Late Agenda

Ordinary Council Meeting
Thursday 4 April 2019

held at
Harvard Room, Tweed Heads Administration Building, Brett Street, Tweed Heads

commencing at the conclusion of the Planning Committee meeting which commences at 5.30pm.
Principles for Local Government

The object of the principles for Tweed Shire Council, as set out in Section 8 of the Local Government Amendment (Governance and Planning) Bill 2016, is to provide guidance to enable council to carry out its functions in a way that facilitates a local community that is strong, healthy and prosperous.

Guiding Principles for Tweed Shire Council

(1) Exercise of functions generally

The following general principles apply to the exercise of functions by Tweed Shire Council:

(a) Provide strong and effective representation, leadership, planning and decision-making.
(b) Carry out functions in a way that provides the best possible value for residents and ratepayers.
(c) Plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
(d) Apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
(e) Work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
(f) Manage lands and other assets so that current and future local community needs can be met in an affordable way.
(g) Work with others to secure appropriate services for local community needs.
(h) Act fairly, ethically and without bias in the interests of the local community.
(i) Be responsible employers and provide a consultative and supportive working environment for staff.

(2) Decision-making

The following principles apply to decision-making by Tweed Shire Council (subject to any other applicable law):

(a) Recognise diverse local community needs and interests.
(b) Consider social justice principles.
(c) Consider the long term and cumulative effects of actions on future generations.
(d) Consider the principles of ecologically sustainable development.
(e) Decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

(3) Community participation

Council should actively engage with the local community, through the use of the integrated planning and reporting framework and other measures.
LATE ITEMS

3  [PCG-CM-LATE] Code of Meeting Practice

SUBMITTED BY:  Governance

Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1  Civic Leadership
1.2  Improve decision making by engaging stakeholders and taking into account community input
1.2.1  Council will be underpinned by good governance and transparency in its decision making process

SUMMARY OF REPORT:

The 2018 Model Code of Meeting Practice for Local Councils in NSW was prescribed on 14 December 2018 under the Local Government (General) Regulation 2005 (Regulation).

Under section 440 of the Local Government Act 1993 (LGA), each council is required to adopt a code of meeting practice based on the Model Code of Meeting Practice prescribed under the Regulation. The adopted Code of Meeting practice can vary from the Model Code but can be no less stringent and must contain the mandatory elements of the Model Code.

Council must adopt the new Model Code of Meeting Practice within six months of prescription, which is by 14 June 2019.

RECOMMENDATION:

That Council approves the draft Code of Meeting Practice as attached to this report for public exhibition for a period of 28 days from Monday, 8 April 2019 until close of business on 6 May 2019 and allows submissions for 42 days from Monday, 8 April 2019 until close of business on 20 May 2019.
REPORT:

Attached to this report are the following attachments:

1. Office of Local Government’s prescribed Model Code of Meeting Practice.
2. Council’s draft Model Code of Meeting Practice.
3. Council’s existing Code of Meeting Practice.
4. Confidential Legal advice from Maddocks.

Background

The Model Meeting Code has two elements:

• Mandatory provisions (indicated in black font in Attachment 1) that reflect the existing meetings provisions of the Act and update and enhance the meetings provisions previously prescribed under the Regulation to reflect contemporary meetings practice by councils.

• Non-mandatory provisions (indicated in red font in Attachment 1) that cover areas of meetings practice that are common to most councils but where there may be a need for some variation in practice between councils based on local circumstances. The non-mandatory provisions also operate to set a benchmark based on what OLG sees as being best practice for the relevant area of practice.

Councils are required to adopt a code of meeting practice that incorporates the mandatory provisions of the Model Code of Meeting Practice prescribed by the Regulation. A council’s adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions.

Council’s adopted meeting code may also incorporate the non-mandatory provisions of the Model Meeting Code and any other supplementary provisions adopted by the council.

Workshop

A workshop was held with Councillors on 27 February 2019 to discuss:

- The new mandatory provisions in the Model Code of Meeting Practice;
- The new non-mandatory provisions in the Model Code of Meeting Practice; and
- The existing supplementary provisions in Council’s existing Model Code of Meeting Practice which were historically adopted by Council.

Following the workshop, Councillors were provided with an email dated 15 March 2019 summarising the discussion and action items.

This report sets out a recommendation to adopt the Code of Meeting Practice as set out in Attachment 2.

Key points to note

The recommended draft Code of Meeting Practice includes:

- All mandatory clauses as prescribed by Regulation;
- All non-mandatory clauses, except for those Councillors expressly requested to exclude at the workshop; and
- All supplementary clauses previously adopted by Council, except those Councillors expressly requested to exclude at the workshop.
The non-mandatory clauses which were not decided on at the workshop are set out below. Councillors are requested to determine any of these clauses to be included in the new Code.

