



# EXTRAORDINARY COUNCIL MEETING

Council Chambers, 4<sup>th</sup> Floor Ray Walsh House, 437 Peel Street

**9:00AM SATURDAY 10 JULY 2010**

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## ORDER OF BUSINESS

- 1 APOLOGIES**
- 2 COMMUNITY CONSULTATION**
- 3 DISCLOSURE OF INTEREST**
  - Pecuniary Interest
  - Non Pecuniary Conflict of Interest
  - Political Donations
- 4 MAYORAL MINUTE ..... 1**
  - 4.1 RECRUITMENT AND APPOINTMENT OF THE GENERAL MANAGER, TAMWORTH  
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- 5 CLOSED MAYORAL MINUTE ..... 5**
  - 5.1 MAYORAL MINUTE – RECRUITMENT AND APPOINTMENT OF THE GENERAL  
MANAGER, TAMWORTH REGIONAL COUNCIL - FILE NO SF4743 ..... 5

Glenn Inglis  
**General Manager**

# Council

**Meeting Date:** 4th Tuesday of the month commencing at 6.00 p.m.

Matters determined by Ordinary meetings will include all those non-delegable functions identified in Section 377 of the Local Government Act as follows:

- *“the appointment of a general manager*
- *the making of a rate*
- *a determination under section 549 as to the levying of a rate*
- *the making of a charge*
- *the fixing of a fee*
- *the borrowing of money*
- *the voting of money for expenditure on its works, services or operations*
- *the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)*
- *the acceptance of tenders which are required under this Act to be invited by the council*
- *the adoption of a management plan under section 406*
- *the adoption of a financial statement included in an annual financial report*
- *a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6*
- *the fixing of an amount or rate for the carrying out by the council of work on private land*
- *the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work*
- *the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the [Environmental Planning and Assessment Act 1979](#)*
- *the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194*
- *a decision under section 356 to contribute money or otherwise grant financial assistance to persons*
- *the making of an application, or the giving of a notice, to the Governor or Minister*
- *this power of delegation*
- *any function under this or any other Act that is expressly required to be exercised by resolution of the council.”*

Other matters and functions determined by Ordinary Council Meetings will include:

- *Notices of Motion*
- *Notices of Motion of Rescission*
- *Council Elections, Polls, Constitutional Referendums and Public Hearings/Inquiries*
- *Ministerial Committees and Inquiries*
- *Mayor and Councillors Annual Fees*
- *Payment of Expenses and Provision of Facilities to Mayor and Councillors*
- *Local Government Remuneration Tribunal*
- *Local Government Boundaries*
- *NSW Ombudsman*
- *Administrative Decisions Tribunal*
- *Delegation of Functions by the Minister*
- *Delegation of Functions to General Manager and Principal Committees*
- *Organisation Structure*
- *Code of Conduct*
- *Code of Meeting Practice*
- *Honesty and Disclosure of Interests*
- *Access to Information*
- *Protection of Privacy*
- *Enforcement Functions (statutory breaches/prosecutions/recovery of rates)*
- *Dispute Resolution*
- *Council Land and Property Development*
- *Annual Financial Reports, Auditors Reports, Annual Reports and Statement of the Environment Reports*
- *Performance of the General Manager*
- *Equal Employment Opportunity*
- *Powers of Entry*
- *Liability and Insurance*
- *Membership of Organisations*
- *Any matter or function not within the delegable function of Principal Committees*
- *Matters referred from Principal Committees for determination*

**Membership:** All Councillors.

**Quorum:** 5 members

**Chairperson:** The Mayor

**Deputy  
Chairperson:** The Deputy Mayor

## **4 MAYORAL MINUTE**

### **4.1 RECRUITMENT AND APPOINTMENT OF THE GENERAL MANAGER, TAMWORTH REGIONAL COUNCIL - FILE No SF4743**

**AUTHOR: MAYOR CR JAMES M TRELOAR**

#### ***RECOMMENDATION***

*That the Mayoral Minute to the Extraordinary Meeting of Council on Saturday 10 July 2010 in Open Council in relation to the recruitment and appointment of a General Manager, Council:*

- (i) receive and note the Mayoral Minute; and*
- (ii) determine this matter in part of this Extraordinary Meeting closed to the public pursuant to Sections 10A(2)(a) and 10A(2)(d)(i) of the Local Government Act 1993 on the grounds:*
  - 10A(2) (a) personnel matters concerning particular individuals (other than councillors),*
  - 10A(2) (d) commercial information of a confidential nature that would, if disclosed:*
    - (i) prejudice the commercial position of the person who supplied it.*

#### **SUMMARY**

The purpose of this report is to record in Open Council the process presently being undertaken by the Council to recruit a new General Manager.

An important part of the process is for the Council to receive my confidential Mayoral Minute and the confidential briefing from Stephen Blackadder, Blackadder Associates Pty Ltd, the Recruitment Consultant appointed by Council to assist and support the Council throughout this process.

It is recommended that a further Mayor Minute and the reports from the Consultant be considered in part of the Extraordinary Meeting closed to the public pursuant to Section 10A(2)(a) and 10A(2)(d)(i) of the Local Government Act 1993 on the grounds:-

That the Council consider this further Mayoral Minute in Closed Council Meeting and the public be excluded during the receipt of information or the discussion of:

- 10A(2) (a) personnel matters concerning particular individuals (other than councillors),
- 10A(2) (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or

Accordingly the confidential matters and information will be considered and determined by Council in a meeting closed to the public.

