

10.2. Disclosure of Pecuniary Interests by Councillors and Designated Persons - Received Returns

AUTHOR	Ian Curry, Manager Council & Committee Services
ENDORSED BY	Shane Sullivan, Acting Director Corporate Services
ATTACHMENTS	Nil
CSP LINK	5. Our Civic Leadership 5.2 Strong civic leadership and customer focussed services

PURPOSE:

The purpose of this report is to report on compliance with the requirement under the *Local Government Act 1993* (LGA) and *Local Government (General) Regulation 2021* for Councillors and persons holding designated positions to complete and lodge a Disclosure of Pecuniary Interests Return since the previous report of January 2023.

EXECUTIVE SUMMARY:

- Section 4.21 of the Model Code of Conduct (made under section 440 of the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*) requires Councillors and persons holding designated positions as at 30 June to complete and lodge a Disclosure of Pecuniary Interests Return within three months of that date (i.e. 30 September). This requirement was duly met for Councillors and designated persons with a report to the Council meeting of 14 November 2022.
- Since that report, there has been one Councillor who has commenced and was required to complete and lodge a Return within three months of commencement. The return was duly completed within the required timeframe and is tabled as required.
- It is noted that, Councillors and designated persons are required to comply with the following under Clause 4.25 of the Code of Conduct to update their Returns after:

4.21 (c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b)
- A reminder was provided to all Councillors on 6 April 2023 of this obligation. No updated returns were received.
- Pecuniary Interests Returns are available for inspection on Council's website.

RECOMMENDATION:

1. THAT the report be received and Council note the tabling of Returns received as required under Clause 4.25 of the Model Code of Conduct and Council's adopted Code of Conduct.

Background

The Disclosure of Pecuniary Interests by Designated Persons was previously reported to Council at its meeting of 30 January 2023.

Report

Section 4.21 of the Model Code of Conduct requires Councillors or persons holding designated positions as at 30 June to complete and lodge a Disclosure of Pecuniary Interests Return within three months after that date (i.e. 30 September). It also requires those commencing as a Councillor or designated persons to submit a return within three months of commencing. Further, Councillors and designated persons are required to submit updated returns within three months of becoming aware of an interest they are required to declare.

Pecuniary interest provisions previously contained in the LGA and Regulation are now included in the Model Code of Conduct.

“Designated persons” are defined in the Model Code of Conduct as:

4.8 *Designated persons include:*

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

In September 2019, the Information Commissioner released the revised *Guideline 1: For local councils on the disclosure of information contained in the returns disclosing the interests of councillors and designated persons developed under the Government Information (Public Access) Act 2009 (NSW)*.

The Office of Local Government subsequently issued Circular 19-21 “Release of IPC Guideline 1 Returns of Interests” reinforcing obligations of all Councils with respect to the publication of the disclosures of interest Returns from councillors and designated persons.

At its meeting on 18 May 2020, Council resolved in part:

3. *THAT Council note the requirements of the IPC Guideline No. 1 and OLG Circular 19-21, issued in respect of returns of interests by Councillors and designated staff. (GF02)*
4. *THAT the Returns of Interest by Councillors be published on Council's website. (GF02)*

On 29 May 2020, the 2018/19 Declarations of Interest Return for each Councillor, redacted to remove signatures, were available on their individual biography page on Council's website.

On 6 July 2020, the 2018/19 Declarations of Interest Returns for designated staff, redacted to remove personal information (residential address and signature), were available on Council's website.

At its meeting on 24 May 2021, Council resolved:

1. *THAT an amendment be made to the Code of Conduct - Councillors and Staff to insert a new clause that states that Councillors and Staff will have apartment and house number of their residential address and signatures redacted automatically in the publishing of returns. Any additional redaction requests should be made to the General Manager with a statutory declaration detailing the reasons for the request. The General Manager will determine if any additional redactions can then be made.*

Returns that have been duly completed and lodged within the prescribed period by Councillors and designated officers are uploaded to the website, in accordance with the resolution of Council on 24 May 2021.

Consultation requirements

Community engagement is not required.

Financial/Resource Implications

There are no financial implications associated with the recommendation of this report.

Legislation

Section 440 of the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*) requires Councillors and persons holding designated positions as at 30 June to complete and lodge a Disclosure of Pecuniary Interests Return within three months of that date (i.e. 30 September)