

**Meeting Date:** Tuesday 26 October 2021  
**Location:** Online Audio Visual Meeting  
**Time:** 7.00pm

**Councillors Present:** The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Lane, Maggio, Moujali, Pedersen, Purcell, Yedelian OAM and Zhou.

Note: Councillor Yedelian OAM left the meeting at 7.28pm and did not return. He was not present for consideration or voting on Confidential Items 12, 13, 14 and 15.

Note: Councillor Maggio left the meeting at 7.41pm and did not return. He was not present for consideration or voting on Confidential Items 13, 14 and 15.

**Apologies:** Nil.

**Leave of Absence:** Councillor Kim.

**Staff Present:** General Manager, Director – Customer and Community Services, Director – Corporate Services, Director – City Planning and Environment, Director – City Works, General Counsel, Chief Financial Officer, Manager – People and Performance, Manager – Corporate Governance, Manager – Communications and Engagement, Manager – Parks, Manager – Operations, Manager – Assets and Infrastructure, Senior Coordinator – Financial Reporting and Operations, Senior Infrastructure Services Engineer, Kenneth Leung (Audit Office), Tahsin Hossain (Audit Office), James Winter (Grant Thornton), Lesley Yang (Grant Thornton), System Support Officer, Civic Services Manager and Civic Support Officer.

### **PRAYER**

Reverend Brendan Handel of the Ryde Baptist Church offered prayer prior to the commencement of the meeting.

### **NATIONAL ANTHEM**

The National Anthem was sung prior to the commencement of the meeting.

## **LEAVE OF ABSENCE**

Councillor Kim requested a Leave of Absence for the period 26 October 2021 to 21 November 2021 inclusive.

**RESOLUTION:** (Moved by Councillors Lane and Maggio)

That Councillor Kim's Leave of Absence for the period 26 October 2021 to 21 November 2021 inclusive be approved.

On being put to the meeting, Councillors Clifton and Gordon abstained from voting and accordingly their votes were recorded Against the Motion.

### **Record of Voting:**

For the Motion: The Mayor, Councillor Laxale and Councillors Brown, Lane, Maggio, Moujalli, Pedersen, Purcell, Yedelian OAM and Zhou

Against the Motion: Councillors Clifton and Gordon

## **DISCLOSURES OF INTEREST**

There were no disclosures of interest.

## **TABLING OF PETITIONS**

Councillor Maggio tabled a Petition with approximately 25 signatures in relation to Jordan Street, Gladesville and the relocation of a bus stop.

## **PUBLIC PARTICIPATION ON ITEMS LISTED ON THE AGENDA**

The following persons made a written submission to Council:-

<b>Name</b>	<b>Topic</b>
Katy Gilles on behalf of Joseph Gilles	<b>Notice of Motion 1</b> – Off Leash Dog Park at Olympic Park
George Dimech (representing Ryde Dragon Boat Club)	<b>Notice of Motion 6</b> – Ryde Dragon Boat Club

## **PUBLIC PARTICIPATION ON ITEMS NOT LISTED ON THE AGENDA**

No written submissions were made to Council.

## **COUNCIL REPORTS**

### **1 ITEMS PUT WITHOUT DEBATE**

Note: Councillor Zhou left the meeting at 7.18pm and was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That Council adopt Item 2, Item 3, Item 4, Item 4(2), Item 4(4), Item 4(5), Item 5, Item 5(2), Item 6, Item 7, Item 8, Precis of Correspondence 1, Precis of Correspondence 2, Precis of Correspondence 3, Item 9, Item 10, Item 11, Item 16, Notice of Motion 1, Notice of Motion 2 and Notice of Motion 3 on the Council Agenda as per the recommendations in the reports.

#### **Record of Voting:**

For the Motion: Unanimous

### **2 CONFIRMATION OF MINUTES - Council Meeting held on 24 August 2021**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That the Minutes of the Council Meeting 10/21, held on 24 August 2021 be confirmed.

#### **Record of Voting:**

For the Motion: Unanimous

### **c CONFIRMATION OF MINUTES - Extraordinary Council Meeting held on 28 September 2021**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That the Minutes of the Extraordinary Council Meeting 11/21, held on 28 September 2021 be confirmed.

#### **Record of Voting:**

For the Motion: Unanimous

**4 REPORT OF THE WORKS AND COMMUNITY COMMITTEE MEETING 7/21 held on 12 October 2021**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That Council determine Items 2, 4 and 5 of the Works and Community Committee report 7/21, held on 12 October 2021 noting that Items 1, 3 and 6 were dealt with by the Committee within its delegated powers.

