

#208938

**MINUTES**

**OF THE**

**ORDINARY MEETING OF COUNCIL**

held in the Council Chambers, Town Hall, Boorowa Street, Young  
commencing at 5.00 pm, on Wednesday, 17<sup>th</sup> February, 2016

**MINUTES**

**PRESENT**

Councillors Brian Ingram (Mayor and Chairperson), Ben Cooper, Stuart Freudenstein, Brian Mullany, Tony Wallace, John Walker, Sandy Freudenstein and Allan Miller.

**In attendance**

David Aber (General Manager), Craig Filmer (Director – Planning & Environment), Dirk Wymer (Director – Operations), Greg Armstrong (Director – Corporate Services), Peter Grove (Acting Director – Utility Services) Leanne Hardy (Personal Assistant), 1 member of the Press and 12 in the gallery.

**APOLOGIES**

Nil

**MAYORAL MINUTE**

**3/16 RESOLVED** on the motion of Councillors Brian Ingram and John Walker that because Emily is the National Champion that:

1. \$500 be allocated from the Mayor's Discretionary fund to assist Emily Briggs attend the world championships
2. That two sports shirts with the Young logo embroidered on it be provided for Emily to have as casual wear at the events

**CONFIRMATION OF MINUTES**

**4/16 RESOLVED** on the motion of Councillors Cooper and Stuart Freudenstein that the minutes of the Ordinary Meeting of Council held on Wednesday, 16<sup>th</sup> December, 2015, be confirmed as a correct record of the proceedings.

**5/16 RESOLVED** on the motion of Councillors Sandy Freudenstein and Miller that the minutes of the Extra Ordinary Meeting of Council held on Wednesday, 3<sup>rd</sup> February, 2016, be confirmed as a correct record of the proceedings.

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## **OBITUARIES**

COLLEEN MAZOUДИER  
MICHAEL DUNN  
LEONARD STREET  
RAYMOND WALTON (DOUG)  
GLORIA BRUCE  
ROBERT CARNLEY  
ELAINE FISHER  
ENID FORD  
RONALD MARKHAM  
MARGARET O'CONNOR  
KEITH FREEMAN  
MAURICE ANDERSON  
ANDREW WATKIN (SKID)  
LYNETTE FAULKNER  
ANTHONY YOUNG  
PATRICIA MORRIS

## **RECOGNITION OF COMMUNITY ACHIEVEMENT**

**6/16 RESOLVED** on the motion of Councillors Sandy Freudenstein and Walker that Mrs Debbie Apps be recognised for her charitable contribution of funds raised for the Sydney Children's Hospital. Since 2006 Debbie has sent close to \$25,000 to Sydney (10 years fundraising).

**7/16 RESOLVED** on the motion of Councillors Sandy Freudenstein and Walker that Senator Fiona Nash be congratulated on her new role as Regional Development Minister and Minister for Regional Communications in the last cabinet reshuffle.

**8/16 RESOLVED** on the motion of Councillors Sandy Freudenstein and Walker that Federal Member for Hume, Angus Taylor be congratulated on being appointed Assistant Minister to Prime Minister Turnbull with special responsibility for Cities and Digital Transformation.

## **OPEN FORUM**

1. Mrs Val Weir addressing Council regarding the condition of Fisher's Lane.
2. Jenifer Haynes addressing Council regarding Item 9.08, 52 Campbell Street, Young.
3. Mr Jon Peters addressing Council regarding Item 9.05 and 9.06, 189 Henry Lawson Way, Young.

**This is Page No. 3 of the Minutes of the Ordinary Meeting of Council held on Wednesday, 17<sup>th</sup> February, 2016.**

4. Mr John Byrne addressing Council regarding difficulties of dealing with Young Shire Council and development.

**9/16 RESOLVED** on the motion of Councillors Wallace and Sandy Freudenstein that items relevant to Open Forum be brought forward.

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**ITEM 9.08            2015/DA-00225 – GARAGE - FREESTANDING, BOARD CLAD WITH TEXTURE COAT FINISH AND COLOUR BOND ROOF; CARPORT AND VERANDAH ATTACHED TO DWELLING – 52 CAMPBELL STREET, YOUNG**

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**Prepared by:** District Building Surveyor            **File Number:** F14.00

**10/16 RESOLVED** on the motion of Councillors Walker and Cooper that this item be open for discussion.

**11/16 RESOLVED** on the motion of Councillors Stuart Freudenstein and Mullany that Council determine the following application, by way of approval, subject to conditions:

- § Application No.: 2015/DA-00225,
- § Property: Lot A DP 388018, 52 Campbell Street, YOUNG NSW
- § Development: garage - freestanding, board clad with texture coat finish and colour bond roof; carport and verandah attached to dwelling

**GENERAL**

- 1 The development shall be generally in accordance with the supporting documentation, including, but not limited to, the following:

<b>Architectural (or Design) Drawings prepared by xxx.</b>			
<b>Drawing No.</b>	<b>Revision/ Issue</b>	<b>Name of Plan</b>	<b>Date</b>
1	A	Site plan	01/2016
3		Verandah elevations	10/2015
4		Section and specification	10/2015
5		Shed floor plan	10/2015
6	A	Shed elevations	01/2016
8		Carport floor plan	10/2015
9		Verandah floor plan	10/2015

and as modified by any conditions of this consent.

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**General Manager**

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**Mayor**

- 2 No departure from the approved plans and specifications shall be made unless the prior approval of Council has been obtained in writing.
- 3 The development shall be carried out in conformity with the provisions of the Environmental Planning and Assessment Act, 1979, and the regulations made thereunder, in accordance with the plans and specifications approved by Council.
- 4 The builder shall maintain on the site, at all times a legible copy of the following:
  - Development Consent including plans and related documentation;
  - Construction certificate including plans, specifications and certificates.
- 5 No residential occupation of the building shall be permitted unless separate written consent for such residential occupation has been issued by Council.

### **SIGNS**

- 6 No more than two signs shall be erected at the front of the site to display the following details. At least one of these signs shall have the following minimum information:
  - the name of the Principal Certifying Authority, their address and telephone number;
  - the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours;
  - that unauthorised entry to the work site is prohibited;

and both signs shall be maintained to a tidy and must be removed when the work has been completed.

