 of the Regulation sets out what must be included in the agenda, each council can decide how its business is to be stated in the agenda and whether supporting notes or comments should come with notices of motion.

A council may wish to consider the benefits for making well-informed decisions of having extra information or expert views provided in the notes or in the comments. This additional information would be publicly available and may assist community members in understanding the reasons for, and effects of, council decisions. Council should alter its Meeting Code if it decides to change its position on what is to be included in its agendas.

(See also 5.2.3 of this Practice Note)

1.4.10 Can an agenda include provision for questions from councillors?

Yes. Council agendas could contain an item “questions on notice”. Councillors would provide questions to the general manager to be asked at the meeting and included on the agenda, in accordance with the notice provisions of the Regulation (cl 241(1)).

Questions provided in this way, and responses to those questions, would be considered council business and as such council’s Meeting Code could cover this issue. As responses to questions on notice would be considered council business, responses could form the basis for further motions on the same topic at that meeting.

Agendas and business papers (other than business papers for a confidential item) must be available for the public to look at or take away (s9 of the Act). Any non-confidential questions included in the agenda or business papers would also need to be available to the public.

For information relating to asking questions about matters on the agenda during the meeting, see 2.5 of this Practice Note.

1.4.11 Is it appropriate to have as an agenda item “Questions Without Notice”?

Having an agenda item, “questions without notice” is inconsistent with the provisions of the Regulation that require notice to be given of matters to be discussed at council meetings (cl 241).

Allowing questions without notice would avoid the notice provisions of clause 241 of the Regulation. That clause enables all councillors and the public to be aware, by reading the agenda, of matters that will be raised at each meeting. It also enables councillors to give careful thought to any pecuniary interest or conflict of interest they might have in a matter, rather than having to hastily confront an issue during the meeting.

However, questions can be proposed by giving notice to the general manager in the usual way (see 1.4.10) and can be asked during the meeting in relation to business already before council (see 2.5). If the matter is genuinely urgent, and the matter is not on the agenda, it could be dealt with under clause 241(3) of the Regulation. For information relating to asking questions about matters on the agenda during the meeting, see 2.5 of this Practice Note.

Further information on questions is contained in clause 5.2.8 of this Practice Note.

1.4.12 Can an item of business which is on the agenda be removed from the agenda prior to the meeting?

No. Once the agenda for a meeting has been sent to councillors an item of business on the agenda should not be removed from the agenda prior to the meeting.

If it is proposed that an item of business which is on the agenda not be dealt with at the meeting council should resolve to defer that business to another meeting or resolve not to consider the matter, as the case may be.

1.5 Order of Business

The order of business for meetings (except for extraordinary meetings) is generally fixed by council's Meeting Code (cl.239(1) of the Regulation). If the Council does not have a Meeting Code, then the order of business can be decided by council resolution (cl.239 (1) of the Regulation).

The order of business can be changed by the passing of a motion (with or without notice). Unlike other motions, only the mover of a motion to change the order of business can speak for or against it in the meeting (cl.239 (1) of the Regulation).

1.6 Public Access to Agendas and Business Papers

1.6.1 Who can access information that is available publicly?

Section 12(1) of the Act gives a right of access to certain documents to any interested person, not just people who are residents or ratepayers of the council area. Access does not depend upon the reasons for the request being made.

1.6.2 Which council documents can a person have access to and inspect?

Access for inspection of all council documents referred to in sections 12(1), 12(2) and 12(5) of the Act must be provided unless the particular document is exempt under section 12(1A). Some of the documents listed under section 12(1) of the Act are:

- The Code of Conduct
- The Meeting Code
- Agendas and business papers
- Minutes
- Annual reports and annual financial reports
- Policy concerning payment of expenses and the provision of facilities to councillors

Access for inspection must also be provided to all other council documents. However inspection of a particular document can be refused if the council believes that allowing the inspection would be contrary to the public interest (s.12(6) of the Act).

The requirement to allow inspection does not apply to any part of a document exempt under sections 12(1A) and 12(7) of the Act, including certain building plans; certain commercial information; personnel matters concerning particular individuals; the personal hardship of any resident or ratepayer; trade secrets; or a matter the disclosure of which would constitute an offence or give rise to an action for breach of confidence.

After determining whether the document would be generally available, the Public Officer must also consider whether restrictions under the *Privacy and Personal Information Protection Act 1998* and *Copyright Act 1968* (Cth) apply.

1.6.3 Is a person entitled to inspect the agenda and minutes of an advisory council committee that includes staff members or the public?

The agenda and minutes of an advisory council committee would come within the category of 'other council documents' (s.12(6) of the Act). These documents can be inspected unless inspection would be contrary to the public interest. Inspection can also be refused if the documents deal with personnel matters concerning particular individuals, information supplied in confidence, etc (s.12(6) to (8) of the Act).

1.6.4 Can a council charge a reasonable copying fee or postage for providing copies of its agenda and business papers?

Copies of the current agenda and associated business papers must be available to the public to look at or take away, and must be free of charge (s.9 of the Act).

However, sections 12B(3) and 608 of the Act, when read together, allow a council to charge for the copying of agendas and business papers in other circumstances, such as for papers from a previous meeting. It also allows council to charge reasonable postage

and handling fees for agendas and business papers posted either on a single occasion or regularly to persons on a mailing list. Multiple copies mailed to a person could have an additional fee. Fees may be charged in advance or afterwards, as decided by the council.

For more information see Circular to Councils No.08-15 LGMA (NSW) Governance Network – Access to Information Policies and Template Documents, accessible on the Division's website at www.dlg.nsw.gov.au.

1.6.5 Are papers created or received by councillors classified as council documents?

Council documents include those created or received in the course of the official duties by councillors. Information generated by, in the possession of, or under the control of the councillors that concerns their civic or council duties under any Act is considered by the Division to be a document of the council. These documents may include information that does not form part of the council's official filing system.

1.6.6 Can councillors copy information additional to the business papers (such as plans and legal opinions from council files) and give it to the public?

Section 664(1) of the Act states that “a person must not disclose any information obtained in connection with the administration or execution of the Act unless that disclosure is made:

- (a) with the consent of the person from whom the information was obtained; or
- (b) in connection with the administration or execution of the Act; or
- (c) for the purposes of any legal proceedings arising out of the Act or of any report of any such proceedings; or
- (d) in accordance with a requirement imposed under the *Ombudsman Act* 1974 or the *Freedom of Information Act* 1989; or
- (e) with other lawful excuse.”

There is a maximum penalty of \$5500 for breach of this provision.

Provided the additional information is not part of the business paper and is made publicly available, it can only be given out in accordance with section 664(1) of the Act. It is also important to remember copyright law when making copies of information.

Council should have documented procedures for public access to documents as provided under the Act (s.12) and the *Freedom of Information Act* 1989, subject to the *Privacy and Personal Information Protection Act* 1998.

Section 10 of the Model Code talks about access to and use of personal, council and confidential information. The general manager or public officer, rather than individual councillors, would be the appropriate people to assist members of the public to access documents.

PART 2 - AT THE MEETING: GENERAL

2.1 Coming Together

2.1.1 How may council open its meetings?

A council may open its meetings with a prayer if it chooses. This decision should be made after considering the religious beliefs and views of the councillors and the community. This issue could be included in council's Meeting Code.

A council may also choose to include an Acknowledgement of Country. Acknowledgement of Country is where people acknowledge and show respect for the Aboriginal Traditional Custodians of the land upon which the event is taking place. It is a sign of respect.

2.1.2 Who can sit at the meeting tables?

The general manager can attend, but not vote at, council meetings. The only exception to this is when the meeting is dealing with the general manager's employment or standard of performance — then the council may resolve to exclude the general manager from the meeting (s.376 of the Act).

There are no rules on who can sit at a meeting table during a council meeting, or where people should sit. These issues could be covered in council's Meeting Code. If it is not stated in the Meeting Code, the chairperson can decide who sits at the meeting table and where. Examples of the other people who might sit at the meeting table are the directors of the relevant council departments or council's solicitor (if required at the meeting to provide advice).

It is important to remember that if a councillor is anywhere in the room where the council meeting is being held, they are considered to be 'present' for the purposes of voting (cl.251(1) of the Regulation). This means that if they are in the room but do not vote on an issue (for example, by staying silent) their vote is taken as against the motion (cl.251(1) of the Regulation).

2.2 Addressing Councillors

2.2.1 How should councillors be addressed at council meetings?

Councillors are usually addressed as "Councillor [surname]", whether the councillor is male or female; whether or not the councillor has a title (for example the Honourable or the Reverend); and whether or not the councillor has a qualification (for example, Doctor of Philosophy).

A council could decide that a councillor's title or qualification will be included when addressing them (for example, 'Councillor Doctor X'). As this matter is not covered in the legislation, it could be covered in council's Meeting Code. If it is not covered in the Meeting Code, it would be a matter for the chairperson to decide on, remembering to treat people with respect, dignity and equality.

2.2.2 How should the chairperson be addressed at council meetings?

If the chairperson is the mayor they are usually addressed as 'Mr Mayor' or 'Madam Mayor'. When the chairperson is not the mayor, they would be addressed as 'Mr/Madam Chair' or 'Mr/Madam Chairperson'. This matter could be covered in council's Meeting Code. If it is not covered in the Meeting Code, it would be a matter for the chairperson to decide on.

2.3 Councillor Accountability - Open Decision-making

Open decision-making is an important part of local government and should be the rule rather than the exception. The ability of the public and media to attend and watch council and committee meetings — seeing the deliberations and decisions of elected representatives — is essential for councillor accountability. This is recognised by the legislation, which encourages open decision-making at council meetings.

Councillors should be prepared to state their views publicly on both controversial and routine issues. Informed voting by electors is best achieved when they can observe the speeches, debate and voting patterns of their councillors.

Council decisions should be based on fairness, impartiality, objectivity and consideration of all the issues (Sections 4 and 6 of the Model Code). Open decision-making helps achieve this, as well as preventing misunderstanding and unfounded criticisms from the public.

2.4 Business at Council Meetings

2.4.1 What business can be discussed and dealt with at council meetings?

- Business which a councillor has given written notice of within the required time before the meeting (cl.241(1)(a) of the Regulation), and of which notice has been given to councillors (s.367 of the Act);
- Business that is already before the council or directly relates to a matter that is already before the council (cl.241(2)(a) of the Regulation). For example, business that was discussed at the last council meeting, or business in a report made by council staff in response to an earlier council request for a report;

- The election of a chairperson for the meeting (cl.241(2)(b) of the Regulation);
- A matter raised in a mayoral minute (cl.241(2)(c) of the Regulation);
- A motion to adopt committee recommendations (cl.241(2)(d) of the Regulation);
- Business ruled by the chairperson to be of great urgency (cl.241(3) of the Regulation) but only after a motion is passed to allow this particular business to be dealt with. This motion can be moved without notice.

Business which does not fall within any of the above categories should not be transacted at a meeting.

2.4.2 What business can be discussed at extraordinary council meetings?

In general, only matters stated in the meeting agenda may be dealt with at an extraordinary council meeting. Other business ruled by the chairperson to be of great urgency may also be dealt with at the meeting, but only after the business in the agenda is finished (cl.242 of the Regulation).

2.5 Questions at council meetings

Can Questions be asked of councillors or staff concerning a matter on the council agenda?

A councillor may ask a question of another councillor or a staff member. A question to a councillor must be put through the chairperson. A question to a staff member must be put through the general manager.

Any person to whom a question is put is entitled to be given reasonable notice of the question so as to allow that person time to research the matter, for example by referring to documents or making enquiries of other persons.

Questions must be put succinctly and without argument. The chairperson must not allow any discussion on any reply or refusal to reply to such questions (cl 249 of the Regulation). It is considered that staff refusal to reply would be in circumstances where they require further time to research the response to the question. In this case, it would be good practice for council and/or the general manager to identify a timeframe for the response so that the period to respond is not open-ended.

When further time is required to respond to a question asked during a council meeting, it would be good practice to record the question and responses in the minutes.

2.6 Committee of the Whole

2.6.1 What is the committee of the whole?

During the course of a council meeting a council may resolve itself into the 'committee of the whole' under section 373 of the Act. That part of the council meeting then becomes a committee meeting. The only advantage of a council forming a committee of the whole is that by reason of clause 259 of the Regulation the limits on the number and duration of councillor speeches referred to in clause 250 of the Regulation do not apply.

If at the time council resolves itself into the "committee of the whole" the meeting was open to the public then the meeting will remain open to the public unless council resolves to exclude the public under section 10A of the Act. (see also 7.3.3 of this Practice Note)

2.6.2 May council resolutions be made by the committee of the whole?

No. The committee of the whole may not pass a council resolution. It makes recommendations to council in the same way as any other committee of council. Once the committee has completed its business and the council meeting has resumed council considers any recommendations made by the committee of the whole.

2.7 Mayoral Minutes

2.7.1 What is a mayoral minute?

The mayor may put to a meeting (without notice) any matter which the council is allowed to deal with or which the council officially knows about (cl.243(1) of the Regulation). This would cover any council function under the Act or other legislation, or any matter that has been brought to the council's attention, for example, by letter to the mayor or the general manager.

This power to make mayoral minutes recognises the special role of the mayor. A mayoral minute overrides all business on the agenda for the meeting, and the mayor may move that the minute be adopted without the motion being seconded.

Mayoral minutes should not be used to introduce, without notice, matters that are routine, not urgent, or need research or a lot of consideration by the councillors before coming to a decision. These types of matters would be better placed on the agenda, with the usual period of notice being given to the councillors.

2.7.2 Can mayoral minutes be introduced at council committee meetings?

A council committee consisting entirely of councillors must run its meetings as set out in the Meeting Code (s.360(3) of the Act). Each council committee can decide on its own procedure (cl.265 of the Regulation) and these could be adopted in the Meeting Code. This includes procedures on mayoral minutes.

2.7.3 Can a mayoral minute be amended?

While not addressed in the Regulation, mayoral minutes may be altered in practice. This could be covered in council's Meeting Code. Changes to mayoral minutes should avoid making changes that will introduce, without notice, matters which need research or a lot of consideration by the councillors before coming to a decision.

2.8 Voting

2.8.1 What are the voting entitlements of councillors?

Each councillor has one (1) vote (s.370 of the Act). A councillor must be present (in person) at the council or committee meeting to vote (cl.235 of the Regulation).

2.8.2 How is voting conducted?

Voting at a council meeting is to be by 'open means', for example, by voices or show of hands (cl.251(5) of the Regulation). The only exception is voting on the position of mayor or deputy mayor.

