



SHIRE OF IRWIN
DONGARA-PORT DENISON

A BRILLIANT BLEND

Shire of Irwin

Council Member Code of Conduct

August 2020

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1 Preliminary

1.1 Title

This is the *Shire of Irwin Council Member Code of Conduct – August 2020*.

1.2 Commencement

This Code comes into operation on 26 August 2020.

1.3 Definitions

In this Code, unless the contrary intention appears:

“Act” means *Local Government Act 1995*;

“CEO” means the chief executive officer of the Shire;

“Shire” means Shire of Irwin;

“Code” means the Shire of Irwin Council Member Code of Conduct;

“Committee” means a committee established by Council under the Act;

“Complaints Officer” means the person who is the complaints officer under section 5.120 of the Act;

“Council” means the elected body that consists of the Shire President, Deputy Shire President and Councillors;

“Member” means a Member of Council;

“Minor Breach” has the meaning given in section 5.105(1) of the Act;

“Rules of Conduct Regulations” means *Local Government (Rules of Conduct) Regulations 2007*.

1.4 Application

1) This Code applies to Council Members.

2) This Code does not apply to any employee of the Shire or to any member of a Committee who is not a Council Member.

1.5 Requirements for this Code

This Code is adopted by Council in accordance with the requirements of section 5.103 of the Act.

1.6 Previous Code

This Code replaces the Code of Conduct adopted by Council on 15 December 2015.

2 Roles

2.1 Role of Council Member

The primary role of a Council Member is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Local Government will be the focus of the Council Member's public life. The Role of Council Members as set out in section 2.10 of the *Local Government Act 1995* follows:

"A Councillor —

- a) Represents the interests of electors, ratepayers and residents of the district;*
- b) provides leadership and guidance to the community in the district;*
- c) facilitates communication between the community and the council;*
- d) participates in the local government's decision-making processes at council and committee meetings; and*
- e) performs such other functions as are given to a Councillor by this Act or any other written law."*

A Council Member is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives. In fulfilling the various roles, Council Members activities will focus on:

- achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- achieving sound financial management and accountability in relation to the Local Government's finances;
- ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;
- working with other governments and organisations to achieve benefits for the community at both a local and regional level;
- having an awareness of the statutory obligations imposed on Council Members and on Local Governments.

In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

2.2 Role of staff

The role of staff is determined by the functions of the CEO as set out in section 5.41 of the *Local Government Act 1995*: -

The CEO's functions are to —

- a) advise the council in relation to the functions of a local government under this Act and other written laws;*
- b) ensure that advice and information is available to the council so that informed decisions can be made;*
- c) cause council decisions to be implemented;*
- d) manage the day to day operations of the local government;*

- e) *liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;*
- f) *speak on behalf of the local government if the mayor or president agrees;*
- g) *be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S 5.37(2) in relation to senior employees);*
- h) *ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- i) *perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*

2.3 Role of Council

The Role of the Council is in accordance with section 2.7 of the *Local Government Act 1995*:

- 1) *The council —*
 - a) *directs and controls the local government's affairs; and*
 - b) *is responsible for the performance of the local government's functions.*
- 2) *Without limiting subsection (1), the council is to —*
 - a) *oversee the allocation of the local government's finances and resources; and*
 - b) *determine the local government's policies.*

3 Obligations of Members

3.1 General Principles

It is a requirement of this Code that Members observe the general principles referred to in Regulation 3(1) of the Rules of Conduct Regulations.

Regulation 3(1) of the Rules of Conduct Regulations provides as follows:

General principles to guide the behaviour of council members include that a person in his or her capacity as a council member should –

- a) *act with reasonable care and diligence; and*
- b) *act with honesty and integrity; and*
- c) *act lawfully; and*
- d) *avoid damage to the reputation of the local government; and*
- e) *be open and accountable to the public; and*
- f) *base decisions on relevant and factually correct information; and*
- g) *treat others with respect and fairness; and*
- h) *not be impaired by mind affecting substances.*

3.2 Conflict and Disclosure of Interest

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

Please refer to Division 6 – Disclosure of financial interests and gifts of the [Local Government Act 1995](#).

Please refer to Regulation 11 of the [Rules of Conduct Regulations](#).

3.3 Land dealings

A Member must inform the CEO in writing of an intention to undertake a land dealing within the region or which may otherwise be in conflict with the Shire's functions (other than the purchase of the Member's principal place of residence).