### **BUILDING CODE OF AUSTRALIA AND HOME BUILDING ACT**

- 7 All building work must be carried out:
  - (a) In accordance with the requirements of the *Building Code of Australia*. In particular, your attention is directed to the conditions in this consent;
  - (b) In addition, in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such contract of insurance must be in force before any building work authorised by this consent commences.
- 8 Residential building work within the meaning of the *Home Building Act 1989* shall not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being a council) has given the council written notice of the following information:

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- (a) In the case of work for which a principal contractor is required to be appointed, the name, licence number and name of insurer if the principal contractor;
- (b) In the case of work to be done by an owner-builder, the name and owner-builder permit number (where required).

Changes to the residential building work shall not be carried out unless the Principal certifying Authority has given the council written notice of the changes. This condition does not apply to Crown building work as defined.

- 9 The builder or person who does the residential building work must comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. This requirement may be satisfied by the provision of an owner-builder permit or Home Owners Warranty Insurance.

### **CONSTRUCTION CERTIFICATES**

- 10 A Construction Certificate must be obtained from Council or an Accredited Certifier prior to work commencing.
- 11 The following information shall be submitted for assessment when applying for a Construction Certificate:
- 12 Details from a suitably qualified and practising Structural Engineer in regard to:
- (i) reinforced concrete slabs;
  - (ii) retaining walls;
  - (iii) pier hole design for the carport footings.
- 13 Revised plans for the carport that demonstrate compliance with 3.7.1.6 of the Building Code of Australia

### **INSPECTION/CERTIFICATION**

- 14 Prior to commencement of work, the person having the benefit of the Development Consent:
- (a) shall appoint a Principal Certifying Authority (PCA) and
  - (b) shall ensure a Construction Certificate is issued by the PCA;
  - (c) shall notify Council of their intention to commence the site works (at least 2 days notice is required).
- 15 The Principal Certifying Authority shall determine the inspections and compliance certificate that are required.
- 16 Where Young Shire Council **is** nominated as the Principal Certifying Authority, the following requirements shall be satisfied before works commence:

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- The Principal Certifying Authority Service Agreement shall be completed and signed by the applicant; and
- Terms and conditions of the principal certifying Authority Service agreement shall be satisfied.

17 Where Young Shire Council **is not** the Principal Certifying Authority, the following requirements shall be satisfied before works commence:

- Principal Certifying Authority name address and registration details from the Building Professionals board shall be registered with Council;
- Construction Certificate shall be registered with Council.

## **OCCUPATION CERTIFICATE**

18 A final Occupation (Completion) Certificate must be issued by the Principal Certifying Authority **prior to occupation or use of the development**. In issuing an occupation certificate, the Principal Certifying Authority must be satisfied that the requirements of *section 109H of the Environmental Planning and Assessment Act 1979* have been satisfied.

Note: When all work as indicated on the approved plans/specifications is completed, the applicant shall notify the PCA to arrange for the issue of a final Occupation Certificate.

## **SITE PREPARATION**

### ***Cut and Fill***

- 19 The applicant shall ensure that any cut or fill on site is appropriately graded, drained, retained and vegetation commenced. The retaining walls shall be extended by return on the northern boundary to ensure that all cut, fill, storm and surface waters are not directed to the neighbouring premises.
- 20 Retaining walls greater than 1 metre in height shall be designed by a suitably qualified practising and insured Structural Engineer. The design shall be submitted to and permission to proceed granted by Council prior to work commencing.
- 21 It is a prescribed condition of this consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the consent shall, at the person's own expense:
- (a) Protect and support the adjoining premises from possible damage from the excavation; and
  - (b) Where necessary, underpin the adjoining premises to prevent any such damage.

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This condition does not apply if the person having the benefit of the consent owns the adjoining land or the owner of the adjoining land has given written consent to this condition not applying.

### **Erosion Control**

- 22 Erosion and sedimentation control measures shall be implemented on the site prior to work commencing (see Fact Sheet 9 for details).

### **Stormwater Drainage**

- 23 Stormwater from roof and hardstand areas shall be conveyed to the existing property stormwater system. This shall include the stormwater overflow from any tank or collection system.

## **CONSTRUCTION**

### **Frame/Walls/Roof**

- 24 Concrete footings and floor construction shall comply with the requirements of *Australian Standard AS2870 – Residential slabs and footings*.
- 25 Timber framed construction shall comply with the requirements of *AS1684 – Residential Timber Framed Construction*.
- 26 Submission of a plan showing the number, type and location of bracing units in the building, as calculated in accordance with *Australian Standard AS1684.2 Residential Timber Framed Construction – Non Cyclonic Areas* and *NSW Timber Framing Manual*.
- 27 Structural timber used externally shall be of a durability class 2 or better. Durability class 3 and 4 may only be used where they have acceptable preservative treatment.
- Note: Douglas Fir (Oregon) shall not be used as an external structural material in a situation where it may be subject to weathering and deterioration.
- 28 Where threshold to the front entry doorway exceeds 190mm above adjacent surface, steps designed in accordance with the *Building Code of Australia* shall be incorporated.
- 29 Prior to frame inspection being booked, a certificate verifying to the design and construction of the trusses in accordance with the truss design data shall be submitted to the Principal Certifying Authority.

### **TREES**

- 30 Any trees not approved for removal shall be protected from damage during construction. This includes protection from compaction of the ground within the root zone, damage to the trunk or crown of the tree.

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## **NUISANCE & AMENITY**

### **Hours of Construction**

- 31 For reasons of residential amenity in the neighbourhood, work on the project shall be limited to the following hours:
- (i) Monday to Friday - 7:00 am to 6:00 pm
  - (ii) Saturday - 8:00 am to 5:00 pm
  - (iii) No work to be carried out on Sunday/Public Holidays, without the prior written consent of Council.

**Note:** That 48 hours notice be given to the immediate neighbours to the site if periods of prolonged noisy construction activities are to be carried out on the site.

