ALCOHOL AND OTHER DRUGS POLICY

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Alcohol and Other Drugs in the Workplace Policy

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1. Scope

This policy and procedure applies to all council workers and others who are on Council's workplaces.

2. Purpose

To establish clear and consistent policy for addressing risks to health and safety in the workplace associated with the inappropriate use of alcohol and/or other drugs in accordance with the Work Health and Safety Act 2011 and the New South Wales Local Government Alcohol and Other Drugs Policy (which was developed in conjunction with industry parties).

The primary objective of an Alcohol and Other Drugs Policy is to ensure WHS obligations are met and to educate workers on the effects of the misuse of alcohol and/or other drugs within the workplace.

3. Commencement

This Policy will commence on and from XXXX2013. It replaces all other BSC Alcohol and Other Drugs policies.

4. Application of this Policy

This policy applies to all workers of Council. This policy does not form part of any employee's contract of employment, nor does it form any other workers contract for service.
This policy also applies to any other person who may be on a Council worksite.

5. Definitions

5.1 Employee:	A worker directly employed by Council
5.2 Worker:	Anyone who does work for Council. This includes but is not limited to employees, contractors, sub-contractors, labour hire, trainees, volunteers and work experience students.
5.3 Others:	Anyone who is not a worker but may be present at a Council worksite.
5.4 PCBU:	Person(s) Conducting a Business or Undertaking.
5.5 Workplace:	is any recognised or defined area, location or vehicle where workers conduct their work.

5.6 Industry Parties: Local Government and Shires Association, United Services Union, Local Government Engineers Association, Development and Environmental Professionals Association.

6. Safety in the Workplace and Fitness For Work

The PCBUs who have workers on Council's worksites have a duty to ensure the health, safety and welfare of their workers and other people in the workplace (s19, Work Health and Safety Act 2011 (NSW)). Workers have a duty to take reasonable care for their own health and safety, as well as for the health and safety of other people in the workplace and to co-operate with their employer in providing a safe working environment (s28, Work Health and Safety Act 2011 (NSW)).

Workers are obliged to present themselves for work in a fit state so that in carrying out their work activities they do not expose themselves, their co-workers or other people in the workplace to unnecessary risks to health and safety.

There are penalties, under legislation and the NSW Local Government Award 2010, for PCBUs, workers and others who fail to take their work health and safety responsibilities seriously.

7. Establishing a Supportive Culture

Council fosters a supportive culture that encourages employees to accept individual responsibility for workplace health and safety and participation in disclosing to management the identity of employees who may be regarded as a risk to others. This approach is supported by WHS legislation and the industry parties.

A supportive culture will encourage a co-operative approach between management and workers and build on the shared interest in workplace health and safety.

This supportive culture will be achieved by:

- recognising that the inappropriate use of alcohol and/or other drugs can be due to illness (e.g. dependency) or symptomatic of an illness (e.g. depression); and
- providing non-threatening assistance to workers who recognise that they have alcohol and/or other drug related problems (e.g. employers should

ensure that workers are informed of the availability of an employee assistance program); and

- ensuring that clear and consistent processes are in place for addressing risks to health and safety in the workplace; and
- respecting the privacy of workers by ensuring that appropriate systems are in place to maintain confidentiality.

8. General Conduct Obligations

Workers are obliged to present themselves for work in a fit state so that when carrying out their work activities they do not expose themselves, their co-workers or other people in the workplace to unnecessary risks to health and safety.

The Model Code of Conduct for Local Councils in NSW (the "Model Code") establishes the minimum requirements of conduct for council officials in carrying out their functions (a council official is defined to include councillors, members of staff, administrators, conduct reviewers and delegates of council).

It is a requirement of the Model Code that council officials must not conduct themselves, when carrying out their functions, in a manner that is likely to bring the council or holders of civic office into disrepute (clause 6.1 of the Model Code). Council officials are expected to maintain high standards of professional conduct and service to the community and must act honestly and exercise a reasonable degree of care and diligence when carrying out their functions.

By way of example, a worker may be in breach of their general conduct obligations under the Model Code if they:

- attend for work whilst under the influence of alcohol and/or other drugs; or
- conduct themself in an inappropriate and/or unprofessional manner whilst at work or at a work related function (which may be due to the effects of inappropriate alcohol and/or other drugs use).

9. When is Disciplinary Action Appropriate?

Council will be supportive and rehabilitative but there will be occasions when disciplinary action is appropriate.
Procedures for managing workplace risks associated with the use of alcohol and/or other drugs should balance:

1. the employer's obligation to ensure the health, safety and welfare of workers and other people in the workplace, and

2. promoting a supportive culture in which workers feel able to seek the assistance of their employer in a non-threatening environment.

Council's focus in relation to workplace alcohol and/or other drugs procedures will initially be on education and correcting inappropriate worker behaviour. Although disciplinary action may be necessary, it should be reserved for serious breaches of the Council's Code of Conduct or where a worker has repeatedly failed to respond to warnings about their work performance or work conduct. Where appropriate, disciplinary action should be complemented by offers of support to the worker, through council's employee assistance program or other external agencies such as specialist units at public hospitals.

