

Richmond
Valley
Council



Minutes

Extraordinary Meeting

Tuesday, 27 September 2016

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MINUTES OF THE EXTRAORDINARY MEETING OF RICHMOND VALLEY COUNCIL, HELD IN THE COUNCIL CHAMBERS, CNR WALKER STREET AND GRAHAM PLACE, CASINO, ON TUESDAY, 27 SEPTEMBER 2016 AT 5.00 P.M.

PRESENT

Crs Robert Mustow (Mayor), Sam Cornish, Robert Hayes, Sandra Humphrys, Jill Lyons, Steve Morrissey and Daniel Simpson.

Vaughan Macdonald (General Manager), Simon Adcock (Chief Operating Officer), Angela Jones (Director Infrastructure and Environment), Deborah McLean (Manager Governance and Risk) and Roslyn Townsend (Corporate Support Officer) were also in attendance.

1 OATH OR AFFIRMATION

1.1 OATH OR AFFIRMATION OF OFFICE BY COUNCILLORS

In order to comply with the recent amendments to the *Local Government Act 1993*, the General Manager must ensure that each councillor (including the mayor) makes an oath or affirmation prior to the first meeting of the council following the Local Government Election.

Each oath or affirmation being taken is to be recorded by way of a signed statement containing the oath or affirmation or by recording the taking of the oath or affirmation by each councillor in the minutes of the council meeting.

For the purposes of complying with the amendments it is proposed that the record be kept by way of recording the taking of the oath or affirmation of each councillor in the minutes of the council meeting.

If for any circumstance a councillor is unable to attend the first council meeting he or she may take the oath or affirmation of office at another location in front of the General Manager, an Australian legal practitioner or a Justice of the Peace. The taking of the oath or affirmation outside a council meeting must be publically recorded by the council. To meet this requirement a council staff member should also be present to ensure that an accurate record can be kept by the council.

For the purpose of each councillor (including the mayor) making an oath or affirmation as the first item of business for this meeting, the wording of the oath and affirmation are provided below:

Oath

I, Councillor (... *please state full name* ...), swear that I will undertake the duties of the office of councillor in the best interests of the people of the Richmond Valley community and Richmond Valley Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Affirmation

I, Councillor (... *please state full name* ...), solemnly and sincerely declare and affirm that I will undertake the duties of the office of councillor in the best interests of the people of the Richmond Valley community and Richmond Valley Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

The following record is made of the taking of the Oath or Affirmation by individual Councillors at the commencement of this meeting.

- Cr Robert Mustow (Mayor), Cr Sam Cornish and Cr Sandra Humphrys took the **Oath**.
- Cr Jill Lyons, Cr Robert Hayes, Cr Daniel Simpson and Cr Steve Morrissey took the **Affirmation**.

2 ACKNOWLEDGEMENT OF COUNTRY

In opening the meeting the Mayor provided an Acknowledgement of Country by reading the following statement on behalf of Council:

"Council would like to show its respect and acknowledge all of the traditional custodians of land within the Richmond Valley Council area and show respect to elders past and present."

2A WELCOME BY MAYOR

The Mayor, Cr Robert Mustow, took the opportunity to address the meeting stating as follows:

"I would welcome all community members in the gallery and I make special mention and acknowledgement of past Mayor Charlie Cox and his wife Robyn and past councillor Shirley Wheatley. I also welcome the staff and councillors to the first meeting which I believe is the sixth council term for Richmond Valley."

It is pleasing to see previous councillors Morrissey, Simpson, Humphrys and Hayes returned for another term and wonderful to see the new faces of councillor Cornish and councillor Lyons joining us.

This is the youngest ever council for Richmond Valley with an average age under 50. Also two other firsts, a councillor in his twenties and no councillor in their seventies. In fact I am the only councillor over 60. With a very high representation of aged citizens in our community I give the undertaking their needs will continue to be addressed.

It requires a united team effort for a council to operate efficiently. Included in that team are councillors, and our outdoor and indoor staff who I believe are committed and competent in their roles. However, most important are our ratepayers and residents. If we all work productively together over the coming four years I believe we can achieve positive and sustainable social, economic and environmental outcomes for the whole valley.

This teamwork will commence in the coming months with the preparation of our Community Strategic Plan. I am looking forward to this process occurring.

Thank you to the gallery for your attendance this evening.

I now give the councillors the opportunity to say a few words if they would like."

All councillors responded pledging support and commitment to the new council.

3 APOLOGIES

Nil.

4 DECLARATION OF INTERESTS

Nil.