### **CHANGE OF USE**

- 32 The garage shall not be used for Commercial or Industrial purposes, nor shall it be used for human habitation without the prior approval of Council in writing.
- 33 The carport shall not subsequently be enclosed without the prior written consent of Council being obtained.

### **WASTEWATER DRAINAGE**

- 34 A permit shall be obtained from Council prior to any works commencing on site regarding connection to reticulated sewerage system or connection to the on-site sewerage management system.
- 35 All plumbing and drainage work shall comply with the requirements of the *Plumbing Code of Australia* and the *Plumbing Code of Australia*.
- 36 A plumbing and drainage diagram designed by a licensed plumber and drainer shall be submitted to and approved by Council **prior to the external drainage inspection being booked.**
37. A minimum height of 150mm shall be maintained between the top of the overflow gully riser (disconnecter trap) and the lowest fixture connected to the drain.

### **REASONS FOR CONDITIONS**

The reason for the imposition of the above consent conditions is as follows:-

1. To achieve the objectives of *section 5(a) of the Environmental Planning and Assessment Act 1979*, having regard to the relevant matters for consideration

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contained in *section 79C of the Act and the Environmental Planning Instruments* applying to the land.

2. To ensure compliance with the *Building Code of Australia*, to enable the achievement and maintenance of acceptable standards of structural sufficiency, safety, health and amenity, for the benefit of the community now and in the future.
3. To confirm the details of the application and plans submitted by the applicant;
4. To ensure compliance with relevant planning controls;
5. To ensure that appropriate environmental protection measures are in place;
6. To ensure the development complies with the requirements of Council policies.
7. To protect existing trees located on site and footpath areas;

#### **SECTION 68 LOCAL GOVERNMENT ACT, 1993 APPROVALS**

The above consent includes the following approvals under section 78A(5) of the Environmental Planning and Assessment Act 1979 and section 68 of the Local Government Act 1993:

- Carrying out Sewerage work
- Carrying out stormwater drainage work.

#### **Record of Councillor Voting on Planning Matters in accordance with Section 375A of the Local Government Act, 1993.**

Clr Stuart Freudenstein	For	Clr Tony Wallace	For
Clr Ben Cooper	For	Clr Brian Ingram	For
Clr John Walker	Against	Clr Sandy Freudenstein	Against
Clr Brian Mullany	Against	Clr Allan Miller	Against

The motion was put and WON on the Mayor's casting vote.

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**ITEM 9.05                    2012/DA-00192 – SUBDIVISION OF 189 HENRY LAWSON WAY,  
YOUNG**

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**Prepared by:** Manager of Planning

**File Number:** F149.01

**12/16            RESOLVED** on the motion of Councillors Stuart Freudenstein and Sandy Freudenstein that the information be noted.

**Record of Councillor Voting on Planning Matters in accordance with Section 375A of the Local Government Act, 1993.**

Clr Stuart Freudenstein	For	Clr Tony Wallace	For
Clr Ben Cooper	For	Clr Brian Ingram	For
Clr John Walker	For	Clr Sandy Freudenstein	For
Clr Brian Mullany	For	Clr Allan Miller	For

**ITEM 9.06                    2012/DA-00192 REV01 – PROPOSED MODIFICATION TO  
SUBDIVISION – 189 HENRY LAWSON WAY, YOUNG**

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**Prepared by:** Manager of Planning

**File Number:** F149.01

**13/16            RESOLVED** on the motion of Councillors Stuart Freudenstein and Mullany that Council refuse the modification (2012/DA-00192 REV 01) to delete Condition 35.

**Record of Councillor Voting on Planning Matters in accordance with Section 375A of the Local Government Act, 1993.**

Clr Stuart Freudenstein	For	Clr Tony Wallace	Against
Clr Ben Cooper	For	Clr Brian Ingram	For
Clr John Walker	Against	Clr Sandy Freudenstein	For
Clr Brian Mullany	For	Clr Allan Miller	Against

**DELEGATES REPORTS AND CIVIC DUTY**

**14/16    RESOLVED** on the motion of Councillors Cooper and Mullany that the verbal Delegates Reports and Civic Duties be noted.

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**General Manager**

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**Mayor**

## **COMMITTEE REPORTS**

### **Band Committee – 22.9.15**

**15/16 RESOLVED** on the motion of Councillors Walker and Mullany that the minutes of the Band Committee meeting held on 22<sup>nd</sup> September, 2015 be received and adopted.

### **Band Committee – 19.10.15**

**16/16 RESOLVED** on the motion of Councillors Walker and Sandy Freudenstein that the minutes of the Band Committee meeting held on the 19<sup>th</sup> October, 2015 be received and adopted.

### **Band Committee – 16.11.15**

**17/16 RESOLVED** on the motion of Councillors Walker and Sandy Freudenstein that the minutes of the Band Committee meeting held on 16<sup>th</sup> November, 2015 be received and adopted.

### **Arts & Cultural Committee – 10.12.15**

**18/16 RESOLVED** on the motion of Councillors Sandy Freudenstein and Walker that the minutes of the Arts & Cultural Committee meeting held on the 10<sup>th</sup> December, 2015 be received and adopted.

### **Audit Committee – 11.12.15**

**19/16 RESOLVED** on the motion of Councillors Stuart Freudenstein and Sandy Freudenstein that the minutes of the Audit Committee meeting held on the 11<sup>th</sup> December, 2015 be received and adopted.

### **Young Sports Advisory Committee – 14.12.15**

**20/16 RESOLVED** on the motion of Councillors Miller and Stuart Freudenstein that the minutes of the Young Sports Advisory Committee meeting held on the 14<sup>th</sup> December, 2015 be received and adopted.

### **Economic Development Committee – 15.12.15**

**21/16 RESOLVED** on the motion of Councillors Sandy Freudenstein and Stuart Freudenstein that the minutes of the Economic Development Committee meeting held on 15<sup>th</sup> December, 2015 be received and adopted.

