

1. Attendance and Apologies

Members

Cr David Wright (Mayor)
Cr Sharon Cadwallader (Chair)

Monica Wilcox, Lennox Head Residents Association
Brad Pollard, Lennox Head Chamber of Commerce
Alan Veacock, Cumbalum Residents Association Inc.
Lyn Walker, Ballina Environment Society
Lorraine Leuckel, Ballina Marine Rescue
Jim Gilchrist, Lake Ainsworth Association
Jason Dwyer, Sport and Recreation
Darel Vidler, Lennox Head Combined Sports Association

Council Staff

Kelly Brown, Director Corporate and Community Division
John Truman, Director Civil Services Division
Samala Heart, Waste Education Officer
Sandra Bailey, Secretary

Apologies

Cathy Byrne, Coast Care
Cr Jeff Johnson
Cr Keith Williams

2. Declarations of Interest

Nil

Lyn Walker asked a question about whether community members still needed to declare an interest under the new Model Code of Conduct.

John Truman referred to the Office of Local Government document "Model Code of Conduct for Local Councils in NSW – At a Glance Guide for Council Committee Members and Delegates". A copy of the publication is attached.

3. Confirmation of Minutes

RECOMMENDATION

That the Minutes of the "B" Ward Committee held on 15 July 2019 be taken as read and confirmed. (Lyn Walker/Monica Wilcox)

4. Deputations

Nil

5. Presentation – Waste Management and Resource Recovery

Samala Heart, Council's Waste Education Officer provided an update on Council programs to educate residents on waste management and support them towards better resource recovery

6. Staff Presentation - Ballina Arterial Roads Strategy

This will be held over to the next meeting due to time constraints.

7. Outstanding Business

(a) Traffic Counters on Western Road at Lake Ainsworth

Monica Wilcox enquired about the traffic counters on the western road at Lake Ainsworth and their purpose.

John Truman advised that it could be because of the new speed zones in place and Council was checking compliance.

8. Business with Notice from Members

Nil

9. Review of Ward Committee Membership

The information was noted.

10. Council Documents on Exhibition

The list of Council documents which have recently been exhibited for community feedback was noted.

11. Business Without Notice

(a) Flooding on Tamarind Drive

Alan Veacock asked for an update on issues relating to the flooding at Tamarind Drive.

John Truman advised that staff and Councillors met with the Regional Manager of RMS this morning and she was taken to the Tamarind Drive site.

The main matter being reviewed was the flooding around Ballina Heights Drive and Tamarind Drive.

(b) Cumbalum Off-Ramps to the Pacific Highway

Alan Veacock asked about progress with obtaining an off-ramp onto the Pacific Highway from Cumbalum.

John Truman advised that there was no further update from today's meeting with the RMS. The Minister's response was that no money was available from the State Government until duplication of the Pacific Highway is completed.

(c) Solar Light Installation – Deadmans Creek Road

Alan Veacock asked about progress with the solar light installation at Deadmans Creek Road.

John Truman advised that a road safety audit is to be performed before installation. The road safety audit has been completed and is being reviewed. The product has been supplied and is ready to go. As soon as the safety audit has been reviewed and possibly peer reviewed, installation will take place.

(d) Commercial Development – Ballina Heights Estate

Alan Veacock enquired about the current status of any commercial development for the Ballina Heights Estate, noting Cr Williams submitted a notice of motion to a Council meeting.

John Truman advised that feedback has been received from the existing developer and also Intrapac. The Committee was given an update on the recent Council resolution following Cr William's notice of motion.

(e) Community Facilities/Hall at Ballina Heights Estate

Alan Veacock advised that there are no community facilities at all for the Ballina Heights Estate and that no one has access to the community centre except those who lease it, who he believed was Little Athletics and the East Ballina Junior Soccer Club. Alan's organisation had approached the lessees with an enquiry about hiring the facility during the week for a sewing circle group.

Alan's questions were –

To whom is the facility leased to?

How long is the lease?

Is there any option to extend the lease?

Is there going to be any access to any other groups?

