



BOGAN SHIRE COUNCIL

Business Paper Extraordinary Meeting

22 September 2016

Table of Contents

COUNCIL MEETING NOTICE.....	5
OATH AND AFFIRMATION FOR COUNCILLORS	7
1 OATH AND AFFIRMATION FOR COUNCILLORS	7
REPORT TO THE EXTRAORDINARY MEETING OF COUNCIL – GENERAL MANAGER’S REPORT	9
1 ELECTION OF MAYOR AND DEPUTY MAYOR.....	9
2 COMMITTEE / ORGANISATION DELEGATES REPRESENTATIVES.....	13
3 REGULAR MEETING DATES AND TIMES.....	16
4 DELEGATION OF AUTHORITY	17
5 CODE OF MEETING PRACTICE	30
6 COUNCIL INFORMATION.....	47
7 CODE OF CONDUCT	52

15 September 2016

COUNCIL MEETING NOTICE

An Extraordinary Meeting of Council will be held in the Council Chambers, Nyngan on Thursday 22 September 2016 at 9.30am.

AGENDA

1. Opening Prayer
2. Remembrances
3. Apologies
4. Declarations of Interest
5. Oath and Affirmation for Councillors
6. General Manager's Report.

A Code of Conduct training workshop will be conducted at the conclusion of this Extraordinary Meeting and is expected to finish no later than 3.00pm.

Your attendance at this meeting would be appreciated.

Yours sincerely

Cathy Ellison

Executive Assistant



**Oath and Affirmation for Councillors
22 September 2016**

OATH AND AFFIRMATION FOR COUNCILLORS

1 OATH AND AFFIRMATION FOR COUNCILLORS

Amendments to the Local Government Act 1993 now require all Councillors to take an Oath of Office or make an Affirmation of Office at or before the first meeting of Council following the election.

The Oath or Affirmation may be taken or made before the General Manager of the Council, an Australian Legal Practitioner or a Justice of the Peace.

At the commencement of this Extraordinary Meeting it is proposed that each Councillor takes the Oath or makes the Affirmation in this public forum before the General Manager.

The prescribed format of the oath and the affirmation is given overleaf on page 8.

Councillors should note that Section 233 A of the Act further provides as follows:

- (3) A Councillor who fails, without a reasonable excuse, to take the Oath of Office or make an Affirmation of Office in accordance with this section is not entitled to attend a meeting as a Councillor (other than the first meeting of the Council after the Councillor is elected to the office or a meeting at which the Councillor takes the Oath or makes the Affirmation) until the Councillor has taken the Oath or made the Affirmation.*
- (4) Any absence of a Councillor from an Ordinary Meeting of the Council that the Councillor is not entitled to attend because of this section is taken to be an absence without prior leave of the council.*

Derek Francis

General Manager



**Oath and Affirmation for Councillors
22 September 2016**

Bogan Shire Council

Oath and Affirmation for Councillors

Oath

I [*name of councillor*] swear that I will undertake the duties of the Office of Councillor in the best interests of the people of the Bogan Shire and the Bogan Shire 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.

OR

Affirmation

I [*name of councillor*] 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 Bogan Shire and the Bogan Shire 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.



**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

**REPORT TO THE EXTRAORDINARY MEETING OF COUNCIL – GENERAL
MANAGER'S REPORT**

Mayor and Councillors

The following report is submitted for consideration:-

1 ELECTION OF MAYOR AND DEPUTY MAYOR

1.0 Introduction

This report outlines the provisions for the election of the Mayor along with the Deputy Mayor prescribed by the Local Government Act and Regulations.

2.0 Background

According to Section 230(1), as amended, the Mayor now holds office for two years.

Furthermore, the role of the Mayor has changed with recent amendments to the Local Government Act.