**This is Page No. 12 of the Minutes of the Ordinary Meeting of Council held on Wednesday, 17<sup>th</sup> February, 2016.**

## GENERAL MANAGER'S REPORT

<b>ITEM 9.01</b>	<b>FINANCE AND PERFORMANCE FOR NOVEMBER &amp; DECEMBER/JANUARY</b>
<b>Prepared by:</b> General Manager	<b>File Number:</b> 162.00

**22/16 RESOLVED** on the motion of Councillors Mullany and Wallace that the reports for the Finance and Performance for the month of December & January be received and noted.

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### **ITEM 9.02            2015-16 BUDGET REVIEW – as at 31 December 2015**

**Prepared by:** Finance Accountant

**File Number:** 2.00

**23/16 RESOLVED** on the motion of Councillors Mullany and Wallace that Councillor's note and approve the budget variation as reported as at 31 December 2015.

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### **ITEM 9.03            DRINKING WATER QUALITY MANAGEMENT SYSTEM**

**Prepared by:** Director of Utility Services

**File Number:** F166.00

**24/16 RESOLVED** on the motion of Councillors Sandy Freudenstein and Walker that Council endorse the Young Shire Council Drinking Water Quality Management System.

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### **ITEM 9.04            AMENDMENTS TO THE LOCAL GOVERNMENT ACT – (COUNCILLOR MISCONDUCT AND POOR PERFORMANCE) ACT 2015**

**Prepared by:** Director Corporate Services

**File Number:** F23.02

**25/16 RESOLVED** on the motion of Councillors Stuart Freudenstein and Sandy Freudenstein that Council note the report and adopt the new Model Code of Conduct for Local Councils in NSW as the Young Shire Council Code of Conduct.

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**General Manager**

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**Mayor**



Office of  
Local Government

Office of Local Government

# MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW

November 2015

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The Office of Local Government is located at:

Levels 1 & 2  
5 O'Keefe Avenue  
NOWRA NSW 2541

Locked Bag 3015  
NOWRA NSW 2541

Phone 02 4428 4100  
Fax 02 4428 4199  
TTY 02 4428 4209

Level 9, 6 - 10 O'Connell Street  
SYDNEY NSW 2000

PO Box R1772  
ROYAL EXCHANGE NSW 1225

Phone 02 9289 4000  
Fax 02 9289 4099  
Email [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)  
Website [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)

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# PART 1

## INTRODUCTION

This Model Code of Conduct for Local Councils in NSW (“the Model Code of Conduct”) is made for the purposes of section 440 of the *Local Government Act 1993* (“the Act”). Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code. For the purposes of section 440 of the Act, the Model Code of Conduct comprises all parts of this document.

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

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

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

## PART 2

# PURPOSE OF THE CODE OF CONDUCT

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

The Model Code of Conduct has been developed to assist council officials to:

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

## PART 3

# GENERAL CONDUCT OBLIGATIONS

### General conduct

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

### Fairness and equity

- 3.4** You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.5** You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

## Harassment and discrimination

- 3.6** You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

## Development decisions

- 3.7** You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.
- 3.8** In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

## Binding caucus votes

- 3.9** You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.10** For the purposes of clause 3.9, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 3.11** Clause 3.9 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 3.12** Clause 3.9 does not apply to a decision to elect the Mayor or Deputy Mayor or to nominate a person to be a member of a council committee.

## PART 4

# CONFLICT OF INTERESTS

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

## What is a pecuniary interest?

- 4.5 A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (*section 442*)
- 4.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (*section 443*)
- 4.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
  - a) councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (*section 449*)
  - b) councillors and members of council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*)
  - c) designated persons immediately declare, in writing, any pecuniary interest. (*section 459*)
- 4.8 Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.
- 4.9 Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

## What are non-pecuniary interests?

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

**4.11** The political views of a councillor do not constitute a private interest.

## Managing non-pecuniary conflict of interests

**4.12** Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.

**4.13** If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 4.12.

**4.14** How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.

**4.15** As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:

- a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
- b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
- c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.

- 4.16** If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:
- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official
  - b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply.
- 4.17** If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 4.18** If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- 4.19** Despite clause 4.16(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff through the general manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 4.16(b) above.

## Reportable political donations

- 4.20** Councillors should note that matters before council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.
- 4.21** Where a councillor has received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
  - b) where the major political donor has a matter before council,
- then the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 4.16(b).

**4.22** For the purposes of this Part:

- a) a “reportable political donation” is a “reportable political donation” for the purposes of section 86 of the *Election Funding, Expenditure and Disclosures Act 1981*,
- b) a “major political donor” is a “major political donor” for the purposes of section 84 of the *Election Funding, Expenditure and Disclosures Act 1981*.

**4.23** Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.

**4.24** If a councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 4.21, that councillor is not prevented from participating in a decision to delegate council’s decision-making role to council staff through the general manager or appointing another person or body to make the decision in accordance with the law (see clause 4.19 above).

## **Loss of quorum as a result of compliance with this Part**

**4.25** Where a majority of councillors are precluded under this Part from consideration of a matter the council or committee must resolve to delegate consideration of the matter in question to another person.

**4.26** Where a majority of councillors are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the councillors may apply in writing to the Chief Executive to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interests.

**4.27** The Chief Executive will only exempt a councillor from complying with a requirement under this Part where:

- a) compliance by councillors with a requirement under the Part in relation to a matter will result in the loss of a quorum, and
- b) the matter relates to the exercise of a function of the council that may not be delegated under section 377 of the Act.

**4.28** Where the Chief Executive exempts a councillor from complying with a requirement under this Part, the councillor must still disclose any interests they have in the matter the exemption applies to in accordance with the requirements of this Part.



- 4.29** A councillor, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interests in the matter, is permitted to participate in consideration of the matter, if:
- a) the matter is a proposal relating to
    - i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or
    - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
  - b) the non-pecuniary conflict of interests arises only because of an interest that a person has in that person's principal place of residence, and
  - c) the councillor declares the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part.

## Other business or employment

- 4.30** If you are a member of staff of council considering outside employment or contract work that relates to the business of the council or that might conflict with your council duties, you must notify and seek the approval of the general manager in writing. (*section 353*)
- 4.31** As a member of staff, you must ensure that any outside employment or business you engage in will not:
- a) conflict with your official duties
  - b) involve using confidential information or council resources obtained through your work with the council
  - c) require you to work while on council duty
  - d) discredit or disadvantage the council.