Councils may use an electronic device to record the votes cast by councillors, but the requirement that voting take place by 'open means' still applies. It will depend on the type of device used as to whether it is voting is by 'open means'. Votes in writing are not permitted.

2.8.3 Can voting be by proxy or other means?

A councillor must be present (in person) at the council or committee meeting to vote (cl.235 of the Regulation). Councillors cannot participate in a meeting by video-conferencing or tele-conference. There are no 'proxy' votes at council or committee meetings. A 'proxy' is a system where an absent councillor can cast his or her vote by giving their vote to another councillor.

2.8.4 Can a councillor choose not to vote on a motion?

Although a councillor does not have to vote, voting at council meetings is one of the responsibilities of a councillor and should be regarded seriously.

Councillors who are not present for the vote are not counted as having voted. You will be absent from voting if you have physically left the meeting room. If you are in the room, but choose not to vote or say that you abstain from voting, you are taken to have voted against the motion (cl.251(1) of the Regulation). This will be the case even if you are sitting away from the meeting table, such as in the public forum.

Councillors with a pecuniary interest in a matter cannot be present at, or in sight of, the meeting that is considering the matter or voting on it (s.451(2) of the Act). The only exception to this is where the Minister has given permission for such a councillor to be present in the meeting and to vote on the issue (s.458 of the Act).

2.8.5 Can a councillor who votes against a motion have that vote recorded?

Yes. You can request to have your name recorded in the minutes to show that you have voted against a motion (cl.251(2) of the Regulations).

2.8.6 Can a council record votes on matters in its minutes?

Yes. Council can choose to record the voting on all matters in its minutes. Where a council makes this decision, this should be provided for in its code of meeting practice. Where councils are required by the Act or Regulation to record voting by way of a division, see section 2.9 below.

It would be good practice for councils to consider the recording of voting on important matters, such as tendering.

2.9 Divisions

2.9.1 What is a Division?

A 'division' is a means by which the support or objection to a motion is easily seen and is recorded.

Two councillors may rise and call for a division on a motion. The chairman must then ensure that a division takes place immediately (cl.251(3) of the Regulations).

2.9.2 *Are there any other occasions when a division is required?*

Yes. A division is always required whenever a motion for a planning decision is put to the vote at a meeting of council or a meeting of a council committee (section 375A of the Act).

2.9.3 *How is a division conducted?*

There is no set procedure by which a division must be conducted. Whatever procedure is adopted at a meeting, the general manager must ensure that the names of those who voted for the motion and the names of those who voted against it are recorded in the minutes (cl.251(4) of the Regulation).

A common method of conducting a division is for the Chairperson to declare that a division is called and then to ask for a show of hands of those voting in favour of the motion and call the names. The Chairperson would then ask for a show of hands for those voting against the motion and call the names. In this way, the meeting can both see and hear how councillors are voting on the matter. This also enables the general manager to ensure that all councillors who are present at the meeting have their vote recorded.

2.10 Casting Vote of Chairperson

2.10.1 *When can the chairperson exercise a casting vote?*

Each councillor is entitled to one vote (s.370 of the Act). If the voting on a matter is equal, the chairperson has a second or 'casting' vote (s.370 of the Act). This is in addition to any vote the chairperson has as a councillor.

The Act uses the word 'second' vote, which indicates that the chairperson has already voted once before using their casting vote. Usually the chairperson casts a vote, and if the votes are tied, the chairperson then uses a casting vote to decide the matter.

2.10.2 *How should a casting vote be exercised?*

There is nothing in the legislation saying how a casting vote is to be used. It is a matter for the chairperson as to how they will vote, after taking into consideration all relevant information. They do not need to vote the same way on their first and second vote.

Should the chairperson fail to exercise a casting vote the motion being voted upon would be lost.

2.11 Decisions of Council

2.11.1 What is a decision of a council?

Once a motion is passed by a majority of votes at a meeting at which a quorum is present, the motion becomes a decision of the council (s.371 of the Act). This is sometimes termed a 'resolution'. A quorum is the minimum number of councillors necessary to conduct a meeting.

2.11.2 Are council decisions affected when councillors change?

In legal terms, a local council is a body politic of the State with perpetual succession and the legal capacity and powers of an individual (s.220 of the Act). This means that the council is legally separate from the councillors on it, and that council decisions are not affected by changes in its councillors.

2.11.3 Are there any limits on the decisions a council can make before an ordinary election is held?

The Act does not impose such limits.

While the Act does not impose such limits, like Commonwealth and State Governments, councils are expected to assume a "caretaker" role during election periods to ensure that major decisions are not made which limit the actions of an incoming council.

It is the Division's practice, prior to ordinary elections, to issue a circular to councils reminding them of this caretaker convention. Circular to Councils No. 08-37 "*Council Decision-making Prior to Ordinary Elections*" was issued prior to the 2008 ordinary elections and is available on the Division's website at www.dlg.nsw.gov.au.

2.11.4 Are there any restrictions on a council making decisions after an ordinary election?

No. Although the decisions of a council do not lapse after an election is held, there will be some opportunities for the new council to review earlier decisions.

2.11.5 When do the councillors, including the mayor, start and finish holding office?

All councillors start holding office on the day the person is declared to be elected (s.233(2) of the Act). All councillors, other than the mayor, stop holding office on the day of the ordinary election (s.233(2) of the Act).

The mayor holds office until his or her successor is declared elected (s.230(3) of the Act). This applies to both a mayor elected by the public (popularly elected) and a mayor elected by councillors, even if the (outgoing) mayor has not been re-elected as a councillor. It is expected that the outgoing mayor would only exercise the powers that can be exercised by the mayor during such periods. For guidance on this issue, see Circular to Councils No. 08-46 Mayors Role After Ordinary Election” available on the Division’s website at www.dlg.nsw.gov.au.

It is the opinion of the Division that if the council fails to elect a mayor as required under section 290 of the Act, the office of the mayor will become vacant. In these circumstances, the deputy mayor will act as mayor until the Governor appoints a mayor (s.290(2) of the Act).

Council should treat its responsibility for electing a mayor seriously. It should make sure that annual mayoral elections will be held as required under the Act. This can be done through the early fixing (through a council resolution) of a date for mayoral elections, to ensure quorum.

An election of the mayor by councillors must be held within three (3) weeks after an ordinary election (s.290(1)(a) of the Act). The outgoing mayor would be entitled to chair the meeting until the new mayor is elected. The outgoing mayor can do this even if he or she has not been re-elected as a councillor.

The procedure for electing a new mayor is set out in schedule 7 of the Regulation (cl.394 of the Regulation)

If the outgoing mayor chooses not to chair the meeting to elect the new mayor, the chairperson should be a councillor elected by the council (cl.236 of the Regulation).

2.12 Defamatory Statements

2.12.1 Can a councillor make defamatory statements at a council meeting?

The NSW Ombudsman publication *Better Service and Communication for Councils*, available at www.ombo.nsw.gov.au , provides information about defamation. It states:

“A statement may be defamatory of a person if it is likely to cause an ordinary reasonable member of the community to think less of a person or to shun or avoid the person”.

Councillors, staff and members of the public can seek legal compensation, apology etc if they are defamed.

Councillors acting within their official capacity at meetings of council or council committees have a defence of 'qualified privilege' to actions in defamation. This recognises that you may need to speak freely and publicly in carrying out your duties. However qualified privilege needs to be treated with great caution. It only covers statements made at a council or committee meeting when you are carrying out your duties and on business relevant to the council. Statements also need to be made with good intentions, not malice.

A statement made outside a council or committee meeting will not be protected by qualified privilege, but may be protected under the *Defamation Act 1974*. You should be guided by your own legal advice on defamation issues.

2.12.2 What happens if a councillor makes a possibly defamatory statement at a council meeting?

The chairperson of a council meeting is responsible for making sure that the council carries out its meetings in line with its Meeting Code and any relevant legislation. One part of this is maintaining order at meetings. This would include requiring a councillor to apologise for insults, personal comments, or implying improper motives with respect to another councillor.

The chairperson may call you to order whenever he or she believes it is necessary to do so. The chairperson may ask you to take back the statement and apologise. If you refuse to do this, you may be expelled from the meeting for an act of disorder (cl.256(3) of the Regulation and s.10(2) of the Act). This does not prevent legal action from being taken against you by the council or by another councillor, a member of council staff or a member of the public under the *Defamation Act 1974* or the common law.

2.13 Formalising Mayoral Actions

When necessary, the mayor may exercise the policy-making functions of the council between meetings (s.226 of the Act). It is not necessary for the council to formalise this, but it would be good practice for the mayor to report his or her actions to the next council meeting. This could be included in council's Meeting Code.

2.14 Petitions

2.14.1 What procedure applies to petitions from members of the public?

The Act and the Regulation do not refer to the submission or tabling of petitions to a council. It is a matter for each council to decide what to do with petitions and to set this out in its Meeting Code. Procedures could cover the format of the petition, the inclusion of petition details in council business papers; the tabling of petitions; and/or petitioners addressing council meetings.

2.14.2 What details of petitions should be included in agendas and business papers?

Care should be taken to follow the *Privacy and Personal Information Protection Act 1998* (PPIPA) with respect to the use and communication of personal information contained in petitions. Section 18 of PPIPA provides that a council may not communicate personal information unless it is directly related to the reason why the information was collected, and the council has no reason to believe that the person concerned would object.

Communication of the information can also take place if a person is likely to have been aware (or has been made aware in line with section 10 of PPIPA) that this type of information is usually told to another person or organisation.

The question of whether a petition may be published in council's business papers can only be decided by reference to the subject matter and wording of the petition; how council advertises matters in its business papers; and what instructions council staff provide to people making a petition to council.

2.15 Public Questions and Addresses

2.15.1 Can the public ask questions or address the council at council meetings?

There is no automatic right under the Act or the Regulation for the public to participate in a council meeting, either by written submission or oral presentation. This includes being able to ask questions or address council meetings, or to comment on matters during meetings.

However, providing some form of public participation in council meetings is good practice. If participation is permitted, councils should consider giving basic guidance to potential speakers on meeting processes and practices. This could be done in council's Meeting Code, at the front of council's meetings business papers and on council's website.

Each council can decide whether its Meeting Code should provide for public participation and how that is to occur. This would include how and when any questions are to be tabled and discussed at the council meetings. It would also include deciding if and when members of the public are allowed to speak, and any limitation on the number of speakers or time for speeches.

Some councils have a set period during the meeting for members of the public to speak on any matter; others allow the opportunity to speak as the various items of business are debated. There is no single correct procedure and members of the public should be guided by the advice of the council.

Speakers should be asked not to make insulting or defamatory statements, and to take care when discussing other people's personal information (without their consent).

2.15.2 Can a councillor speak to the council as a resident or ratepayer in the public access section of a meeting?

Residents or ratepayers can speak to council if allowed under council's Meeting Code or by the chairperson of the meeting. Given the opportunities for a councillor to raise matters at a meeting through notices of motion and questions, it would be unusual for a Meeting Code to allow a councillor to speak to the council from the public access section.

Councillors who aren't allowed to take part in a discussion because of a pecuniary interest cannot escape this by addressing the meeting as a 'resident' or 'ratepayer'. Section 451(2) of the Act states that a councillor must not be present at or in the sight of the meeting of council at any time during which the matter (for which the councillor has declared a pecuniary interest) is being considered, discussed or voted on. This has been interpreted as excluding councillors in both their official capacity and as a member of the public.

Exclusion from speaking to a matter which is the subject of conflict goes beyond discussions on a formulated motion or resolution - see (former) Department of Local Government Circular to Councils No. 05/17 "Codes of Meeting Practice - Councillors Invited To Speak After Declaring A Pecuniary Interest In A Matter" available from www.dlg.nsw.gov.au.

2.16 Audio or Visual Recording of Meetings

A person may only use a recording device to record the meeting of a council or its committees with permission (cl.273 of the Regulation). A council could decide to record its meetings to ensure the accuracy of its minutes or for some other council function.

In coming to this decision, the council would need to consider section 8 of the *Privacy and Personal Information Protection Act 1998* (PPIPA). This section states that personal information must not be collected unless it is reasonably necessary for a lawful purpose directly related to council's function. Further, a council would need to have regard to section 18 of PPIPA, which requires:

- that personal information must not be disclosed unless it is directly related to the reason why the information was collected; and
- council has no reason to believe that the person concerned would object; or
- the person concerned is likely to have been aware or has been made aware (in line with section 10 of PPIPA) that information of that kind is usually disclosed.

Section 10 of PPIPA also requires a council, where reasonable, to make a person aware of certain matters before their information is collected or as soon as practical after collection.

As with any request to access council documents that may contain personal information, requests for access to tape recordings should be treated with caution.

PART 3 - CONFLICTS OF INTERESTS (PECUNIARY AND NON-PECUNIARY)

3.1 Pecuniary Conflicts of Interests

3.1.1 *What is a pecuniary conflict of interests?*

The Act, the Regulation, the Model Code and the Model Code Guidelines provide guidance on pecuniary (or money-related) conflicts of interests. These place obligations on councillors, council delegates and council staff to act honestly and responsibly in carrying out their functions. They require that the pecuniary interests of councillors, council delegates and other people involved in making decisions or giving advice on council matters be publicly recorded. They also require councillors and staff not to deal with matters in which they have a pecuniary interest.

Section 442 of the Act defines pecuniary interest as:

“... an interest that a person has in a matter because of the reasonable likelihood or expectation of appreciable financial gain or loss to the person.”

Section 443 of the Act provides that a person has a pecuniary interest in a matter if the pecuniary interest is that of any of the persons listed in that section. Those persons include spouses, de facto partners, relatives, partners and employers.

A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it is unlikely to influence that person's decision-making (see s.442 of the Act), or if the interest is of a kind described in section 448 of the Act.

If a person is not aware of the relevant pecuniary interests of the other persons listed in section 443 then that person is not taken to have a pecuniary interest in the matter (s.443(3) of the Act). Similarly, just because someone is a member of, or is employed by, a council, a statutory body or the Crown, they are not considered to have a pecuniary interest (s.443(3) of the Act). This principle also applies to someone who is a member of a council, a company or other body that has or may have a pecuniary interest in the matter, so long as that person has no beneficial interest in any share of the company or body (s.443(3) of the Act).

3.1.2 *What procedure must be followed if a councillor has a pecuniary interest in a matter before council?*

A councillor or a member of a council committee who has a pecuniary interest in any matter before the council, and who is present at a meeting where the matter is being considered, must disclose and identify the nature of the interest to the meeting as soon as practical (s.451 of the Act).

