

ORDINARY COUNCIL MEETING

Council Chambers, 4th Floor Ray Walsh House, 437 Peel Street

6:30PM TUESDAY 9 AUGUST 2011

Order Of Business

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- 2 COMMUNITY CONSULTATION**
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Paul Bennett
General Manager

Council

Meeting Date: 2nd and 4th Tuesday of the month commencing at 6.30 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*

Membership: All Councillors.
Quorum: 5 members
Chairperson: The Mayor
Deputy Chairperson: The Deputy Mayor

Community Consultation Policy

The first thirty (30) minutes of Open Council Meetings is available for members of the Public to address the Council Meeting or submit questions either verbally or in writing, on matters INCLUDED in the Business Paper for the Meeting.

Members of the public will be permitted a maximum of three (3) minutes to address the Council Meeting. An extension of time may be granted if deemed necessary.

Members of the public seeking to represent or speak on behalf of a third party must satisfy the Council or Committee Meeting that he or she has the authority to represent or speak on behalf of the third party.

Members of the public wishing to address the Council meetings are requested to contact Council either by telephone 67675 444 prior to 12 noon the day of the Meeting or in person and register their intention to address the Council Meeting.

Members of the public will not be permitted to raise matters or provide information which involve:

- Personnel matters concerning particular individuals (other than Councillors);
- Personal hardship of any resident or ratepayer;
- Information that would, if disclosed confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business;
- Commercial information of a confidential nature that would, if disclosed:
 - - prejudice the commercial position of the person who supplied it, or
 - - confer a commercial advantage on a competitor of the Council; or
 - - reveal a trade secret;
- information that would, if disclosed prejudice the maintenance of law
- matters affecting the security of the Council, Councillors, Council staff or Council property;
- advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege;
- on balance, be contrary to the public interest.
- Members of the public will not be permitted to use Community Consultation to abuse, vilify, insult, threaten, intimidate or harass Councillors, Council staff or other members of the public. Conduct of this nature will be deemed to be an act of disorder and the person engaging in such behaviour will be ruled out of the order and may be expelled.

Disclosure of Political Donations or Gifts

If you have made a relevant planning application to Council which is listed for determination on the Council Business Paper you must disclose any political donation or gift made to any councillor or employee of the Council within the period commencing 2 years before the application is made and ending when the application is determined (Section 147(4) Environmental Planning and Assessment Act 1979).

If you have made a relevant public submission to Council in relation to a relevant planning application which is listed for determination on the Council Business Paper you must disclose any political donation or gifts made to any councillor or employee of the Council by you as the person making the submission or any associate within the period commencing 2 years before the submission is made and ending when the application is determined (Section 147(5) Environmental Planning and Assessment Act 1979).

OPEN COUNCIL REPORTS

6 ENVIRONMENT & PLANNING

6.1 APPLICATION OF THE *DISABILITY DISCRIMINATION ACT 1992* AND THE *DISABILITY (ACCESS TO PREMISES – BUILDING) STANDARDS 2010 – FILE NO SF18*

DIRECTORATE: PLANNING AND COMMUNITY SERVICES
AUTHOR: David Koppers, Senior Development Assessment Planner

RECOMMENDATION

That Council receive and note the report in relation to the “Application of the Disability Discrimination Act 1992 and the Disability (Access to Premises – Building) Standards 2010”.

SUMMARY

On 15 March 2010, the Federal Attorney-General created the Disability (Access to Premises - Buildings) Standards 2010 (also known as the Premises Standards) pursuant to Section 31(1) of the *Disability Discrimination Act 1992* (DDA). These standards came into legislative force on 1 May 2011.

This report provides Council with an overview of the application and impact of the legislation and associated standards relating to disability discrimination and, in particular, the impact on Council’s regulatory roles.

BACKGROUND

Within New South Wales there are two separate legislative instruments which apply to disability discrimination and discrimination in general. The primary legislation is the *Disability Discrimination Act 1992* and the secondary legislation is the *Anti-Discrimination Act 1977* (ADA).

The DDA is the principal legislative instrument which applies to NSW with regard to access to premises, and in particular access by those with a disability. Pursuant to Section 23 of the DDA:

It is unlawful for a person to discriminate against another person on the ground of the other person's disability:

- (a) *by refusing to allow the other person access to, or the use of, any premises that the public or a section of the public is entitled or allowed to enter or use (whether for payment or not);*

A premise is defined by the DDA as:

- (a) *a structure, building, aircraft, vehicle or vessel;*
- (b) *a place (whether enclosed or built on or not); and*
- (c) *a part of premises (including premises of a kind referred to in paragraph (a) or (b)).*

Part (c) includes sanitary facilities, lifts and pools.

Application of the *Disability Discrimination Act 1992* in a local government context prior to the introduction of the Disability (Access to Premises - Buildings) Standards 2010:

The Australian Human Rights Commission oversees the application and review of the DDA and published a detailed article on their website (www.humanrights.gov.au) in May 2011, relating to the responsibilities of local government authorities under the DDA when considering Development Applications. The key point of this document is that:

“The Disability Discrimination Commissioner has previously expressed a view that councils have a critical role to play in ensuring developments comply with the requirements of the DDA. Recent Commission and Federal Court decisions show that councils can be liable under section 122 of the DDA for permitting discriminatory acts when exercising their development approval responsibilities”.

The Land and Environment Court of New South Wales (LEC) in the case of *Macri v Ku-ring-gai Council* recently determined an application for the development of multi-unit dwellings on 15 April 2011. One of the primary contentions for this development was the inadequate provision of disabled access within the development, and was cited as a reason for refusal by Ku-ring-gai Council.

The LEC resolved that disabled access in accordance with the DDA was required to be provided and conditioned the consent to require the provision of lift facilities and adjustment of levels to pedestrian pathways.

