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| **ATTACHMENTS**    **Special Council Meeting**  **Under Separate Cover**  **Wednesday, 24 February 2021** |

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| **Policy Type:** | Moorabool Shire Council |
| **Version:** | Add in the Version Number e.g. 1.0, 2.0 etc. |
| **Date Adopted:** | Add in the date the Policy is to be adopted. |
| **Service Unit** | Connected Communities |
| **Directorate:** | Community Strengthening |
| **Review Date:** | 03/2025 |

**1. Purpose**

The purpose of the policy is to document and communicate Council’s commitment to, principles for and consistent approach to the provision of high-quality community engagement that is valued by the community and stakeholders. It provides leadership, direction and standards on how Council engages with its community, whilst meeting statutory requirements outlined in the *Local Government Act 2020*.

**2. Definitions**

|  |  |
| --- | --- |
| Council | Moorabool Shire Council being a body corporate constituted as a municipal Council under the *Local Government Act 1989.* |
| Councillors | Individuals holding the office of a member of Moorabool Shire Council. |
| Council Officer or Officer | Moorabool Shire Council employees. |
| Consultants / Contractors | External organisations/individuals who at times assist or lead Council engagement processes. |
| Community | Includes individuals or groups who live, work, play, study, visit, invest in or pass through Moorabool Shire. |
| Stakeholder | An individual, group or organisation with a strong interest in the decisions of Council and are directly impacted by their outcomes. |
| IAP2 | The International Association for Public Participation (IAP2) is an international organisation advancing the practice of public participation |
| *Local Government Act 2020 (Victoria)* | Replaces the *Local Government Act 1989 (Vic).* The Act gives the Victorian Parliament the power to make laws it considers necessary for local government, including laws relating to the constitution of Councils, Council elections and the powers and duties of Councillors and Council staff. |
| Community engagement | A planned process with the specific purpose of working with individuals and groups to encourage active involvement in decisions that affect them or are of interest to them. |
| Consultation | The process of obtaining public feedback on analysis, alternatives or decisions. Also refers to the second level of the IAP2 Spectrum ‘consult’. |
| Consultative engagement | The process of obtaining public feedback on analysis, alternatives or decisions. Also refers to the second level of the IAP2 Spectrum ‘consult’. |
| Deliberative engagement | The process of obtaining public feedback through long and careful consideration or discussion. Deliberative engagements take place at the highest three levels of influence on the IAP2 spectrum, ‘Involve’, ‘Collaborate’ or ‘Empower’. |
| Public participation | An alternative definition to ‘community engagement’. |
| Communication | Communication refers to the range of channels and formats used to disseminate information to different audiences. |

**3. Scope**

This policy applies to the planning, design, delivery and evaluation of community engagement activities as directed by Council, recommended by staff, or legislated by the Victorian *Local Government Act 2020*. Community engagement is the responsibility of all Council service units and employees. This policy also applies to contractors and consultants undertaking work on behalf of Council.

The policy does not apply to community engagement processes that are subject to prescribed processes imposed by other Victorian legislation such as land-use planning applications or other Council processes such as service requests or complaints.

**Community Engagement Responsibilities**

| **Role** | **Responsibilities** |
| --- | --- |
| Mayor | The role of the Mayor is to lead engagement with the municipal community on the development of the Council Plan. |
| Councillors | Demonstrate commitment to community engagement principles through leadership, modelling good practice, and having regard to community input as part of decision making. |
| General Managers | Ensure that good quality and timely reporting is provided to Councillors on community engagement processes and outcomes. Ensure reputational and other risks of community engagement are managed. |
| Service Unit Managers /  Coordinators | Approve service unit Community Engagement Plans. Ensure community engagement practices are carried out in accordance with Community Engagement Plans and this policy. Manage reputational and other risks. |

|  |  |
| --- | --- |
| Council officers | Community engagement is the responsibility of all Council employees as part of core business. It is the responsibility of Council officers to ensure they adhere to this policy when planning, delivering and reviewing community engagement. |
| Connected Communities Service Unit | Advise and support Council’s community engagement processes. Approve engagement plans. |
| External Consultants / Contractors | Adhere to this policy when assisting or leading community engagement processes on behalf of Council. |
| Moorabool Shire Community / stakeholders | Provide feedback and input in a respectful manner. |

**4. Non-Compliance**

Breaches or violations of this policy may lead to disciplinary action in accordance with Council’s relevant policies and procedures.

**5. Policy**

**5.1. What is Community Engagement**

Community engagement is based on the democratic idea that everyone who is affected by an issue that impacts their community should have a say in the decision making around it.

For the purposes of this policy we have adapted the recognised definition of the International Association of Public Participation (IAP2), to suit our particular environment.

‘Community engagement is a planned process with the specific purpose of working with individuals, groups and organisations to encourage active involvement and influence in decisions that affect them or are of interest to them.’

Community engagement is sometimes also referred to as public participation.

**5.2. Why we engage the community**

Council is committed to continuously improving the services, infrastructure and programs it provides to support the vibrant and growing Moorabool community. There is also an increasing expectation by stakeholders, the community and customers that they will have an opportunity to influence government decisions that affect their lives.

Effective and meaningful community engagement enables Council to make well-informed decisions at an operational and strategic level and creates a better level of understanding between Council and our community. Community engagement is achieved when the community is and feels part of a process.

Benefits of effective and authentic community engagement:

• Delivering better outcomes to our communities;

• Making more informed decisions;

• Better understanding the needs and priorities of our diverse community and stakeholders;

• Fostering stronger relationships with our community and stakeholders;

• Creating greater transparency and trust;

• Building community understanding about Council’s scope of work and decision-making process;

• Helping to inform and assist with advocacy;

• Supporting genuine and meaningful conversations;

• Building community resilience and capacity;

• Ensuring the community’s right to assist with democratic processes;

• Utilising existing community assets;

• Meeting legislative requirements.

**5.3. Community engagement principles and commitment**

Council is committed to the notion that good governance is based on a belief that those impacted by a decision may have important contributions to make in a decision-making process. Through community engagement, we will inform, listen to and enable you to have your say on issues important to you.