According to section 226 of the Act, the role of the Mayor is:-

- (a) to be the leader of the Council and a leader in the local community;
- (b) to advance community cohesion and promote civic awareness;
- (c) to be the principal member and spokesperson of the governing body, including representing the views of the Council as to its local priorities;
- (d) to exercise, in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council;
- (e) to preside at meetings of the Council;
- (f) to ensure that meetings of the Council are conducted efficiently, effectively and in accordance with this Act;
- (g) to ensure the timely development and adoption of the strategic plans, programs and policies of the Council;
- (h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the Council;
- (i) to promote partnerships between the Council and key stakeholders;
- (j) to advise, consult with and provide strategic direction to the General Manager in relation to the implementation of the strategic plans and policies of the Council;

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

- (k) in conjunction with the General Manager, to ensure adequate opportunities and mechanisms for engagement between the Council and the local community;
- (l) to carry out the civic and ceremonial functions of the Mayoral Office;
- (m) to represent the Council on regional organisations and at Inter-Governmental forums at regional, State and Commonwealth level,
- (n) in consultation with the Councillors, to lead performance appraisals of the General Manager; and
- (o) to exercise any other functions of the Council that the Council determines.

3.0 Discussion

The Local Government Act 1993 and Local Government Regulations 2005 make the following provisions for the election of Mayor and Deputy Mayor by Councillors.

3.1 Term of Office

The person elected holds the office of Mayor for two years. The person elected to the office of Deputy Mayor may be elected for the Mayoral term or a shorter term.

3.2 Returning Officer

The General Manager (or a person appointed by the General Manager) is the Returning Officer.

3.3 Nomination

- A Councillor may be nominated without notice for election as Mayor or Deputy Mayor.
- 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.
- The nomination is to be delivered or sent to the Returning Officer and the Returning Officer is to announce the names of the nominees at the Council meeting at which the election is to be held.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

3.4 Election

- If only one Councillor is nominated, that Councillor is elected.
- 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**.
- The election is to be held at the Council meeting at which the Council resolves on the method of voting.

In the Regulations:

ballot has its normal meaning of secret ballot.

open voting means voting by a show of hands or similar means.

3.5 Voting Method

(i) Ordinary Ballot or Open voting

These provisions apply if the election proceeds by ordinary ballot or by open voting.

Marking of ballot-papers

- 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.
- An informal ballot-paper must be rejected at the count.

Count—2 candidates

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

Where there are more than 3 candidates additional steps are required.

(ii) Preferential Ballot

Provisions are available for election by preferential ballot.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

(iii) General

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.

Result

The result of the election (including the name of the candidate elected as Mayor or Deputy Mayor) is:

- to be declared to the Councillors at the Council meeting at which the election is held by the Returning Officer, and
- to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Associations of New South Wales.

4.0 Procedure

Nomination forms for the office of Mayor and Deputy Mayor may be handed to the General Manager at any time including immediately prior to the election process.

5.0 Recommendations

1. That nominations be called firstly for the office of Mayor and secondly for the office of Deputy Mayor.
2. That Council determines the length of office for the Deputy Mayor.



**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

2 COMMITTEE / ORGANISATION DELEGATES REPRESENTATIVES

2.1 Introduction

The purpose of this report is for Council to consider the appointment of delegates / representatives to committees and other bodies.

2.2 Background

Following the election of a new Council it is appropriate to nominate delegates / representatives and alternates to represent Council on committees and at meetings with certain organisations.

2.3 Discussion

1. Section 355 Committees

Section 355 of the Local Government Act 1993 allows Council to delegate some of its functions to a committee of Council. Bogan Shire Council has the following Section 355 Committees:-

- a. Collierreina Hall Committee – Councillor / alternate required.
- b. Hermidale Sports Ground Committee – Councillor / alternate required.
- c. Nyngan Museum Management Committee – Councillor / alternate required.

In 2004 a Section 355 Committee was established for the Bogan Bush Mobile but this Committee has not been operational for some years and is no longer required.

