

MINUTES

AUSTRALIA DAY AWARDS COMMITTEE

Date: Friday, 27 September 2019

Venue: Kempsey Shire Council, 22 Tozer Street, West Kempsey - Committee Room

Time: 10:00 to 12:00pm

Attendance:

Mayor Liz Campbell (Chair), Councillor Sue McGinn, Melissa Robinson, Aden Harris, Kerri Riddington, Ross Foster, Bernadette O'Sullivan and Lyndal Harper (Council staff)

Council: Jo McGoldrick, Daniel Thoroughgood, Lisa Smith and Susan Kane

Apologies: none

<i>Item</i>	<i>Minute</i>
1	Welcome (Mayor Campbell)
	Mayor Liz Campbell opened the meeting with Welcome to Country.
2	Apologies (Mayor Campbell)
	<ul style="list-style-type: none"> • none
3.	Code of Conduct Induction (Daniel Thoroughgood)
	The Australia Day Award Committee was inducted with the Code of Conduct (see Attachment 1).
4.	Terms of Reference Review (Daniel Thoroughgood)
	<p>The committee was debriefed on the Australia Day Awards Committee Charter (see Attachment 2).</p> <ul style="list-style-type: none"> • The Australia Day Awards Committee membership consists of: <ul style="list-style-type: none"> - Mayor Liz Campbell (Chairperson) - Councillor Sue McGinn - Lyndall Harper, Manager Community Partnerships - Ross Foster - Aden Harris - Kerri Riddington - Melissa Robinson - Bernadette O'Sullivan • Deputy Chairperson is to be elected by the Australia Day Awards Committee.
4.1	Australia Day Awards Committee Deputy Chairperson election (Daniel Thoroughgood)
	<ul style="list-style-type: none"> • Deputy Chairperson, Kerri Riddington - unopposed
5.	Australia Day Awards (Mayor Liz Campbell)
	Role of the Committee is to determine the 2020 Australia Day Awards Category, eligibility criteria, timeline of the nominations and the award recipients
	<p>It was unanimously agreed for the following Award Categories and Criteria</p> <ul style="list-style-type: none"> • Young Citizen of the Year • Citizen of the Year • Volunteer of the Year (split into two categories – Young Volunteer of the Year -aged 12 to 26 years, Volunteer of the Year) • Community Group of the Year

<i>Item</i>	<i>Minute</i>
	<p>2020 Australia Day Nomination Form</p> <p>*The nomination form was tabled, and the committee determined the following amendments:</p> <ol style="list-style-type: none"> 1. Allow the nomination submissions to be entered across multiple categories by providing multiple check boxes. 2. Photo of the nominated person to be attached with the application. 3. Alter reason for nominating: <i>change Contributions to the local environment to Environmental Stewardship</i> 4. Add Disclosure: <i>Nominator will be contacted by Council as part of the evaluation process and may be asked to provide additional details or contacts to support the nomination.</i> 5. Remove field: Persons who may be contacted for further information about nominee <p><i>*The updated nomination form will be distributed to the committee members for feedback.</i></p>
	<p>Milestone dates</p> <ul style="list-style-type: none"> • Open for Nominations – Friday, 11 October 2019 • Close for Nominations – Monday, 9 December 2019 • Australia Day Committee Review – Friday, 20 December 2019
6.	<p>Australia Day Celebrations</p> <ul style="list-style-type: none"> • Citizenship Ceremony and Australia Day Awards is to be held as singular event. • Federal Government requirement for a Dress Code to be considered at the next meeting. • Venue – Council will research options for venues in alignment with the Australia Day Award Committee budget. To be brought back to the next committee meeting. • Discussion on Ambassador preferences to be revisited next meeting.
	<p>Discuss Community expectations</p> <ul style="list-style-type: none"> • Ensure the celebration is inclusive and central to the Macleay Valley. • Ensure the event does not impinge on existing community led Australia Day events.
	<p>Australia Day Awards/Australia Day Citizenship</p> <ul style="list-style-type: none"> • Sunday, 26 January 2019, 9:00am to 11:00am
	<p>Determine requirements for any further engagement (All)</p> <ul style="list-style-type: none"> • This item will be ongoing
7.	<p>Confirmation of next Meeting and actions</p> <ul style="list-style-type: none"> • Friday, 18 October 2019 commencing at 10am

Meeting closed 12:00pm

MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW

‘AT A GLANCE’ GUIDE FOR COUNCIL COMMITTEE MEMBERS AND DELEGATES



Introduction

This guide summarises the key elements of the *Model Code of Conduct for Local Councils in NSW* that apply to committee members and delegates of councils and joint organisations.