We commit to community engagement that is:

**Meaningful** A community engagement process will have a clearly defined objective and scope.

**Informative** Participants in community engagement will have access to clear, objective, relevant and timely information to inform their participation.

**Representative** Participants in community engagement will be representative of the persons and groups affected by the matter that is the subject of the community engagement.

**Supportive** Participants in community engagement are entitled to reasonable support to enable meaningful and informed engagement.

**Transparent** Participants in community engagement will be informed of the ways in which the community engagement process will influence Council decision making.

**Genuine** Participants in community engagement will be able to genuinely influence Council decisions.

**Respectful** We will value and respect our community’s time, engaging closely when their influence is high and scaling back when it is more limited.

**Accountable** We will report back to the community and stakeholders, explaining what we asked, what we heard, and what we did.

**Inclusive** We will apply methods to reach and encourage underrepresented groups to get involved.

**Improving** We will undertake evaluation processes to continually improve our approach to community engagement.

**5.4. Policy influence**

Our community engagement approach is guided by the *IAP2* *Spectrum of Public Participation* which describes five different levels of engagement, from ‘inform’ through to ‘empower’, matching participation goals, our commitment to the community and the community’s role. Many engagement processes will involve more than one level of engagement.

IAP2 is recognised as the international leader and peak body for the community and stakeholder engagement sector.

In planning a community engagement process, Council will determine at which levels we will engage and what corresponding commitment we will make to stakeholders and/or the community. This decision will guide the nature and methods of engagement.

**IAP2 Spectrum of Public Participation**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **Inform** | **Consult** | **Involve** | **Collaborate** | **Empower** |
| **Public participation goal** | To provide our community with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions. | To obtain community feedback on analysis, alternatives or decisions where opportunities for community input may be limited. | To work directly with the community throughout the process to ensure that public concerns and aspirations are consistently understood and considered. | To partner with our community in each aspect of the decision including the development of alternatives and the identification of the preferred solution. | To place final decision making in the hands of our community. |
| **Commitment to Community** | We will keep you informed. | We will keep you informed, listen to and acknowledge your concerns and aspirations, and provide feedback on how community input influenced the decision. | We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how community input influenced the decision. | We will look to you for advice in formulating solutions and incorporate your advice and recommendations into decision-making to the maximum possible extent. | We will implement what you decide. |
| **Community Role** | Listen | Contribute | Participate | Partner | Lead |
| **Engagement Type** | Consultative | | Deliberative | | |
| **Community influence and impact** |  | | | | |

**5.5. Types of community engagement**

Council undertakes a range of community engagement activities which can be broadly defined as deliberative and consultative engagement practice. Engagement can occur at multiple stages throughout a process and often includes both types of engagement.

**5.5.1. Consultative Engagement**

Consultative engagement takes place at the first two levels of influence on the spectrum, ‘Inform’ and ‘Consult’ and involves one-way information exchange either from Council to community or community to Council. Participatory engagement typically occurs when feedback is invited on ideas, alternatives or draft documents. Engagement can occur at multiple stages throughout a process. Participation at this level can incorporate a broad range of community members and stakeholders in a wide variety of ways.

**5.5.2. Deliberative Engagement**

Deliberative engagements take place at the highest three levels of influence on the IAP2 spectrum, ‘Involve’, ‘Collaborate’ or ‘Empower’. It often involves a smaller, descriptively representative group of people considering an issue in depth.

Deliberative engagement encourages community members to critically test, weigh up and consider a range of information, perspectives, inputs and evidence to reach a consensus or make recommendations. Deliberation can be scaled to suit a project based on its scope, complexity or impact and may require independent facilitation to ensure a fair and equitable process.

Projects most suited to a deliberative approach include those where the outcome will have a far-reaching or long-term effect, and issues where there is considerable community concern or division about the alternatives.

**5.6. When we engage**

**5.6.1. Legislated community engagement**

Council is required to undertake community engagement under a range of prescribed regulations and legislation, including the engagement requirements set out under the *Local Government Act 2020* as well as a broad range of other relevant Acts.

Council engagement processes will meet all statutory requirements as a minimum standard and as prescribed in this policy.

Under the *Local Government Act 2020* Moorabool Shire has the following statutory **deliberative engagement** obligations:

 A Council must develop or review the **Community Vision** in accordance with its deliberative engagement practices;

 A Council must develop or review the **Council Plan** in accordance with its deliberative engagement practices;

 A Council must develop, adopt and keep in force a **Financial Plan** in accordance with its deliberative engagement practices;

 Council must develop or review the **Asset Plan** in accordance with its deliberative engagement practices.

The Act also outlines other elements where community engagement must occur but does not require deliberative engagement:

• A Council must adopt and maintain a community engagement policy;

• The municipal community is to be engaged in strategic planning and strategic decision making;

• Council must ensure that a process of community engagement is followed in developing or amending its Governance Rules;

• The Council must make a local law in accordance with its community engagement policy;

• Obligations for restructuring advisory panels;

• Obligations for powers in relation to land:

o Acquisition and compensation;

o Restriction on power to sell or exchange land;

o Council leasing land.

This Policy does not apply to statutory processes prescribed by another Act, nor does it apply to unplanned interactions with Council such as service requests or complaints.

**5.6.2. Non-legislated community engagement**

Council is committed to the notion that good governance is based on the belief that those impacted by a decision may have important contributions to make in a decision-making process. Therefore, Council will engage with the community on decisions beyond mandated legislation to ensure we are achieving the best possible community outcomes. These community engagements will be conducted for a specific purpose that has been identified by Council.

Council will engage with the community to actively participate in the following processes:

• A proposed change to Council activities or strategic direction may significantly affect the community in terms of economy, lifestyle, environment, wellbeing or amenity of the municipality;

• Developing new or reviewing existing policies, strategies, plans or local laws that significantly affect the community;

• Introducing a new service, discontinuing an existing service or substantially changing or reviewing a service;

• Planning and development of major projects and capital works, including public buildings, centres or other infrastructure;

• Allocating resources to services and projects through its annual budget process;

• Proposals for changing the way in which public space looks, is used or enjoyed;

• Any other circumstance where Council needs more information or evidence to make an informed decision.

