



Wyong
Shire
Council
CENTRAL COAST

Wyong Shire Council

Business Paper

EXTRAORDINARY COUNCIL MEETING

19 March 2014

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MEETING NOTICE

**The Extraordinary Council Meeting
of Wyong Shire Council
will be held in the Council Chamber,
Wyong Civic Centre, Hely Street, Wyong on
Wednesday 19 March 2014 at 7.00 pm,
for the transaction of the business listed below:**

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

RECEIPT OF APOLOGIES

1 PROCEDURAL ITEMS

1.1 Disclosure of Interest 4

2 GENERAL REPORTS

2.1 Code of Meeting Practice for Central Coast Regional Organisation of Councils 5

3 INFORMATION REPORTS

3.1 Final Report - Independent Local Government Review Panel 19

3.2 Final Report - Local Government Act Taskforce 21

At the conclusion of the meeting and at the discretion of the Mayor, Council may meet with staff in an informal, non-decision making mode for a period of no more than 30 minutes.

Michael Whittaker
GENERAL MANAGER

1.1 Disclosure of Interest

TRIM REFERENCE: F2013/02042 - D06155642

MANAGER: Lesley Crawley, Manager

AUTHOR: Sonia Witt; TL Governance and Councillor Services

The provisions of Chapter 14 of the *Local Government Act, 1993* regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions, voting on that matter, and require that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

RECOMMENDATION

That Councillors now disclose any conflicts of interest in matters under consideration by Council at this meeting.

2.1 Code of Meeting Practice for Central Coast Regional Organisation of Councils

TRIM REFERENCE: F2004/06390 - D06156007

AUTHOR/MANAGER: Michael Whittaker; General Manager

SUMMARY

At its meeting held on 16 May 2013, the Central Coast Regional Organisation of Councils (CCROC) recommended that:

“A Code of Meeting Practice be referred to the Executive at their next meeting.”

RECOMMENDATION

That Council adopt the amended Code of Meeting Practice for Central Coast Regional Organisation of Councils.

BACKGROUND

A CCROC Code of Meeting Practice has been prepared (attached). This Code of Meeting Practice was considered and adopted by the CCROC Executive at its meeting held on 12 August 2013.

ATTACHMENTS

- | | | |
|---|--|-----------|
| 1 | Code of Meeting Practice for Central Coast Regional Organisation of Councils | D06156515 |
|---|--|-----------|



CENTRAL COAST REGIONAL ORGANISATION OF COUNCILS

CODE OF MEETING PRACTICE

POLICY OBJECTIVES

- 1 To adopt a code of meeting practice for Central Coast Regional Organisation of Council (CCROC) for Councillors and staff to use as guidelines.
- 2 To provide good meeting practice that will assist in facilitating sound decision making.

POLICY STATEMENT

- 1 The Code of Meeting Practice sets out the manner in which meetings of the CCROC are to be convened and conducted.
- 2 The Mayor of the hosting Council is automatically the chairperson of the CCROC meeting. In the hosting Mayor's absence, the hosting Deputy Mayor takes the chair. If neither is present, hosting Councillors at the meeting may elect a chairperson from the hosting Council.
- 3 The chairperson's role is an important one. It includes maintaining order, keeping discussions to the point, decided on points of order and putting proposed motions and amendments. He or she must also ensure that discussion proceeds in accordance with the agenda.

Table of Contents

1	How often does CCROC meet?	3
2	Notice of meetings.	3
3	What is the quorum for a meeting?	3
4	What happens when a quorum is not present?	3
5	Where are meetings held?	4
6	Who presides at meetings of CCROC?	4
7	Chairperson to have precedence	4
8	Addressing Councillors and Chairpersons	4
9	Agenda Papers for CCROC meetings	5
10	Giving notice of business	5
11	Limitation as to number of speeches	5
12	Motions to be seconded	6
13	Amendments	6
14	Foreshadowed amendments	6
15	Motions of dissent	7
16	Chairperson's duty with respect to motions	7
17	Voting at CCROC meetings	7
18	What are the voting entitlements?	8
19	Questions of order	8
20	Acts of disorder	8
21	Pecuniary Interest	9
22	Who has a pecuniary interest?	9
23	Disclosure and participation in meetings	10
24	What is a "non-pecuniary" interest?	10
25	Matters to be recorded in CCROC Minutes	12

1 How often does CCROC meet?

The CCROC will meet on as needs basis, as determined by both Councils.

2 Notice of meetings.

The General Manager of each Council must send to each councillor, at least 3 days before each meeting of the CCROC, a notice specifying the time and place at which the meeting will be held, and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.

Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.

A notice under this section and the agenda for, and the agenda papers relating to the meeting may be given to a councillor in electronic form but only if all councillors have facilities to access the notice, agenda and agenda paper in that form.

