



New South Wales

# Local Government (General) Amendment (Special Disclosures of Pecuniary Interest) Regulation 2012

under the

Local Government Act 1993

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Local Government Act 1993*.

DON PAGE, MP  
Minister for Local Government

## Explanatory note

The object of this Regulation is to make amendments to the *Local Government (General) Regulation 2005* as follows:

- (a) to prescribe the form and contents of special disclosures of pecuniary interest under section 451 of the *Local Government Act 1993* (being special disclosures of pecuniary interests in the making of a principal environmental planning instrument (or an amendment, alteration or repeal of an environmental planning instrument) applying to the whole or a significant part of the council's area),
- (b) to require any such disclosure made at a council meeting or council committee meeting to be recorded in the minutes of the meeting.

This Regulation is made under the *Local Government Act 1993*, including section 748 (the general regulation-making power) and item 19A (relating to the disclosure of pecuniary and other interests) of Schedule 6.

**2012 No 364**

Clause 1

Local Government (General) Amendment (Special Disclosures of Pecuniary Interest) Regulation 2012

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Local Government Act 1993

**1 Name of Regulation**

This Regulation is the *Local Government (General) Amendment (Special Disclosures of Pecuniary Interest) Regulation 2012*.

**2 Commencement**

This Regulation commences on 10 August 2012 and is required to be published on the NSW legislation website.

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## **Schedule 1      Amendment of Local Government (General) Regulation 2005**

### **[1]    Clause 180 Definitions**

Omit “Schedule 3”. Insert instead “Schedules 3 and 3A”.

### **[2]    Part 8, Division 6**

Insert after Division 5 of Part 8:

#### **Division 6      Special disclosure of pecuniary interests in meetings**

##### **195A    Special disclosure of pecuniary interests in meetings**

- (1) A special disclosure of the pecuniary interest under section 451 of the Act must be in the form set out in Schedule 3A and must contain the information required by that form.
- (2) If a special disclosure of a pecuniary interest is made at a meeting of a council or council committee, a copy of the special disclosure is to be recorded in the minutes of the meeting.

### **[3]    Schedule 3A**

Insert after Schedule 3:

#### **Schedule 3A    Form of special disclosure of pecuniary interest**

(Clause 195A)

##### **Section 451 of the Local Government Act 1993**

###### **Form of Special Disclosure of Pecuniary Interest**

- 1**      The particulars of this form are to be written in block letters or typed.
- 2**      If any space is insufficient in this form for all the particulars required to complete it, an appendix is to be attached for that purpose which is properly identified and signed by you.

###### **Important Information**

This information is being collected for the purpose of making a special disclosure of pecuniary interests under sections 451 (4) and (5) of the *Local Government Act 1993*. You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of

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Schedule 1 Amendment of Local Government (General) Regulation 2005

these requirements may be referred by the Director-General to the Local Government Pecuniary Interest and Disciplinary Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting in respect of which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests by [full name of councillor]  
in the matter of [insert name of environmental planning instrument]  
which is to be considered at a meeting of the [name of council or council committee  
(as the case requires)]

to be held on the        day of                    20    .

<b>Pecuniary interest</b>	
Address of land in which councillor or an associated person, company or body has a proprietary interest (the <i>identified land</i> ) <sup>1</sup>	
Relationship of identified land to councillor [Tick or cross one box.]	<input type="checkbox"/> Councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> Associated person of councillor has interest in the land. <input type="checkbox"/> Associated company or body of councillor has interest in the land.
<b>Matter giving rise to pecuniary interest<sup>2</sup></b>	
Nature of land that is subject to a change in zone/planning control by proposed LEP (the <i>subject land</i> ) <sup>3</sup> [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	

<p>Proposed change of zone/planning control  <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i></p>	
<p>Effect of proposed change of zone/planning control on councillor  <i>[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]</i></p>	

*[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]*

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

- 1 Section 443 (1) of the *Local Government Act 1993* provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative<sup>4</sup> or because your business partner or employer has a pecuniary interest. You may also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.
- 2 Section 442 of the *Local Government Act 1993* provides that 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. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section 448 of that Act (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).
- 3 A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in section 443 (1) (b) or (c) of the *Local Government Act 1993* has a proprietary interest—see section 448 (g) (ii) of the *Local Government Act 1993*.
- 4 **Relative** is defined by the *Local Government Act 1993* as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.