**5.6.3. Community Engagement Approach**

|  |  |
| --- | --- |
| Item | Community Engagement Approach |
| Community Vision | Deliberative engagement |
| Council Plan | Deliberative engagement |
| Financial Plan | Deliberative engagement |
| Asset Plan | Deliberative engagement |
| Budget | Consultative engagement |
| Making of a Local Law | Consultative engagement |
| Acquiring or selling land | Consultative engagement |
| Other statutory and non-statutory plans, strategies, policies, service planning and capital works projects | To be selected depending on the complexity of the matter |

**5.6.4. Circumstances where Council’s engagement with the community will be limited**

There are times when Council’s level of engagement with the community and key stakeholders will be limited. In certain circumstances, Council may only be able to inform the community and stakeholders of Council’s decisions and actions.

Examples include when:

• Council is not the lead agency;

• An immediate resolution is required;

• There is a risk to public safety;

• Specialist or technical expertise is required;

• An initiative involves confidential or commercial information;

• There are clear and defined legislative responsibilities that must be met;

• Developing or reviewing internal policies and procedures.

**5.7. Who we engage**

Moorabool is a diverse community with a broad mix of people who each have unique experiences, interests and expertise. Our engagement processes will identify community and stakeholders who are impacted by, or interested in a Council project or decision, at the earliest stage.

**Examples of our community stakeholder groups include:**



**5.7.1. External stakeholder organisations**

External organisations and service providers will also be considered when planning for community engagement, as they have the capacity to provide valuable technical input, support, facilitation and direction. Some examples of external stakeholder organisations include Department of Environment, Land, Water and Planning (DELWP), Department of Health and Human Services, VicRoads, Victorian Planning Authority, Neighbouring Councils etc.

**5.7.2. Council committees**

Council also works with a number of advisory committees, community asset committees and project consultative/working groups, who provide us with detailed feedback on the ways Council decisions may affect specific communities.

**5.8. How we engage**

There is no one-size fits all approach to community engagement activities. A variety of methods are required to cater for the different purposes of engagement, as well as the broad range of groups and individuals in the community.

The design and delivery of community engagement above statutory obligations will be determined during the planning process and scalable depending on the:

 Decision to be made;

 Community impact of the project;

 Level of opportunity for the community to influence the decision/s (negotiables);

 Community’s interest in participating;

 Community’s knowledge or expertise;

 Project/service to be delivered;

 Need to understand the community’s view;

 Media or political interest;

 Complexity of the subject;

 Current animosity around the issue.

**5.8.1. Community engagement process**

Clear, consistent and planned community engagement processes are critical to achieving effective and authentic Council wide engagement outcomes.

Council’s community engagement processes will be guided by the following approach.

**1. Plan and design engagement**

• Complete an Engagement Plan at the start of all projects, strategies and planning that require community engagement:

o Consider engagement context;

o Identify purpose, objectives and scope;

o Determine what the community and stakeholders can influence (engagement negotiables and non-negotiables);

o Identify internal and external stakeholders and design appropriate community engagement methods and activities;

o Determine how feedback will be reported back to the community and stakeholders.

• Service unit manager to approve Engagement Plan;

• Identify and allocate required resources;

• Identify methods to communicate and promote engagement opportunities;

• Determine engagement targets and how engagement will be evaluated.

**2. Deliver and adopt engagement**

 Promote and communicate engagement opportunity;

 Provide clear information to community and stakeholders *for their consideration;*

 Deliver genuine and respectful engagement activities as identified in engagement plan;

 Adapt engagement processes to meet engagement objectives as required.

**3. Review and report on engagement (close the Loop)**

 Review engagement feedback/data;

 Apply engagement findings to inform the decision-making process;

 Report back community feedback and outcomes to participants, stakeholders and community;

 Where appropriate, present a report to Council for a decision, incorporating community and stakeholder feedback;

 Evaluate engagement process and outcomes against engagement targets and identify opportunity for improvement *to share across the organisation.*

Community engagement processes will be guided and supported by Council’s Connected Communities service unit. There may be several engagement processes required per project, strategy or planning, depending on scale.

**5.8.2. External consultants and contractors**

At times, Council engages external consultants to assist with projects, strategies and planning. Consultants engaged on behalf of Council, must plan and deliver community engagement in accordance with Council’s Community Engagement Policy and Framework.

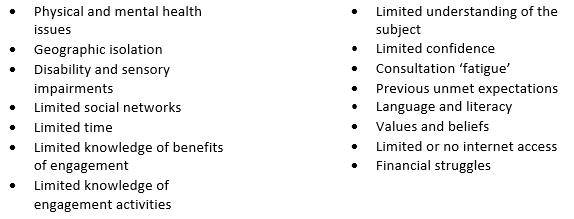
**5.9. Inclusive engagement**

Participants in a community engagement process are entitled to feel valued, respected and welcome, regardless of personal attributes or circumstances.

In every engagement process there are people who may find it more difficult to participate than others due to individual circumstances and experiences. When designing and delivering engagement activities, Council is committed to using inclusive methods to encourage broad community representation.

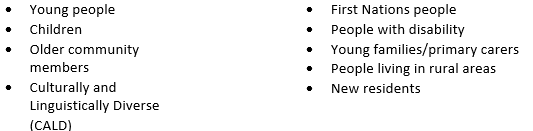
Examples of barriers to community engagement that may be experienced by individuals within the community:





**5.9.1. Engaging harder to reach groups**

Specific groups can experience additional barriers to engagement than other community members. Groups often underrepresented in community engagement processes and who will be afforded greater consideration and adaptation where appropriate, include:



\* In presenting these groups, we recognise that not every individual in these groups may be harder to reach and not every group has been listed.

**5.10. Policy Support**

To ensure Moorabool Shire can deliver on its commitment to community engagement outlined in this policy, staff will be supported in the following ways through:

 Guidance and assistance from Council’s Connected Communities service unit;

 Access to Council’s Community Engagement Framework and Toolkit, providing critical tools and resources to guide and support officers design, deliver and report on community engagement.