The Model Code of Conduct is available at www.olg.nsw.gov.au.

Each council's and joint organisation's code of conduct must reflect the requirements of the Model Code of Conduct and may contain additional requirements.

While this guide refers to "councils" for simplicity, all references in it to "councils" are to be taken as including local and county councils and joint organisations.

Committee members and delegates should familiarise themselves with their council's code of conduct and understand their obligations and the obligations of others.

Who is a committee member?

A council committee member is any person (other than a councillor or council staff member) who is a member of a council committee that exercises functions of the council under delegation. It may also include members of advisory committees if your council has extended the application of its code of conduct to members of advisory committees.

Who is a delegate?

A delegate of a council is any person (other than a councillor or council staff member) who exercises a council function under delegation.

General Conduct

It is important that the local community has confidence in the council and those that serve it, whether as elected representatives, members of staff or as delegates or committee members.

As a committee member or a delegate of the council, you must ensure that your conduct and behaviour towards others meets the high standards that the community is entitled to expect of all council officials.

What conduct is expected of council committee members and delegates?

(Clauses 3.1 - 3.21)

You **must**:

- act lawfully and honestly and exercise care and diligence in undertaking your functions
- consider matters consistently, promptly and fairly and in accordance with established procedures
- ensure land use planning, development assessment and other regulatory decisions are properly made and that all parties are dealt with fairly, and
- comply with your duties under the *Work Health and Safety Act 2011* and take care of your own and others' health and safety.

You **must not** conduct yourself in a way that:

- will bring the council into disrepute
- is contrary to law and council policies
- is improper, unethical or an abuse of power
- involves misuse of your position for personal benefit
- constitutes harassment or bullying or is unlawfully discriminatory, or
- is intimidating or verbally abusive.

Submitting returns of interests

Delegates of councils or members of committees that exercise functions of the council that may give rise to conflicts of interest are required to disclose their personal interests in publicly available returns of interests.

These operate as a key transparency mechanism for promoting community confidence in council decision making, whether by councillors or by staff or others under delegation.

Do I need to submit a written return of interests?

(Clauses 4.8 – 4.10)

Delegates or committee members who are “designated persons” must complete and submit returns of their interests to the general manager.

When do I need to submit a written return of interests?

(Clause 4.21)

If you are a designated person, you must submit a return of interests within three months of your appointment and submit a new return annually (within three months of the start of each financial year).

If you become aware of any new interest that needs to be disclosed in the return, you must submit a new return within three months of becoming aware of the interest.

What interests do I need to disclose?

(Schedule 1)

If you are a designated person you will be required to disclose, among other things, the following types of interests in your return:

- interests in real property
- gifts
- contributions to travel
- interests and positions in corporations
- whether you are a property developer or a close associate of a property developer
- positions in trade unions and professional or business associations
- dispositions of real property
- sources of income, and
- debts.

Conflicts of interest

As a member of the local community, it is inevitable that at some point you will have a conflict of interest in a matter that you are dealing with. What is important is that you are able to identify that you have a conflict of interest and that you disclose and manage it appropriately.

There are two types of conflicts of interest – pecuniary and non-pecuniary. Your obligations to disclose and manage conflicts of interest will depend on what type of conflict of interest you have.

What is a pecuniary conflict of interest?

(Clauses 4.1 – 4.5)

You will have a pecuniary interest in a matter you are dealing with where there is a reasonable likelihood or expectation that you or a related person (eg a relative, your employer or business partner or a company you hold shares in), will gain or lose financially appreciably as a result of any decision made in relation to the matter.

How do I manage pecuniary conflicts of interest that I have in matters I am dealing with?

(Clauses 4.10, 4.12 and 4.18)

You must disclose in writing any pecuniary interest you may have in a matter you are dealing with as soon as you become aware of it.

The general manager will decide how the matter will be dealt with.

If you are a member of a committee, you must disclose any pecuniary interest you have in any matter being dealt with by the committee at each committee meeting that the matter arises and leave the meeting while the matter is being considered and voted on.

What is a non-pecuniary conflict of interest?

(Clauses 5.1, 5.2 and 5.8)

Non-pecuniary interests are private or personal interests that are not pecuniary interests.

You will have a non-pecuniary conflict of interest in a matter you are dealing with if a reasonable and informed person would perceive that you could be influenced by a private interest that you have in that matter. This is also known as the "pub test".

How you deal with a non-pecuniary conflict of interest will depend on whether it is significant.