10. Alcohol and Other Drugs Testing

- **When to test** – Council will test in the following circumstances.
    - upon reasonable suspicion that a person may be impaired (reasonable suspicion) *(may depend on available equipment)*
    - following a workplace health and safety incident (post incident)
    - randomly
    - *voluntary testing (will depend on making equipment available)*
- **Types of tests** – Council will adopt the most useful methods for detecting impairment rather than a history of Alcohol and /or Drug use.

  Council will make use of breath analysis for alcohol testing and saliva for other drugs.

- **Worker privacy** – Inappropriate alcohol and/or other drug use may have been in response to an underlying illness or personal concern (e.g. depression, family pressures, etc). It is imperative that a worker's privacy be respected and that the results of D&A testing be kept confidential;

- **Who to test** – Council should consider how best to allocate and use their limited resources in adopting and implementing Alcohol and other Drug Testing Procedures based upon WH&S risk assessment/s and organisational risks, in relation to any random testing. Where random testing is undertaken, all workers are eligible to be tested;

- **Who will test –** Council will provide appropriately trained persons and resources for collecting of samples for testing as per Australian Standards:
    - AS3547:1997 – Breath alcohol testing devices for personal use.
    - AS4760:2006 – Procedures for specimen collection and the detection and quantitation of drugs in oral fluid.

- **The meaning of a positive (non-negative) test result** – A non-negative test result can have different meanings. For example, blood and saliva testing will generally detect the presence of a substance that was consumed within a matter of hours. A non-negative test result may not indicate that a worker is unfit for work.

Industrial courts/tribunals have found that urine testing can be unnecessarily invasive and that a non-negative test result is less likely to indicate impairment than other forms of testing. Urine testing will not be carried out unless it is to confirm a test result (i.e.: a confirmatory test) or unless the employee requests that a urine test be undertaken.

11. Authorised Functions

Approved Work Functions

Alcohol will not be permitted to be consumed on worksites with the exception of approved work functions. When a work function is organised and where the activity is being held at a Council workplace, the activity must be approved by the General Manager or relevant Director and under the following conditions:

- Light alcohol beer is available
- Non-alcoholic drinks are available
- Provision of food appropriate to the function
- Workers are reminded of their obligation by law not to drink and drive.
- Responsible consumption of alcohol is a requirement
- Responsible service of alcohol is maintained

Generally work functions held at a Council workplace should only last for 1 - 2 hours and be held in the last 1½ - 2 hours of the working day.

Council Sponsored Functions

There is a duty on the organisation to provide a safe and healthy workplace for all workers. This duty extends to Council sponsored functions (for example Social Club Functions, Mayoral Christmas Function, Staff Information Day social functions, etc.) be they at the workplace or elsewhere. It is possible that where a worker or other person in the workplace is injured following a Council function, Council's act of supplying alcohol or failing to take steps to prevent the employee driving, for example, may render them negligent and a contributing factor to an accident.

When organising a Council sponsored function the same conditions should be considered as for an Approved Work function.

The function host or most senior Council officer present should encourage and model responsible behaviour and should take reasonable steps to ensure that guests leave the premises in a safe manner at the completion of the function.

12. Legislative and Guidance Material

12.1 Legislative requirements

General employer/worker obligations in relation to workplace occupational health and safety laws exist under:

- the Work Health and Safety Act 2011 (NSW), and
- the Work Health and Safety Regulations 2011 (NSW).

Workers who drive motor vehicles for work (including when travelling to or from work) must obey applicable road safety laws, including those relating to prescribed concentration levels for alcohol and other drugs. For further information in relation to prescribed concentration levels refer to:

- the Road Transport (Safety and Traffic Management) Act 1999 (NSW), and
- the Road Transport (Safety and Traffic Management Regulation 1999 (NSW)

Council also has workers who are required to operate in specific workplaces where their work is governed by other legislation and management plans which provide guidance on their obligations in regard to alcohol and other drugs testing in those workplaces. Workplace procedures for these areas of managing risks in relation to alcohol and other drugs use must reflect these obligations if they apply. Examples include:

- Civil Aviation Act 1988 (Cth)

- Civil Aviation Safety Regulations 1998 (Cth)

12.2 Other references

Australian Standards:

- AS3547:1997 – Breath alcohol testing devices for personal use.
- AS4760:2006 – Procedures for specimen collection and the detection and quantitation of drugs in oral fluid.

13. Related Legislation and Documents

- the Work Health and Safety Act 2011 (NSW)
- the Work Health and Safety Regulations 2011 (NSW)
- Civil Aviation Act 1988 (Cth), and
- Civil Aviation Safety Regulations 1998 (Cth)
- Model Code of Conduct for Local Councils in NSW
- AS3547:1997 – Breath alcohol testing devices for personal use
- AS4760:2006 – Procedures for specimen collection and the detection and quantitation of drugs in oral fluid