**5.11. What informed this policy**

 *Local Government Act 2020 (Victoria);*

 Internal review of existing policy, framework and processes;

 Independent external review of existing policy, framework and processes;

 Review of peer council policies;

 Community engagement and feedback*.*

**6. Related Legislation**

• *Charter of Human Rights and Responsibilities Act 2006*;

• Disability Access and Inclusion Policy;

• *Gender Equality Act 2020*;

• Governance Rules;

• *Local Government Act 2020 (Victoria);*

• Privacy Policy;

• Public Transparency Policy;

• *Racial and Religious Tolerance Act 2001 (Victoria).*

**7. Council Plan Reference**

Objectives: Strategic Objective 4: Improving Social Outcomes

Context: Context 4B: Community Connectedness and Capacity

**8. Review**

As a minimum, this policy will be reviewed every fourth year, in line with Council term.

**9. Approval**

This policy will come in effect on the day of adoption by Council.

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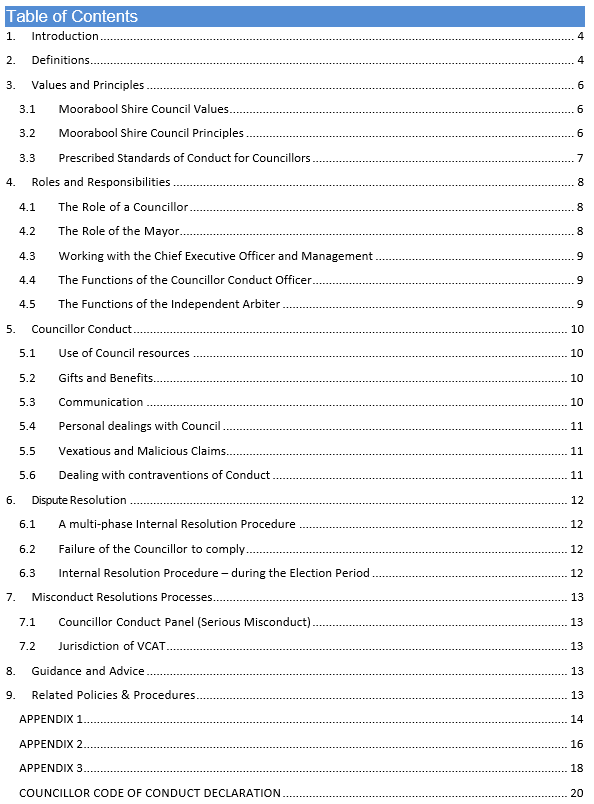
**Date**



**Moorabool Shire Council**

**Councillor Code of Conduct**

This Code, which incorporates the statutory requirements specified for a Code of Conduct under section 139 of the *Local Government Act 2020*, was adopted by resolution of Moorabool Shire Council on 24 February 2021.



**1. Introduction**

The Code of Conduct is a tool of corporate governance. As Moorabool Shire Councillors, we are committed to working together in the best interests of our communities’ and discharging our responsibilities to the best of our knowledge, skill and judgement. This Code of Conduct is established as part of Council’s commitment to govern our Shire effectively and adhering to the principles of good governance.

Good governance involves making and implementing good decisions which are based upon processes, protocols and good conduct.

Good conduct and good relationships are particularly significant because it relies on working together as the government to make decisions in the name of the Council, regardless of individual differences. This involves mutual respect, shared values and courtesy which are important especially when there are differences of opinion.

This Code of Conduct is established in accordance with the requirements of section 139 of the *Local Government Act 2020* and will be reviewed periodically.

Further to this Councillor Code of Conduct, there is also the Employees Code of Conduct which Council staff are bound by and adhere to as part of good conduct.

**2. Definitions**

The following definitions are listed to assist with the reading of the document:

|  |  |
| --- | --- |
| **Word** | **Definition** |
| Act | means the *Local Government Act* *2020* (as Amended) and sections made under it. |
| Bullying | means the Councillor repeatedly behaves unreasonably towards another Councillor(s) or member of Council staff and that behaviour creates a risk to the health and safety of that other Councillor(s) or member of Council staff. |
| Council | means Moorabool Shire Council, being a body corporate constituted as a municipal Council under the *Local Government Act* *2020*. |
| Councillor Conduct  Officer | means the person appointed in writing by the Chief Executive Officer to be the Councillor Conduct Officer for the Council under section 150 of the Act. For this purpose, the General Manager Customer Care & Advocacy has been appointed to this role. |
| Councillor Conduct Panel (CCP) | means a panel selected by the Principal Councillor Conduct Registrar under section 153 of the Act. |
| Councillors | means the individuals holding the office of a member of Moorabool Shire Council. |
| Council Officers | means the Chief Executive Officer (CEO) and staff of Council appointed by the CEO. |
| Community | means the whole of the Moorabool community. |
| Complaint | means a grievance concerning the conduct of a Councillor or a member of the organisation. |
| Dispute | means a circumstance in which 2 or more Councillors are unable to resolve an interpersonal conflict amongst themselves. |
| Gross misconduct | means behaviour that demonstrates that a Councillor —   is not of good character; or   is otherwise not a fit and proper person to hold the office of Councillor, including behaviour that is sexual harassment and that is of an egregious nature. |
| Internal resolution procedure | means the procedure specified in the Councillor Code of Conduct. |
| Misconduct | means any breach by a Councillor of the prescribed standards of conduct included in the Councillor Code of Conduct. |
| Principal Councillor  Conduct Registrar | means the person appointed by the Secretary to be the Principal Councillor Conduct Registrar under section 148 of the Act. The Principal Councillor Conduct Registrar’s role is to administer Councillor Conduct Panel processes. |
| Serious misconduct | means:   the failure by a Councillor to comply with the Council's internal arbitration process;   the failure by a Councillor to comply with a direction given to the Councillor by an arbiter under section 147;   the failure of a Councillor to attend a Councillor Conduct Panel hearing in respect of that Councillor;   the failure of a Councillor to comply with a direction of a Councillor Conduct Panel;   continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by an arbiter or by a Councillor Conduct Panel under section 167(1)(b);   bullying by a Councillor of another Councillor or a member of Council staff;   conduct by a Councillor that is conduct of the type that is sexual harassment of a Councillor or a member of Council staff;   the disclosure by a Councillor of information the Councillor knows, or should reasonably know, is confidential information;   conduct by a Councillor that contravenes the requirement that a Councillor must not direct, or seek to direct, a member of Council staff;   the failure by a Councillor to disclose a conflict of interest and to exclude themselves from the decision-making process when required to do so in accordance with the Act. |

**3. Values and Principles**

**3.1 Moorabool Shire Council Values**

Moorabool Shire Council has determined the following Values to guide its decision making and operations.