3 What is the quorum for a meeting?

The quorum for a CCROC meeting is a majority of the councillors of both councils who hold office for the time being and are not suspended from office.

4 What happens when a quorum is not present?

- i A meeting of the CCROC must be adjourned if a quorum is not present at any time during the meeting.
- ii The meeting must be adjourned to a time, date and place fixed:
 - a by the chairperson; or
 - b in his or her absence - by the majority of councillors present; or
 - c failing that, by the hosting general manager.
- iii The CCROC minutes must record the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of CCROC, together with the names of the councillors present.
- iv If a quorum is lost during a meeting, the adjournment procedure in clause 4(i) above should be followed. However, a procedural motion without notice to change the order of business at a meeting from that set out in the agenda may be moved. In this way, controversial issues can be dealt with (to avoid losing quorum).

5 Where are meetings held?

- i Meetings of CCROC are to be hosted by each Council on a rotating basis.
- ii The host Council shall determine the location of the meeting.

6 Who presides at meetings of CCROC?

- i The Mayor of the hosting Council or, at the request of or in the absence of the Mayor, the Deputy Mayor of the hosting Council presides at meetings of CCROC.
- ii If the Mayor and Deputy Mayor of the hosting Council are absent, a Councillor from the hosting Council elected to chair the meeting by the Councillors of the hosting Council, presides at a meeting of CCROC.
- iii If the Mayor of the hosting Council declares an interest in any matter being dealt with at a meeting, the Mayor will vacate the chair immediately prior to that item being considered and the Deputy Mayor of the hosting Council will chair the meeting for the consideration of that item.
- iv If both the Mayor and Deputy Mayor of the hosting Council declare an interest in any matter being dealt with at a meeting, the Mayor will vacate the chair immediately prior to that item being considered and a chairperson from the hosting Council will be elected to chair the meeting for the consideration of the item.

7 Chairperson to have precedence

When the chairperson rises during a meeting of CCROC:

- a any Councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat;
- b every Councillor present must be silent to enable the chairperson to be heard without interruption.

8 Addressing Councillors and Chairpersons

- i Councillors are usually addressed as 'Councillor X', whether the Councillor is male or female and whether or not the Councillor has a title or qualification, for example the Honourable, the Reverend or Doctor of Philosophy.
- ii If the chairperson is the Mayor they are usually addressed as 'Mr Mayor' or Madam Mayor'. When the chairperson is not the Mayor, they would be addressed as 'Mr/Madam Chair/' or 'Mr/Madam Chairperson'.

9 Agenda Papers for CCROC meetings

- i The CCROC Executive shall determine the agenda of the CCROC meeting and nominate any matters to be dealt with as confidential items.
- ii If the matter is urgent and unable to be authorised by the Executive, the General Managers and Mayors of each Council will jointly determine if the item is to be placed on the agenda.
- iii The Hon Secretary of CCROC must ensure that the agenda for a CCROC meeting states all matters to be dealt with arising out of the proceedings of former meetings of CCROC.
- iv The Hon Secretary of CCROC must not include in the agenda for a CCROC meeting any business of which due notice has been given if, in the opinion of the Hon Secretary, the business is (or the implementation of the business would be) unlawful.
- v The Hon Secretary of CCROC must cause the agenda for a meeting of CCROC to be prepared as soon as practicable before the meeting.
- vi The position of Hon Secretary of CCROC is to rotate annually between the two Councils.

10 Giving notice of business

- i The CCROC must not transact business at a meeting of CCROC unless notice of the business has been sent to the Councillors in accordance with clause 2 of this Code of Meeting Practice.
- ii Despite clause 10(i), business may be transacted at a meeting of CCROC even the due notice of the business has not been given to Councillors. However, this can happen only if a motion is passed to have the business transacted at the meeting.

11 Limitation as to number of speeches

- i A Councillor who, during a debate at a meeting of CCROC, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- ii A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- iii A Councillor must not, without the consent of the CCROC, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

- iv Despite subclauses (i) and (ii), a Councillor may move that a motion or an amendment be now put:
- a if the mover of the motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it, or
 - b if at least 2 Councillors have spoken in favour of the motion or amendment and at least 2 Councillors have spoken against it.

The chairperson must immediately put to the vote, without debate, a motion moved under subclause (iv). A seconder is not required for such a motion.

If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause (i).

If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed.

12 Motions to be seconded

A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clause 11(iv) of this Code.

13 Amendments

- i At the meeting a Councillor may move an amendment to any motion except a motion of dissent.
- ii The amendment must be dealt with before voting on the main motion takes place. Debate is allowed only in relation to the amendment and not the main motion - which is suspended while the amendment is considered.
- iii If an amendment is carried it becomes the motion.
- iv If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the CCROC at any one time.