5 MATTERS FOR CONSIDERATION

5.1 ELECTION OF DEPUTY MAYOR

Responsible Officer:

Deborah McLean (Manager Governance and Risk)

RECOMMENDATION

Recommended that:

1. Council elect a Deputy Mayor for a one year period.
2. Nominations for the position of Deputy Mayor be submitted in accordance with the Local Government (General) Regulation 2005, Schedule 7.
3. The method of conduct for the election of Deputy Mayor be by open voting.
4. Following declaration of the election result, nomination forms be destroyed.

270916/ 1 RESOLVED (Cr Morrissey/Cr Hayes)

That the above recommendation be adopted.

FOR VOTE - All Council members voted unanimously.

The General Manager, as Returning Officer for the election, advised that he had received one nomination for the position of Deputy Mayor from Cr Daniel Simpson. The General Manager provided an opportunity for further nominations from the floor, however none were submitted.

There being no further nominations, Cr Daniel Simpson was declared elected as Deputy Mayor for a period of one year.

The General Manager and Mayor congratulated Cr Simpson on his election as Deputy Mayor.

Executive Summary

Section 231 of the *Local Government Act 1993 (The Act)* provides that the Councillors may elect a deputy mayor for the mayoral term or for a shorter term. The deputy mayor may exercise any function of the mayor at the request of the mayor, or if the mayor is prevented by illness, absence or otherwise from exercising the function, or if there is a casual vacancy in the office of mayor.

Schedule 7 of the *Local Government (General) Regulation 2005 (The Regulations)* provides for the method of conduct for the election of Deputy

Mayor. The methods of conduct for the election, if more than one Councillor is nominated, are by preferential ballot, by ordinary ballot or by open voting.

It is recommended that the Deputy Mayor be elected for a 12 month term and that the method of conduct for the election of Deputy Mayor be by open voting.

It is also appropriate following declaration of the election result that nomination forms and any ballot papers be destroyed.

Community Strategic Plan Links

Focus Area 7 Governance and Process - Long term Goal 7.5 Sound Governance and Legislative Practices.

Budget Implications

No fee is specifically payable to the Deputy Mayor. Should Council determine that a fee be payable, the Mayoral allowance would need to be reduced by the same amount.

Report

Section 231 of *The Act* provides for the following in relation to the position of Deputy Mayor:

- “(1) The councillors may elect a person from among their number to be the deputy mayor.*
- (2) The person may be elected for the mayoral term or a shorter term.*
- (3) The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.*
- (4) The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.”*

Schedule 7 of *The Regulations* prescribe that the General Manager (or a person appointed by the General Manager) is the returning officer.

The Regulations also prescribe that if only one councillor is nominated, that councillor is elected.

The proposed recommendation for the election of a Deputy Mayor for a one year term and if more than one councillor is nominated to conduct the election of Deputy Mayor by open voting are in accordance with the requirements of *The Act* and *The Regulations*.

Conclusion

This report provides details of the process required for the election of Deputy Mayor. Nomination forms for the position of Deputy Mayor have been forwarded to each Councillor. Additional nomination forms are available on request.

Included below is *Local Government (General) Regulation 2005 - Schedule 7* Election of mayor by councillors.

Local Government (General) Regulation 2005

Current version for 1 July 2016 to date (accessed 19 September 2016 at 11:41)

Schedule 7 Election of mayor by councillors

Part 1 Preliminary

1 Returning officer

The general manager (or a person appointed by the general manager) is the returning officer.

2 Nomination

- (1) A councillor may be nominated without notice for election as mayor or deputy mayor.
- (2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The nomination is to be delivered or sent to the returning officer.
- (4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.

3 Election

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the council meeting at which the council resolves on the method of voting.
- (4) In this clause:
ballot has its normal meaning of secret ballot.
open voting means voting by a show of hands or similar means.

Part 2 Ordinary ballot or open voting

4 Application of Part

This Part applies if the election proceeds by ordinary ballot or by open voting.

5 Marking of ballot-papers

- (1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.
- (2) The formality of a ballot-paper under this Part must be determined in accordance with clause 345 (1) (b) and (c) and (6) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

6 Count—2 candidates

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

7 Count—3 or more candidates

- (1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
- (2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- (3) If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

Part 3 Preferential ballot**8 Application of Part**

This Part applies if the election proceeds by preferential ballot.

9 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers “1”, “2” and so on against the various names so as to indicate the order of their preference for all the candidates.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

10 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter’s preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.
- (4) In this clause, **absolute majority**, in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot-papers.

11 Tied candidates

- (1) If, on any count of votes, there are 2 candidates in, or remaining in, the election and the numbers of votes cast for the 2 candidates are equal—the

candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.

- (2) If, on any count of votes, there are 3 or more candidates in, or remaining in, the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

Part 4 General

12 Choosing by lot

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen.

13 Result

The result of the election (including the name of the candidate elected as mayor or deputy mayor) is:

- (a) to be declared to the councillors at the council meeting at which the election is held by the returning officer, and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Association of New South Wales.

