

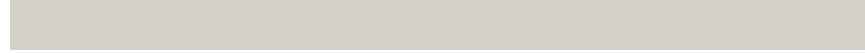


Code Approved



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## CODE OF CONDUCT

### INTRODUCTION

Port Macquarie-Hastings Council values its tradition of integrity, responsibility and fair dealing. Our ratepayers need to have confidence that as Councillors and employees, we will continue to strive to maintain the highest standards in our dealings with the community we serve.

Our code has been developed with the assistance of Councillors and employees and applies equally to everyone at Council. Our revised Code is based on the Model Code of Conduct issued by the Department of Local Government.

Port Macquarie-Hastings Council's Code of Conduct outlines our standards and provides you with guidelines to ensure your decisions reflect our Council's values, which are:

Sustainability  
Excellence in Service Delivery  
Consultation & Communication  
Openness & Accountability  
Community Advocacy

As a Council official, it is your responsibility to comply with the standards in our Code.

Failure by a Councillor to comply with an applicable requirement of Council's Code of Conduct constitutes misbehaviour.

Failure by an employee to comply with Council's Code of Conduct may give rise to disciplinary action.

Our Code reflects our determination to attract the highest level of confidence from our

community and we commend it to you.

.....  
Mayor

.....  
General Manager

## 1. WHO DOES THIS CODE COVER?

This Code covers all Councillors and employees, Committee members and delegates of Port Macquarie-Hastings Council, including trainees, apprentices, and temporary and casual employees.

Based on this Code, a "Statement of Business Ethics" has been developed for our contractors, consultants and a Code of Conduct will soon be developed for our volunteers/work experience staff.

**Reference should be made to Council Policy "Statement of Business Ethics".**

Port Macquarie-Hastings Council is committed to fostering a secure and open work environment in which all Councillors and employees can be confident in seeking advice about any questions they have.

## 2. GLOSSARY OF TERMS

In the model Code of Conduct, the following definitions apply:

*Council Official*

Includes Councillors, employees and delegates of Council

*Delegates of Council*

A delegate of Council is a person or body to whom a function of Council is delegated.

*Designated Person*

See the definition in Section 441 of the Local Government Act 1993.

*Act of Disorder*

See the definition in Clause 29 of the Local Government (Meetings) Regulation 1999

*Disclosures Co-ordinator*

The person appointed to deal with disclosures relating to "corrupt conduct, maladministration and serious and substantial waste" and for disclosures under the Child Protection legislation.

*The Act*

The Local Government Act 1993

The term "you" used in the model Code of Conduct are references to sections in the Local Government Act 1993

### 3. **PURPOSE OF THE CODE OF CONDUCT**

The Local Government Act, 1993 requires every Council in NSW to adopt a Code of Conduct to be observed by Councillors, staff and delegates representing the Council.

The Department of Local Government has developed a Model Code of Conduct for Local Councils in NSW sets the minimum requirements of behaviour for council officials in carrying out their functions. The model Code is prescribed by regulation.

The Port Macquarie-Hastings Council Code of Conduct has been prepared based on the Model Code and the Local Government Act and will assist you to:

- Understand the standards of conduct that are expected of them
- Enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence.
- Act in a way that enhances public confidence in the integrity of Local Government.

### 4. **PORT MACQUARIE-HASTINGS COUNCIL KEY PRINCIPLES AND VALUES**

The Code of Conduct is based upon Key Principles, as contained the Model Code of Conduct for Local Councils in NSW and Council's own set of values. They are:

#### *Integrity*

You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

#### *Leadership*

You have a duty to promote and support these principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of the Council. This means promoting public duty to others in the Council and outside, by their own ethical behaviour.

#### *Selflessness*

You have a duty to make decisions solely in the public interest. You must not act in order to gain financial or other benefits for yourself, your family or friends. This means making decisions because they benefit the public, not because they benefit you.

#### *Objectivity*

You must make decisions solely on merit and in accordance with their statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits. This means fairness to all; impartial assessment; merit selection in recruitment and in purchase and sale of Council's resources; considering only relevant matters.