COMMENTARY

Introduction of the Disability (Access to Premises - Buildings) Standards 2010:

What is the purpose of the Premises Standards?

The purpose is to ensure that “dignified, equitable, cost effective and reasonably achievable access” to, and use of, buildings is provided for people with disabilities and to also provide a level of certainty to the development industry. The Premises Standards (PS) achieve this by setting performance requirements and technical specifications for non-discriminatory access.

The PS are made pursuant to Section 31(1) of the DDA. Compliance with the PS satisfies the DDA with regard to the non-discriminatory matters covered by the PS, and should a person or organisation act in accordance with those matters, a successful complaint cannot be made with regard to that matter under the DDA.

Why were the Premises Standards developed?

Until the development and enactment of the PS there were significant inconsistencies between the objectives of the DDA and the requirements of the Building Code of Australia (BCA). This inconsistency has created confusion and uncertainty as to the application of the DDA in relation to development and building activities both within the development sector and local government practitioners (i.e. planners and building surveyors).

The DDA did not (prior to the introduction of the PS) provide design specifications on how to achieve the objectives of the DDA. The BCA alternatively provided design specifications, yet compliance with the BCA did not guarantee, and usually would not achieve, full compliance with the DDA.

What changes did the Premises Standards make?

The PS includes a number of technical specifications relating to access to premises. These changes have subsequently been incorporated into the BCA in full to prevent any inconsistencies between achieving the objectives of the DDA and compliance with the PS and BCA. Some examples of the changes made by the PS are described below:

1. Car Parking: Previously a disabled car parking space was wider and longer than a traditional parking space. Under the PS a disabled parking space is no larger than normal however, what would normally be an adjoining parking space is now required to be reserved as a 'shared area' with no parking permitted. This has the effect of requiring more land area to support a disabled parking space.

2. The Affected Part of a Building: Any new works in an applicable building class are now required to comply with the PS. In addition to this requirement, the path of travel from that building's principal pedestrian access (including entrance) to the area of new works must be brought into compliance with the PS. For example, construction of a beer garden at the rear of a licensed premises. The main entrance to that building and any hallways/doorways leading to the beer garden must now be upgraded in accordance with the PS.

What building types do the Premises Standards currently apply to?

Under the current provisions, the PS applies to all building types with the exception of single dwellings, multiple dwellings and outbuildings where associated with a dwelling.

The PS applies not only to new buildings, but also to existing buildings in which new works are being undertaken. Where an existing building is undergoing works (being works which require a Construction Certificate (CC)) then all new parts of the building and the 'affected part' of the building must be brought into compliance with the PS. The 'affected part' is defined as:

- (a) *the principal pedestrian entrance of an existing building that contains a new part; and*
- (b) *any part of an existing building, that contains a new part, that is necessary to provide a continuous accessible path of travel from the entrance to the new part.*

When do the Premises Standards apply?

As has been stated previously, the PS commenced on 1 May 2011. Any building development (for a building which the PS applies to) must comply with the PS, regardless of any condition of development consent, if the CC for building works had not been submitted to the Certifying Authority prior to 1 May 2011.

The PS does not utilise savings and transitional provisions, and is applied in the same manner as the BCA. For example, a Development Application (DA) may have been approved by Council in 2007 and the consent does not require the provision of disabled access facilities. The applicant then lodges a CC with a building certifier (which may be Council) after 1 May 2011. The certifier must require the applicant to demonstrate compliance with the PS, which requires the provision of disabled access facilities. This may require modification of the consent or the lodgement of a new DA, depending on the scale of changes to be made.

Interaction of the *Disability Discrimination Act 1992* and the *Premises Standards* with Council's regulatory roles:

Council plays two distinct roles with regard to the application of the DDA and PS. In the first instance, the Development Assessment staff must ensure applicable Development Applications comply with the DDA. This consideration is required pursuant to **Section 79C(e)** of the Environmental Planning & Assessment Act 1979 - '**the public interest**'. Consent conditions should reflect a requirement to comply with the DDA.

The second phase involves the Building Certification staff that assess the Construction Certificate application for compliance against the technical standards of the PS.

Principles of 'Unjustifiable Hardship':

The DDA acknowledges that in some circumstances, it will not be possible to achieve full compliance with the DDA/PS, and therefore the concept of '*unjustifiable hardship*' was developed. There is no specific definition of what constitutes an '*unjustifiable hardship*'. However, the DDA, pursuant to Section 11 gives the following guidance in establishing if it exists or not:

- (1) *For the purposes of this Act, in determining whether a hardship that would be imposed on a person (the first person) would be an unjustifiable hardship, all relevant circumstances of the particular case must be taken into account, including the following:*
 - (a) *the nature of the benefit or detriment likely to accrue to, or to be suffered by, any person concerned;*
 - (b) *the effect of the disability of any person concerned;*
 - (c) *the financial circumstances, and the estimated amount of expenditure required to be made, by the first person;*
 - (d) *the availability of financial and other assistance to the first person;*
 - (e) *any relevant action plans given to the Commission under Section 64.*
- (2) *For the purposes of this Act, the burden of proving that something would impose unjustifiable hardship lies on the person claiming unjustifiable hardship.*

Compliance with the DDA/PS is still required to the maximum extent possible which does not involve '*unjustifiable hardship*'. For example – a developer might be able to claim an exemption for upgrading an existing lift to a lift with compliant circulation space. However, this would not prevent the existing lift being upgraded to the maximum extent possible, including new braille button controls set at an appropriate height.

Critical to Council's involvement in this part of the process is to be aware that neither Council nor any certifying authority can make a conclusive and legally binding decision on '*unjustifiable hardship*'. This decision can only be made by the Federal Court or Federal Magistrates Court. Any determination made outside of the Court's jurisdiction can be subject to discrimination proceedings under the DDA.

