



**murchisonshire**

*Ancient land under brilliant skies*

**Ordinary Council Meeting**

**22 April 2021**

**Attachments**

Murchison Oasis Roadhouse and Caravan Park Update 18 April 2021					
No	Section	Item	Comments	Status Date Completed	Financial Year
Actions					
RH0001	Staff Recruitment	Permanent Staff	Nick Drew & Pixie Phillips expected end of April	18/04/21	2021
		Casuals	Sarah rostered for weekends and public holidays Christine & Wendy relocated from Settlement. Shelly Fowlewr commenced.	ongoing	2021
RH0002	Roadhouse Front of House	Stocktake Records	Christine, Vicki records completed	4/03/21	2021
RH0003	Roadhouse Front of House	Stock Management	Kaye coordinating hard data into spreadsheet. Hackwork completed	7/03/21	2021
RH0004	Roadhouse Management	Stock and Sales Control	Develop stock control / management spreadsheet pending POS and Xero being operational		2021
RH0005	Roadhouse Front of House	Stock and Sales Control	Implement stock control / management spreadsheet pending POS and Xero being operational		2021
RH0006	Roadhouse Front of House	Point of Sale	Beacon POS being purchased. Implementation min 4 weeks. Dovetails into Xero		2021
RH0007	Roadhouse Front of House	Accounting Package	Xero. Being purchased Moore Australia assist in implementation		2021
RH0008	Roadhouse Front of House	EFPOS	Being arranged. Tat to bring back from Perth. Installed and operational 11.03.21	11/03/21	2021
RH0009	Transition Previous Sub Lessees	General	Difficulty and take some time. All relevant info to be used.		2021
		Purchase of Buildings	Price Agreed at March Council Meeting. Legal agreement being finalised		2021
			Legal Agreement finalised sent to prev sub lessees for signature		2021
		Sub Lessees Chattels	Removal scheduled to weekend 13-14 March 2021. Completed 21.03.21	21/03/21	2021
		Stock Valuations	Spreadsheet formed. Prices to be inserted Stocktake records sent to prev sub lessees		2021
RH0010	Staff	Dangerous Goods	Training @ Council expense. Kaye to follow up		2021
RH0011	Staff	Food Safety	Training @ Council expense. Kaye to follow up. COVID app (Vicki)		2021
RH0012	Staff	COVID19 Training	Training @ Council expense. Kaye to follow up		2021
RH0013	Weather	Weather Recording Now	Range of staff required. BOM to be contacted (Kaye)	Ongoing	2021
RH0014	Weather	Weather Recording Future	Investigate permanent automatic operation	Future	2022
RH0015	Roadhouse External	Ramp Access	Too steep on north side. Shoot levels and relay pavers as an interim treatment	To do	2021
RH0016	Roadhouse Back of House	Cleaning Materials	Grot to purchase.	Ongoing	2021

Murchison Oasis Roadhouse and Caravan Park Update 18 April 2021					
No	Section	Item	Comments	Status Date Completed	Financial Year
Actions					
RH0017	Laundry	Cleaning Cupboard	New lockable cupboard required.	10/04/21	2021
RH0018		Airconditioning	Install new split system to replace window and fan.	10/04/21	2021
RH0019	Roadhouse Back of House	Chemical Material Storage	New container at Depot of use existing shed		2021
RH0020	Roadhouse Building	Refurbishment	Architect designer to be engaged. Internal retail specialist. Walk in Freezer Fridge Freezer and Ice Machine put on hold. External parts needs to link to Masterplan suggestions		2021
			UDLA including TRCB Architects engaged		2021
RH0021	Roadhouse External	Masterplan Influences	External parts needs to link to Masterplan suggestions. UDLA to be engaged		2021
			UDLA s engaged		
RH0022	Laundry	Trolley	Existing trolley not suitable. Exclude from items purchased off Nicole & Wink	Not required	2021
RH0023	Roadhouse Back of House	Linen	Completed new sets x2.	21/03/21	2021
RH0024	Roadhouse Back of House	Bedding	Review, Advise & Implement	21/03/21	2021
RH0025	Roadhouse Building	General Maintenance Issues	Walk around identify and rectify		2021
RH0026	Roadhouse Building	Keys	Roadhouse Master Key system		2021
RH0027	Caravan Park Buildings	Keys	Roadhouse Master Key system		2021
RH0028	Roadhouse Management	Bond System	Develop and implement a bond system for accommodation to cover key		2021
RH0029	Roadhouse Management	Check in requirements	Develop and implement a check in system for accommodation to cover key		2021
RH0030	Other	Community Centre	Return Bond to Nicole & Wink as a separate exercise		2021
RH0031	Roadhouse Front of House	Banking	Float being organised		2021
RH0032	Roadhouse Management	Tourism Accreditation	Chase up requirements costs etc and arrange		2021
RH0033	Fuel Facilities	Fuel Dips	Ryan to arrange	Ongoing	2021
RH0034	Roadhouse Management	Banking	Investigate and implement bank system		2021
RH0035	Roadhouse Building	Air Conditioning	Check and service existing air conditioning system. Install split system into Roadhouse Kitchen		2021
RH0036	Roadhouse External	Tree Removal	Remove gum trees adjacent to Roadhouse as they are damaging path and building. Leave Currajong		2021