*Accountability*

You are accountable to the public for your decisions and actions and you must consider issues on their merits, taking into account the views of others. This means, where appropriate, recording reasons for decisions; submitting for scrutiny; keeping proper records; establishing audit trails.

*Openness and Transparency*

You have a duty to be as open as possible about your decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands. This means giving and revealing reasons for decisions; revealing other avenues available to the client or business; when authorised, offering all information; communicating clearly.

*Honesty*

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in such a way that protects the public interest. This means obeying the law; following the letter and spirit of policies and procedures; observing codes of conduct; fully disclosing actual or potential conflict of interests.

*Respect*

You must treat with respect other Council officials and the role they play, treating them with courtesy at all times. This means not using derogatory terms towards others, observing the rights of other people, treating people with courtesy and recognising the different roles others play in local government decision-making.

As well as the key principles in the Model Code of Conduct, Port Macquarie-Hastings Council also has developed Our Values, which are:

*Sustainability*

We will be constantly mindful of the impact on future generations of our decisions and policies and strive to develop a sustainable community.

*Excellence in Service Delivery*

We will respect our customers and deliver services, which provide value for money. We will continually improve the quality and efficiency of our services by being creative and innovative.

*Consultation and Communication*

We will consult and communicate with our community and actively listen to and respond to their input.

*Openness & Accountability*

We will be transparent, accessible and fair.

*Community Advocacy*

We will respect the interests of the community and be an advocate for the area in dealing with Governments and industry.

This Code has been developed to assist you make decisions that reflect the Key Principles and Our Values.

## **5. GENERAL CONDUCT OBLIGATIONS**

*General Conduct*

5.1 You must act honestly and responsibly when carrying out your functions. You have a responsibility to behave professionally and to develop and maintain constructive relationships. You must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, you must avoid conduct that:

- contravenes the Act, associated regulations and Council's relevant administrative requirements
- is detrimental to the pursuit of the charter of a Council
- is improper or unethical
- is an abuse of power or otherwise amounts to misconduct
- causes, comprises or involves intimidation, harassment or verbal abuse
- causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
- causes, comprises or involves prejudice in the provision of a service to the community. (Schedule 6A of the Act)

5.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (Section 439)

5.3 You must treat others with respect at all times.

*Fairness and Equity*

5.4 You have an obligation to consider issues consistently, promptly and fairly. This involves dealing with matters in accordance with established procedures, in a non-discriminatory manner.

- 5.5 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

*Harassment, Discrimination and Workplace Bullying*

- 5.6 You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination, on the grounds of sex, pregnancy, age, race (including their colour, nationality, descent, ethnic or religious background), political affiliation, marital status, disability, homosexuality or transgender.

**Reference should also be made to Council Policy-“Harassment Procedures” and “Sexual Harassment Procedures”.**

- 5.7 You must not bully or support others who engage in such behaviour.
- 5.8 Bullying is repeated unreasonable behaviour directed towards an employee or group of employees that creates a risk to health and safety. Bullying comprises behaviour that intimidates, offends, degrades, insults or humiliates a worker, possibly in front of co-workers, clients or customers and which includes physical or psychological behaviour.

*Development Decisions*

- 5.9 It is your duty to ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid impropriety. You must also avoid any occasion for suspicion and any appearance of improper conduct.
- 5.10 In determining development applications, it is essential that you are highly conscious of the potential for even the slightest impropriety to lead to suspicion of misconduct. This means you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide concessions or preferential treatment.
- 5.11 A Council official must not offer support to a proponent or an objector but note the content of their representations and refer them to the relevant officer or the General Manager. These representations can then be considered when the applications come before Council.