**Record of Voting:**

For the Motion: Unanimous

**4(2) CONFIRMATION OF MINUTES - Works and Community Committee Meeting held on 10 August 2021**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That the Minutes of the Works and Community Committee Meeting 6/21, held on 10 August 2021, be confirmed.

**Record of Voting:**

For the Motion: Unanimous

**4(4) DEFIBRILLATORS AT COUNCIL SPORTSGROUNDS**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That consideration of this Item be deferred, at the earliest, to the Works and Community Committee meeting on 9 November 2021 with the legal and insurance advice.

**Record of Voting:**

For the Motion: Unanimous

#### **4(5) DONATION HUMANITARIAN SUPPORT IN AFGHANISTAN**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That Council donates \$5,000 from the Corporate Governance Base Budget to the UN Refugee Agency Australia for UNHCR to assist with providing on the ground humanitarian relief in Afghanistan.

#### **Record of Voting:**

For the Motion: Unanimous

#### **5 REPORT OF THE FINANCE AND GOVERNANCE COMMITTEE MEETING 6/21 held on 12 October 2021**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That Council determine Item 2 of the Finance and Governance Committee Report 6/21, held on 12 October 2021 noting that Items 1, 3, 4, 5 and 6 were dealt with by the Committee within its delegated powers.

#### **Record of Voting:**

For the Motion: Unanimous

#### **5(2) CONFIRMATION OF MINUTES - Finance and Governance Committee Meeting held on 10 August 2021**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That the Minutes of the Finance and Governance Committee 5/21, held on 10 August 2021, be confirmed.

#### **Record of Voting:**

For the Motion: Unanimous

## 6 2020/21 DRAFT FINANCIAL STATEMENTS

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

- (a) That the Mayor, a Councillor, General Manager and the Responsible Accounting Officer sign the 'Statement by Councillor and Management' for both the General Purpose and Special Purpose Financial Statements, as contained in the 2020/21 Draft Financial Statements.
- (b) That Council endorses the 2020/21 Draft Financial Statements to be placed on public exhibition with a view to tabling any community feedback at the 23 November 2021 Council meeting.

### **Record of Voting:**

For the Motion: Unanimous

## 7 ANNUAL DISCLOSURE OF PECUNIARY INTERESTS FOR THE PERIOD OF 1 JULY 2020 TO 30 JUNE 2021

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That the Register of Pecuniary Interest Disclosures is tabled as required under Clause 4.25 of the *City of Ryde Code of Conduct – Standards of Conduct*.

### **Record of Voting:**

For the Motion: Unanimous

## 8 ASSISTANCE TO COMMUNITY ORGANISATIONS PROVIDING FOOD RELIEF IN RYDE

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

- (a) That Council donates \$5,000 to Sydney Community Services and \$5,000 to Red Frogs Australia for the purposes of providing emergency food hampers to eligible members of the Ryde community.
- (b) That Council advise the community, through its regular channels, that food relief hampers will be available through Sydney Community Services, Red Frogs Australia and the other established food relief providers.

- (c) That Council staff maintain regular contact with the food relief providers to determine the impact Council's donations is having on the Ryde community.
- (d) That funding for the donation be sourced from the Community and Ranger Services base budget.

**Record of Voting:**

For the Motion: Unanimous

**PRECIS OF CORRESPONDENCE FOR CONSIDERATION**

**1 RESPONSE FROM SENATOR THE HON. LINDA REYNOLDS CSC  
REGARDING NATIONAL DISABILITY INSURANCE SCHEME (NDIS)  
LANGUAGE PROVISION**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That the correspondence be received and noted.

**Record of Voting:**

For the Motion: Unanimous

**2 RESPONSE FROM THE PRIME MINISTER, THE HON. SCOTT MORRISON  
MP REGARDING ADVOCACY SUPPORT FOR AFGHANISTAN**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That the correspondence be received and noted.

**Record of Voting:**

For the Motion: Unanimous

**3 RESPONSE BY FEDERAL GOVERNMENT - EXTENSION TO JOBKEEPER PAYMENT**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That the correspondence be received and noted.