<table>
<thead>
<tr>
<th>Clause</th>
<th>Text in black is in Council’s current adopted Code, Text in red is from the OLG’s model code</th>
<th>Officer’s recommended Text for new Code</th>
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<tr>
<td>3.1</td>
<td>Council meetings are normally held alternatively at either the Council Chambers Civic and Cultural Centre, Tumbulgum Road, Murwillumbah or the Harvard Room at the Tweed Heads Administration Building, Brett Street, Tweed Heads. It is up to the council to decide when and where to have the meeting. These meetings are open to the public. Confidential items are considered in closed session, which excludes press and public. Council will meet in the following format:</td>
<td>Council meetings are normally held alternatively at either the Council Chambers Civic and Cultural Centre, Tumbulgum Road, Murwillumbah or the Harvard Room at the Tweed Heads Administration Building, Brett Street, Tweed Heads. These meetings are open to the public. Confidential items are considered in closed session, which excludes press and public. Council will hold a Council and Planning Committee meeting every third Thursday of the month.</td>
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<td></td>
<td>a) A Planning Committee meeting (comprising all seven councillors) to only discuss planning related matters on the first Thursday of the month. The Planning Committee will include Community Access on the items on the Planning Agenda, with a Council Meeting to follow, to specifically adopt the recommendations of the Planning Committee; and</td>
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<td>b) A Council Meeting on the third Thursday of the month, where all other items are considered, including any planning matters that may have been deferred from the Planning Committee Meeting. This Council Meeting will include consideration of Notices of Motion, Questions on Notice, Mayoral Minute and all other reports. A Community Access session will be held at the commencement of the Council Meeting for members of the public to discuss pertinent matters other than planning matters.</td>
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### 3.15 and 3.16

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<td><strong>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 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:</strong></td>
<td><strong>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:</strong></td>
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| (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** |
| (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.** | **A councillor will not submit a notice of motion requesting Council to expend funds other than those already provided for in the Council’s current adopted operational plan with the exception of matters where a report on such expenditure is before Council.** |
4.4 A person may apply to speak on no more than one item of business on the agenda of the council meeting. A person may apply to speak more than one item of business on the agenda of the council meeting. The General Manager will review applications to speak on more than one item of business on the agenda of the council meeting, and determine whether in the context of other applications, it is possible for one person to speak on more than one item of business on the agenda. If a person applies to speak on a matter that is not an item of business on the agenda of the council meeting, the General Manager may allow that person to speak if timeslots have not been exhausted by those applying to speak on agenda items.

4.10 Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than 12.00pm on the Wednesday immediately preceding the public forum. The general manager or their delegate may refuse to allow such material to be presented. Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than 12.00pm on the Wednesday immediately preceding the public forum. The general manager or their delegate may refuse to allow such material to be presented. If an approved speaker brings any written, visual or audio material to present on the night and has not registered it in accordance with this clause, the Mayor may allow the late material to be presented. Wording as set out to the left is recommended.

9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council’s current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted. Wording as set out to the left is recommended.

10.9 A motion or an amendment to a motion which if passed would require 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 motion. If the motion does not identify a funding source, the council must Wording as set out to the left is recommended.
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<th>Council Meeting Date: Thursday 4 April 2019</th>
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**LATE**

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<th>Defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the motion if adopted.</th>
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<th>10.22</th>
<th>A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time.</th>
<th>At the workshop, there was some agreement that a reduction to 4 minutes 30 seconds might be acceptable.</th>
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| 14.9-14.17 | 14.9 The council, or a committee of the council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed. 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded. | Wording as set out to the left is recommended. |

| 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.31 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by **12.00pm on the Wednesday immediately preceding** the meeting at which the matter is to be considered. 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application. 14.13 No more than one speakers are to be permitted to make representations under clause 14.9. 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council. 14.15 The general manager (or their delegate) is to determine the order of speakers. | Wording as set out to the left is recommended. |
| 14.16 | Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than one speaker for and one against to make representations in such order as determined by the chairperson. 14.17 Each speaker will be allowed five minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard. |
| 17.10 | A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than [council to specify the period of time] after the meeting at which the resolution was adopted. |

Council’s current adopted code of meeting practice remains in effect up until six months from the date on which the new Model Code of Meeting Practice was prescribed, which is 14 June 2019.

If council does not adopt a new code of meeting practice by this date, any provision of council’s adopted meeting code that is inconsistent with the mandatory provisions of the Model Code of Meeting Practice prescribed under the Regulation will automatically cease to have any effect to the extent that it is inconsistent with the mandatory provision of the Model Meeting Code.

Council will be required to webcast meetings of the council and committees of which all members are councillors from 14 December 2019. The webcasting requirement may be met simply by posting an audio or video recording of the meeting on the council’s website.

Under section 361 of the LGA, Council must exhibit a draft of the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the draft code.
Council Meeting Date: Thursday 4 April 2019

OPTIONS:

1. Approve the proposed recommended Code of Meeting Practice as set out in the Attachment for public exhibition.

2. Not approve the proposed recommended Code of Meeting Practice as set out in the Attachment for public exhibition.

3. Approve an alternate version of the Code of Meeting Practice for public exhibition.

CONCLUSION:

Adoption of a Model Code of Meeting Practice is required by 14 June 2019.

COUNCIL IMPLICATIONS:

a. Policy:
   Code of Meeting Practice v2.4.1

b. Budget/Long Term Financial Plan:
   Expenditure incurred on Council Meetings is included within the Annual Budget. Webcasting expenses will be addressed in a separate Council report.

c. Legal:
   Not Applicable.

d. Communication/Engagement:
   Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1 Office of Local Government’s prescribed Model Code of Meeting Practice (ECM 5828656).
Attachment 2 Council’s draft Model Code of Meeting Practice (ECM xxx) - this attachment will be provided at the earliest opportunity prior to the meeting.
Attachment 3 Council’s existing Code of Meeting Practice Version 2.6 (Policy) (ECM 5828657).
Confidential Attachment 4 Legal advice from Maddocks (ECM 5828668).