

# Extraordinary Council Meeting

## Minutes

Grafton - 20 January 2022 - 8:00am





# AGENDA

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## 1. OPENING OF EXTRAORDINARY MEETING

**MINUTES of the EXTRAORDINARY MEETING of the CLARENCE VALLEY COUNCIL at Council Chambers, Grafton, 20 January 2022 commencing at 8:00am and closing at 8.13am**

**AFFIRMATION** – Cr Clancy delivered the Affirmation.

We, the Councillors of the Clarence Valley declare that we will undertake the duties of the office of Councillor in the best interests of our community and faithfully and impartially, carry out the functions, powers, authorities and discretions vested in us, to the best of our skill and judgement.

**ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND** – Cr Toms delivered the Acknowledgement of Country.

I acknowledge the Traditional Custodians of these lands on which this meeting is taking place and pay tribute and respect to the Elders both past and present of the Bundjalung, Gumbaynggirr and Yaegl nations which lie within the Council boundaries.

**ANNOUNCEMENT** – The General Manager delivered the announcement.

All present are advised that this meeting is being broadcast live and audio recorded. Your attendance at this meeting is your acceptance that your image may be recorded and streamed to the internet as well as being retained in the archive of the record of the Council meeting.

Speakers are asked not to make insulting or defamatory statements and to take care when discussing other people's personal information. No other persons are permitted to record the meeting unless specifically authorised by Council to do so.

### ATTENDEES

Cr Jeff Smith, Cr Debrah Novak, Cr Ian Tiley (Mayor), Cr Allison Whaites, Cr Bill Day, Cr Greg Clancy (Deputy Mayor), Cr Peter Johnstone, Cr Karen Toms and Cr Steve Pickering

### PRESENT

A/General Manager (Laura Black), Director Environment & Planning (Adam Cameron), A/Director Corporate & Governance (Alex Moar) and Minutes Secretary (Debbie McGilvray).

**2. APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE** - Director Works & Civil (Jamie Fleeting)

**3. DISCLOSURES AND DECLARATIONS OF INTEREST**

Nil

**ITEM 6a.22.008(2) CODE OF MEETING PRACTICE AND COUNCIL MEETING CYCLE**

<b>Meeting</b>	Extraordinary Council	20 January 2022
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Acting Director - Corporate & Governance (Alex Moar)	
<b>Prepared by</b>	Governance Officer, Bligh Grant	
<b>Attachments</b>	A. Draft CVC Model Code of Meeting Practice V14.0 (tracked changes) <a href="#">↔</a>	

**SUMMARY**

In October 2021 the OLG circulated a revised Model Code of Meeting Practice. This report recommends that a Draft Code of Meeting Practice, informed by the new Model Meeting Code, be considered by Council and, subject to amendments, be placed on public exhibition.

**OFFICER RECOMMENDATION**

That

1. Council note the draft Code of Conduct provides the venue for the meetings of the Ordinary Council Meeting rotates between Grafton and Maclean.
2. The February 2022 Ordinary Council Meeting be held in Maclean.
3. The Council Meeting cycle be one Ordinary Council Meeting held each month on the fourth Tuesday of the month, commencing at 2:00pm.
4. Council place on public exhibition the draft Code of Meeting Practice for a period of 28 days, with submissions being received for up to 42 days.
5. Prior to public exhibition, the draft Code of Meeting Practice be amended to reflect the resolution of Council to include the Ordinary Meeting cycle identified in this resolution of Council.