A councillor must not be present at or in the sight of the meeting of council at any time during which a matter to which they have declared a pecuniary interest is being considered (s.451(2) of the Act). This has been interpreted as excluding councillors in both their official capacity and as a member of the public. Councillors barred from taking part in a discussion because of a pecuniary interest cannot escape this by addressing the meeting as a 'resident' or 'ratepayer'.

This exclusion is from all discussions on the matter, not just discussions on a formulated motion or a resolution on the matter — see (former) Department of Local Government Circular to Councils No. 05/17 "Codes of Meeting Practice — Councillors Invited To Speak After Declaring A Pecuniary Interest In A Matter" available from www.dlg.nsw.gov.au.

A disclosure made at a meeting of a council or council committee must be recorded in the minutes of that meeting (s.453 of the Act). However, proceedings will not be invalid just because a councillor or committee member does not identify a pecuniary interest at the meeting in accordance with section 451 of the Act.

Sometimes it is difficult to tell when you have a pecuniary interest that must be disclosed. Judgments of the Pecuniary Interest and Disciplinary Tribunal specifically dealing with this issue are available from the Division's website at www.dlg.nsw.gov.au to help you in this process.

Part 4.2 of the Model Code Guidelines also provides guidance on conflicts of pecuniary interests. Example scenarios are given in the Guidelines for issues such as club/organisation membership.

3.2 Non Pecuniary Conflict of Interests

3.2.1 *What is a non-pecuniary conflict of interests?*

Part 4.2 of the Model Code Guidelines also gives examples of non-pecuniary conflicts between public duty and private interest. These conflicts exist where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty (Clause 7.1 of the Model Code).

The Model Code recognises that because of your official status, councillors have the power to make decisions or act in ways that can benefit their own private interests. Areas of potential conflict include: club/organisation membership, personal relationships, sponsorship, lobbying, caucus votes, dealings with former council officials, and political donations. The Model Code Guidelines provide information and examples to assist you in identifying conflicts of interests.

3.2.2 What procedure should be followed if a councillor has a non-pecuniary conflict of interests?

A non-pecuniary conflict of interests is a conflict between a councillor's private interest in a matter being considered by the council, and his or her interest as a civic official. The Model Code prescribes procedures to cover such conflicts, which need to be adopted and applied by councils.

There are three types of non-pecuniary conflicts of interests. They are 'significant', 'less than significant' and 'political donations'. Clauses 7.13 - 7.25 of the Model Code describes the procedures that need to be followed in respect of each type.

If you have a non-pecuniary interest that conflicts with your public duty you must disclose that interest fully in writing even if it is not significant. You must do this as soon as practicable (clause 7.13 of the Model Code).

The disclosure of your conflict must be recorded in the minutes of the meeting and a record kept by council. The disclosure recorded in the minutes constitutes written disclosure as required by clause 7.13 of the Model Code.

If you are aware in advance of a meeting of a possible non-pecuniary conflict of interests in a matter but remain in doubt, you are encouraged to seek legal or other appropriate advice.

The Model Code and Model Code Guidelines have been developed to assist councils implement, review and enhance their Meeting Code and Code of Conduct in regard to conflicts of interests. The Model Code Guidelines provide guidance, better practice suggestions, examples and a list of relevant resources.

PART 4 - QUORUM AND ATTENDANCE

4.1 Attendance at Meetings

4.1.1 Can a councillor participate in a council meeting by video or teleconferencing?

No. A councillor must be personally present in order to participate in a council or committee meeting (cl.235 of the Regulation).

4.1.2 What happens if a councillor misses too many council meetings?

If a councillor is absent from three consecutive ordinary meetings of the council without the leave of the council having been granted then the councillor automatically vacates office (section 234(1)(d) of the Act). Leave can only be granted by council prior to the meeting or at the meeting concerned.

This does not apply if the councillor has been suspended from office by the Local Government Pecuniary Interest and Disciplinary Tribunal under section 482 of the Act.

4.1.3 I am a councillor and I can't attend a council meeting. What should I do?

You should seek leave of absence from the council. Leave of absence may be granted to councillors at the discretion of the council (s.234(1)(d) of the Act). It is expected that you will attend all council and relevant committee meetings. However it is acknowledged that sometimes there are good reasons why you may miss a meeting.

Leave of absence may be granted by the council prior to the meeting, or at the meeting. An application for leave does not need to be made in person and the council may grant the leave in your absence (s.234(2) of the Act).

It would be wise to make the application in writing and state the reasons for the leave so that the council may consider it. Written applications should be lodged with the general manager. You should identify (by date) the meetings from which you will be absent.

If you intend to attend a meeting from which you have been granted leave of absence you should if practicable give the general manager at least two days notice of your intention to attend (cl 235A of the Regulation). You should not assume that the council will grant you leave. The council has discretion whether or not to grant a leave of absence. It is expected that in considering such an application the council will act reasonably given that there are consequences for failing to attend council meetings. There may also be consequences in terms of the public's perception of both the council and the applicant.

4.1.4 Is tendering an apology the same as applying for a leave of absence ?

No. The tendering of an apology is an accepted convention by which those present at a meeting are notified that the person tendering the apology will not be attending the meeting. It is a form of courtesy to those attending the meeting. Its purpose is also to aid the efficient conduct of meetings by informing the chairperson as to who will not be attending. This avoids delaying the opening of a meeting pending the arrival of such persons.

The acceptance of an apology is a positive acknowledgement of the courtesy of the person who tendered it. It does not amount to a grant of a leave of absence.

Although the practice of tendering of apologies is recognised as a component of good meeting practice, it has no recognition in either the Act or the Regulations.

By contrast, a leave of absence is a formal permission granted by way of council resolution to a councillor excusing that councillor's attendance at a particular meeting. It is sought by way of application to the council. It is recognised in both the Act and in the Regulation.

4.1.5 Is a councillor required to remain at a council meeting while council business is conducted?

There is no requirement that a councillor remain at a council meeting while business is being conducted. However, it is expected that a councillor would attend and remain at council meetings (unless prevented by illness or pressing circumstances) in order to responsibly perform the role of a councillor (s.232 of the Act) and to assist the council in complying with its charter (s.8 of the Act).

Councillors must follow the council's Code of Conduct (s.440 of the Act). The Act requires councillors to act reasonably and responsibly in the performance of their duties (Section 6 Model Code). In addition, section 439 of the Act requires councillors to exercise reasonable care and diligence in carrying out their civic functions. Attending and remaining at meetings is an important part of this.

4.2 Quorum at Meetings

4.2.1 What is a quorum?

A quorum is the minimum number of councillors necessary to hold a meeting. This minimum is set so that decisions are made by an appropriate number of councillors. Provided a quorum of councillors is present, council business can go ahead. If a quorum is not reached and maintained, the meeting cannot be held.

4.2.2 What are the quorum requirements for council meetings?

A quorum is present if a majority of the councillors who hold office for the time being are present at the meeting (s.368 of the Act).

In determining the number of councillors for the purposes of calculating quorum any casual vacancies in councillor offices and any suspended councillors are not to be counted.

By way of example, in the case of a council with seven (7) councillors, four (4) councillors must be present to form a quorum. If one of those councillors has been suspended from office and another has resigned then five (5) councillors hold office for the time being and the quorum will be three (3).

4.2.3 How do pecuniary interests affect quorum?

The case of *Levenstrath Community Association Incorporated v Council of the Shire of Nymboida* [1999] NSWSC 989, confirmed that a councillor who is not capable of voting on the business before the council (by reason of having disclosed a pecuniary interest in a matter) is regarded as being absent from a meeting for the purpose of determining whether or not a quorum is present. In other words the councillor is regarded as holding office but not as being present at the meeting.

If so many councillors declare a pecuniary interest in a matter that the council is unable to form a quorum to deal with the business before it, the councillors concerned may apply to the Minister to allow them to participate in the discussion and vote on that matter (s.458 of the Act). This recognises that council business must sometimes proceed even though the decision is being made by councillors with pecuniary interests declared. The Minister does not grant such exemptions lightly.

4.2.4 What procedure must be followed if the meeting lacks a quorum

A meeting may lack a quorum either by an insufficient number of councillors turning up to the meeting or by a councillor or a number of councillors leaving the room during the course of the meeting.

If a quorum is not present the meeting must be adjourned to a time, date and place fixed by the chairperson, or (in the chairperson's absence) by a majority of the councillors present, or (failing that) by the general manager.

The general manager must record the absence of a quorum (including the reasons for the absence of a quorum) in the council's minutes. The names of the councillors present must also be recorded (cl.233 of the Regulation).

(See also paragraph 5.2.9 of this Practice Note)

4.2.5 What is the effect of councillors meeting without a quorum?

Without a quorum the meeting is not a meeting of the council. Resolutions cannot be made. Any action taken will have no legal validity.

4.2.6 Can a council later ratify a resolution made by councillors at a meeting without a quorum?

No. A quorum of councillors must be present before a council decision can be validly made (s.371 of the Act). If a resolution is purportedly passed when there is no quorum, it is invalid. It cannot be made valid at a later meeting. However the matter may be considered afresh at a later meeting with a quorum present.

4.2.7 What can a council do to maintain a quorum at meetings?

Sometimes councillors leave a meeting with the intention of removing the quorum so that business cannot proceed. This is a political misuse of the meeting procedure and should be avoided.

If a council is unable to maintain a quorum because of disputes between councillors, negotiating the matters in contention outside of the meeting forum is suggested. You should try to resolve your concerns (perhaps with the assistance of a mediator) and come to a position so that the business may be dealt with in the meeting.

Clause 239(2) of the Regulation allows for a procedural motion without notice to change the order of business at a meeting from that set out in the agenda. In this way, controversial issues can be dealt with last (to avoid losing quorum) and the remainder of the current business can be dealt with.

4.2.8 Can a council abandon a meeting before the time set for the meeting because of an anticipated lack of a quorum?

There is no provision in the Act or the Regulation for a council meeting to be abandoned or cancelled. If notice of a meeting has been given, it must be held or at least opened. While a meeting without a quorum can be opened, it cannot make any decisions (s.371 of the Act).

Clause 233(1)(a) of the Regulation provides that a council meeting must be adjourned if a quorum is not present within half an hour after the meeting is due to start.

4.3 Adjourning Meetings

4.3.1 What is the effect of adjourning a meeting?

If a meeting is adjourned because it cannot be held, for example because of a lack of a quorum, it is postponed to a later time or date and, possibly, to a different place.

If, part way through a meeting, the meeting is adjourned (for example because a quorum ceases to be present or because of time constraints) the meeting will recommence at the time and place that it is adjourned to.

An adjourned meeting is a continuation of the earlier part of the same meeting, not a new meeting.

4.3.2 What notice should be given of an adjourned meeting?

If a meeting is adjourned to a different date, time or place, each councillor and the public should be notified of the new date, time or place.

4.3.3 What business can be conducted at a meeting that has been adjourned?

As an adjourned meeting is a continuation of the same meeting (not a new meeting), council does not need to issue a new agenda and business papers for the adjourned meeting. The agenda and business papers already issued would be the proper documents from which you are to work. Business not already on the agenda could be dealt with only if the urgency procedure in clause 241(3) of the Regulation is followed.

If the adjourned meeting is held on the same date as another council meeting (for example, the next ordinary meeting), the meetings should be kept separate, with separate agendas and business papers. Which meeting is held first would depend on the circumstances. For example, the earlier meeting might have been adjourned because of a lack of a quorum after councillors walked out over a certain item. Because that item is still on the agenda, it is possible that the councillors might walk out again. In this case, it would be better to hold the next ordinary meeting (without the controversial item) first so that current business can be dealt with. The adjourned meeting could then follow.

PART 5 - MOTIONS AND AMENDMENTS

5.1 Terminology

5.1.1 *What is a motion?*

A motion is a proposal to be considered by council at a meeting. It is a request to do something or to express an opinion about something. A motion formally puts the subject of the motion as an item of business for the council.

5.1.2 *What is an amendment?*

An amendment is a change to the motion before the council, and takes place while that motion is being debated. An amendment to a motion must be put forward in a motion itself.

5.1.3 *What is a resolution?*

A resolution is a motion that has been passed by a majority of councillors at the meeting. While in practice it means the 'council decision', the word 'resolution' also indicates the process by which the decision was made.

5.2 Motions

5.2.1 *How should motions be worded?*

A motion should start with the word 'that', for example, '*That Road X be closed*'. Motions should be clear, brief and accurate. A councillor may use sub-sections, numbered paragraphs or the like to make sure that the motion is easy to understand. A councillor could submit more than one motion on the same topic.

Usually motions are written in a positive sense so that a 'yes' vote indicates support for action, and a 'no' vote indicates that no action should be taken. A motion should be full and complete, so that when the motion or resolution is read in the future, its intention is clear.

5.2.2 Can a councillor explain uncertainty in the wording of a motion before it is seconded?

There may be situations in which the person moving a motion might be given the opportunity to explain uncertainties in its wording. This is not covered by the legislation. This situation could be included in council's Meeting Code, otherwise it is a matter for the chairperson to decide.

Any explanation as to meaning should be limited to making clear the issue, not extending debate on the motion.

5.2.3 How does a councillor give notice of business for a council meeting?

A councillor gives notice of business for a council meeting by sending or giving a notice of motion to the general manager (cl.241(1) of the Regulation). The council's Meeting Code should set the timeframes for notice. The general manager must not include any business in the agenda that is, in his or her opinion, unlawful (cl.240(2) of the Regulation).

All councillors are entitled to submit notices of motion to be included on the agenda in accordance with clause 241(1).

It is good practice that a general manager only provide factual information on the motion to assist in the discussion of the motion if requested by the councillor. It is considered not appropriate for a general manager to comment on the merit of any notice of motion.

(See also 1.4.9 of this Practice Note)

5.2.4 Can the number of motions put forward by a councillor be limited?

No. As long as notice and other procedures are followed, you can put forward as many motions as you wish. When putting forward motions, you may need to balance your civic responsibility for representing the interests of your community with your obligation to use council's resources effectively and efficiently.

5.2.5 Can a councillor withdraw a notice of motion before it is put on the agenda?

Subject to any provision in council's Meeting Code, it would appear that a councillor could withdraw a notice of motion before it is placed on the agenda.

5.2.6 What is the usual order of dealing with motions?

A motion or an amendment cannot be debated unless there is a 'mover' and 'seconder' (cl.246 of the Regulation). The mover puts forward the motion and if a second person agrees with it, debate on the motion can begin.