5.2 MAYORAL DELEGATION

Responsible Officer:

Deborah McLean (Manager Governance and Risk)

RECOMMENDATION

Recommended that Council endorse the following delegations to the Mayor:

- That Council authorise the Mayor to exercise policy-making functions between meetings (in cases of necessity).
- That Council delegate authority to the Mayor to approve leave of absences for the General Manager.
- That Council delegate to the Mayor an allowance of \$20,000 maximum expenditure between meetings for use in the event of an emergency; and that details of such expenditure be reported in detail at the next Council Meeting.

270916/ 2 RESOLVED (Cr Morrissey/Cr Simpson)

That the above recommendation be adopted.

FOR VOTE - All Council members voted unanimously.

Executive Summary

Section 226 of the *Local Government Act 1993* sets out the role of the Mayor. To give effect to the role of the Mayor, Council adopted the Mayoral delegation at the 17 September 2013 Ordinary Meeting.

It has been Council practice to confirm the adopted Mayoral delegations following a Local Government Election.

Report

Section 226 of the *Local Government Act 1993* states:

"The role of the mayor is:

- *to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council*
- *to exercise such other functions of the council as the council determines*
- *to preside at meetings of the council*
- *to carry out the civic and ceremonial functions of the mayoral office."*

Council has previously adopted the Mayoral delegation for purposes of providing authority to the Mayor in respect to policy-making functions between Council meetings. In addition, the delegation provides authority for the Mayor to approve leave of absence for the General Manager and to delegate an allowance of \$20,000 maximum expenditure between meetings for use in the event of an emergency with details of such expenditure to be reported to the next meeting.

Although it is not proposed Council amend the current Mayoral delegation, it is considered appropriate that the delegation be considered by the new Council. Accordingly, a copy of the delegation is provided below.

Delegation of Functions and Authority Section 377 Local Government Act 1993

Mayor

- That Council authorise the Mayor to exercise policy-making functions between meetings (in cases of necessity).
- That Council delegate authority to the Mayor to approve leave of absences for the General Manager.
- That Council delegate to the Mayor an allowance of \$20,000 maximum expenditure between meetings for use in the event of an emergency; and that details of such expenditure be reported in detail at the next Council Meeting.

Conclusion

The Mayoral delegation is provided for endorsement by Council.

5.3 DRAFT POLICY 1.7 - PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS**Responsible Officer:**Deborah McLean (Manager Governance and Risk)

RECOMMENDATION

Recommended that:

1. Council adopt the draft Payment of Expenses and Provision of Facilities to Councillors Policy and place it on public exhibition for a period of not less than 28 days.
2. A further report be submitted to Council at the conclusion of the exhibition period.

270916/ 3 RESOLVED (Cr Morrissey/Cr Simpson)

That the above recommendation be adopted.

FOR VOTE - All Council members voted unanimously.

Note: Prior to the above motion being put to the vote the Mayor suggested that the mayoral vehicle private use lease payment be increased from 25% to 50% of the staff contribution. During discussion it was pointed out by councillors that the mayoral role involved a significant time commitment and required a lot of travel throughout the local government area in conjunction with private commitments. The General Manager advised that the figure of 25% in the draft policy was based on what was in place for the Mayor during the previous council term. It was agreed by Council that the draft policy, as presented to this meeting, be placed on public exhibition to provide an opportunity for the community to comment following which it would be presented for final adoption and consideration of any adjustments at the November meeting.

Executive Summary

Council adopted Policy 1.7 - *Payment of Expenses and Provision of Facilities to Councillors* on 17 November 2015. Section 252 of the *Local Government Act (the Act)* requires Council to adopt an expenses and facilities policy within the first 12 months of each term of a council. Section 253 of *the Act* requires Council to publicly exhibit a proposed policy for no less than 28 days prior to adopting the policy.

The reviewed policy must comply with *the Act, Local Government (General) Regulation 2005 (Regulations)* and Guidelines issued under Section 23A of *the Act* by the Office of Local Government. Council's current policy complies with the legislative requirements and Guidelines.

There have been amendments made to the draft policy which are listed further in the report. These amendments require that council publicly exhibit the proposed changes and consider any submissions before adopting the amended policy.

The proposed draft policy complies with the legislative requirements and Guidelines.

Community Strategic Plan Links

Focus Area 7 Governance and Process - Long Term Goal 7.5 Sound Governance and Legislative Practices.

Budget Implications

Councillors' expenses and facilities are reported in the annual budget. Council is required to report in its Annual Report on the costs associated with the Policy for the Provision of Facilities and the Payment of Expenses for Councillors.

Report

Council is required to review and adopt an expenses and facilities policy within the first 12 months of each term of a council and in circumstances where the amendments are considered substantial place the draft policy on public exhibition for a period of no less than 28 days and consider submissions prior to adopting the policy.