*Child Protection*

- 5.12 In relation to children, our Council will engage only in practices that are respectful of and provide security of children and in no way degrade, endanger, exploit, intimidate or harm them psychologically or physically.
- 5.13 All employees have a responsibility to report to the General Manager allegations and convictions that occur within the workplace.
- 5.14 Reportable Conduct includes:
- Any sexual offence, sexual misconduct committed against, with or in the presence of a child (including a child pornography offence), or
  - Any assault, ill treatment or neglect of a child, or
  - Any behaviour that causes psychological harm to a child.
- 5.15 The General Manager is required to report to the Ombudsman, within 30 days of becoming aware, any reportable allegations or convictions against employees.
- 5.16 Council's Child Protection Policy details the responsibilities of employees working with children as mandatory notifiers.  
**Reference should also be made to Council Policy-“ Child Protection Policy” and “Working with Children Check”.**

*Alcohol and Drugs*

- 5.17 You must not attend work or return to work if they are under the influence of alcohol or other drugs that could impair your ability to carry out your duties or cause danger to others. If you are taking prescribed medication that could affect your work performance, discuss it with your supervisor.

*Public Comment*

- 5.18 Only employees who are specifically delegated to do so by the General Manager may make public comment about Council matters.  
**Reference should be made to Council's Delegated Authorities Register to determine if you are authorized to make public comment on behalf of Council.**
- 5.19 While it is recognised that employees, as members of the community, have the right to make public debate on political and social issues, care is to be taken not to convey the impression that such comment is official comment made in your capacity as an employee.

*Occupational Health and Safety*

- 5.20 Under the Occupational Health and Safety Act 2000, all council officials

while at work, must take reasonable care for the health and safety of people who are at the place of work and who may be affected by the person's acts or omissions at work.

- 5.21 Council officials must, while at work, co-operate so far as is necessary to enable compliance with any requirement under this Act or the regulations that is imposed in the interests of health, safety and welfare of any person.

*Guide to Ethical Decision-Making*

- 5.22 If you are unsure about the ethical issues around an action or decision you are about to take, you should consider these five (5) points:

- Is the decision or conduct lawful?
- Is the decision or conduct consistent with council's policy and with Council's objectives and the Code of Conduct?
- What will the outcome be for the employee or councillor, work colleagues, the Council and any other parties?
- Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?
- Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

Remember – you have the right to question any instruction or direction given to you, which you think, may be unethical or unlawful. If you are uncertain about an action or decision, you may need to seek advice from other people. This includes your supervisor or trusted senior officer, the Department of Local Government, the Ombudsman's Office and the Independent Commission Against Corruption.

- Independent Commission Against Corruption (02)8281 5999
- NSW Ombudsman (02)9286 1000
- NSW Department of Local Government (02)4428 4100

## **6. CONFLICT OF INTERESTS**

*Pecuniary and Non-Pecuniary Conflict of Interests*

- 6.1 A conflict of interests exists when you could be influenced, or a reasonable person would perceive that you could be influenced by a personal interest when carrying out your public duty.
- 6.2 You must appropriately resolve any conflict or incompatibility between your private or personal interests and the impartial performance of your public or professional duties.

6.3 Any conflict between your interests and those of Council must be resolved to the satisfaction of the Council. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.

6.4 It is essential that you properly address conflict of interest issues that may arise.

You must:

- try to understand the concept and practical implications of conflict of interests issues
- accept that failure to resolve an actual or reasonably perceived conflict of interests is unacceptable in Local Government
- take timely and appropriate action to avoid, or if not, to disclose any actual, potential or reasonably perceived conflict of interests.

6.5 Perceptions of a conflict of interests are as important as actual conflict of interests. The onus is on you to identify a conflict of interests, whether perceived or real, and take the appropriate action to resolve the conflict in favour of your public duties.

6.6 Where necessary, you must disclose an interest promptly, fully and in writing. If a disclosure is made at a council or committee meeting, both the disclosure and nature of an interest must be recorded in the Minutes.

