

# Terms of Reference

## **Australia Day Committee**

**Version 1.0**

Reviewed by Council at its meeting on 21 August 2012

Minute No: 534

Division:	General Manager
Section:	Communication and Customer Services
File Reference:	xxx
Historical Reference:	xxx

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## Australia Day Committee

### **Purpose of Committee**

Assist Council to provide awareness and reach into the community for the Australia Day Awards, generate greater interest and award nominations and encourage participation at the Australia Day Awards ceremony.

### **Tasks to be undertaken by the Committee**

- Provide advice and support to Council in promotion of nominations as widely as possible throughout our community.
- Review applications and advise Council on nominated recipients.
- Advise Council on the Award categories and assessment process.
- Play a role at the Australia Day citizenship ceremonies.
- Administrative support and advice is provided by Council's Communications Officer - Festival and Events.

### **Committee Structure**

Membership will comprise of community members from across the shire and one Councillor. Expressions of interest for community representation will be renewed every five years.

### **Appointment of Chair**

The appointment of the Chair is by vote of the Committee members. If the elected Chair is not present at a meeting the members present will nominate a Chair for that meeting.

### **Meeting time and frequency**

The Advisory Committee will meet approximately 3 - 4 times per annum.

Times and dates of meetings are to be determined by the Committee, but may be varied at the discretion of the Chair (after seeking the views of the relevant Committee members whenever possible).

Meetings will be held at the Tweed Shire Council, unless an alternative venue is agreed by the Committee.

### **Conflict of Interest**

Council's Code of Conduct 7.1 - 7.20 (extract of Policy from page 2) applies in terms of the requirement for disclosure of any potential conflict of interest in any matter to be considered or discussed at a Committee meeting.

### **Reporting regime**

The record of any meeting of the Committee shall be included in the agenda for the next Council meeting.

The record of each Committee meeting should clearly show where advice or recommendations are being given to Council.

### **Quorum**

A quorum is at least half of the ordinary members.

If a quorum is not present within 20 minutes of the time appointed for the commencement of the meeting, the meeting shall lapse.

If a quorum fails after the commencement of the meeting, the meeting shall lapse.

Business that is unfinished at the completion of a meeting may at the discretion of the Chairperson be referred to the next meeting of the Committee.

**Extract from Council's Code of Conduct Policy, Version 1.8**  
**Adopted by Council at its meeting on Tuesday 15 March 2011**  
**Minute Number: 174**

## **7 CONFLICT OF INTERESTS**

- 7.1 A Conflict of Interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 7.2 You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.
- 7.3 Any conflict of interests must be managed to uphold the probity of council decision making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 7.4 Private interests can be of two types: pecuniary or non-pecuniary.

### What is a pecuniary interest?

- 7.5 A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (*section 442*)
- 7.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (*section 443*)
- 7.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
- a) councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (*section 449*)

- b) councillors and members of council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*)
- c) designated persons immediately declare, in writing, any pecuniary interest. (*section 459*)

7.8 Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.

7.9 Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

### What is a non-pecuniary conflict of interests?

7.10 Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

***Refer to Case Studies Examples of Good Practice for “Conflicts of Interest” (commencing Page 18 Guidelines for the Model Code of Conduct for Local Councils in NSW –October 2008).***

7.11 The matter of a report to council from the conduct review committee/reviewer relates to the public duty of a councillor or the general manager. Therefore, there is no requirement for councillors or the general manager to disclose a conflict of interests in such a matter.

7.12 The political views of a councillor do not constitute a private interest.

### Managing non-pecuniary conflict of interests

7.13 Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.

7.14 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 7.13.

7.15 How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.

7.16 As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:

- a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person’s spouse,

current or former spouse or partner, de facto or other person living in the same household.

- b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
- c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.

7.17 If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists; you must manage it in one of two ways:

- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official
- b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply

7.18 If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.

7.19 If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.

7.20 Despite clause 7.17(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision making role to council staff, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 7.17(b) above.