14 Foreshadowed amendments

- i Notwithstanding clause 13(iv) of this Code a Councillor may, when a motion and an amendment have been moved, foreshadow an intention to move a further amendment before the amendment has been voted upon.

- ii If the amendment is rejected the foreshadowed amendment may be moved and any intention to move a further foreshadowed amendment outlined and so on until the matter is decided.

15 Motions of dissent

- i A Councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- ii If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- iii Despite clause 11 of this Code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

16 Chairperson's duty with respect to motions

- i It is the duty of the chairperson of a CCROC meeting to receive and put to the meeting any lawful motion that is brought before the meeting.
- ii The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- iii Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected.

17 Voting at CCROC meetings

- i A councillor who is present at a CCROC meeting but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- ii If a Councillor who has voted against a motion put at a CRROC meeting so requests, the Hon Secretary of CCROC must ensure that the Councillor's dissenting vote is recorded in the CCROC minutes.
- iii The decision of the chairperson as the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 Councillors rise and demand a division.
- iv When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The Hon Secretary of CCROC must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the CCROC minutes.

- v Voting at a CCROC meeting, including voting in an election at such meeting, is to be by open means (such as on the voices or by show of hands).

18 What are the voting entitlements?

- i Each Councillor and each General Manager is entitled to one vote.
- ii However, the chairperson at a CCROC meeting has, in the event of an equality of votes, a second or casting vote.
- iii The exercise of the casting vote is a matter for the chairperson as to how they will vote, after taking into consideration all relevant information. They do not need to vote the same way on their first and second vote.
- iv Should the chairperson fail to exercise a casting vote the motion being voted upon would be lost.
- v A Councillor must be present (in person) at the CCROC meeting to vote.
- vi Councillors cannot participate in a CCROC meeting by video-conferencing or tele-conference. There are no 'proxy' votes at CCROC meetings.

19 Questions of order

- i The chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- ii A Councillor who claims that another Councillor has committed an act or disorder, or is out of order, may call the attention of the chairperson to the matter.
- iii The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the CCROC.
- iv The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

20 Acts of disorder

- i A Councillor commits an act of disorder if the Councillor at a CCROC meeting:
 - a contravenes the Act or any regulation in force under the Act; or
 - b assaults or threatens to assault another Councillor or person present at the meeting; or

- c moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the CCROC, or addresses or attempts to address the CCROC on such a motion, amendment or matter; or
 - d insults or makes personal reflections on or imputes improper motives to any other Councillor/s; or
 - e says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring CCROC into contempt.
- ii The chairperson may require a Councillor:
- a to apologise without reservation for an act of disorder referred to in subclause i(a) or (b); or
 - b to withdraw a motion or an amendment referred to in subclause i(c) and, where appropriate, to apologise without reservation; or
 - c to retract and apologise without reservation for an act of disorder referred to in subclause i(d) or (e).

21 Pecuniary Interest

There are two types of pecuniary interest that must be disclosed at a CCROC meeting and recorded in the minutes:

- a Pecuniary Interest - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or other person with whom the person is associated.
- b Non-Pecuniary Interest - a private or personal interest the councillor, staff member or delegate has that does not amount to a pecuniary interest as defined in the *Local Government Act 1993* (for example, a friendship, membership of an association, society or trade union or involvement or interest in an activity.)

22 Who has a pecuniary interest?

- i A person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
 - a the person, or
 - b the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, or
 - c a company or other body of which the person, or a nominee, partner or employer of the person, is a member.

- ii However, a person is not taken to have a pecuniary interest in a matter as referred to in subclause i(b) or (c):
 - a if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
 - b just because the person is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or
 - c just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

23 Disclosure and participation in meetings

- i A Councillor who has a pecuniary interest in any matter with which CCROC is concerned and who is present at a meeting of CCROC at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- ii The Councillor must not be present at, or in sight of, the CCROC meeting:
 - a at any time during which the matter is being considered or discussed by the CCROC, or
 - b at any time during which the CCROC is voting on any question in relation to the matter.
- iii A disclosure made at a meeting of CCROC must be recorded in the minutes of that meeting. However, proceedings will not be invalid just because a Councillor does not identify a pecuniary interest at the meeting in accordance with section 451 of the Act.
- iv The only exception is where the Minister has given permission for a Councillor who has declared a pecuniary interest in a matter to be present in the meeting and to vote on the issue.

24 What is a "non-pecuniary" interest?

- i There are three (3) types of non-pecuniary conflicts of interests. They are 'significant', 'less than significant' and 'political donations'.
- ii Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.
- iii If a disclosure is made at a CCROC meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 23(ii) of this Code.