6.7 If you are in doubt whether a conflict of interests exists, you should seek legal or other appropriate advice.

6.8 A conflict of interests can be of two (2) types:

*Pecuniary* - An interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated. (Sections 442 and 443)

*Non-Pecuniary* - A private or personal interest the council official has that does not amount to a pecuniary interest as defined in the Act (for example; a friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

6.9 Pecuniary interest is regulated by Chapter 14 Part 2 of the Act. The Act requires that:

- Councillors and designated persons lodge an initial and an annual

written disclosure of interests that could potentially be in conflict with their public or professional duties (Section 449)

- Councillors or members of Council Committees disclose an interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (Section 451)
- Designated persons immediately declare, in writing, any pecuniary interest. (Section 459)

Designated persons are defined at Section 441 of the Act.

6.10 Where you are a member of staff of Council, other than a designated person (as defined by Section 441), you must disclose to your supervisor or the General Manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

6.11 If you have a non-pecuniary conflict of interests, you must disclose the nature of the conflict. If this is in a meeting, do so as soon as practicable.

6.12 If you have declared a non-pecuniary conflict of interests you have a broad range of options for managing the conflict. The option you choose will depend on an assessment of the circumstances of the matter, the nature of your interest and the significance of the issue being dealt with. You must deal with a non-pecuniary conflict of interests in at least one of these ways:

- It may be appropriate that no action is taken where the potential for conflict is minimal. However, Council officials should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (for example, participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (for example, relinquishing or divesting the personal interest that creates the conflict or reallocating the conflicting duties to another officer).
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in Section 451(2) of the Act apply (particularly if you have a significant non-pecuniary conflict of interest).
- Include an independent person in the process to provide assurance of probity (for example, for tendering or recruitment selection panels).

NOTE: THE FOLLOWING STANDARD IS OUT OF THE CURRENT CODE AND IS HIGHER THAN THE STANDARD IN THE MODEL CODE. THE STANDARD IN THE MODEL CODE ONLY REQUIRES APPROVAL IF THE BUSINESS/EMPLOYMENT RELATES TO THE BUSINESS OF THE COUNCIL OR COULD CONFLICTS WITH COUNCIL WHICH IS THE REQUIREMENT IN THE ACT.

*Outside Employment or Business of Employees*

6.13 You may engage in other employment or business outside the Council if you meet certain conditions and prior written approval has been given.

Your application will generally be approved when the work:

- Does not arise from, or interfere with your work at the Council;
- Will not cause a conflict of interest with your official duties;
- Will be done outside work hours
- Will not involve information that is obtained through your work with the Council; and
- Will not discredit the Council.

Employees wishing to apply for the approval to work a second job or carry on business should put their request in writing. This can be given to their supervisors who will pass it onto the General Manager for approval.

*Political Support*

6.14 Councillors should note that matters before council involving campaign donors may give rise to a non-pecuniary conflict of interests.

When a campaign donor has a matter before Council and the donation is greater than:

- in the case of a political party, \$1500,
- in the case of a group, \$1000,
- in the case of a candidate \$200, then

the Councillor in question shall declare a non-pecuniary conflict of interest, explain the nature of the conflict and determine under Section 6.12 of this Code the appropriate action in this matter.

*Personal Dealings with Council*

6.15 You will inevitably deal personally with your council (for example, as a

ratepayer, recipient of a Council service or applicant for a consent granted by Council). You must not expect or request preferential treatment for yourself or your family because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

*Former Council Officials*

- 6.16 You should be careful in your dealings with former officials of the Council and make sure that you do not give them, or appear to give them, favourable treatment or access to privileged information or treatment.

**7. PERSONAL BENEFIT**

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

*Gifts or Benefits*

- 7.1 You must not:

- seek or accept a bribe or other improper inducement
- by virtue of your position acquire a personal profit or advantage, which has a monetary value, other than one of a token value or permitted under the guidelines in this Code.

- 7.2 You must not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence you to:

- act in a particular way (including making a particular decision)
- fail to act in a particular circumstance
- otherwise deviate from the proper exercise of your official duties.

- 7.3 You may accept gifts or benefits of a nominal or token value that do not create a sense of obligation on your part.

