

NOTICE OF MEETING



HERITAGE PANEL MEETING

A Heritage Panel Meeting of Byron Shire Council will be held as follows:

Venue	Conference Room, Station Street, Mullumbimby
Date	Thursday, 2 November 2017
Time	9.00am

A handwritten signature in black ink, appearing to be 'SB', is located in the lower left area of the page.

Shannon Burt
Director Sustainable Environment and Economy

CONFLICT OF INTERESTS

What is a “Conflict of Interests” - A conflict of interests can be of two types:

Pecuniary - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

Non-pecuniary – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Local Government Act (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

Remoteness – a person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the Local Government Act.

Who has a Pecuniary Interest? - a person has a pecuniary interest in a matter if the pecuniary interest is the interest of the person, or another person with whom the person is associated (see below).

Relatives, Partners - a person is taken to have a pecuniary interest in a matter if:

- The person's spouse or de facto partner or a relative of the person has a pecuniary interest in the matter, or
- The person, or a nominee, partners or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

N.B. “Relative”, in relation to a person means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person's spouse;
- (b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

No Interest in the Matter - however, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or
- Just because the person is a member of, or is employed by, the Council.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter provided that the person has no beneficial interest in any shares of the company or body.

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - a person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 452 of the Local Government Act.

Non-pecuniary Interests - Must be disclosed in meetings.

There are a broad range of options available for managing conflicts & the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in S451 of the Local Government Act apply (particularly if you have a significant non-pecuniary interest)

RECORDING OF VOTING ON PLANNING MATTERS

Clause 375A of the Local Government Act 1993 – Recording of voting on planning matters

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
 - (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
 - (b) not including the making of an order under Division 2A of Part 6 of that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

BYRON SHIRE COUNCIL

HERITAGE PANEL MEETING

BUSINESS OF MEETING

1. APOLOGIES

2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1 Heritage Panel Meeting held on 31 August 2017

4. STAFF REPORTS

Corporate and Community Services

4.1 Code of Conduct Training..... 4

Sustainable Environment and Economy

4.2 Presentation by North Coast Community Housing on DA 10.2017.474.1 - Multi Dwelling Housing Consisting of Twenty Five (25) Railyard 1 Bedroom Dwellings (Under the Provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009): Infill Affordable Housing at 70-90 Station Street, Mullumbimby Development and Update on Heritage Grants..... 27

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 4.1

Code of Conduct Training

Directorate:

Corporate and Community Services

Report Author:

David Royston-Jennings, Corporate Governance and Strategic Planning Officer

File No:

I2017/1573

Theme:

Corporate Management
Governance Services

Summary:

To provide an overview of Council's Code of Conduct for the benefit of members of the Heritage Panel.

RECOMMENDATION:

That the Heritage Panel receive a presentation about Byron Shire Council's Code of Conduct.

Attachments:

1 Byron Shire Council Code of Conduct, E2017/101101 , page 6 [↓](#)

Report

Heritage Panel members are required to read and understand Council's Code of Conduct.

- 5 The key points of the Code of Conduct will be provided in a presentation for the Panel's information.

A copy of Byron Shire Council's Code of Conduct is provided as an attachment to this report for the Panel's perusal.

10

Financial Implications

Nil

- 15 **Statutory and Policy Compliance Implications**

Code of Conduct



Policy:

Code of Conduct

2016

INFORMATION ABOUT THIS DOCUMENT

Date Adopted by Council	29 March 1994	Resolution No.	
Policy Responsibility	General Manager		
Review Timeframe	Council is required by s440 of the Local Government Act 1993 to review its Code of Conduct within the first year of office and/or whenever the prescribed Model Code of Conduct changes		
Last Review Date:	4 February 2016	Next Scheduled Review Date	January 2017 or as required by the Local Government Act 1993.