The current policy was adopted at the 17 November 2015 Ordinary Meeting of Council. Council may propose to exhibit the draft policy as presented or it may introduce further amendments to the policy.

Council's policy is structured in accordance with the Office of Local Government Guidelines and references the payment of expenses and/or provision of facilities to the Mayor and Councillors under the following headings:

- Travelling expenses
- Attendance at seminars, conferences and courses
- Expenses incurred at conferences, seminars and courses
- Costs of Councillors' spouses, partners and accompanying persons
- Provision of Facilities
- Legal expenses
- Insurance
- General

Amendments have been made to the following sections of the policy:

Section 5 – Attendance at Seminars, conferences and courses

- Requirement for attendance at conferences to be approved by Council resolution has been removed. This is not a legislative requirement and does not provide flexibility in providing professional development opportunities for councillors as they arise.

Section 8 – Provision of Facilities

- Private use of the Mayoral vehicle amended from “in accordance with Council’s resolution of 18 December 2012 Ordinary Meeting” to “from the range of vehicles available to Managers and Senior Staff in accordance with Council’s Motor Vehicle Lease Agreement with a payment equivalent of 25% of the staff lease contribution or as approved by the General Manager”.

Throughout the Policy

- references to Government Departments and staff titles have been changed as appropriate.

The proposed draft policy complies with the legislative and regulatory requirements. Council may however make any amendments which it considers necessary as part of the annual review process prior to it being placed on public exhibition.

Consultation

Before Council can adopt or amend an expenses and facilities policy it must give public notice of not less than 28 days of any substantial amendments to the proposed policy. Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.

Following adoption of the policy by Council, the policy together with details of all submissions received and a statement from Council setting out the response to each submission must be forwarded to the Office of Local Government.

Conclusion

Council must review its Payment of Expenses and Provision of Facilities to Councillors Policy within the first 12 months of each term of the council and must publicly exhibit the proposed policy where there are substantial amendments to the policy for a period of not less than 28 days. Following the exhibition period submissions must be considered and a further report submitted to Council.



Council Policy

Policy Title:	Payment of Expenses and Provision of Facilities to Councillors
Policy Number:	1.7
Focus Area:	Governance and Process
Responsibility:	Governance and Risk
Meeting Adopted:	

OBJECTIVE

The objective of the policy is to ensure that there is accountability and transparency in the reimbursement of expenses incurred by councillors. The policy also ensures that the facilities provided to assist councillors to carry out their civic duties are reasonable.

POLICY

1. Legislative provisions

The Local Government Act 1993 provides:

Section 252

- (1) Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.
- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.
- (4) A council may from time to time amend a policy under this section.
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

Section 253

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.

- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
- (3) Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.
- (4) Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:
 - (a) a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and
 - (b) a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and
 - (c) a copy of the notice given under subsection (1).
- (5) A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

Section 254

The council or a council committee all the members of which are councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended or at which any proposal concerning those matters is discussed or considered.

2. Reporting requirements

Clause 217 of the Local Government (General) Regulations 2005 requires the following details in relation to mayoral and councillor fees, expenses and facilities to be included in Council's annual report.

- Details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, councillors in relation to their civic functions (as paid by the council, reimbursed to the councillor or reconciled with the councillor), including separate details on the total cost of each of the following:
 - the provision during the year of dedicated office equipment allocated to councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),
 - telephone calls made by councillors, including calls made from mobile telephones provided by the council and from landline telephones and facsimile services installed in councillors' homes,
 - the attendance of councillors at conferences and seminars,
 - the training of councillors and the provision of skill development for councillors,

- interstate visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,
- overseas visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,
- the expenses of any spouse, partner (whether of the same or the opposite sex) or other person who accompanied a councillor in the performance of his or her civic functions, being expenses payable in accordance with the *Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW* prepared by the Director-General from time to time,
- expenses involved in the provision of care for a child of, or an immediate family member of, a councillor, to allow the councillor to undertake his or her civic functions.

3. Other Government policy provisions

- Office of Local Government Circular 09/36 "Revised Guidelines for Payment of Expenses and Provision of Facilities to Mayors and Councillors in NSW".
- Richmond Valley Council's Code of Conduct.

4. Travelling expenses

(a) Within the Local Government Area

Councillors will be entitled to be reimbursed for travel from their home whilst on Council business at the rate per kilometre as set out in the Local Government State Award.

The travelling expense is payable for Council Meetings, Committee Meetings, formal and social functions where representing Council, consultation with the Mayor, General Manager, or staff or other meetings involving the general community and attendance is approved for the purpose of this policy by the Mayor or General Manager.

(b) Outside the Local Government Area

Councillors will be entitled to travel to official engagements at Council's expense by the most practical method, i.e. aircraft, Council vehicle or private vehicle. Councillors, when travelling by air, will travel Economy Class or as determined by the General Manager.