**COUNCIL RESOLUTION - 6a.22.008(2)**

**Johnstone/Day**

That

1. Council note the draft Code of Meeting Practice provides the venue for the meetings of the Ordinary Council Meeting (OCM) rotates between Grafton and Maclean.
2. The February 2022 Ordinary Council Meeting be held in Maclean.
3. The Council Meeting cycle be one Ordinary Council Meeting held each month on the fourth Tuesday of the month, commencing at 2:00pm.
4. Council place on public exhibition the draft Code of Meeting Practice for a period of 28 days, with submissions being received for up to 42 days.
5. Prior to public exhibition, the draft Code of Meeting Practice be amended to reflect the resolution of Council to include the Ordinary Meeting cycle identified in this resolution of Council.
6. Presentations to Council be invited from community groups and representatives of government on the morning of the Ordinary Meeting, with full details being made available on Council's website.
7. A live streamed Public Forum will be held between 11am and 1pm prior to the Ordinary Meeting to hear depositions to items on the business paper before the Council on that day, with full details being made available on Council's website.
8. An information (workshop) session be provided to Councillors on the Friday morning before the OCM.
9. On-site inspections for Development Applications listed in the OCM business paper, be conducted following the information session on the Friday before the OCM
10. OCM business papers be provided to Councillors on the Tuesday prior to the OCM.
11. Officer reports on DA's be also provided on the Tuesday to persons who have expressed an interest in a DA, to enable time for those persons to prepare for on-site presentations.
12. Part 8.1.1 of the Code of Meeting Practice be amended so that Notices of Motion are considered before Officers Reports.

Voting recorded as follows

For: Johnstone, Tiley, Whaites, Clancy, Day, Smith, Novak, Toms, Pickering

Against: Nil

**CARRIED**

## LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

## BACKGROUND

Under section 202 of the *Local Government (General) Regulation 2021*, the 'Model Code of Meeting Practice for Local Councils in NSW', published in the OLG Gazette on 29 October and in OLG Circular 21-35, is prescribed for the purposes of section 360(1) of the *Local Government Act*.

Under sections 360/361 of the *Act*:

- The Model Code may contain both mandatory and non-mandatory provisions;
- All councils must, no later than 12 months after an ordinary election, adopt a Code of Meeting Practice, with contains the prescribed provisions of the Model Code and non-mandatory provisions ('Local Law');
- Before adoption of their Code of Meeting Practice, councils must prepare a Draft Code, which must be placed on exhibition for no less than 28 days and for which submissions can be received for a period of no less than 42 days;
- The Code of Meeting Practice can amended by Councils before being adopted as local law.

## KEY ISSUES

Council's Code of Meeting Practice is a core policy and procedural document. Alongside Council's Code of Conduct and a suite of other policies, it is essential to the transparent, accountable and efficient operations of Council generally and meetings of Council and associated committees in particular.

With the election of the new Council in December 2021, the provision of a revised Model Code by the OLG in October 2021 presents a timely opportunity to place a revised Draft Code on public exhibition and for a new Code of Meeting Practice to be understood and adopted by Council.

Council's Code of Meeting practice reflects the Model Code of Meeting Practice from OLG and has been updated to include mandatory and non mandatory updates. Updates are noted as followed;

1. Red colour print notes inclusions that are not mandatory but listed in model code of meeting practice
2. Green colour print is previously adopted local policy
3. Green colour print crossed out is recommended remove of local policy
4. Purple colour print – mandatory updates made in blue
5. Red crossed out print removed from draft code with replacement print in blue

Identified grammatical errors have also been corrected.

Over a number of years Council has added Local Policy (Local Law) to the Code of Meeting Practice. Note the table below regarding recommendations relating to Local Policy.

Local Policy recommended for retention (identified in the draft Code in green print):

Clause	Comments
3.1 The venue for the meetings of the Ordinary Council Meetings rotate between Grafton and Maclean	To maintain equitable access across a large LGA.
3.2 Meetings of the council may be held on other dates or at other times or other venues. As determined by the council. (Local Policy)	
3.12 A councillor may submit no more than two (2) notices of motion to be considered at each monthly meeting cycle of the council.	Limits potential for creating unreasonable expectations, workloads and ensures Meeting Agenda is manageable.