 Respect Treat others the way you want to be treated.

 Integrity Do what is right.

 Practicality Always be part of a solution.

 Excellence Continually improve the way we do business.

 Equity Fair distribution of resources.

These Values are laid out in the Council Plan that is adopted by the Council each term. Based on these Values and the Conduct Principles within the *Local Government Act* *2020*, Moorabool Shire Council has developed the following set of Principles for this Code of Conduct.

**3.2 Moorabool Shire Council Principles**

As Councillors of Moorabool Shire Council we endorse that it is a primary principle of Councillor Conduct that, in performing the role of a Councillor, we as Councillors will:

 Act with integrity;

 Impartially exercise our responsibilities in the interests of the local community; and

 Not improperly seek to confer an advantage or disadvantage on any person.

Furthermore, we acknowledge that in performing our role as Councillors we will:

 Avoid conflict between our public duties as a Councillor and our personal interests and obligations;

 Act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;

 Treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;

 Exercise reasonable care and diligence and submit ourselves to the lawful scrutiny that is appropriate to our office;

 Endeavour to ensure that public resources are used prudently and solely in the public interest;

 Act lawfully and in accordance with the trust placed in each of us as elected representatives;

 Ensure when expressing our own opinions on Council matters, it does not undermine the standing of Council in the community and/or doesn’t impede with the decisions of Council.

 Conduct ourselves in a manner that does not cause detriment to Council or the community of Moorabool Shire; and

 Support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

**3.3 Prescribed Standards of Conduct for Councillors**

The *Local Government Act 2020* requires a Councillor code of conduct to include the standards of conduct prescribed by the regulations expected to be observed by Councillors.

As Councillors of Moorabool Shire Council, we are committed to the standards of conduct contained in the Local Government (Governance and Integrity) Regulations 2020, which are:

**1. Treatment of others**

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor—

a) takes positive action to eliminate discrimination, sexual harassment and victimisation in accordance with the *Equal Opportunity Act 2010*; and

b) supports the Council in fulfilling its obligation to achieve and promote gender equality; and

c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and

d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

**2. Performing the role of Councillor**

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor—

a) undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor; and

b) diligently uses Council processes to become informed about matters which are subject to Council decisions; and

c) is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity; and

d) represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

**3. Compliance with good governance measures**

A Councillor, in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following—

a) any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with section 46 of the Act for managing interactions between members of Council staff and Councillors;

b) the Council expenses policy adopted and maintained by the Council under section 41 of the Act;

c) the Governance Rules developed, adopted and kept in force by the Council under section 60 of the Act;

d) any directions of the Minister issued under section 175 of the Act.

**4. Councillor must not discredit or mislead Council or public**

(1) In performing the role of a Councillor, a Councillor must ensure that their behaviour does not bring discredit upon the Council.

(2) In performing the role of a Councillor, a Councillor must not deliberately mislead the Council or the public about any matter related to the performance of their public duties.

**5. Standards do not limit robust political debate**

Nothing in these standards is intended to limit, restrict or detract from robust public debate in a democracy.

**4. Roles and Responsibilities**

**4.1 The Role of a Councillor**

We acknowledge the role of a Councillor as specified in section 28 of the Act which articulates the role is to:

 Participate in the decision-making of the Council;

 Represent the local community in that decision-making; and

 Contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

We acknowledge that the administrative management of the Council is the responsibility of the Chief Executive Officer, and Councillors have no authority to give directions to Council staff. We endeavour to ensure our interactions with members of Council staff do not, and are not perceived to improperly direct or influence members of Council staff in the exercise of their duties, or in their professional advice to Council. Accordingly, our interactions with the administration will be through the Chief Executive Officer, General Managers and Managers in accordance with the *Local Government Act 2020*.

**4.2 The Role of the Mayor**

The Mayor is elected by Council to represent the views and directions of Council and the role of the Mayor is to:

 chair Council meetings; and

 be the principal spokesperson for the Council; and

 lead engagement with the municipal community on the development of the Council Plan; and

 report to the municipal community, at least once each year, on the implementation of the Council Plan; and

 promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct; and

 assist Councillors to understand their role; and

 take a leadership role in ensuring the regular review of the performance of the Chief Executive Officer; and

 provide advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings; and

 perform civic and ceremonial duties on behalf of the Council.

The Chief Executive Officer is to support the Mayor in the performance of his or her role. This includes managing the interactions between Councillors and staff.

**4.3 Working with the Chief Executive Officer and Management**

The Chief Executive Officer is responsible for administrative and operational matters of Council including the appointment of Council officers and structuring an organisation that allows the implementation of decisions made by Council. The Council appoints and reviews the performance of the Chief Executive Officer.

Staff are responsible for providing information to Councillors that will assist their representation and decision-making roles. To obtain information that is up-to-date and offered in the right context, liaison should occur with the Chief Executive Officer, or appropriate General Manager. Speaking directly to Council officers below General Manager level without the authorisation of the officer's General Manager may result in Councillors receiving advice that has not been formally endorsed by senior management.

Exceptions are made with support staff and other designated staff who, for operational reasons, will have regular contact with Councillors. The provision of information and advice to Councillors operates on the principle that information provided to one Councillor should generally be made available to all Councillors.

Councillors should refrain from publicly criticising Council officers in a way that casts aspersions on their professional competence or credibility. Councillors should advise the Chief Executive Officer in a timely fashion of any concerns that a Council officer has acted contrary to a formal Council policy or decision.