A Councillor who travels in his/her own vehicle will be reimbursed at the appropriate per kilometre rate or airfare whichever is the lower.

(c) Overseas

Overseas travel must be approved by resolution of the council following receipt of a written report. Council will not assist overseas travel unless direct and tangible benefits can be established for the Council and local community.

The following will apply in relation to the payment of expenses and provision of facilities to Councillors (in relation to Council business):

5. Attendance at Seminars, conferences and courses

Councillors may attend conferences, seminars and similar functions that will assist in the professional development of a Councillor, or have an identifiable benefit to the local area by the association of a Councillor with a Council activity or function and within the budget framework and approved by the General Manager.

6. Expenses incurred at conferences, seminars and courses

The following costs will be paid for by Council in advance or reimbursement for attendance at Conferences, Seminars and courses by Councillors:

Registration

Including official luncheons, dinners and tours relevant to the Conference.

Travel

By Council vehicle, private vehicle, hire vehicle, rail or air. Persons using private vehicles to be reimbursed according to the relevant kilometre rate in the staff award (subject to the costs not exceeding the economy class air fare as applicable). With all travel arrangements, due consideration is to be given to the physical capacity of the Councillor and any variation to these arrangements be with the approval of the Mayor and the General Manager. All travel by Councillors will be undertaken by utilising the most practicable and economical mode of transport.

Accommodation

Accommodation for other Council business will be as follows:

- (i) At a standard of up to four star rating;
- (ii) Booked and paid for by Council in advance or, where this is not possible, a claim for reimbursement made not later than three months after the expenses were incurred and submitted on the standard claim form, with receipts attached.

Meals and other expenses

Reasonable costs (including sustenance, telephone charges, taxi fares and incidental expenses) including the night before and after the conference where necessary to be met by the Council and submitted on the standard claim form, with receipts attached. Costs of meals not included in the costs of the registration for the conference, seminar or course will be reimbursed in accordance with the most recent Australian

Taxation Office Determination, Table 2, as outlined on the Claim for Cash Advance Form.

7. Costs of Councillors' spouses, partners and accompanying persons

Council will meet the costs of Councillors' spouses, partners and accompanying persons in the following circumstances:

- Cost of registration and official conference dinner at the Local Government NSW Annual Conference. (Cost of accommodation and travel are to be met by the Councillor.)
- Payment of expenses at official Council functions that are of a formal or ceremonial nature within the Council's area, e.g. Australia Day Award Ceremonies, Civic Receptions.
- Payment of expenses for the spouse, partner or accompanying person of a Mayor, or a Councillor when they are representing the Mayor, when they are called upon to attend an official function of Council or carry out an official duty while accompanying the Mayor outside Council's area, but within the State. This is to be restricted to direct costs associated with the function.

8. Provision of Facilities

Mayor

Council will provide the Mayor with the following facilities:

- An office in the Council's Administration Building. Council's Meeting Rooms are also available for use by the Mayor.
- Access to telephone, email and photocopy facilities for Council business purposes.
- Executive Assistant and administrative services for Council business as required.
- Private use of the mayoral vehicle from the range of vehicles available to Managers and Senior Staff in accordance with Council's Motor Vehicle Lease agreement with a payment equivalent of 25% of the staff contribution, or as approved by the General Manager.
- An allocated parking space at Council's Administration Offices, Casino.
- Identification badge and business cards.
- Ceremonial clothing including mayoral robes and/or chain of office.

Facilities/services will not be provided for candidature to Federal, State or Local Government or any political party.

Councillors

Council will provide the Councillors with the following facilities:

- Use of Council's meeting rooms and areas of Council's Administrative Building as required.
- Access to telephone, email and photocopy facilities for Council business as required.
- Secretarial/administrative services relating to the preparation of reports for Council.
- Identification badge and business cards.

Facilities/services will not be provided for candidature to Federal, State or Local Government of any political party.

Council clothing/protective clothing and equipment

- Council purchase and issue to Councillors corporate business shirts, corporate tie or scarf and corporate style jacket.
- Councillors' access to protective clothing, accessories and equipment where required in accordance with WH&S requirements and when considered appropriate by the General Manager.

9. Legal expenses

Council may consider reimbursement of a Councillor's legal costs under certain circumstances on a solicitor/client basis (but shall not reimburse any Councillor for any costs incurred by Senior Counsel). Reasonable legal expenses of a Councillor may only be met for legal proceedings being taken against a Councillor in defending an action arising from the performance in good faith of a function under the Local Government Act (section 731 refers) or defending an action in defamation, provided that the outcome of the legal proceedings is favourable to the councillor.