Document History

Doc No.	Date Amended	Details Comments eg Resolution No.
	February 2005	Council adopted the Model Code of Conduct for Local Councils in NSW Dec 2004 as issued by the Department of Local Government
#534640	21/11/2006	Res No. 06-746
#790333	28/8/2008	Res No. 08-482
#886424	13/8/2009	Res No. 09-633 reconfirmed existing Code of Conduct
#E2013/4326	14/2/2013	Reported to Council Res 13-16
E2013/12377	1/3/2013	Adopted to commence 1/3/2013 (Res 13-16)
E2016/8002	4/2/2016	Res No. 16-21 statutory change

Further Document Information and Relationships

Related Legislation	Local Government Act 1993 Local Government (General) Regulation 2005 Government Information (Public Access) Act 2009 Public Interest Disclosures Act 1994 NSW Ombudsman, Investigating complaints, A manual for investigators June 2008 Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015
Related Policies	Policy No 13/004 – Code of Conduct- Procedures for the Administration of Council's E2013/12510 Policy No 11/008 - Internal Reporting Policy (#DM1137087) Policy No 3.22 - Complaints Management Policy (#1154370) Privacy Management Plan (#214081)
Related Procedures/ Protocols, Statements, documents	Procedure No 26 - Declaration of Gifts and Benefits (#1198559) DLG Circular 12-45 issued 19/12/2012 Information Protection Principles and Health Privacy Principles; The Privacy Code of Practice for Local Government

NB: This administrative part of this Policy and any cross-references within the Policy may be amended without referral to Council, as procedures, policies, legislation etc are developed, reviewed or updated etc, to ensure ongoing administrative accuracy.

See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.



TABLE OF CONTENTS

PART 1: INTRODUCTION	3
PART 2: PURPOSE OF THE CODE OF CONDUCT	3
PART 3: GENERAL CONDUCT OBLIGATIONS	4
General Conduct	4
Fairness and equity	4
Harassment and discrimination	4
Development decisions	4
Binding Caucus Votes	5
PART 4: CONFLICT OF INTERESTS.....	6
What is a pecuniary interest?	6
What is a non-pecuniary conflict of interests?	6
Managing non-pecuniary conflict of interests	7
Reportable Political Donations	8
Loss of Quorum as a Result of Compliance with this Part	8
Other business or employment	9
Personal dealings with council	9
PART 5: PERSONAL BENEFIT	10
Gifts and Benefits	10
Token Gifts and Benefits	10
Gifts and benefits of value	10
How are Offers of Gifts and Benefits to be Dealt With?	10
Improper and undue influence	10
PART 6: RELATIONSHIP BETWEEN COUNCIL OFFICIALS	12
Obligations of Councillors and administrators	12
Obligations of Staff	12
Obligations During Meetings	13
Inappropriate Interactions	13
PART 7: ACCESS TO INFORMATION AND COUNCIL RESOURCES	14
Councillor and Administrator Access to Information	14
Councillors and Administrators to Properly Examine and Consider Information	14
Refusal of Access to Documents	14
Use of Certain Council Information	14
Use and Security of Confidential Information	15



Policy: Code of Conduct 2016

Personal Information	15
Use of Council Resources.....	15
Councillor Access to Council Buildings	16
PART 8: MAINTAINING THE INTEGRITY OF THIS CODE	17
Complaints Made for an Improper Purpose	17
Detrimental Action	17
Compliance with Requirements under this Code	17
Disclosure of Information about the Consideration of a Matter under this Code.....	18
Complaints Alleging Breaches of this Part	18
PART 9: DEFINITIONS	19



PART 1: INTRODUCTION

This Model Code of Conduct for Local Councils in NSW ("the Model Code of Conduct") is made for the purposes of section 440 of the *Local Government Act 1993* ("the Act"). Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code. For the purposes of section 440 of the Act, the Model Code of Conduct comprises all parts of this document.

Councillors, administrators, members of staff of council, independent conduct reviewers, members of council committees including the conduct review committee and delegates of the council must comply with the applicable provisions of Council's Code of Conduct in carrying out their functions as council officials. It is the personal responsibility of council officials to comply with the standards in the Code and regularly review their personal circumstances with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this Code constitutes misconduct for the purposes of the Act. The Act provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office.

Failure by a member of staff to comply with council's Code of Conduct may give rise to disciplinary action.

A better conduct guide has also been developed to assist councils to review and enhance their codes of conduct. This guide supports this code and provides further information on the provisions in this code.

PART 2: PURPOSE OF THE CODE OF CONDUCT

The Model Code of Conduct sets the minimum requirements of conduct for council officials in carrying out their functions. The Model Code is prescribed by regulation.

The Model Code of Conduct has been developed to assist council officials to:

- understand the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in the integrity of local government.