CONCLUSION

Since the introduction of the *Disability Discrimination Act 1992*, it has been unlawful to discriminate against a person by way of restricting access to premises, or to assist someone in acting unlawfully in that regard. The Human Rights Commission has made it clear that Council can and should be held lawfully accountable for any decisions which are in contravention to the objectives of the *Disability Discrimination Act 1992*.

The Land and Environment Court of New Wales South has also made it clear in recent times that achieving appropriate levels of disabled access is an important and relevant consideration when determining Development Applications.

With the introduction of the Disability (Access to Premises - Buildings) Standards 2010, achieving compliance with the *Disability Discrimination Act 1992* is now more clearly defined than in the past. The implication of this is that Council will now have less justification in defending decisions which result in a breach of the *Disability Discrimination Act 1992*.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Should Council not ensure compliance with the *Disability Discrimination Act 1992* and the Disability (Access to Premises - Buildings) Standards 2010 in its assessment and determination of both Development Applications and Construction Certificates, it may become subject to discrimination claims under the *Disability Discrimination Act 1992*.

(d) Community Consultation

Nil

6.2 CRIME PREVENTION WORKING GROUP – FILE NO SF2300

DIRECTORATE:

PLANNING AND COMMUNITY SERVICES

AUTHOR:

Petria Jukes, Community Planning and Development Officer

ANNEXURE ATTACHED

RECOMMENDATION

That Council receive and note the minutes of the Crime Prevention Working Group Meeting held on 17 June 2011.

SUMMARY

The purpose of this report is to present the minutes, refer **ANNEXURE 6.2**, of the Crime Prevention Working Group (CPWG) meeting held on 17 June 2011, and provide Council with an overview of the meeting outcomes.

COMMENTARY

1. The CPWG discussed the forthcoming grant funding received through the Proceeds of Crime Act 2002 (Commonwealth) for the upgrade of the existing Closed Circuit Television network within the Central Business District (CBD). Actions surrounding collaborative work between the Oxley Local Area Command and Tamworth Regional Council staff were recorded within the Minutes to ensure the project plan is developed with appropriate strategies and deliverables. The members of the CPWG will investigate locations for camera hardware should additional funds become available as well as potential for reusing existing camera hardware in alternative locations.
2. A representative of the Tamworth Chamber of Commerce provided a late item of correspondence in lieu of attendance at the meeting. The correspondence related to potential opportunities and barriers of the Chamber and its members being involved in the Youth Truancy Program (Standard Leave Pass) as suggested at the April 2011 CPWG meeting. Discussion recorded within the Minutes resulted in a number of actions surrounding further research into feasibility of the program within the Tamworth CBD and opportunities for collaboration with agency and business groups.
3. General discussion relating to the mobile Police presence in the Coledale West Tamworth area (a combined initiative of the Oxley Local Area Command and Housing NSW) was held by the group. Reports from the Police detail the success of the program as well as minor changes to duty hours currently under consideration. Group members also discussed some general incidents of crime and anecdotal evidence of emerging crime trends within the area such as incidents of anti social behaviour in the early morning time frame (midnight – 6.00am).
4. A representative of Tamworth Radio Taxis provided a summary of operational issues currently impacting upon taxi drivers and radio staff in the CBD. These included changes to patron behaviour since the ceasing of the Liquor Accord voucher scheme and the implementation of the 'no Central Business District pick up' policy. It was requested that a member of the Liquor Accord be invited to the next meeting to discuss concerns and look at further opportunities for similar partnerships in the future.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Nil

(d) Community Consultation

There were no presentations by community members at the June 2011 CPWG Meeting.

7 INFRASTRUCTURE AND SERVICES

7.1 STORMWATER MANAGEMENT – FILE NO SF103

DIRECTORATE: REGIONAL SERVICES

AUTHOR: Murray Russell, Manager Operational Services

ANNEXURE ATTACHED

RECOMMENDATION

That in relation to the report “Stormwater Management”, Council:

- (i) allocate \$150,000 (excluding GST) of the 2011/2012 Drainage Budget toward a study of urban drainage in Tamworth;*
- (ii) allocate \$870,000 (excluding GST) of the 2011/2012 Drainage Budget toward the construction of Stage 1 of the West Tamworth trunk drainage system in the vicinity of Hercules/Belmore/Denison Streets; and*
- (iii) allocate \$80,000 (excluding GST) of the 2011/2012 Drainage Budget toward the extension of the existing stormwater drainage lines in the vicinity of the Longyard Golf Course.*

SUMMARY

Tamworth Regional Council currently applies a drainage levy of \$25 per developed residential property and \$25 per 350 square metres of impervious surface (or part there of) for developed commercial properties. The levy is only applied within the City of Tamworth (measured by the old Tamworth City Council boundary) and totals approximately \$555,000 per annum. This income is reserved for design, construction and maintenance of stormwater management activities within the area that the charge is applied. This work can include stormwater pollution prevention, flood mitigation, rainwater and stormwater harvesting, community education programs as well as stormwater drainage systems.

This report seeks Council’s consideration of a recommendation to utilise this funding to undertake a drainage study of Tamworth to improve the quality of our stormwater data in order to better manage the risks of property inundation from storm events.

COMMENTARY

Tamworth City ratepayers have been contributing directly to stormwater management since the introduction of a Stormwater Drainage Charge in 2002/03 based upon the Tamworth Urban Area Stormwater Management Plan. A change to Section 496(a) of the Local Government Act 1993 saw this converted to a Stormwater Management Charge in 2006/07, with all funds being applied exclusively to the design and construction of new drainage infrastructure. Examples of projects completed under this scheme are the installation of a major drainage line in Hill Street from Kable Avenue to Peel Street (including a high volume Gross Pollution Trap), and the reconstruction of Long Gully between Raglan Street and Napier Street.