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- iv How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- v As a general rule, a non-pecuniary conflict of interest will be significant where a matter does not raise a pecuniary interest but it involves:
- a a relationship between a Council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household.
 - b other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
 - c an affiliation between the Council official and an organisation, sporting body, club, corporation or association that is particularly strong.
- vi If you are a Council official, other than a member of staff of Council, and you have disclosed that a significant non-pecuniary conflict of interest exists, you must manage it in one of two ways:
- a remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official.
 - b have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply.
- vii If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- viii Where a Councillor of the Councillor's "official agent" has received "political contributions" or "political donations", as the case may be, within the meaning of the Election Funding Act 1981 exceeding \$1,000 which directly benefit their campaign:
- a from a political or campaign donor or related entity in the previous four years; and
 - b where the political or campaign donor or related entity has a matter before Council,
- then the Councillor must declare a non-pecuniary conflict of interest, disclose the nature of the interest, and manage the conflict of interest in accordance with clause 23 (vi b) of this Code.
- ix Councillors should note that political contributions below \$1,000, or political contributions to a registered political party or group by which a Councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflict are significant and take the appropriate action to manage them.

25 Matters to be recorded in CCROC Minutes

The Hon Secretary shall ensure that the Minutes of the CCROC meetings record:

- a details of each motion moved and any amendments moved to it;
- b the names of the mover and seconder of the motion or amendment;
- c whether the motion or amendment is passed or lost;
- d any disclosures of interest made;
- e the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of CCROC, together with the names of the councillors present.
- f when a division on a motion is demanded, the names of those who vote for the motion;
- g a Councillor's dissenting vote if requested by that Councillor;
- h the date, time and venue of the meeting, names of the members present, apologies tendered and accepted, arrival and departure times of members and the names and speaking periods of invited speakers.

3.1 Final Report - Independent Local Government Review Panel

TRIM REFERENCE: F2004/06400 - D06155743

AUTHOR/MANAGER: Michael Whittaker; General Manager

SUMMARY

The Minister for Local Government released the Local Government Review Panel's final report on 8 January 2014.

RECOMMENDATION

That Council receive and note the Final Report - Independent Local Government Review Panel.

BACKGROUND

The Minister for Local Government released the Local Government Review Panel's final report on 8 January 2014.

The Independent Local Government Review Panel was tasked with formulating options for a stronger and more effective system of local government. The two key words are *options and system*.

Its task has been to formulate options for governance models, structures and boundary changes:

- to improve the strength and effectiveness of local government;
- to help drive the key strategic directions set out in the Destination 2036 Action Plan,

and to further the objectives of NSW 2021: A Plan to Make NSW Number One (the State Plan).

Councils across NSW have an opportunity, until Friday 4 April 2014, to comment on the final report of the Panel.

The NSW Government has indicated it will consider the final report over the coming months and prepare its response. The Chief Executive of the Office of Local Government has indicated that feedback provided by councils and community members, in the current round of consultation, will help to inform the response.

Gosford City Council held a Councillor Workshop on 25 February 2014 to consider the final report of the Panel. Gosford will consider a report to confirm its response to the Panel's final report at its Ordinary Council Meeting to be held on 25 March 2014.

Wyong Shire Council held a briefing for Councillors on the final report of the Panel on 26 February 2014. Wyong will consider a report to confirm its response to the Panel's final report at its Ordinary Council Meeting to be held on 26 March 2014.

A copy of the report can be view at;

[Revitalising Local Government - ILGRP Final Report - October 2013](#)

ATTACHMENTS

Nil

3.2 Final Report - Local Government Act Taskforce

TRIM REFERENCE: F2004/06400 - D06155885

AUTHOR/MANAGER: Michael Whittaker; General Manager

SUMMARY

The Minister for Local Government released the Local Government Act Taskforce's final report on 8 January 2014.

RECOMMENDATION

That Council receive the Final Report - Local Government Act Taskforce.

BACKGROUND

The Minister for Local Government released the Local Government Act Taskforce's final report on 8 January 2014.

The purpose of the Taskforce's review is to rewrite the Local Government Act and review the City of Sydney Act with the intention of developing principles-based, enabling legislation that is streamlined, easily understood, in a logical framework, eliminates unnecessary red tape and will provide a legislative and statutory framework to meet the current and future needs of the community and the local government sector.

Councils across NSW have an opportunity, until Friday 4 April 2014, to comment on the final report of the Taskforce.

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Wyong Shire Council held a briefing for Councillors on the final report of the Taskforce on 26 February 2014. Wyong will consider a report to confirm its response to the Taskforce's final report at its Ordinary Council Meeting to be held on 26 March 2014.

A copy of the Local Government Act Taskforce's final report can be view at;

[Local Government Act Taskforce's Final Report](#)

ATTACHMENTS

Nil