

SOUTH GIPPSLAND SHIRE COUNCIL

Special Meeting of Council Minutes

Review and approve amendments

Councillor Code of Conduct 2017

15 February 2017

Council Chambers, Leongatha

Commenced at 3.30pm



minutes



*South Gippsland
Shire Council*

Come for the beauty, Stay for the lifestyle



MISSION

To effectively plan and provide for the social, built, economic and natural environments that ensure the future wellbeing of South Gippsland Communities.

Privacy

Council is required to keep minutes of each Council meeting. The minutes contain details of proceedings which may include personal information about community members disclosed as part of presentations, submissions and questions. The minutes of Council meetings are a public record and can be inspected by members of the public.

Council undertakes audio recordings of Council Meetings as a contribution to good governance and accuracy of minutes. An audio recording of this meeting is being made for the purpose of verifying the accuracy of minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, and subpoena or by any other law such as the Freedom of Information Act 1982. It should be noted that other people present at the meeting may be recording the meeting and Council has limited power to regulate this. Council has developed a policy to regulate recordings, "*Sound Recording of Council Meetings*".

A copy of this policy is located on Council's website www.southgippsland.vic.gov.au.

PRESENT

COUNCILLORS:	Cr Ray Argento, Mayor Cr Maxine Kiel, Deputy Mayor Cr Meg Edwards Cr Alyson Skinner Cr Jeremy Rich Cr Andrew McEwen Cr Lorraine Brunt Cr Aaron Brown Cr Don Hill
APOLOGY:	Tim Tamlin, Chief Executive Officer
OFFICERS:	Vanessa Adams, Acting Director Community and Corporate Services Bryan Sword, Acting CEO Director Development Services Anthony Seabrook, Director Sustainable Communities & Infrastructure Rick Rutjens, Media and Communications Coordinator, Media and Communications Natasha Berry, Corporate and Council Business Officer June Ernst, Coordinator Corporate Planning & Council Business Jodi Cumming, Corporate and Council Business Officer

SOUTH GIPPSLAND SHIRE COUNCIL

Special Meeting of Council
Wednesday 15 February 2017
Council Chambers, Leongatha commenced at 3.30pm

TABLE OF CONTENTS

1. PRELIMINARY MATTERS	5
1.1. WELCOME	5
1.2. OPENING PRAYER	5
1.3. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS	5
1.4. REQUESTS FOR LEAVE OF ABSENCE	5
1.5. APOLOGIES	5
1.6. DECLARATION OF CONFLICT OF INTEREST FOR COUNCILLORS	6
1.7. DECLARATION OF CONFLICT OF INTEREST FOR STAFF	6
2. COUNCIL REPORTS	7
2.1. REVIEW AMENDMENTS TO THE C14 COUNCILLOR CODE OF CONDUCT 2017 POLICY.....	7
3. MEETING CLOSED	16



Tim Tamlin
Chief Executive Officer

1. PRELIMINARY MATTERS

1.1. WELCOME

Please ensure Mobile phones remain 'off' during the Council Meeting.

1.2. OPENING PRAYER

We pray to God to guide us so that the thoughts we have and the decisions made this day, are in the best interests of the people of the South Gippsland Shire.

Amen

1.3. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

The South Gippsland Shire Council respectfully acknowledges the Traditional Custodians of this Land, Elders past and present, their Spirits and Ancestors.

1.4. REQUESTS FOR LEAVE OF ABSENCE

Nil

1.5. APOLOGIES

Tim Tamlin, Chief Executive Officer

1.6. DECLARATION OF CONFLICT OF INTEREST FOR COUNCILLORS

Any interest that a Councillor or staff member has deemed to be significant and has disclosed as either a direct or an indirect interest is now considered to be a conflict of interest. Conflict of interest legislation is in sections 77A, 77B, 78, 78A-D and 79 of the Local Government Act 1989 (the Act). This legislation can be obtained by contacting the Council's Corporate & Community Services Directorate (Council Business) or by accessing the Victorian Legislation and Parliamentary Documents website at www.legislation.vic.gov.au.

