

CORPORATE SERVICES

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# Returns Disclosing the Interest of Councillors & Designated Persons) Procedure

01 July 2022

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# Introduction

In 2020 the Information and Privacy Commission (IPC) undertook an audit of NSW Information and Privacy Commission (IPC) has conducted an Audit on the Local Government sectors compliance with annual Disclosure of Interests Returns and, in particular, IPC Guideline 1 (which requires the Returns to be published on Councils' websites).

*IPC Audit Disclosure of Information (Return Disclosing the Interest of Councillors and Designated Persons)*

*IPC Guideline 1: For local councils on the disclosure of information contained in returns disclosing the interests of councillors and designated persons (Guideline 1).*

The IPC released the audit results in August 2021 and Council, by self-assessment, determined that it only partly complied with IPC recommendations 7 and 8. In order to fully comply with the audit recommendations, this document brings together all of Council's current documents, in relation to Disclosure Returns, into an overarching policy and this comprehensive procedure.

## **Recommendation 7**

Councils should have a clear and specific policy or procedure for the completion, collection and publication of the returns of interest within 12 months of this report.

## **Recommendation 8**

The policy or procedure should include appropriate guidance to assist officers within the council to carry out the obligations with respect to the returns of interests. In particular, Councils should ensure that the policy or procedure includes adequate information including;

- A clear definition of 'designated persons'
- Guidance about making redaction or withholding information on a case by case basis following consideration of the public interest test
- Setting out the clear authorisation process for the approval and publication of returns and
- Ensuring that there is a clear process for the publication, review and updating of returns.

With respect to recommendations 7 and 8 (which have been dealt with together) the following pre-existing procedures/documents have been brought together in this document:

- Process for annual review of list of designated officers;
- Procedure for distributing Returns (both annual returns and initial returns);
- How to complete Disclosure of Interests Return document – reviewed annually and distributed with returns to designated persons;
- Annual report to Council in November each year as required by the Code of Conduct;
- Public Interest Test in relation to disclosure of returns being made available on Council's website – adopted by the Executive Leadership Team (ELT) June 2020;
- Website information (including redacted returns, GIPA Public Interest Test and information about how to view Returns at Council's Customer Centre upon request).

It is proposed that this document be reviewed annually at the end of each financial year.

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# 1. Designated Persons

## 1.1. Ongoing review of list of designated persons

The list of officers who are employed in a position classified as a designated person is updated regularly by the Coordinator Administration.

The Coordinator Administration receives “employee alerts” from Human Resources and updates the employees on the list of designated persons on an as required basis. These are system generated emails when a new employee commences with Council, when a current employee resigns or retires from Council or when a current employee’s employment status changes.

New employees in a designated persons position are emailed an initial Disclosure Return for completion within three (3) months of commencing employment with Council.

For designated persons who are leaving the organisation (ie. have resigned or retired) the Manager or Director responsible for completing the termination checklist will be alerted to the fact that the position is classified as a designated person and that a final Disclosure Return needs to be completed prior to the employee finishing with Council.

## 1.2. Annual review of designated officers

Prior to annual Disclosure Returns being emailed to designated officer, the list is sent to the relevant Manager for review and confirmation that the list is complete and up to date. This process is undertaken in the week prior to returns being distributed.

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# 2. Public Interest Test (publication of Disclosure of Interests Returns on Council’s website)

## 2.1. Introduction

Under section 6(1) of the GIPA Act, Council must make the government information that is its ‘open access’ information publicly available unless there is an overriding public interest against disclosure of the information.

On 26 September 2019, the Information & Privacy Commission (IPC) issued *Guideline 1: For local councils on the disclosure of information contained in returns disclosing the interests of councillors and designated persons* (Guidelines 1) which requires the publication of Disclosure Returns on Council’s website unless there is an overriding public interest against disclosure.

## 2.2. Considerations in favour of publication of Disclosure Returns on Council’s website

Under section 12(1) of the GIPA Act, there is a general public interest in favour of disclosing government information.

