

# **ATTACHMENT 1**

**STRATHFIELD COUNCIL  
CONDUCT REVIEW COMMITTEE/REVIEWER REPORT**

**CODE OF CONDUCT MATTER 0057**

**Name of Councillor the subject of the complaint:**

Councillor Danny Lim

**Name of complainant:**

Councillor Tony Maroun

**Names of members of Conduct Review Committee/Reviewer:**

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**Description of the complaint alleging a breach of the Code of Conduct:**

Cr Maroun alleged that Cr Lim threatened him regarding voting in relation to certain items in the Business Paper for the Ordinary Council Meeting on 6 October 2009.

**Date referred to Conduct Review Committee/Reviewer:**

2 December 2009

**Procedural history:**

2 December 2009	Matter referred to Committee
11 December 2009	Committee advised Cr Lim of referral
14 December 2009	Committee advised Cr Lim that it would make enquiries and invited Cr Lim to respond to allegations in writing and orally
14 December 2009	Cr Maroun addressed Committee. Committee interviewed Mr Patrick Wong, Acting General Manager
17 December 2009	Cr Lim responded to allegations in writing
8 February 2010	Cr Lim provided further written material to Committee and addressed Committee in person
8 February 2010	Determination by Committee

**Issues for determination:**

- Whether the alleged incident took place
- Whether Cr Lim breached the Code of Conduct

**Meeting dates (and persons in attendance):**

2 December 2009	Conduct Reviewer Committee and Council Solicitor James Ng
14 December 2009	Conduct Reviewer Committee, Council Solicitor James Ng; Complainant Cr Tony Maroun; Witness Patrick Wong
11 January 2010	Conduct Reviewer Committee and Council Solicitor James Ng
8 February 2010	Conduct Reviewer Committee, Council Solicitor James Ng; Subject Cr Danny Lim and solicitor Andrew Pasternacki

**Factual background and details of enquiries made:**

On 14 December 2009, Cr Maroun addressed the Committee in person and provided handwritten notes taken by him. Cr Maroun alleged that he received a number of abusive and threatening telephone calls from Cr Lim between 2 October and 6 October 2009. In the telephone calls, Cr Lim allegedly said that if Cr Maroun did not vote a certain way in relation to certain items on the Business Paper for the Ordinary Council Meeting on 6 October 2009, in particular the Housing NSW matter in Belfield, that

*“... the mob is gonna come to the meeting and lynch you.”*

Cr Maroun also alleged that in a meeting with Cr Lim and the Acting General Manager Patrick Wong on 6 October 2009, Cr Lim raised a number of matters that were in the Business Paper for that evening and was very abusive and threatening towards Cr Maroun and Mr Wong.

The Committee interviewed Mr Wong on 14 December 2009 and also received a written statement from Mr Wong on that date.

On 8 February 2010, Cr Lim addressed the Committee in person and provided two statutory declarations by himself and Mr Ho.

**Names of witnesses and other persons interviewed/questioned:**

- Cr Tony Maroun – on 14 December 2009
- Mr Patrick Wong, Acting General Manager – on 14 December 2009
- Cr Danny Lim – on 8 February 2010
- Andrew Pasternacki, Solicitor accompanied Cr Lim in an advisory capacity but did not speak – on 8 February 2010

### **Findings of material fact:**

The Committee finds that Cr Lim did on or about 6 October 2009 engage in conduct contrary to clauses 6.1(e), 6.3, 6.7 and 9.2(b) of the Strathfield Council Code of Conduct of 5 August 2008 made pursuant to Section 440 of the NSW Local Government Act, such conduct constituting misbehaviour and that particularly in respect to clause 9.2(b) the conduct was inappropriate.

### **Reasons for findings of material fact:**

It is not disputed that a meeting took place on or about 6 October 2009 present at which were the Mayor Cr Maroun and the Acting General Manager, Patrick Wong. Cr Lim came into the meeting after it had started. A former Councillor Mr Ho was probably also present with Cr Lim.

The meeting between Mr Wong and the Mayor was for the purpose of discussing the business paper of the forthcoming Council Meeting and Cr Lim was present to discuss particular problems he had with the agenda.