How do I know if I have a significant non-pecuniary conflict of interest in a matter I am dealing with?

(Clause 5.9)

You will have a significant non-pecuniary conflict of interest in a matter you are dealing with where you have a:

- close relationship (including a business relationship) with a person who will be affected by any decision made in relation to the matter
- strong affiliation with an organisation that will be affected by any decision made in relation to the matter, or
- financial interest in the matter that is not a pecuniary interest, or you otherwise stand to gain or lose a personal benefit as a result of a decision made in relation to that matter.

How do I manage significant non-pecuniary conflicts of interest that I have in matters I am dealing with?

(Clauses 5.9 and 5.10)

If you have a significant non-pecuniary conflict of interest in a matter you are dealing with, you must:

- disclose it in writing to the general manager
- disclose it on each occasion the matter arises, and
- not participate in any consideration of the matter.

If you are a member of a council committee you must also disclose your interest at each committee meeting that the matter arises and leave the meeting while the matter is being considered or voted on.

How do I manage non-pecuniary conflicts of interest that are not significant?

(Clauses 5.6, 5.7 and 5.11)

If you believe that you have a non-pecuniary conflict of interest in a matter you are dealing with that is not significant and that does not require further action, you must still disclose your interest in writing to the general manager as soon as possible and explain why you believe it is not significant.

The general manager will help you decide how to manage your interest.

If you are a member of a committee, you must also disclose your interest at each committee meeting the matter arises and explain why you believe it is not significant and no further action is necessary to manage it.

What if I am not sure?

(Clause 5.4)

Remember, no one knows your personal circumstances better than you and for that reason, the onus is on you to identify and disclose any potential conflict of interest you may have in a matter you are dealing with and to manage it appropriately.

If you are not sure whether you have a conflict of interest in a matter you are dealing with or what type of conflict of interest it is, always err on the side of caution. Disclose the interest in writing to the general manager and discuss with them whether you should continue to deal with the matter.

How do I deal with council in my private capacity as a resident or ratepayer?

(Clauses 5.28 and 5.29)

As a member of the community, it is inevitable that you will need to deal with your council in your private capacity. Where this occurs, you should deal with the council in the same way as other members of the public. You should not expect or seek any preferential treatment.

You must not use your position to obtain a private benefit for yourself or for someone else or to influence others in the performance of their functions to obtain a private benefit for yourself or for someone else.

Gifts and benefits

In the course of performing your duties you may be offered a gift or a personal benefit. There are strict rules that govern what gifts or benefits you may accept and those that you must refuse.

These rules are informed by the following principles:

- you must not benefit personally from the performance of your duties on behalf of the council other than through the remuneration and any other benefits you receive as a delegate or committee member, and
- you must not be influenced or be seen to be influenced in the performance of your duties as a result of the receipt of a gift or personal benefit.

What is a gift or benefit?

(Clauses 6.1 and 6.2)

A gift or benefit is something offered to or received by you or someone closely associated with you for personal use or enjoyment.

Gifts and benefits do not include:

- a gift or benefit provided to the council as part of a cultural exchange or sister city relationship (provided it is not used for your personal use and enjoyment)
- attendance at a work-related event or function for the purpose of undertaking your council duties, or
- meals, beverages or refreshments with a value of less than \$50 that are provided to you while you are carrying out your council duties.

What gifts or benefits must I refuse?

(Clause 6.5)

You **must not**:

- seek or accept bribes
- seek gifts or benefits of any kind
- accept any gift or benefit that may create a sense of obligation, or that may be perceived as intended or likely to influence you in undertaking your duties
- accept any gift or benefit that is worth more than \$50
- accept tickets to major sporting or cultural events with a ticket value of over \$50 or corporate hospitality at such events
- accept cash or cash-like gifts (such as gift vouchers, credit cards, debit cards with credit on them, phone or internet credit, lottery tickets etc) of any amount
- participate in competitions for prizes where eligibility is based on the council being a customer of the competition organiser, or
- personally benefit from reward points programs when purchasing on behalf of council.

What if I can't refuse a gift or benefit?

(Clause 6.7)

If you are offered a gift or benefit that is worth more than \$50 that cannot be reasonably refused, you must surrender it to the council.

What gifts can I accept and who must I report this to?

(Clauses 6.6, 6.8 and 6.11)

You may accept gifts with a value of under \$50. However, if you receive further gifts from the same person or another person associated with them in the next 12 months with a value which, when combined with the value of the first gift exceeds \$50, you must refuse to accept the additional gifts.