An interest may be by close association, financial, conflicting duties or receipt of gifts. If a Councillor or staff member discloses any interest in an item discussed at any Council Meeting (whether they attend or not) they must:

- Complete a disclosure of interest form prior to the Meeting (forms are available from Council Business Department at South Gippsland Shire Council).
- Advise the Chair of the interest immediately before the particular item is considered (if attending the Meeting).
- Leave the Council Chamber or Meeting room while the item is being discussed and during any vote taken (if attending the Meeting).

The Councillor or staff member will be advised to return to the Council Chamber or Meeting room immediately after the item has been considered and the vote is complete.

Councillors should check the Minutes of the Council Meeting to ensure their disclosure is recorded accurately. Councillors are not required to disclose conflict of interest in relation to matters only considered at Meetings they do not attend. Detailed information is available in *Conflict of Interest – A Guide for Councillors – October 2012*.

Nil

1.7. DECLARATION OF CONFLICT OF INTEREST FOR STAFF

Sections 80B and 80C of the Local Government Act 1989 require members of Council staff who have delegated functions and/or provide advice to Council or a Special Committee to disclose conflicts of interest. If Council staff have written, provided information/advice or approved a Council Report and have a conflict of interest, it is the responsibility of that staff member to disclose the interest.

Guidance to identifying and disclosing a conflict of interest is contained in the Victorian State Government, Department of Transport, Planning and Local Infrastructure – *Conflict of Interest – A Guide for Council Staff – October 2011*.

Nil

2. COUNCIL REPORTS

2.1. REVIEW AMENDMENTS TO THE C14 COUNCILLOR CODE OF CONDUCT 2017 POLICY

Corporate and Community Services Directorate

EXECUTIVE SUMMARY

The Local Government Act 1989 (the Act) requires Council to review and approve amendments to C14 Councillor Code of Conduct by 22 February 2017, incorporating improved governance and conduct standards.

The previous C14 Councillor Code of Conduct 2016 is to be replaced with the revised and amended C14 Councillor Code of Conduct 2017 (Code) in **Attachment [2.1.1]**.

RECOMMENDATION

That Council:

- 1. Reviews amendments to the Councillor Code of Conduct 2017 (Policy Number C14);**
- 2. Adopts the amended Councillor Code of Conduct 2017 (Policy Number C14) in Attachment [2.1.1];**
- 3. Seeks the signature of each individual Councillor to the amended Councillor Code of Conduct 2017 as soon as practicable, but within one month of this policy adoption; and**
- 4. Publishes the Councillor Code of Conduct 2017 on Council's website.**

MOVED: Cr Edwards

SECONDED: Cr Brown

The Mayor ruled that Cr Meg Edwards had indicated that she was moving the motion by a show of hands, ahead of Cr Don Hill's subsequent verbal indication to move a revised motion.

THAT COUNCIL:

- 1. REVIEWS AMENDMENTS TO THE COUNCILLOR CODE OF CONDUCT 2017 (POLICY NUMBER C14);**

2. **ADOPTS THE AMENDED COUNCILLOR CODE OF CONDUCT 2017 (POLICY NUMBER C14) IN ATTACHMENT [2.1.1];**
3. **SEEKS THE SIGNATURE OF EACH INDIVIDUAL COUNCILLOR TO THE AMENDED COUNCILLOR CODE OF CONDUCT 2017 AS SOON AS PRACTICABLE, BUT WITHIN ONE MONTH OF THIS POLICY ADOPTION; AND**
4. **PUBLISHES THE COUNCILLOR CODE OF CONDUCT 2017 ON COUNCIL'S WEBSITE.**

AMENDMENT

MOVED: Cr Hill

SECONDED: Cr McEwen

THAT COUNCIL:

1. **REVIEWS AMENDMENTS TO THE COUNCILLOR CODE OF CONDUCT 2017 (POLICY NUMBER C14);**
2. **ADOPTS THE AMENDED COUNCILLOR CODE OF CONDUCT 2017 (POLICY NUMBER C14) IN ATTACHMENT [2.1.1] WITH THE FOLLOWING AMENDMENTS;**

IN SECTION;

Stage 4 – Councillor Conduct Panel appointed which starts on page 32 of the document, remove section (j) on page 33 which reads as;

“Each party to an application for review of a decision of a Councillor Conduct Panel will be required to bear all their own costs (refer Division 8, Section 109 (1) of the Victorian Civil and Administrative Tribunal Act 1998).”

AND REPLACE WITH THE WORDS:

“Despite Section 109 of the VCAT Act, Council must bear the costs of proceedings if Council has resolved to apply to VCAT for a review under Section 81 Q(2) of the Local Government Act, unless VCAT otherwise orders.”

In Section;

Relationships with Staff on page 10 remove the following from Point 4;

“Assemblies of Councillors, established as regular briefing days and/or workshops with Councillors and relevant staff, including the Executive Leadership Team, will be the general forums whereby Councillors lead the formation of policy, with good

governance practices in place to manage them. Information sharing can occur by asking questions, providing comments, advice, sharing information and seeking understanding of a range of issues between staff and Councillors.

These”

3. SEEKS THE SIGNATURE OF EACH INDIVIDUAL COUNCILLOR TO THE AMENDED COUNCILLOR CODE OF CONDUCT 2017 AS SOON AS PRACTICABLE, BUT WITHIN ONE MONTH OF THIS POLICY ADOPTION; AND
4. PUBLISHES THE COUNCILLOR CODE OF CONDUCT 2017 ON COUNCIL'S WEBSITE.

The AMENDMENT was LOST.

FOR: Councillors McEwen, Hill and Rich.

AGAINST: Councillors Skinner, Kiel, Argento, Edwards, Brown and Brunt.

The original Motion is before the Chair.

MOVED: Cr Brunt

THAT THE MOTION BE NOW PUT.

FOR: Councillors McEwen, Skinner, Kiel, Argento, Edwards, Brown, Brunt and Rich.

AGAINST: Councillor Hill

The Motion was CARRIED.

The Mayor addressed Council by informing Councillors that the Code of Conduct is required to be signed in the presence of the Chief Executive Officer and that this would take place at a later date.

REPORT

The Council elected and sworn in on 9 November 2016, signed the Councillor Code of Conduct developed by the former Council. In accordance with section 76C of the Local Government Act 1989 (the Act), Council must review and approve any amendments to the previous Councillor Code of Conduct at a Special Council Meeting within four months of the Council election. This legislated requirement continues the State Government's focus on improved governance, particularly in regard to the conduct of Councillors.

Council has considered a range of issues in the review of amendments to the Councillor Code of Conduct (Policy No. C14) (the Code). The Code embraces the Council's focus on the underlying values and behaviours that they will abide by to help them achieve the success they are striving for.

The Code has been reformatted to streamline the policy directions from the procedures and supporting guidelines. This provides better guidance in implementing the Code and seeking early resolution of any matters that might arise.

The Ethical Decision Making Checklist has been further strengthened to include points raised by a community member wanting to provide constructive feedback on the Code.

A range of amendments have been made and these are summarised below.

1. Council's lawyers have reviewed the Code with adjustments made where necessary throughout the document to strengthen its alignment with the Act.
2. A Councillors' Commitment, including Councillor photos, has been included at the commencement of the Code.
3. The former Council's 'Vision, Mission and Values have been replaced by the new Council's 'Values and Behaviours'.
4. 'Access to and Use of Council Information' includes a new paragraph regarding requirements for Councillors in relation to recording closed sessions and personal conversations.
5. 'Relationships with Staff' section includes a new paragraph regarding Assemblies of Council.
6. 'Relationships with Staff' section includes a new paragraph requiring Councillors to direct requests for information for Councillor Conduct matters through the Chief Executive Officer (CEO).