Potential considerations in favour of disclosure;

- a) Disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance.
- b) Disclosure of the information could reasonably be expected to inform the public about the operations of agencies and, in particular, their policies and practices for dealing with members of the public.

- c) Disclosure of the information could reasonably be expected to ensure effective oversight of the expenditure of public funds.
- d) Disclosure of the information could reasonably be expected to reveal or substantiate that an agency (or a member of an agency) has engaged in misconduct or negligent, improper or unlawful conduct.

The publication of Disclosure Returns promotes these public interest considerations by furthering openness, transparency and accountability in local government. These are key principles underpinning the Local Government Act 1993 and are recognised as good governance principles for public sector organisations. Disclosing the Returns is one measure that protects the integrity of Councils' decision-making processes by allowing scrutiny of potential conflicts of interests that would arise where Council officials participate in decision making from which they or their close associates may derive, or be perceived to derive, personal or financial benefit.

To assist members of the public to have confidence that potential conflicts of interest are avoided, they should have sufficient information about the areas of conflict. In this respect, disclosure of the information contained in the Returns is an important element in promoting public accountability.

## **2.3. Considerations against publication of Disclosure Returns on Council's website**

When applying the public interest test, the only public interest considerations against disclosure that can be taken into account are those set out in the Table to section 14 of the GIPA Act. The considerations detailed below are relevant to this matter.

### **2.3.1 Responsible and effective government**

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to prejudice the effective exercise by an agency of the agency's functions (Table 1(f)).

Section 8A of the LGA sets out the guiding principles that apply to the exercise of functions and decision making by councils and include the following:

- Councils should act fairly, ethically and without bias in the interests of the local community;
- Councils should be responsible employers and provide a consultative and supportive working environment for staff;
- Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

The re-release of IPC Guideline 1 has prompted the Office of Local Government (OLG) to review its approach to the interpretation of those required to lodge Returns. The advice now provides a much narrower interpretation of the Model Code provisions than had previously been the case and practice within the local government industry. Of particular relevance is the OLG advice that;

“Councils should weigh up the risk that the requirement to publish returns of interests is designed to address to ensure that this is a proportionate mitigation of that risk. This assessment should be based on a consideration of the nature, responsibilities and functions of a role or a committee and the type and level of delegations it exercises.” “Positions or committee memberships involving the performance of low-level administrative or regulatory functions that carry limited or no discretion or financial delegations, should not be identified as positions of designated persons.”

In applying the provisions of the Model Code, the ELT has determined to embrace a broad interpretation of the return lodgement requirements and definition of designated officers. The broader approach promotes good governance as more positions of influence, providing advice or exercising delegated authority are required to lodge Returns including planners, regulatory staff, procurement officers etc.

### 2.3.2 Individual rights, judicial processes and natural justice

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects:

- reveal an individual's personal information (Table 3(a)),
- expose a person to a risk of harm or of serious harassment or serious intimidation (Table 3 (f)).

Disclosure of personal information held in electronic records, such as signatures, financial information and photographs, provides opportunities for identity theft or other criminal acts against a person with very harmful consequences.

Information made available for public viewing (or copying) at Council Office is not accessible to the world at large in the way that information published on a website is available. Information published in digital form on a website can be accessed by people at any time, and downloaded, copied, modified and republished in various formats. Once published the information can no longer be controlled. The GIPA Act, in fact, recognises that there may be a risk (including the potential to expose a person to a risk of harm) in publishing some types of information in the online information environment.

### 2.4. Outcomes and weighing considerations

In terms of risk management, it certainly is foreseeable that disclosing the type and combination of information contained in the Returns on Council's website could expose a person to harassment and intimidation, and potentially serious harm or identity theft. This consideration is recognised as a significant factor against disclosure.