PART 3: GENERAL CONDUCT OBLIGATIONS**General Conduct**

- 3.1 You must not conduct yourself in carrying out your functions in a manner that is likely to bring the council or holders of civic office into disrepute. Specifically, you must not act in a way that:
- a) contravenes the Act, associated regulations, council's relevant administrative requirements and policies;
 - b) is detrimental to the pursuit of the charter of a council;
 - c) is improper or unethical;
 - d) is an abuse of power or otherwise amounts to misconduct;
 - e) causes, comprises or involves intimidation, harassment or verbal abuse;
 - f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment;
 - g) causes, comprises or involves prejudice in the provision of a service to the community. (Schedule 6A)
- 3.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (section 439)
- 3.3 You must treat others with respect at all times.

Fairness and equity

- 3.4 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.5 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

Harassment and discrimination

- 3.6 You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

Development decisions

- 3.7 You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.
- 3.8 In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.



Binding Caucus Votes

- 3.9 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.10 For the purposes of clause 3.9, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 3.11 Clause 3.9 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 3.12 Clause 3.9 does not apply to a decision to elect the Mayor or Deputy Mayor or to nominate a person to be a member of a council committee. .



PART 4: CONFLICT OF INTERESTS

- 4.1 A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 4.2 You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.
- 4.3 Any conflict of interests must be managed to uphold the probity of council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 4.4 Private interests can be of two types: pecuniary or non-pecuniary

What is a pecuniary interest?

- 4.5 A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (*section 442*)
- 4.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (*section 443*)
- 4.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
 - a) councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (*section 449*)
 - b) councillors and members of council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*)
 - c) designated persons immediately declare, in writing, any pecuniary interest. (*section 459*)
- 4.8 Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.
- 4.9 Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

What is a non-pecuniary conflict of interests?

- 4.10 Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- 4.11 The political views of a councillor do not constitute a private interest.



Managing non-pecuniary conflict of interests

- 4.12 Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.
- 4.13 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 4.12.
- 4.14 How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.
- 4.15 As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:
- a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household;
 - b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship;
 - c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.
- 4.16 If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:
- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official;
 - b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply.
- 4.17 If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 4.18 If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- 4.19 Despite clause 4.16(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff through the General Manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 4.16(b) above.



Reportable Political Donations

- 4.20 Councillors should note that matters before council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.
- 4.21 Where a councillor has received or knowingly benefited from a reportable political donation:
- 3.12.1 made by a major political donor in the previous four years; and
 - 3.12.2 where the major political donor has a matter before Council,
- then the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 4.16(b).
- 4.22 For the purposes of this Part:
- a) a "reportable political donation" is a "reportable political donation" for the purposes of section 86 of the *Election Funding, Expenditure and Disclosures Act 1981*;
 - b) a "major political donor" is a "major political donor" for the purpose of section 84 of the *Election Funding, Expenditure and Disclosures Act 1981*.
- 4.23 Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take appropriate action to manage them.
- 4.24 If a councillor has received or knowingly benefited from a reportable political donation of the kind referred to in clause 4.21, that councillor is not prevented from participating in a decision to delegate council's decision-making role to council staff through the General Manager or appointing another person or body to make the decision in accordance with the law (see clause 4.19 above).

Loss of Quorum as a Result of Compliance with this Part

- 4.25 Where a majority of Councillors are precluded under this Part from consideration of a matter the council or committee must resolve to delegate consideration of the matter in question to another person.
- 4.26 Where a majority of councillors are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the councillors may apply in writing to the Chief Executive to be exempted from comply with a requirement under this Part relating to the management of a non-pecuniary conflict of interests.
- 4.27 The Chief Executive will only exempt a councillor from complying with a requirement under this Part where:
- a) compliance by councillors with a requirement under this Part in relation to a matter will result in the loss of a quorum; and
 - b) the matter relates to the exercise of a function of the council that may not be delegated under section 377 of the Act.



- 4.28 Where the Chief Executive exempts a councillor from complying with a requirement under this Part, the councillor must still disclose any interest they have in the matter the exemption applies to in accordance with the requirements of this Part.
- 4.29 A councillor, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interests in the matter, is permitted to participate in consideration of the matter, if:
- a) the matter is a proposal relating to:
 - i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or
 - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
 - b) the non-pecuniary conflict of interests arises only because of an interest that a person has in that person's principal place of residence, and
 - c) the councillor declares the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part.