In addition to statutory provisions regarding confidential information, Councillors must not release to an external person or organisation any documents or information that the Chief Executive Officer or a General Manager has deemed to be kept confidential by informing the Councillors as such in writing or by marking the material as confidential.

**4.4 The Functions of the Councillor Conduct Officer**

The Councillor Conduct Officer of the Council plays a key role in the Code of Conduct dispute resolution process. The functions of a Councillor Conduct Officer include to assist the Council in the implementation of, and conduct of, the internal arbitration process of a Council as specified under the Act.

**4.5 The Functions of the Independent Arbiter**

The role of the independent arbiter is to:

 consider applications alleging a contravention of the prescribed Councillor Conduct Standards by a Councillor;

 make findings and give a written statement of reasons supporting the findings in relation to any application alleging a contravention of the prescribed Councillor Conduct Standards to the Council, for tabling at the next Council meeting and recording in the minutes of that meeting;

 Impose an appropriate sanction or sanctions in accordance with section 147 of the Act, where the arbiter has found that a Councillor has contravened the prescribed Councillor Conduct Standards.

**5. Councillor Conduct**

**5.1 Use of Council resources**

We commit to using Council resources effectively and economically. We will:

* Maintain adequate security over Council property, facilities and resources provided to us to assist in performing our role and will comply with any Council policies applying to their use;
* Ensure any expense claims that we submit are in compliance with the relevant legislative provisions and Council policy;
* Not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate; and
* Not use public funds or resources in a manner that is improper or unauthorised.

[Refer - Council Expenses Policy]

**5.2 Gifts and Benefits**

We will scrupulously 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 gain favourable treatment from an individual Councillor or from the Council.

We will take all reasonable steps to ensure that our immediate family members (parents, spouse, children and siblings) do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.

Where a gift is received on behalf of the Council, the gift becomes the property of the Council. For transparency and accountability purposes, these gifts will be recorded in the Councillors Gifts Register with a notation that it is the property of the Council.

We recognise that gifts equal to or above the gift disclosure threshold received in the twelve months prior to election from a person or body that has a direct interest in a matter may give rise to an indirect interest because of receipt of an applicable gift.

We will record all campaign donations in our “campaign donation return.

**5.3 Communication**

We recognise that as representatives of the local community, we have a primary responsibility to be responsive to community views and to adequately communicate the position and decisions of Council.

The Mayor is the designated official spokesperson for all Council policies and decisions and will provide official comment to the media on behalf of Council where the matter is of a political, controversial or sensitive nature. This includes major Council announcements and civic occasions. Where the Mayor is not available, he/she may delegate authority to another Councillor.

We acknowledge that individual Councillors are entitled to express their personal opinions through the media (both public and private).

Where we choose to do so, we will make it clear that such comment is a personal view and does not represent the position of Council. We undertake to ensure that any such comment is devoid of comments that could reasonably be construed as being derogatory, offensive or insulting to any person. Furthermore, our dealings will be in accordance with the principles as set in this code

The Chief Executive Officer will be the official spokesperson on behalf of Council for all media enquiries regarding operational matters.

**5.4 Personal dealings with Council**

When we deal with our Council in our private capacity (e.g. as a ratepayer, recipient of a Council service or applicant for a permit) we do not expect nor will we request preferential treatment in relation to any such private matter. We will avoid any action that could lead Council staff or members of the public to believe that we are seeking preferential treatment.

**5.5 Vexatious and Malicious Claims**

A vexatious or malicious complaint is a contravention of the Councillor Code of Conduct.

**5.6 Dealing with contraventions of Conduct**

The following table below summarises the authority responsible for addressing a contravention of the Code, misconduct, serious misconduct and gross misconduct as defined within the Act:

|  |  |
| --- | --- |
| **Type of Contravention** | **Responsible Authority** |
| Conduct inconsistent with standards Council has set itself | Council  (via Internal Dispute Resolution Procedure) |
| Misconduct | Internal Arbitration Process (Independent Arbiter) |
| Serious misconduct | Councillor Conduct Panel |
| Gross misconduct | VCAT |

**6. Dispute Resolution**

**6.1 A multi-phase Internal Resolution Procedure**

The dispute resolution process is intended to be used when a conflict and/or dispute emerges when differences between Councillors become personal or the behaviour of Councillors towards each other and/or staff is of a nature that unduly affects the operation of the Council. It is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion and voting in Council and committee meetings. Disputes may also involve allegations of contraventions of this Code of Conduct.

All Councillors are committed to resolving disputes or dealing with alleged contraventions of the Code of Conduct without the need for external assistance as a demonstration of unity and teamwork wherever possible and to resolve issues using their best endeavours without resorting to this dispute resolution process.

Where, after these endeavours have been exhausted, the matter still remains unresolved, the parties may resort to any or all of the Council’s dispute resolution processes.

Each of the phases follow set processes and these have been provided as appendices to this Councillor Code of Conduct.

|  |  |  |
| --- | --- | --- |
| **Phase** | **Description** | **Appendix** |
| 1 | **Direct Negotiation** between the parties in dispute with the Mayor in attendance to provide guidance; | 1 |
| 2 | **Using External Mediation** by an independent mediator engaged by the Chief Executive Officer; | 2 |
| 3 | **Application for Internal Arbitration Process** using an Independent Arbiter to be appointed by the Principal Councillor Conduct Registrar. | 3 |
| 4 | **Application for a Councillor Conduct Panel** to be appointed by the Principal Councillor Conduct Registrar | N/A |

**6.2** **Failure of the Councillor to comply**

In the event a Councillor fails to comply with an Internal Arbitration Process, this will constitute serious misconduct under the Act, and therefore will be dealt with by a Councillor Conduct Panel.

**6.3 Internal Resolution Procedure – during the Election Period**

An application cannot be made for an internal resolution procedure during the election period for a general election. Any internal resolution procedure that is in progress is to be suspended during the election period for a general election.

