

**LOCAL GOVERNMENT ACT 1993**

**SECTION 440K(1)(a)**

**ORDER SUSPENDING COUNCILLOR KEVIN CRAMERI OF PENRITH CITY COUNCIL  
FROM CIVIC OFFICE**

I, Ross Woodward, Chief Executive of the Division of Local Government, Department of Premier and Cabinet, acting under authority delegated to me by the Director General of the Department of Premier and Cabinet, hereby order that Councillor Kevin Crameri of Penrith City Council be suspended from civic office for a period of one month commencing on 1 March 2012 and ending on 31 March 2012.

Dated: 17 February 2012

A handwritten signature in blue ink, appearing to read "Ross Woodward".

**ROSS WOODWARD**  
Chief Executive, Division of Local Government,  
Department of Premier and Cabinet

## LOCAL GOVERNMENT ACT 1993

### SECTION 440Q

#### STATEMENT OF REASONS FOR SUSPENSION OF COUNCILLOR KEVIN CRAMERI OF PENRITH CITY COUNCIL

1. I, Ross Woodward, Chief Executive, Division of Local Government, Department of Premier and Cabinet, having considered a departmental report prepared under section 440J of the Local Government Act 1993, am satisfied, for the purposes of section 440I(1)(b) of the Act, that Councillor Crameri's behaviour has involved an incident of misbehaviour that is of such a sufficiently serious nature as to warrant his suspension from civic office.

#### RELEVANT LEGISLATION

2. Section 440H(1)(a) of the Act provides that the process for the suspension of a councillor from civic office may be initiated by a request made by the council by resolution communicated to the Director-General, in which the council states its belief that grounds may exist that warrant the councillor's suspension.
3. Section 440I(1)(b) provides that a councillor may be suspended from civic office if the councillor's behaviour has involved one incident of misbehaviour that is of such sufficiently serious nature as to warrant the councillor's suspension.
4. Section 440I(2)(b) provides that the process for the suspension of a councillor from civic office cannot be initiated by a request made by the council unless, where section 440I(1)(b) applies, the councillor has-
  - (a) been formally censured for the incident of misbehaviour concerned, or
  - (b) been expelled from a meeting of the council or a committee of the council for the incident of misbehaviour concerned.
5. Section 440J provides that the Director-General may arrange for a departmental report to be prepared into the matters raised by or connected with a request referred to in section 440H. The preparation of such a report is a prerequisite to a decision by the Director-General to suspend the councillor from office.
6. Section 440K(1)(a) authorises the Director-General to suspend a councillor from civic office for a period not exceeding one month if the Director-General has considered a departmental report into the matters concerned and is satisfied that grounds exist that warrant the councillor's suspension.
7. "Misbehaviour" is defined by section 440F of the Act to include a failure by a councillor to comply with an applicable requirement of a code of conduct as required under section 440(5).



- 8 Section 440(5) provides that councillors must comply with the council's adopted code of conduct.
9. Section 745 provides that the Director-General may delegate to any person any of the Director-General's functions under the Act, other than the power of delegation.

#### **THE INCIDENT**

10. The incident occurred while Clr Crameri, as Mayor of Penrith City Council, was representing Council as part of a delegation that visited China, Korea and Japan in October and November 2010.
11. Clr Crameri's behaviour involved an incident of misbehaviour on 1 November 2010, where he deliberately touched a member of the delegation on her neck with his hand, without permission to do so.