<p>a) A councillor who has submitted a notice of motion under clause 3.6.1 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.</p> <p><b>B)</b> The general manager may request relevant staff to make comment on, but not make a recommendation in relation to, the notice of motion.</p>	<p>10.2 a. Ensures councillors have current information and reduces need to prepare and report with recommendations the following month.</p>
<p><b>13.8</b> Any motion relating to the remuneration of elected members must not be included in the list of multiple items of business to be adopted by way of a single resolution.</p>	<p>Provides transparency over remuneration.</p>
<p>Inviting and receiving advice from the General Manager</p> <p>15.27 The chairperson may invite the general manager to provide advice to the meeting. The general manager may after invitation choose to provide the requested advice by delegating the response to a staff member.</p> <p>15.28 Where the chairperson wishes to invite the general manager to provide advice to the meeting, or where the general manager wishes to indicate an offer to provide advice, and excepting where the general manager may make an urgent interjection to advise of unlawful proceedings or likely unlawful outcome were the meeting to continue uninterrupted, an interjection indicating an invitation or offer of advice is not to occur so as to interrupt the proper course of the meeting being conducted under the other provisions of this code.</p> <p>15.29 Where the chairperson invites the general manager to provide advice, such advice is to be delivered only after the chairperson has called an adjournment to any proceedings underway at the time and where that adjournment is called in accordance with code of meeting practice provisions allowing for an interruption.</p> <p>15.30 Where verbal or written advice is provided by the general manager, or by a staff member through the general manager, to a meeting of council, such advice is to be provided to the meeting by way of the public address and audio recording system. Where written advice is read to the meeting, the source document is to be tabled following the reading of that advice into the audio recording system.</p> <p>15.31 Where the chairperson is to receive confidential advice in any form from the general manager, the meeting is to be adjourned for such period of time as to allow the giving and receiving of that confidential advice to occur in a place not seen or heard by any other councillor or by any member of the public in attendance at the meeting.</p>	<p>Provides that councillors are informed.</p>

Local Policy recommended for removal (identified in the draft Code in green print crossed out):

Clause	Comment
<p>3.4 The mayor or, the general manager in consultation with the mayor, may call an extraordinary meeting without the need to obtain the signature of two councillors to consider urgent business. (Local Policy)</p>	<p>The Model Code provision to be followed.</p>
<p>3.5 For the purpose of clause 3.2.2, urgent business is any matter that, in the opinion of the mayor or the general manager, requires a decision by council before the next scheduled ordinary meeting of the council. (Local Policy)</p>	
<p>3.13 If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may</p>	<p>The Model Code provision to be.</p>

<p>(a) prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council, noting the report is to identify if the general manager believes the notice of motion to be unlawful and the reason for this or</p> <p>(b) by written notice send to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report</p>	
<p>3.14 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the general manager must either:</p> <p>(a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or</p> <p>(b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.</p>	The Model Code provision to be followed.
<p>3.17 A councillor may ask a question with notice, about a business paper item on the published Agenda and have that question answered by way of a public written response to be noted at the Ordinary Meeting of Council, if the question is put in writing to the General Manager by 11am of the day preceding the meeting noting that the response is to be included in the Questions with Notice report to be tabled at the Ordinary Meeting under clause 8.2.</p>	Creates confusion and will be addressed through the proposed Pre-Meeting Briefing.
<p><b>Presentations</b></p> <p>4.2.1 Presentations may be made to council prior to a council meeting.</p> <p>4.2.2 Requests to present to council must be made to the general manager or their delegate in writing, with full disclosure of the presentation.</p> <p>4.2.3 The general manager or their delegate may refuse an application to present to council.</p> <p>4.2.4 Councillors are to be notified in advance of the presentation, the addressee, the topic and how it relates to the business of council.</p>	Redundant due to addition of public forum provision in the Model Code.

## COUNCIL IMPLICATIONS

### Budget/Financial

N/A

### Asset Management

N/A

### Policy and Regulation

*Local Government Act s.360-364.*

*Local Government (General) Regulation 2021 s. 232*

Office of Local Government Circular 21-35 / 29 October 2021 / A796782.

### Consultation

The Draft Code of Meeting Practice will be placed on exhibition for at least 28 days and submissions will be open for at least 42 days.