2. Other Committees / Organisations

Council is represented on a number of other committees / in ongoing discussions with other organisations:-

- a. Bush Fire Management Committee – Councillor / alternate required and General Manager or delegate.
- b. Rural Fire Service SLA Committee – Councillor / alternate required and General Manager or delegate.
- c. Traffic Committee – Councillor / alternate required, General Manager and Manager Engineering Services.

**General Manager’s Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

- d. Local Emergency Management Officer / Committee Chairperson – General Manager or delegate (Must be an officer of Council).
- e. Orana Regional Organisation of Councils –Mayor and General Manager.
- f. Liquor Accord – Councillor / alternate required.
- g. NSW Police Community Safety Precinct Committee - Councillor / alternate required and General Manager.
- h. Local Government Community Advisory Group, Central West LLS Board – Councillor.
- i. Community Action Group (Interagency) - Councillor / alternate required and General Manager’s delegate.
- j. Showground Users – Councillor / alternate required and General Manager.
- k. Western Joint Regional Planning Panel – 2 members (community members, or Councillors) / 1 alternate (*Note - Requirement that at least one of the nominated persons must have expertise in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.*)
- l. North West Library Association – Library Manager / Councillor required.

The current delegates/ representatives and alternates are:-

Section 355 Committees:-		
Committee	Previous Delegate	Alternate
Colleireina Hall Committee	Clr Hampstead	Clr Dutton
Hermidale Sports Ground Committee	Clr Dutton	Clr Neill
Nyngan Museum Management Committee	Clr Griffiths	Clr Ryan

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Other Committees:-		
Committee	Previous Delegate	Alternate
Bush Fire Management Committee	Clr Neill & Tim Riley as General Manager's delegate	
Rural Fire Service SLA Committee	Clrs Donald, Neill & Dutton & General Manager or Tim Riley as General Manager's delegate	
Traffic Committee	Clr Ryan, General Manager & Manager Engineering Services	Clr Neill
Local Emergency Management Officer / Committee Chairperson	General Manager or delegate	
Orana Regional Organisation of Council (OROC)	Mayor & General Manager	
Liquor Accord	Clr Hampstead	Clr Ryan
NSW Police Community Safety Precinct Committee	Clr Hampstead & General Manager	
Local Government Community Advisory Group, Centreal West LLS Board	Clr Neill	
Community Action Group (Interagency)	Clr Griffiths & General Manager or delegate	
Showground Users	Clr Donald & General Manager	
Western Joint Regional Planning Panel	Clrs Hampstead & Ryan	
North West Library Association	Clr McLaughlin & Library Manager	

2.4 Recommendation

1. For Council's Consideration.
2. That the Standing Committees of Finance and Works, and Planning, Development and General Purpose be the whole Council on both Committees.



**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

3 REGULAR MEETING DATES AND TIMES

3.1 Introduction

The purpose of this report is for Council to give consideration to dates and times for its regular ordinary meetings.

3.2 Background

The Local Government Act 1993 provides that Council is required to meet at least 10 times each year, each time in a different month.

3.3 Discussion

Bogan Shire Council has previously met on the fourth Thursday of every month, commencing at 9:30am. Exceptions are the December meeting which has been held earlier in the month to avoid the holiday season and in January when no meetings were held due to Council going into recess.

3.4 Recommendation

For Council's Consideration.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

4 DELEGATION OF AUTHORITY

4.1 Introduction

The purpose of this report is for Council to consider its Delegations of Authority to the Mayor, Deputy Mayor and General Manager.

4.2 Background

Section 380 of the Local Government Act requires each Council to review all its delegations during the first 12 months of each term of office.

