



**MINUTES OF THE SPECIAL COUNCIL MEETING OF THE HINDMARSH SHIRE COUNCIL HELD AT THE COUNCIL CHAMBER, NHILL ON WEDNESDAY 1 FEBRUARY 2017, COMMENCING AT 2.45PM.**

---

**A G E N D A**

**1. Acknowledgement of the Indigenous Community and Opening Prayer**

---

**2. Apologies**

---

**3. Declaration by Councillors of any conflict of interest in any item on the agenda**

**4. Public Question Time**

**5. Reports requiring a decision**

**5.1 Chief Executive Officer**  
No report

**5.2 Director Community and Corporate Services**  
5.2.1 Councillor Code of Conduct

**5.3 Director Infrastructure Services**  
No report

**6. Late Reports**

No report

**7. Other Business**

**8. Confidential Reports**

No report

**9. Meeting Closed**

**Present:** Crs. D. Nelson (Mayor), R. Lowe (Deputy Mayor), D. Colbert, T. Schneider, R. Gersch, R. Ismay

**In Attendance:**

Greg Wood, (Chief Executive Officer), Ms. Anne Champness (Director Corporate and Community Services), Miss Taegan Salt (Executive Assistant).

**Apology:**

Mr. Adrian Gasperoni (Director Infrastructure Services)

**1. ACKNOWLEDGEMENT OF THE INDIGENOUS COMMUNITY AND OPENING PRAYER**

Cr Nelson opened the meeting at 2:45pm by acknowledging the Indigenous Community and offering the opening prayer.

**2. APOLOGIES**

Nil

**3. DECLARATION BY COUNCILLORS OR OFFICERS OF ANY DIRECT OR INDIRECT INTEREST IN ANY ITEM ON THE AGENDA.**

- Direct; or
- Indirect interest
  - a ) by close association;
  - b ) that is an indirect financial interest;
  - c ) because of conflicting duties;
  - d ) because of receipt of an applicable gift;
  - e ) as a consequence of becoming an interested party; or
  - f ) because of an impact on residential amenity.

Declaration of direct or indirect interest must also be advised by Councillors at the commencement of discussion of the specific item.

**4. PUBLIC QUESTION TIME**

Nil

**5. REPORTS REQUIRING A DECISION**

**5.1 CHIEF EXECUTIVE OFFICER**

No report

---

## 5.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES

### 5.2.1 COUNCILLOR CODE OF CONDUCT

**Responsible Officer:** Director Corporate & Community Services

**Attachment Number:** 1 Hindmarsh Shire Council Councillor Code of Conduct

**Introduction:**

The purpose of this report is for Council to review and approve amendments to its Councillor Code of Conduct.

**Discussion:**

In October 2015, the Local Government Amendment (Improved Governance) Act 2015 was passed by Parliament. The Local Government Amendment (Improved Governance) Act 2015 amended section 76C Councillor Code of Conduct of the Local Government Act 1989 (the Act), section 76C(1) was subsequently repealed in August 2016.

Under the section 76C of the Local Government Act

- (2) *A Council must, within the period of 4 months after a general election—*
  - (a) *call a special meeting solely for the purpose of reviewing the Councillor Code of Conduct; and*
  - (b) *at that special meeting, approve any amendments to be made to the Councillor Code of Conduct determined by the Council to be necessary following the review of the Councillor Code of Conduct.*
- (3) *A Councillor Code of Conduct—*
  - (a) *must include the internal resolution procedure for dealing with an alleged contravention of the Councillor Code of Conduct by a Councillor;*
  - (b) *may set out processes for the purpose of resolving an internal dispute between Councillors;*
  - (c) *must include any provisions prescribed for the purpose of this section;*
  - (d) *must include provisions addressing any matters prescribed for the purpose of this section;*
  - (e) *may include any other matters relating to the conduct of Councillors which the Council considers appropriate.*
- (5) *A Councillor Code of Conduct must not be inconsistent with any Act or regulation.*
- (5A) *A Councillor Code of Conduct is inoperative to the extent that it is inconsistent with any Act or regulation.*
- (6) *A copy of the current Councillor Code of Conduct must be—*
  - (a) *given to each Councillor;*
  - (b) *available for inspection by the public at the Council office and any district offices;*
  - (c) *published on the Council's Internet website maintained under section 82A.*
- (6A) *Within one month of amendments to a Councillor Code of Conduct being approved in accordance with subsection (2), a Councillor must make a declaration stating that they will abide by the Councillor Code of Conduct.*
- (6B) *A declaration by a Councillor under subsection (6A) must be—*
  - (a) *in writing; and*
  - (b) *witnessed by the Chief Executive Officer.*

