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SEPTEMBER 2012 LOCAL GOVERNMENT ELECTIONS – USE OF COUNCIL RESOURCES AND ELECTORAL MATERIAL

Purpose

With the upcoming local government elections in September 2012 this circular provides a reminder of the obligations of council officials in relation to the use of council resources and the potential for council publications to be considered 'electoral material'.

Issue

- To ensure transparency, accountability and community confidence in councils during local government elections it is important that council officials observe their obligations in relation to the use of council resources.
- All council officials must use council resources ethically, effectively and carefully. Council officials must not use resources for private purposes unless the use is lawfully authorised and proper payment is made where appropriate.
- The Model Code of Conduct deems the interest of a councillor in their re-election to public office to be a personal interest. The Model Code of Conduct requires that council officials must:
 - be scrupulous in their use of council property, including intellectual property, official services and facilities
 - not permit the misuse of council property by any other person or body
 - avoid any action or situation which could create the impression that council property, official services or public facilities are being improperly used for their own or any other person's or body's private benefit or gain
 - not seek or obtain, either directly or indirectly, any benefit or other improper advantage for themselves, or any other person or body, from the use of council information
 - not convert any property of the council to their own use unless properly authorised
 - not use council property or facilities for the purpose of assisting their or others election campaign (unless such property or facilities are available for use and proper payment is made where appropriate)

- not use council letterhead, council crests and other information for private purposes.
- Council resources must also be used in accordance with council policies such as the council's policy on the payment of expenses and the provision of facilities to mayors and councillors.
- Misuse of council resources may be a breach of a council's code of conduct and may result in disciplinary action under its code. It may also result in action by the Division of Local Government and other regulatory agencies, such as the Independent Commission Against Corruption and the NSW Ombudsman.
- Councils should also be aware that publications that promote the current elected council's policies or emphasises the achievements of an elected member or group may potentially fall within the definition of "electoral matter" and thereby constitute "electoral material" under clause 356A of the *Local Government (General) Regulation*. "Electoral material" is subject to certain regulatory requirements during the 40 days preceding the election.
- Electoral matter broadly includes any matter that is intended or likely to affect voting in an election. The name and likeness of a candidate also fall within the definition of electoral matter.
- In practical terms, council publications that may be affected include websites, newsletters, media releases, published speeches, brochures on services/facilities, advertisements, letters to residents and newspapers.

Action

- General Managers are asked to bring this circular to the attention of all councillors and senior staff.
- General Managers should ensure that appropriate mechanisms are in place to ensure that council resources are used appropriately.
- Councils must not issue publications that fall within the definition of "electoral matter" during the 40-day regulated period prior to the election.



Ross Woodward
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