Reasonable legal costs may also be available for an inquiry, investigation or hearing into a Councillor's conduct by an appropriate investigative or review body including:

- (i) Local Government Pecuniary Interest and Disciplinary Tribunal
- (ii) Independent Commission Against Corruption;
- (iii) Office of the NSW Ombudsman;
- (iv) Office of Local Government;
- (v) NSW Police Force;
- (vi) Director of Public Prosecutions;
- (vii) Council's Conduct Review Committee/Reviewer.

This is provided that the subject of the inquiry, investigation or hearing arises from the performance in good faith of a Councillor's functions under the Act and the matter before the investigative or review body has proceeded past any initial assessment phase to a formal investigation or review. In the case of a conduct complaint made

against a Councillor, legal costs may only be made available where a matter has been referred by the General Manager to a conduct reviewer/conduct review committee to make formal enquiries into that matter in accordance with the procedures in the Model code of Conduct. In the case of a pecuniary interest or misbehaviour matter legal costs may only be made available where a formal investigation has been commenced by the Office of Local Government.

In addition, legal costs may only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the Councillor. This may include circumstances in which a matter does not proceed to a finding. In relation to a Councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach had occurred may not necessarily be considered a substantially unfavourable outcome.

Council will not meet the legal costs of legal proceedings initiated by a Councillor under any circumstances or the legal costs of a Councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation. Legal costs will not be met for legal proceedings that do not involve a Councillor performing their role as a Councillor.

Council may lawfully obtain insurance cover against the risk of having to meet the reasonable legal costs of a Councillor, or to reimburse those costs, provided that the costs or reimbursements are ones that the Council is authorised to meet.

10. Insurance

Section 382 of the Act requires a council to make arrangements for its adequate insurance against public liability and professional liability and Councillors are to receive the benefit of insurance cover for:

- Public liability (for matters arising out of Councillors' performance of their civic duties and/or exercise of their council functions).
- Professional indemnity (for matters arising out of Councillors' performance of their civic duties and/or exercise of their council functions).
- Personal injury while on council business. (This cover does not cover workers' compensation payments or arrangements.)

All insurances are subject to any limitations or conditions set out in Council's policy of insurance.

11. General

- Light meals and/or refreshments are to be provided to the Mayor and Councillors in conjunction with Council/Committee Meetings and other functions/meetings, where considered appropriate by the General Manager.
- Council will provide Councillors with appropriate electronic equipment for communication purposes.
- Council will reimburse child care costs when provided by a registered provider if a Councillor is required to arrange such care while on Council business.

- Council will provide a filing cabinet up to a four drawer capacity while Councillors are in office.
- Council will reimburse costs for mobile telephone calls equal to fifty percent (50%) of the total cost of the mobile telephone account claimed up to a maximum of \$100.00 per quarter.
- Council will reimburse reasonable out of pocket or incidental expenses that are incurred whilst conducting Council business.
- Council will provide a non-dedicated motor vehicle drawn from Council's pool to attend conferences/seminars/training and other functions/meetings when available and considered appropriate by the General Manager.
- Council will provide the optional ability for Councillors to substitute part or all of their Councillor fee to be paid as contributions to a complying superannuation fund of their choice. Any Councillor undertaking this option is on the basis they have either received independent financial advice or understand this decision. A signed declaration to this effect will be required before commencement of superannuation contributions to a complying superannuation fund.

12. Return of equipment

Upon completion of the term of a Councillor's Office, extended leave of absence or cessation of their civic duties, all equipment previously provided must be returned to the Council.

Councillors will also have the option of purchasing the equipment previously allocated at an agreed fair market price or written down price value.

REVIEW

This policy will be reviewed by Council annually.

5.4 COUNCIL COMMITTEES AND DELEGATES**Responsible Officer:**Simon Adcock (Chief Operating Officer)

RECOMMENDATION

Recommended that:

1. Council appoint Councillor representatives/delegates to the following committees or organisations:
 - Richmond Valley Council Local Traffic Committee – one Councillor
 - Rous County Council – two Councillors
2. the following appointments be resolved by Council:
 - Local Government NSW (Annual Conference) – Mayor (or nominee)
 - Northern Rivers Regional Organisation of Council (NOROC) – Mayor and General Manager

270916/ 4 RESOLVED (Cr Simpson/Cr Cornish)

That the above recommendation be adopted.

FOR VOTE - All Council members voted unanimously.

Council proceeded to appoint Councillor representatives/delegates to the Richmond Valley Council Local Traffic Committee and Rous County Council.

The General Manager called for nominations for a Councillor representative on the Richmond Valley Council Local Traffic Committee. Cr Sam Cornish was nominated. Following acceptance of the nomination and there being no further nominations, Cr Sam Cornish was declared elected as Councillor representative on the Richmond Valley Council Local Traffic Committee.