Other business or employment

- 4.30 If you are a member of staff of council considering outside employment or contract work that relates to the business of the council or that might conflict with your council duties, you must notify and seek the approval of the general manager in writing. (*section 353*)
- 4.31 As a member of staff, you must ensure that any outside employment or business you engage in will not:
- a) conflict with your official duties;
 - b) involve using confidential information or council resources obtained through your work with the council;
 - c) require you to work while on council duty;
 - d) discredit or disadvantage the council.

Personal dealings with council

- 4.32 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.



PART 5: PERSONAL BENEFIT

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

Gifts and Benefits

- 5.1 You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the Council.
- 5.2 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Token Gifts and Benefits

- 5.3 Generally speaking, token gifts and benefits include:
- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
 - i) the discussion of official business;
 - ii) council work related events such as training, education sessions, workshops;
 - iii) conferences;
 - iv) council functions or events;
 - v) social functions organised by groups, such as council committees and community organisations;
 - b) invitations to and attendance at local social, cultural or sporting events;
 - c) gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address);
 - d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers;
 - e) prizes of token value.

Gifts and benefits of value

- 5.4 Notwithstanding clause 5.3, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.



How are Offers of Gifts and Benefits to be Dealt With?**5.5 You must not:**

- a) seek or accept a bribe or other improper inducement;
- b) seek gifts or benefits of any kind;
- c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty;
- d) accept any gift or benefit of more than token value;
- e) accept an offer of cash or a cash-like gift, regardless of the amount.

5.6 For the purposes of clause 5.5(e), a "cash like gift" includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, memberships or entitlements to discounts.**5.7** Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Mayor or the General Manager. The recipient, supervisor, Mayor or General Manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register. The gift or benefit must be surrendered to Council, unless the nature of the gift or benefit makes this impractical.**Improper and undue influence****5.8** You must not use your position to influence other Council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the appropriate exercise of their representative functions.**5.9** You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for council in order to obtain a private benefit for yourself or for any other person or body.



PART 6: RELATIONSHIP BETWEEN COUNCIL OFFICIALS**Obligations of Councillors and administrators**

- 6.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. The governing body has the responsibility of directing and controlling the affairs of the Council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.
- 6.2 Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the General Manager in the performance of council's functions by way of council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (*section 352*);
 - b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate (*Schedule 6A of the Act*);
 - c) contact a member of the staff of the council on council related business unless in accordance with the policy and procedures governing the interaction of Councillors and council staff that have been authorised by the Council and the General Manager;
 - d) contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to council's external auditors or the Chair of Council's Audit Committee who may be provided with any information by individual councillors reasonably necessary for the external auditor or audit committee to effectively perform their functions.

Obligations of Staff

- 6.3 The General Manager is responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation of the decisions of the council without delay.
- 6.4 Members of staff of Council must:
- a) give their attention to the business of council while on duty;
 - b) ensure that their work is carried out efficiently, economically and effectively;
 - c) carry out lawful directions given by any person having authority to give such directions;
 - d) give effect to the lawful decisions, policies, and procedures of the Council, whether or not the staff member agrees with or approves of them;
 - e) ensure that any participation in political activities outside the service of Council does not conflict with the performance of their official duties.

**Obligations During Meetings**

- 6.5 You must act in accordance with Council's Code of Meeting Practice, if Council has adopted one, and the *Local Government (General) Regulation 2005* during Council and committee meetings.
- 6.6 You must show respect to the chair, other council officials and any members of the public present during Council and committee meetings or other formal proceedings of the Council.

Inappropriate Interactions

- 6.7 You must not engage in any of the following inappropriate interactions:
- a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
 - b) Council staff approaching Councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
 - c) Council staff refusing to give information that is available to other Councillors to a particular Councillor.
 - d) Councillors and administrators who have lodged a development application with council, discussing the matter with Council staff in staff-only areas of the Council.
 - e) Councillors and administrators being overbearing or threatening to Council staff.
 - f) Councillors and administrators making personal attacks on Council staff in a public forum.
 - g) Councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.
 - h) Council staff providing ad hoc advice to Councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
 - i) Council staff meeting with developers alone AND outside office hours to discuss development applications or proposals.
 - j) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by Council associated with current or proposed legal proceedings unless permitted to do so by Council's General Manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.