In recent times, the prioritisation of these works has been based on a revised project list approved by Council in 2006, with projects ranked primarily on their known history of flooding. The 2006 list of works is shown below with an update of the current status.

Project	Location	Description	Capital Cost
1	Country Energy Substation – Oxley Vale	Underground Drainage Diversion	Complete
2	Hercules Street to Peel River	Underground Drainage Construction	Not complete - Part of West Tamworth Scheme
3	Hill Street – Marius Street to Peel River	Underground Drainage Construction	Complete
4	Bourke Street – Raglan Street to Napier Street	Underground Culvert Construction	Complete
5	Hannaford Avenue – Golf Street to Napier Street	Underground Drainage Upgrade/ Construction	Not Complete
6	Hercules Street – Gipps Street to Bridge Street	Underground Drainage Construction	Not complete - Part of West Tamworth Scheme
7	Darrell Road – Calala Lane to End	Underground Drainage Construction	Complete
8	Denison Street – Gipps Street to Railway	Underground Drainage Construction	Not complete - Part of West Tamworth Scheme
9	Belmore Street – Gipps Street to Reserve Place	Underground Drainage Construction	Not complete - Part of West Tamworth Scheme
10	Hill Street – Napier Street to Raglan Street	Underground Drainage Construction	Not Complete

Nearly half of this program has been completed to date. Work on this program was put on hold as a result of recent flooding which has highlighted problem areas that were not identified in the currently adopted program. Some of the problem areas identified from the recent floods were considered a higher risk than projects listed on the adopted program. As a result it is considered timely to review the stormwater priorities for Council.

In addition, as part of the gazettal of Council's new Local Environmental Plan, a clause has been added by the Department of Planning and Infrastructure which now refers to the **flood planning level** as the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard. The clause also refers to land identified on Council's current Flood Planning Maps, which were developed in the early 2000's from various sources including records of historical flood events, estimates from the Tamworth flood study undertaken for design of the levees, as well as various historical recollections of ratepayers and staff.

Whilst Council has existing Flood Planning Maps for its major urban areas, these maps only cover areas affected by riverine flooding, which is flooding caused by rising waters from major rivers or creeks (eg. Peel River and Goonoo Goonoo Creek).

The management of flood impacts in NSW is guided by the Floodplain Management Manual, which sets out the standard of flood control that needs to be adopted by Councils, along with how flood risks and property impacts are to be assessed. The Floodplain Management Manual calls for the identification of flood prone land associated with not only riverine flooding, but also major drainage systems. It notes that property owners affected by flooding do not care about the technical distinction between rising waters from a river, or overland inundation from a major drainage system. As a result, land that is affected by flooding of major drainage systems should be the

subject of development controls in the same way that land is controlled from impacts of riverine flooding.

Major drainage systems are defined in the Floodplain Management Manual as:

- areas such as major watercourses or trunk drainage systems;
- water depths above 0.3m in the design storm (1:100ARI);
- major overland flowpaths through developed areas; and
- drainage systems with the potential to flood a number of buildings.

An example of such a drainage system would be any one of the major flow paths coming out of the hills to the east of Tamworth and flowing through the urban area toward the Central Business District. High intensity storm events in this area cause the drainage systems to surcharge and result in property inundation.

Council does not currently identify land affected by surcharges from major drainage systems as being below the flood planning level, however this is not in accordance with the Floodplain Management Manual. In order to rectify this, it would be necessary to undertake a study of major drainage systems, and their associated overland flow paths, to assess design flood levels. This would then provide better planning information for future development as well as allowing a risk management approach to the planning and management of our stormwater system. Council's Planning & Community Services Directorate supports the proposal to undertake a stormwater drainage study.

Council's current Stormwater Management Plan deals primarily with stormwater quality issues (eg. Gross Pollutant Traps). Undertaking the proposed study will allow Council to update the Stormwater Management Plan and prioritise works based on more accurate data. The study will involve the preparation of a detailed topographical model of the city and will overlay designed storm events to highlight areas of risk. The cost of this study is likely to be in the vicinity of \$150,000. This will provide maps for the purpose of identifying land prone to flooding from major drainage systems, as well as a tool for identifying and prioritising stormwater risks within the urban areas of Tamworth. It is anticipated that such a study would take approximately 12 months. The information from this study will allow Council to address high risk areas in more detail if required. The information can also be used to undertake detailed design and construction work based on the identified priorities.

Should Council agree to undertake the stormwater drainage study, then in the interim it is suggested that Council focus its construction efforts on known risk areas. The stormwater system in West Tamworth (in the vicinity of Hercules/Belmore/Denison Streets) has been shown to be inadequate over a number of major storm events. This has led to flood impacts on properties along Bridge Street and surrounding areas. For this reason, the 2006 works program identified the need for a major network of drainage pipes through this area, extending south into the residential area.

Any new drainage network in West Tamworth will depend upon a significant trunk drainage system in the vicinity of Hercules/Belmore/Denison Streets, to carry water across Bridge Street toward the Peel River. This work was identified in the 2006 strategy, and is still considered to be important, not only to the protection of commercial property on Bridge Street, but also to Council's ability to make future improvements in the residential area as far south as Mathews Street. In the 2006 strategy, this work was identified as a number of separate projects, totalling approximately \$2.5 million (likely to be closer to \$3 million based on Net Present Value), with the work to be staged over several years. It is proposed to utilise the available stormwater drainage funding toward completion of the major trunk drainage lines in that area. This work would be scoped to fit the available budget (\$870,000), however would be expected to cater for an upgraded system from Denison Street at the Railway Line, upstream to the southern side of Bridge Street. The additional work that will then be required to complete the network will be scheduled in the future as part of Council revised work program. A plan showing the proposed drainage network is attached, refer **ANNEXURE 7.1**.