Murchison Oasis Roadhouse and Caravan Park Update 18 April 2021					
No	Section	Item	Comments	Status Date Completed	Financial Year
Actions					
RH0037	Roadhouse External	Fencing	Install custom orb blue fencing adjacent to existing concrete path to North side of Roadhouse. Subject to budget approval	25/03/21	2022
			Review and considered not necessary. Explore vegetation screening options		2022
RH0038	Roadhouse Building	Internal Mirror	Install internal mirror to south west cnr to allow front counter staff to view alcove grocery area		2021
RH0039	Roadhouse Building	Initial Internal layout	Reconfigure and enliven internal layout as an interim measure pending an external review	Ongoing	2021
RH0040	Caravan Park Buildings	Bedding & Linen	Purchase new sets as required following 5 March Inspection	25/03/21	2021
RH0041	Caravan Park Buildings	Beds	Purchase new beds as required following 5 March Inspection	25/03/21	2021
RH0042	Caravan Park Buildings	Electrical	Review and upgrade all electricals		2021
RH0043	Caravan Park Buildings	Internal Refurbishment	Review patch and repaint all units		2021
RH0044	Caravan Park Buildings	Furniture	Review and periodically upgrade as required new furniture to match new internal layouts		2022
RH0045	Roadhouse External	Lawn Irrigation	Install irrigation to existing lawn area adjacent to roadway		2021
RH0046	Roadhouse Front of House	Tobacco Licence	Chase up and secure Tobacco Licence. Arrange Supplier		2021
RH0047	Roadhouse Building	Residence Extension	Design and construct new extension to residence. This follows completion of RH0035		2022
RH0048	Caravan Park Buildings	Accommodation Units Decking	Construct decking to New Accommodation Units		2021



Standard

22 April 2021

## 1.11 Standards for CEO

### Recruitment Performance and Termination

#### Well-being

Civic Leadership

#### Overview

This standard sets out the requirements to be observed by the local government in relation to the recruitment of CEO.

#### Objectives

The Code is complementary to the principles adopted in the Local Government Act and Regulations which incorporates four fundamental aims to result in:-

- (a) Better decision making by Local Governments;
- (b) Greater community participation in the decisions and affairs of Local Governments;
- (c) Greater accountability of Local Governments to their communities; and
- (d) More efficient and effective Local Government.

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## Division 1 — Preliminary provisions

### 1 Citation

These are the Murchison Shires Standards for CEO Recruitment, Performance and Termination.

### 2 Terms used

(1) In these standards —

**Act** means the Local Government Act 1995;

**additional performance criteria** means performance criteria agreed by the local government and the *CEO under clause 16(1)(b)*;

**applicant** means a person who submits an application to the local government for the position of CEO;

**contract of employment** means the written contract, as referred to in section 5.39 of the Act, that governs the employment of the CEO;

**contractual performance criteria** means the performance criteria specified in the CEO's contract of employment as referred to in section 5.39(3)(b) of the Act;

**job description form** means the job description form for the position of CEO approved by the local government under clause 5(2);

**local government** means the Shire of Murchison;

**selection criteria** means the selection criteria for the position of CEO determined by the local government under clause 5(1) and set out in the job description form;

**selection panel** means the selection panel established by the local government under clause 8 for the employment of a person in the position of CEO.

(2) Other terms used in these standards that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

## Division 2 — Standards for recruitment of CEOs

### 3 Overview of Division

This Division sets out standards to be observed by the local government in relation to the recruitment of CEOs.

### 4 Application of Division

(1) Except as provided in subclause (2), this Division applies to any recruitment and selection process carried out by the local government for the employment of a person in the position of CEO.

(2) This Division does not apply —

(a) if it is proposed that the position of CEO be filled by a person in a class prescribed for the purposes of section 5.36(5A) of the Act; or

(b) in relation to a renewal of the CEO's contract of employment, except in the circumstances referred to in clause 13(2).

### 5 Determination of selection criteria and approval of job description form

(1) The local government must determine the selection criteria for the position of CEO, based on the local government's consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the local government.

(2) The local government must, by resolution of an absolute majority of the council, approve a job description form for the position of CEO which sets out —

(a) the duties and responsibilities of the position; and

(b) the selection criteria for the position determined in accordance with subclause (1).

## **6 Advertising requirements**

- (1) If the position of CEO is vacant, the local government must ensure it complies with section 5.36(4) of the Act and the Local Government (Administration) Regulations 1996 regulation 18A.
- (2) If clause 13 applies, the local government must advertise the position of CEO in the manner referred to in the Local Government (Administration) Regulations 1996 regulation 18A as if the position was vacant.

