

**ORDINARY COUNCIL MEETING
14 SEPTEMBER 2009**

1	COUNCILLOR CODE OF CONDUCT
LOCATION/ADDRESS:	N/A
GENERAL MANAGER:	MARK BRADY, GENERAL MANAGER CORPORATE SERVICES
PREPARED BY:	NORM MCCLELLAND GOVERNANCE ADVISOR
FILE NO.:	18/04/61
ATTACHMENTS:	COUNCILLOR CODE OF CONDUCT

1. EXECUTIVE SUMMARY

- 1.1 In accordance with the requirements of section 76C(1) of the Local Government Act 1989 (the Act), Council must develop and approve a Councillor Code of Conduct by December 2009.
- 1.2 The matters that the legislation requires to be included in the code are the conduct principles contained in sections 76B and 76BA of the Act. Other than this requirement, Council may include a process for the purpose of resolving an internal dispute between Councillors and any other matters relating to the conduct of Councillors which the Council considers appropriate.
- 1.3 The draft Councillor Code of Conduct attached to this report contains an extract of the conduct principles from the Act, as well as, a dispute resolution process for Councillors.
- 1.4 The code is designed to assist Councillors to work together constructively to achieve the best outcomes for the local community.

2. RECOMMENDATION

That Council:

- 2.1 Adopts the Councillor Code of Conduct as attached which will replace the Councillor Code of Conduct adopted in March 2005.

3. BACKGROUND AND CONTEXT

- 3.1 Council adopted a Councillor Code of Conduct in March 2005, however, legislation introduced in December 2008 changed the requirements with respect to what must be included in a code of conduct. Legislation now requires Council to develop and approve a 'new' Councillor Code of Conduct within 12 months of the amending legislation, that is, by December 2009.

- 3.2 Once Council adopts the Councillor Code of Conduct, it must review the code within 12 months after every Council general election.
- 3.3 The Act states that a Councillor Code of Conduct must include the conduct principles outlined in the Act. The conduct principles are made up of “primary” and “general” conduct principles and can be found in Part 3 of the attached code.
- 3.4 If a Councillor is accused of breaching the code, a Councillor, or group of Councillors, or a resolution of Council can make application for a Councillor Conduct Panel to determine whether a finding of misconduct can be made against the Councillor for breaching the code.
- 3.5 Although it is not mandatory to include a Councillor dispute resolution procedure in the code, a Councillor Conduct Panel can direct a Council to amend its code where the Panel deals with an application where there has been no dispute resolution process in relation to the misconduct alleged in the application, and where the Panel is of the view that such a process would be helpful. Therefore, a dispute resolution procedure has been included in the code.

4 CONSULTATION AND STAKEHOLDERS

- 4.1 The Municipal Association of Victoria has provided advice with respect to the development of this code.
- 4.2 There is no legislative requirement to conduct a submission process.
- 4.3 A copy of the Councillor Code of Conduct must be:
 - 4.3.1 given to each Councillor; and
 - 4.3.2 available for inspection by the public at the Council office and any district offices.

5. DISCUSSION

5.1 OPTIONS

- 5.1.1 Council can either:
 - 5.1.1.1 adopt the Councillor Code of Conduct attached to this report; or
 - 5.1.1.2 amend the draft Councillor Code of Conduct as required and proceed to adopt it.

5.2 ALIGNMENT TO COUNCIL PLAN

- 5.2.1 The drafting of a new Councillor Code of Conduct is consistent with Council's key direction of "Engaging and governing the city" as contained in the Port Phillip Council Plan 2009 – 2013. The Plan, under strategy 1.2.1, undertakes to 'Promote a culture of good governance'.
- 5.2.2 Under the Council Plan's strategy 1.2.4, the Plan commits to 'Maintain proper and formal arrangements for Council's relationship with the CEO and officers' by 'reviewing the Councillor Code of Conduct for effective communication and access between Councillors and staff'.

5.3 POLICY IMPLICATIONS

- 5.3.1 The Act:
- 5.3.1.1 requires that Council develop and approve a Councillor Code of Conduct;
- 5.3.1.2 sets out the timeframe for the development and review of a Code of Conduct; and
- 5.3.1.3 outlines what must be included in a code.
- 5.3.2 Once Council adopts the attached Councillor Code of Conduct or some other amended code, it will replace the code adopted in March 2005.

5.4 FINANCE / RESOURCE IMPLICATIONS

- 5.4.1 The adoption of the new Councillor Code of Conduct will have no immediate resource implications.

5.5 LEGAL & RISK IMPLICATIONS

- 5.5.1 To avoid breaching the Act, Council must adopt a Councillor Code of Conduct prior to December 2009.
- 5.5.2 If there is a breach of the Councillor Code of Conduct, the Councillor dispute resolution process should be engaged in the first instance to resolve the matter. If the alleged breach is later referred to a Councillor Conduct Panel and the Panel finds that a Councillor has breached the code, the Panel can (depending on the circumstances) require remedial action, reprimand the Councillor, require an apology to be issued, order the Councillor to take leave of absence for up to two months, or refer the matter to VCAT.

6. IMPLEMENTATION STRATEGY

6.1 TIMELINE

- 6.1.1 The Councillors will be provided with a copy of the Code of Conduct once it is adopted.

6.2 COMMUNICATION

- 6.2.1 Copies of the code will be made available to the public at the 3 Town Halls.

7. OFFICER DIRECT OR INDIRECT INTEREST

- 7.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.