



Attachment 2 to Item 10.4.5.

Hawkesbury City Council Draft Submission to the Office
of Local Government Councillor Conduct and Meeting
Practices Discussion Paper

Date of meeting: 12 November 2024

Location: Council Chambers

Time: 6:30pm

Discussion paper – Councillor conduct and meeting practices

Hawkesbury City Council Submission

Potential changes to the code of conduct and oath of office	
<u>General Comments:</u> Council would support the introduction of an aspirational Conduct Commitment that frames a positive approach to expected Councillor behaviour and conduct. It would be recommended that a Code of Conduct Commitment form part of the current Code of Conduct, to ensure that clear and definitive aspirations and the description behaviours can be found in one place.	
What are the key elements of an aspirational Code of Conduct that should be enshrined?	Council sees the key elements of an aspirational Code of Conduct as providing the fundamental benchmark of Councillor behaviour. Council would suggest the inclusion of a Commitment within the Code of Conduct, to align Council's commitment to professional conduct and the Oath / Affirmation of Office.
What are your views about aligning the Oath of Office to the revamped Code of Conduct?	Council supports the alignment of the Oath of Office with the Code of Conduct. This approach embeds the fundamental benchmark of positive behaviour into a public declaration made by the elected Councillor. It would also provide early understanding of the expected behaviour fundamentals to prospective candidates prior to nomination, and election to Council.

Potential changes to the definitions and assessment of councillor misbehaviour

General Comments:

Council would support clear definitions of the expectations on Councillors to disclose conflicts of interest and clear definitions of misbehaviour in the Local Government Act, referencing regulations and other statutory instruments for further explanation as appropriate.

<p>Is the proposed pecuniary interest framework appropriate? Is anything missing?</p>	<p>Council acknowledges the current requirement for Councillors to disclose pecuniary interests in returns individually and any relative as defined in the Code of Conduct.</p> <p>Council acknowledges the inconsistency within Part 4 of the Code of Conduct that requires the disclosure of pecuniary interests, including the interests of a relative, and the requirement to disclose matters in written returns. Council would seek clarification of this point and whether annual disclosures would need to include those interests that a relative of the Councillor or designated person has as defined under Clause 4.4 of the Model Code.</p> <p>Council supports the provision of investigative powers to the Office of Local Government to investigate and request information on corporate structures to determine any underlying beneficial ownership and interests.</p> <p>Council supports the introduction of clearly defined consequences in the event of non-disclosures and the effect any non-disclosure may have on a decision before the Council.</p>
<p>Do you agree with the principles of what constitutes a significant or major non-pecuniary interest?</p>	<p>Council agrees with the principles of what constitutes a significant or major non-pecuniary interest.</p> <p>Council would suggest further emphasis be placed on the requirement for the Councillor to identify, declare and appropriately and transparently manage any conflict.</p> <p>Council would seek clearly defined consequences in the event of non-disclosure and the effect any non-disclosure may have on a decision before Council.</p>
<p>Are there any other specific features that should be included to address concerns about councillors undertaking real estate and development business activities?</p>	<p>Council supports legislation that would provide clear expectations on property developers / real estate agents and the relationship with Local Government, and obligations should they chose to become a Councillor.</p>
<p>Is this the appropriate threshold to face a Privileges Committee?</p>	<p>Council would support the proposed thresholds as outlined in the OLG Discussion Paper, including the threshold to face a Privileges Committee.</p>

	<p>Council acknowledges that there is the risk that the poor behaviour of a few Councillors has the potential to lose public confidence in the whole of the governing body.</p> <p>Council would support the introduction of measures to rehabilitate Councillor misbehaviour as well as sanctions if behaviour does not improve.</p>
<p>How else can complaints be minimised?</p>	<p>Council would support additional frameworks that allow the General Manager to dismiss trivial and/or unwarranted complaints (as is currently in the Code), to reduce the number of complaints referred to the relevant Committee or Tribunal.</p>
<p>What key features should be included in lobbying guidelines and a model policy?</p>	<p>Council supports the introduction of lobbying guidelines and a model lobbying policy, and makes the following recommendations for inclusion:</p> <ol style="list-style-type: none"> 1. Clear definition of lobbying and what is a lobbyist. 2. How a Councillor should report lobbying interactions. 3. The requirement for a register of lobbyists.

Dispute resolution and penalty framework

General Comments:

Council supports the abolishment of the two-step process of referring Code of Conduct complaints regarding conflict of interest matters directly to the Office of Local Government.

The only avenue for Council to repeal a decision where a Councillor has not declared a significant / pecuniary interest is by way of a motion to rescind or alter the decision. Council would suggest the framework be reviewed to manage up front instances where decisions of this kind are made.

Council would further support the introduction of a warning system for complaints regarding misbehaviour for Councillors to correct the behaviour before being referred to the Local Government Privileges Committee.

Council would not support the appointment of current Mayors and/or Councillors to a Local Government Privileges Committee, noting the potential for conflicts arising from relationships between sitting Mayors and Councillors.

Council would seek further information regarding the role, structure, management and outcomes of a Local Government Privileges Committee to be communicated to the Council and the community to uphold transparency and community confidence.

What level of PIN is appropriate?	Council would recommend a percentage of the annual remuneration of a Councillor, scaled and equitable across all NSW councils. E.g. 5% of annual remuneration, or one month's remuneration.
Are the penalties proposed appropriate, and are there any further penalties that should be considered?	Council supports the proposed penalties as outlined in the OLG Discussion Paper.
Are the existing sanctions available under the Local Government Act sufficient?	Council supports the existing levels available under the Local Government Act.
Should decisions on sanctions for councillors be made by the Departmental Chief Executive or a formal tribunal with independent arbitrators and a hearing structure?	Council would support the establishment of a tribunal to determine sanctions.

Restoring dignity to council meetings

General Comments:

Council generally supports the proposed reforms to the Model Code of Meeting Practice as outlined in the OLG Discussion Paper.

Council would express concern in providing additional powers to the Mayor to sanction and/or impose penalties on other Councillors, due to the potential for political conflict or bias.

Are there any other powers that need to be granted to the mayor or chair of the relevant meeting to deal with disorderly behaviour?

Council would support the following amendments to the Model Code of Meeting Practice:

1. Clauses that strengthen the requirement to manage Points of Order.
2. Clauses that require Points of Order that have been upheld by the Chair, to be included in the minutes of the meeting.
3. Mandatory clauses that limit Council Meetings to continue past midnight.

Are there any other measures needed to improve transparency in councillor deliberations and decision making?

Council does not support the banning of briefing sessions. Council supports the ability for briefing sessions and workshops to be held between Councillors and staff. These are invaluable tools to allow informal discussion between the collective governing body and staff. However, Council would support the development of a more structured framework to facilitate informal discussions between the governing body and staff.