## **7 Job description form to be made available by local government**

If a person requests the local government to provide to the person a copy of the job description form, the local government must —

- (a) inform the person of the website address referred to in the Local Government (Administration) Regulations 1996 regulation 18A(2)(da); or
- (b) if the person advises the local government that the person is unable to access that website address —
  - (i) email a copy of the job description form to an email address provided by the person; or
  - (ii) mail a copy of the job description form to a postal address provided by the person.

## **8 Establishment of selection panel for employment of CEO**

- (1) In this clause —  
**independent person** means a person other than any of the following —
  - (a) a council member;
  - (b) an employee of the local government;
  - (c) a human resources consultant engaged by the local government.
- (2) The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.
- (3) The selection panel must comprise —
  - (a) council members (the number of which must be determined by the local government); and
  - (b) at least 1 independent person.

## **9 Recommendation by selection panel**

- (1) Each applicant's knowledge, experience, qualifications and skills must be assessed against the selection criteria by or on behalf of the selection panel.
- (2) Following the assessment referred to in subclause (1), the selection panel must provide to the local government —
  - (a) a summary of the selection panel's assessment of each applicant; and
  - (b) unless subclause (3) applies, the selection panel's recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.
- (3) If the selection panel considers that none of the applicants are suitable to be employed in the position of CEO, the selection panel must recommend to the local government —
  - (a) that a new recruitment and selection process for the position be carried out in accordance with these standards; and
  - (b) the changes (if any) that the selection panel considers should be made to the duties and responsibilities of the position or the selection criteria.
- (4) The selection panel must act under subclauses (1), (2) and (3) —
  - (a) in an impartial and transparent manner; and
  - (b) in accordance with the principles set out in section 5.40 of the Act.
- (5) The selection panel must not recommend an applicant to the local government under subclause (2)(b) unless the selection panel has —
  - (a) assessed the applicant as having demonstrated that the applicant's knowledge, experience, qualifications and skills meet the selection criteria; and



- (b) verified any academic, or other tertiary level, qualifications the applicant claims to hold; and
  - (c) whether by contacting referees provided by the applicant or making any other inquiries the selection panel considers appropriate, verified the applicant's character, work history, skills, performance and any other claims made by the applicant.
- (6) The local government must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.

**10 Application of cl. 5 where new process carried out**

- (1) This clause applies if the local government accepts a recommendation by the selection panel under clause 9(3)(a) that a new recruitment and selection process for the position of CEO be carried out in accordance with these standards.
- (2) Unless the local government considers that changes should be made to the duties and responsibilities of the position or the selection criteria —
- (a) clause 5 does not apply to the new recruitment and selection process; and
- (3) the job description form previously approved by the local government under clause 5(2) is the job description form for the purposes of the new recruitment and selection process.

**11 Offer of employment in position of CEO**

Before making an applicant an offer of employment in the position of CEO, the local government must, by resolution of an absolute majority of the council, approve —

- (a) the making of the offer of employment to the applicant; and
- (b) the proposed terms of the contract of employment to be entered into by the local government and the applicant.

**12 Variations to proposed terms of contract of employment**

- (1) This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 11 negotiates with the local government a contract of employment (the negotiated contract) containing terms different to the proposed terms approved by the local government under clause 11(b).
- (2) Before entering into the negotiated contract with the applicant, the local government must, by resolution of an absolute majority of the council, approve the terms of the negotiated contract.

**13 Recruitment to be undertaken on expiry of certain CEO contracts**

- (1) In this clause —
- commencement day** means the day on which the *Local Government (Administration) Amendment Regulations 2021* regulation 6 comes into operation.
- (2) This clause applies if —
- (a) upon the expiry of the contract of employment of the person (the incumbent CEO) who holds the position of CEO —
    - (i) the incumbent CEO will have held the position for a period of 10 or more consecutive years, whether that period commenced before, on or after commencement day; and
    - (ii) a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position was carried out, whether that process was carried out before, on or after commencement day;
- and
- (b) the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.
- (3) Before the expiry of the incumbent CEO's contract of employment, the local government must carry out a recruitment and selection process in accordance with these standards to select a person to be employed in the position of CEO after the expiry of the incumbent CEO's contract of employment.

- (4) This clause does not prevent the incumbent CEO's contract of employment from being renewed upon its expiry if the incumbent CEO is selected in the recruitment and selection process referred to in subclause (3) to be employed in the position of CEO.

#### **14 Confidentiality of information**

The local government must ensure that information provided to, or obtained by, the local government in the course of a recruitment and selection process for the position of CEO is not disclosed, or made use of, except for the purpose of, or in connection with, that recruitment and selection process.

### **Division 3 — Standards for review of performance of CEOs**

#### **15 Overview of Division**

This Division sets out standards to be observed by the local government in relation to the review of the performance of CEOs.

#### **16 Performance review process to be agreed between local government and CEO**

- (1) The local government and the CEO must agree on —
- (a) the process by which the CEO's performance will be reviewed; and
  - (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.
- (2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.
- (3) The matters referred to in subclause (1) must be set out in a written document.