If you accept a gift of any value, you must disclose this promptly to the general manager in writing. The following details must be recorded in the council's gift register:

- the nature of the gift or benefit
- the estimated monetary value of the gift or benefit
- the name of the person who provided the gift or benefit, and
- the date on which the gift or benefit was received.

Use of council information and resources

Council resources (including council information) are public resources. You must use council resources ethically, effectively, efficiently and carefully when performing your duties.

You must not use council resources for private purposes, or convert council property for your own use unless you are authorised to do so.

What records should I keep?

(Clauses 8.21 – 8.24)

All information created, sent or received in your official capacity (whether or not stored on a council device or a council email account) and any information stored in either soft or hard copy on council resources is considered to be a council record and must be kept in accordance with the *State Records Act 1998* and your council's records management policy.

Do not destroy, alter or dispose of records unless authorised to do so.

What are my obligations in relation to the use of council information?

(Clauses 8.9 – 8.11)

You can only access and use council information for council business. You must not use council information for private purposes and you must not seek to privately benefit from any council information you have obtained in your role as a delegate or committee member.

You must only release council information in accordance with established council policies and procedures and in compliance with relevant legislation (including privacy legislation).

You must maintain the integrity and security of any confidential or personal information you have access to. In particular, you must:

- only access confidential or personal information that you have been authorised to access and only for the purposes of performing your duties
- protect confidential and personal information
- only release confidential or personal information if authorised to do so
- only use confidential or personal information for the purpose for which it is intended to be used
- not use confidential or personal information to obtain a private benefit for you or for someone else
- not use confidential or personal information to cause harm to the council or anyone else, and
- not disclose confidential information discussed during a closed session of a council or committee meeting or any other confidential forum (such as councillor workshops or briefing sessions).

What are my obligations when using my council computer or mobile device?

(Clause 8.20)

You must not use council's computer or mobile devices to access, download or communicate any material that is offensive, obscene, pornographic, threatening, abusive or defamatory or could lead to civil or criminal liability and/or damage council's reputation.

Making code of conduct complaints

Your council's code of conduct is the key mechanism for promoting and enforcing the ethical and behavioural standards the community rightly expects of those who serve the council.

For this reason, it is important that your council's code of conduct is correctly used and that code of conduct processes are respected and complied with.

How do I make a code of conduct complaint?

(Part 4 of the Procedures)

Complaints alleging breaches of the code of conduct must be made in writing to the general manager. Complaints about the general manager must be made in writing to the mayor. Complaints must be made within 3 months of the conduct occurring or you becoming aware of the conduct.

To be dealt with under the council's code of conduct, a complaint must show or tend to show conduct by a member of staff, a councillor or a person exercising council functions under delegation or who is otherwise subject to the council's code of conduct in connection with their official role or the exercise of their official functions that would constitute a breach of the council's code of conduct if proven.

The following types of complaints must not be dealt with under a council's code of conduct and should instead be dealt with under the council's routine complaints management processes:

- complaints about the standard or level of service provided by the council or a council official
- complaints that relate solely to the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
- complaints about the policies or procedures of the council, and
- complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the council's code of conduct.

What happens if a code of conduct complaint is made about me?

(Clauses 5.10 – 5.17 of the Procedures)

The general manager (or another member of staff authorised by the general manager) is responsible for dealing with code of conduct complaints about committee members and delegates.

In dealing with a complaint, the general manager may determine to take no action, to resolve it informally or to take disciplinary action. Prior to taking disciplinary action, the general manager must comply with certain procedural fairness requirements.

Where proven, code of conduct complaints may result in:

- censure
- requirement for an apology
- prosecution for any breach of the law
- removal or restriction of a delegation, and/or
- removal from membership of a committee

What are my responsibilities in relation to code of conduct complaints?

(Clauses 9.1 – 9.7, and 9.13)

You have certain obligations in relation to any code of conduct complaints that you make or that are made about you. These obligations are designed to safeguard the integrity of your council's code of conduct and the processes for investigating and dealing with alleged breaches by ensuring code of conduct matters are dealt with in a manner that is robust, fair and confidential. Breaches of these obligations may themselves constitute a breach of your council's code of conduct.

In particular you must not:

- make code of conduct complaints for an improper purpose
- take or cause reprisal action to be taken against someone for making or dealing with a code of conduct complaint
- disclose any information about a code of conduct complaint you have made or that has been made about you except for the purpose of seeking legal advice, or
- impede or disrupt the consideration of a code of conduct complaint and you must comply with any reasonable and lawful requests.