## Personal dealings with council

- 4.32** You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

## **PART 5**

# **PERSONAL BENEFIT**

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

### **Gifts and benefits**

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

### **Token gifts and benefits**

- 5.3** Generally speaking, token gifts and benefits include:
  - a) free or subsidised meals, beverages or refreshments provided in conjunction with:
    - i) the discussion of official business
    - ii) council work related events such as training, education sessions, workshops
    - iii) conferences
    - iv) council functions or events
    - v) social functions organised by groups, such as council committees and community organisations
  - b) invitations to and attendance at local social, cultural or sporting events
  - c) gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
  - d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers
  - e) prizes of token value.

## Gifts and benefits of value

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

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

**5.5** You must not:

- a) seek or accept a bribe or other improper inducement
- b) seek gifts or benefits of any kind
- c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty
- d) accept any gift or benefit of more than token value
- e) accept an offer of cash or a cash-like gift, regardless of the amount.

**5.6** For the purposes of clause 5.5(e), a “cash-like gift” includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.

**5.7** Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Mayor or the general manager. The recipient, supervisor, Mayor or general manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register. The gift or benefit must be surrendered to council, unless the nature of the gift or benefit makes this impractical.

## Improper and undue influence

**5.8** You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the appropriate exercise of their representative functions.

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

## PART 6

# RELATIONSHIP BETWEEN COUNCIL OFFICIALS

## Obligations of councillors and administrators

- 6.1** Each council is a body politic. The councillors or administrator/s are the governing body of the council. The governing body has the responsibility of directing and controlling the affairs of the council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.
- 6.2** Councillors or administrators must not:
- a) direct 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 or administrator exercising their power under section 226 of the Act (*section 352*)
  - b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate (*Schedule 6A of the Act*)
  - c) contact a member of the staff of the council on council related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
  - d) contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to council's external auditors or the Chair of council's audit committee who may be provided with any information by individual councillors reasonably necessary for the external auditor or audit committee to effectively perform their functions.

## Obligations of staff

- 6.3** 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.
- 6.4** Members of staff of council must:
- a) give their attention to the business of council while on duty
  - b) ensure that their work is carried out efficiently, economically and effectively
  - c) carry out lawful directions given by any person having authority to give such directions
  - d) give effect to the lawful decisions, policies, and procedures of the council, whether or not the staff member agrees with or approves of them
  - e) ensure that any participation in political activities outside the service of the council does not conflict with the performance of their official duties.

## Obligations during meetings

- 6.5** You must act in accordance with council's Code of Meeting Practice, if council has adopted one, and the *Local Government (General) Regulation 2005* during council and committee meetings.
- 6.6** You must show respect to the chair, other council officials and any members of the public present during council and committee meetings or other formal proceedings of the council.

## Inappropriate interactions

- 6.7** You must not engage in any of the following inappropriate interactions:
- a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
  - b) Council staff approaching councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
  - c) Council staff refusing to give information that is available to other councillors to a particular councillor.
  - d) Councillors and administrators who have lodged a development application with council, discussing the matter with council staff in staff-only areas of the council.
  - e) Councillors and administrators being overbearing or threatening to council staff.
  - f) Councillors and administrators making personal attacks on council staff in a public forum.
  - g) Councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.
  - h) Council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
  - i) Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.
  - j) 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 or administrator, exercising their power under section 226 of the Act.

## PART 7

# ACCESS TO INFORMATION AND COUNCIL RESOURCES

## Councillor and administrator access to information

- 7.1 The general manager and public officer are responsible for ensuring that members of the public, councillors and administrators can gain access to the documents available under the *Government Information (Public Access) Act 2009*.
- 7.2 The general manager must provide councillors and administrators with information sufficient to enable them to carry out their civic office functions.
- 7.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with council procedures.
- 7.4 Members of staff of council 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 and in accordance with council procedures.
- 7.5 Councillors and administrators 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.

## Councillors and administrators to properly examine and consider information

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

## Refusal of access to documents

- 7.7 Where the general manager and public officer determine to refuse access to a document sought by a councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the councillor or administrator to perform their civic duty (see clause 7.2). The general manager or public officer must state the reasons for the decision if access is refused.

## Use of certain council information

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

## Use and security of confidential information

- 7.9** You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.
- 7.10** In addition to your general obligations relating to the use of council information, you must:
- a) protect confidential information
  - b) only release confidential information if you have authority to do so
  - c) only use confidential information for the purpose it is intended to be used
  - d) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
  - e) not use confidential information with the intention to cause harm or detriment to your council or any other person or body
  - f) not disclose any information discussed during a confidential session of a council meeting.

## Personal information

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

## Use of council resources

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



## Councillor access to council buildings

- 7.20** Councillors and administrators are entitled to have access to the council chamber, committee room, Mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.
- 7.21** Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or delegate) or as provided in the procedures governing the interaction of councillors and council staff.
- 7.22** Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence council staff decisions.

## PART 8

# MAINTAINING THE INTEGRITY OF THIS CODE

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

## Complaints made for an improper purpose

**8.2** You must not make a complaint or cause a complaint to be made under this code for an improper purpose.

**8.3** For the purposes of clause 8.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:

- a) to intimidate or harass another council official
- b) to damage another council official's reputation
- c) to obtain a political advantage
- d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
- e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
- f) to avoid disciplinary action under this code
- g) to take reprisal action against a person for making a complaint under this code except as may be otherwise specifically permitted under this code
- h) to take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this code except as may be otherwise specifically permitted under this code
- i) to prevent or disrupt the effective administration of this code.

## Detrimental action

**8.4** You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this code except as may be otherwise specifically permitted under this code.

**8.5** You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this code except as may be otherwise specifically permitted under this code.

- 8.6** For the purposes of clauses 8.4 and 8.5 detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
  - b) intimidation or harassment
  - c) discrimination, disadvantage or adverse treatment in relation to employment
  - d) dismissal from, or prejudice in, employment
  - e) disciplinary proceedings.