John advised he would take the questions on notice.

It was then decided that a meeting would be facilitated by Council with the lessee with Alan will be invited.

(f) Marine Rescue Tower - Vegetation

Lorraine Leuckel raised the issue of the trees in front of the Marine Rescue Tower obscuring their view of the beach. They don't have the ability to see anyone on Lighthouse Beach anymore.

John Truman advised that Council had responded to the Marine Rescue Executive advising that Council is not able to obtain permission to have the trees pruned or removed.

(g) Lennox Chamber of Commerce

Brad Pollard – advised of a successful Lennox Chamber of Commerce Business Awards night.

Brad Pollard – the Lennox Chamber is supportive of recycling programs, especially for businesses.

(h) A Frame Signs

Brad Pollard – enquired if the policy on A Frame signs was currently on exhibition.

John Truman advised that a notice of motion was submitted to the July Ordinary meeting and the matter was referred to a Councillor briefing which is being held on Wednesday 18 September. Brad would like to attend on behalf of the Chamber.

Brad advised that the Lennox Chamber hasn't had any businesses say they want it brought back, but they also haven't done a survey.

John will mention to Matt Wood to contact the Chambers around that discussion.

(i) Lennox Chamber of Commerce

Brad Pollard advised that Chamber will be volunteering in the Lennox Village Vision Community Engagement Place Score Survey process.

(j) Roundabout at Lake Ainsworth

Jim Gilchrist – enquired about the new roundabout at the Surf Club at Lake Ainsworth and whether there is a proposal for planting in the centre of it.

John Truman advised that two different coloured cobblestones were proposed but no plantings.

(k) Pathways around Lake Ainsworth

Jim Gilchrist – advised that on the western road at Lake Ainsworth there are some pathways being formed by people going down to the edge of the lake. Is there any plan to manage that or put proper pathways in? He has noticed three there now.

John Truman advised that this will be picked up in the Coastal Management Plan process. The options are to formalise one or two pathways and the other option is to put vegetation in so they don't continue to be used and formed.

(l) Blue Green Algae

Cr Cadwallader advised that she has recently been to a conference and obtained information on new technology to combat blue green algae (Envirosonic). She has passed this information onto John Truman.

(m) Emailing Ward Committee agendas

Lyn Walker – congratulated Council on its campaign on e-rates. Can we extend that to Ward Committee agendas and have agendas and minutes emailed only.

Sandra Bailey advised that we have a combination of issuing soft and hard copies for Ward Committee agendas and minutes, according to individual preference, however if anyone wished to receive agendas and minutes by email only, to advise Council.

Lyn advised that Ballina Environment Society did not require a hardcopy and but just an email to herself.

(n) Williams Reserve – Irrigation and Watering

Darel Vidler – thanked Council for attempting to improve the playing surface on Williams Reserve. Timing is a bit out because of the poor watering system and lack of rain. Irrigation system is not up to scratch. Desperately needs more water. It highlights the need to topdress more and for the irrigation system to be upgraded to an acceptable standard. Senior Cricket are willing to move and step aside for topdressing if the Epiq fields are available to give Williams Reserve a rest.

John Truman will talk to Cheyne Willebrands about the budget constraints for topdressing. The Sport and Recreation Plan will be reported to Council. Some information being obtained through that process is about the usage of fields.

(o) Williams Reserve – Lighting

Darel Vidler – there has been a hold up with lighting installation on Williams Reserve and now looks like being installed towards the end of October or early November. Is there an update on this?

John Truman advised that he thought the order had been placed with the contractor and the contract has been let as one contract with Saunders Oval and Fripp Oval lighting.

Darel Vidler - when the contractor comes on site, the Club would like to talk to them before the installation is done to ensure power points installed on poles previously are re-installed.

(p) Epiq Sportsfields

Darel Vidler – he believed the type of building is being negotiated with the developers and Council.

John Truman has advised that Council has resolved to accept a plan for the building.

Darel Vidler - Is there any likelihood that cricket will be played on those fields this year with no toilet facilities?