In addition to the proposed work in West Tamworth, there is another drainage issue that warrants Council's attention in the short term. For several years, the owner of the Longyard Golf Course has highlighted drainage problems that he feels are causing damage to the Golf Course.

It is alleged by the owner that much of this damage is due to Council negligence in relation to the approval of upstream subdivisions, and a lack of maintenance of Council's drainage easements across the Golf Course. Whilst these allegations are disputed by Council, our insurers have identified two areas that they strongly recommend should be upgraded in order to show continued good faith in our negotiations with the Golf Course owner. These two areas are:

- Council's underground stormwater line that carries water from Greg Norman Drive and discharges into the golf course dam adjacent to the green. Due to the level of the dam, the adjacent stormwater pit regularly surcharges and flows across golf course infrastructure, albeit within an existing stormwater easement. It is proposed that the pipe be diverted around the dam so that it discharges directly into the existing channel downstream; and
- construction of inter allotment drainage for properties on the north side of Cobb and Co Circuit. Whilst most of these properties discharge their stormwater into the street, the rear part of some of the houses discharges overland, with stormwater flowing through their backyard and into the Golf Course. This is creating concerns for both residential property owners and the owners of the Longyard Golf Course. It is proposed to install an inter allotment drainage line at the rear of the houses to divert this water to the piped drainage system.

The total estimated cost for the above work is \$80,000.

(a) Policy Implications

Nil

(b) Financial Implications

Council's Drainage Reserve balance at 30 June 2011, was \$1.23 million. Revenue estimated for 2011/2012 is \$555,000.

Within this year's Management Plan there is an allocation of \$1.1 million for Drainage Levy works (unspecified). The expenditure proposed in this report: \$150,000 for the Drainage Study, \$80,000 for Longyard Drainage Works and \$870,000 for the West Tamworth Drainage Upgrade can be adequately funded from the 2011/2012 Drainage Budget.

(c) Legal Implications

Nil

(d) Community Consultation

Nil

8 GOVERNANCE, STRATEGY AND FINANCE

8.1 PROPOSED VODAFONE BASE STATION FACILITY – RAY WALSH HOUSE – FILE NO SF1301

DIRECTORATE: CORPORATE AND GOVERNANCE

AUTHOR: Barbara Thomson, Leases and Licences Officer

RECOMMENDATION

That in relation to the report “Proposed Vodafone Base Station Facility – Ray Walsh House”, Council:

- (i) approve the request to erect the facility on the roof of Ray Walsh House, 437 Peel Street, Tamworth;*
- (ii) authorise the negotiation of a formal lease agreement broadly in terms of existing leases between Council and other telecommunication corporations; and*
- (iii) authorise the Seal of Council to be affixed to the lease document between Council and Vodafone Network Pty Ltd.*

SUMMARY

Council has been approached by consultants, Total Communications Infrastructure Pty Limited, acting on behalf of Vodafone Network Pty Limited (Vodafone), with a proposal to deploy a telecommunication facility on the rooftop of Ray Walsh House.

COMMENTARY

Vodafone is seeking to enhance its network coverage in the Tamworth area. To achieve this coverage, Vodafone needs to construct a new Base Station Facility. Ray Walsh House has been identified as the most appropriate building to accommodate this proposed facility.

Based on initial investigations, Vodafone anticipate the facility would take up an area of approximately sixty square metres and comprise of an equipment cabin, feeder cables and trays, six panel antennae and one microwave dish. It should be noted that due to the recent termination of a lease by Austar and the subsequent removal of their associated equipment, additional space has become vacant on the rooftop of Ray Walsh House.

Advice received, indicates that the proposed facility is a low impact installation under the *Telecommunications Act 1997 (Commonwealth)* and therefore development consent is not required. However, in accordance with the Australian Communications Industry Forum (ACIF) Code of Practice, Vodafone are required to advise the local authority and the community of the proposal.

Council's Director Corporate and Governance has indicated that there is no objection to the proposed facility.

Based on lease agreements between Council and other telecommunication providers the proposed terms of the lease are:

Lessee:	Vodafone Network Pty Ltd;
Lease Term:	Four (4) x Five (5) years;

Lease Fee: \$14,446.00 (ex GST) per annum; and
Rent Review: Adjusted annually for CPI.

(a) Policy Implications

Nil

(b) Financial Implications

All costs associated with the preparation and registration of the lease will be at the expense of Vodafone Network Pty Ltd.

(c) Legal Implications

The Seal of Council will be required to be affixed to the lease documents

The Local Government (General) Regulation, section 400(4) requires that the Seal of Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved by specific resolution referring to the document that the Seal be so affixed.

(d) Community Consultation

In accordance with the ACIF Code of Practice, Vodafone is required to notify the adjoining landowners of the proposal.

8.2 TAMWORTH TENNIS CLUB LTD – REQUEST FOR WAIVING OF ANNUAL RATES AND RENT – FILE NO LF237

DIRECTORATE: CORPORATE AND GOVERNANCE

AUTHOR: Barbara Thomson, Leases and Licences Officer

CONFIDENTIAL ENCLOSURE ENCLOSED

RECOMMENDATION

That in relation to the report “Tamworth Tennis Club Ltd – Request for Waiving of Annual Rates and Rent”, Council not agree to the waiving of the rates and rent, for the land being part Treloar Park on the corner of Napier and Roderick Streets, Tamworth.

SUMMARY

Tamworth Tennis Club Ltd has requested that Council waive the annual rates and rent charged for the land being part Treloar Park on the corner of Napier and Roderick Streets, Tamworth.

