

2. Board Director's Code of Conduct

2.1 Definitions of Terms

<i>Associated person</i>	in relation to a director includes any spouse (including a de facto spouse), parent, child, brother or sister of the director or any company, corporation, partnership, trust or other entity owned or controlled by the director or in which the director has a material personal interest within the meaning of the Corporations law.
<i>Council</i>	refers to The Western Rock Lobster Council Inc.
<i>Director</i>	includes all directors whether independent or member Director. Any reference to Directors is to be read to include a reference to Officers as defined under the Corporations Act where applicable. Officers include any person who is concerned or takes part in the management of the Council.
<i>Member</i>	as defined in the Council Rules

Directors and Officers Code of Conduct

- A Director must, at all times, act in good faith and in the best interests of the Council as a whole.
- A Director shall use due care and diligence in fulfilling the functions of office and exercising the powers attached to that office.
- A Director must use the powers of office for a proper purpose, in the best interests of the Council as a whole.
- A Director must not make improper use of information acquired as a Director.
- A Director must not take improper advantage of the position of Director.
- A Director must not allow personal dealings or interests, or dealings or interests of any associated person or entity, to conflict with the interests of the Council, unless the Director follows procedures that may be set out in the Council' Rules as if those Rules specifically applied to personal dealings or interests or interests of any associated persons or entities.
- A Director shall be independent in judgement and actions and shall take all reasonable steps to be satisfied as to the soundness of all decisions taken by the Board of Directors.
- A Director shall not engage in conduct reasonably likely to bring discredit upon the Council.
- In the course of carrying out his/her duties as a Director, a Director shall not make misleading, inaccurate or malicious statements, or issue, or allow to be issued, misleading, malicious or intentionally inaccurate reports to Members or persons external to the Council.
- A Director shall not disclose or publish, or allow to be disclosed or published to any person, including Members, **confidential** information concerning the Council. All information provided to Directors in Board reports or at Board meetings or Committee meetings of the Board is to be regarded as confidential unless otherwise agreed to at a Board meeting.
- A Director shall have no interest in any action, claim, suit, demand or proceeding against the Council whilst in office.
- A Director shall vacate office immediately upon a breach of this Code by the Director being established as set out in the Guidelines and Commentary.

2.2 Guidelines and Commentary

Supporting the Code

The following guidelines are intended to assist directors in complying with the principles of this *Code of Conduct*. This Code is not intended to be exhaustive and should not be considered as a substitute for Directors duties and responsibilities as described in various Acts. It is intended that this document will be discussed, reviewed and signed by all Directors at the first Ordinary Board Meeting after the Annual General Meeting It is also intended that appropriate amendments and inclusions will be added as items of importance arise.

2.2.1 Objectives

By adopting this Code of Conduct, Directors will demonstrate their commitment to achieve the following objectives:

- To adopt and implement 'best practice' procedures in the role of Director;
- The Board of Directors is to be seen to be self-regulating;
- Directors are seen to be 'transparent' in their conduct of the role of Director;
- To ensure that the interests of Members is understood, respected and recognised ahead of all else;
- To provide assurance to Members that appropriate procedures of governance, regulation and accountability are in place such that Members will not be required to intervene or adjudicate in the role of Directors, save for the statutory obligations of nominating and electing Directors.

2.2.2 Introduction

- The Code is to be complied with by all Directors and Officers of the Council. Copies of the Code, together with the Guidelines and Commentary, are to be made available to Members upon written request.
- This code will be adopted, and any amendments made thereto approved, by a 75% majority of the full board of directors.
- This code provides guidelines for persons nominating for the position of director. Such candidates in nominating for election are required to acknowledge and agree in writing to uphold the principles and practices described in this Code.

2.2.3 Duties to the council

- Each Director should endeavour to ensure that the functions of the Board have been clearly specified, understood and are competently discharged in the interests of the Council
- Directors should endeavour to ensure that in seeking advice, where necessary, that that advice is obtained from advisors that are competent and devoting their best endeavours in the best interests of the Council.
- In evaluating the interests of the Council, Directors must generally consider the interests of Members as a whole rather than any sectional or other group interest. Where appropriate or required by law, Directors should take into account the interests of other stakeholders (eg, creditors).

2.2.4 Duties to Shareholders

- Each director should endeavour to ensure that the Council is financially viable, properly managed and constantly improved so as to protect and add value to the shareholder's interests and provide for future shareholders.
- Ensure that on an annual basis the Members are fully and honestly informed of all material matters affecting the Council's business, except those which need to be kept confidential in the interest of the Council as a whole.
- Directors should ensure that all shareholders are treated fairly and in accordance with their rights.
- A director should consider whether any benefit to be received by either themselves and/or an associated person is of enough magnitude that the approval of shareholders be sought, even though not required by law. Should any such benefits arise, the board should consider if and how this should be declared to the shareholders.

2.2.5 Duties to other Stakeholders

- Directors must comply with the legal framework governing their operations and must recognise the impact the Council may have on the communities in which it operates. Without limiting the role a director has in running the business of the Council, particular attention must be given to other stakeholders. These include the local community, business partners, employees and the environment.
- While the obligations of directors are clearly owed to the shareholders as a whole, there are situations in which it is necessary to evaluate the interests

of creditors. This would be particularly so if the Council should experience an uncertain financial position or if insolvency was pending. Should this case arise, a director should seek immediate professional advice.

- Although the director owes primary responsibility to the Members of the Council as a whole, the responsibilities imposed by various Acts and Legislation demands that a director evaluate actions in a broader social context.