The General Manager, as Returning Officer for the election of delegate positions on the Rous County Council, advised that nominations had been received from Cr Robert Hayes, Cr Daniel Simpson, Cr Robert Mustow and Cr Sandra Humphrys. As there were more nominations than there were places on the Rous County Council the election of two delegates was undertaken by preferential voting. Following the conduct of the election in accordance with the *Local Government (General) Regulation 2005*, Cr Robert Mustow and Cr Sandra Humphrys were declared elected as delegates to Rous County Council.

Executive Summary

Council has a range of committees that contribute to the operations, activities and functions of Council. In addition, Council also has delegate commitments to external organisations.

Appointments to Council committees are made under section 355 of the *Local Government Act 1993*. Council may exercise its functions under this section by means of appointing individual councillors and employees, by a committee of the council, partly or jointly by the council and others, or jointly by the council and another council or councils.

Appointments to County Councils are made under Schedule 9 of the *Local Government (General) Regulation 2005*. Under the Regulations a Councillor of the constituent council may be nominated for election as a member of the county council. If the number of candidates is not more than the number of vacancies to be filled, those candidates are to be declared elected. If there are more candidates nominated than the number to be elected, an election is to be determined by preferential ballot.

It is Council's practice to review, at its first meeting, the appointment of Councillor representatives and Councillor delegates to essential committees and organisations. A detailed review of all committees will be brought to a future meeting of Council.

Community Strategic Plan Links

Focus Area 7 Governance and Process - Long term Goal 7.5 Sound Governance and Legislative Practices.

Budget Implications

Nil.

Report

Following a local government election it is Council's practice to review the appointment of Councillor representatives to essential committees and councillor delegates to various organisations.

Details of the various committees and Councillor appointment requirements are provided below:

- **Internal Audit Committee:** This is a committee of the whole Council and will report to the full Council.

The function of the Internal Audit Committee is to facilitate the internal audit function of Council.

Membership consists of all members of Council (i.e. Mayor and all Councillors). A chairman is to be appointed by the Committee.

- **Richmond Valley Council Local Traffic Committee:** This committee is a statutory committee with operating arrangements covered by the *Roads Act 1993* and the Roads and Traffic Authority Engineering Manual.

The function of the Local Traffic Committee is to advise Council on traffic related matters referred to it by Council. (Note: Items will be referred by Council officers and/or Council resolution). It is an advisory body only; recommendations from the Committee are reported to Council.

Membership consists of one Councillor, Director Infrastructure and Environment (or nominee), one representative each from the Police Traffic Branch and the Roads and Maritime Services, the Member for Lismore (or nominee) and the Member for Clarence (or nominee).

Council is required to appoint one Councillor representative to the Local Traffic Committee.

In addition to the above committees, the **Reserve Trust**, with a membership consisting of all members of Council, has a function of determining improvement and policy issues in relation to Crown Reserves of which Council is appointed as Trustee under the *Crown Lands Act 1989*. Minutes of Reserve Trust Meeting are submitted to Council's Ordinary Meetings for confirmation.

Councillor Delegates

As mentioned previously in this report, Council is also required to appoint Councillor delegates to various organisations. At this meeting it is proposed to appoint two Councillor delegates to the following County Council:

- **Rous County Council– two Councillors**

Election for delegate positions of county councils is to be conducted in accordance with Schedule 9 of the *Local Government (General) Regulation 2005*. The General Manager of the constituent council is the returning officer. Nomination forms for the position of delegate to Rous County Council have been forwarded to each Councillor. Additional nomination forms are available on request.

The process for the election of the delegates to county councils is similar to that of the Deputy Mayor. The only major difference is that should there be more nominations than there are places on the county council (two) then an election must be held using preferential voting. The relevant extract from the regulations is as follows:

Part 2 Single area electorate

3 Application of Part

This Part applies to the election of one or more members of a county council by the councillors of one constituent council, where the electorate comprises the whole or part of the area of that council only.

4 Returning officer

The general manager of the constituent council (or a person appointed by that general manager) is the returning officer.

5 Nomination

- (1) A councillor of the constituent council may be nominated for election as a member of the county council.
- (2) The nomination:
 - (a) may be made without notice by any councillor of the council, and
 - (b) is to be in writing delivered or sent to the returning officer, and
 - (c) is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The returning officer is to announce the names of the nominees at a council meeting.

6 Election

- (1) If the number of candidates nominated is not more than the number of vacancies to be filled, those candidates are to be declared elected.
- (2) If there are more candidates nominated than the number to be elected, an election is to be determined by preferential ballot. The ballot is to be conducted by the preparation, marking and counting of ballot-papers in the presence of the council.

7 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the figures 1, 2 and so on against the various names so as to indicate the order of their preference for at least the number of candidates to be elected.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper is to be rejected at the scrutiny of votes.