Australia Day Awards Committee Charter

1.0 INTRODUCTION

The Australia Day Awards Committee undertakes the planning, conduct and review of Kempsey Shire's annual Australia Day Awards event, or events. Additionally, this committee serves a crucial role in determining the eligibility for awards, assessing the nominations and determining the winners of each category.

This committee is a committee formed under section 355 of the *Local Government Act 1993*.

2.0 OBJECTIVES

To:

1. plan, conduct and review Kempsey Shire Council's annual Australia Day Awards event(s),
2. work with the committee members and staff to provide a quality Australia Day Award event, and
3. establish Australia Day Award categories, assess nominations and determine award winners

3.0 DELEGATIONS

The committee has delegation to:

- plan, conduct and review Kempsey Shire Council's annual Australia Day Awards event(s),
- determine Australia Day Award categories, eligibility criteria and assessment process,
- assess Australia Day Award nominations,
- determine Australia Day Award winners,
- commit or expend Council's funds up to the adopted annual budget amount in the planning, conduct and review of Australia Day Awards event(s), and
- utilise other Kempsey Shire Council resources in the conduct of the event as agreed with the General Manager, or their delegate

4.0 MEMBERSHIP

The committee shall comprise:

- the Mayor,
- one (1) Kempsey Shire Council councillor,
- one (1) Kempsey Shire Council staff member, and
- up to five (5) community representatives

Appointment of community representatives to the committee will follow a public call for nominations. Nominations from both individuals and community groups, who meet the selection criteria will be accepted. Appointments to the committee may be either an individual or a group, including, but not limited to, associations (incorporated, or otherwise), partnerships, and companies.

The term of membership of the community representatives on the committee ceases upon each general election of Councillors to Kempsey Shire Council unless otherwise resolved by the council.

Where a member appointed to the committee as a community representative is a group, then the group must determine which individual of their members will represent the group at meetings.

Appointment of Councillor members to the committee shall be by resolution of the Council.

Appointment of staff members to the committee shall be by the General Manager and remain a member until the General Manager determines otherwise.

Other persons may be invited to attend meetings on specific issues or to progress an agreed outcome, as approved by the Committee, but shall not hold any voting rights.

5.0 QUORUM

The quorum of this committee is half of the members plus one. A quorum must include one (1) councillor and one (1) Council staff member being present.

6.0 TERMS OF COMMITTEE

The Committee must hold meetings as required but on no less than three (3) occasions per year between August and February including a debriefing meeting following the event.

Business must not be conducted at any meeting of the Committee unless a quorum is present at the commencement. If at any time a quorum ceases to be present further business must not be conducted, except for closing or adjourning the meeting unless a quorum returns.

Each member is entitled to one (1) vote in respect to any motion, and the decision of the Committee is by a simple majority of votes cast in favour. The chairperson has a casting vote, in addition to their ordinary vote.

A review of the Committee must be undertaken every four (4) years to ensure this charter continues to be appropriate.

The Executive Assistant (Mayor), or their delegate, is responsible for providing appropriate secretarial support to the Committee.

All Committee agendas and minutes must be made available to the public via the council's website unless otherwise restricted by legislation. Information concerning the determination of award winners must remain confidential until after the event, excepting as otherwise determined by the resolution of the committee.

7.0 APPOINTMENT OF CHAIRPERSON

The Chairperson of the Committee is the Mayor or their delegate.

The Committee must elect a Deputy Chairperson at the commencement of their term.

8.0 EXPENDITURE

The Committee may expend, or otherwise commit, those financial resources allocated to the planning, conduct and review of the event(s) in the annual budget.

The committee will likely need to call upon other resources of the council in the conduct of the event including, but not limited to, the use of staff, plant and equipment. This is permitted to occur to the extent agreed by the General Manager, or their delegate, and allowed by the Operating Plan and Resourcing Strategy.

9.0 OBLIGATIONS OF MEMBERS

In performing their Committee duties, members must:

- 9.1 commit to working towards the advancement of the Local Government Area,
- 9.2 act honestly and in good faith,
- 9.3 always act impartially,
- 9.4 participate actively in the work of the Committee,
- 9.5 exercise reasonable care, diligence and skill,
- 9.6 maintain the confidentiality of information concerning award nominations and winners,
- 9.7 comply with Council's Code of Conduct; and
- 9.8 always comply with this Charter document

10.0 VARIATION

This Charter may be varied by resolution of Kempsey Shire Council. The committee may recommend variations to the charter to the council for adoption.