**Record of Voting:**

For the Motion: Unanimous

**COUNCIL REPORTS**

**9 REQUEST FOR TENDER COR-RFT 10/21 - MAINTENANCE OF COUNCIL OWNED LIGHTING**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

(a) That pursuant to Clause 178(1)(a) of the Local Government (General) Regulations 2005, Council accepts the tender from Skilltech Consulting Services Pty Ltd (UAM Pty Ltd) for the maintenance of Council owned lighting for the schedule of rates attached within the Tender Evaluation Report.

(b) That Council advise all the respondents of Council's decision.

**Record of Voting:**

For the Motion: Unanimous

**10 REQUEST FOR TENDER COR-RFT 07/21 - PLUMBING SERVICES**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

(a) That pursuant to Clause 178(1)(a) of the Local Government (General) Regulations 2005, Council accepts the tender from Chips Property Trade Services for Plumbing Services East Zone and AW Edwards Pty Ltd for Plumbing Services West Zone. Jetblack Plumbers has been selected as a reserve for both Plumbing Services East Zone and Plumbing Services West Zone.

(b) That Council advise all the respondents of Council's decision.



**Record of Voting:**

For the Motion: Unanimous

**11 PROPERTY MATTER - LEASING OPTIONS**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

- (a) That Council resolves that the subject property be classified as 'Operational Land'; and
- (b) That the General Manager is delegated authority to make all necessary arrangements for this property to be managed as per option 2 - Affordable Housing.
- (c) That the arrangements for the leasing of the property be managed in line with Council plans for the expansion of the adjoining park.

**Record of Voting:**

For the Motion: Unanimous

**LATE COUNCIL REPORT**

**16 REQUEST FOR TENDER COR-RFT 12/21 - CRUSHING AND SCREENING SERVICES**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

- (a) That Council declines to accept any tenders and under Clause 178 (3) of the Local Government (General) Regulation 2005:
  - b. Invite fresh tenders, either open or selective, based on the same or different details.
- (b) That Council advise all the respondents that their tenders were unsuccessful.

**Record of Voting:**

For the Motion: Unanimous

## **NOTICES OF MOTION**

### **1 OFF LEASH DOG PARK AT OLYMPIC PARK - Councillor Roy Maggio**

Note: Councillor Zhou was not present for voting on this Item.

Note: Katy Gilles on behalf of Joseph Gilles made a written submission in relation to this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That Council investigate and report back the off leash dog park area at Olympic Park with a view, if required, to erecting a fence that don't allow dogs to get through to the children's play area.

#### **Record of Voting:**

For the Motion: Unanimous

### **2 UPCYCLING, RE-PURPOSE AND REPAIR CENTRE FOR RYDE - Councillor Edwina Clifton**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That the City of Ryde staff provide a report to Council within 6 months which evaluates the feasibility of establishing a Council facilitated Upcycle, Re-Purpose and Repair Centre in the City of Ryde.

Specifically, the report will consider the following:-

- (i) provide repair and maintenance services, particularly repair of household items and appropriate staffing for such a facility.
- (ii) a suitable site / location for the Centre within the City of Ryde.
- (iii) opening the Centre to volunteers and all residents who wish to use the Centre as a 'Shed' in which they are able to upcycle, design and repair and also socialise with basic facilities for tea, coffee and a fridge.
- (iv) the capacity for residents in Ryde to exchange items of furniture or working goods by dropping off unwanted items (in good condition) and for other residents to then be at liberty to collect those items either at no charge or a minimal charge.

- (v) the report can assess if a minimum charge on 'exchanged' goods will assist towards the funding of the Centre and also availability of funding the Centre through an 'education' grant through any of the three tiers of government, also to review funding through a minimum charge to local schools / student who visit and learn about upcycling and repurposing of household items or other options to minimise the cost of the service.

**Record of Voting:**

For the Motion: Unanimous

**3 REPLANTING RIPARIAN VEGETATION, PREVENTING RIVERBANK RECESSION AND THE LOSS OF MATURE MANGROVES ALONG THE KISSING POINT FORESHORE - Councillor Penny Pedersen**

Note: Councillor Zhou was not present for voting on this Item.

**RESOLUTION:** (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That staff being back a report to the Works and Community Committee outlining how Council might assist conservation efforts already underway, to prevent further erosion and riverbank recession leading to loss of mature mangroves along the Kissing Point foreshore. That includes:-

- (i) the findings by the DPI and contractors that pertain to Kissing Point.
- (ii) a description and appraisal of the blue carbon conservation projects undertaken in neighbouring LGA's that have been overseen by DPI and local conservation organisations.
- (iii) how Lane Cove and Hunters Hill Council provided assistance with similar projects overseen by DPI and local conservation groups.
- (iv) identifying any funding requirements and exploring grants like the Habitat Action Grants available through DPI Fisheries for amounts up to \$40,000 to assist this type of work.