The mover has the right to speak first, and a general 'right of reply' at the end of the debate (cl.250 of the Regulation). No new arguments or material should be argued during the 'right of reply'.

The seconder of the motion speaks after the mover, but may choose to hold over their speaking rights until later in the debate. However a procedural motion could be passed, putting an end to debate before the seconder has spoken.

Councillors are asked to speak for and against the motion, usually in the order of one speaker for the motion and one speaker against the motion. Debate may end by completing the list of speakers who want to speak for or against the motion, the time allowed for debate finishing, the (limited) number of speakers allowed to speak on the motion having been reached, or where a procedural motion 'that the question be put to the vote' has been successful.

At the end of the debate, the chairperson puts the motion to the meeting for vote. The chairperson will then declare the result of the vote. If passed by the majority, the motion becomes a formal resolution of council. The decision is final, unless it is immediately challenged by two (2) or more councillors who rise and demand a division on the motion (cl.251(3) of the Regulation). Further information on divisions is contained in section 2.9 of this practice note.

The above procedure is usual in formal meetings. However, councils may use different procedures so long as they are consistent with the Act and Regulation, and the procedure is properly adopted under council's Meeting Code.

5.2.7 Can the time a councillor has to speak to a motion be limited?

Yes. Clause 250(3) of the Regulation limits the length of speeches on each motion to five (5) minutes, unless the council gives extra time. Extra time to speak may also be granted by the chairperson of the meeting when there is a need to explain a misrepresentation or misunderstanding (cl.250(3) of the Regulation).

5.2.8 Can a motion be moved following a question on notice?

Where an answer has been provided to a question on notice and a councillor seeks to have a matter arising from that question and answer considered by the council, notice should be given to the general manager in the usual way. The general manager can include the item on the agenda for the next meeting, and make sure that the relevant

staff prepare any necessary background documents or reports. However if the matter is genuinely urgent, it could be dealt with under clause 241(3) of the Regulation.

Further information on questions is contained in paragraphs 1.4.10 and 2.5 of this Practice Note.

5.2.9 When a councillor moved a motion at a meeting, a number of councillors left the meeting and there was no longer a quorum. Should the motion be automatically placed on the agenda for the next meeting?

The Act and Regulation are silent as to the lapsing of motions. The council may debate a motion that has been properly submitted. If the lack of quorum continued and the meeting was adjourned, the motion could be debated later, when the meeting is reconvened.

If the motion was not put to the meeting, it would be dealt with at the reconvened meeting.

(See also paragraph 4.2.4 of this Practice Note.)

5.2.10 If a notice of motion is given before a council election and the proposed mover is not re-elected to the council, can or must the council consider the motion?

The council can debate a motion that has been properly submitted. What is important is that the motion was valid at the time it was put forward. Whether the motion is actually debated will depend on whether another councillor moves and seconds the motion at the meeting. If the motion does not have support at the council meeting, then it may lapse for failure to get a mover or seconder, or be defeated in a vote.

5.2.11 Are there any obligations on a councillor when considering a motion, amendment or resolution?

Councillors have an obligation to consider issues consistently, fairly and promptly (Clause 6.5 Model Code). All relevant facts known (or reasonably known) must be considered in terms of the merits of each issue (Clause 6.6 Model Code). Irrelevant matters or circumstances must not influence decision-making.

5.3 Amendments to Motions

5.3.1 How can a motion be amended?

An amendment to a motion requires a mover and a seconder to put it forward. The amendment must be dealt with before voting on the main motion takes place (cl.246 and cl.247 of the Regulation). Debate is allowed only in relation to the amendment and not the main motion — which is suspended while the amendment is considered.

If the amendment is passed, the motion is changed to include the amendment and this new motion is debated. If amendment is not supported, the main motion stays in its original form and debate resumes.

There should only be one amendment to a motion before the council at any time (cl.247 of the Regulation). If several amendments are proposed, each should be moved, seconded, debated and voted upon before the next. The amendments should be put forward and debated in the order in which they affect the original motion, not in the order in which they were put to the meeting.

5.3.2 How should an amendment to a motion be worded?

Amendments may be in the form of additional words to a motion and/or the removal of words from the motion. If the amendment is supported, the original motion is automatically changed by the addition and/or removal of words. This becomes the amended motion. If no further amendments are put forward, the amended motion is then put to the meeting. If passed, the amended motion becomes the resolution.

Any amendment to a motion must not alter the motion to the extent that it effectively reverses the motion.

5.3.3 Can the chairperson rule an amendment to be new business and therefore out of order when discussing the current motion?

Yes. While clause 238(1) of the Regulation requires a chairperson to put to a council meeting any lawful motion brought before the meeting, there is no requirement covering an amendment to a motion. The chairperson can therefore rule an amendment to be new business and out of order.

Nevertheless, clause 248(1) of the Regulation allows a councillor, without notice, to move to disagree with the ruling of the chairperson on a point of order. Only the mover of a 'motion of dissent' and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply (cl.248(3) of the Regulation). It is then a matter for the councillors to decide by majority vote whether to carry the motion of dissent.

5.4 Foreshadowing Another Motion

5.4.1 Can another motion be foreshadowed?

It is possible to advise the council of an intention to put forward a motion that relates to a motion currently before the council. However, the chairperson cannot accept the new motion until the first motion is decided.

PART 6 - RESCISSION MOTIONS

6.1 Changing earlier decisions

6.1.1 *How can councils change earlier decisions?*

Councils are able to change their decisions by way of a later decision. A motion to rescind or alter a resolution is the usual means of changing a council resolution. These motions must be notified in accordance with the Act (s.372(1)) and council's Meeting Code. Section 372(4) of the Act requires notice of a rescission motion to have the signatures of three (3) councillors if less than three (3) months has passed since the original resolution was made.

However, the courts have held that it is not always essential that a council *expressly* alter or rescind a resolution prior to passing a later resolution which is inconsistent or in conflict with the earlier resolution. In other words, alteration or rescission can be implied - *Everall v Ku-ring-gai Municipal Council (1991) 72 LGRA 369*.

To make sure that council's intention is clear, it is considered best practice to expressly state that a later resolution is to replace an earlier one. In this way, the public, council staff and subsequent councillors can understand and act with certainty on council decisions.

6.1.2 *Are there limits on when or how often decisions can be revisited?*

Section 372(5) of the Act allows an original motion to be negated (that is, lost) twice before a three (3) month ban is placed on any councillor putting forward another motion to the same effect. However, to even bring the motion forward the second time will require three (3) councillors' signatures if less than three (3) months has passed since the first time the motion was defeated (s.372(4) of the Act).

A motion to 'rescind' or undo an earlier resolution can only be lost *once* before a three (3) month ban is placed on any councillor 'bringing forward' another motion to the same effect (s.372(5) of the Act). 'Brought forward' means moved at a council or committee meeting. It is possible for notice of the motion to be given (but not for the motion to be moved) before the expiry of the three (3) month period referred to in section 372(5) of the Act.

6.1.3 Can a council rescind its decision not to pass a motion at an earlier meeting?

When a motion is not passed, this will result in no decision being made or no opinion being expressed by the council. It does not mean that the council takes the opposite view or position to that expressed in the motion.

A second motion to the same effect as the original motion may, however, be debated (subject to due notice being given and the signature requirements of section 372(4) of the Act being met). A third attempt cannot be made within three (3) months.

6.2 Lodging rescission motions

6.2.1 Can a council add extra time restrictions on the lodging of rescission motions?

No. Section 372 of the Act contains two (2) time restrictions on the lodging of rescission motions. The first, in section 372(1), requires notice of a rescission motion to be given in accordance with the council's Meeting Code. The second restriction, in section 372(5), stops a similar motion being brought within three (3) months after a rescission motion has been defeated.

Any additional restrictions within a council's Meetings Code that limit the lodging of rescission motions would be inconsistent with the Act and would have no effect.

6.2.2 Can a council require rescission motions to be lodged with, for example, five (5) supporting signatures?

Section 372(1) of the Act requires notice of a rescission motion to be given in accordance with the Act (s.360) and council's Meeting Code. Section 372(4) adds the requirement that the notice must be signed by three (3) councillors if less than three (3) months has passed since the resolution was made.

A council's Meeting Code cannot require notice of a rescission motion to be given in a manner that is inconsistent with section 372 of the Act (s.360). This would include requiring more than three (3) signatures on the notice. If a councillor moves a motion to require more than three (3) signatures on a notice of a rescission motion, the motion would be unlawful and the chairperson must rule it out of order.

However the signature requirements of section 372(4) of the Act only apply to notices of motion to rescind council resolutions. If a council wants to allow its committees to rescind their resolutions, it could put this in its Meeting Code.

While it is expected that rescission procedures for council committees would be similar to the procedures for council itself, there is nothing to stop a council from having a different rescission procedure for its committees.

For committees consisting entirely of councillors, it would be best for rescission procedures to be added to the council's Meeting Code, including consideration of any submissions received.

6.2.3 Can councillors avoid giving notice of a rescission motion by raising the motion without notice in a committee meeting and bringing it to the council meeting in a committee report?

Section 372 of the Act identifies procedures for lodging rescission motions. Its predecessor was clause 25 of former Ordinance No.1. It was generally thought, following the 1973 case of *Shanahan v Strathfield Municipal Council* (1973) 2 NSWLR 740, that clause 25(e) of the Ordinance provided an alternative to the rescission motion procedures where a recommendation was made as part of a report of a council committee.

However, section 372(6) of the Act is worded differently to clause 25(e) of the Ordinance. It is this different phrasing which throws into doubt the applicability of the reasoning used in the *Shanahan* case. The Division is of the view that section 372(6) of the Act does not provide an alternative to the rescission motion procedures. Council committees must follow the requirements in the same way as individual councillors. Until there is a court decision on this issue, all interpretation is a matter of opinion. Councils should be guided by their own legal advice.

6.3 Dealing with rescission motions at meetings

6.3.1 If council passes a resolution and a rescission motion is lodged at the same meeting, can the rescission motion be dealt with at that meeting?

Section 372(1) of the Act requires notice of a rescission motion to be given in accordance with council's Meeting Code. A rescission motion could be dealt with at the same meeting at which the resolution is passed if the Meeting Code states, for example, that thirty (30) minutes notice must be given.

However, clause 241(2)(a) and clause 241(3) of the Regulation allow business to be transacted when due notice has not been given. Some authorities believe that this clause should not be used for rescission motions. Clause 241(3) should be used only when a matter is genuinely urgent.

6.3.2 Can a council rescind a part of a resolution if the part is discrete from other parts of the resolution?

While not specifically covered in section 372 of the Act, it would appear that a council could rescind part of a resolution (without rescinding the whole resolution). This view would be subject to any determination of a court.

6.3.3 Can a councillor bring forward a motion and have it twice negatived (or lost) by the council so that it cannot be brought forward again within three (3) months?

The purpose of this action would be to prevent a motion being put forward again under more favourable circumstances. This procedure would be in accordance with section 372(5) of the Act, but would not be in the spirit of your obligations under the Model Code. This action would only be successful if the majority of the councillors were prepared to vote twice against the motion.

6.3.4 Can a resolution granting development consent be rescinded?

Under section 83 of the *Environmental Planning and Assessment Act* 1979 development consent has effect from the date endorsed on the written notification (subject to any appeal action). It would be possible for a council to rescind a resolution giving consent if the applicant has not been formally advised of the consent.

In *Townsend v Evans Shire Council* [2000] NSWLEC 163, it was held that there was no effective development consent until formal notice of a determination was issued to the applicant and that “... it is necessary that the communication of the consent have some formal character as being authenticated on behalf of the council”. Verbal advice from the mayor at the council meeting that the consent had been given was not notice to the applicants so as to “tie the council’s hands”. In this case, the rescission motion had been lodged with the general manager before the time required in the planning regulations for issuing a notice of determination.

Once the applicant has been formally advised of council’s decision, there may be issues of compensation to the applicant if consent is later rescinded.

6.3.5 Does a review of a development application (DA) determination under s.82A of the Environmental Planning and Assessment Act have to be accompanied by a rescission or variation motion?

Section 82A(9) of the *Environmental Planning and Assessment Act* 1979 states that if the council changes a determination, this will replace the earlier determination from the date of the review. It is the Division’s view that a changed determination automatically replaces the earlier determination by virtue of section 82A(9) of that Act. Because of

this, there is no need for a council to also pass an alteration or rescission motion to change the earlier determination.

6.3.6 If a notice of a rescission motion is given before a council election and the proposed mover is not re-elected to the council, can or must the council consider the motion?

A rescission motion that has been correctly submitted under section 372 of the Act may be debated by the council, regardless of the current status of the signatories of the motion. What is important is that the motion was valid at the time of its submission.

Whether the motion is actually debated will depend on whether other councillors move and second the motion at the meeting (cl.245 and cl.246 of the Regulation). If the motion does not have support at the meeting, it may lapse for the want of a mover or seconder, or be defeated in a vote.

PART 7 - CLOSED PARTS OF MEETINGS

7.1 Who decides

7.1.1 Who decides that part of a council meeting is to be closed to the public?

It is up to council to decide whether a matter is to be discussed during the closed part of a meeting (s.10A(2) of the Act). In deciding this, the council would be guided by whether the item is in a confidential business paper. However, even if the item is in a confidential business paper, the council could disagree with this assessment and discuss the matter in an open part of the meeting.

Council may allow members of the public the opportunity to make a statement as to why part of a meeting should be closed (section 10A(4) of the Act and cl. 252 of the Regulation).

7.2 Subject matter of closed meetings

7.2.1 What part of a meeting may be closed to the public?

Parts of council and committee meetings may be closed to the public only in the circumstances provided under section 10A of the Act. Matters of a personal or confidential nature, which do not come within the grounds provided under section 10A, cannot be discussed in the closed part of a council or committee meeting. (This applies only to those committees that are made up of councillors only).

7.2.2 Can a council discuss confidential matters not referred to in s.10A(2) of the Act, eg nominations for Australia Day awards?

No. Such matters could be delegated to a committee made up of councillors and other persons. Such committees are not bound by section 10A of the Act.

7.2.3 Can a council close a meeting to consider whether or not to commence litigation?

Yes, provided that council has grounds for closing that part of the meeting under section 10A of the Act

In *Wykanak v Rockdale City Council and Anor* [2001] NSWLEC 65, the council closed its meeting to discuss a confidential business paper relating to the recovery of legal costs from a person, relying on the grounds of section 10A(2)(b) of the Act (the personal hardship of any ratepayer). The Court found that as the person was not a 'resident' at

the time of the council meeting, the council had gone beyond its powers in closing the meeting to the public. The Court noted “... *the public importance of councils conducting their affairs at meetings that are normally open to the public*”. It ordered the council to reconsider the matter and provide the person from whom the legal costs were sought a reasonable opportunity to address the council at an open meeting.