Council receives a minimal number of requests for inspection of the Returns (3 requests have been received in the last 5 years, 2 of which were from the media). The placement of the Returns on our website will expose a significant number of Council officials to uncontrolled broad scrutiny of personal information, fishing expeditions and, potentially, personal vendetta. In addition, the access to personal identifying information, particularly home addresses is bound to be concerning for staff with families and who may be fearful of ramifications if a member of the public is disgruntled with a particular staff member. The reality is the cause of that ill will may not necessarily be related to their employment with Council, which makes the accessibility of information via the Council website all the more concerning, the ramifications of which could be far more complex and far reaching than the intent behind the GIPA legislation.

In the original IPC Guideline 1 Council were encouraged to note clearly on their website that the returns are available for inspection at Council offices during ordinary business hours. It held that releasing information in this manner "facilitates the legitimate public interest in having access to the information, while protecting the individual's right to privacy and safety".

The publishing of this information on a website provides no additional probity or transparency to any local government process but significantly impinges on individual privacy rights. The website provides the availability of the Returns, and potential exposure of the personal information contained within them, to an unrestricted audience. This is balanced against the minimal number of genuine requests received by Council to view the returns. The unnecessary risk exposure to Council officials by placing the returns on the website does not equate to the current public demand to view the returns at Council offices.

The Returns, by their very nature, contain a significant amount of personal information relative to the other open access documents. The type of open access information required by the GIPA Act to be published on the web is a factor that should be taken into account and, in this case, is a factor against disclosure. It is considered unreasonable to require Council officials to sacrifice their legitimate right to privacy and protection given that the purpose of the returns as a public accountability measure can be equally fulfilled by the current practice of making them available for inspection in a controlled environment at Council offices.

Consideration has been given to placing the Returns on our website with signatures and place of residences redacted, however, there is further information in the returns that could reveal an individual's personal and business affairs.

It is recommended that Council adopt the position that there is an overriding public interest against disclosure of the Returns on our website.

## **2.5. Decision**

Upon considering the above public interest test Council's Executive Leadership Team resolved as follows:

- that Council publish the Disclosure Returns on its website, subject to all information being redacted apart from the names and positions of Councillors, senior staff and designated officers, along with advice that unredacted Returns may be viewed free of charge at the Council Administration Office.

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# **3. Procedure for completion and publication of Returns**

## **3.1. Procedure for completion of annual Disclosure Returns**

The following procedure ensures that annual Disclosure Returns are distributed to all required positions, followed up, and completed correctly:

- Review officers in designated positions with all relevant Managers prior to distribution of returns (see section 1.4 of this document);
- Review 'How to complete Disclosure of Interests Return' document – prior to distribution of annual returns (see part 4 of this document);
- Populate Returns with information from previous year's Returns;
- Distribute Returns (by email) on 1 July to Councillors, senior officers and designated persons along with detailed information on how to complete the Returns (see part 4 of this document);
- As returns are submitted a table containing a record of all returns is updated with the lodgement date – this table also assists with following up on returns prior to the due date;
- All documentation (including annual emails, signed returns, list of designated officers, Council report and register of returns) are to be saved in an annual TRIM folder as follows - GOVERNANCE - REPORTING - Disclosure of Interests Returns - Councillors and Staff - Year Ended 30 June 20XX
- Follow up on outstanding returns prior to the due date;
- Submit report to November Council meeting (and table the Register of Returns at the same meeting) (see Appendix B for a sample of the Council report).

## **3.2. Procedure for publication of annual Disclosure Returns**

The following procedure ensures that annual Disclosure Returns are made available to the public in accordance with Guideline 1 and the Public Interest Test undertaken by Council in relation to publication of Disclosure Returns on Council's website:

- Returns are compiled in an annual register (which is split between Councillors and employees (being the General Manager, senior officers and designated persons);
- Returns are redacted (in accordance with the public interest test – see part 2 of this document) and the redacted register is made available on Council's website;
- The Public Interest Test in relation to publication of Disclosure Returns is also made available on Council's website. The Register of Disclosure of Interests Returns is available on the registers page of our [website](#) – with a link to the Open Access Information page;

- Returns available for viewing at Council's Customer Centre upon request.