If the respondent to an application for an internal resolution procedure is not returned to office as a Councillor in the election, the application lapses. If the respondent is returned to office in the election, the application may resume if:

 The application was made by the Council and the Council so resolves; or

 The application were made by a group of Councillors and any one (or more) of those Councillors who has been returned to office wishes to proceed with the application; or

 The applicant (individual Councillor) is returned to office and wishes to proceed with the application.

**7. Misconduct Resolutions Processes**

**7.1 Councillor Conduct Panel (Serious Misconduct)**

The Council notes that in relation to a formal dispute resolution process, the Act provides for the establishment of Councillor Conduct Panels to hear allegations of serious misconduct by Councillors.

The Principal Councillor Conduct Registrar manages the establishment of Councillor Conduct Panels.

All applications (supported with evidence) to establish a Councillor Conduct Panel (CCP) to hear allegations of misconduct or serious misconduct must go to the registrar. The panel must be established if the registrar is satisfied that the application is not frivolous or misconceived or lacking in substance, is supported by evidence and Council processes have been fully exhausted or are not appropriate.

If a CCP makes a finding of Misconduct against a Councillor, then the Councillor may be ineligible to hold the office of Mayor, reprimanded, directed to make a formal apology or be suspended from office a specified period up to 12 months. The CCP may also direct that the Councillor is ineligible to Chair a Delegated Committee for a specified period not exceeding the remainder of the Council term.

**7.2 Jurisdiction of VCAT**

VCAT will hear allegations of Gross Misconduct. The Chief Municipal Inspector will be responsible for making applications to VCAT for findings of Gross Misconduct against Councillors.

If VCAT makes a finding of Gross Misconduct, then a Councillor may be disqualified from office for a maximum of 8 years. Councillors may also be ineligible to hold the office of Mayor for a maximum period of 8 years.

If a Councillor party to the matter is not satisfied with the ruling of the Councillor Conduct Panel, that Councillor can take the matter to VCAT for a review of that decision.

**8. Guidance and Advice**

Councillors are individually responsible for seeking relevant advice from the Mayor, Chief Executive Officer or General Manager Customer Care & Advocacy as to the application of the Code.

**9. Related Policies & Procedures**

Other related Council policies and procedures are:

 Councillors and Members of Council Committees Expenses Policy

 Protected Disclosure Procedures

 Privacy Policy

 Governance Rules (incorporating the Election Period Policy)

 Occupational Health & Safety Policy

**APPENDIX 1**

**Phase 1 – Direct Negotiation**

Where Councillors who are in dispute have not been able to resolve the dispute between them, either (or both) party (parties) may request the Mayor to convene a meeting of the parties.

A dispute referred for direct negotiation may relate to:

 an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or

 an alleged contravention of the Councillor Code of Conduct.

The steps in Phase 1 are set out below:

1. The party requesting the direct negotiation meeting is to provide the Mayor with the name of the other Councillor and the details of the dispute in writing. The written request is to indicate that it is for a “direct negotiation” dispute resolution process. Where the request relates to an alleged contravention of the Councillor Code of Conduct, the request must:

 specify the name of the Councillor alleged to have contravened the Code;

 specify the provision(s) of the Code that is alleged to have been contravened;

 include evidence in support of the allegation;

 name the Councillor appointed to be their representative where the request is made by a group of Councillors; and

 be signed and dated by the requestor or the requestor’s representative.

2. The Mayor is to notify the other party of the request and provide him or her with a copy of the written request as soon as practicable thereafter receiving the request for direct negotiation.

3. The Mayor is to ascertain whether or not the other party is prepared to attend a “direct negotiation” meeting.

4. If the other party is not prepared to attend a meeting, the Mayor is to advise the requestor forthwith. The requestor can then choose to resolve the matter using either Phase 2 or Phase 3 internal disputes resolution procedures.

5. If the other party declines to participate in a meeting, this does not constitute a contravention of this Councillor Code of Conduct.

6. If the other party consents to a meeting, the Mayor is to convene a meeting of the parties at the earliest available opportunity. Unless one or both parties are unavailable, this should be within 5 working days of receiving the consent of the other party.

7. The Mayor may present the parties with guidelines, in advance of the meeting or at the meeting, to help facilitate the meeting.

8. The role of the Mayor at the meeting is to provide guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under the Act, and the observation of the Councillor conduct principles and the Councillor Code of Conduct.

9. The Mayor is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties. Where one party does not comply with the agreement, the other party has recourse to external mediation or the internal arbitration procedure where the matter relates to an alleged contravention of the prescribed Standards of Conduct.

10. If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, either or both of the parties have recourse to Phase 2 - external mediation or Phase 3 – an internal arbitration process where the matter relates to an alleged contravention of the prescribed standards of Conduct.

11. Where the Mayor is a party to the dispute, the request is to be made to the Deputy Mayor. In the absence of a Deputy Mayor the request is to be made to the immediate past Mayor in office. The Deputy Mayor or the immediate past Mayor in office will perform the functions ascribed to the Mayor.

**APPENDIX 2**

**Phase 2 – Using External Mediation**

A Councillor or a group of Councillors may make an application for a dispute to be referred for external mediation whether or not the dispute has been the subject of an application for “direct negotiation”.

An application made for a dispute to be referred for external mediation may relate to:

 an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council; or

 an alleged contravention of the Councillor Code of Conduct.

The steps in Phase 2 are set out below:

1. The applicant is to submit a written application to the Councillor Conduct Officer setting out the name of the Councillor and the details of the dispute. The application is to indicate that the application is for an “external mediation”. Where the application relates to an alleged contravention of the Councillor Code of Conduct, the application must:

 specify the name of the Councillor alleged to have contravened the Code;

 specify the provision(s) of the Code that is alleged to have been contravened;

 include evidence in support of the allegation;

 name the Councillor appointed to be their representative where the application is made by a group of councillors; and

 be signed and dated by the applicant or the applicant’s representative.

2. The Councillor Conduct Officer is to notify the other party of the request and provide him or her with a copy of the application as soon as practicable thereafter receiving the application for external mediation.

3. The Councillor Conduct Officer is to ascertain (in writing) whether or not the other party is prepared to attend an “external mediation”. If the other party declines to participate in an external mediation, he or she is to provide their reasons for doing so in writing to the Councillor Conduct Officer. These reasons may be taken into account if the matter is, subsequently, the subject of an application for a Councillor Conduct Panel.

