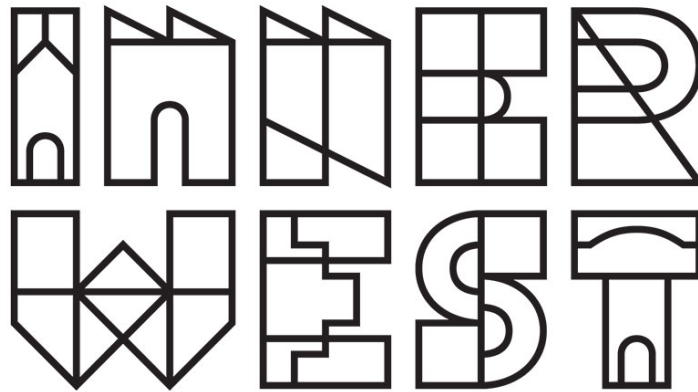


SUPPLEMENTARY AGENDA 1

Distributed on 18 September 2025



EXTRAORDINARY COUNCIL MEETING

TUESDAY 30 SEPTEMBER 2025

6:30 PM

Location Ashfield Service Centre, 260 Liverpool Road, Ashfield

MEETING AGENDA – PRECIS SUPPLEMENTARY ITEMS

The following report is an additional item for the Extraordinary Council meeting on 30 September 2025.

1 Reports for Noting

ITEM	Page
C0925(2) Item 4 Advice - Post Exhibition - Our Fairer Future Plan - Council's Approach for New Housing in the Inner West	3

Item No: C0925(2) Item 4
Subject: **ADVICE - POST EXHIBITION - OUR FAIRER FUTURE PLAN - COUNCIL'S APPROACH FOR NEW HOUSING IN THE INNER WEST**
Prepared By: Matthew Pearce - General Counsel
Authorised By: Matthew Pearce - General Counsel

RECOMMENDATION

That Council receive and note the report.

STRATEGIC OBJECTIVE

This report supports the following strategic directions contained within Council's Community Strategic Plan:

5: Progressive, responsive and effective civic leadership

EXECUTIVE SUMMARY

This report outlines:

- Options for Councillors to manage their conflicts of interests arising at the Extraordinary Council Meeting on 30 September 2025 (Extraordinary Council Meeting) in respect of *Item 1 Post Exhibition - Our Fairer Future Plan - Council's Approach For New Housing In The Inner West* (the Report).
- The procedural motion that may be used by Council to allow Councillors to manage their conflicts of interest while remaining in the chamber for as much of the consideration of the Report as possible.
- How relevant Council staff will manage their conflicts at the Extraordinary Council Meeting.
- The recommended authority to be granted to the Director Planning to implement Council's resolutions.

BACKGROUND

Types of Conflicts

Council's Code of Conduct requires Councillors and staff members to disclose pecuniary and non-pecuniary interests in Council matters with which they are dealing. A person will have a pecuniary interest in a matter if it is likely or expected that they, or one of their close associates or relatives, will gain or lose money as a result of the decision on the matter. A non-pecuniary interest generally arises as a result of private interests that are not financial interests, such as close relationships with people or involvement in associations and groups.

Planning decisions are a particular area where conflicts may arise, given that Councillors generally reside in the municipality, and may be affected by planning decisions.

How conflicts are disclosed

In relation to pecuniary conflict of interest disclosures at Council Meetings, the Code of Conduct and Code of Meeting Practice require Councillors to disclose the nature of the interest to the meeting as soon as practicable and not remain for consideration of the matter in which they have a conflict.

The disclosure regime for Council staff members is slightly different, as staff with pecuniary interests must disclose the interest to Council's General Manager and have no further

involvement in the matter. Where a staff member has a pecuniary interest relevant to a Council report, they must leave the meeting for the item. This is to ensure that any advice provided to Council in reports is free of bias.

Special Disclosures

From time to time, councils will consider a planning instrument that affects a large part of that council's area. In these cases, many or all councillors can have a pecuniary interest that would normally stop them from voting. If too many councillors are excluded, there may not be enough councillors to reach a decision. To address this, the Code of Conduct includes a Special Disclosure regime that allows a councillor with a pecuniary conflict to vote in specific circumstances. These circumstances are:

- The planning instrument must be a principal environmental planning instrument that affects the whole or a significant part of the municipality.
- The councillor's pecuniary interest in the property must be because the property is the councillor's principal place of residence, or the principal place of residence of a person closely related to them.
- The councillor must have completed a Special Disclosure form before the start of the Council Meeting at which the planning instrument is considered.

As the Special Disclosure regime only applies to principal places of residence, any interest in an investment property cannot be the subject of a Special Disclosure and must be declared and managed as a pecuniary conflict of interest.

In addition, the Special Disclosure regime only applies to Councillors. This means that Council staff at Council meetings are not able to make Special Disclosures and must leave the Council Meeting if Council is considering a matter in respect of which they have a pecuniary interest.

DISCUSSION

Council officers consider that the *Our Fairer Future Plan* (the Plan) is a principal environmental planning instrument that affects the whole or a significant part of the municipality.

20 May 2025 Council Meeting

Before the Council Meeting on 20 May 2025, officers worked with Councillors to ensure they completed Special Disclosure forms for their principal residence or the principal residence of a close associate. Officers also identified any Councillors with pecuniary interests that could not be covered by a Special Disclosure and worked with these Councillors to make sure those interests were declared at the start of the meeting.

To assist decision-making, officers prepared a procedural motion allowing Councillors to vote on each suburb individually. This approach meant more Councillors could take part in decisions about most suburbs in the Plan, while those with financial interests in specific areas that could not be included in Special Disclosures could remove themselves from voting on those suburbs.