### **3.3. Procedure for completion and publication of initial and final Disclosure Returns**

Procedure for initial returns and returns required to be submitted by designated persons on resignation:

- The table of designated persons is maintained by the Coordinator Administration on the basis of 'employee alerts' emails (see section 1.3 of this document);
- If a new employee commences in a position that is classified as a designated person, the employee is sent an initial Disclosure Return and information on how to complete the return (see part 4 of this document) and the required return date;
- If a current employee in a designated person's position resigns or retires, the relevant Manager is required to ensure that the employee completes a return prior the person's retirement/resignation. Managers are alerted to this requirement by the HR termination checklist and are required to sign that the return has been submitted prior to the employee finishing work with Council;
- Initial returns and returns submitted on resignation/retirement are compiled in a supplementary register for the year in question, which is redacted (in accordance with the public interest test – see part 2 of this document) and published to Council website (on the same page as the register of annual returns).



## 4. How to complete Disclosure Returns

CUSTOMER & COMPLIANCE

# How to complete Disclosure of Interest Returns

### Remember:

- The return period is 1 July – 30 June.
- An interest held at any time during the return period must be disclosed.
- Attach additional page/s if you don't have enough space to record all your interests.
- If you've attached additional pages, make reference to them in the relevant section.
- Make sure you sign any attachments.
- Write your name and period of return on the form.
- Sign and date your form after completion.
- Take care to make sure your form is legible.
- Make sure your form is accurate.
- Don't use abbreviations, even if you think they are widely recognised or used.
- You might need to prove you lodged your return so make sure you get a receipt.

### Nothing to Declare

If you have nothing to declare in a section, you shouldn't leave it blank or write "N/A", instead you must write "NIL" in that section.

01 July 2022

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## Part 1 - Introduction

As a Councillor or Designated Person you are obliged to complete a Disclosure of Interests Return on an annual basis. You must lodge your return prior to 30 September, using the prescribed form.

The form is divided into various sections and you must make an entry in each of them. Remember it is your responsibility to lodge an accurate return and you may be required to prove that you have done so.

### Definitions

1. For the purposes of this return, the following definitions apply:

**address** means:

- a) in relation to a person other than a corporation, the last residential or business address of the person known to the councillor or designated person disclosing the address, or
- b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or
- c) in relation to any real property, the street address of the property.

**de facto partner** has the same meaning as defined in section 21C of the Interpretation Act 1987.

**disposition of property** means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:

- a) the allotment of shares in a company
- b) the creation of a trust in respect of property
- c) the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property
- d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property
- e) the exercise by a person of a general power of appointment over property in favour of another person
- f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

**gift** means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate consideration, in money or money's worth passing from the person to whom the disposition was made to the person who made the disposition, but does not include a financial or other contribution to travel.

**interest** means:

- a) in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or
- b) in relation to a corporation, a relevant interest (within the meaning of section 9 of the Corporations Act 2001 of the Commonwealth) in securities issued or made available by the corporation.

**listed company** means a company that is listed within the meaning of section 9 of the Corporations Act 2001 of the Commonwealth.

**occupation** includes trade, profession and vocation.

**professional or business association** means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

**property** includes money.

**return date** means:

- a) in the case of a return made under clause 4.9(a), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause 4.9(b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.9(c), the date on which the councillor or designated person became aware of the interest to be disclosed.

**relative** includes any of the following:

- a) a person's spouse or de facto partner
- b) a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- c) a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- d) the spouse or de facto partner of a person referred to in paragraphs (b) and (c).

**travel** includes accommodation incidental to a journey.

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## Matters relating to the interests that must be included in returns

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

## Part 2: Pecuniary interests to be disclosed in returns

### Real property

5. A person making a return under clause 4.9 of the Code of Conduct for Councillors must disclose:
  - a) the street address of each parcel of real property in which they had an interest on the return date, and
  - b) the street address of each parcel of real property in which they had an interest in the period since 30 June of the previous financial year, and
  - c) the nature of the interest.
6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
  - a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or
  - b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to their duties as the holder of a position required to make a return.
7. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a councillor or designated person.
8. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

### Gifts

9. A person making a return under clause 4.9 of the Code of Conduct for Councillors must disclose:
  - a) a description of each gift received in the period since 30 June of the previous financial year, and
  - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
  - a) it did not exceed \$500, unless it was among gifts totalling more than \$500 made by the same person during a period of 12 months or less, or
  - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the Electoral Funding Act 2018, or
  - c) the donor was a relative of the donee,or
  - d) subject to paragraph (a), it was received prior to the person becoming a councillor or designated person.
11. For the purposes of clause 10 of this schedule, the amount of a gift other than money is an amount equal to the value of the property given.