8 Count

The votes are to be counted in accordance with Schedule 4 of this Regulation.

9 Result

The result of the election (including the names of the candidates elected as members) is:

- (a) to be declared to the councillors by the returning officer at the council meeting where the election is held, and
- (b) to be delivered or sent to the general manager of the county council and the Director-General.

In the advent of their being more than two nominations ballot papers will be provided in the meeting.

In addition, for Council's information, delegates to the following organisations have traditionally been either the Mayor and/or General Manager as indicated below:

- **Local Government NSW (Annual Conference) – Mayor (or nominee)**
- **Northern Rivers Regional Organisation of Council (NOROC) – Mayor and General Manager**

Council also has a number of Section 355 Committees and delegate commitments which are currently under review. Following the review, it is

proposed that an information session will be held and a report prepared for consideration at a future Council meeting.

Conclusion

This report provides details of requirements for appointment of Councillor representatives to various Committees and Councillor delegates to various organisations.

5.5 COUNCIL MEETINGS - ORDINARY MEETING DAY AND TIME

Responsible Officer:

Deborah McLean (Manager Governance and Risk)

RECOMMENDATION

Recommended that:

1. Council hold its Ordinary Meetings on the third Tuesday of the month commencing at 5.00pm.
2. The October meeting be held on 25 October 2016 to avoid a conflict with the Local Government New South Wales Conference.
3. There be no Ordinary Meeting in January 2017.
4. The June meeting be held on 27 June 2017 to avoid a conflict with the National General Assembly of Local Government.
5. Council confirm that its Ordinary Meetings for the remainder of 2016 and for 2017 will be held on the following dates:

25 October 2016
15 November 2016
20 December 2016
21 February 2017
21 March 2017
18 April 2017
16 May 2017
27 June 2017
18 July 2017
15 August 2017
19 September 2017
17 October 2017
21 November 2017
19 December 2017

270916/ 5 RESOLVED (Cr Morrissey/Cr Lyons)

That the above recommendation be adopted.

FOR VOTE - All Council members voted unanimously.

Executive Summary

The *Local Government Act 1993* requires a council to meet at least 10 times each year, each time in a different month.

Following a local government election it is council practice to review its meeting days and commencement times for its Ordinary Meetings.

Proposed meeting times and dates are recommended in this report.

Community Strategic Plan Links

Focus Area 7 Governance and Process - Long term Goal 7.5 Sound Governance and Legislative Practices.

Report

Section 365 of the *Local Government Act 1993* states that *"The council is required to meet at least 10 times each year, each time in a different month."*

Following a local government election it has been usual practice for Council to review its meeting days and commencement times.

At present Council's Ordinary Meetings are held at 5.00pm on the third Tuesday of the month.

Council's Code of Meeting Practice indicates that Council does not normally conduct an Ordinary Meeting in January. It has been usual practice for Council to determine whether or not to conduct an Ordinary Meeting in January on an annual basis.

The Local Government NSW Annual Conference is scheduled for 16-18 October 2016 and clashes with Council's October Ordinary Meeting if held on the third Tuesday of the month. The Annual Conference is the annual policy-making event for all councils in NSW. It provides the opportunity for councillors to come together to share ideas and debate issues. It is usual practice that any available Councillor be given the opportunity to attend this Conference.

Council may also wish to review the date of its June 2017 Ordinary Meeting if it intends being represented at the 2017 National General Assembly of Local Government which is scheduled to be held 18-21 June 2017 in Canberra. Should Council determine that its Ordinary Meetings continue to be held on the third Tuesday of the month, the June 2017 meeting date (20 June) would clash with the date of the Assembly.

It is proposed that Council meetings for the remainder of 2016 and for 2017 continue to be held on the third Tuesday of the month commencing at 5.00 p.m. This is with the exception of the October 2016, January 2017 and June 2017 meetings for the reasons provided above.

The following meeting dates and times are proposed:

25 October 2016
15 November 2016
20 December 2016
21 February 2017
21 March 2017
18 April 2017
16 May 2017
27 June 2017
18 July 2017
15 August 2017
19 September 2017
17 October 2017
21 November 2017
19 December 2017

Consultation

Section 232 of the *Local Government (General) Regulation 2005* requires that public notice be given of each of Council's Ordinary Meetings. This is undertaken by newspaper advertisement and also on Council's Website.

Conclusion

It is considered appropriate that the new Council be given the opportunity to review the day and time of its Ordinary Meetings, whether or not it conducts a January 2017 Ordinary Meeting and the date on which it proposes to conduct its October 2016 and June 2017 Ordinary Meetings both of which would clash with conferences if Council's meetings continue to be held on the third Tuesday of the month.

The Meeting closed at 5.43pm.

CONFIRMED - 25 October 2016

CHAIRMAN