#### **17 Carrying out a performance review**

- (1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.
- (2) The local government must —
- (a) collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
  - (b) review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

#### **18 Endorsement of performance review by local government**

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

#### **19 CEO to be notified of results of performance review**

After the local government has endorsed a review of the performance of the CEO under clause 18, the local government must inform the CEO in writing of —

- (a) the results of the review; and
- (b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

## Division 4 — Standards for termination of employment of CEOs

### 20 Overview of Division

This Division sets out standards to be observed by the local government in relation to the termination of the employment of CEOs.

### 21 General principles applying to any termination

- (1) The local government must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.
- (2) The local government must accord a CEO procedural fairness in relation to the process for the termination of the CEO's employment, including —
  - (a) informing the CEO of the CEO's rights, entitlements and responsibilities in relation to the termination process; and
  - (b) notifying the CEO of any allegations against the CEO; and
  - (c) giving the CEO a reasonable opportunity to respond to the allegations; and
  - (d) genuinely considering any response given by the CEO in response to the allegations.

### 22 Additional principles applying to termination for performance related reasons

- (1) This clause applies if the local government proposes to terminate the employment of a CEO for reasons related to the CEO's performance.
- (2) The local government must not terminate the CEO's employment unless the local government has —
  - (a) in the course of carrying out the review of the CEO's performance referred to in subclause (3) or any other review of the CEO's performance, identified any issues (the performance issues) related to the performance of the CEO; and
  - (b) informed the CEO of the performance issues; and
  - (c) given the CEO a reasonable opportunity to address, and implement a plan to remedy, the performance issues; and
  - (d) determined that the CEO has not remedied the performance issues to the satisfaction of the local government.
- (3) The local government must not terminate the CEO's employment unless the local government has, within the preceding 12 month period, reviewed the performance of the CEO under section 5.38(1) of the Act.

### 23 Decision to terminate

Any decision by the local government to terminate the employment of a CEO must be made by resolution of an absolute majority of the council.

### 24 Notice of termination of employment

- (1) If the local government terminates the employment of a CEO, the local government must give the CEO notice in writing of the termination.
- (2) The notice must set out the local government's reasons for terminating the employment of the CEO.

## Legislative

This Policy is adopted in accordance with section 5.39B of the *Local Government Act 1995*.

## Previous

Nil



Code

22 April 2021

## 1.12 Code of Conduct

### Council Members Committee Members and Candidates

#### Well-being

Civic Leadership

#### Overview

The Code of Conduct sets out general principles to guide behaviour of council members, committee, members and candidates as well as rules of conduct to be followed. It also provides the basis of ethical and professional behaviour.

#### Objectives

The Code is complementary to the principles adopted in the Local Government Act and Regulations which incorporates four fundamental aims to result in:-

- (a) Better decision making by Local Governments;
- (b) Greater community participation in the decisions and affairs of Local Governments;
- (c) Greater accountability of Local Governments to their communities; and
- (d) More efficient and effective Local Government.

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## Division 1 — Preliminary provisions

### 1 *Citation*

This is the Murchison Shire's Code of Conduct for Council Members, Committee Members and Candidates.

### 2 *Terms used*

- (1) In this code —
  - Act** means the Local Government Act 1995;
  - candidate** means a candidate for election as a council member;
  - complaint** means a complaint made under clause 11(1);
  - publish** includes to publish on a social media platform.
- (2) Other terms used in this code that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

## Division 2 — General principles

### 3 *Overview of Division*

This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

### 4 *Personal integrity*

- (1) A council member, committee member or candidate should —
  - (a) act with reasonable care and diligence; and
  - (b) act with honesty and integrity; and
  - (c) act lawfully; and
  - (d) identify and appropriately manage any conflict of interest; and
  - (e) avoid damage to the reputation of the local government.
- (2) A council member or committee member should —
  - (a) act in accordance with the trust placed in council members and committee members; and
  - (b) participate in decision making in an honest, fair, impartial and timely manner; and
  - (c) actively seek out and engage in training and development opportunities to improve the performance of their role; and
  - (d) attend and participate in briefings, workshops and training sessions provided or arranged by the local government in relation to the performance of their role.

### 5 *Relationship with others*

- (1) A council member, committee member or candidate should —
  - (a) treat others with respect, courtesy and fairness; and
  - (b) respect and value diversity in the community.
- (2) A council member or committee member should maintain and contribute to a harmonious, safe and productive work environment.

### 6 *Accountability*

A council member or committee member should —

- (a) base decisions on relevant and factually correct information; and
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- (c) read all agenda papers given to them in relation to council or committee meetings; and
- (d) be open and accountable to, and represent, the community in the district.

## Division 3 — Behaviour

### 7 **Overview of Division**

This Division sets out —

- (a) requirements relating to the behaviour of council members, committee members and candidates; and
- (b) the mechanism for dealing with alleged breaches of those requirements.

### 8 **Personal integrity**

- (1) A council member, committee member or candidate —
  - (a) must ensure that their use of social media and other forms of communication complies with this code; and
  - (b) must only publish material that is factually correct.
- (2) A council member or committee member —
  - (a) must not be impaired by alcohol or drugs in the performance of their official duties; and
  - (b) must comply with all policies, procedures and resolutions of the local government.