### Contributions to travel

12. A person making a return under clause 4.9 of the Code of Conduct for Councillors must disclose:
  - a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
  - b) the dates on which the travel was undertaken, and
  - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.



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13. A financial or other contribution to any travel need not be disclosed under this clause if it:
- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
  - b) was made by a relative of the traveller, or
  - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
  - d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
  - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the Electoral Funding Act 2018, or
  - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
  - g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.
14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

### Interests and positions in corporations

15. A person making a return under 4.9 of the Code of Conduct for Councillors must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
  - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
  - c) the nature of the interest, or the position held, in each of the corporations, and
  - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
  - b) required to apply its profits or other income in promoting its objects, and
  - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.

### Interests as a property developer or a close associate of a property developer

19. A person making a return under 4.9 of the Code of Conduct for Councillors must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.
20. For the purposes of clause 19 of this schedule:

**close associate**, in relation to a corporation or an individual, has the same meaning as it has in section 53 of the Electoral Funding Act 2018.

**property developer** has the same meaning as it has in Division 7 of Part 3 of the Electoral Funding Act 2018.

[The following is an extract from Section 53 of the Electoral Funding Act 2018:

- (1) "Each of the following persons is a property developer for the purposes of this Division:
- a. An individual or corporate if:
    - i. The individual or a corporate carries on a business mainly concerned with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit, and
    - ii. In the course of that business:
      - A. 1 relevant planning application has been made by or on behalf of the individual or corporation and is pending, or
      - B. 3 or more relevant planning applications made by or on behalf of the individual or corporation have been determined within the preceding 7 years,

- b. A person who is a close associate of an individual or a corporation referred to in paragraph (a).
- (2) Any activity engaged in by an individual or corporation for the dominant purpose of providing commercial premises at which the individual or corporation, or a related body corporate of the corporation, will carry on business is to be disregarded for the purpose of determining whether the individual or corporation is a property developer unless that business involves the sale or leasing of a substantial part of the premises.<sup>8</sup>

<sup>8</sup>(5) In this section:

Close associate of the corporation means each of the following:

- (a) a director or officer of the corporation or the spouse of such a director or officer,
- (b) a related body corporate of the corporation,
- (c) a person whose voting power in the corporation or a related body corporate of the corporation is greater than 20% or the spouse of such a person,
- (d) if the corporation or a related body corporate of the corporation is a stapled entity in relation to a stapled security—the other stapled entity in relation to that stapled security,
- (e) if the corporation is a trustee, manager or responsible entity in relation to a trust—a person who holds more than 20% of the units in the trust (in the case of a unit trust) or is a beneficiary of the trust (in the case of a discretionary trust),
- (f) in relation to a corporation that is a property developer referred to in subsection (1) (a)—a person in a joint venture or partnership with the property developer in connection with a relevant planning application made by or on behalf of the property developer who is likely to obtain a financial gain if development that would be or is authorised by the application is authorised or carried out.

Close associate of an individual means each of the following:

- (a) the spouse of the individual,
- (b) in relation to an individual who is a property developer referred to in subsection (1) (a)—a person in a joint venture or partnership with the property developer in connection with a relevant planning application made by or on behalf of the property developer who is likely to obtain a financial gain if development that would be or is authorised by the application is authorised or carried out.<sup>9</sup>

## Positions in trade unions and professional or business associations

21. A person making a return under 4.9 of the Code of Conduct for Councillors must disclose:
- a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and
  - b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
  - c) a description of the position held in each of the unions and associations.
22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

## Dispositions of real property

23. A person making a return under 4.9 of the Code of Conduct for Councillors must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.
24. A person making a return under 4.9 of the Code of Conduct for Councillors must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.
25. A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor or designated person.