2.2.6 Due Diligence

- A Director has a duty to use due care and diligence in fulfilling the functions of office and exercising the powers attached to that office.
- A Director should attend all Board meetings. Where attendance is not possible a leave of absence/apology should be obtained.
- A director must obtain knowledge about the business of the Council, the regulatory requirements and be aware of the political and social environment in which it operates.
- In order to be fully effective, a director should insist on timely access to all relevant information to be considered by the Board in making a proper and informed decision. In extreme circumstances where the Board, due to the lack of timeliness and/or information, does not have the ability to consider the matter properly it may defer deliberation to a later date.
- A Director should ensure that systems, processes and procedures are in place to assist the Board with any necessary data it requires to make reasoned judgements and so discharge its duties of care and diligence.
- A director should endeavour to ensure an open, unimpeded and constructive relationship with the external auditors. A director should be satisfied that the scope of the audit is adequate and that it is carried out thoroughly and with full cooperation of management.
- A Director should ensure that the Council is in full compliance with all legislation and that it strives for the highest of standards of business behaviour by acting ethically at all times.

2.2.7 Conflicts of Interest

- A director must not take improper advantage of their position to gain, directly or indirectly, a personal advantage for either themselves or any associated person.

- A Director is not permitted to have a personal interest in any contract, transaction or arrangement with the Council without full disclosure and prior agreement from the Board.
- A director must not put any personal interests or those of any associated person over the interests of members as a whole. A director must seek to avoid such conflicts of interest where possible. Full disclosure of any conflict or potential conflict must be disclosed to the board. Where a conflict does arise, a director must notify the Board and the board must consider whether the Director should refrain from participating in the debate and/or voting on the matter, or whether the director should be absent from the meeting at those times. Should the conflict be a continuing material conflict, the director should give consideration to resigning from the board.

2.2.8 Use of Information

- A director must not make improper use of information gained as a director. This applies whether the director would gain an advantage either directly or indirectly for themselves or any other person or might cause detriment to the Council.
- Information received by a Director by reason of occupying that office is the property of the Council and must not be utilised by the Director to gain direct or indirect benefit or advantage.
- In addition to the duty not to take advantage of an opportunity presented to the Council, a Director, who in his capacity as a Director, becomes aware of an opportunity which comes within the scope of potential benefit for the Council to consider, has a duty not to divert that opportunity for personal gain but take all reasonable steps to secure the opportunity for the benefit of the Council.
- If a director chooses to resign on a point of principle they should give careful consideration as to the disclosure of the reasons for their resignation. The composition of any such resignation statement must pay careful regard to the duty not to disclose confidential information, and the duty to act in the best interests of the Council.

2.2.9 Confidentiality

- Directors frequently acquire information not generally known to the public or other businesses such as processes, methods, advertising or promotional programs, sales and statistics, legal actions, proposals involving transactions with third parties and other sensitive matters affecting financial

results. This information is the property of the Council and it is improper to disclose it or to allow it to be disclosed to any other person unless the disclosure has first been authorised by the Board of the Council.

- Directors having access to any private information of members of the Council must not disclose this information to other persons as it is the property of the member.

2.2.10 Professional Integrity

- The board is committed to the highest of standards of professional integrity at all times. Directors recognise that their personal presentation and demeanour must reflect these standards. Directors must not do anything that is likely to negatively impact on the Council's corporate reputation.
- Directors must not breach cabinet solidarity. Cabinet Solidarity is the principle under which directors, outside board meetings, support majority decisions of the board, regardless of an individual's view on the decision. The term is also extended to the principle that directors do not discuss, outside the boardroom, the arguments, debate and rationale that lead to the decision unless such disclosure is authorised by the board.
- There may be times when a director feels strongly about a matter of principle that he or she is unable to reconcile with a decision of the Board. In such cases, the Director should, after making clear the dissent to the Board, consider asking for professional advice and the postponement of a decision. This request should be in writing to the Chairman and all directors. If necessary, the director could give notice of resigning. However, Directors should recognise their responsibilities to their colleagues and the Council as a whole and that resignation from the Board, other than for genuine personal reasons, can be damaging to the Council.
- The Council is non-partisan in terms of politics, religion or other beliefs or views. As a consequence, Directors should ensure that any personal involvement in public issues should clearly identify that it is their own personal involvement or opinion and not that of the Council.

2.2.11 Public Statements

- Directors, other than Chairman or acting Chairman do not make public statements to the media or any section of it concerning the Council unless the contents of it has been approved by the board.

2.2.12 Breach of this Code

- In determining whether a Director is, or is not, seen to be in breach of these obligations, the criterion will be whether a reasonable observer, having knowledge of the relevant facts and taking into account the conduct and behaviour of the Director under the circumstances, could fairly conclude, on the balance of probabilities, that the Director has breached the Code.
- Where the Board is of the view that a breach may have occurred it shall cause an inquiry to be conducted into the matter to identify relevant facts and circumstances.
- Failure by a Director to co-operate (without reasonable excuse) in an inquiry under clause 12.2 shall be deemed to be a breach of the Code.
- If the results of the inquiry are such that the Board still has concerns about a possible breach of the Code, the Board by a simple majority of the Directors present and voting (excluding the Director under inquiry) may resolve to refer the matter to an independent arbitrator appointed by agreement between the Board and the relevant Director. The Council shall bear the costs of the arbitration.
- The Arbitrator shall make a finding as to whether or not, in accordance with clause 12.1 of these Guidelines, the relevant Director has breached the Code.