### 9 **Relationship with others**

A council member, committee member or candidate —

- (a) must not bully or harass another person in any way; and
- (b) must deal with the media in a positive and appropriate manner and in accordance with any relevant policy of the local government; and
- (c) must not use offensive or derogatory language when referring to another person; and
- (d) must not disparage the character of another council member, committee member or candidate or a local government employee in connection with the performance of their official duties; and
- (e) must not impute dishonest or unethical motives to another council member, committee member or candidate or a local government employee in connection with the performance of their official duties.

### 10 **Council or committee meetings**

When attending a council or committee meeting, a council member, committee member or candidate—

- (a) must not act in an abusive or threatening manner towards another person; and
- (b) must not make a statement that the member or candidate knows, or could reasonably be expected to know, is false or misleading; and
- (c) must not repeatedly disrupt the meeting; and
- (d) must comply with any requirements of a local law of the local government relating to the procedures and conduct of council or committee meetings; and
- (e) must comply with any direction given by the person presiding at the meeting; and
- (f) must immediately cease to engage in any conduct that has been ruled out of order by the person presiding at the meeting.

### 11 **Complaint about alleged breach**

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
  - (a) in writing in the form approved by the local government; and
  - (b) to a person authorised under subclause (3); and
  - (c) within 1 month after the occurrence of the alleged breach.
- (3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

## **12 Dealing with complaint**

- (1) After considering a complaint, the local government must, unless it dismisses the complaint under clause 13 or the complaint is withdrawn under clause 14(1), make a finding as to whether the alleged breach the subject of the complaint has occurred.
- (2) Before making a finding in relation to the complaint, the local government must give the person to whom the complaint relates a reasonable opportunity to be heard.
- (3) A finding that the alleged breach has occurred must be based on evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur.
- (4) If the local government makes a finding that the alleged breach has occurred, the local government may —
  - (a) take no further action; or
  - (b) prepare and implement a plan to address the behaviour of the person to whom the complaint relates.
- (5) When preparing a plan under subclause (4)(b), the local government must consult with the person to whom the complaint relates.
- (6) A plan under subclause (4)(b) may include a requirement for the person to whom the complaint relates to do 1 or more of the following —
  - (a) engage in mediation;
  - (b) undertake counselling;
  - (c) undertake training;
  - (d) take other action the local government considers appropriate.
- (7) If the local government makes a finding in relation to the complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of —
  - (a) its finding and the reasons for its finding; and
  - (b) if its finding is that the alleged breach has occurred — its decision under subclause (4).

## **13 Dismissal of complaint**

- (1) The local government must dismiss a complaint if it is satisfied that —
  - (a) the behaviour to which the complaint relates occurred at a council or committee meeting; and
  - (b) either —
    - (i) the behaviour was dealt with by the person presiding at the meeting; or
    - (ii) the person responsible for the behaviour has taken remedial action in accordance with a local law of the local government that deals with meeting procedures.
- (2) If the local government dismisses a complaint, the local government must give the complainant, and the person to whom the complaint relates, written notice of its decision and the reasons for its decision.

## **14 Withdrawal of complaint**

- (1) A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint.
- (2) The withdrawal of a complaint must be —
  - (a) in writing; and
  - (b) given to a person authorised under clause 11(3).

## **15 Other provisions about complaints**

- (1) A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
- (2) The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division.



## Division 4 — Rules of conduct

Notes for this Division:

- (1) Under section 5.105(1) of the Act a council member commits a minor breach if the council member contravenes a rule of conduct. This extends to the contravention of a rule of conduct that occurred when the council member was a candidate.
- (2) A minor breach is dealt with by a standards panel under section 5.110 of the Act.

### 16 Overview of Division

- (1) This Division sets out rules of conduct for council members and candidates.
- (2) A reference in this Division to a council member includes a council member when acting as a committee member.

### 17 Misuse of local government resources

- (1) In this clause —
  - electoral purpose** means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the Electoral Act 1907 or the Commonwealth Electoral Act 1918;
  - resources** of a local government includes —
    - (a) local government property; and
    - (b) services provided, or paid for, by a local government.
- (2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.

### 18 Securing personal advantage or disadvantaging others

- (1) A council member must not make improper use of their office —
  - (a) to gain, directly or indirectly, an advantage for the council member or any other person; or
  - (b) to cause detriment to the local government or any other person.
- (2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or The Criminal Code section 83.

### 19 Prohibition against involvement in administration

- (1) A council member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or the CEO to undertake that task.
- (2) Subclause (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

### 20 Relationship with local government employees

- (1) In this clause —
  - local government employee** means a person —
    - (a) employed by a local government under section 5.36(1) of the Act; or
    - (b) engaged by a local government under a contract for services.
- (2) A council member or candidate must not —
  - (a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or
  - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or
  - (c) act in an abusive or threatening manner towards a local government employee.
- (3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

- (4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means —
  - (a) make a statement that a local government employee is incompetent or dishonest; or
  - (b) use an offensive or objectionable expression when referring to a local government employee.
- (5) Subclause (4)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV.