7. The 'Gifts' section has been updated to maintain consistency with recent amendments to the 'Gifts and Donations Policy' adopted by Council.
8. The 'Communication' section includes statements that Councillors will share messages they communicate in accordance with the values, behaviours and commitments agreed to in the Code.
9. The 'Dispute Resolution Procedures' section in the Code has been pruned to remove processes that are now incorporated in Attachment 3 of the Code.
10. The 'Dispute Resolution Procedures' section includes a new paragraph that requires all communications relating to the provision of Arbiter and Council Conduct Panel findings and recommendations, be designated Confidential Information until such time as a report is presented in an Agenda to an Ordinary Council meeting.
11. The 'Implementation' section specifies more succinctly the requirements of Councillors to sign the Code, make a declaration to abide by it and if they fail to do so within the legislated timeframe they will vacate their seat.
12. The 'Risk Assessment' section includes wording refinement to the mitigation of potential reputational risks;
13. The 'Councillor Declarations' section reflects the names of the current Councillors.
14. Attachment 1 of the Code now contains:
 - a. the Councillors' Ethical Behaviour Checklist. This has been moved from the body of the Code;
 - b. one new ethical behaviour statement to strengthen the need for 'active listening' so that people consider Councillors have been attentive to what is being discussed or presented;
 - c. amendments to one ethical behaviour relating to support for the Mayor and fellow Councillors. This reflects Councillors' commitment to focus on the future and set a united leadership example for the Shire; and
 - d. amendments to one ethical behaviour relating to accountability for own actions. The amendment includes 'truthfulness' in the checklist question.
15. Attachment 2 of the Code now contains:

- a. the Councillor and Executive Leadership Dispute Resolution Matrix and Procedures. This brings together parts that were formerly in various places and reduces duplication;
 - b. slight changes to the matrix for resolutions times to encourage the early management of any concerns;
 - c. a revised Dispute Resolution Process Flowchart that has been modified to better reflect the escalation stages.
16. Attachment 2 of the Code – Stage 1 now includes the option for parties to have an independent support person present if desired. It also now allows the Applicant to discuss a concern with the Mayor in exceptional circumstances to request that a matter be escalated to Stage 2, where it would be inappropriate to hold Stage 1.
 17. Attachment 2 of the Code – Stage 3B now requires that an Arbiter’s Report be presented as an open report to Council (not dealt with in closed session). This provides a greater level of transparency to the community regarding Councillor conduct matters. Additional processes have been included in Stage 3B to assist an Arbiter to administer Council’s requirements.
 18. Attachment 2 of the Code – Stage 3B and Stage 4 now require Councillors to advise witnesses that they are under no obligation to be witnesses, however if they agree to be witnesses, that their names and information may be included in the open reports to Council. Their personal details and information will not be redacted.
 19. Attachment 2 of the Code – Stage 4 provides additional details regarding Councillor Conduct Panels (Panel) and appeals to VCAT in regard to Councillor Conduct matters.
 20. Attachment 2 of the Code – Stage 5 outlines requirements where a matter is to be referred to the Chief Municipal Inspector for investigation and ruling.
 21. Attachment 3 of the Code now contains the Dispute Resolution Management Checklist.
 22. Attachment 4 of the Code now contains references to Conflict of Interest requirements under the Local Government Act 1989.
 23. Attachment 5 of the Code now contains supporting policies that have been moved from the body of the Code. These have been updated to current versions where applicable;
 24. Attachment 6 of the Code now contains supporting legislative provisions that have been moved from the body of the Code.

25. Attachment 7 of the Code now contains definitions considered applicable to the Code. These have been removed from the body of the Code.

CONSULTATION

Council has reviewed draft changes to the Code at three Assemblies of Councillors; being 9 November 2016 and 21 December 2016 and 25 January 2017. The Councillors discussed the Municipal Association of Victoria Model and several revised versions of the adopted Code.