## **Compliance with requirements under this code**

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

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

- 8.11** You must report breaches of this code in accordance with the reporting requirements under this code.
- 8.12** You must not make allegations of suspected breaches of this code at council meetings or in other public forums.
- 8.13** You must not disclose information about the consideration of a matter under this code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this code.

## **Complaints alleging a breach of this part**

- 8.14** Complaints alleging a breach of this Part (Part 8) by a councillor, the general manager or an administrator are to be made to the Office of Local Government.
- 8.15** Complaints alleging a breach of this Part by other council officials are to be made to the general manager.

## PART 9

# DEFINITIONS

In the Model Code of Conduct the following definitions apply:

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

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

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

For more information on the Office of Local  
Government Code of Conduct visit our website

[www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)



Office of  
Local Government

**ITEM 9.05                    2012/DA-00192 – SUBDIVISION OF 189 HENRY LAWSON WAY,  
YOUNG**

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**Prepared by:** Manager of Planning

**File Number:** F149.01

**This matter was dealt with previously.**

**ITEM 9.06                    2012/DA-00192 REV01 – PROPOSED MODIFICATION TO  
SUBDIVISION – 189 HENRY LAWSON WAY, YOUNG**

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**Prepared by:** Manager of Planning

**File Number:** F149.01

**This matter was dealt with previously.**

**ITEM 9.07                    2015/DA-00082 REV01 – PROPOSED MODIFICATION TO  
SUBDIVISION – 81 BINALONG STREET, YOUNG**

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**Prepared by:** Manager of Planning

**File Number:** F149.01

**26/16 RESOLVED** on the motion of Councillors Walker and Miller:

1. That Condition C8 be modified as follows, by removing the reference to “commercial” and inserting in its place “multiple residential”.

***Approval to construct access/es***

C8. Property accesses constructed within public road reserves, require a Work Within the Road Reserve permit, issued pursuant to section 138 of the Roads Act 1993. The permit will detail Council’s specifications for the proposed works, but as a minimum, the following works are required:

- (a) *the existing access servicing proposed Lots 2 and 3 (layback and crossing), shall be upgraded to comply with a ~~commercial~~ **multiple residential** vehicular crossing standard.*
2. That Condition E3 be modified as follows, by deleting the reference to “(commercial standard)”, and inserting a reference to the ROW policy standard.

***Shared driveway / right of access***

*E3. The shared driveway / right of access shall be constructed and sealed:*

- (a) *to the same standard as the access (~~commercial standard~~) or ,*
- (b) *to a suitable all-weather sealed standard, details of which shall be submitted to Council for approval, prior to work being carried out,*

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**General Manager**

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**Mayor**



## APPROVED DEVELOPMENT

### General

- 1 The development shall be generally in accordance with development application number 2015/DA-00175 submitted by the applicant on 31 August 2015 and be in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

2

Drawing No.	Revision/ Issue	Plan	Date
-	-	Undated, A4 sized sheet with a hand-drawn diagram (at 1:250 scale) showing the site layout with the words "Wombat St Young" at the top of the page.	
<b>Statement of Environmental Effects prepared by Scott Mellross and received by Council on 6 November 2015.</b>			

as modified by any conditions of this consent.

- 3 The use not commencing until such time as the requirements of this consent have been carried out to Council's reasonable satisfaction, as signified in writing.
- 4 Any changes to the development will require the submission of an application to modify the consent, under section 96(1A) of the *Environmental Planning and Assessment Act 1979*.

### BUILDING CODE OF AUSTRALIA AND HOME BUILDING ACT

- 5 All building work must be carried out:
- (a) In accordance with the requirements of the *Building Code of Australia*. In particular, your attention is directed to the conditions in this consent;
  - (b) In addition, in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such contract of insurance must be in force before any building work authorised by this consent commences.
- 6 Residential building work within the meaning of the *Home Building Act 1989* shall not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being a Council) has given the Council written notice of the following information:
- (a) In the case of work for which a principal contractor is required to be appointed, the name, licence number and name of insurer if the principal contractor

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- (b) In the case of work to be done by an owner-builder, the name and owner-builder permit number (where required).

Changes to the residential building work shall not be carried out unless the Principal certifying Authority has given the Council written notice of the changes.

- 7 The builder or person who does the residential building work must comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. This requirement may be satisfied by the provision of an owner-builder permit or Home Owner's Warranty Insurance.

## **PRIOR TO COMMENCEMENT OF WORK**

### **Construction Certificate**

- 8 A Construction Certificate must be obtained from Council or an Accredited Certifier prior to work commencing.

### **Principal Certifying Authority**

- 9 Prior to commencement of work, the person having the benefit of the Development Consent shall:
- (a) appoint a Principal Certifying Authority (PCA); and
  - (b) ensure a Construction Certificate is issued by the PCA;
  - (c) notify Council of their intention to commence the site works (at least 2 days notice is required).

## **PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

### **Revised plans**

- 10 Prior to the issue of a Construction Certificate, the person having the benefit of this consent shall provide to Council:
- a. revised construction, elevation, floor and section plans that show the maximum height of the carport to be no higher than those of the eaves of the existing dwelling on site; and
  - b. engineering certification for the revised structure.

## **INSPECTION/CERTIFICATION**

- 11 The Principal Certifying Authority shall determine the inspections and compliance certificate that are required.
- 12 Where Young Shire Council **is** nominated as the Principal Certifying Authority, the following requirements shall be satisfied before works commence:

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- a. The Principal Certifying Authority Service Agreement shall be completed and signed by the applicant; and
  - b. Terms and conditions of the Principal Certifying Authority Service Agreement shall be satisfied.
- 13 Where Young Shire Council **is not** the Principal Certifying Authority, the following requirements shall be satisfied before works commence:
  - a. Principal Certifying Authority name, address and registration details (evidencing registration with the Building Professionals Board) shall be submitted to Council; and
  - b. A Construction Certificate shall be registered with Council.

## **SITE PREPARATION**

### **Site works**

- 14 Prior to work commencing, a sign shall erected on the land, such that it can be viewed from Wombat Street, and shall contain the contact name and telephone number of the builder and Principal Certifying Authority.