The current Councillor Code of Conduct was adopted by Council on 4 July 2016. Following local government elections, Councillors declared they would abide by the Councillor Code of Conduct at Council's Statutory Meeting on 9 November 2016.

Hindmarsh Shire Council's Councillor Code of Conduct is based on the Municipal Association of Victoria's Model Councillor Code of Conduct released in June 2016.

The model code reflects that the Code of Conduct is no longer required to include councillor conduct principles because the principles are now contained in the Act itself. The model code also provides detailed dispute resolution procedures. The internal resolution procedure must include an independent arbiter who is able to consider alleged violations of the code of conduct and make final determinations on them fairly and without bias. Persons subject to allegations must be given an opportunity to be heard. Decisions by the arbiter must be supported by written reasons.

The Act also creates a new position of Principal Conduct Officer which must be appointed by each council. The functions of the Principal Conduct Officer include assisting Council in the implementation and conduct of the internal resolution procedure in their councillor conduct codes and assisting the Principal Councillor Conduct Registrar. The Principal Conduct Officer will be appointed by the CEO and must be either a senior officer or the subject of a Council resolution approving their qualifications for the role.

As stated in the Act, Council must review and make any necessary amendments to its Councillor Code of Conduct within four months after a general election. This must be done by calling a special meeting solely for the purpose of reviewing the Councillor Code of Conduct.

Council commenced the review of its Councillor Code of Conduct at its meeting on 21 December 2016. Council resolved to:

- "(a) call a special meeting for 1 February 2017, 2.45pm at the Council Chambers, 92 Nelson St, Nhill, solely for the purpose of reviewing its Councillor Code of Conduct; and*
- (b) at that special meeting, approve any amendments to be made to the Councillor Code of Conduct determined by the Council to be necessary following the review of the Councillor Code of Conduct."*

It has since been identified that Council's mandatory obligations under the Victorian Child Safe Standards need to be reflected in the Code. By way of background, the Victorian Government introduced child safe standards to improve the way organisations that provide services for children prevent and respond to child abuse that may occur within their organisation.

The standards are compulsory for all organisations providing services to children, and aim to drive cultural change in organisations so that protecting children from abuse is embedded in the everyday thinking and practice of leaders, staff and volunteers. This will assist organisations to:

- prevent child abuse;
- encourage reporting of any abuse that does occur;
- improve responses to any allegations of child abuse.

Organisations are required to develop or review codes of conduct and to include a set of clear principles about how they should behave with children. Codes of conduct establish clear behavioural expectations and boundaries for personnel interacting with children. As this clause is considered mandatory, it has been included in the draft Code, see attachment 1.

Within one month of an (amended) Councillor Code of Conduct being approved, all Councillors must make a declaration stating that they will abide by the Councillor Code of Conduct. Again this declaration must be signed and witnessed by the CEO.

The Councillor Code of Conduct must be made publicly available on Council's website. This must be done as soon as practicable after it is adopted.

**Options:**

Council must review and make any necessary amendments to its Councillor Code of Conduct by 22 February 2017. This must be done by calling a special meeting solely for the purpose of reviewing the Councillor Code of Conduct.

**Link to Council Plan:**

- 4.3 An engaged, skilled Council and workforce capable of meeting community needs.
- 4.6 An organisation that takes its risk management responsibilities seriously and embeds a culture of risk management throughout the organisation.