COMMENTARY

Treloar Park is Crown Reserve R80112 for public recreation with Council appointed as Reserve Trust Manager. Council has the authority, subject to the consent of the Minister, to issue a licence over the land pursuant to section 102 of the Crown Land Act 1989.

The Land and Property Management Authority Trust Handbook states that the Reserve Trust Manager must ensure that all licence holders pay rent and that the rent should reflect the commercial market, having regard to the purpose of the licence, site value and ownership of existing improvements.

Tamworth Tennis Club Ltd has been located on the current site since 1957. During this time the Club has undertaken considerable expenditure to bring the facility to its present standard using self generated funds and government grants to pay for the tennis related infrastructure.

In June 2010, the Tamworth Tennis Club Ltd executed a five year Licence Agreement with Council for the period 1 August 2008 to 31 July 2013. Base rent for the Licence Agreement is \$2,000.00 (excluding GST) per annum increased annually for CPI. Clause 2.8 of the Licence Agreement stipulates that *the Licensee will pay all taxes, rates and assessments whatsoever.*

The land that Tamworth Tennis Club Ltd occupies is not exempt from rates under Sections 555 and 556 of the Local Government Act 1993. Accordingly, Council currently levies rates for Tamworth Tennis Club Ltd under the business category, plus charges for services the Club utilises being trade waste, sewer, water availability and usage.

Tamworth Tennis Club Ltd generates income in several ways as listed in their Profit and Loss Statements, refer **CONFIDENTIAL ENCLOSURE 8.2**. Council should consider the implications that may arise if they accede to waiving the rates and rent for Tamworth Tennis Club Ltd as other sporting organisations, that also lease land from Council, may expect the same financial assistance.

(a) Policy Implications

Nil

(b) Financial Implications

Tamworth Tennis Club Ltd has requested that Council waive the annual rates and rent charged for the land being part Treloar Park on the corner of Napier and Roderick Streets, Tamworth. The current estimated value of Rent, Rates and Water Usage is \$12,700.00.

(c) Legal Implications

Should Council choose to waive existing charges levied on Tamworth Tennis Club Ltd, under Section 356 of the Local Government Act 1993 the proposal would require at least 28 days on public display prior to passing any resolution granting such financial assistance.

(d) Community Consultation

Nil

8.3 CHAOYANG SISTER CITY PROGRAM – FILE No SF1000

DIRECTORATE: CORPORATE AND GOVERNANCE

AUTHOR: Robert Charlesworth, Manager Governance and Citizen Services

ENCLOSURE ENCLOSED

RECOMMENDATION

That in relation to the official invitation from Mr Li Hui, Director of Foreign Affairs Office of the People's Government of Chaoyang District to attend the 2011 Beijing CBD International Business Festival, Council:

- (i) accept the invitation for Council to send a delegation to attend the 2011 Beijing CBD International Business Festival in mid to late September 2011; and*
- (ii) authorise the Mayor and two representatives to attend the Festival on behalf of Council.*

SUMMARY

The purpose of this report is to inform Chaoyang District of the invitation extended by our Sister City, the People's Government of Chaoyang District in Beijing, China, to send a delegation to attend the 2011 Beijing CBD International Business Festival to be held in mid to late September 2011.

COMMENTARY

In 2000, Beijing launched the first Beijing CBD International Business Festival and since then, the Festival has been successfully held every year. The Festival has made continuous and in depth scientific research and discussion on promoting regional economies and social development and well as reform and innovation.

The invitation, refer **ENCLOSURE 8.3**, is extended to three representatives for attendance at this event and Chaoyang District will accommodate the delegates, organise transportation and arrange for the delegates to participate in activities of the Festival. Meetings will also be arranged with leaders of Chaoyang District to discuss friendly cooperation between Tamworth and Chaoyang.

In 2003, the former Tamworth City Council sent Council and industry delegates to attend the 4th Beijing International Business Festival. Tamworth Regional Council last sent an official delegation to Chaoyang in 2005 with Country Music Artist, Adam Harvey, to participate in the Chaoyang Pop Music Festival. The Chaoyang District has send invitations to Tamworth Regional Council in 2009 and 2010, requesting attendance at the Beijing CBD International Business Festival, however Council has declined on both occasions due to the short notice on the invitation.

In July 2009, a delegation from Chaoyang District visited Tamworth to attend the 2009 National Sister City Conference hosted by Council and Council has hosted four delegations from Chaoyang District since 2005.

(a) Policy Implications

Tamworth Regional Council has not signed a formal Protocol Agreement with Chaoyang District in Beijing, China.

(b) Financial Implications

Council will be responsible for the payment of overseas travel expenses incurred by Councillors directly associated with the carrying out of the councillor's civic duties where authorised by the Council.

Funding is provided in Council's 2011/2012 Management Plan and Budget for attendance expenses for the Mayor and General Manager.

(c) Legal Implications

The current directive from the Department of Local Government provides that any Council decision for delegates to undertake overseas travel must be determined at an Ordinary Meeting of the Council in Open Session. Details of overseas travel, if any, by official Council representatives are also to be recorded in Council's Annual Report for the respective financial year.

(d) Community Consultation

Nil

8.4 GORE SISTER CITY PROGRAM – FILE NO SF997

DIRECTORATE: CORPORATE AND GOVERNANCE

AUTHOR: Robert Charlesworth, Manager Governance and Citizen Services

ANNEXURE ATTACHED

ENCLOSURE ENCLOSED

RECOMMENDATION

That in relation to the official invitation from Mayor Tracey Hicks of Gore District Council to attend the Hokonui Moonshiners Festival, Council authorise the Mayor, or his nominee; the General Manager, or his nominee; and the Chairperson of the Tamworth Sister City Committee, or his nominee to visit Gore for the Hokonui Moonshiners Festival to be held on 25 February 2012.