30 September 2025 Extraordinary Council Meeting

The Report presents the outcomes of the public exhibition of the Plan and recommends updates based on community feedback.

Officer recommendations 1-6 relate to endorsing the Plan, subject to post-exhibition amendments detailed in the Report and Attachments 1-3. If endorsed, the Plan will be submitted to the NSW Government for implementation through a State-led fast-track approval pathway. Officer recommendation 1 groups together suburbs where Councillors' only pecuniary interests are their principal residence or the principal residence of a close associate. All Councillors who have made Special Disclosures about these interests before the meeting will be able to vote on this recommendation.

Based on previous disclosures made by Councillors and the handling of previous Council reports relating to the Plan, Officers consider that all Councillors are likely to declare conflicts of interest in relation to recommendations 1-6, although conflicts in recommendation 1 will be addressed through Special Disclosures.

Officer recommendations 7-11 relate to operational actions required to implement the Council motions resulting from consideration of recommendations 1-6. As these recommendations relate only to the implementation of any endorsed Plan, Officers do not consider that any conflicts would apply to these items.

Dealing with Councillor Conflicts of Interest

Councillors have two options as to how to deal with pecuniary conflicts of interest in relation to items 1-6.

They may elect to consider the Report as one item, in which case Councillors would make Special Disclosures in relation to the entire Report, and those Councillors with pecuniary interests that cannot be included in a Special Disclosure would declare their interest and remove themselves from the Chamber for the consideration of the entire Report.

However, officers anticipate that Councillors may wish to participate in discussions relating to suburbs in which they have no conflict (or only a conflict that can be managed via a Special Disclosure). As such, the main recommendations relating to endorsement of the Plan have been broken up into 6 separate recommendations.

This will allow those suburbs for which Councillors have previously indicated they have a pecuniary interest that cannot be included in a Special Disclosure to be dealt with separately. Accordingly, Councillors may make their pecuniary interest declaration in respect of one recommendation only within the Report and remove themselves from the Chamber exclusively for the consideration of the motion/s relating to that one recommendation.

Procedural motion

If Councillors wish to deal separately with the suburbs for which Councillors have indicated they have pecuniary interests that cannot be included in a Special Disclosure, Officers recommend that the following procedural motion be moved immediately following the reading of the Statement of Ethical Obligations at the meeting on 30 September:

“That Council, when dealing with Item 1: Post Exhibition - Our Fairer Future Plan - Council's approach for new housing in the Inner West, votes on motions 2,3,4,5 and 6 and any amendments to these motions in seriatum/separately to assist Councillors manage conflicts of interest that cannot be the subject of Special Disclosures.”

The meeting would proceed to hear Disclosures of Interest, and Councillors could then make their Special Disclosures. Councillors with pecuniary interests in specific suburbs that cannot be included in Special Disclosures would also make pecuniary interest declarations in relation to those suburbs.

As previously undertaken at the 20 May 2025 Council Meeting, Officers will support Councillors by drafting the text of the required disclosures, in acknowledgment of the complexity of this process.

If Council adopts the procedural motion outlined above:

- All Councillors could remain in the Chamber and vote on any motions corresponding to Recommendation 1.
- Recommendations 2-6 would be dealt with separately. Councillors who have declared pecuniary interests that cannot be included in Special Disclosures can then remove

themselves from the Chamber for consideration of any motions corresponding to the relevant suburb.

- All Councillors could return to the Chamber for consideration of motions corresponding to recommendations 7-11.

Conflicts of Interest of Relevant Staff

At the Extraordinary Council Meeting on 30 September 2025, relevant Council staff will declare any pecuniary interest in the Report and leave the meeting during consideration of the Report.

The Code of Meeting Practice imposes certain responsibilities on the General Manager during Council Meetings. Council's General Counsel will assume these responsibilities as the General Manager's nominee at any point during the meeting when the General Manager is not in the meeting. Council's General Manager remains the person conducting the business or undertaking for the purposes of the *Work Health and Safety Act 2011* and will retain this responsibility for the duration of the Extraordinary Council Meeting.

Staff who have declared a pecuniary interest will not be prevented from attending the Public Forum to be held on 22 September 2025.

Assuming Council resolves to endorse the Plan, the Director Planning and General Counsel will take responsibility for liaising directly with the NSW Department of Planning up to the gazettal of the *Our Fairer Future Plan*. Following the Gazettal, Council's General Manager will resume responsibility for implementing Council's resolutions and overseeing any further work required to progress the Plan.

Delegation for Director Planning in Officer Recommendation 7

Officer recommendation 7 in the Report currently reads "*Council delegates the Director Planning to make editorial, formatting and technical modifications to the Plan prior to the submission in accordance with Council's resolutions*".

The recommendation is intended to confer administrative authority on the Director Planning, as Council's service area leader in planning matters, to amend the Plan in accordance with any resolutions passed by Council at the Extraordinary Council Meeting on 30 September 2025. This administrative authority is not a statutory function under the *Environmental Planning and Assessment Act 1979* and it is not intended to recommend the delegation of a statutory function for the purposes of section 377(1) of the *Local Government Act 1993*, as such a delegation cannot be made by Council to any employee of Council other than the General Manager.

Recommendation 7 as drafted can proceed. However, Council has consulted with the Office of Local Government, which suggested that for clarity when the motion is moved, the word "*delegate*" could be replaced with the word "*authorise*". The General Counsel will assist the Director Planning in this regard.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the implementation of the proposed recommendations outlined in the report.

ATTACHMENTS

Nil.