

## Code of Conduct - Councillor Hull

<b>Originating Officer</b>	Manager Corporate Governance - Kate McKenzie
<b>Corporate Manager</b>	Manager Corporate Governance - Kate McKenzie
<b>General Manager</b>	Chief Executive Officer - Adrian Skull
<b>Report Reference</b>	GC181009R05

### REPORT OBJECTIVE

To provide Council with a copy of the final report regarding a Code of Conduct complaint for Councillor Hull and ensure compliance with section 2.24 of the Code of Conduct for Council Members that states *"A breach of the behavioural code must be the subject of a report to a public meeting of the Council."*

### EXECUTIVE SUMMARY

At its meeting of 11 September 2018, Council considered a Preliminary Report regarding alleged breaches of the Code of Conduct by Councillor Hull relating to release of information under a confidential order determined by Council on the 12th June 2018 for the Expression of Interest for the Marion Cultural Centre site. The Council found that Councillor Hull did breach the Code of Conduct and applied various sanctions in accordance with the Elected Member Code of Conduct - Procedure for Investigating Complaints.

### RECOMMENDATION

**That Council:**

- 1. Notes the report in Appendix 1 regarding breaches of the Code of Conduct by Councillor Hull.**
- 2. Confirms Councillor Hull has breached sections 2.2, 2.6, 2.7 and 2.8 of the Code of Conduct.**
- 3. Confirms the following actions be applied in accordance with section 5 of the Elected Member Code of Conduct Procedure for Investigating Complaints:**
  - Notes the mitigating circumstances presented by Councillor Hull**
  - Councillor Hull writes a letter of apology to the individual to whom he released confidential information to, in relation to the manner in which he initially described the Council motion.**

### GENERAL ANALYSIS

On 10 July 2018, a Code of Conduct complaint was received regarding Councillor Hull regarding the release of confidential information to a third party and in doing so, he had breached the Code of Conduct for Council members.

In accordance with the Elected Member Code of Conduct Procedure for Investigating Complaints (the Procedure), the matter was referred to Council (in confidence) and Council determined to refer the matter to the Local Government Governance Panel. An initial assessment was provided and Council determined to appoint an independent investigator.

This investigation was completed and a Preliminary Report was provided to Council (in confidence) at its meeting of 11 September 2018. At that meeting, Council resolved that:

1. Councillor Hull has breached section(s) 2.2, 2.6, 2.7 and 2.8 of the Code of Conduct for Council Members.
  - The following actions be applied in accordance with section 5 of the Elected Member Code of Conduct Procedure for Investigating Complaints:
    - Notes the mitigating circumstances presented by Councillor Hull
    - Councillor Hull writes a letter of apology to (name withheld) in relation to the manner in which he initially described the Council motion.

Council also determined certain information be removed from the Preliminary Report to protect individual's personal information. The attachments to the report are also not included within the public report as it contains confidential information.

In accordance with the requires of the Code of Conduct for Council members, the final report is presented to a public meeting of Council attached as **Appendix 1**.

**Legal / Legislative / Policy:** The requirements of the Code of Conduct for Council Members and the Procedure for Investigating Complaints have been fulfilled.

**Current Budget Allocation** The cost of this investigation is approximately \$2k and has been funded from the Corporate Governance budget.

### Attachment

#	Attachment	Type
1	Code of Conduct - Councillor Hull - Appendix 1	PDF File

## Councillor Bruce Hull – Code of Conduct

Complaint:

The complaint relates to Councillor Hull breaching the confidential order determined by Council on the 12th June 2018 regarding the Expression of Interest for the Marion Cultural Centre site. The confidential order in questions stated that "*In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the minutes, Commercial Development within Regional Centre Zone, having been considered in confidence under Section 90(2) and (3)(b and d) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection until the close of business on 14 June 2018.....*"

Reported Breach:

- 2.2 *Act in a way that generates community trust and confidence in the Council.*
- 2.6 *Comply with all Council policies, codes and resolutions.*
- 2.7 *Deal with information received in their capacity as a Council Member in a responsible manner.*
- 2.8 *Endeavour to provide accurate information to the Council and to the public at all times.*

Background:

At its meeting of 12 June 2018, Council considered a report on an unsolicited proposal for the Marion Cultural Centre site.