**Reference should also be made to Council Policy-‘Statement of Business Ethics’.**

*Token Gifts and Benefits*

- 7.4 Generally speaking, token gifts and benefits may include:

- gifts of single bottles of reasonably priced alcohol to individual

Council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)

- free or subsidised meals, of a modest nature, and/or beverages provided infrequently (and/or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business
- free meals, of a modest nature, and/or beverages provided to Council officials who formally represent their Council at work related events such as training, education sessions, workshops
- refreshments, of a modest nature, provided at conferences where you are a speaker
- ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages
- invitations to appropriate out of hours “cocktail parties” or social functions organised by groups, such as, council Committees and community organisations.

#### *Non-Token Gifts*

- 7.5 You must never accept an offer of money, regardless of the amount.
- 7.6 In general, you must not accept gifts and benefits that have more than a nominal or token value. These include tickets to major sporting events, corporate hospitality at a corporate facility at a sporting venue, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel and free training excursions.
- 7.7 If you receive a gift of more than token value in circumstances where it cannot reasonably be refused, you should accept the gift and disclose this promptly to your supervisor, the Mayor or the General Manager. The supervisor, Mayor or General Manager will ensure that any gifts received are recorded in a Gifts Register. All non-token gifts or benefits recorded in the Gifts Register will contain a reason why the gifts/benefit was accepted. A non-token gift shall be deemed any gift exceeding \$50.00 in value.
- 7.8 You must avoid situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour from you or the Council.
- 7.9 You must also take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members ordinarily include parents, spouses, children and siblings.
- 7.10 Councillors and designated persons must by law disclose a description of

any gift or gifts totalling a value exceeding \$500 made by the same person during a period of 12 months or less. (required to be included in the disclosure of interests returns – Section 449)

*Improper and Undue Influence*

- 7.11 You must not take advantage of your position to improperly influence other Council officials in the performance of their public or professional duties to secure a private benefit for yourself or for somebody else.
- 7.12 You must not take advantage (or seek to take advantage) of your status or position with, or functions performed for, Council in order to obtain unauthorised or unfair benefit for yourself or for any other person or body.

**8. RELATIONSHIP BETWEEN COUNCIL OFFICIALS**

*Obligations of Councillors*

8.1 Each Council is a statutory corporation. The Councillors are the governing body of the corporation. Councillors have the responsibility of directing and controlling the affairs of the council in accordance with the Local Government Act 1993.

8.2 Councillors must:

- Only provide, by way of council or committee resolution, or by the Mayor exercising their power under S226 of the Local Government Act 1993, proper and appropriate direction to the General Manager in the performance of Council's functions
- Refrain from, in any public or private forum, directing or improperly influencing, or attempting to direct or improperly influence, any other employee of the council or a delegate of the council in the exercise of the functions of the member or delegate
- When seeking information on policy issues and day to day matters, in the exercise of their statutory role as a member of the Council, contact the General Manager, Director, an officer nominated by the Director.
- Not contact, or issue instructions to, any of council's contractors or tenderers, including council's legal advisers.

**Reference should also be made to Council Policy-“Councillors-Familiarisation of Council Activities in the Workplace”.**

*Role of the Mayor*

- 8.3 The role of the Mayor is defined by section 226 of the Local Government Act 1993. This role is the same whether the Mayor is popularly elected or elected by the Councillors.

*Obligations of Employees*

- 8.4 The General Manager is responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation of, without delay, the decisions of the Council.

- 8.5 Council employees have an obligation to:

- Give their attention to the business of council while on duty
- Ensure their work is carried out efficiently, economically and effectively
- Carry out lawful directions given by any person having authority to give such directions
- Give effect to the lawful policies, decisions and practices of the Council, whether or not the employee agrees with or approves of them.

*Obligations During Meetings*

- 8.6 You must act in accordance with council's Code of Meeting Practice and the Local Government (Meetings) Regulation 1999 during Council and Committee Meetings.

- 8.7 You must respect the Chair, Council officials and any members of the public present during Council and Committee Meetings or other formal proceedings of the Council.