John Truman advised that Council was reluctant to allow the use of those fields without toilet facilities. John to get back to Darel about temporary facilities possibly being made available at the Epiq fields.

(q) Carols in the Park

Darel Vidler – advised that Carols in the Park will be held on 1 December on Williams Reserve and organization is progressing.

(r) Lake Ainsworth Works

Monica Wilcox – advised that she has heard lots of feedback about the lake parkland and lots of people are saying it's lovely.

(s) Cyclepath Connection from the Meadows Estate

Monica Wilcox - now that the cyclepath from Boulder Beach to Pat Morton is being constructed, lots of people who live in the Meadows Estate are thinking about how they are going to link and connect with the new path.

John Truman advised that this matter can be discussed at the next meeting of the Committee with reference to Council's Bike Plan and PAMP.

(t) Government Funding for Ballina Hospital

Monica Wilcox – leading up to the last election the Ballina Hospital was promised funding for an upgrade. Does anybody know when this is going to happen?

General discussion ensued about this matter.

(u) Club Lennox

Monica Wilcox – what is happening with Club Lennox?

John Truman advised that Council has a lease with Club Lennox. This was in the process of being renewed, however there were complaints from residents about noise and activities undertaken on the bowling green.

Council has held meetings with representatives of Club Lennox and also the residents. Recent activities undertaken by the Club, which were different from activities previously undertaken at the Club, were also of concern to the residents as they believed that these did not comply with any planning consents held by the Club.

(v) Relocation of Lennox Markets

Jason Dwyer enquired if the Lennox Markets were being relocated back to the Lake Ainsworth parkland once the eastern road is closed and the parkland works completed.

Cr Cadwallader advised that she had previously submitted a notice of motion to relocate the markets once the works were completed.

She also advised that the General Manager had advised that Council may need revisit this matter.

(w) Carpark at the Rear of Lennox Community Centre

Cr Cadwallader – advised that she believed it was worth looking at extending the carpark at the rear of the Lennox Community Centre and has submitted a notice of motion to the next Ordinary meeting of Council.

12. Next Meeting

Monday 18 November 2019

13. Meeting Closure

6.30 pm

MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW

'AT A GLANCE' GUIDE FOR COUNCIL COMMITTEE MEMBERS AND DELEGATES



Introduction

This guide summarises the key elements of the *Model Code of Conduct for Local Councils in NSW* that apply to committee members and delegates of councils and joint organisations.

The Model Code of Conduct is available at www.olg.nsw.gov.au.

Each council's and joint organisation's code of conduct must reflect the requirements of the Model Code of Conduct and may contain additional requirements.

While this guide refers to "councils" for simplicity, all references in it to "councils" are to be taken as including local and county councils and joint organisations.

Committee members and delegates should familiarise themselves with their council's code of conduct and understand their obligations and the obligations of others.

Who is a committee member?

A council committee member is any person (other than a councillor or council staff member) who is a member of a council committee that exercises functions of the council under delegation. It may also include members of advisory committees if your council has extended the application of its code of conduct to members of advisory committees.

Who is a delegate?

A delegate of a council is any person (other than a councillor or council staff member) who exercises a council function under delegation.

General Conduct

It is important that the local community has confidence in the council and those that serve it, whether as elected representatives, members of staff or as delegates or committee members.

As a committee member or a delegate of the council, you must ensure that your conduct and behaviour towards others meets the high standards that the community is entitled to expect of all council officials.

What conduct is expected of council committee members and delegates?

(Clauses 3.1 - 3.21)

You must:

- act lawfully and honestly and exercise care and diligence in undertaking your functions
- consider matters consistently, promptly and fairly and in accordance with established procedures
- ensure land use planning, development assessment and other regulatory decisions are properly made and that all parties are dealt with fairly, and
- comply with your duties under the *Work Health and Safety Act 2011* and take care of your own and others' health and safety.