## **21 Disclosure of information**

- (1) In this clause —
  - closed meeting** means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
  - confidential document** means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;
  - document** includes a part of a document;
  - non confidential** document means a document that is not a confidential document.
- (2) A council member must not disclose information that the council member —
  - (a) derived from a confidential document; or
  - (b) acquired at a closed meeting other than information derived from a non confidential document.
- (3) Subclause (2) does not prevent a council member from disclosing information —
  - (a) at a closed meeting; or
  - (b) to the extent specified by the council and subject to such other conditions as the council determines; or
  - (c) that is already in the public domain; or
  - (d) to an officer of the Department; or
  - (e) to the Minister; or
  - (f) to a legal practitioner for the purpose of obtaining legal advice; or
  - (g) if the disclosure is required or permitted by law.

## **22 Disclosure of interests**

- (1) In this clause —
  - interest** —
    - (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
    - (b) includes an interest arising from kinship, friendship or membership of an association.
- (2) A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —
  - (a) in a written notice given to the CEO before the meeting; or
  - (b) at the meeting immediately before the matter is discussed.
- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —
  - (a) that they had an interest in the matter; or
  - (b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.
- (5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —
  - (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and

- (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
- (6) Subclause (7) applies in relation to an interest if —
  - (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
  - (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.
- (7) The nature of the interest must be recorded in the minutes of the meeting.

### **23 Compliance with plan requirement**

If a plan under clause 12(4)(b) in relation to a council member includes a requirement referred to in clause 12(6), the council member must comply with the requirement.

### **Legislative**

This Policy is adopted in accordance with section 5.104 of the Local Government Act 1995.

### **Previous**

2005 Policy Manual - 25 November 2020 Update



Code

12 December 2020

## 1.5 Code of Conduct

*Note as from 3 February 2021 sections of this Code relating to Elected Members have been replaced by the Local Government Model Code of Conduct pursuant to the Local Government (Model Code of Conduct) Regulations*

### Well-being

Civic Leadership

### Overview

The Code of Conduct provides elected members and staff in Local Government with consistent guidelines for an acceptable standard of professional conduct. The Code addresses in a concise manner the broader issues of ethical responsibility and encourages greater transparency and accountability in individual Local Governments.

### Objectives

The Code is complementary to the principles adopted in the Local Government Act and Regulations which incorporates four fundamental aims to result in:-

- (a) Better decision making by Local Governments;
- (b) Greater community participation in the decisions and affairs of Local Governments;
- (c) Greater accountability of Local Governments to their communities; and
- (d) More efficient and effective Local Government.

The Code provides a guide and a basis of expectations for elected members and staff. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

### Details

#### 1 General

##### *Role of Elected Member*

A Councillors primary role is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Local Government will be the focus of the Councillors public life.

A Councillor is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives.

In fulfilling the various roles, elected members' activities will focus on:

- ~ Achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- ~ Achieving sound financial management and accountability in relation to the Local Government's finances;
- ~ Ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;
- ~ Working with other Governments and organizations to achieve benefits for the community at both a local and regional level;
- ~ Having an awareness of the statutory obligations imposed on Councillors and on Local Governments.

### *Role of Staff Members*

The primary role of members of staff is to support the collective decision of the Council in achieving the role of Councillors as previously stated through the direction of the Chief Executive Officer.

A staff member's secondary role is to be aware of the statutory requirements of the Local Government Act and Regulations, and to provide timely and proper advice and assistance to the Councillors in the performance of their duties.

The following specific behaviour is expected of Council staff.

- ~ While on duty staff will give their best attention to the Local Government business to ensure that the work is carried out efficiently, economically, and effectively.
- ~ Staff are expected to conform to neat dress standards, and are encouraged to use corporate clothing as provided by the Council.
- ~ Communication with the community should be friendly, polite, accurate and professional, and reflect the status of the Council.

### *Role of The Chair*

A chairperson is required to remain Fair, Firm and Focussed.

Above all else however, the role of the chair is to be impartial. The person chairing the meeting has a different role to that of the participants. They are not involved so much in the content of the meeting as they are in the process of the meeting.

The chair must ensure:

- ~ That the processes are followed in accordance with adopted standing orders;
- ~ That everyone present receives an equal chance to address the meeting according to the rules;
- ~ That the discussion is conducted fairly and without bias and according to the processes of the Shire
- ~ That a quorum is present at all times
- ~ That minutes are taken accurately;
- ~ That motions are made clearly and accurately before voting;
- ~ That the principles of free speech and natural justice are upheld at all times;
- ~ That guests or visitors are made to feel welcome and understand their rights or roles.

## **2 Conflict and Disclosure of Interest**

Members and Staff will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.

Staff will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Local Government, without first making disclosure to the Chief Executive Officer. In this respect it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.

Members and Staff will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the municipality or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).

Members and Staff who exercise a recruitment or other discretionary function will make disclosure before dealing with close friends or relatives and will disqualify themselves from dealing with those persons.

Staff will refrain from partisan political activities, which could cast doubt on their neutrality and impartiality in acting in their professional capacity.