**Financial Implications:**

Nil

**Risk Management Implications:**

The Councillor Code of Conduct has to be reviewed within four months after a general election. Management of Council's legislative responsibilities in a timely manner will minimise Council's exposure to adverse impacts, improve effectiveness and generate efficiencies.

**Conflict of Interest:**

Under section 80c of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Author and Officer Responsible – Anne Champness, Director Corporate & Community Services

In providing this advice as the Author and Officer Responsible, I have no disclosable interests in this report.

**Communications Strategy:**

The Councillor Code of Conduct must be made publicly available on Council's website. This must be done as soon as practicable after it is adopted.

**RECOMMENDATION:**

- 1) *That Council, having reviewed its Councillor Code of Conduct, approve the following amendment to be made to the Code;*

***Inclusion of "6. Child Safe Standards:***

***Council is committed to the safety, participation and empowerment of all children and has zero tolerance towards incidents of child abuse. Council adheres to the Victorian Child Safe Standards and related legislation including Failure to Disclose, Failure to Protect and Grooming offenses. All allegations and safety concerns will***

***be treated very seriously and consistently with child protection legislation, regulations and guidelines and in accordance with Council policy and procedures.***

***Council is committed to preventing child abuse, identifying risks early and removing and reducing these risks. Council is also committed to the cultural safety of Aboriginal children, the cultural safety of children from culturally and/or linguistically diverse backgrounds and to providing a safe environment for children with a disability.***

***As Councillors we will maintain the highest standards of professional conduct in our attitude, behaviour and interactions with children and young people. As leaders, we are expected to uphold the rights and best interests of the child and take these matters into account in all decision making.”***

- 2) That Council adopt the amended Councillor Code of Conduct; and**
- 3) That each Councillor sign a declaration in accordance with the Local Government Act 1989.**

**MOVED: CRS T. Schneider/R. Lowe**

- 1) That Council, having reviewed its Councillor Code of Conduct, approve the following amendment to be made to the Code;**

***Inclusion of “6. Child Safe Standards:***

***Council is committed to the safety, participation and empowerment of all children and has zero tolerance towards incidents of child abuse. Council adheres to the Victorian Child Safe Standards and related legislation including Failure to Disclose, Failure to Protect and Grooming offenses. All allegations and safety concerns will be treated very seriously and consistently with child protection legislation, regulations and guidelines and in accordance with Council policy and procedures.***

***Council is committed to preventing child abuse, identifying risks early and removing and reducing these risks. Council is also committed to the cultural safety of Aboriginal children, the cultural safety of children from culturally and/or linguistically diverse backgrounds and to providing a safe environment for children with a disability.***

***As Councillors we will maintain the highest standards of professional conduct in our attitude, behaviour and interactions with children and young people. As leaders, we are expected to uphold the rights and best interests of the child and take these matters into account in all decision making.”***

- 2) That Council adopt the amended Councillor Code of Conduct; and**
- 3) That each Councillor sign a declaration in accordance with the Local Government Act 1989.**

**CARRIED.**

**Attachments: 1**

**5.3 DIRECTOR INFRASTRUCTURE SERVICES**

No report

---

**6. LATE REPORTS**

---

**7. OTHER BUSINESS**

---

**8. CONFIDENTIAL REPORTS**

In accordance with Section 89 (2) of the *Local Government Act* 1989, Council may close the meeting to the public if items to be discussed are deemed confidential, that is, if the items to be discussed relate to:

- a) Personnel matters;
  - b) The personal hardship of any resident or ratepayer
  - c) Industrial matters
  - d) Contractual matters
  - e) Proposed developments;
  - f) Legal advice
  - g) Matters affecting the security of Council property;
  - h) Any other matter which the Council or Special Committee considers would prejudice the Council or any person;
- 

**9. MEETING CLOSED**

There being no further business, Cr Nelson declared the meeting closed at 2:49pm

---