**Record of Voting:**

For the Motion: Unanimous

## **NOTICE OF MOTION**

### **4 RYDE DRAGON BOAT CLUB – Councillor Roy Maggio**

Note: Councillor Zhou was not present for consideration or voting on this Item.

Note: George Dimech (representing Ryde Dragon Boat Club) made a written submission on this Item.

**RESOLUTION:** (Moved by Councillors Maggio and Pedersen)

- (a) That the General Manager provide a report to Council investigating the following items in relation to the operations of the Ryde Dragon Boat Club:-
- (i) suitable location for boat storage within the Putney Park Foreshore and associated fees
  - (ii) a ramp at Putney Park
  - (iii) options for consultation with the club and public
  - (iv) funding options and timing of construction if approved
  - (v) grant options available for the new club
- (b) That the Member for Lane Cove also be contacted for any assistance regarding funding.

### **Record of Voting:**

For the Motion: Unanimous

## **CLOSED SESSION**

### **ITEM 12 – ADVICE ON COURT ACTIONS**

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (g) advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

### **ITEM 13 – CODE OF CONDUCT MATTER – ML 67/21**

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (i) alleged contraventions of any code of conduct requirements applicable under section 440.

**ITEM 14 – CODE OF CONDUCT MATTER – ML 62/21**

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (i) alleged contraventions of any code of conduct requirements applicable under section 440.

**ITEM 15 – CODE OF CONDUCT MATTER – ML 65/21**

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (i) alleged contraventions of any code of conduct requirements applicable under section 440.

Note: Councillor Zhou was not present for consideration or voting on this Item.

**RESOLUTION:** (Moved by Councillors Purcell and Gordon)

That the Council resolve into Closed Session to consider the above matters.

**Record of Voting:**

For the Motion: The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Maggio, Moujalli, Pedersen, Purcell and Yedelian OAM

Against the Motion: Councillor Lane

Note: The Council closed the meeting at 7.27pm. The public and media left the webcast.

**12 ADVICE ON COURT ACTIONS**

Note: Councillor Zhou was not present for consideration or voting on this Item.

Note: Councillor Yedelian OAM left the meeting at 7.28pm and did not return. He was not present for consideration and voting on this Item.

**RECOMMENDATION:** (Moved by Councillors Purcell and Gordon)

That the report of the General Counsel be received.

**Record of Voting:**

For the Motion: The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Moujalli, Pedersen and Purcell

Against the Motion: Councillors Lane and Maggio

## **STAFF PRESENT**

**Note:** The General Manager and all staff with the exception of the Director – Corporate Services, Manager – Corporate Governance, Civic Services Manager (administrative staff) and Civic Support Officer (administrative staff), left the meeting the time being 7.32pm.

### **13 CODE OF CONDUCT MATTER - ML\_67/21**

**Note:** Councillor Maggio addressed the meeting in relation to this Item and Items 14 and 15 on this Agenda, following which he left the meeting at 7.41pm and did not return to the meeting. He was not present for consideration and voting on this Item.

**Note:** Councillor Yedelian OAM was not present for consideration or voting on this Item.

**Note:** The General Manager returned to the meeting at 7.42pm.

**Note:** Councillor Zhou returned to the meeting at 7.51pm during discussion on this Item.

**RECOMMENDATION:** (Moved by Councillors Clifton and Gordon)

- (a) That Council adopt the Investigator's recommendations as contained in the report and as outlined below:-

*Having determined that the conduct investigated constitutes a breach of the CoRC's Code of Conduct (General Conduct) and in accordance with clause 7.36 of the Procedures, I recommend that Councillor Maggio be formally censured for the breaches under section 440G of the LGA.*

It is considered that these matters are not of the category that could, or should, be resolved by alternative means under the Procedures, due to:-

- the level of disregard of acceptable and professional standards of behaviour demonstrated by the Councillor in making the comments to a member of the public whilst in a public place and within hearing of members of staff.
- the intimidatory effect that the breach has had on both the Complainant and Witness A, and
- the damage or potential damage done to Council's reputation by the Councillor's language and adverse comments about Council staff;
- the Councillor's claim that he did not use profane language during his conversation with the member of the public or at all, when it is clear that he in fact, does use such language and demonstrated this in a conversation with the investigator.