### **Cut and Fill**

- 15 The applicant shall ensure that any cut or fill on site is appropriately graded, drained, retained and vegetation commenced.
- 16 Retaining walls greater than 1 metre in height shall be designed by a suitably qualified practising and insured Structural Engineer. The design shall be submitted to and permission to proceed granted by Council prior to work commencing.
- 17 It is a prescribed condition of this consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the consent shall, at the person's own expense:
  - (a) Protect and support the adjoining premises from possible damage from the excavation; and
  - (b) Where necessary, underpin the adjoining premises to prevent any such damage;
  - (c) This condition does not apply if the person having the benefit of the consent owns the adjoining land or the owner of the adjoining land has given written consent to this condition not applying.

### **Erosion Control**

- 18 Erosion and sedimentation control measures shall be implemented on the site prior to work commencing.
- 19 The developer shall ensure that any cut or fill on site is appropriately graded, drained and vegetation commenced.

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### **Builders' toilet**

- 20 The applicant shall ensure that a suitable builders' toilet is situated on the property, prior to commencing construction and is serviced and maintained in clean condition during construction.

### **DURING CONSTRUCTION**

#### **Hours of construction**

- 21 For reasons of residential amenity in the neighbourhood, work on the project shall be limited to the following hours:
- a. Monday to Friday: 7.00am to 6.00pm
  - b. Saturday: 8.00am to 5.00pm
  - c. No work on Sundays or public holidays.

#### **Trees**

- 22 No trees are approved for removal (on development site or on public footpath). Existing trees on site shall be protected from damage during construction. This includes protection from compaction of the ground within the root zone, damage to the trunk or crown of the tree.
- 23 Retained trees on site will be protected in compliance with Australian Standard *AS4970 Protection of Trees on Development Sites*

#### **Waste Disposal**

- 24 The developer must provide an adequate receptacle to store all waste generated by the development pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle.

#### **Storage of materials**

- 25 No materials, goods, etc, shall be placed in Council's road reserve during the construction phase.

### **SURVEY**

- 26 A document from a registered and practising land surveyor shall be submitted to Council at the following stages of construction:
- (a) Set out of the development and prior to construction commencing
  - (b) completion of building after placement of eaves and gutters.

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## ACCESS

### Works within a Council Road Reserve

- 27 Suitable provision shall be made on-site for construction vehicles, to alleviate any need to park on the adjacent road reserve.

## OCCUPATION CERTIFICATE

- 28 A Final Occupation Certificate must be issued by the Principal Certifying Authority **prior to occupation or use of the development**. In issuing an occupation certificate, the Principal Certifying Authority must be satisfied that the requirements of *section 109H of the Environmental Planning and Assessment Act 1979* have been satisfied.

Note: When all work as indicated on the approved plans/specifications is completed, the applicant shall notify the PCA to arrange for the issue of a final Occupation Certificate.

## OTHER APPROVALS:

Following is a list of section 68 *Local Government Act 1993* approvals granted under section 78A(5) of the *Environmental Planning and Assessment Act 1979*.

§ Water supply connection.

§ Sewer connection.

### Record of Councillor Voting on Planning Matters in accordance with Section 375A of the Local Government Act, 1993.

Clr Stuart Freudenstein	For	Clr Tony Wallace	For
Clr Ben Cooper	For	Clr Brian Ingram	For
Clr John Walker	For	Clr Sandy Freudenstein	Against
Clr Brian Mullany	For	Clr Allan Miller	For

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General Manager

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Mayor

**ITEM 9.10                    YOUNG AQUATIC CENTRE – DESIGN REVIEW GROUP  
DELIBERATIONS & NEXT STEPS**

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**Prepared by:** Director – Planning,  
Environment & Strategic Services

**File Number:** F.8.00

**28/16 RESOLVED** on the motion of Councillors Stuart Freudenstein and Mullany that:

1. Council provide \$70,000 in its 2016/2017 budget for design brief costs to advance this project to Development Application Stage for the whole project.
2. Design Tenders be run during June 2016 in anticipation of this fund availability with associated Tender costs to be drawn from Pool Operating expenditure.
3. Upon completion and acceptance by Council of the final Concept Design, Council proceeds to fund the Design and Construction for Stage 2, implementing this stage in the 2017/2018 financial year
4. Council be provided with a further report that shall include an Estimate from a Quantity Surveyor as to the Capital Costs and further the projected Annual Operating Costs of Stage 3 in order to schedule the construction and commissioning of stage 3, into its 10 year financial plan.

**Councillors Miller, Walker and Sandy Freudenstein requested that their votes be recorded against the motion.**

**ITEM 9.11                    YOUNG SHIRE – DOG POUND**

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**Prepared by:** District Building Surveyor

**File Number:** F102.00

**29/16 RESOLVED** on the motion of Councillors Walker and Stuart Freudenstein:

1. That the report be received and noted.
2. That completion of design and drafting proceed
3. That the preliminary costing be considered for inclusion in budget costing in 2016/17.

**ITEM 9.12                    YOUNG AERODROME: AVGAS FACILITY PROPOSED LEASE  
AGREEMENT**

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**Prepared by:** Director Operations

**File Number:** F4.01

**30/16 RESOLVED** on the motion of Councillors Wallace and Walker that:

1. Council prepare a lease agreement for the aviation refuelling facility with the Young Aero Club Incorporated that allows sub lease to a suitably qualified and experienced facility operator; subject to Council approval of the operator and Council approval to any proposed change of operator.

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**General Manager**

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**Mayor**

2. The conditions of the lease shall include the applicable conditions of the development consent, compliance with the legislative requirements required in operating the tank and bowser and any of Council's current insurance requirements.