You **must not** conduct yourself in a way that:

- will bring the council into disrepute
- is contrary to law and council policies
- is improper, unethical or an abuse of power
- involves misuse of your position for personal benefit
- constitutes harassment or bullying or is unlawfully discriminatory, or
- is intimidating or verbally abusive.

Submitting returns of interests

Delegates of councils or members of committees that exercise functions of the council that may give rise to conflicts of interest are required to disclose their personal interests in publicly available returns of interests.

These operate as a key transparency mechanism for promoting community confidence in council decision making, whether by councillors or by staff or others under delegation.

Do I need to submit a written return of interests?

(Clauses 4.8 – 4.10)

Delegates or committee members who are "designated persons" must complete and submit returns of their interests to the general manager.

When do I need to submit a written return of interests?

(Clause 4.21)

If you are a designated person, you must submit a return of interests within three months of your appointment and submit a new return annually (within three months of the start of each financial year).

If you become aware of any new interest that needs to be disclosed in the return, you must submit a new return within three months of becoming aware of the interest.

What interests do I need to disclose?

(Schedule 1)

If you are a designated person you will be required to disclose, among other things, the following types of interests in your return:

- interests in real property
- gifts
- contributions to travel
- interests and positions in corporations
- whether you are a property developer or a close associate of a property developer
- positions in trade unions and professional or business associations
- dispositions of real property
- sources of income, and
- debts.

Conflicts of interest

As a member of the local community, it is inevitable that at some point you will have a conflict of interest in a matter that you are dealing with. What is important is that you are able to identify that you have a conflict of interest and that you disclose and manage it appropriately.

There are two types of conflicts of interest – pecuniary and non-pecuniary. Your obligations to disclose and manage conflicts of interest will depend on what type of conflict of interest you have.

What is a pecuniary conflict of interest?

(Clauses 4.1 – 4.5)

You will have a pecuniary interest in a matter you are dealing with where there is a reasonable likelihood or expectation that you or a related person (eg a relative, your employer or business partner or a company you hold shares in), will gain or lose financially appreciably as a result of any decision made in relation to the matter.

How do I manage pecuniary conflicts of interest that I have in matters I am dealing with?

(Clauses 4.10, 4.12 and 4.18)

You must disclose in writing any pecuniary interest you may have in a matter you are dealing with as soon as you become aware of it.

The general manager will decide how the matter will be dealt with.

If you are a member of a committee, you must disclose any pecuniary interest you have in any matter being dealt with by the committee at each committee meeting that the matter arises and leave the meeting while the matter is being considered and voted on.

What is a non-pecuniary conflict of interest?

(Clauses 5.1, 5.2 and 5.8)

Non-pecuniary interests are private or personal interests that are not pecuniary interests.

You will have a non-pecuniary conflict of interest in a matter you are dealing with if a reasonable and informed person would perceive that you could be influenced by a private interest that you have in that matter. This is also known as the "pub test".

How you deal with a non-pecuniary conflict of interest will depend on whether it is significant.

How do I know if I have a significant non-pecuniary conflict of interest in a matter I am dealing with?

(Clause 5.9)

You will have a significant non-pecuniary conflict of interest in a matter you are dealing with where you have a:

- close relationship (including a business relationship) with a person who will be affected by any decision made in relation to the matter
- strong affiliation with an organisation that will be affected by any decision made in relation to the matter, or
- financial interest in the matter that is not a pecuniary interest, or you otherwise stand to gain or lose a personal benefit as a result of a decision made in relation to that matter.

How do I manage significant non-pecuniary conflicts of interest that I have in matters I am dealing with?

(Clauses 5.9 and 5.10)

If you have a significant non-pecuniary conflict of interest in a matter you are dealing with, you must:

- disclose it in writing to the general manager
- disclose it on each occasion the matter arises, and
- not participate in any consideration of the matter.

If you are a member of a council committee you must also disclose your interest at each committee meeting that the matter arises and leave the meeting while the matter is being considered or voted on.

How do I manage non-pecuniary conflicts of interest that are not significant?