- (b) That this decision is based on the following finding of fact as outlined in the final investigation report:-

The facts are that Councillor Maggio attended Council's NRO reception area on 17 June 2021, where around 14:40 hrs, he engaged in conversation with a member of the public who had attended the NRO reception to participate in a job interview.

The member of the public was aware of the Councillor's status and the conversations were carried out in a public area, within a Council building and within hearing of members of the public and staff.

During those conversations, and whilst in that public area, Councillor Maggio used profane language which could be heard by the member of the public and overheard by Council staff.

- (c) That this decision is based on the following determination(s) as outlined in the final investigation report:-

*Councillor Roy Maggio has breached clauses 3.1 (a), (c) and (e) of the CoRC's Code of Conduct (General Conduct) (A5), by carrying out his functions as a councillor in a manner likely to bring Council or holders of civic office into disrepute, specifically, by using profane language that can be regarded as improper, unethical and intimidating during a conversation with a member of the public, whilst in a public place, within a Council building, and within hearing of members of the public and staff.*

**Record of Voting:**

For the Motion: Unanimous

**14 CODE OF CONDUCT MATTER - ML\_62/21**

Note: Councillor Maggio was not present for consideration or voting on this Item.

Note: Councillor Yedelian OAM was not present for consideration or voting on this Item.

**RECOMMENDATION:** (Moved by Councillors Clifton and Gordon)

- (a) That Council adopt the Investigator's recommendations as contained in the report and as outlined below:-

*Having determined that the conduct investigated constitutes a breach of the CoRC's Code of Conduct (General Conduct) and in accordance with clause 7.37 of the Procedures, I recommend that Councillor Maggio be formally censured for the breaches under section 440G of the LGA.*

It is considered that these matters are not of the category that could, or should, be resolved by alternative means under the Procedures, due to:-

- the potential harm to the reputations of Council's officers was real and significant.
- the potential harm to Council's reputation and damage to public confidence arising from the alleged behaviours was real and significant.
- the reckless indifference demonstrated by making the statements, particularly to the impacts upon those staff so accused.
- Councillor Maggio has a significant history of complaints made against him, dating back to 2013, some being for similar behaviours to those alleged in these matters. The alleged conduct does appear to form part of an ongoing pattern of behaviour.

- (b) That this decision is based on the following finding of fact as outlined in the final investigation report:-

*I find that at Council's ordinary meeting of 27 April 2021, during debate on issues relating to Meadowbank skate park, and in response to a view espoused by Councillor Bernard Purcell regarding finances being allocated for such purposes, Councillor Maggio purported that Council's legal team were wasting "millions and millions and millions of dollars taking everyone to Court," and suggested that some of that money could be diverted to the skate park management program.*

- (c) That this decision is based on the following determination(s) as outlined in the final investigation report:-

*I have determined that the conduct which I have found occurred constitutes breaches of clauses 3.1 (a), (c) and (d) of the CoRC Code of Conduct – Standards of Conduct, as they were improper, an abuse of power and likely to bring the council or council officials into disrepute. In addition, I find that the proven behaviour was also in breach of clause 9.11 of the Code, as the comments made allegation about, or disclosed information about, suspected breaches of the code at a council meeting, which was open to the public.*

**Record of Voting:**

For the Motion: The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Moujalli, Pedersen, Purcell and Zhou

Against the Motion: Councillor Lane



## 15 CODE OF CONDUCT MATTER - ML\_65/21

Note: The General Manager left the meeting at 8.00pm and did not return. He was not present for consideration of this matter.

Note: Councillor Maggio was not present for consideration or voting on this Item.

Note: Councillor Yedelian OAM was not present for consideration or voting on this Item.