*Inappropriate Interactions*

- 8.8 The following interactions are inappropriate:

- Councillors approaching unauthorised employees for information on sensitive or controversial matters
- Employees approaching Councillors directly (rather than via their Director, staff representative or union delegate)
- Councillors approaching employees outside the Council building or outside hours of work to discuss Council business
- Employees refusing to give information, which is available to other Councillors, to a particular Councillor because of the employee's or Councillor's political views
- Councillors who have a development application before Council discussing the matter with unauthorised employees in staff-only areas of the Council

- Employees being asked to answer questions or provide documents to Councillors who are overbearing or threatening
- Councillors directing or pressuring employees in the performance of their work, or recommendations they should make
- Employees providing ad hoc advice to councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community
- Councillors approaching council staff organisations; for example unions and associations; in relation to staffing matters
- Employees meeting with developers alone and outside office hours to discuss development applications or proposals
- Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by council associated with current or proposed legal proceedings unless permitted to do so by council's general manager or, in the case of the Mayor, exercising their power under Section 226 of the Act.

## **9. ACCESS TO INFORMATION**

### *Councillor Access to Information*

- 9.1 A Council must provide access to the documents listed in Section 12 of the Local Government Act 1993 to all members of the public, and to Councillors. A Council must also provide Councillors with information sufficient to enable them to carry out their civic functions.
- 9.2 Any information given to a particular Councillor in the pursuit of their civic duties must also be available to any other councillor who requests it.
- 9.3 Councillors who have a personal (as distinct from civic) interest in a document of Council have the same rights of access as any member of the public.
- 9.4 Council employees have an obligation to provide full and timely information to Councillors about matters that they are dealing with.
- 9.5 Councillors have an obligation to properly examine all the information provided to them relating to matters they are dealing with, sufficient to make a decision on the matter in accordance with Council's charter.

### *Refusal of Access to Documents*

- 9.6 The General Manager and public officer must act reasonably in deciding whether a document sought by a Councillor should be made available under Section 12 of the Local Government Act 1993 or because it is relevant to the

performance of the Councillor's civic duty. The General Manager or public officer must state the reasons for the decision if access is refused.

*Use of Council Information*

9.7 Council officials must:

- Protect confidential information
- Only access information needed for council business
- Not use confidential information for any non-official purpose
- Only release confidential information if you have authority to do so
- Only use confidential information for the purpose it is intended to be used
- Only release other information in accordance with established Council policies and procedures and in compliance with relevant legislation.
- Not use council information for personal purposes.
- Not disclose any information discussed during a confidential session of a Council Meeting.

9.8 You must carry out your duties in a manner that allows Councillors, employees, delegates and the public to remain informed about Local Government activity and practices.

9.9 You must not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person.

9.10 You must not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you had access in the exercise of your official functions or duties by virtue of your office or position.

9.11 You must not use confidential information with the intention to improperly cause harm or detriment to your Council.

*Security of Information*

9.12 You must take care to maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.

9.13 Former Council officials must not use, or take advantage of, confidential information obtained in the course of their Council work and which may lead to gains or profit, until it has become publicly available.

*Personal Information*

- 9.14 When dealing with personal information you must abide by the privacy legislation controlling the collection, holding, use, correction, disclosure or transfer of any personal information obtained through our job. If you deal with personal information in your job you should acquaint yourself and adhere with the privacy principles in the privacy legislation and the Local Government Privacy Code.

Personal information is any information about a person where you know who the person is or you can guess who the person is.

If you have any doubts about the handling of any personal information you should discuss this with your supervisor or the Council's Privacy Contact Officer.

*Related Polices/Legislation*

**10. USE OF PORT MACQUARIE-HASTINGS COUNCIL'S RESOURCES**

- 10.1 Councillors and employees must use Council property, facilities and equipment efficiently, economically and carefully and not allow others to abuse these resources.
- 10.2 Council resources may only be used for private purposes if official permission has been obtained.
- 10.3 Minimal use of telephone, e-mail, internet or faxes for private purposes may be permitted. Occasional use of photocopiers may be permitted with the consent of your Supervisor. Unauthorised STD, and mobile telephone calls should not be made. Council has a separate policy on mobile phone usage. **Reference should also be made to Council Policies-"E-mail" and "Payment of Expenses and Provision of Facilities to Councillors"**.
- 10.4 You must not use Council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature. You should not display such material in the workplace. **Reference should also be made to Council Policy-"E-mail policy"**.
- 10.5 Small tools may be borrowed if approval is sought and the appropriate entry made in the register. Small tools are classified as non-motorised hand tools.
- 10.6 Council resources and equipment must not be used, in any circumstances in relation to a second job.

