

CONFLICT OF INTEREST (COI)

(as at December 2012)

1 COUNCILLOR DETERMINES IF A REAL OR PERCEIVED COI APPLIES

Note – A COI does not apply:

- * if the matter is an "ordinary business matter" as defined (see below)
- * if a Councillor has no greater personal interest than that of other persons in the city
- * merely because of organisational relationships described in subsection (3)(a)

2 IF A COUNCILLOR DECLARES REAL OR PERCEIVED COI (see guide below)

3 COUNCILLOR DESCRIBES THE NATURE OF THE COI AND DETERMINES HOW THEY WILL DEAL WITH IT

4 IF A COUNCILLOR PARTICIPATED AND VOTED, HOW DID THEY VOTE?

5 HOW DID THE MAJORITY OF COUNCILLORS VOTE?

6 ABOVE MUST BE RECORDED IN THE MINUTES AND ON WEBSITE

Local Government and Other Legislation Amendment Act 2009

Section 173 (Councillor's conflict of interest at a meeting)

(1) This section applies if—

- (a) a matter is to be discussed at a meeting of a local government or any of its committees; and
- (b) the matter is not an ordinary business matter; and
- (c) a councillor at the meeting—
 - (i) has a conflict of interest in the matter (the *real conflict of interest*); or
 - (ii) could reasonably be taken to have a conflict of interest in the matter (the *perceived conflict of interest*).

(2) A *conflict of interest* is a conflict between—

- (a) a councillor's personal interests; and
 - (b) the public interest;
- that might lead to a decision that is contrary to the public interest.

(3) However, a councillor does not have a conflict of interest in a matter—

- (a) merely because of—
 - (i) an engagement with a community group, sporting club or similar organisation undertaken by the councillor in his or her capacity as a councillor; or
 - (ii) membership of a political party; or
 - (iii) membership of a community group, sporting club or similar organisation if the councillor is not an office holder for the group, club or organisation; or
 - (iv) the councillor's religious beliefs; or
 - (v) the councillor having been a student of a particular school or the councillor's involvement with a school as parent of a student at the school; or
- (b) if the councillor has no greater personal interest in the matter than that of other persons in the local government area.

(4) The councillor must deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way.

(5) Without limiting subsection (4), the councillor must inform the meeting of—

- (a) the councillor's personal interests in the matter; and
- (b) if the councillor participates in the meeting in relation to the matter, how the councillor intends to deal with the real or perceived conflict of interest.

CONFLICT OF INTEREST (CONT'D)

(6) Subsection (7) applies if a quorum at the meeting can not be formed because the councillor proposes to exclude himself or herself from the meeting to comply with subsection (3).

(7) The councillor does not contravene subsection (4) by participating (including by voting, for example) in the meeting in relation to the matter if the attendance of the councillor, together with any other required number of councillors, forms a quorum for the meeting.

(8) The following must be recorded in the minutes of the meeting, and on the local government's website—

- (a) the name of the councillor who has the real or perceived conflict of interest;
- (b) the nature of the personal interest, as described by the councillor;
- (c) how the councillor dealt with the real or perceived conflict of interest;
- (d) if the councillor voted on the matter—how the councillor voted on the matter;
- (e) how the majority of persons who were entitled to vote at the meeting voted on the matter.

(9) For subsection (2), a councillor who is nominated by a local government to be a member of a board of a corporation or other association does not have a personal interest merely because of the nomination or subsequent appointment as the member.

(10) To remove any doubt, it is declared that nonparticipation in the meeting is not the only way the councillor may appropriately deal with the real or perceived conflict of interest in a transparent and accountable way.

Note: *ordinary business matter* means—

- (a) the remuneration of councillors or members of a local government committee; or
- (b) the provision of superannuation entitlements or accident insurance for councillors or local government employees; or
- (c) the terms on which goods, services or facilities are to be offered by the local government for use or enjoyment of the public in the local government area; or
- (d) the making or levying of rates and charges, or the fixing of a cost-recovery fee, by the local government; or
- (e) a planning scheme of general application in the local government area; or
- (f) a resolution required for the adoption of a budget for the local government; or
- (g) a matter that is of interest to a person merely as—
 - (i) an employee of the State or a government entity; or
 - (ii) an elector, ratepayer or resident of the local government area; or
 - (iii) a beneficiary under a policy of accident insurance, public liability or professional indemnity insurance held, or to be held, by the local government; or
 - (iv) a user of goods, services or facilities supplied, or to be supplied, by the local government (whether under a contract or otherwise) as a member of the public in common with other members of the public; or
 - (v) a candidate for election or appointment as a mayor, deputy mayor or member of a committee of the local government; or
 - (vi) a member of a non-profit, charitable or religious organisation involving no personal financial gain or loss to the person.

Note: a Councillor no longer has a duty to report another Councillor's suspected failure to declare a MPI or COI.