SUMMARY

The purpose of this report is to invoke Council's obligations under the Tamworth – Gore Sister City Protocol (the Protocol) with our Sister City in Gore, New Zealand.

COMMENTARY

The Tamworth – Gore Sister City Protocol, refer **ANNEXURE 8.4**, between Tamworth Regional Council and Gore District Council, New Zealand, provides that a visit between Tamworth and Gore occur annually under a reciprocal arrangement. Under the Protocol, 2012 is the year that Tamworth is nominated to send a delegation to visit Gore, New Zealand.

In support of the Protocol, an invitation has been received from the Mayor of Gore District Council, Tracy Hicks, inviting the Mayor and representatives of Tamworth Regional Council and its Sister City Committee to visit Gore for the Hokonui Moonshiners Festival to be held on 25 February 2012, refer **ENCLOSURE 8.4**.

The Protocol provides that Council's delegates will be the Mayor or his nominee, the General Manager or his nominee and the Chairperson of the Tamworth Sister City Committee or his nominee.

(a) Policy Implications

The attendance of the Mayor and General Manager or their respective nominees is in accordance with Council's policy as stated in the Tamworth - Gore Sister City Protocol.

(b) Financial Implications

Council will be responsible for the payment of overseas travel expenses incurred by Councillors directly associated with the carrying out of the councillor's civic duties where authorised by the Council.

Funding is provided in Council's 2011/2012 Management Plan and Budget for attendance expenses for the Mayor and General Manager, and the 2011/2012 Sister City Budget will provide funds for the Chairperson of the Sister City Committee to attend.

(c) Legal Implications

The current directive from the Department of Local Government provides that any Council decision for delegates to undertake overseas travel must be determined at an Ordinary meeting of the Council in Open Session. Details of overseas travel, if any, by official Council representatives are also to be recorded in Council's Annual Report for the respective financial year.

(d) Community Consultation

Nil

8.5 REGIONAL MULTI-SECTOR EDUCATION PRECINCT – APPLICATIONS FOR FUNDING UNDER THE EDUCATION INFRASTRUCTURE FUND – FILE NO SF5304

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Paul Bennett, General Manager

RECOMMENDATION

That Council agree to the nomination of Charles Sturt University as the University Partner on a Funding Application for the establishment of a Multi-Sector Education Precinct in Tamworth under the Federal Government's Education Infrastructure Fund.

SUMMARY

Tamworth Regional Council, along with numerous other groups, has stated for some time that Tamworth requires a stronger and more visible University presence within the City. Of particular concern is the fact that of the seven Evocities across regional NSW, Tamworth is the only centre to not currently have this capability.

In recent times, New England Institute of TAFE (NEI) has communicated a solution to this need in terms of the development of a multi-sector education precinct to be located adjacent to their existing facilities at the Tamworth Campus. This concept has received broad endorsement from a variety of stakeholders including the Council convened Regional Education Reference Group. The identification of potential funding under the Federal Government's \$500 million Educational Investment Fund (EIF) has provided a real opportunity to finance the construction of the necessary buildings, associated infrastructure and related residential accommodation for University, TAFE and School Education students.

New England Institute of TAFE has agreed to be the lead partner and legal signatory for the EIF submission and related works, but requires a strong partnership arrangement with both Council and a University to maximise this opportunity to secure funding.

COMMENTARY

The creation of a modern, highly innovative Multi-Sector Education Precinct that provides Tamworth with a visible University presence, delivery of a high quality University education and aligned to industry needs will help to retain, attract and development young people in our region into the future.

Council has previously recognised this need and in May 2011, wrote to the University of New England (UNE), Newcastle University, and Charles Sturt University (CSU) seeking an indication of their interest in becoming a partner in the preparation of a submission under the Federal Government's EIF. Newcastle University are very keen to continue their association with Tamworth but with a primary focus on their existing health education initiatives. The UNE met with Cr Webb, the General Manager, and representatives from NEI in Armidale and also expressed an interest in the project, but only from the perspective of providing online delivery of their courses through a new facility. UNE expressed no interest in the establishment of the "bricks and mortar" component of the project and advised that they would not accept responsibility for any of the assets belonging to the Education Precinct. It should also be noted that UNE has made their own submission under the EIF for the establishment of a similar facility in Western Sydney where a significant component of their distance education students reside.

Two representatives from CSU travelled to Tamworth to meet with the Mayor, General Manager, and representatives of NEI during July. CSU is enthusiastic about the opportunity to create a significant and highly visible university presence in Tamworth, similar to what they have achieved in other centres such as Dubbo and Wagga Wagga. Their representatives demonstrated an excellent understanding of the Tamworth Region, including recent and estimated growth statistics, the level of business investment, community demographics and significant industries in the region. They also had a clear vision of how a Multi-Sector Education Precinct should and would operate and were keen to establish a true partnership with NEI, Council and the community as a whole. For these reasons, this report recommends that Charles Sturt University be nominated as the preferred university partner for the purpose of preparing a submission under the Education Infrastructure Fund.

New England Institute of TAFE has already volunteered to facilitate the development of the EIF submission and will cover the considerable costs involved in coordinating the intelligence gathering exercise along with the engagement of a suitable person to compose the document. This process commenced on 1 July 2011, with New England Institute hosting a Value Management Workshop to explore the structure and detail of the submission to be made under the EIF. Much of the discussion focussed on "What will a Learning Space look like in 2020?", and there was general consensus that a University of the future would not look like one that was built in the 1970's or 1980's. It was acknowledged that the partnership will need to develop an innovative model if our proposition for funding is to be competitive.