## COMMENTARY

Section 335 of the Local Government Act 1993 states that:-

- “1. The general manager is responsible for the efficient and effective operation of the council’s organisation and for ensuring the implementation, without undue delay, of decisions of the council.
2. The general manager has the following particular functions:
  - to assist the council in connection with the development and implementation of the community strategic plan and the council’s resourcing strategy, delivery program and operational plan and the preparation of its annual report and state of the environment report
  - the day-to-day management of the council
  - to exercise such of the functions of the council as are delegated by the council to the general manager
  - to appoint staff in accordance with an organisation structure and resources approved by the council
  - to direct and dismiss staff
  - to implement the council’s equal employment opportunity management plan.
3. The general manager has such other functions as may be conferred or imposed on the general manager by or under this or any other Act”.

Section 338 of the Act states, in part:-

- “1. The general manager and other senior staff of a council are to be employed under contracts that are performance-based.
2. The term of a contract must not be less than 12 months or more than 5 years (including any option for renewal). A term that is less than 12 months is taken to be for 12 months and a term for more than 5 years is taken to be limited to 5 years”.

Council Actions for the record:-

1. Advice was received late last year from the incumbent General Manager, Mr Glenn Inglis that he would not be seeking an extension to his Employment Contract with the Tamworth Regional Council.
2. By mutual agreement, earlier this year, Council extended Mr Inglis’ Contract (which expired in February 2010) for 12 months to allow the recruitment process to proceed and find a successor.
3. In March 2010, a Councillor Workshop was held to discuss the need to recruit and appoint a new General Manager.

Amongst other Workshop Outcomes, a “Councillor Recruitment Panel” was formed to oversee the recruitment process.

The Panel appointed comprised four (4) Councillors, namely:-

- The Mayor and Chairperson, Cr James Treloar
  - The Deputy Mayor, Cr Col Murray
  - Cr Phil Betts
  - Cr Juanita Wilson
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A standing arrangement was made that the remaining five (5) Councillors would be welcome to attend meetings of the Panel.

4. Council called for Expressions of Interest from suitably qualified Recruitment Agencies and engaged Stephen Blackadder from Blackadder Associates Pty Ltd as a Consultant.
5. Between April and June 2010, four (4) Panel meetings were conducted.
6. Through the Consultant, the position was publicly advertised in May 2010 and applications closed on 24 May 2010.
7. The Panel called for an Extraordinary Meeting of the Council to be held on Saturday 10 July 2010 to conduct interviews of five (5) short listed candidates and make a determination as to a preferred candidate.
8. I am not expecting an announcement of the successful candidate on Saturday 10 July 2010. Several actions need to be undertaken by myself and the Deputy Mayor, and, Council's Consultant after the preferred candidate is determined by the Council, such as, negotiation of a five year performance-based employment contract and associated matters.
9. As Mayor, I will not be announcing the name of the successful candidate until such time as it is known that all administrative matters have been actioned and addressed.

**(a) Policy Implications**

Nil.

**(b) Financial Implications**

The appointment of a new General Manager has been provided for in Council's 2010/2013 adopted Management Plan and Budget.

**(c) Legal Implications**

Section 334(1) of the Act provides that the Council must appoint a person to be its General Manager. The person must not be a Body Corporate.

**(d) Community Consultation**

Not required.

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**CLOSED COUNCIL**  
**Confidential Reports**  
(Section 10A(2) of The Local Government Act 1993)

Where it is proposed to close part of the Meeting, the Chairperson will allow members of the public to make representations to or at the meeting, before any part of the meeting is closed to the public, as to whether or not that part of the meeting should be closed to the public.

The Chairperson will check with the General Manager whether any written public submissions or representations have been received as to whether or not that part of the meeting should be closed to the public.

The grounds on which part of the Council or Committee meeting may be closed to public are listed in Section 10A(2) of the Local Government Act 1993 and are as follows:

- (a) personnel matters concerning particular individuals other than Councillors,
- (b) the personal hardship of any resident or ratepayer,
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law,
- (f) matters affecting the security of the council, councillors, council staff or council property,
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- (h) during the receipt of information or discussion of information concerning the nature and location of a place or an item of Aboriginal significance on community land.

Section 10A(3) of the Act provides that Council, or a Committee of the Council of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

Section 10B(3) of the Act provides that if a meeting is closed during discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3) of the Act), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is matter referred to in section 10A(2) of the Act).

Section 10B(1) of the Act provides that a meeting is not to remain closed to the public during the receipt of information or the discussion of matters referred to in section 10A(2):

- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
- (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret - unless the Council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest section 10B(4) of the Act states it is irrelevant that:

- (a) a person may interpret or misunderstand the discussion, or
- (b) the discussion of the matter may:
  - (i) cause embarrassment to the Council or committee concerned, or to councillors or to employees of the council, or
  - (ii) cause a loss of confidence in the Council or committee.

**Resolutions passed in Closed Council**

It is a requirement of Clause 253 of the *Local Government (General) Regulation 2005* that any resolution passed in Closed Council, or Committee be made public as soon as practicable after the meeting has ended. At the end of Closed Council or Committee meeting, the Chairperson will provide a summary of those resolutions passed in Closed Council or Committee.