(Clauses 5.6, 5.7 and 5.11)

If you believe that you have a non-pecuniary conflict of interest in a matter you are dealing with that is not significant and that does not require further action, you must still disclose your interest in writing to the general manager as soon as possible and explain why you believe it is not significant.

The general manager will help you decide how to manage your interest.

If you are a member of a committee, you must also disclose your interest at each committee meeting the matter arises and explain why you believe it is not significant and no further action is necessary to manage it.

What if I am not sure?

(Clause 5.4)

Remember, no one knows your personal circumstances better than you and for that reason, the onus is on you to identify and disclose any potential conflict of interest you may have in a matter you are dealing with and to manage it appropriately.

If you are not sure whether you have a conflict of interest in a matter you are dealing with or what type of conflict of interest it is, always err on the side of caution. Disclose the interest in writing to the general manager and discuss with them whether you should continue to deal with the matter.

How do I deal with council in my private capacity as a resident or ratepayer?

(Clauses 5.28 and 5.29)

As a member of the community, it is inevitable that you will need to deal with your council in your private capacity. Where this occurs, you should deal with the council in the same way as other members of the public. You should not expect or seek any preferential treatment.

You must not use your position to obtain a private benefit for yourself or for someone else or to influence others in the performance of their functions to obtain a private benefit for yourself or for someone else.

Gifts and benefits

In the course of performing your duties you may be offered a gift or a personal benefit. There are strict rules that govern what gifts or benefits you may accept and those that you must refuse.

These rules are informed by the following principles:

- you must not benefit personally from the performance of your duties on behalf of the council other than through the remuneration and any other benefits you receive as a delegate or committee member, and
- you must not be influenced or be seen to be influenced in the performance of your duties as a result of the receipt of a gift or personal benefit.

What is a gift or benefit?

(Clauses 6.1 and 6.2)

A gift or benefit is something offered to or received by you or someone closely associated with you for personal use or enjoyment.

Gifts and benefits do not include:

- a gift or benefit provided to the council as part of a cultural exchange or sister city relationship (provided it is not used for your personal use and enjoyment)
- attendance at a work-related event or function for the purpose of undertaking your council duties, or
- meals, beverages or refreshments with a value of less than \$50 that are provided to you while you are carrying out your council duties.

What gifts or benefits must I refuse?

(Clause 6.5)

You **must not**:

- seek or accept bribes
- seek gifts or benefits of any kind
- accept any gift or benefit that may create a sense of obligation, or that may be perceived as intended or likely to influence you in undertaking your duties
- accept any gift or benefit that is worth more than \$50
- accept tickets to major sporting or cultural events with a ticket value of over \$50 or corporate hospitality at such events
- accept cash or cash-like gifts (such as gift vouchers, credit cards, debit cards with credit on them, phone or internet credit, lottery tickets etc) of any amount
- participate in competitions for prizes where eligibility is based on the council being a customer of the competition organiser, or
- personally benefit from reward points programs when purchasing on behalf of council.

What if I can't refuse a gift or benefit?

(Clause 6.7)

If you are offered a gift or benefit that is worth more than \$50 that cannot be reasonably refused, you must surrender it to the council.

What gifts can I accept and who must I report this to?

(Clauses 6.6, 6.8 and 6.11)

You may accept gifts with a value of under \$50. However, if you receive further gifts from the same person or another person associated with them in the next 12 months with a value which, when combined with the value of the first gift exceeds \$50, you must refuse to accept the additional gifts.

If you accept a gift of any value, you must disclose this promptly to the general manager in writing. The following details must be recorded in the council's gift register:

- the nature of the gift or benefit
- the estimated monetary value of the gift or benefit
- the name of the person who provided the gift or benefit, and
- the date on which the gift or benefit was received.

Use of council information and resources

Council resources (including council information) are public resources. You must use council resources ethically, effectively, efficiently and carefully when performing your duties.

You must not use council resources for private purposes, or convert council property for your own use unless you are authorised to do so.

What records should I keep?