**ITEM 9.13                    DRAFT SECTION 94 AND DRAFT SECTION 94A DEVELOPMENT  
CONTRIBUTIONS PLANS PRIOR TO PUBLIC EXHIBITION**

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**Prepared by:** Director Planning Environment  
and Strategic Services

**File Number: F154.18**

**31/16            RESOLVED** on the motion of Councillors Walker and Sandy Freudenstein that Council resolves as follows:

- 1) To place the two separate Draft Section 94 and Draft Section 94A Development Contributions Plans on public exhibition for the period Friday 26 February 2016 to Friday 24 March 2016 and seek community submissions.
- 2) To place the Fact Sheet in Attachment 3 on public exhibition with the two development contributions plans;
- 3) At close of the public exhibition a report is to be submitted to Council providing details of any submissions that may have been submitted, prior to consideration and adoption.

**ITEM 10            CORRESPONDENCE**

10.01 #206250-01 78.06

HIGH GROUND CONSULTING

**32/16 RESOLVED** on the motion of Councillors Sandy Freudenstein and Mullany that Councillors note the January 2016 report from High Ground Consulting.

10.2 #208203-01 78.06

HIGH GROUND CONSULTING

**33/16 RESOLVED** on the motion of Councillors Sandy Freudenstein and Mullany that Councillors note the February 2016 report from High Ground Consulting.

10.3 #207691 109.00

NAIDOC WEEK INITIATIVES

**34/16 RESOLVED** on the motion of Councillors Stuart Freudenstein and Sandy Freudenstein that Council allocate \$450 to support the 2016 NAIDOC Week School Initiative with printing and distribution of information packs.

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**General Manager**

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**Mayor**

10.4 ##201854-01 82.00

SOUTHERN NOXIOUS PLANTS AUTHORITY

**35/16 RESOLVED** on the motion of Councillors Wallace and Walker that Councillors receive and note the minutes from the Southern Slopes Noxious Plants Authority meeting held 15<sup>th</sup> October, 2015.

10.5 #201837-01 157.00

SOUTHERN SLOPES TRANSPORT WORKING GROUP,

**36/16 RESOLVED** on the motion of Councillors Walker and Mullany that Council receive and note the Minutes of the Southern Slopes Transport Working Group meeting held 18<sup>th</sup> August, 2015.

**ITEM 11 CONFIDENTIAL REPORT**

**11.1 BOOROWA STREET PUBLIC TOILETS – SIGNAGE**

**11.2 FINAL STUDY FROM CONSULTANTS FOR THE HEAVY VEHICLE ROUTE STUDY**

**11.3 CORRESPONDENCE ITEM**

**11.4 TENDERS ASSESSMENT REPORT - BULK EARTHWORKS - APPS LANE REALIGNMENT**

**PUBLIC ACCESS TO COUNCIL MEETINGS**

In accordance with s10(1) of Local Government Act 1993 -

*Everyone is entitled to attend a meeting of the Council and those of its committees except as provided by s10A(2).*

s10A of the Local Government Act 1993 further provides that a Council, or a committee of the Council of which all the members are Councillors, may close to the public so much of its meeting as comprises the receipt or discussion of any of the following:

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the Council, or
  - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law,

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**General Manager**

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**Mayor**

**37/16 RESOLVED** on the motion of Councillors Sandy Freudenstein and Wallace that Council close the meeting to the public in accordance with s10A of the Local Government Act 1993 in order to consider the Confidential Reports:

- 11.1 BOOROWA STREET PUBLIC TOILETS – SIGNAGE**
- 11.2 FINAL STUDY FROM CONSULTANTS FOR THE HEAVY VEHICLE ROUTE STUDY**
- 11.3 CORRESPONDENCE ITEM**
- 11.4 TENDERS ASSESSMENT REPORT - BULK EARTHWORKS - APPS LANE REALIGNMENT**

Due to the following:

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the Council, or
  - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law.

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**ITEM 11.1 BOOROWA STREET PUBLIC TOILETS - SIGNAGE**

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**Prepared by:** District Building Surveyor

**File Number:** F99.02

**38/16 RESOLVED** on the motion of Councillors Stuart Freudenstein and Wallace that the signage as designed be accepted and that the Signs R Us quote be accepted for the manufacture and installation of the signage.

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**ITEM 11.2 FINAL STUDY FROM CONSULTANTS FOR THE HEAVY VEHICLE ROUTE STUDY**

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**Prepared by:** Director Planning Environment and Strategic Services

**File Number:** F154.09

**39/16 RESOLVED** on the motion of Councillors Mullany and Miller that Council refer the project and present study work to the new merged Council with a recommendation that this study be used as baseline work for future decision making during integration of the proposed merged Councils' respective planning systems.

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## CORRESPONDENCE

11.3            #205270            F31.00  
BRADLEY ALLEN LOVE,

**40/16 RESOLVED** on the motion of Councillors Wallace and Sandy Freudenstein that Council reject the offer and seek to recover the full assessed sum.

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### ITEM 11.4            TENDERS ASSESSMENT REPORT - BULK EARTHWORKS - APPS LANE REALIGNMENT

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Prepared by: Works and Contracts Engineer

File Number: F72.10078.013

**The Mayor declared a pecuniary interest because a relative works for one of the tenderers and left the meeting at 7.50 pm.**

**41/16 RESOLVED** on the motion of Councillors Sandy Freudenstein and Mullany that this item be included on the Agenda as a Late Item.

**42/16 RESOLVED** on the motion of Councillors Sandy Freudenstein and Mullany:

1. That Council accept the schedule of rates quotation from Hardy Brothers Mining and Civil Constructions Pty Ltd for the bulk earthworks component of the Apps lane curve realignment project in accordance with the requirements of request for tender 269 of 2016.
2. That Council note the tendered amount of \$261,090.33 (including GST) based on the quantities provided in the schedule of rates.
3. That Council note the payments made under a schedule or rates contract will vary from scheduled amount in this report.

**The Mayor returned to the meeting at 7.57 pm**

**43/16 RESOLVED** on the motion of Councillors Cooper and Sandy Freudenstein that the Item regarding the EpiPen and Defibrillator be brought forward for discussion as a matter of urgency.

**44/16 RESOLVED** on the motion of Councillors Cooper and Stuart Freudenstein that Council allocate \$2,500 from the Southern Phone dividend to purchase 2 EpiPens and a Defibrillator Unit for the Young Aquatic Centre.

**The meeting concluded at 8.02 pm.**

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General Manager

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Mayor