One of the final revisions included a 'success' statement along with values and behaviours that the Councillors had discussed at length in a two-day workshop on 17 and 18 January 2017 to start the formulation of the Council Plan 2017-2021. Further work is required on the 'success' (vision) statement, however the 'Values and Behaviours' have been fine tuned and included in the final Code. These are a foundational component of the amended Code.

Council considered comments received from a community member who had provided constructive feedback to Council to consider when the Code was next reviewed, along with general concerns raised in the 2016 Community Satisfaction Survey. A number of adjustments in the amended Code (**Attachment [2.1.1]**) reflect Council's proactive response to improve in areas highlighted as community concerns.

Council considered and has incorporated improvements provided by an Arbiter involved in a conduct matter with a former Councillor. This advice was given to clarify the Arbiter's role more succinctly and strengthen the process of managing an independent arbitration of a conduct matter.

The amended Code (**Attachment [2.1.1]**) has been reviewed by Council's lawyers, with refinements made throughout the document to strengthen its alignment with the Act.

RESOURCES

There are no specific financial implications arising from this review of the Code.

RISKS

The review and updated amendments of the Code have specifically addressed medium rated risks identified in the confidential internal governance audit. The adoption of this detailed and revised Code will reduce the risk of breaching the Act and mitigate the potential for reputational risks created through inadequate internal resolution of conflicts between Councillors.

STAFF DISCLOSURE

Nil

ATTACHMENTS

1. Councillor Code of Conduct 2017 - Revised Draft February 2017 for Special Meeting [2.1.1]

REFERENCE DOCUMENTS

Local Government Act 1989 Part 1A - Local Government Charter, Division 1 - The Mayor and other Councillors, Division 1A - Conduct and Interests, Divisions 1AB - Internal Resolution Procedure of Council, Division 1B – Councillor Conduct Panels, Division 1C – Appointment and Functions of Principal Councillor Conduct Registrar, Division 1D – Formation, operation and Dissolution of Councillor Conduct Panels and Related Matters

Victorian Information Privacy Act 2000

Victorian Civil and Administrative Tribunal Act 1998

Accident Compensation Act 1985

Equal Opportunity Act 2010

Charter of Human Rights and Responsibilities Act 2006

Occupational Health and Safety Act 2004

Disability Discrimination Act 1992

Racial Discrimination Act 1975

Racial and Religious Tolerance Act 2001

Sex Discrimination Act 1984

Independent Broad-based Anti-Corruption Commission Act 2011

Protected Disclosure Act 2012

Victorian Inspectorate Act 2011

Public Interest Monitor Act 2011

Privacy and Data Protection Act 2014

Internal Policies

Acceptance of Gifts and Donations 2016

Anti-Discrimination, Bullying and Harassment Policy 2015

Councillor Access to Council Information Policy 2016

Communication and Engagement Policy 2014

Corporate Information Management Policy 2016

Councillor Support and Expenditure Policy 2016

Councillor Notice of Motion Guidelines 2013

Council Use of Term Mayoral Policy 2016

Council Use of Logo Policy 2016

Councillor Vehicle Policy 2014

Election Period Policy 2016

Grievance Policy 2016

Human Rights Policy 2013

Information Privacy Policy 2015

Information Security Standards 2015

Information Technology Standards 2015

Mayor, Deputy Mayor and Councillor Attendance at Functions Policy 2014

Occupational Health and Safety Policy 2013

Public Participation in Meetings with Council Policy 2016

Risk Management Policy 2012

3. MEETING CLOSED

NEXT MEETING

The next Ordinary Meeting of Council open to the public will be held on Wednesday, 22 February 2017 commencing at 2pm in the Council Chambers, Leongatha.

The Special Meeting of Council closed at 4.06pm

Confirmed this 22nd day of March 2017.



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Mayor Cr Ray Argento