4. When the other party declines to participate in an external mediation, this does not constitute a contravention of this Councillor Code of Conduct.

5. If the other party agrees to participate in an external mediation, the Councillor Conduct Officer is to advise the applicant, the Mayor and Chief Executive Officer forthwith.

6. The Councillor Conduct Officer is to engage the services of an external mediator to conduct the mediation at the earliest practicable opportunity.

7. The mediator is to document any agreement reached at the meeting. Copies of the agreement are to be provided to both parties, the Mayor and the Chief Executive Officer. Where one party does not comply with the agreement, the other party has recourse to Phase 3 of Councils internal resolution procedures where the matter relates to an alleged contravention of the Councillor Code of Conduct.

8. If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, the applicant has recourse to Phase 3 of Councils internal resolution procedures where the matter relates to an alleged contravention of the Prescribed Standards of Conduct.

**APPENDIX 3**

**Phase 3 – Internal Arbitration Process**

**Making an Application**

An application for an internal arbitration process to make a finding of misconduct against a Councillor may be made by—

 the Council following a resolution of the Council; or

 a Councillor or a group of Councillors.

An application under section 143 of the Act must be made within 3 months of the alleged misconduct occurring and must be given to the Principal Councillor Conduct Registrar in the manner specified by the Principal Councillor Conduct Registrar in any guidelines published under section 149(1)(c).

The prescribed process for an application for internal arbitration must include:

 the name of the Councillor alleged to have breached the standards of conduct; and

 the clause of the standards of conduct that the Councillor is alleged to have breached; and

 the misconduct that the Councillor is alleged to have engaged in that resulted in the breach; and

 after receiving an application under section 143 of the Act, the Councillor Conduct Officer provides the application to the Councillor who is the subject of the application.

An arbiter appointed to hear a matter subject to an application must:

a) conduct the hearing with as little formality and technicality as the proper consideration of the matter permits; and

b) ensure that the hearing is not open to the public.

An arbiter—

a) may hear each party to the matter in person or solely by written or electronic means of communication; and

b) is not bound by the rules of evidence and may be informed in any manner the arbiter sees fit; and

c) may at any time discontinue the hearing if the arbiter considers that:

(i) the application is vexatious, misconceived, frivolous or lacking in substance; or

(ii) the applicant has not responded, or has responded inadequately, to a request for further information.

**Principal Councillor Conduct Registrar must examine application**

1. The Principal Councillor Conduct Registrar, after examining an application under section 143, must appoint an arbiter to the Council to hear the matter if the Principal Councillor Conduct Registrar is satisfied that—

a) the application is not frivolous, vexatious, misconceived or lacking in substance; and

b) there is sufficient evidence to support an allegation of a breach of the Councillor Code of Conduct as specified in the application.

2. The Principal Councillor Conduct Registrar must reject an application if the Principal Councillor Conduct Registrar is not satisfied under subsection (1)(a) or (b).

3. The rejection of an application by the Principal Councillor Conduct Registrar under this section does not prevent a further application being made under section 143 in respect of the same conduct by a Councillor that was the subject of the rejected application.

4. Information provided to an arbiter or produced by an arbiter for the purpose of an internal arbitration process, other than the findings and the reasons, is confidential information.

**Arbiter must refer certain applications**

1. If, at any time before, during or after the hearing of an application for an internal arbitration process, the arbiter believes that the conduct that is the subject of the application for an internal arbitration process appears to involve serious misconduct and would more appropriately be dealt with as an application under section 154, the arbiter must refer the matter in writing to the Principal Councillor Conduct Registrar.

2. If the Principal Councillor Conduct Registrar receives a referral under subsection (1), the Principal Councillor Conduct Registrar must notify the parties to the application for an internal arbitration process that the matter has been referred by the arbiter.

**Sanctions that may be imposed by an arbiter on finding of misconduct**

1. If after completing the internal arbitration process, the arbiter determines that a Councillor has failed to comply with the prescribed standards of conduct, the arbiter may make a finding of misconduct against the Councillor.

2. If an arbiter has made a finding of misconduct against a Councillor, the arbiter may do any one or more of the following—

a) direct the Councillor to make an apology in a form or manner specified by the arbiter;

b) suspend the Councillor from the office of Councillor for a period specified by the arbiter not exceeding one month;

c) direct that the Councillor be removed from any position where the Councillor represents the Council for the period determined by the arbiter;

d) direct that the Councillor is removed from being the chair of a delegated committee for the period determined by the arbiter;

e) direct a Councillor to attend or undergo training or counselling specified by the arbiter.

3. The arbiter must provide a written copy of the arbiter's decision and statement of reasons to—

a) the Council; and

b) the applicant or applicants; and

c) the respondent; and

d) the Principal Councillor Conduct Registrar.

4. Subject to subsection (5), a copy of the arbiter's decision and statement of reasons must be tabled at the next Council meeting after the Council received the copy of the arbiter's decision and statement of reasons and recorded in the minutes of the meeting.

5. If the arbiter's decision and statement of reasons contains any confidential information, the confidential information must be redacted from the copy tabled under subsection (4).

**COUNCILLOR CODE OF CONDUCT DECLARATION**

I hereby declare that I have read the Councillor Code of Conduct for Moorabool Shire Council and declare that I will abide by this Code:

|  |
| --- |
| **Councillor** |
|  |
| **Cr. Moira Berry – East Moorabool Ward** |
| Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date: |
|  |
| **Cr. Tonia Dudzik – East Moorabool Ward** |
| Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date: |
|  |
| **Cr. David Edwards – East Moorabool Ward** |
| Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date: |
|  |
| **Cr. Ally Munari – Woodlands Ward** |
| Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date: |
|  |
| **Cr. Thomas Sullivan – West Moorabool Ward** |
| Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date: |
|  |
| **Cr. Paul Tatchell – Central Moorabool Ward** |
| Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date: |
|  |
| **Cr. Rod Ward – East Moorabool Ward** |
| Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date: |