An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti-discriminatory legislation.

### *Financial Interest*

Members and Staff will adopt the principles of disclosure of financial interest as contained within the Local Government Act.

### *Disclosure of Interest*

In addition to disclosure of financial interests, members and staff, including persons under a contract for services, when attending a Council or Committee meeting; or giving advice to a Council or Committee meeting are required to disclose any interest they have in a matter to be discussed at that meeting that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected.

Where an interest must be disclosed under the above, the disclosure is to be made at the meeting immediately before the matter is discussed or at the time the advice is given and is to be recorded in the minutes of the meeting.

### *Disclosure of Interest Affecting Impartiality*

For the purpose of requiring disclosure an interest affecting impartiality is defined in the Regulations as:-

An interest that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected.

### *Impact*

In the disclosure of impartiality interest the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest effecting impartiality the members involvement in the meeting continues as if no interest existed.

#### What to disclose

Employees or elected members may use the following declaration when considered necessary to disclose an interest affecting impartiality.

“With regard to (the relevant matter) I disclose that I have an association with the applicant (disclose nature of association) or person seeking a decision. As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote (or advise) accordingly”.

### **3 Personal Benefit**

#### *Use of Confidential Information*

Members of staff will not use confidential information to gain improper advantage for themselves or for any other person or body in ways which are inconsistent with their obligations to act impartially or to improperly cause harm or detriment to any person or organisation.

#### *Intellectual Property*

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the Local Government upon its creation unless otherwise agreed by separate contract.

#### *Improper or Undue Influence*

Members and Staff will not take advantage of their position to improperly influence other members or staff in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

#### *Gifts and Bribery*

Members and Staff are not to accept a gift, other than a gift of or below \$200 from a person who is undertaking, or is likely to undertake business:-

- ~ That requires a person to obtain any authorisation from the Local Government;
- ~ By way of contract between the person and the Local Government; or
- ~ By way of providing any service to the Local Government.

Members and Staff who accept a gift of or below \$200 from a person referred to in (a) above are to record in a register of token gifts:

- ~ The names of the persons who gave and received the gift;
- ~ The date of receipt of the gift; and
- ~ A description, and estimated value of the gift;

Unless the gift is a token gift given by way of hospitality, being of or below \$75 in value and belonging to the following class of things:

- ~ Gifts of an insignificant nature, for example, pens, diaries, coasters etc;
- ~ Minor items of apparel eg ties, hats, T shirts etc;
- ~ Minor items of a promotional nature eg mugs, golf balls etc;
- ~ Food and refreshments;
- ~ Attendance or participation at sporting, cultural or recreational events;
- ~ Gifts of a seasonal or personal nature.

This clause does not apply to gifts received from a relative (as defined in Section 5.74(i) of the *Local Government Act 1995*) or an electoral gift (to which other disclosure conditions apply)

#### **4 Conduct of Members and Staff**

##### *Personal Behaviour*

Councillors and staff will:

- ~ Act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
- ~ Perform their duties impartially and in the best interests of the Local Government uninfluenced by fear or favour;
- ~ Act in good faith (ie honestly, for the proper purpose, and without exceeding their powers) in the interests of the Local Government and the community;
- ~ Make no allegations which are improper or derogatory (unless true and in public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment; and
- ~ Always act in accordance with their obligation of fidelity to the Local Government.
- ~ Members will represent and promote the interests of the Local Government while recognising their special duty to their own constituents.

##### *Honesty and Integrity*

Members and staff will:

- ~ Observe the highest standards of honesty and integrity and avoid conduct which might suggest any departure from these standards;
- ~ Bring to the notice of the President any dishonesty or possible dishonesty on the part of any other member, and in the case of an employee to the Chief Executive Officer;
- ~ Be frank and honest in their official dealing with each other.

##### ***Performance Duties***

While on duty, staff will give their whole time and attention to the Local Governments business and ensure that their work is carried out efficiently, economically and effectively and that their standard of work reflects favourably both on them and on the Local Government;

Members will at all times exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on individual merits. Members will be as informed as possible about the functions of the Council, and treat all members of the community honestly and fairly.

##### ***Compliance with Lawful Orders***

Members and staff will comply with any lawful order given by any person having authority to make or give such an order with any doubts to the proprietary of any such order being taken up with the supervisor of the person who gave the order and if resolution cannot be achieved, with the Chief Executive Officer.

Members and Staff will give effect to the lawful orders or policies of the Local Government whether or not they agree with or approve of them.

##### ***Administrative and Management Practices***

Members and staff will ensure compliance with property and reasonable administrative practices and conduct and professional and responsible management practices.



### ***Communications and Public Relations***

All aspects of communication by members and staff (including verbal, written or personal) involving Local Governments activities should reflect the status and objectives of that Local Government. Communications should be accurate, polite and professional.

As a representative of the community members and staff rs need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so Members should acknowledge that:

- ~ As a member of the Council there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council;
- ~ Information of a confidential nature ought not be communicated until it is no longer treated as confidential;
- ~ Information relating to decisions of the Council on approvals, permits and so on ought only be communicated in an official capacity by a designated officer of the Council;
- ~ Information concernment adopted policies, procedures and decisions of the Council is conveyed accurately.