PART 7: ACCESS TO INFORMATION AND COUNCIL RESOURCES**Councillor and Administrator Access to Information**

- 7.1 The General Manager and Public Officer are responsible for ensuring that members of the public, Councillors and administrators can gain access to the documents available under *Government Information (Public Access) Act 2009*.
- 7.2 The General Manager must provide Councillors and administrators with information sufficient to enable them to carry out their civic office functions.
- 7.3 Members of staff of council must provide full and timely information to Councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with Council procedures.
- 7.4 Members of staff of council who provide any information to a particular Councillor in the performance of their civic duties must also make it available to any other Councillor who requests it and in accordance with Council procedures.
- 7.5 Councillors and administrators who have a private (as distinct from civic) interest in a document of Council have the same rights of access as any member of the public.

Councillors and Administrators to Properly Examine and Consider Information

- 7.6 Councillors and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with Council's charter.

Refusal of Access to Documents

- 7.7 Where the General Manager and Public Officer determine to refuse access to a document sought by a Councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the Councillor or administrator to perform their civic duty (see clause 7.2). The General Manager or Public Officer must state the reasons for the decision if access is refused.

Use of Certain Council Information

- 7.8 In regard to information obtained in your capacity as a Council official, you must:
 - a) only access Council information needed for Council business;
 - b) not use that Council information for private purposes;
 - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with Council;
 - d) only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

**Use and Security of Confidential Information**

- 7.9 You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.
- 7.10 In addition to your general obligations relating to the use of Council information, you must:
- a) protect confidential information;
 - b) only release confidential information if you have authority to do so;
 - c) only use confidential information for the purpose it is intended to be used;
 - d) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person;
 - e) not use confidential information with the intention to cause harm or detriment to your Council or any other person or body;
 - f) not disclose any information discussed during a confidential session of a council meeting.

Personal Information

- 7.11 When dealing with personal information you must comply with:
- a) *the Privacy and Personal Information Protection Act 1998;*
 - b) *the Health Records and Information Privacy Act 2002;*
 - c) *the Information Protection Principles and Health Privacy Principles;*
 - d) *Council's privacy management plan,*
 - e) *the Privacy Code of Practice for Local Government.*

Use of Council Resources

- 7.12 You must use Council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.
- 7.13 Union delegates and consultative committee members may have reasonable access to Council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:
- a) the representation of members with respect to disciplinary matters;
 - b) the representation of employees with respect to grievances and disputes;
 - c) functions associated with the role of the local consultative committee.
- 7.14 You must be scrupulous in your use of Council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.
- 7.15 You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.



- 7.16 You must not use Council resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 7.17 You must not use council letterhead, council crests and other information that could give the appearance it is official Council material for:
- 3.12.3 the purpose of assisting your election campaign or the election campaign of others; or
3.12.4 for other non-official purposes.
- 7.18 You must not convert any property of the Council to your own use unless properly authorised.
- 7.19 You must not use Council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

Councillor Access to Council Buildings

- 7.20 Councillors and administrators are entitled to have access to the Council chamber, committee room, Mayor's Office (subject to availability), Councillors' rooms, and public areas of Council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the General Manager.
- 7.21 Councillors and administrators must not enter staff-only areas of Council buildings without the approval of the General Manager (or delegate) or as provided in the procedures governing the interaction of Councillors and Council staff.
- 7.22 Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence Council staff decisions.



PART 8: MAINTAINING THE INTEGRITY OF THIS CODE

8.1 You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this Code or its administration.

Complaints Made for an Improper Purpose

8.2 You must not make a complaint or cause a complaint to be made under this Code for an improper purpose.

8.3 For the purposes of clause 8.2, a complaint is made for an improper purpose where it is trivial, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:

- a) to intimidate or harass another Council official;
- b) to damage another Council official's reputation;
- c) to obtain a political advantage;
- d) to influence a Council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions;
- e) to influence the Council in the exercise of its functions or to prevent or disrupt the exercise of those functions;
- f) to avoid disciplinary action under this Code;
- g) to take reprisal action against a person for making a complaint under this Code except as may be otherwise specifically permitted under this Code;
- h) to take reprisal action against a person for exercising a function prescribed under the procedures for administration of this Code except as may be specifically permitted under this Code;
- i) to prevent or disrupt the effective administration of this Code.