## Sources of income

26. A person making a return under 4.9 of the Code of Conduct for Councillors must disclose:
- a) each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and



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- b) each source of income received by the person in the period since 30 June of the previous financial year.
27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:
- a) in relation to income from an occupation of the person:
    - i) a description of the occupation, and
    - ii) if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
    - iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
  - b) in relation to income from a trust, the name and address of the settlor and the trustee, or
  - c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
29. The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.
30. A fee paid to a councillor or to the mayor or deputy mayor under sections 248 or 249 of the LGA need not be disclosed.

### Debts

31. A person making a return under 4.9 of the Code of Conduct for Councillors must disclose the name and address of each person to whom the person was liable to pay any debt:
- a) on the return date, and
  - b) at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.9 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
33. A liability to pay a debt need not be disclosed by a person in a return if:
- a) the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:
    - i) the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
    - ii) the amounts to be paid exceeded, in the aggregate, \$500, or
  - b) the person was liable to pay the debt to a relative, or
  - c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
  - d) in the case of a debt arising from the supply of goods or services:
    - i) the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
    - ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
  - e) subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

### Discretionary disclosures

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

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## A. Sample Council report – to be submitted to October Council meeting (annually)

### Subject – 20xx-xx Disclosure of Interests Returns

#### Executive Summary

- Disclosure of Interests Returns from Councillors and Designated Officers are due annually on 30 September.
- The General Manager is required to keep a Register of Disclosure of Interests Returns and to table the Register at the first Council meeting after the due date.

#### Recommendation

That it be noted that the Register of Disclosure of Interests Returns for 20XX-XX has been tabled at the Ordinary Council Meeting of XX October 20XX.

#### Purpose

To table the Register of Disclosure of Interests Returns for 20XX-XX in accordance with the requirements of the Code of Conduct.

#### Discussion

In tabling the Register of Returns for 20XX-XX, I report that all Councillors and designated staff have submitted their duly completed returns within the prescribed timeframe.

Redacted returns are published on Council's website in accordance with the Information and Privacy Commission's Guideline 1 and the public interest test conducted in relation to that Guideline.

Extract from the relevant page of Council's website is below:

## Annual Disclosure of Interests Returns

Below are the Registers (redacted) of 2021-22 Disclosure of Interests Returns. Please use the 'bookmarks' functionality within the document to review the list of Councillors and officers who submitted Returns and to skip through the Returns. Council has adopted a [Disclosure Returns Policy PDF, 76.72 KB](#) that details the definition of designated persons and the outcomes of the [Public Interest Test PDF, 70.23 KB](#) in relation to publishing returns on our website. Council has determined that it is not in the public interest to publish the Returns in full.

The unredacted Register of Returns is available for inspection at Council's offices subject to request. To inspect the Register of Returns (unredacted) please complete our [Access to Information request form](#).

- [2021-22 Councillor Disclosure of Interests Returns PDF, 10042.46 KB](#)
- [2021-22 Staff A-K Disclosure of Interests Returns PDF, 11699.99 KB](#)
- [2021-22 Staff L-Z Disclosure of Interests Returns PDF, 15209.29 KB](#)
- [Public Interest Test - Disclosure Returns PDF, 70.23 KB](#)

Anyone is entitled to inspect the 'Returns of the Interests of Councillors, designated persons and delegates' under Government Information (Public Access) Act 2009.

## **Strategic alignment**

## **Policy and legislative requirements**

Code of Conduct for Councillors - Section 4.9; and

Code of Conduct for Staff - Section 4.18.

## **Conclusion**

It is necessary for the Disclosure of Interests Returns (for the period 1 July 20XX to 30 June 20XX) to be tabled at this Council Meeting for the purpose of legislative compliance.



