

## CODE OF CONDUCT PANEL

### MEANDER VALLEY COUNCIL CODE OF CONDUCT

Determination made 25 August 2016

*Local Government Act 1993*

Code of Conduct Panel: Sally Darke (Chairperson), Ketrina Clarke, Christine Fraser

#### I. Summary of the complaint

A code of conduct complaint was submitted by Mr Bronte Booth to the General Manager – Meander Valley Council on 22 June 2016 and later redated 7 July 2016.

The complaint alleges that Councillor Tanya King breached:

- *Standard 1 – Objective Decision Making*
- *Standard 2 – Conflict of Interest*

of the Meander Valley Council Code of Conduct, (version 1 2012 adopted 8 May 2012) at the Meander Valley Council Meeting held on 7 June 2016.

Under the *Local Government Act 1993* (the Act), Schedule 8A – Savings and Transitional Provisions, the Panel is required to determine the complaint under the former Meander Valley Council's Code of Conduct (adopted 8 May 2012) which was in force at the time of the alleged breach of the code of conduct.

Mr Booth was in attendance at the Meander Valley Council Meeting held on the 7 June 2016 where a decision was made on the use of the old Meander Valley School Site – Agenda item 126/2016.

Mr Booth alleges that Councillor King spoke to the motion and her opening statement was “I am here to represent the people over here, Teen Challenge” (gesturing to the Teen Challenge representatives sitting behind her), and that this is a breach of the Code of Conduct in regard to objective decision making. The complaint alleges that it could easily be perceived that if Councillor King was there to “represent” a particular group, that creates a conflict of interest, and further, that Councillor King brought a closed mind to the Council meeting.

The complaint alleges that Councillor King breached the following sections of the Code of Conduct:

- Standard 1 – Objective Decision Making
  - Councillors must ensure they bring an impartial and unprejudiced mind to all matters being decided upon in the course of council duties.
- Standard 2 – Conflict of Interest
  - Councillors must ensure that, when carrying out their public duty, they are not wrongfully influenced by other external interests that they have, or duties that they owe. They must therefore, in all such dealings, put the interests of their community first. The onus is on Councillors to identify a conflict of interest, whether perceived or real, and take appropriate action to resolve the conflict in favour of their public duty.

The General Manager forwarded the complaint to the Code of Conduct Executive Officer in accordance with section 28Z of the Act on 12 July 2016.

The Chairperson made an initial assessment on 15 July 2016 that the complaint alleged breaches of the Council's Code of Conduct and should be investigated.

A copy of the complaint was provided to Councillor King for her response. Councillor King stated under statutory declaration that she has never represented Teen Challenge and has no connection with the organisation. She states that she recalls her words at the meeting on 7 June 2016 as "I am proud to represent a community of people with a genuine desire to help others".

In addition, the Code of Conduct Panel received statutory declarations from Councillor Deborah White, Councillor John Temple, Councillor Ian Mackenzie, Deputy Mayor Michael Kelly, General Manager Greg Preece, and Tanya Cavanagh of Teen Challenge, who have affirmed that at no time did Councillor King say she represented Teen Challenge.

A letter from the Mayor of Meander Valley Council, Councillor Craig Perkins, also supported the fact that at no time during the Council meeting on 7 June 2016, or at any other time, had he witnessed Councillor King indicate that she was connected with Teen Challenge. The response from the Mayor also indicates that he is not aware of any evidence to suggest that Councillor King or any Councillor brought a closed mind to the Council meeting.

The Panel noted that Mr Booth outlined five desired outcomes from the complaint, four of which are not related to the Code of Conduct. Accordingly, the Panel determined that only the last identified outcome alleged a breach to the Code of Conduct: *That Councillor Tanya King be dealt with under any provisions that apply to breaching the Meander Valley Council Code of Conduct Version 1 2012 adopted 8<sup>th</sup> May 2012.*

## 2. Determination

In accordance with section 28ZE of the Act, the Code of Conduct Panel conducted an investigation on the evidence before it.

As per section 28ZG (2) (b) the Panel determined that a hearing was unnecessary in the circumstances because the investigation could be adequately conducted by means of written submissions.

As per section 28ZI of the Act the Code of Conduct Panel determines that Councillor King has not breached the Code of Conduct, and therefore the Panel dismisses the complaint.

## 3. Reasons for determination

The Code of Conduct Panel considered the information provided by Mr Booth and the response by Councillor King, along with supporting statutory declarations and the letter from Mayor Perkins. The Panel concludes that the Statutory Declarations from Councillor Tanya King, Councillor Debra White, Councillor John Temple, Councillor Ian Mackenzie, Deputy Mayor Michael Kelly, Tanya Cavanagh from Teen Challenge, General Manager Greg Preece and Mayor Craig Perkins provide overwhelming evidence that Councillor Tanya King did not say she represented Teen Challenge, and did not present a perception of bias, and therefore did not breach *Standard 1 Objective Decision Making* or *Standard 2 Conflict of Interests*, of the Code of Conduct which was current at the time of the alleged contravention on 7 June 2016.

## 4. The right to review

A person aggrieved by the determination of the Code of Conduct Panel is entitled under section 28ZP of the Act to apply to the Magistrates Court (Administrative Appeals Division) for a review of that determination on the ground that the Panel has failed to comply with the rules of natural justice.



Sally Darke  
Chairperson



Ketrina Clarke  
Member



Christine Fraser  
Member

25 August 2016