(Clauses 8.21 – 8.24)

All information created, sent or received in your official capacity (whether or not stored on a council device or a council email account) and any information stored in either soft or hard copy on council resources is considered to be a council record and must be kept in accordance with the *State Records Act 1998* and your council's records management policy.

Do not destroy, alter or dispose of records unless authorised to do so.

What are my obligations in relation to the use of council information?

(Clauses 8.9 – 8.11)

You can only access and use council information for council business. You must not use council information for private purposes and you must not seek to privately benefit from any council information you have obtained in your role as a delegate or committee member.

You must only release council information in accordance with established council policies and procedures and in compliance with relevant legislation (including privacy legislation).

You must maintain the integrity and security of any confidential or personal information you have access to. In particular, you must:

- only access confidential or personal information that you have been authorised to access and only for the purposes of performing your duties
- protect confidential and personal information
- only release confidential or personal information if authorised to do so
- only use confidential or personal information for the purpose for which it is intended to be used
- not use confidential or personal information to obtain a private benefit for you or for someone else
- not use confidential or personal information to cause harm to the council or anyone else, and
- not disclose confidential information discussed during a closed session of a council or committee meeting or any other confidential forum (such as councillor workshops or briefing sessions).

What are my obligations when using my council computer or mobile device?

(Clause 8.20)

You must not use council's computer or mobile devices to access, download or communicate any material that is offensive, obscene, pornographic, threatening, abusive or defamatory or could lead to civil or criminal liability and/or damage council's reputation.

Making code of conduct complaints

Your council's code of conduct is the key mechanism for promoting and enforcing the ethical and behavioural standards the community rightly expects of those who serve the council.

For this reason, it is important that your council's code of conduct is correctly used and that code of conduct processes are respected and complied with.

How do I make a code of conduct complaint?

(Part 4 of the Procedures)

Complaints alleging breaches of the code of conduct must be made in writing to the general manager. Complaints about the general manager must be made in writing to the mayor. Complaints must be made within 3 months of the conduct occurring or you becoming aware of the conduct.

To be dealt with under the council's code of conduct, a complaint must show or tend to show conduct by a member of staff, a councillor or a person exercising council functions under delegation or who is otherwise subject to the council's code of conduct in connection with their official role or the exercise of their official functions that would constitute a breach of the council's code of conduct if proven.

The following types of complaints must not be dealt with under a council's code of conduct and should instead be dealt with under the council's routine complaints management processes:

- complaints about the standard or level of service provided by the council or a council official
- complaints that relate solely to the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
- complaints about the policies or procedures of the council, and
- complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the council's code of conduct.

Model Code of Conduct for Local Councils in NSW – 'At a Glance' Guide for Council Committee Members and Delegates

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What happens if a code of conduct complaint is made about me?

(Clauses 5.10 – 5.17 of the Procedures)

The general manager (or another member of staff authorised by the general manager) is responsible for dealing with code of conduct complaints about committee members and delegates.

In dealing with a complaint, the general manager may determine to take no action, to resolve it informally or to take disciplinary action. Prior to taking disciplinary action, the general manager must comply with certain procedural fairness requirements.

Where proven, code of conduct complaints may result in:

- censure
- requirement for an apology
- prosecution for any breach of the law
- removal or restriction of a delegation, and/or
- removal from membership of a committee

What are my responsibilities in relation to code of conduct complaints?

(Clauses 9.1 – 9.7, and 9.13)

You have certain obligations in relation to any code of conduct complaints that you make or that are made about you. These obligations are designed to safeguard the integrity of your council's code of conduct and the processes for investigating and dealing with alleged breaches by ensuring code of conduct matters are dealt with in a manner that is robust, fair and confidential. Breaches of these obligations may themselves constitute a breach of your council's code of conduct.

In particular you must not:

- make code of conduct complaints for an improper purpose
- take or cause reprisal action to be taken against someone for making or dealing with a code of conduct complaint
- disclose any information about a code of conduct complaint you have made or that has been made about you except for the purpose of seeking legal advice, or
- impede or disrupt the consideration of a code of conduct complaint and you must comply with any reasonable and lawful requests.