Detrimental Action

8.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this Code except as may be otherwise specifically permitted under this Code.

8.5 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this Code except as may be otherwise specifically permitted under this Code.

8.6 For the purposes of clauses 8.4 and 8.5 detrimental action is an action causing, comprising or involving any of the following:

- a) injury, damage or loss;
- b) intimidation or harassment;
- c) discrimination, disadvantage or adverse treatment in relation to employment;
- d) dismissal from, or prejudice in, employment;
- e) disciplinary proceedings.

Compliance with Requirements under this Code

8.7 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this Code.



- 8.8 You must comply with a reasonable and lawful request made by a person exercising a function under this Code.
- 8.9 You must comply with a practice ruling made by the Division of Local Government.
- 8.10 Where you are a Councillor or the General Manager, you must comply with any Council resolution requiring you to take action as a result of a breach of this Code.

Disclosure of Information about the Consideration of a Matter under this Code

- 8.11 You must report breaches of this Code in accordance with the reporting requirements under this Code.
- 8.12 You must not make allegations of suspected breaches of this Code at Council meetings or in other public forums.
- 8.13 You must not disclosure information about the consideration of a matter under this Code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted by this Code.

Complaints Alleging Breaches of this Part

- 8.14 Complaints alleging a breach of this Part (Part 8) by a Councillor, the General Manager or an administration are to be made to the Division of Local Government.
- 8.15 Complaints alleging a breach of this Part by other Council officials are to be made to the General Manager.



PART 9: DEFINITIONS

In the Model Code of Conduct the following definitions apply:

the Act	the Local Government Act 1993
act of disorder	see the definition in clause 256 of the <i>Local Government (General) Regulation 2005</i>
administrator	an administrator of Council appointed under the Act other than an administrator appointed under section 66
Chief Executive	Chief Executive of the Division of Local Government, Department of Premier and Cabinet
committee	a council committee
conflict of interests	a conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
Council committee	a committee established by resolution of council
Council committee member	a person other than a Councillor member of staff of a Council who is a member of a Council committee
council official	includes Councillors, members of staff of council, administrators, council committee members, conduct reviewers and delegates of council
delegate of council	a person (other than a Councillor or member of staff of a Council) or body, and the individual members of that body, to whom a function of Council is delegated
designated person	see the definition in section 441 of the Act
election campaign	includes council, State and Federal election campaigns
personal information	information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion
the Regulation	the Local Government (General) Regulation 2005.

The term "you" used in the Model Code of Conduct refers to Council officials.

The phrase "this Code" used in the Model Code of Conduct refers also to the procedures for the administration of the Model Code of Conduct prescribed under the Local Government (General) Regulation 2005.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 4.2 **Presentation by North Coast Community Housing on DA 10.2017.474.1 - Multi Dwelling Housing Consisting of Twenty Five (25) Railyard 1 Bedroom Dwellings (Under the Provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009): Infill Affordable Housing at 70-90 Station Street, Mullumbimby Development and Update on Heritage Grants**

Directorate: Sustainable Environment and Economy
Report Author: Chris Larkin, Manager Sustainable Development
 Noreen Scott, EA Sustainable Environment and Economy
File No: I2017/1501
Theme: Ecology
 Development and Approvals

Summary:

Council has received a development application for a multi dwelling housing development at 70-90 Station Street, Mullumbimby named the Railyard. The development (DA10.2017.474.1) consists of Twenty Five x One Bedroom Dwellings, associated landscaping and car parking. The subject property is within the Heritage Conservation area and Adjoins the Railway Line, the Mullumbimby Council Chambers and car park and a Child Care Centre. The applicants, North Coast Community Housing are to provide a presentation to the Heritage Panel and will answer any questions in relation to heritage matters having regards to the sites location within the Mullumbimby Conservation Area. This report also provides an update to the Panel on available heritage grants and programs

RECOMMENDATION:

That the Heritage Panel:

- 1. Thank North Coast Community Housing for their Presentation; and**
- 2. Note the Heritage Near Me Incentives Program**

Attachments:

- 1 landscape plan NCCH, E2017/96985 , page 30 [↓](#)

Report

5 Council has received a development application for a multi dwelling housing development at 70-90 Station Street, Mullumbimby named the Railyard. The development consists of Twenty Five x One Bedroom Dwellings, landscaping and courtyard areas and car parking. An existing fig tree in Station Street is to be retained. The subject property is within the Heritage Conservation area and Adjoins the Railway Line to the east, the Mullumbimby Council Chambers and Carpark to the north and a Child Care Centre to the south.