7.2.4 *Should the contractual conditions of senior staff be presented in an open or closed council meeting?*

The annual reporting of contractual conditions of senior staff to council is required by section 339 of the Act. In addition, section 428 of the Act requires a council to include certain senior staff details in its published annual report.

The contractual conditions of senior staff is public information and should be presented in an open meeting. Following from this, if other information that is common to all senior staff employed by council is presented to the council, then it should also be presented in an open meeting. This could include information on common contractual conditions, apart from salary.

This approach is consistent with section 10A(2) of the Act that allows a council to close part of a meeting to discuss personnel matters concerning particular individuals. If a matter concerns the senior staff as a whole, section 10A of the Act does not apply. If the council wishes to discuss, for example, the salaries of particular employees or consider the performance of the general manager, then section 10A powers would be available to close part of a meeting.

Closing part of a meeting is discretionary. A council does not have to close part of a meeting even if the matters to be discussed fall within section 10A(2) of the Act.

In keeping with the general intent of the Act, and with the public nature of certain senior staff information (s.428 of the Act), a council should consider providing as much information as possible in open session. While the general manager is responsible for senior staff employment, discipline and performance, there may be certain contractual matters that relate to individual senior staff that justify closure of part of a meeting on the grounds of privacy.

7.3 Procedure

7.3.1 *What does a motion to close a meeting look like?*

Council is required to state the grounds for closing the meeting and the reasons why it is not in the public interest to discuss the matter in an open meeting (s.10D of the Act). A motion could look like —

“Moved Clr X, seconded Clr Y, that the meeting is closed during the discussion of the matter ‘Item 1: Annual tenders for goods and services’ in accordance with section 10A(2)(c) of the Local Government Act 1993 on the basis that —

- The discussion of the matter in an open meeting could prejudice the commercial position of tenderers; and
- On balance, the public interest in preserving the confidentiality of commercial information supplied by tenderers outweighs the public interest in openness and transparency in council decision-making by discussing the matter in open meeting.”

7.3.2 How can the public find out what has been decided at a closed part of a meeting? Can the decisions be kept confidential?

Resolutions or recommendations made at a closed part of a council or committee meeting must be made public by the chairperson of the meeting as soon as practical after the closed part of the meeting has ended (cl.253 and cl.269 of the Regulation). This would usually be done by a verbal or written statement.

If the meeting is a committee meeting, the resolutions or recommendations must also be reported to the next meeting of the council (cl.269 of the Regulation). If the meeting is a closed meeting of the committee of the whole, its recommendations must be reported to open council, usually at the same meeting. The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council’s minutes.

While discussions in the closed part of a meeting remain confidential, the separate nature of a resolution or recommendation allows it to be made public immediately after the closed part of the meeting has ended.

The resolution or recommendation could be phrased in such a way as to protect a person’s identity or other confidential details (for example, stating an assessment number instead of the person’s name or giving the general locality of land to be purchased instead of the precise address). This allows the public to know what the council or committee has decided at the closed part of the meeting without revealing confidential information.

The minutes should record sufficient details of the resolution to indicate the nature of the decision. It is not sufficient, for example, to resolve to implement the committee’s recommendation or the general manager’s recommendation. More specific information is required.

The meaning of ‘as soon as practical’ will depend on the circumstances. In some cases, commercial or legal issues might effect how quickly a council makes public the details of

a resolution or recommendation. As a general rule, the public should be kept informed of closed session resolutions or recommendations in an adequate and prompt manner.

The latest time for informing the public of resolutions or recommendations made in the closed part of a meeting would be when the minutes containing the resolutions or recommendations are made available for public inspection (s.12 of the Act). Any person is entitled to inspect minutes containing resolutions or recommendations from the closed parts of meetings. While a council cannot keep its decisions or recommendations confidential, it should be possible to discuss matters in the minutes in such a way as not to reveal confidential details.

7.3.3 What is the difference between ‘closed council’ and ‘committee of the whole’?

The closed part of a council meeting could be referred to as ‘closed council’ but not as a ‘closed committee’. While the words ‘meeting in committee’ are sometimes used to refer to an organisational meeting in closed session, that is, with non-members and the public absent, this is not the case with councils.

Section 10A of the Act makes it clear that both councils and council committees (made up of councillors only) can close parts of their meetings. If a council closes part of its meeting, it still remains part of the council meeting - with the rules of debate being the same as for open meetings.

If a council resolves itself into the “committee of the whole” under section 373 of the Act the council meeting becomes a committee meeting (consisting of all the councillors). By reason of clause 259 of the Regulation this allows councillors to overcome the limits, set by clause 250 of the Regulation, on the number and duration of speeches. The meeting remains open to the public unless council closes it under section 10A(2) of the Act.

7.3.4 Do the decisions of the closed part of a council meeting need to be adopted in open council?

There is no need for the council to re-make a decision by adopting it in open council. The only matters a council would adopt are the recommendations made by the committee of the whole (cl.259 of the Regulation) or recommendations of another council committee (cl.269 of the Regulation).

7.3.5 Can a council invite a member of the public to be present at a closed part of a meeting?

There is nothing in the Act or Regulation to limit public attendance at closed parts of meetings if invited by the council. However, the non-disclosure provisions of section 664 of the Act would apply to a person attending a closed part of a meeting.

Similarly, there does not appear to be any direct breach of the Model Code, although such invitations may affect a council's appearance of impartiality and proper conduct in a matter. The better practice would be to invite only those people whose presence at the meeting is necessary for the provision of advice, such as council's solicitor.

7.3.6 What happens once business in a closed meeting has been completed?

Once council has finished business in a closed meeting it must formally resolve that the meeting be open to the public.

PART 8 - ORDER AT MEETINGS

8.1 Standards of conduct

8.1.1 How should councillors conduct themselves at meetings?

Councillors must act honestly and reasonably in carrying out council functions (s.439 of the Act). In addition, councils must adopt a Code of Conduct to provide guidance on acceptable and unacceptable conduct (s.440 of the Act). How councillors are to behave is outlined in the Model Code and Model Code Guidelines. Failure to comply with the Act, the Model Code or council's Code of Conduct forms misbehaviour under section 440F of the Act (see clause 11.2 of the Model Code).

Councillors have a responsibility to behave professionally in and out of council meetings. Councillors should maintain good working relationships with each other and act in a manner appropriate to their civic status. This would include orderly behaviour and complying with rulings from the chairperson at council meetings (Clauses 9.5 and 9.6 Model Code). The Meeting Code and council's Code of Conduct identify the standards and responsibilities imposed on councillors by the Act, the Regulation and the Model Code.

Acts of disorder committed by councillors during council or committee meetings may amount to misbehaviour, leading to censure by the council or suspension (Section 12 Model Code). Section 12 of the Model Code and part 5 of the Model Code Guidelines provide information for managing complaints about breaches of the code of conduct and how misbehaviour is to be dealt with by the council, the Division of Local Government, the Independent Commission Against Corruption and/or the NSW Ombudsman.

8.1.2 What should be the relationship between councillors and council staff?

The Act makes the general manager responsible for the efficient and effective operation of the council's organisation and for implementing decisions of the council (s.335 of the Act). The general manager is, therefore, in charge of the council's management.

Councillors are required (as a group) to direct and control the council's affairs; allocate resources; and determine and review the council's policy and performance (s.232 of the Act). Councillors should not involve themselves in the day-to-day administration of council. This is the responsibility of the general manager.

Councillors and staff have a responsibility to behave professionally and maintain constructive working associations. This is based on the principle that all public officials have a duty to act with integrity, honesty, impartiality and in the public interest.

Councillors must not make personal attacks upon staff at meetings. If a councillor has a complaint about a member of staff that complaint should be addressed in writing to the general manager. If the complaint is about the general manager it should be addressed in writing to the Mayor.

Section 9 of the Model Code and part 4.4 of the Model Code Guidelines discuss the relationships between councillors and council staff, contractors or related persons. Councillors should familiarise themselves with these provisions and use them to guide their conduct.

8.1.3 Should the Mayor use the council's Code of Conduct against a councillor who criticises the Mayor?

Subject to the provisions of the Act, council's Code of Conduct and defamation law, Mayors and councillors who operate in a political environment must expect criticism of their performance and views. Mayors are able to correct the public record without having to use Code of Conduct powers, especially where there has not been a serious breach of the Code.

8.2 Maintaining order

8.2.1 Who is responsible for maintaining order?

A council must deal with any disorder of its members. As a councillor you should take responsibility for your own behaviour and that of your colleagues.

In some situations it may be appropriate to consider counselling or mediation to determine the issues motivating a councillor's behaviour. Early attention to issues is often required to prevent problems becoming entrenched.

When disorder at a meeting occurs, the chairperson has both the responsibility and authority to bring the meeting to order, including expelling councillors and others who cause disorder. Failure to effectively exercise this authority can result in a loss of order at meetings.

8.2.2 What is the procedure for maintaining order?

The Act has a number of provisions which deal with the behaviour of councillors, including:

- requirements to adopt and comply with a Code of Conduct (s.440);
- provisions for a Meeting Code (s.360);
- obligations to disclose pecuniary interests and provisions to deal with breaches of pecuniary interest requirements (ss.441–459);

- regulation of the conduct of council meetings; and
- the ability to exclude a person, including a councillor, from a meeting for disorder (s.10).

The Act imposes a duty on councillors to act honestly and exercise a reasonable degree of care and diligence in carrying out their functions (s.439 of the Act). Councils may use other techniques such as training, counselling and mediation to address councillor behaviour. Any powers for dealing with disorder should not be used unfairly, for example, against councillors who may have a differing view.

Clause 257(1) of the Regulation authorises the chairperson to adjourn a meeting and leave the chair for up to 15 minutes if disorder occurs. This clause does not preclude council from subsequently adjourning for further 15 minute periods should the circumstances so require. A short suspension of business can be effective in dealing with disorder at meetings though this should not be over-used.

8.2.3 In what situations may a councillor be expelled for disorder?

Clause 256(1) of the Regulation defines acts of disorder at council and committee meetings. These include a councillor:

- contravening the Act or any Regulation in force under the Act, or
- moving or attempting to move a motion or amendment that has an unlawful purpose, or
- assaulting or threatening to assault another councillor or person present at the meeting, or
- insulting or making personal reflections on or imputing improper motives to any other councillor, or
- saying or doing anything that is inconsistent with maintaining order at the meeting or is likely to bring the council into contempt.

Clause 256(2) of the Regulation authorises the chairperson to require a councillor to take back comments or to apologise without reservation for an act of disorder (see also Clause 12.25 Model Code). If you do not act as requested by the chairperson, you may be expelled from the meeting. This can be done by the council, committee, chairperson (if authorised to do so by a resolution of the meeting), or by a person presiding at the meeting (if the council has authorised exercise of the powers of expulsion under section 10(2) of the Act).

Options available to council for breach of the Model Code or council's Code of Conduct are detailed in sections 440A–440Q of the Act and in Clauses 12.25 and 12.27 of the Model Code.

You may be expelled from a meeting for refusing to apologise for an act of disorder that occurred at that meeting, or at an earlier meeting. This has effect only for the meeting at

which the expulsion occurs. You can be expelled from a later meeting only if you again refuse to apologise for your earlier (or new) act of disorder.

Section 10(2) of the Act states that a person is not entitled to be present at a council or committee meeting if expelled. If you refuse to leave a meeting immediately after being expelled, the chairperson may request a police officer or an authorised person to remove you from the meeting. The police officer or authorised person may use necessary force to remove you and prevent your re-entry (cl.258 of the Regulation).

8.3 Sanctions

8.3.1 What sanctions are available for councillor misbehaviour in a meeting?

The Model Code provides information on sanctions available to council to address councillor breaches of the Model Code and council's Code of Conduct (Clauses 12.25 and 12.27 Model Code). These include censure, apology, counselling, making a public finding of inappropriate conduct, and prosecution for the breach of any law.

8.3.2 How can a council formally censure a councillor for misbehaviour?

Through a resolution at a meeting, council can formally censure a councillor for misbehaviour (s.440G of the Act). Consideration of all the issues and points of view should take place before a councillor is censured or sanction is sought for a significant breach of the Code of Conduct. External factors such as political or other affiliations are irrelevant and must not influence any decision. A decision to seek sanction against a councillor should reflect the concern of the overwhelming majority of councillors about the conduct of the councillor and its impact on council's operations.

Note that any censure imposed by a council must not interfere with the councillor's common law right to conduct his or her civic duties, including participating in meetings, but should send a clear message that the breach is unacceptable.

8.3.3 When may council request the Director General to suspend a councillor?

Under section 440H of the Act, council may request the Director General to suspend a councillor from civic office. Suspension would only be considered where the councillor's behaviour has been disruptive over a period of time (that is, more than one incident) and forms a pattern of misbehaviour serious enough to justify suspension or the councillor has been involved in one incident of misbehaviour that is sufficiently serious as to justify the councillor's suspension (s 440I and Clauses 12.27-12.31 Model Code).

The Local Government Pecuniary Interest and Disciplinary Tribunal also has power to conduct disciplinary proceedings for councillor misbehaviour in accordance with chapter 14, parts 1 and 3 of the Act.

PART 9 - COMMITTEES, THEIR MEMBERS AND FUNCTIONS

9.1 Forming committees

9.1.1 *How are council committees formed and what are their functions?*

As a body politic (s.220 of the Act), a council can form committees and determine their functions, powers, membership and voting rights. Membership of a council committee is not restricted to councillors.

In regard to committees consisting entirely of councillors, a council can establish such a committee only by resolution (cl.260(1) of the Regulation). This has the effect of stopping a council from delegating the *function* of establishing such committees (s.377(1) of the Act).

A council committee could be advisory or it could have decision-making powers as delegated by the council. A committee may exercise a council function (s.355(b) of the Act) and a council may delegate to the committee any of its functions other than those set out in section 377(1) of the Act, for example, the power to levy rates or borrow money. The council should set out the functions of each committee when the committee is established. The council can change those functions from time to time (cl.261 of the Regulation).

However a committee can exercise a council's regulatory functions under Chapter 7 of the Act only if all of its members are either councillors or council employees (s.379(1) of the Act). So a committee with members of the public on it cannot exercise a regulatory function under Chapter 7 of the Act.