10.7 Union delegates and Consultative Committee members may have reasonable access to Council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:

- the representation of members with respect to disciplinary matters
- the representation of employees with respect to grievances and disputes
- functions associated with the role of the local Consultative Committee.

10.8 The interests of a councillor in their re-election is considered to be a personal interest and as such the reimbursement of travel expenses incurred on election matters is not appropriate. Council letterhead, Council crests and other information that could give the impression it is official council material must not be used for these purposes.

#### *Councillor Access to Council Buildings*

10.9 As elected members of the Council, Councillors are entitled to have access to the Council Chamber, Committee Room, Mayor's Office (subject to the Mayor's approval), Councillor's Rooms, and public areas of Council's buildings. Should Councillors need access to these facilities at other times, authority is required from the General Manager in order that necessary arrangements can be made.

10.10 Councillors must not enter staff-only areas of Council buildings without the approval of the General Manager (or delegate) or as provided in the procedures governing the interaction of Councillors and Council employees.

10.11 Councillors must ensure that when they are within a staff area they are cognisant of potential conflict or pecuniary interest matters and/or a perception that they may bring influence to bear on Council employee decisions and should conduct themselves accordingly.

## **11. REPORTING BREACHES, INVESTIGATION PROCEDURES & SANCTIONS**

#### *Corrupt Conduct, Maladministration and Waste of Public Resources*

11.1 Our Council is committed to high ethical standards and it is everybody's responsibility to not only act honestly but also report any instances of possible corruption, maladministration or serious and substantial wastage.

11.2 Councillors should report such activity immediately to the Mayor or General Manager. A member of staff who is aware of possible corruption, maladministration or serious wastage should report it immediately to either

their Supervisor, Director or the General Manager. Any Supervisor receiving a report of suspected corruption, maladministration or serious waste must report it to the General Manager.

- 11.3 Councillors and employees can also report issues of corruption to the Independent Commission Against Corruption, or matters of maladministration to the Ombudsman.
- 11.4 Any person who reports possible corruption, maladministration or serious wastage, in accordance with Council policy will not be disadvantaged because of such reporting. Protection is provided to Councillors and employees under the Protected Disclosures Act 1994. Councillors and employees should refer to the Council's Policy for Reporting Corruption, maladministration and Serious and Substantial Wastage that provides advice on reporting requirements and the protection provided (copy available Corporate Development Section).
- 11.5 Vexatious and malicious allegations or complaints may be considered as wilful misconduct.  
**Reference should also be made to Council Policy-“Reporting of Corruption, Maladministration and Serious and Substantial Wastage”.**

*Reporting Breaches of the Code of Conduct*

- 11.6 You also have an obligation to report suspected breaches of the Code of Conduct to the General Manager.

*Investigation Procedures – Staff Conduct (excluding the General Manager)*

- 11.7 The General Manager, or delegated officer, will investigate breaches of the Code of Conduct regarding Council employees and others engaged by the Council and will determine the matter.
- 11.8 Where the General Manager has determined not to enquire into the matter, the General Manager will give the complainant the reason/s in writing.
- 11.9 Enquiries made into staff conduct which might give rise to disciplinary action must occur in accordance with the relevant local government award and make provision for procedural fairness including the right of an employee to be represented by their union.

*Investigation Procedures – Councillor and General Manager Conduct*

- 11.10 Council will establish a conduct committee that will consist of the Mayor, the General Manager, Chairman Of the Internal Audit Committee and Council's nominated legal adviser . In the instance of a complaint being

made against the Mayor or the General Manager, the Deputy Mayor will take the place of the Mayor or General Manager on the Committee.