From Council's perspective it is important that the infrastructure costs are identified and form part of the EIF application so that the local community is not required to incur unreasonable costs towards the project. It should also be noted that Council does not own the land but is the Reserve Trust Manager for Victoria Park on behalf of the Crown. Discussions have already commenced with the Crown Lands Division to determine the process required to provide scope for consideration of this type of development within the Oxley Park Reserve.

(a) Policy Implications

Nil

(b) Financial Implications

Nil at this stage. Depending on the outcome of the funding application, Council may be asked to consider a future contribution towards the provision of Infrastructure for the development of the University Campus.

(c) Legal Implications

Nil

(d) Community Consultation

Community consultation has been confined to the major project partners who will be joint signatories on the Funding Application.

8.6 SECTION 355 COMMITTEE – TAMWORTH REGIONAL FILM AND SOUND ARCHIVE COMMITTEE – FILE No SF2256

DIRECTORATE: CORPORATE AND GOVERNANCE
AUTHOR: Robert Charlesworth, Manager Governance and Citizen Services

RECOMMENDATION

That in relation to the request from the New England Film and Sound Archive Inc. to become a Section 355 Committee, Council:

- (i) establish the Tamworth Regional Film and Sound Archive Committee under Section 355 of the Local Government Act 1993 and organise the inaugural meeting of the Committee for the appointment of members and executive positions;***

- (ii) delegate under Section 377 of the Local Government Act 1993 the function of management of the historical film and sound archives of the Tamworth Region; and*
- (iii) determine the current assets of the former New England Film and Sound Archive Inc. become the assets of the Tamworth Regional Film and Sound Archive Committee.*

SUMMARY

The purpose of this report is to establish a Committee to manage the film and sound archives of the Tamworth Region.

COMMENTARY

In June 2010, Council received a request from the New England Film and Sound Archive Inc. to become a Section 355 Committee of Tamworth Regional Council.

Council advised in a letter dated 28 June 2011, that further information would be required from the Association prior to a report being submitted to Council. This information included:

- a brief history of the reason for formation and the principal objectives of the New England Film and Sound Archive Inc.;
- a copy of the Constitution of the New England Film and Sound Archive Inc.;
- a copy of the Annual Financial Reports for the last financial year of the New England Film and Sound Archive Inc.;
- a copy of the Minutes of the Meeting of the New England Film and Sound Archive Inc. where the decision was made to request Council's appointment as a Committee under Section 355 of the Local Government Act 1993;
- evidence that the New England Film and Sound Archive has been unincorporated as a community based organisation; and
- advice of the current office bearers and members of the New England Film and Sound Archive Inc.

This information has now been provided to Council and reviewed by Council officers. The New England Film and Sound Archive comprises a unique collection of film and sound items documenting the history of Tamworth and the National Film and Sound Archive in Canberra, is not aware of any other such collection in a regional community. The Film and Sound Archive currently occupies space on the ground floor of Ray Walsh House and has catalogued over 30,000 items and can be accessed from Council's website.

The recommendation to change the name from the New England Film and Sound Archive to the Tamworth Regional Film and Sound Archive recognises the fact that as a Section 355 Committee, authority can only be delegated to conduct activities within the Tamworth Region, which is also reflected in the delegated function of the new Committee.

(a) Policy Implications

It is a policy decision of the Council to establish a Committee having regard to Council's community governance structure and Section 355 of the Local Government Act 1993.

(b) Financial Implications

Provision for the establishment of this committee can be funded from the current Citizen Services Budget.

The Committee will be required to make a budget bid to Council for the 2012/2013 Budget for any financial contribution by Council.

(c) Legal Implications

Section 355 of the Local Government Act 1993 enables the Council to appoint a committee to exercise a function on its behalf by way of a Committee of the Council. This is used in conjunction with Section 377 of the Act to formally delegate functions to the appointed committee.

(d) Community Consultation

The Inaugural Meeting of the Tamworth Regional Film and Sound Archive Committee will be publicly advertised for interested members of the public to participate.

9 REPORTS FROM DELEGATES

Nil

10 QUESTIONS AND MATTERS OF CONCERN

11 REPORTS TO BE CONSIDERED IN CLOSED COUNCIL

RECOMMENDATION

That the confidential reports as listed be considered in a meeting closed to the public in accordance with Section 10A(2) of the Local Government Act 1993.

11.1 TENDER NO T071/2011 – PROVISION OF CASUAL STAFF BY A LABOUR HIRE AGENCY – FILE NO T071/2011

DIRECTORATE: OFFICE OF THE GENERAL MANAGER

AUTHOR: Marie O'Connell, Executive Manager Human Services

The Council will determine this matter in part of the meeting closed to the public pursuant to Section 10A(2)(c)&(d) of the Local Government Act 1993 on the grounds that the matter and information, is information that would, if disclosed confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and/or is commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

SUMMARY

The purpose of this report is to recommend that Council accepts the tenders for provision of Casual Staff by three Labour Hire Agencies. The report discusses the merits of each tender submitted and recommends that the tenders of three agencies be accepted in order of preference determined in accordance with the submitted tenders.

11.2 LEASE TO EVERINGHAM SOLOMON SOLICITORS OVER SUITES 1 AND 1A, LEVEL 3, RAY WALSH HOUSE – FILE NO SF634

DIRECTORATE: CORPORATE AND GOVERNANCE

AUTHOR: Sylvia Elliott, Commercial Property Officer

The Council will determine this matter in part of the meeting closed to the public pursuant to Section 10A(2)(d) of the Local Government Act 1993 on the grounds that the matter and information, is information that would, if disclosed confer commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

SUMMARY

This report seeks Council's endorsement of the agreement negotiated by the Mayor and the General Manager with Everingham Solomon Solicitors (Eversols) to a variation of the lease term over Suites 1 and 1a, Level 3, Ray Walsh House.

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 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.