Advisory committees or sub-committees are common and usually have the power to make recommendations but not to make decisions. Such committees often consist of experts, professional persons, government employees, community representatives, or council staff. The recommendations of advisory committees can assist a council in making informed decisions on complex matters. Alternatively, committees may be given power to spend council monies on certain matters, if a resolution to that effect has been previously passed by the council (s.377 and s.355 of the Act).

Councils should consider providing advisory committees with guidelines on how to conduct their meetings and related issues. This could form part of council's Meeting Code.

For information regarding the "committee of the whole" see paragraph 2.6 of this Practice Note.

9.1.2 When are council committees elected or appointed?

There is nothing in the Act or the Regulation indicating when a council is to elect or appoint its committees. The council decides when this is done. It can also postpone election or appointment. This power is subject to any meetings timetable set by the council in its Meeting Code.

9.1.3 Does a councillor have to be present at the meeting to elect committee members in order to be nominated or elected for that committee?

There is nothing in the Act or the Regulation to require a councillor to be present at the council meeting at which he or she is nominated or elected as a member, deputy chairperson or chairperson of a council committee. Therefore a councillor could be nominated or elected in his or her absence, unless council's Meeting Code requires them to be present. It would be wise for a council to require an absent councillor to have given their written consent to being nominated for a committee before that councillor is nominated at the meeting.

9.2 Status of committees with non-councillor members

9.2.1 Do references to 'committees of council' in the Act and Regulation refer to advisory committees that include members of the public?

In almost all cases, the answer is 'no'. Most references to council committees in the Act specifically state "...a committee of which all the members are councillors". These can be 'committees of the whole' (that is, all councillors, including the mayor, only) or a committee established under clause 260 of the Regulation (the mayor and some councillors only).

Sections 355(b) and 376(2) of the Act refer to committees whose members include people who are not councillors.

9.2.2 What is the status of a local traffic committee?

Section 355 of the Act enables the functions of a council to be exercised by the council, by a committee of the council, or partly or jointly by the council and another person or persons.

There is a difference between a committee of a council (of which all members are councillors) and other committees that have representatives from the council and/or other organisations. A local traffic committee falls into the latter category. The Roads and Traffic Authority of NSW have established these committees as a condition of the council being given certain traffic regulation functions.

While a local traffic committee is not restricted in the same way that council committees are under the Act, such committees can adopt the meetings procedures and policies of other council committees if they want to. For example, although a local traffic committee can close its meetings to the public, the committee may allow public access for reasons of openness and accountability. This is a matter for each local traffic committee to determine.

9.3 Meeting procedures

9.3.1 What procedure is followed during meetings of council committees?

If a council committee consists of councillors only, the relevant meeting provisions of the Act, the Regulation and council's Meeting Code govern its procedure. These include notifying councillors and making agendas and business papers available. The quorum for a committee made up entirely by councillors is to be a majority of the members of the committee, or such other number as the council decides (cl.260(3) of the Regulation).

If a committee includes people who are not councillors (that is, council staff and/or community representatives), the committee's meeting procedure (including any notifications and agendas) is determined by the council. It may, but does not have to, follow the procedure outlined in the Act and Regulation.

9.3.2 What is the position of the Mayor on council committees?

Clause 260(2) of the Regulation states that a committee comprising only of councillors is to consist of the Mayor and such other councillors as elected or appointed by the council. While the Mayor (however elected) is automatically a member of each council committee consisting of councillors only, the Mayor has discretion as to whether he or she will attend the meetings of each committee (cl.268(1) of the Regulation).

The Mayor is automatically the chairperson of each council committee consisting only of councillors unless he or she does not wish to be (cl.267(1) of the Regulation). In such a case, the council or committee will elect a chairperson. If the chairperson is unable or unwilling to chair a committee meeting, the deputy chairperson or acting chairperson is to run it (cl.267(4) of the Regulation).

9.3.3 What are the rights of councillors to attend committees?

Each councillor, whether a member of a committee or not, is entitled to attend and speak at a meeting of a council committee. However only councillors who are members of the committee are entitled to put business on the committee's agenda, move or second a motion at the committee meeting, or vote at the meeting (cl.263 of the Regulation). Voting at a committee meeting is to be by open means, such as by a show of hands (cl.265(3) of the Regulation).

9.3.4 What are the voting rights of committee members?

If a council committee is made up of councillors only, all the members have equal voting rights. The committee can decide that, when voting is equal, the chairperson has a casting vote as well as an original vote (cl.265 of the Regulation). Councillors who are not members of a particular committee are entitled to attend and speak at meetings of the committee, but cannot vote at those meetings (cl.263 of the Regulation).

If a committee includes people who are not councillors, it is up to the council to decide on the voting rights of committee members. Usually all committee members have equal voting rights (other than the chairperson, who may have a casting vote as well as an original vote). There could be special circumstances under which the members of a specific committee have different voting rights. These voting rights should be granted with regard to principles in the Model Code and Model Code Guidelines.

9.3.5 When and how can a committee chairperson exercise a casting vote?

Clause 265 of the Regulation allows a committee consisting of councillors only to decide that, whenever the voting on a motion is equal, the chairperson is to have the casting vote (as well as an original vote). Without such a decision of the committee, a casting vote cannot be exercised by the chairperson (or another committee member).

Once authorised, it is for the chairperson to decide as to how to exercise their casting vote, taking all relevant information into consideration.

In regard to a council committee including persons who are not councillors (for example, an advisory committee), the council can decide, when establishing the committee, whether the chairperson is to have a casting vote as well as an original vote. Alternatively, this issue could be covered in the council's Meeting Code.

9.3.6 Can committee members fill absences on their committee so as to achieve a quorum?

Clause 260 of the Regulation permits committee members to be chosen only by the council at a formal council meeting. A permanent vacancy on a council committee (caused by the resignation or death of a councillor) can be filled by the council electing or appointing a councillor to fill the vacancy.

For temporary absences, council's Meeting Code could provide for an alternate councillor to act in the office of a committee member absent through illness, etc. The Meeting Code would need to state that an alternate or acting member has the authority and role of the member. Alternate members would be elected or appointed under clause 260 of the Regulation from among the councillors. When acting as a committee member, an alternative member would form part of the committee's quorum.

A council has various options to make sure that its committees have quorums. These include: determining or altering the number of members on a committee to ensure that it is not too large; timetabling committee meetings to take account of the regular commitments of councillors; and reducing the quorum for a committee meeting, if necessary.

9.3.7 Can a council remove a councillor from membership of a committee?

Clause 260 of the Regulation authorises a council to establish (by resolution) such committees as it considers necessary. A committee is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.

Under its general powers as a body politic (s.220 of the Act), a council may (by resolution) change the composition of its committees whenever it chooses. This can be done by removing a councillor from a committee and appointing another councillor as a member, or by changing the total number of councillors on the committee. Changes in committee composition can come directly from the council or be recommended by the committee to the council.

In *Yates v District Council of Penola* (1997) 68 SASR 64, the Court held that the power to remove a councillor from a committee must be exercised lawfully, rationally and fairly. It can't be used for an external or ulterior purpose, for example, if motivated by punishment (even if this was not the sole or main reason for the action taken).

9.3.8 Can a council consider and adopt the recommendations of a committee before the committee's minutes are confirmed?

There is nothing in the Regulation to stop a council from considering and adopting the recommendations of a committee before the committee's minutes are confirmed. An accurate record of the recommendations made at the committee meeting will ensure that the recommendations presented to the council for adoption will be the same as those later confirmed in the committee's minutes.

9.3.9 How can a person find out information on council committees and/or complain about the operation of a committee?

Council minutes should reveal the membership, functions and powers of all council committees. A council may also have a written policy on the running of its committees. These documents should be available for inspection by the public in accordance with section 12 of the Act. A person unhappy with the way a committee is run can approach the mayor or another councillor to have the matter dealt with at a council meeting.

9.4 General manager's role

9.4.1 Can the general manager be delegated the power to appoint non-councillor members to a council committee formed under s.355 of the Act?

Section 377 sets out the matters that a council cannot delegate to the general manager or another person or body. There appears to be nothing in section 377 to prevent a council delegating to the general manager the power to appoint new members to a committee (that is already established and given delegated functions by the council).

As a matter of good administrative practice, the council may require the general manager to report to the council whenever he or she has made an appointment. The delegation to the general manager may be with other conditions, such as requiring the general manager to report proposed appointments to the council, or to appoint new members only from certain groups.

9.4.2 If the general manager is on a council committee, what is the general manager's role?

If the general manager is a member of a council committee, he or she will not have a special function just because of their position. Like all committee members, the general manager must accept the majority decision of the committee. The council may, however, grant certain responsibilities to the general manager in relation to the committee.

PART 10 - AFTER THE MEETING

10.1 Acting on council decisions

10.1.1 *Who makes and acts on council decisions?*

The Act requires councillors as a group to direct and control the council's affairs; allocate council resources; determine council policies and objectives; and monitor the council's performance (s.223 and s.232 of the Act).

The general manager is responsible for the efficient and effective operation of council's organisation and for acting on council decisions. The general manager, not councillors, is responsible for the day-to-day management of the council and for the employment of council staff (s.335 of the Act).

10.1.2 *When is a general manager required to act on council decisions?*

Sections 335(1) of the Act states that the general manager is generally responsible for making sure council's decisions are acted on without unnecessary delay. Only a court can decide whether a specific delay was too long.

10.1.3 *When is a general manager required to act on council decisions that are subject to a motion for rescission?*

If notice of a rescission motion is given during the meeting at which the resolution is carried, the resolution cannot be put into effect until the rescission motion has been dealt with (s.372(2) of the Act). Council should identify what a general manager is to do when a rescission motion is received after the meeting, but where action on a resolution is expected before that rescission motion can be decided on by the council. This could be included in council's Meetings Code.

10.2 Public availability of decisions

10.2.1 *How can the public find out about council decisions?*

Councils usually make decisions at open council meetings following the issuing of agendas and business papers to councillors and members of the public. Usually each item of business to be dealt with at the meeting is on the agenda. However, in cases of great urgency, business can be dealt with at a meeting without it being recorded on the agenda.

The public has the opportunity to review all council decisions, even those made at closed meetings, through the inspection of council's meeting minutes. The right of the public to inspect council's meeting agendas, business papers, minutes of council and committee meetings, and the resolutions of any closed parts of those meetings, is expressly provided for under section 12 of the Act.

PART 11 - MINUTES

Councils are encouraged to hold open council meetings as far as practical, and must almost always vote by open means (such as by show of hands). In this way members of the public can witness the conduct of a council meeting. They can also investigate the background to council decisions by inspecting the business papers of the meeting. Through a combination of minutes, public attendance and open meetings, accountability is achieved.

11.1 Contents of Minutes

11.1.1 *Why and how should minutes be kept?*

Section 375 of the Act requires a council to keep full and accurate minutes of a council meeting. A verified copy of the minutes should be kept for public inspection purposes (s.12 of the Act); for use in any court proceedings; and as a historical record. Councils will also need to follow requirements under the *State Records Act 1998* in regard to the keeping of minutes.

Ideally minutes and agenda will be published on the council's website.

11.1.2 *What matters must be included in the minutes of council meetings?*

The Regulation provides that the following matters must be included in the minutes of council meetings —

- Details of each motion moved at a council meeting and of any amendments (cl.254(a)).
- The names of the mover and seconder of each motion and amendment (cl.254(b)).
- Whether each motion and amendment is passed or lost (cl.254(c)).
- The circumstances and reasons relating to the absence of a quorum together with the names of the councillors present (cl.233(3)).
- The dissenting vote of a councillor, if requested (cl.251(2)).
- The names of the councillors who voted for a motion in a division and those who voted against it (cl.251(4)). Note that a division is always required when a motion for a planning decision is put at a meeting of the council (Section 375A of the Act).
- A report of the proceedings of the committee of the whole, including any recommendations of the committee (cl.259(3)).

The Act provides that the following matters must be included in the minutes of council meetings:

- The grounds for closing part of a meeting to the public (s.10D).
- The report of a council committee leading to a rescission or alteration motion (s.372(6)).
- The disclosure to a meeting by a councillor of a pecuniary interest (s.453).

11.1.3 *What matters should be shown in the minutes of the closed part of a meeting?*

Minutes must include the details of all motions and amendments; the names of their movers and seconders; and whether the motions and amendments are passed or lost (cl. 254 of the Regulation)

These details are required for both the open and closed parts of council meetings. Further information regarding the content of minutes of closed meetings and their publication are contained in paragraph 7.6 of this Practice Note.

11.1.4 *What matters must be included in the minutes of committee meetings made up of councillors only?*

Clause 266 of the Regulation requires full and accurate minutes to be kept of committee meetings made up of councillors only. The minutes must include at least:

- Details of each motion moved at a committee meeting and of any amendments (cl.266(1)(a) of the Regulation)
- The names of the mover and seconder of each motion and amendment (cl.266(1)(b) of the Regulation)
- Whether each motion and amendment is passed or lost (cl.266(1)(c) of the Regulation)
- The names of the councillors who voted for a motion for a planning decision and those who voted against it. Such voting must be conducted by way of a division (Section 375A of the Act)
- The grounds for closing part of a meeting to the public (s.10D of the Act)
- The disclosure to a meeting by a councillor of a pecuniary interest (s.453 of the Act).

11.1.5 *How much detail should be shown in minutes?*

Section 375(1) of the Act requires a council to keep full and accurate minutes of council meeting proceedings. Subject to legislative provisions and any directions from the council, it is up to the general manager to decide how much detail is to be shown in the minutes.

Although the minutes should contain enough detail to make the council's decisions understood, they are not meant to be a detailed transcript of council proceedings nor a record of the behaviour of individual councillors. However, when a council makes a decision against the recommendations of their officers or council engaged experts, it is considered best practice to minute the reasons for this. Minuting the reasons for council's decisions is particularly important when determining development applications against the recommendation of council officers. This can reduce the cost to councils of Land and Environment Court litigation, as well as achieving transparency and accountability in decision-making.

11.1.6 *In what format should motions and amendments be shown in the council minutes?*

The Act and the Regulation allows each council to decide how to record matters in its minutes (so long as the minutes are a full and accurate record). The manner of recording council business in the minutes could be specified in the council's Meeting Code.

Each council can decide whether to show the names of councillors voting for or against a particular motion. However if a division on a motion occurs under clause 251(4) of the Regulation (that is, when a division on a motion is demanded and takes place), the general manager is required to record the names of those voting for or against the motion in the minutes.

Motions could be recorded as: "Moved Cllr X, seconded Cllr Y that council....".