11.11 Councillors must report suspected breaches of the Code of Conduct to the General Manager in the first instance and refrain from making allegations at open Council Meetings. The General Manager is responsible for reporting the matter to the Conduct Committee.

11.12 Where the General Manager has determined not to report the matter to the conduct committee, the General Manager will give the complainant the reason/s in writing.

11.13 Where a Councillor believes that the General Manager has failed to comply with the Code, the Councillor should report the matter to the Mayor who will report the matter to the Conduct Committee.

11.14 Council's Conduct Committee will be responsible for determining if the matter warrants investigation or what other appropriate means are available to handle the matter, for example, grievance handling procedures. Where it is decided, by the Committee, to investigate an allegation of a breach of the Code of Conduct by a Councillor, the Committee must either:

- Investigate the alleged breach; or
- Engage an independent person to investigate the allegation.

11.15 An investigation conducted by the General Manager or the Conduct Committee will follow the rules of procedural fairness. The investigator must:

- Inform the person/s against whose interests a decision may be made of any allegations against them and the substance of any adverse comment in respect of them
- Provide the person/s with a reasonable opportunity to put their case
- Hear all parties to a matter and consider submissions
- Make reasonable inquiries or investigations before making a decision
- Ensure that no person decides a case in which they have a direct interest
- Act fairly and without bias, and
- Conduct the investigation without undue delay
- Ensure confidentiality of the investigation.

11.16 Council's conduct committee must decide whether a matter reported to it discloses a prima facie breach of this Code. The conduct committee will report its findings, and the reasons for these findings, in writing to the Council, the complainant and the person subject of the complaint.

11.17 The conduct committee may recommend that Council take any actions provided for in this Code of Conduct that the committee considers reasonable in the circumstances.

### *Sanctions*

11.18 Where the council finds a councillor has breached the code, it may decide by resolution to:

- Require the Councillor to apologise to any person adversely affected by the breach
- Counsel the Councillor
- Reprimand the Councillor
- Censure the Councillor
- Make public disclosures of inappropriate conduct
- Refer the matter to an appropriate investigative body if the matter is serious (for example, the Department of Local Government, the Independent Commission Against Corruption, the NSW Ombudsman or the NSW Police)
- Prosecute for any breach of law

11.19 Sanctions for employees depend on the severity, scale and importance of the breach and will be dealt with in accordance with the Council's Discipline Policy, staff agreements, awards, industrial agreements and contracts.

## **12. COUNCILLOR MISBEHAVIOUR**

12.1 For the purposes of Chapter 14, Part 1, Division 3 of the Act, failure by a Councillor to comply with an applicable requirement of this Code of Conduct constitutes misbehaviour. (Section 440F)

12.2 Under section 440G, a Council may by resolution at a meeting formally censure a Councillor for misbehaviour.

12.3 Under section 440H, the process for the suspension of a Councillor from civic office can be initiated by a request made by council to the Director General of the Department of Local Government.

12.4 The first ground on which a Councillor may be suspended from civic office is where the Councillor's behaviour has been disruptive over a period, involving more than one incident of misbehaviour during that period, and the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the Councillor's suspension.

12.5 Council cannot request suspension on this ground unless during the period

concerned the councillor has been:

- formally censured for incidents of misbehaviour on two or more occasions, or
- expelled from a meeting of the council or a committee of the council for an incident of misbehaviour on at least one occasion.

12.6 The second ground on which a councillor may be suspended from civic office is where the Councillor's behaviour has involved one incident of misbehaviour that is of such a sufficiently serious nature as to warrant the councillor's suspension.

12.7 Council cannot request suspension on this ground unless the Councillor has been:

- formally censured for the incident of misbehaviour concerned, or
- expelled from a Meeting of the Council or a Committee of the Council for the incident of misbehaviour concerned.

12.8 Under Section 440H, the process for the suspension of a Councillor can also be initiated by the Department of Local Government, the Independent Commission Against Corruption or the NSW Ombudsman.