### Legal and Risk Management

N/A

### Climate Change

N/A

**ITEM 6a.22.009 MEMBERSHIP OF THE JOINT REGIONAL PLANNING PROPOSAL**

<b>Meeting</b>	Extraordinary Council	20 January 2022
<b>Directorate</b>	Office of General Manager	
<b>Reviewed by</b>	A/General Manager – (Laura Black)	
<b>Prepared by</b>	Manager Development & Land Use Planning, Murray Lane	
<b>Attachments</b>	A. Sydney District and Regional Planning Panels - operational procedures, August 2020 <a href="#">⇒</a>	

**SUMMARY**

This report seeks a Council resolution to appoint members to the Northern Regional Planning Panel (the NR Planning Panel). The NR Planning Panel is established under the *Environmental Planning and Assessment Act 1979* (EP&A Act) which includes specific requirements about panel membership.

**OFFICER RECOMMENDATION**

That Council appoint two (2) members and one (1) alternative member to the Northern Regional Planning Panel, in accordance with the *Environmental Planning and Assessment Act 1979* and for a period until the commencement of the current Council's caretaker period in September 2024.

**MOTION**

Day/Pickering

That Council appoint two (2) members and one (1) alternative member to the Northern Regional Planning Panel, in accordance with the *Environmental Planning and Assessment Act 1979* and for a period until the commencement of the current Council's caretaker period in September 2024.

*The Motion was moved but no voting took place.*

**COUNCIL RESOLUTION – 6A.22.009 (1)**

**Toms/Day**

**That Council appoint two (2) members and one (1) alternative member to the Northern Regional Planning Panel, in accordance with the *Environmental Planning and Assessment Act 1979* and for a period until the commencement of the current Council's caretaker period in September 2024.**

**Voting recorded as follows**

**For: Clancy, Day, Novak, Johnstone, Pickering, Smith, Tiley, Toms, Whaites**

**Against: Nil**

**CARRIED**

**COUNCIL RESOLUTION – 6A.22.009 (2)**

**Day/Toms**

**That Council appoint two (2) members, Mayor Tiley and Deputy Mayor Cr Clancy, and one (1) alternative member, Cr Johnstone, to the Northern Regional Planning Panel, in accordance with the *Environmental Planning and Assessment Act 1979* and for a period until the commencement of the current Council's caretaker period in September 2024.**

**Voting recorded as follows**

**For: Clancy, Day, Novak, Johnstone, Pickering, Smith, Tiley, Toms, Whaites**

**Against: Nil**

**CARRIED**

## LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

## BACKGROUND

The Planning Panels were introduced in NSW on 1 July 2009 to strengthen decision making for regionally significant development and certain other planning functions under the EP&A Act. The panels are independent bodies representing the Crown and are not subject to the direction of the Minister, except in some limited circumstances.

There are nine Planning Panels across NSW, including the NR Planning Panel. The NR Planning Panel may:

- determine regionally significant development applications (DAs), certain other DAs and related modification applications, which include:
  - Regional development, as outlined in Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*
  - DAs with a capital investment value over \$30 million
  - Council-related DAs with a capital investment value over \$5 million
- act as the Planning Proposal Authority when directed
- undertake rezoning reviews
- provide advice on other planning and development matters when requested
- determine site compatibility certificates under the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

The Council's previous panel members comprised the Mayor and Deputy Mayor, with a councillor as the alternate.

## KEY ISSUES

Division of the 2.4 EP&A Act provides that the Planning Panel comprise five (5) members, (3) three being appointed by the Minister and two (2) members for the applicable Council area who are:

- Councillors
- Members of council staff, or
- Other persons nominated by the council.

The EP&A Act requires that council nominees meet the following criteria:

- Council nominates two (2) members, and may appoint an alternative member.
- At least one of the council nominees is to be a person who has expertise in at least one area of planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.
- Property developers and real estate agents are not eligible to be members of a Panel.
- If a council fails to nominate one or more council members, a Planning Panel may still exercise its functions.