Cr Maroun alleges that Cr Lim was verbally abusive and threatening. It is alleged that Cr Lim abused and threatened Cr Maroun on numerous occasions on the telephone over the previous few days (from about 2 October 2009) up to and including 6 October 2009 and at the said meeting, particularly on the Belfield Housing Commission matter. Cr Lim is alleged by Cr Maroun to have said, inter alia, to Cr Maroun "the mob is gonna come to the meeting and lynch you" if he did not vote a certain way and said to him also "you're next" which reference Cr Maroun inferred was a reference to the vote of Cr Lim in the recent loss of the mayoralty by Cr Kwon. It is also alleged that Cr Lim was volatile and abusive and did all the talking at the meeting, repeatedly using expletives, particularly the word "fuck". Cr Maroun felt under duress and distressed and felt his privacy was violated by the use of expletives as he does not use them.

Mr Wong asserts that prior to the meeting he had been subjected to the repeated yelling of expletives in a phone call concerning a procedural matter in the Business Paper for that forthcoming meeting including abuse and denigration of the Mayor and staff. Mr Wong said that he threatened to and did hang up on Cr Lim when he continued such conduct over his protests.

Whilst in the said meeting discussing the Business Paper with the Mayor, Cr Lim rang up to request a meeting during the course of which the phone was put on speaker and Mr Wong said he heard Cr Maroun say to Cr Lim "The community voted me in and I have to do what the community wants" in reply to which Cr Lim said "You do what I want – you're not listening to me." He also heard Cr Lim say in reference to himself "Patrick Wong has no idea – he's a fool" and "Patrick does things illegally." Mr Wong says he abused, threatened and denigrated staff. The Mayor agreed to him attending the meeting extant.

Mr Wong said that at the meeting referred to above Cr Lim said "The mob will be there waiting for you" and the term "fucking idiot" on numerous occasions. Mr Wong expressed the opinion that Cr Lim was out of order and that such behaviour made the meeting to be of no practical benefit. Mr Wong said that Mr Ho took no part in the meeting. Mr Wong confirmed that the date of the meeting was 6 October 2009.

The Committee was impressed by the contemporaneous notes by Cr Maroun, the forthright manner of Mr Wong's evidence and the absence of any reason to call his credit into question.

The evidence in Matter 0058 is applied to Matter 0057 on the issue of the alleged repetitive verbal abuse per the use of expletives by Cr Lim but only in respect to the capacity of Cr Lim to so engage.

Cr Lim in paragraph 28 of his statutory declaration says that "at no time did I swear or yell expletives on the phone" with Mr Wong. He says in his address that the context of the Belfield matter discussion was "entirely political" and thought it inappropriate that Mr Wong was present. In his address to the Committee Cr Lim denied abuse, threats or denigration.

Cr Lim addressed the Committee on 8 February 2010 with personal and general comments which were of no value relevant to the issue of conduct. He alleges he said "the mob is coming to lynch us" and in evidence he submitted two statutory declarations made by himself and Mr Ho. The text and attachments are largely irrelevant to the issue of the complaint about Cr Lim's conduct except for the denials. There is material that is tangential to the issue, e.g. suggesting that Mr Wong was affected by comments critical of the role of "bureaucrats" and Mr Wong in particular. There are 100 numbered paragraphs in Cr Lim's statutory declaration and 102 in Mr Ho's. They are almost identical except for the insertion of two paragraphs in Mr Ho's statutory declaration and the adjustment of the first and second person reference. The statutory declaration of Mr Ho is contrived and of little weight because he traverses every single paragraph of Cr Lim's statutory declaration in identical language. Critically, the Committee is not assisted by those statutory declarations in the task of evaluating the evidence of Cr Maroun and Mr Wong by simply offering flat general denials.

#### **Recommendations:**

The Committee considered clause 14.9 and recommends that Council censure Cr Lim and require Cr Lim to apologise to Cr Maroun and Patrick Wong and make public findings of inappropriate conduct.

#### **Reasons for recommendations:**

The Committee considers the conduct serious and accepts that Cr Maroun was consequently distressed and under duress. Further that the behaviour towards Mr Wong a senior office holder was disruptive, involved more than one incident of misbehaviour and is considered to be of a serious nature.

#### **Voting:**

Unanimous.