#### **REASONS FOR SUSPENDING COUNCILLOR CRAMERI FOR ONE MONTH UNDER SECTION 440K OF THE LOCAL GOVERNMENT ACT 1993**

12. I have carefully considered the departmental report prepared under section 440J of the Act into the behaviour of Clr Crameri. I have also taken into account Clr Crameri's response to the departmental report together with his submissions on a possible penalty of suspension. I acknowledge Clr Crameri's full assistance with the investigation. I also note that at the time of the commencement of the investigation Clr Crameri was the Mayor of Penrith City Council, a position he held at the time of the alleged misbehaviour. Clr Crameri is no longer the Mayor.
13. I have come to the conclusion that, despite Clr Crameri's record of service to the community, the embarrassment already caused to him through publicity and the loss of the Mayoral annual fee by voluntarily standing aside from the Mayoral role, this incident is serious enough to warrant the application of the maximum penalty available to me under the Act that is, suspension from civic office for a period of one month.
14. I am convinced that the incident did occur (as acknowledged by Clr Crameri) and that Council's code of conduct does apply under the circumstances. Of major concern is that Clr Crameri has not acknowledged that his behaviour was an act of misbehaviour as defined by the code of conduct and the Act but rather, regards it as a "bit of silliness" or "a joking thing".
15. Despite numerous opportunities to reflect on his behaviour, Clr Crameri has admitted to merely going through the motions of reparation through a written apology only to appease perceptions by others.
16. In particular, I have noted that Clr Crameri's conduct had been of concern to a number of delegates for some time prior to the incident. Clr Crameri has acknowledged that during the delegation and prior to 1 November 2010 there were between six to eight occasions where different people had spoken to him about concerns about his conduct. Given this, it was not unreasonable to expect him to be mindful of paying



attention to ensuring his conduct was appropriate on the day of the incident. His apparent failure to have due regard for this is therefore serious.

17. I am satisfied that Clr Cramer's behaviour on the occasion of the incident was in breach of clause 6.3 of Council's adopted code of conduct which stipulates that Council officials must treat others with respect at all times. His conduct, touching another person, a delegate, on their neck without their permission and without asking, was disrespectful. This breach of Council's adopted code of conduct constitutes an incident of misbehaviour under section 440F(1)(b).
18. I am satisfied that Clr Cramer's behaviour on the occasion of the incident was also in breach of clause 6.2 of Council's adopted code of conduct which stipulates that Council officials must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out their functions under the Act or any other Act. Specifically, his behaviour was a failure to exercise a reasonable degree of care and diligence. This breach of Council's adopted code of conduct constitutes an incident of misbehaviour under section 440F(1)(b).
19. I am satisfied that Clr Cramer is a very experienced Council official who was present when Council adopted its code of conduct and who had the benefit of attending training and information sessions where the code was discussed.
20. As noted above, Clr Cramer was warned about his conduct on several occasions by a number of different persons during the course of the delegation. The exercising of a reasonable degree of care would have seen him upholding the highest standards of probity on 1 November 2010. He failed to do so.
21. Further, I am satisfied that Clr Cramer's behaviour on the occasion of the incident was in breach of clause 6.1 of Council's adopted code of conduct which stipulates that Council officials must not conduct themselves in carrying out their functions in a manner that is likely to bring the Council or holders of civic office into disrepute. Clr Cramer's conduct was improper, having regard to its nature, his role and the limited nature of his acquaintance with the delegate he touched. This breach of Council's adopted code of conduct constitutes an incident of misbehaviour under section 440F(1)(b).
22. I am satisfied that the physical contact between Clr Cramer and the delegate was uninvited and unwelcomed by the delegate. His conduct caused the delegate concern.
23. I am satisfied that Clr Cramer is a very experienced councillor and as such, had the benefit of that experience to guide him as to the appropriate standard of conduct expected of Council officials. His apparent disregard for the appropriate standard is therefore serious.
24. I am satisfied that Clr Cramer was aware of the general conduct obligations imposed by Council's adopted code of conduct prior to the incident. His apparent disregard for the appropriate standards is therefore serious, despite his assertion that he was unaware that what he has submitted was an inappropriate joke could constitute a breach of the Council's adopted code of conduct.

25. While there is evidence that indicates that Cllr Crameri benefited from the counselling he received in compliance with a resolution of Council made on 28 February 2011, he continues to demonstrate a lack of awareness that he has engaged in misbehaviour.

*Ross Woodward 17/2/12*

**ROSS WOODWARD**  
Chief Executive, Division of Local Government,  
Department of Premier and Cabinet