10

15

The Land is zoned B4 Mixed Use which enables a variety of uses to occur including residential development. The property also has a 9 metre height limit pursuant to Byron LEP 2014. The applicants are seeking approval under the Provisions of SEPP (Affordable Rental Housing) 2009, with a portion of the units to be used for affordable rental housing purposes. The property is within easy walking distance to the town centre and local amenities such as the Council Library, parks, town Pool and other facilities.

A general site plan of the development is attached to this report for the panels information. The applicants, North Coast Community Housing, are to provide a presentation to the Heritage Panel and will answer any questions in relation to heritage matters having regards to the sites location within the Mullumbimby Conservation Area.

5

Heritage Near Me Incentives Program

The Heritage Near Me Incentives program has been developed to address gaps in existing funding and resourcing for local heritage in NSW and provides grants directly to owners and managers of local heritage items. A link to the Heritage Grants page for more information is provided here:

10

<http://www.environment.nsw.gov.au/Heritage/heritage-near-me-incentives.htm>

A current opportunity for owners and managers of local heritage items includes the Local Heritage Strategic Projects program.

15

An expression of interest can be lodged from owners and managers of local heritage items, local councils and organisations who are seeking support for projects and programs that will enhance and protect local heritage assets and values, either through minor works conservation projects, community-based events and activities, or the development of innovative heritage processes, strategies and plans.

20

A link to the Heritage Grants on offer is provided here:

<http://www.environment.nsw.gov.au/Heritage/funding/>

25

Financial Implications

N/A

30

Statutory and Policy Compliance Implications

N/A

GRASSES, GROUND COVERS & CREEPERS

CATEGORY	BOTANICAL	COMMON	NOTES
01 TURF	SELECTED TURF		
02 CLUMPING GRASSES & FERNS	LOMANDRA LONGIFOLIA + VAR DIANELLA REVOLUTA	MAT RUSH + VARIETIES FLAX LILY	ALL PATH AND GARDEN EDGES
03 GROUND COVERS	GRAVILIA POORINDA	ROYAL MANTLE	GENERAL GROUND COVER - GARDEN EDGES
04 CREEPERS	HOYA AUSTRALIS STEPHANICA JAPONICA	NATIVE HOYS SNAKE VINE	GROW ON ENTRY GATEHOUSE TRELLIS

MEDIUM TREES & FEATURE TREES

CATEGORY	BOTANICAL	COMMON	NOTES
05 FEATURE TREE	PLUMERIA	FRANGINANI	
06 MEDIUM TREES (5-10M)	CUPANOPSIS ANACARDIODES EUCALYPTUS FICIFOLIA	TUCKAROO RED FLOWERING GUM	

SHRUBS - SMALL TREES

CATEGORY	BOTANICAL	COMMON	NOTES
07 PALMS	LINGPADIX MONOSTACHYS ARCHONTOPHOENIX CUNNINGHAMIANA	WALKING STICK PALM BANGALOW PALM	VERTICAL PLANTING BETWEEN BUILDINGS
08 SHRUBS & SCREEN PLANTING 2-3M	BANKSIA ERICIFOLIA ACACIA FLORIBUNDA ACACIA LONGIFOLIA CALUATEMON PACHYPHYLLUS GREVILLEA BANKS + VAR LEPTOSPERMUM LIVERSIDGEI MELALEUCA NODOSA	HEATH BANKSIA WHITE SALLY WATTLE BEACH SALLY WATTLE CRIMSON BOTTLEBROSH BANKS GREVILLEA + OTHERS LEMON SCENTED TEA TREE NODDY MYRTLE	SCREEN PLANTING BETWEEN BUILDINGS AND SIDE BOUNDARIES AND LAYERED PLANTING TO DEEP SOIL ZONES

SURFACES

DRIVE	STANDARD GREY CONCRETE
PATHS	GREY OR COLOURED CONCRETE - OR EXPOSED AGG CONCRETE
GARDENS	MIN 100MM THICK LOCAL NATIVE MULCH

GARDEN - GRASS AREA

MULCHED GARDEN (COMMON)	1050
TURF (COMMON)	140