11.1.7 *How can a council increase the accuracy of its minutes?*

Section 375 of the Act requires full and accurate minutes to be kept, but allows each council to decide how this is to be achieved. Requiring motions and amendments to be provided in writing to the chairperson and/or the minute taker before it is voted on can help make the recording of resolutions more accurate.

Councils could also consider typing the minutes on a computer during the meeting and/or taping the proceedings. Computerised minutes could be displayed on a screen during the meeting, together with notices of motion from the agenda and amendments moved at the meeting, for the information of the councillors and the public.

11.2 Signing Council Minutes

11.2 1 *Should all the pages of the minutes be signed or only the last page?*

The minutes of council and committee meetings must be signed by the person chairing the meeting at which they are confirmed (s.375 of the Act and cl.266 of the Regulation). There is no requirement in the Act or the Regulation that each page should be signed.

However it is important that there are safeguards against the pages of the minutes being substituted or tampered with. One way of achieving this is to have all the pages of the minutes signed by the chairperson. This could be done manually, by means of a rubber stamp signature, or by electronic signature.

An alternative to signing each page could be to have a long line at the top and bottom of the contents of each page (to prevent the addition of extra information), with each page having a number and identifying the meeting, for example, "Page 14 of Minutes of ... Council Meeting held on ... (date)". The final page would have a statement that the minutes, consisting of that page and the previous pages, were confirmed on a certain date. This would need to be signed by the chairperson. The electronic version of the minutes should be securely stored and could also be placed on council's website for public information.

11.2.2 *Are council minutes required to be signed by the general manager?*

There is no requirement in the Act or the Regulation for the minutes of council or committee meetings to be signed by the general manager.

11.2.3 *Can the Mayor use a stamp or electronic signature to sign the minutes?*

A rubber stamp or electronic facsimile of a person's signature, which is put on the document by that person, may be legally acceptable on the minutes, provided that the following safeguards are met:

- The rubber stamp or electronic signature should be kept under proper security to prevent its unauthorised use
- The chairperson should verify the use of the rubber stamp or electronic signature. This could be done by the chairperson signing (by pen) a certificate at the end of the minutes of a meeting stating that, following the confirmation of the minutes, he or she had authorised the use of his or her rubber stamp or electronic signature to the previous (number of) pages.

These and any other safeguards considered necessary by the council should be used to ensure that the minutes cannot be substituted or otherwise tampered with.

11.2.4 *When should minutes be signed?*

Once they have been confirmed at a subsequent meeting of the council, the minutes must be signed by the person chairing that later meeting (s.375(2) of the Act). It would be usual for the 'subsequent' or 'later' meeting to be the next ordinary meeting of the council or committee.

It is best to sign the minutes immediately after their confirmation or as soon as practical after that meeting (without delay). A council could include appropriate signing times in its Meeting Code.

PART 12 - CODE OF MEETING PRACTICE

12.1 Status of code

12.1.1 *Can a council ignore its Meeting Code?*

No. The Act and the Regulation set out the basic procedure that must be followed at council meetings. A council may choose to adopt a Meeting Code that covers the relevant provisions of the Act, the Regulation and additional provisions that are consistent with the Act or the Regulation (s.360(2) of the Act).

A council must publicly notify its draft Meeting Code and consider all submissions before adopting it (s.361 and s.362 of the Act). Once the Meeting Code is adopted, a council and a council committee consisting of councillors must run its meetings following the Meeting Code (s.360(3) of the Act).

Failure to run meetings in line with the Act and the Regulation is a breach of the Act (s.672 of the Act). Any person may bring proceedings in the Land and Environment Court to fix or stop a breach of the Act (s.674 of the Act).

Failure to follow the Meeting Code does not result in the proceedings of the council or committee meeting being invalid (s.374(e) of the Act). Although a breach, failure to follow the Act, the Regulation or the Meeting Code is not an offence under the Act and therefore no specific penalties apply.

12.2 Effect of Regulation change

12.2.1 *Does a council have to change its Meeting Code each time the Regulation is changed?*

Changes to the Act or Regulation will automatically impact council's Meeting Code. Each council should include any legislative changes in its Meeting Code and/or update the Code to ensure that its provisions are in line with those changes. If inconsistent, the provisions of the Meeting Code must be changed or removed to match the Act and the Regulation.

The Meeting Code is automatically amended as a result of changes to the Act or Regulation. These changes do not require public notification under sections 361 to 363 of the Act.

Any amendment to the additional provisions provided by the council in its Meeting Code will require public notification.

PART 13 - WORKSHOPS

13.1 Purpose

13.1.1 *Can a council set up workshops? Are there any limitations on their use?*

A council can hold a workshop (sometimes called a briefing session) under its general powers as a body politic. Workshops are informal gatherings and can provide useful background information to councillors on issues. A workshop may involve councillors, council staff and invited participants.

Workshops should not be used for detailed or advanced discussions where agreement is reached and/or a (de-facto) decision is made. Any detailed discussion or exchange of views on an issue, and any policy decision from the options, should be left to the open forum of a formal council or committee meeting. Workshops are merely a means which enable councillors to bring an informed mind to the appropriate decision-making forum.

The Division recognises the value of workshops or information sessions in developing councillor knowledge and expertise, and in assisting their role as public officials. However, where briefing sessions are held in relation to development applications or business enterprises, council needs to remember its obligations and responsibilities under the Model Code, and community perceptions in terms of unfair advantage and transparency of process. Council may wish to introduce protocols for workshops or information sessions in its Meeting Code.

13.2 Attendance

13.2.1 *Who can attend council workshops?*

Attendance entitlements in the Act and the Regulation apply only to meetings of the council and its committees (made up of councillors only). As workshops are not meetings of the council or such committees the attendance entitlements of councillors and the public do not apply. Despite this every councillor should be invited to workshops (Clauses 10.2 – 10.4 of the Model Code of Conduct).

Clause 10.4 of the Model Code provides that members of staff who provide any information to a particular councillor in the performance of their civic duties must also make it available to any other councillor who requests it. Equity in access to information (in the form of workshops) is a matter for each council to decide in the context of its policies and resources. While it is usual for all councillors to be entitled to attend workshops, attendance is a decision for the council or, failing that, the workshop convenor.

There is no obligation on councillors to attend workshops.

13.3 Procedure

13.3.1 *What are the meeting procedures for council workshops?*

The meeting procedures in the Act and the Regulation apply only to meetings of the council and its committees made up of councillors only. As workshops are not meetings of the council or its committees, the meeting procedures in the Act and the Regulation do not apply. Meeting procedures for council workshops is a decision for the council or, failing that, the workshop convenor. Council may wish to introduce protocols for the conduct of workshops in its Meeting Code.

The non-disclosure provisions of sections 664(1) and 664(2) of the Act apply to workshops but, because they cannot be closed under section 10A of the Act, the confidentiality provisions of sections 664(1A) and 664(1B) do not apply.

13.3.2 *Can the public inspect workshop documents?*

Any document produced in relation to a workshop would be a document of the council. This means that these documents could be inspected and copied in accordance with sections 12 to 12B of the Act or the provisions of the *Freedom of Information Act 1989* subject to any exemptions or copyright restrictions. A person refused access to a document under the *Freedom of Information Act 1989* can apply for a review of the determination by the NSW Administrative Decisions Tribunal.

13.3.3 *What about public perception?*

When conducting workshops, a council needs to think about its obligations and responsibilities under the Model Code, and of community perceptions in terms of unfair advantage and transparency of process. There may be a belief that workshops are a means of transacting council business and coming to council decisions in secret.

Negative public views of workshops could be changed by community education on the purpose of workshops, and by ensuring that council decisions are not made at workshops. Establishing clear guidelines for workshops and information sessions in council's Meeting Code would assist this. Guidelines could include requirements that, for example, workshop briefing papers contain information but no recommendations; or directions that no recommendations are to be put to, and no agreement sought from, the councillors or other workshop participants in the course of the workshop.

13.3.4 *Can a council hold community access sessions separate from its meetings?*

Community access sessions are not discussed in the Act or the Regulation. A council can hold these sessions under conditions set by the council. Again, guidelines for running community access sessions could be included in council's Meeting Code.

PART 14 - REFERENDUMS

14.1 Constitutional referendums

14.1.1 *Is a council resolution required to give effect to the voters' decision at a constitutional referendum?*

Certain matters require a constitutional referendum — they cannot be decided by a council (s.16 of the Act).

Section 17(1) of the Act provides that a decision made at a constitutional referendum binds the council until it is changed by a later constitutional referendum. As the council is bound by the decision, there is no requirement for a resolution to be carried to give effect to the decision. Any change has already occurred by the operation of law. The council has no choice as to whether it will put in place the change or not — by resolving to conduct the referendum, the council agreed to be bound by the result.

However to acknowledge the importance of the decision, the council could include in its minutes a resolution confirming or acknowledging the outcome of the referendum process.

PART 15 - SEAL

15.1 Purpose

15.1.1 *What is the purpose of a council seal?*

A council seal is like the signature of the council. It approves the content of the document and shows what the council has done or agreed to do.

15.2 Procedure

15.2.1 *Why is a council resolution required before the seal is used?*

Clause 400(4) of the Regulation requires a council resolution before each use of the seal. The resolution must specifically refer to the document to be sealed. This procedure reflects the important legal status of the seal. Requiring a resolution before the seal is used brings the document to the attention of the councillors and makes sure that they are aware of which documents are being sealed.

15.2.2 *How can a council avoid delay when it needs to use the seal?*

Council can resolve to approve a specific activity that requires the use of the seal on several occasions. For example, a resolution that authorises the transfer of certain council land could also authorise the use of the seal for any contracts that are part of that transfer. As there are only a limited number of documents in a land transaction that need to be executed under seal, each one of these could be identified in the resolution authorising the purchase or sale of the land. Clause 400 of the Regulation does not require a separate resolution as each document is prepared.

A council might also review the types of documents that are sealed to determine whether use of the seal is always necessary.

15.2.3 *Which documents should or can be sealed?*

In deciding whether the council seal should be used on a particular document, council needs to consider any legislative requirements. For example, the *Conveyancing Act 1919* (which requires that the seal be placed on certain documents) and cl.400(4) of the Regulation (which prohibits the seal being placed on a document unless the document relates to council business). It is a matter for the council to decide which documents relate to the business of the council.

A document in the nature of a reference or certificate of service for a council employee does not relate to the business of the council for the purpose of fixing the seal (cl.400(5) of the Regulation).

Council seals should not be used for certificates and statements of merit, or letters of congratulations. Service to the community or council can be recognised by special text printed on council letterhead or by distinctive certificates specially designed for employee references, certificates of service, Australia Day honours and the like.

15.2.4 *How is the seal kept and used?*

Clause 400(2) of the Regulation details how the seal is to be kept and used.

15.2.5 *Can the general manager delegate to the public officer the power to use the council seal?*

Section 378(1) of the Act authorises a general manager to delegate any of his or her functions, other than the power of delegation. This section allows the general manager to delegate the function of fixing the council seal to documents.

15.2.6 *How can a government department ensure that a document is executed by the council itself and not delegated to the general manager?*

A department could ensure that a document is made or approved by the council itself by requiring that the document be under seal, or by requesting evidence of the council resolution agreeing to make or accept the document.

PART 16 - SUSPENDED COUNCILLOR(S)

16.1 Circumstances

16.1.1 *In what circumstances may a councillor be suspended?*

Chapter 14 of the Act provides for the suspension of a councillor in any one of three circumstances:

- Section 440K authorises the Director General to suspend a councillor for up to 1 month for misbehaviour;
- Section 482A authorises, by way of alternative to section 440K, the Local Government Pecuniary Interest and Disciplinary Tribunal to suspend a councillor for up to 6 months for misbehaviour;
- Section 482 authorises the Local Government Pecuniary Interest and Disciplinary Tribunal to suspend a councillor for up to 6 months where it finds a complaint against that councillor proved.

16.2 Effect

16.2.1 *What happens when a councillor is suspended from office?*

While there is no definition of 'suspension' in the Act or the *Interpretation Act 1987*, the Macquarie Dictionary defines 'suspend' as "to debar, usually for a time, from the exercise of an office or function or the enjoyment of a privilege". 'Debar' is defined as "to bar out or exclude from a place or condition".

The suspension of a councillor results in that person being excluded from civic office during the period of suspension. It also means being excluded from the rights and privileges of that office during the period of suspension. If the councillor is also the mayor, that person is excluded from exercising the function, rights and privileges of both 'councillor' and 'mayor' during the period of suspension.

A suspended councillor/mayor has no greater access to council documents, council information or council facilities than any other resident or ratepayer. The suspended councillor/mayor can attend council meetings, but only as a member of the public. Therefore that person cannot take part in the election of the mayor or deputy mayor, either as a candidate or as a councillor, or vote on any matter before the council.

Circulars

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16-52 – Induction and Ongoing Professional Development for Mayors and Councillors

What's new or changing

- ☐ The recent Phase 1 amendments to the *Local Government Act 1993* (the Act) have seen the inclusion of the prescribed role of councillors under section 232 a responsibility “*to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor*”.
- ☐ In support of this, the amendments allow regulations to be made for induction and other professional development for Mayors and Councillors.
- ☐ The Office has commenced work on the development of these regulations. It is proposed that these will provide as follows:
 - ☐ Councils are to develop an induction program for newly elected and returning councillors and a specialised supplementary program for the Mayor to assist them in the performance of their functions to be delivered within six months of their election.
 - ☐ Each year, councils are to develop an ongoing professional development program for the Mayor and each Councillor.
 - ☐ Councils are to determine the content of the induction and ongoing professional development programs in consultation with the Mayor and each Councillor and with the governing body as a whole.
 - ☐ In determining the content of induction and ongoing professional development programs, councils are to have regard to the specific needs of the Mayor, each individual Councillor and the governing body as a whole.
 - ☐ Councillors and Mayors must participate in the induction and ongoing professional development training offered to them.
 - ☐ Councils are to annually report details of the content of the induction and ongoing professional development training offered to the Mayor and each Councillor and whether or not they participated in

it to a council meeting and publish these details in the council's annual report and on its website unless exempted by the Chief Executive of the Office of Local Government.

- ☐ The Chief Executive of the Office of Local Government may, on an application by a council, exempt the council from the requirement to publish details of training provided to an individual councillor where he or she is satisfied that there are exceptional circumstances.
- ☐ The Office will be preparing Guidelines to outline the Government's expectations and to provide assistance to councils in developing the programs. A working group comprising of a number of key sector stakeholder groups will be convened for the purposes of consulting on the content of the Guidelines.