### ***Relationships between Members and Staff***

An effective Councillor will work as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork will only occur if members and staff have a mutual respect and co-operate with each other to achieve the Council's corporate goals and implement the Council's strategies. To achieve that position members need to:

- ~ Accept that their role is a leadership, not a management or administrative one;
- ~ Acknowledge that they have no capacity to individually direct members of staff to carry out particular functions;
- ~ Refrain from publicly criticising staff in a way that casts aspersions on their professional competence and credibility.

### ***Appointments to Committees***

As part of their representative role Members are often asked to represent the Council or external organisations. It is important that Members:

- ~ Clearly understand the basis of their appointment; and
- ~ Provide regular reports on the activities of the organisation.

## **5 Dealing with Council Property**

### ***Use of Local Government Resources***

Members and Staff will:

- ~ Be scrupulously honest in their use of the Local Government resources and shall not
- ~ Misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- ~ Use the Local Government resources entrusted to them effectively and economically in the course of their duties; and
- ~ Not use the Local Government resources (including the services of Council staff) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer).

### **Travelling and Sustenance Expenses**

Members and Staff will only claim or accept travelling or sustenance expenses arising out of travel related matters which have a direct bearing on the services, policies or business of the Local Government in accordance with the Local Government policy and the provision of the Local Government Act.

### **Access to Information**

- ~ Staff will ensure that members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities as members.
- ~ Members will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.

### **Transition**

*This code is effectively a transitional document pending the introduction of a Model Code of Conduct that is being prepared in accordance with the Local Government Legislation Amendment Act 2019*

### **Previous**

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## 2.1 Councillor Requirements

### Well-being

Civic Leadership

### Objectives

- ~ To provide guidance to Councillors in how they should conduct themselves in various additional aspects to the role not included in Councils Code of Conduct
- ~ To outline the requirements for formal Council recognition of a Councillors service as an elected member.

### Details

#### **Councillors Role**

##### *Questions - Notice*

To allow staff to adequately research queries, Councillors should give twenty-four hours clear notice of questions which require research and to which they require answers at a particular meeting.

##### *Standing Orders*

Councillors shall have regard to "Standing Orders" applicable to Council meetings and the adopted "Code of Conduct" in their behaviour at Council meetings.

##### *Title of Councillor or President*

No Councillor is to use their title to in any way imply Councils support, approval, opposition or any other opinion or point of view.

##### *Council Representatives*

All Council representatives wherever possible shall be serving members of Council.

Upon ceasing to be a member of Council the representative shall immediately cease to be a member of the relevant committee unless specifically requested to continue as a Council representative.

##### *Media Releases and discussions with media*

All discussions with media and any media releases are only to be undertaken by persons authorised under the Local Government Act 1995.

If a Councillor or member of staff is approached by the press to answer questions or make a comment on Council business, that, unless specifically authorised by the President or Chief Executive Officer, that member of the press be referred to the authorised spokespersons of the Council for response.

Nothing in this policy shall prevent a Councillor expressing his/her personal opinion to the media. However, as general principle, Councillors having dealings with the media when approached by it to make a statement or private comment on a matter of Council business, should have regard to any resolutions of the Council affecting the matter in question.

Individual Councillors, with the authority of the President, are authorised to make press releases or act as spokesperson on behalf of Council.

### *Councillors Induction Material*

All Councillors are to be issued with a Councillors Handbook and other information relevant to the position at induction. On retirement all information received is to be returned to the Chief Executive Officer.

### **Recognition of Councillors**

#### *Upon Retirement*

Council will recognise the service of Councillors upon their retirement from Council in the following way:

- ~ Service less than five years in office, Certificate of Service, Council Plaque and a gift up to the value of \$150.
- ~ Service greater than 5 years and up to 12 years in office, Certificate of Service, Council Plaque and a gift to the value of \$300.
- ~ The presentation to occur at the first available Council or community function.
- ~ Service in excess of 12 years in office, Certificate of Service, Council Plaque and gift to a maximum value of \$700.
- ~ The presentation will occur at a special celebratory functions with the recipient entitled to invite up to 6 guests.

Notwithstanding points above, Council may, at their discretion, by resolution, present a member with a gift greater than that contained in the policy, if Council is of the opinion that such action is warranted having regard to the member's service to the community and/or Council. In the event that a retiring Councillor has performed an extensive range of functions on behalf of the municipality which are beyond that normally associated with a Councillor's day to day duties, the Council may, at its discretion, by resolution nominate the Councillor for any awards (where applicable) associated with:-

- ~ Queen's Birthday Honours
- ~ Australia Day honours
- ~ Local Government Association Honours

In the event that a retiring Councillor has performed exceptional service on behalf of the Shire which is significantly beyond that normally associated with a Council's day to day duties, the Council may, at its discretion, by resolution, grant the title of "Honorary Freeman of the Municipality".

### **Previous**

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