

## EUROBODALLA SHIRE COUNCIL

### PUBLIC FORUM

All members of the community who have registered have been advised that they have a **maximum of seven minutes** to put their case.

Ordinary Meeting of Council on **10 June 2022**

Name	Subject/Comments
<b>Public Forum – 9.30am</b>	
Peter Cormick	GMR22/065 Policy Review – Code of Conduct
Jim Bright	GMR22/065 Policy Review – Code of Conduct
Lei Parker	GMR22/065 Policy Review – Code of Conduct

PUBLIC FORUM 14 JUNE 2022  
GMR22/065 POLICY REVIEW – CODE OF CONDUCT  
PRESENTATION BY PETER CORMICK

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Councillors,

I would firstly like to thank Kellee Pisanos and Lei Parker for, in turn, bringing attention to the 12 pm Friday cut-off for the registration and provision of a written form for today's Public Forum presentation, given the long weekend. I very much look forward to seeing the removal of this ridiculous, infuriating requirement.

When I saw the staff recommendation for this item, that the recommended changes to the Code of Conduct Policy made by Jim Bright, be rejected, I was more than disbelieving; I was and am, enraged.

I had naively believed that we had moved on from having to argue against the various expressions of a thwarting perspective when it comes to matters of governance.

Mr Bright's three recommended amendments to this policy document unquestionably constitute a significant and inarguable improvement in achieving a far more open and accountable council when it comes to matters being considered under the Code of Conduct.

Before moving onto addressing each of Mr Bright's three recommended amendments, I would like to point out that the staff's second recommendation, that the Model Code of Conduct and the related Procedures for the Administration of the Code be adopted, cannot occur until the Model Code, being Council's adopted code, has been reviewed, as required by section 440 of the LGA. The 60 pages-long document has not been reviewed by you and so it cannot yet be adopted.

You should also know that the OLG has actually produced its own version of a Code of Conduct for Council Committees, Delegates of Council and Council Advisors. Oddly, that document, being an edited version of the Model Code, has not been utilised or referred to in Council's Code of Conduct Policy.

To the recommended amendments made by Mr Bright.

1. That the order of names on Council's adopted panel of reviewers be drawn by lot and then reviewers be chosen in the order in which the names appear on the resulting list, with the described qualifications being applied as necessary. Mr Bright has subsequently advised that where multiple complaints are made on the same matter then, of course, just the one reviewer would deal with the matter.

Staff's objection that this recommendation seeks to restrict Council's ability to establish a panel, is nonsense. Council itself has proposed that it will select a Conduct Reviewer from a panel that has been determined by the Canberra Region Joint Organisation.

2. Complaints about the General Manager should be performed by an alternative complaints coordinator, who should not be a staff member.  
Staff's arguments that the GM has no role or involvement in the process if a complaint is made against her or him, is irrelevant to the central issue here – being that, at the very least, there can well be a perceived conflict of interest between a staff member's own employment-related interests and the interests of an objective, at arms-length process, never minding that it is the reviewer who is required to make a determination.
  
  3. All information made available to the reviewer must be made available to the complainant. Staff's objection to this misses the point. The confidentiality requirements relate only to the process itself. It is a fundamental tenet of natural justice that parties to a matter are each provided with all of the information to be considered in arriving at a determination.
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## CODE OF CONDUCT POLICY

Brief comments on the relevant staff report-

- The report claims that my proposal seeks to lock in the CRJO panel of reviewers as the ESC panel. This is completely incorrect. The existing policy already does that. I've simply tidied up the wording of the existing provision.
- The staff report claims that my proposal would require that any situation involving multiple complaints about the same incident would involve the appointment of a different reviewer for each separate complaint. That was not my intention and a simple one sentence addition to my proposal will resolve that issue.
- The report seems to be suggesting that the provision of documents to the complainant would be contrary to the confidentiality provisions of the existing model code. I completely reject that claim.
- It is fairly clear that the drafter of this report (and anyone who has 'cleared' it) has little or no understanding of the concepts of 'perception of bias' and 'perception of conflict of interest'.
- A matter such as this should be the subject of a 'workshop' involving councillors, staff and community members.

Jim Bright

Public Access Forum – June 14<sup>th</sup> 2022

Presentation by Lei Parker

GMR22/065 Policy Review - Code of Conduct.

The General Manager recommends, in her report, that the Code of Conduct Policy be adopted with no changes

The second part of her recommendation is that the Model Code of Conduct for Local Councils in NSW 2020 and Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW 2020 be adopted.

The report states that, under section 12.1 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW 2020 it: *“Information about code of conduct complaints and the management and investigation of the code of conduct complaint is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures”*

This means that if a Code of Conduct complaint is raised by a member of the public YOU, councillors of the Eurobodalla, are not allowed to know, nor are you to be advised of the determination unless it is a breach of the law.

It didn't used to be like this. The OLG decided to change the rules during the last term of Council. Up until then the details of a Code of Conduct and the outcome could be published.

And *The Beagle* did just that revealing raised Codes of Conduct complaints of breaches of Council's own policies and the Local Government Act in regards to preparation and minuting of agendas.

But the OLG didn't like that such detail could be out in the public, sullyng the good name of local government, so they added the following to the latest Procedures for the Administration of the Model Code of Conduct:

*Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the general manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.*

After Council adopted this there were further codes of conduct complaints lodged.

Much to Council's chagrin the outcomes of those Code of Conduct complaints were published. Detailing the complaint, the independent reviewer's determination and, if any, the consequence.

Unless you were the councillor being complained of you would have NO idea of what complaints were under investigation or the nature of those complaints. They were secret .... until *The Beagle* came along.

The first time I revealed details, after the new rules, Council reacted with glee and advised, incorrectly, that I, and any group or association I was associated with, would not be able to lodge any future Code of Conduct complaints.

When this determination was revealed to the OLG Council quickly followed up with a letter saying they had misunderstood the rules.

The bottom line, by what you are adopting, and have no option but to adopt, is that if you lodge a code of conduct against one of your fellow Councillors, Mayor or staff with the Office of Local Government you are NOT allowed to reveal that you did so, nor disclose the findings to anyone.

The same applies to the community.

In essence you could have a Council employee failing in delivering under the Local Government Act or abusing the use of ratepayer information for personal use. There have been innumerable Codes of Conduct complaints

but no-one knows the context or the determination.

Councillors, you have no option but to adopt the procedure that is directed by the OLG.

But fortunately *The Beagle* has a good work around. Now, when a Code of Conduct complaint is lodged by a member of the community that same complaint is lodged by several people. As a matter of course each is then advised of the final determination and consequence handed down, if any.

Once the complaint is finalised it is published via the “gifting” to the public by one of the complainants. Should they be discovered each and all of the complainants are “prepared to fall on their sword” and be forever banished.

Councillors, there are no limits to how many community members are happy to reveal and then be banished, making a total mockery of 12.1

As you sit there you might like to wonder who has a current Code of Conduct being penned against them, or at worse, who among you are now being threatened by Codes of Conduct complaints.

Rest assured, by the example set over the past five years, that the consequences are negligible.