3.4 Personal behaviour

A Member must:

- a) act, and be seen to act, properly and in accordance with the requirements of the law, Council policies, resolutions and the terms of this Code;
- b) perform their duties impartially and in the best interests of the Shire;
- c) act in good faith and fidelity in the interests of the Shire and the community; and
- d) make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of the Member's role, which may cause any reasonable person unwarranted offence or embarrassment.

3.5 Honesty and integrity

A Member must:

- a) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards; and
- b) bring any dishonesty or possible dishonesty on the part of a Member to the attention of the CEO or the Shire President.

3.6 Performance of role

A Member must:

- a) exercise reasonable care and diligence in the performance of his or her role; and
- b) be consistent in his or her decision making but must treat all matters on individual merits, in an honest and fair manner.

3.7 Compliance with lawful orders and policies

A Member must:

- a) comply with any lawful order given by any person having authority to make or give the order, with any doubts as to the propriety of the order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the CEO.
- b) give effect to the lawful policies of the Shire, whether or not the Member agrees with or approves of them.

3.8 Administrative and management practices

A Member must ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

3.9 Communication and public relations

As a representative of the community, a Member must be not only responsive to community views but must adequately communicate the attitudes and decisions of Council. In doing so, a Member must acknowledge that:

- a) as a Member of Council there is respect for the decision making processes of Council which are based on a decision of the majority of Council;
- b) information of a confidential nature must not be communicated until it is no longer treated as confidential;
- c) information relating to decisions of Council on approvals, permits and so on must only be communicated in an official capacity by a designated officer of Council; and
- d) information concerning adopted policies, procedures and decisions of the council is conveyed accurately.

3.10 Relationships between Members and employees

To be effective, a Member must work as part of the Shire's team which includes Council, the CEO and employees. That teamwork will only occur if Members and employees have a mutual respect and co-operate with each other to achieve the Shire's corporate goals and implement the Shire's strategies. To achieve that position a Member must:

- a) accept that their role is a leadership, not a management or administrative one;
- b) acknowledge that they have no capacity to individually direct employees to carry out particular functions; and
- c) refrain from publicly criticising employees in a way that casts aspersions on their professional competence and credibility.

Please also refer to Regulations 9 and 10 of the [Rules of Conduct Regulations](#).

3.11 Appointments

As part of their representative role, a Member is often asked to represent Council on external organisations. It is important that a Member:

- a) clearly understands the basis of their appointment; and
- b) provides regular reports on the activities of the external organisation.

3.12 Use of the Shire's resources

A Member must:

- a) be scrupulously honest in their use of the Shire's resources and must not misuse them or knowingly permit their misuse; and
- b) not use the Shire's resources (including the services of the Shire's employees) for private purposes, unless properly authorised to do so, and appropriate payments are made (as determined by the CEO).

3.13 Dealing with proponents

1) The provisions of this clause are in addition to, and do not derogate, from the other provisions of this Code.

2) In this clause:

“Proponent” means a proponent of a Proposal and includes a person who represents the interests of a Proponent;

“Proposal” means:

- a) a proposed subdivision of land;
- b) a proposed development of land;
- c) a proposal involving the exercise of discretion under a planning scheme or under a planning policy or structure plan adopted under a planning scheme;
- d) a proposed change to a planning scheme including a proposed change to the zoning of land; or
- e) a proposed change to a planning policy or structure plan adopted under a planning scheme.

3) This clause 2.12 applies where a Proposal is, or is likely, to be considered by Council.

4) A Member must:

- a) not make any statements or express any views to a Proponent or a person interested in a Proposal which purports to be on behalf of Council or the Shire;
- b) be alert to the motives and interests of a Proponent;
- c) be aware of which person, organisation or company that the Proponent is representing;
- d) not give any undertaking to a Proponent or any person interested in the Proposal;
- e) not do or say anything which could be viewed as giving a Proponent preferential treatment;
- f) ensure that persons interested in a Proposal are treated fairly and consistently;
- g) be alert to attempts by Proponents and parties interested in a Proposal to encourage Members to consider matters which are extraneous or irrelevant to the merits of the decision under consideration; and
- h) be careful in dealings with a Proponent or a person interested in a Proposal who is a former Member or former employee of the Shire and make sure that the person is not given or appear to be given favourable or preferential treatment.

4 This Code and the law

- 1) This Code is not a law.
- 2) There are laws which regulate the conduct of Members including the *Local Government (Rules of Conduct) Regulations 2007*.
- 3) Where a person has reason to believe that a Member has committed a “Minor Breach” of the Rules of Conduct Regulations, the person may complain of the breach by sending a complaint in accordance with the Act to the Complaints Officer of the Shire.