The following provides a summary of the report:

- The Marion Cultural Centre (MCC) currently operates from 287 Diagonal Road, Oaklands Park. This site is owned by the City of Marion.
- This prominent site has been the subject of a recent unsolicited enquiry from a private developer to build an international standard hotel. This is consistent with the types of development envisaged in the Development Plan Amendment (DPA) for this site.
- The site is designated Regional Centre Zone. The site was excluded from the Community Land classification under the provisions of Section 193 of the *Local Government Act 1999*. This means that the site can be sold without Ministerial approval.
- Council determined to progress with a competitive open market EOI for this site with expert advice provided by a commercial agent.
- The EOI sought proposals for a hotel which are to complement the precinct and will deliver community as well as economic benefits. The EOI requested that due consideration be given to retaining the community functions already at the site (in full or partially) and or deliver them at alternative locations.
- The report highlighted the project risks and mitigation strategies.
- The report included a section on stakeholder engagement as follows:

***Stakeholder Engagement***

*An engagement plan has been developed to inform key stakeholders and the community about the EOI for the site (refer to attachment three). The key message is to inform stakeholders that a proposal was received to build a hotel at the site incorporating all of the existing community functions and Council would like to test the market.*

*Prior to the release of the EOI to the market, a media release and briefings will be provided to the following key stakeholders before 14 June 2018:*

- [REDACTED]
- Marion Cultural Centre staff
- Gallery M staff and Redhouse group
- Next Chapter Café Operators
- Precinct stakeholders
- Residents in Warracowie Ward and wider community
- Community users of MCC
- Media

*Elected Members and Customer Service will be provided with talking points about the process.*

A full copy of this report and the minutes is attached as **Document 1**.

At its meeting of 10 July 2018, a Code of Conduct complaint was submitted to Council regarding Councillor Hull releasing confidential information. Council determined (in confidence) that the Code of Conduct complaint be referred to the Local Government Governance Panel for assessment.

On 14 August 2018, Council received an initial assessment from the Governance Panel. This report made the following statement:

*"given the potential seriousness of the alleged breach, the matter could not be considered trivial or frivolous, and the Panel has no information to suggest the complaint is vexatious. The Panel recommends that an investigation by an investigator nominated by the Panel be appointed to determine the relevant factual circumstances with a view to:*

*- attending on and interviewing relevant witnesses. At this stage we identify them as*

[REDACTED]

A copy of this report is attached as **Document 2**.

Council resolved to appoint an independent investigator rather than referring the matter back to the Governance Panel. EMA Consulting was appointed to obtain statements from those involved.

#### Investigation:

On the 23rd August 2018, statements were taken from the following people:

- Councillor Bruce Hull (**Document 3**)
- [REDACTED] (**Document 4**)
- [REDACTED] (**Document 5**)

██████████ declined to participate. Based on the statements provided the most probable sequence of events are as follows:

- The media was listed in the key stakeholder group of people who would be notified prior to the confidentiality embargo being lifted.
- ██████████ notified ██████████ late morning on the 14th June 2018.
- Councillor Hull received a phone call from ██████████ seeking comments about the MCC EOI after the media was notified.
- Councillor Hull called ██████████ to seek advice. This occurred between 2.45 pm and 3.30 pm.
- ██████████ issued an email to Elected Members at 3.44 pm. This email said "Today, staff have been informed along with stakeholders around the precinct."
- Councillor Hull phoned ██████████ sometime between 3.30 pm and 3.45 pm.
- ██████████ phoned ██████████ sometime between 3.45 pm and 4.00 pm.

Without a statement from ██████████ it is difficult to establish the exact times.

██████████ and ██████████ were not interviewed as the probable events have been established from the statements taken.

Councillor Hull has requested that the following documents are provided as part of this report:

- Email from ██████████ to Elected Members dated 14 June 2018 (**Document 6**)
- Email from Councillor Hull to ██████████ dated 24 July 2018 (**Document 7**)

#### Findings

From the information provided in the statements (including Councillor Hull's), it is evident that Councillor Hull phoned ██████████ before close of business on the 14<sup>th</sup> June advising her of the expression of interest for the Marion Cultural Centre site.

#### Council Resolution:

Based on the facts within the Preliminary Report, Council found that Councillor Hull did release confidential information prior to the close of business deadline and therefore breached sections 2.2, 2.6, 2.7 and 2.8 of the Code of Conduct.

Council also determined that there were extenuating circumstances within this matter that needed to be taken into consideration when determining this Code of Conduct Complaint.

#### Report:

This report is written by the Manager Corporate Governance based on the evidence provided within the statements obtained by the independent Investigator.

#### Documents:

Document 1 Report and Minutes – 12 June 2018 – Commercial Development within Regional Centre Zone

Document 2 Governance Panel Initial Assessment

Document 3 Statement Councillor Bruce Hull

Document 4 Statement ██████████

Document 5 Statement ██████████

Document 6 Email from ██████████

Document 7 Email from Councillor Hull