What this will mean for your council

- ☐ The Office is seeking comment on the proposed regulations.
- ☐ In addition, the Office is seeking comment from individual councils on the following:
 - ☐ whether there are any impediments impacting on their capacity to comply with the proposed regulations; and
 - ☐ what support would be required for the council to overcome any such impediments.

Key points

- ☐ Submissions may be made by email to olg@olg.nsw.gov.au.
- ☐ Submissions should be labelled "induction and ongoing professional development for Mayors and councillors" and marked to the attention of the Office's Council Governance Team.
- ☐ Submissions should be made before close of business **3 February 2017**.

Where to go for further information

- ☐ For further information, contact the Office's Council Governance Team on 02 4428 4100.

Tim Hurst

Acting Chief Executive

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17-39 – Consultation on the Proposed Councillor Induction and Professional Development Guidelines

Your Feedback

Category: Circular to Councils	Status: Active
Circular Details: 17-39 / 6 December 2017 / A573908	Contact: Council Governance Team – 02 4428 4100
Previous Circular: 16-52	Attachments: Nil
Who should read this: Mayors / Councillors / General Managers / Council governance staff	Action required: Response to OLG
PDF Version:	Council Circular 17-39 – PDF

What's new or changing

- Amendments made to the *Local Government Act 1993* (the Act) by the *Local Government Amendment (Governance and Planning) Act 2016* in August 2016 saw the inclusion in the prescribed role of

councillors under section 232 a responsibility “to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor”.

- In support of this, the amendments allow regulations to be made for induction and other professional development for mayors and councillors. The proposed regulations are described in the attachment to this circular.
- The Office of Local Government (OLG) has prepared guidelines to assist councils to develop and deliver induction and ongoing professional development activities for their mayor and councillors in compliance with the proposed regulations. These will be issued under section 23A of the Act.
- OLG has issued a consultation draft of the proposed guidelines for comment prior to their being finalised.

What this will mean for your council

- Under the guidelines, councils’ induction and professional development programs are to consist of three elements:
 - *Pre-election candidate sessions* – these are to ensure prospective candidates are aware of what will be expected of them if elected (these are not mandatory but are encouraged)
 - *Induction program* – this aims to equip mayors and councillors with the information they need to perform their role effectively over the first few months and has a particular focus on building positive, collaborative relationships between councillors and with staff
 - *Professional development program* – this is to be developed in consultation with all councillors and delivered over the term of the council to build the skills, knowledge and personal attributes necessary to be an effective mayor or councillor.
- Councils will be required to report to the council on the induction and ongoing professional development activities offered to the mayor and each councillor and whether they participated in them and to make this information publicly available on their websites.

Key points

- OLG is inviting submissions from councils and other stakeholders on the consultation draft of the Councillor Induction and Professional Development Guidelines.
- The consultation draft of the Councillor Induction and Professional Development Guidelines is available on OLG’s website at www.olg.nsw.gov.au.
 - Submissions may be made by email to olg@olg.nsw.gov.au.
 - Submissions should be labelled “*Councillor Induction and Professional Development Guidelines Consultation*” and marked to the attention of OLG’s Council Governance Team.
 - Submissions should be made by COB **Friday 16 March 2018**.

Where to go for further information

- For further information, contact OLG’s Council Governance Team on (02) 4428 4100.

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17-39 – Consultation on the Proposed Councillor Induction and Professional Development Guidelines

Your Feedback

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Circular Details: 17-39 / 6 December 2017 / A573908	Contact: Council Governance Team – 02 4428 4100
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- Amendments made to the *Local Government Act 1993* (the Act) by the *Local Government Amendment (Governance and Planning) Act 2016* in August 2016 saw the inclusion in the prescribed role of

councillors under section 232 a responsibility “to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor”.

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- The Office of Local Government (OLG) has prepared guidelines to assist councils to develop and deliver induction and ongoing professional development activities for their mayor and councillors in compliance with the proposed regulations. These will be issued under section 23A of the Act.
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Key points

- OLG is inviting submissions from councils and other stakeholders on the consultation draft of the Councillor Induction and Professional Development Guidelines.
- The consultation draft of the Councillor Induction and Professional Development Guidelines is available on OLG’s website at www.olg.nsw.gov.au.
 - Submissions may be made by email to olg@olg.nsw.gov.au.
 - Submissions should be labelled “*Councillor Induction and Professional Development Guidelines Consultation*” and marked to the attention of OLG’s Council Governance Team.
 - Submissions should be made by COB **Friday 16 March 2018**.

Where to go for further information

- For further information, contact OLG’s Council Governance Team on (02) 4428 4100.

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Circular Details	18-03 / 19 February 2018 / A581542
Previous Circular	<i>17-39 Consultation on the Proposed Councillor Induction and Professional Development Guidelines</i> <i>17-40 Consultation on the draft Model Code of Meeting Practice for Local Councils in NSW</i>
Who should read this	Mayors / Councillors / General Managers / Council Governance Staff
Contact	Council Governance Team – 02 4428 4100
Action required	Response to OLG

Reminder: Invitation for submissions on consultation drafts of the following:

- ***Councillor Induction and Professional Development Guidelines***
- ***Model Code of Meeting Practice for Local Councils in NSW***

What's new or changing

- The purpose of this Circular is to remind councils of the opportunity to make submissions on the *Councillor Induction and Professional Development Guidelines* and the *Model Code of Meeting Practice for Local Councils in NSW* which are currently on public exhibition.

Key points

- The consultation drafts of the Model Meeting Code and the Guidelines are available on OLG's website at www.olg.nsw.gov.au.
- Submissions may be made by email to olg@olg.nsw.gov.au.
- Submissions should be labelled either "*Councillor Induction and Professional Development Guidelines Consultation*" or "*Model Meeting Code Consultation*" and marked to the attention of OLG's Council Governance Team.
- Submissions should be made by COB **Friday 16 March 2018**.

Where to go for further information

- For further information, contact OLG's Council Governance Team on (02) 4428 4100.



Tim Hurst
Acting Chief Executive

Circular Details	Circular No 18-25 / 05 September 2018 / A618437
Previous Circular	<i>17-39 Consultation on the Proposed Councillor Induction and Professional Development Guidelines</i>
Who should read this	Mayors / Councillors / General Managers / Council governance staff
Contact	Council Governance Team – 02 4428 4100 / olg@olg.nsw.gov.au
Action required	Information

Status of the new Councillor Induction and Professional Development Guidelines

What's new or changing

- Amendments to the *Local Government Act 1993* (the Act) by the *Local Government Amendment (Governance and Planning) Act 2016* in August 2016 saw the inclusion in the prescribed role of councillors under section 232 a responsibility “to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor”.
- In support of this, regulations will soon be made for induction and other professional development for mayors and councillors.
- The Office of Local Government (OLG) has prepared guidelines, in consultation with the sector, to assist councils to develop and deliver induction and ongoing professional development activities for their mayor and councillors in compliance with the proposed regulations.
- The Minister for Local Government has released the guidelines so that councils can familiarise themselves with the new requirements before the regulations are made.
- The guidelines are available on OLG's website at www.olg.nsw.gov.au.

What this will mean for your council

- OLG will provide more detailed guidance on the new requirements once the regulations are made.
- In the meantime, there is nothing to prevent councils from implementing councillor induction and ongoing professional development programs in compliance with the guidelines prior to the making of the regulations.

Key points

- Under the guidelines, councils' induction and professional development programs are to consist of three elements:
 - **Pre-election candidate sessions** – these are to ensure prospective candidates are aware of what will be expected of them if elected (these are not mandatory but are encouraged)
 - **Induction program** – this aims to equip mayors and councillors with the information they need to perform their role effectively over the first

few months and has a particular focus on building positive, collaborative relationships between councillors and with staff

- **Professional development program** – this is to be developed in consultation with all councillors and delivered over the term of the council to build the skills, knowledge and personal attributes necessary to be an effective mayor or councillor.

Where to go for further information

- For more information, contact the Council Governance Team by telephone on 02 4428 4100 or by email at olg@olg.nsw.gov.au.



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27 February 2018

HAVE YOUR SAY ON COUNCIL MEETING CODE AND COUNCILLOR TRAINING

The Office of Local Government is reminding council staff and councillors as well as members of the community to have their say on key documents guiding standards for council meetings and councillor training and development in NSW.

The draft *Model Code of Meeting Practice* and *Councillor Induction and Professional Development Guidelines* were released for public comment in December as part of the NSW Government's commitment to strengthening council integrity and performance.

The *Model Code of Meeting Practice* sets out for the first time a uniform set of meeting rules for councils across the State to help ensure more accessible, orderly, effective and efficient meetings.

It adopts principles to ensure meetings are transparent, informed, inclusive, respectful and effective.

The draft code is focused on improving transparency and public involvement in council meetings and the decision making process. Proposed measures include public forums before ordinary council meetings where local residents can address councillors and the mandatory webcasting of council meetings.

Once finalised and implemented, councils will have six months to adopt a code of meeting practice based on the new requirements.

Draft *Councillor Induction and Professional Development Guidelines*, also on exhibition, have been designed to ensure mayors and councillors are able to perform their roles effectively.

Councils will be required to deliver induction training within six months of an election and an ongoing professional development program over the term to help councillors acquire and maintain the necessary knowledge and skills.

The guidelines ensure that all mayors and councillors across the State have access to induction and professional development training and that programs meet a consistent benchmark.

Councils would be required to publish reports on their websites of councillor attendance and participation in the training.

The consultation drafts of the *Model Code of Meeting Practice* and *Councillor Induction and Professional Development Guidelines* are available at www.olg.nsw.gov.au.

Submissions should be emailed to olg@olg.nsw.gov.au by COB Friday 16 March 2018.

Media contact: Mark Nolan 0421 613 720 or media@olg.nsw.gov.au

Guidelines, Codes, and Practice Notes

[Home](#) » [Councils](#) » [Policy and Legislation](#) » [Guidelines and Policy Information Resources for Councils](#) » Guidelines, Codes, and Practice Notes

The Office of Local Government (OLG) publishes a range of guidelines, codes, practice notes and other guidance for local government.

These generally relate to functions that councils carry out under the *Local Government Act*, or under other legislation or policy for which the Minister for Local Government is responsible.

These guidelines and guidance materials aim to support NSW councils to govern in a lawful, prudent, transparent and accountable manner as well as to provide strong and sustainable services to local communities.

Mandatory and Section 23A Guidelines and Codes

OLG publishes some mandatory guidelines and codes, as well as a range of guidelines that councils must take into consideration under section 23A of the *Local Government Act 1993* to support councils comply with important laws. These are listed below.

Topic	Publication Date	LG Act reference	Link
Alcohol Free	2009	Section Tender Bundle D page 560	Ministerial Guidelines on Alcohol Free

Zones		646	Zones
Capex Guidelines	2010	Section 23A	Capital Expenditure Guidelines
Code of Conduct Conflict of Interest	2018	Section 440	Model Code of Conduct for Local Councils in NSW
Companion Animals	2020	Section 23A	Companion Animals Guideline 1 – Registration Agents
Companion Animals	2015	Section 23A	Guideline on the exercise of functions under the Companion Animals Act
Councillor Expenses and Facilities	2009	Section 252 and Section 23A	Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW
Debt Management	2018	Section 23A	Debt Management and Hardship Guidelines
Elections – Council Administered	2011	Section 23A	Guidelines for Council Administered Elections

Formation of Corporations and Entities	2022	Section 358	<u>Formation of Corporations and Entities (Section 358) Guideline</u>
Integrated Planning and Reporting	2003	Section 406	<u>Integrated Planning and Reporting Guidelines for local government in NSW</u>
Internal Audit	2010	Section 23A	<u>Internal Audit Guidelines</u>
Meetings	2018	Section 360	<u>Model Code of Meeting Practice for Local Councils in NSW (2018)</u>
Fireworks	2017	Section 23A	<u>Guidelines for Notification of an Intention to Use Fireworks</u>
Parking Agreements	2016	Sections 650(7) and 650A(8)	<u>Free Parking and Strata/Community Parking Area Agreements: Guidelines for Councils</u>
Public-Private Partnerships	2022	Section 400C	<u>Guidelines on the Procedures and Processes to be followed by Local Government in Public-Private Partnerships</u>
Rating – Special Variations	2018	Sections 508A and 508(2)	<u>Guidelines for the preparation of an application for a special variation to general income</u>
Rating – Minimum Rates	2018	Section 548	<u>Guidelines for the preparation of an application to increase minimum rates above the statutory limit</u>

Staffing – Oversight of GM	2011	Section 23A	Guidelines for the Appointment and Oversight of General Managers
Stormwater Charge	2006	Section 23A	Stormwater Management Services Charge Guidelines
Tendering	2009	Section 23A	Tendering Guidelines for NSW Local Government

Practice Notes and other best practice guidance

OLG also publishes practice notes and other best practice guidance on a range of topics to support NSW councils to govern well and to carry out their functions in line with best practice approaches. These are listed below.

Topic	Publication Date	Link
Asbestos	2012	Guide to Model Asbestos Policy for NSW Councils
Boat Trailer Impounding	2017	Boat Trailer Impounding Guidelines for Councils
Collaboration and Partnerships	2007	Collaboration and Partnerships between Councils: A Guidance Paper
Competitive Neutrality	1997	Pricing and Costing for Council Businesses – A Guide to Competitive Neutrality
Councillor Guidance	2017	Councillor Handbook
Tender Bundle D page 563		

Events Management	2011	<u>Developing a Council Community Events Policy: A Toolkit for NSW Councils</u>
Filming	2009	<u>Local Government Filming Protocol</u>
Integrated Planning and Reporting	2003	<u>Integrated Planning and Reporting Manual for local government in NSW</u>
Joint Organisations	2018	<u>Joint Organisation Implementation Guidelines</u>
On-site Sewage Management	1998	<u>On-site Management for Single Households</u>
Public Land Management	2000	<u>Practice Note No.1 – Public Land Management</u>
Rating and Revenue Raising	2007	<u>Council Rating and Revenue Raising Manual</u>
Share Bikes Management	2018	<u>Shared Bicycle Management Guideline</u>
Street Vending	1996	<u>Street Vending Guidelines</u>
Water Safety	2017	<u>Practice Note No. 15 – Water Safety – Updated October 2017</u>

OLG Circulars to Councils

OLG also provides guidance to councils through [Circulars to Councils](#) from time to time on a range of matters.

Guidance for councils from other agencies

Councils should contact relevant agencies for guidance to support councils to undertake functions under the policies and laws that agency is responsible for administering.

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