**RECOMMENDATION:** (Moved by Councillors Clifton and Gordon)

- (a) That Council adopt the Investigator's recommendations as contained in the report and as outlined below:-

*Having determined that the conduct investigated constitutes a breach of the CoRC's Code of Conduct (General Conduct) (A6) and in accordance with clause 7.36 of the Procedures, I recommend that Councillor Maggio be formally censured for the breaches under section 440G of the LGA.*

- (b) It is considered that these matters are not of the category that could, or should, be resolved by alternative means under the Procedures, due to:-
- the potential harm to the reputations of the GM and Council's officers was real and significant.
  - the potential harm to Council's reputation and damage to public confidence arising from the alleged behaviours was real and significant.
  - the reckless indifference demonstrated by making the statements, particularly to the impacts upon those staff so accused.
  - Councillor Maggio has a significant history of complaints made against him, dating back to 2013, some being for similar behaviours to those alleged in these matters. The alleged conduct does appear to form part of an ongoing pattern of behaviour.
- (c) That this decision is based on the following finding of fact as outlined in the final investigation report:-

The facts are that both NOM were deferred by the GM at Council's meeting of 23 March 2021, pending consideration of reports prepared in accordance with Clause 3.23(b) of Council's Code of Meeting Practice.

The NOM were again considered at Council's meeting of 27 April 2021. At that meeting, an amendment to NOM 1 (Eltham Street, Gladesville) was moved by Councillors Gordon and Purcell. The amended NOM was carried, with Councillor Maggio being the only dissenting vote.

At the same meeting, amendments to NOM 2, which were based on the recommendations of the deferral report, were moved by Councillor Maggio himself and were carried unanimously by Council.

A transcript of the meeting of 27 April 2021 reveals that Councillor Maggio, in open forum and before members of the public, accused the GM of altering his (Councillor Maggio's) NOM, and persisted in pursuing an accusatory line of questioning against the GM, despite the Mayor's reprimands, and made unfounded remarks about Council's ranger service, claiming that rangers had threatened and intimidated residents. Such actions are considered unreasonable, disrespectful and in breach of the CoRC Code of Conduct and Code of Meeting Practice.

- (d) That this decision is based on the following determination(s) as outlined in the final investigation report:-

The weight of the evidence supports the allegations. I therefore find, on the balance of probabilities, that at Council's ordinary meeting of 27 April 2021, in open forum and before members of the public, Councillor Maggio:-

1. made unfounded allegations accusing the GM of altering his (Councillor Maggio's) NOM.
2. questioned the GM in a style that can be regarded as a complaint against the GM and persisted with the same line of questioning despite the Mayor's reprimands and the GM's open response to his questions.
3. made unfounded remarks about Council's ranger service, claiming that rangers had threatened and intimidated residents.

I find that the proven behaviour was in breach of clauses 3.1 (a) & (c), 7.6 (h), 7.7, and 7.8 of the CoRC Code of Conduct – Standards of Conduct, as the behaviour was or could be regarded as:

- Improper and likely to bring the council or council officials into disrepute.
- Making personal attacks on Council staff.
- Failing to act in accordance with Councils Code of Meeting Practice.
- Failing to show respect to the Chair during a council meeting.

In addition, I find that the proven behaviour was also in breach of clause 9.11 of the Code, as the comments made allegation about, or disclosed information about, suspected breaches of the code at a council meeting, which was open to the public. This is in relation to his comments that Rangers had threatened and intimidated members of the public.

In addition, I find the proven behaviour in breach of Clauses 3.25 and 9.18 of the CoRC Code of Meeting Practice in that Councillor Maggio:

- During a meeting of Council, asked a question of the GM that implied wrongdoing by the General Manager or a member of Staff of the Council.
- Failed to put those questions respectfully and without argument.

There is insufficient available evidence to substantiate the complaint that Councillor Maggio has made unfounded allegations accusing the GM of failing to respond to concerns raised in correspondence by the residents of Eltham Street regarding tree issues.

In addition, there is insufficient available evidence to substantiate the claim that complaints were being made by Councillor Maggio for improper purposes, as per Part 9 of the Code of Conduct, which relates to maintaining the integrity of the Code.

**Record of Voting:**

For the Motion: The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Moujalli, Pedersen, Purcell and Zhou

Against the Motion: Councillor Lane

**OPEN SESSION**

Note: Councillor Maggio was not present for consideration or voting on this Item.

Note: Councillor Yedelian OAM was not present for consideration or voting on this Item.

**RESOLUTION:** (Moved by Councillors Purcell and Gordon)

- (a) That the Council resolve itself into open Council.
- (b) That the recommendations of Items considered in Closed Session be received and adopted as resolution of Council without any alteration or amendment thereto.
- (c) That the Minutes of the Closed Session be adopted.

**Record of Voting:**

For the Motion: Unanimous

Note: Open Council resumed at 8.05pm.

The meeting closed at 8.05pm.

CONFIRMED THIS 23RD DAY OF NOVEMBER 2021

Chairperson