The associated *Sydney District and Regional Planning Panels - Operational Procedures (Attachment A)* provides more detail about Council's role in selecting Planning Panel members, including guidance about conflicts of interest, persons that may be appointed, periods of appointment, and that all members must comply with a code of conduct.

## COUNCIL IMPLICATIONS

### Budget/Financial

There is a budget under Project 991001 for members to attend planning panel meetings and provides for reimburse of travel expenses only.

Councils determine the fees to pay panel members. Such payment may be applicable if members of the community were proposed to be appointed. Currently council has no budget or policy about fee payment as prior panel membership was held by councillors.

**Asset Management**

N/A

**Policy and Regulation**

EP&amp;A Act 1979

*Sydney District and Regional Planning Panels - Operational Procedures, August 2020**Sydney District and Regional Planning Panels – Code of Conduct, August 2020***Consultation**

Council may consult externally in determining membership, which may be a member of the community or a particular target group, as determined by Council. This is not recommended to ensure nominated council members are appointed to the NR Planning Panel in February 2022.

**Legal and Risk Management**

N/A

**Climate Change**

N/A

**05 LATE ITEMS OF BUSINESS AND MATTERS ARISING****ITEM 10.22.001 PERSONAL ASSISTANT TO THE MAYOR AND COUNCILLORS**

<b>Meeting</b>	Extraordinary Council	20 January 2022
<b>Directorate</b>	Office of General Manager	
<b>Reviewed by</b>	A/General Manager, Laura Black	
<b>Prepared by</b>	A/General Manager, Laura Black	
<b>Attachments</b>	Nil	

**SUMMARY**

This report requests Council's consideration of allocation of resources to engage a full time Personal Assistant to the Mayor and Councillors.

**OFFICER RECOMMENDATION**

That

1. Council engage a full time Personal Assistant to the Mayor and Councillors.
2. Funds required for the position in 2021/2022 be covered by existing vacancies.
3. Funds required for the position ongoing be reflected in the draft 2022/2023 Budget currently being prepared.

**COUNCIL RESOLUTION – 10.22.001**

**Johnstone/Whaites**

That

1. Council provide additional funds as identified in the report, to the General Manager to provide additional personal assistant support to the Mayor and Councillors.
2. Funds required for the position in 2021/2022 be covered by existing vacancies.
3. Funds required for the position ongoing be reflected in the draft 2022/2023 Budget currently being prepared.

Voting recorded as follows:

For: Clancy, Day, Novak, Johnstone, Pickering, Smith, Tiley, Toms, Whaites

Against: Nil

**CARRIED**

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Leadership - We will have an effective and efficient organisation

**BACKGROUND**

Council currently employs one Executive Assistant to provide support to the General Manager, three Directors and the Mayor.

The Office of the Mayor has requested better executive support to the governing body and the Mayor. This level of support cannot be resourced from within the current organisational structure.

**KEY ISSUES**

To meet the level of executive support required for the governing body and the Mayor, it is proposed to recruit a Personal Assistant whose responsibilities would include, but are not limited to:

- Managing calendars
- Drafting and managing correspondence for the Office of the Mayor
- Coordinating media interviews & speaking arrangements
- Receiving invitations and confirming attendance

- Phone call management
- Researching constituent enquiries
- Researching content for presentations, speeches and addresses by the Mayor
- Minute & note taking

The cost associated with employment of a Personal Assistant is approximately \$79,000 pa including oncosts and can be covered by salary savings from vacancies in the current year.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

The cost of the position will be attributed to the General Fund in the 2022/2023 draft budget in the Office of the General Manager service.

### **Asset Management**

N/A

### **Policy or Regulation**

N/A

### **Consultation**

N/A

### **Legal and Risk Management**

N/A

### **Climate Change**

N/A

## **CLOSE OF ORDINARY MEETING**

There being no further business the Extraordinary Meeting closed at 8.13am.