Section 377 of the Act permits Council to delegate to the General Manager or any other person or body (not including another employee of the Council) any of the functions of Council, other than the following:-

- (a) the appointment of a General Manager;
- (b) the making of a rate;
- (c) a determination under section 549 as to the levying of a rate;
- (d) the making of a charge;
- (e) the fixing of a fee;
- (f) the borrowing of money;
- (g) the voting of money for expenditure on its works, services or operations;
- (h) 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);
- (i) the acceptance of tenders which are required under this Act to be invited by the Council,
- (j) the adoption of an Operational Plan under Section 405;
- (k) the adoption of a financial statement included in an Annual Financial Report;
- (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6;
- (m) the fixing of an amount or rate for the carrying out by the Council of work on private land;
- (n) 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;
- (o) 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;
- (p) the power of the Council to authorise the use of reasonable force for the purpose of gaining entry to premises under Section 194;

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

- (q) a decision under Section 356 to contribute money or otherwise grant financial assistance to persons;
- (r) a decision under Section 234 to grant leave of absence to the holder of a civic office;
- (s) the making of an application, or the giving of a notice, to the Governor or Minister;
- (t) this Power of Delegation; and
- (u) any function under this or any other Act that is expressly required to be exercised by resolution of the Council.

According to the provisions of Section 378 of the Act the General Manager may delegate any of the functions of the General Manager, other than this power of delegation.

4.3 Discussion

Existing delegations to the Mayor, Deputy Mayor and General Manager are attached.

These delegations were extensively updated to reflect changed legislation in 2012 and no further changes are now recommended,

Once delegations have been given, the General Manager will in turn delegate certain responsibilities to other officers as appropriate.

4.4 Attachment

Existing Delegations of Authority

4.5 Recommendation

That the attached delegations to the Mayor, Deputy Mayor and General Manager be adopted.



**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Delegations of Authority

to the

Mayor and General Manager

AP005



Bogan Shire Council – Delegations of Authority

FUNCTIONS OF THE MAYOR

The role of the Mayor, as defined by Section 226 of the Local Government Act, is to:-

- (a) to be the leader of the Council and a leader in the local community;
- (b) to advance community cohesion and promote civic awareness;
- (c) to be the principal member and spokesperson of the governing body, including representing the views of the Council as to its local priorities;
- (d) to exercise, in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council;
- (e) to preside at meetings of the Council;
- (f) to ensure that meetings of the Council are conducted efficiently, effectively and in accordance with this Act;
- (g) to ensure the timely development and adoption of the strategic plans, programs and policies of the Council;
- (h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the Council;
- (i) to promote partnerships between the Council and key stakeholders;
- (j) to advise, consult with and provide strategic direction to the General Manager in relation to the implementation of the strategic plans and policies of the Council;
- (k) in conjunction with the General Manager, to ensure adequate opportunities and mechanisms for engagement between the Council and the local community;
- (l) to carry out the civic and ceremonial functions of the Mayoral Office;
- (m) to represent the Council on regional organisations and at Inter-Governmental forums at regional, State and Commonwealth level,
- (n) in consultation with the Councillors, to lead performance appraisals of the General Manager; and
- (o) to exercise any other functions of the Council that the Council determines.

DELEGATIONS TO THE MAYOR

- To carry out any function conferred on and duty imposed on the Mayor under any Act or Regulation.
- To give effect to any resolution or direction given to the Mayor by the Council.
- To expend up to \$50,000 in times of emergency in consultation with the General Manager subject to the work being reported to the next succeeding Ordinary Meeting of the Council, provided where possible all Councillors be informed.
- To spend up to \$5,000 within the sums voted by Council for the expenditure thereon and in accordance with the resolutions of Council, provided where possible all Councillors be informed.
- To preside at all meetings of Council, Committees, Community Committees and public meetings convened by Council at which the Mayor is present unless the Mayor otherwise appoints another person to perform this function.
- To sign and affix the Seal of Council in conjunction with the General Manager to any necessary document, contract or memorandum of transfer pursuant to or consequent upon any decision of Council.
- To participate in negotiations on behalf of Council with third parties and in connection with the sale, purchase and lease of lands and buildings in conjunction with the General Manager.
- To issue testimonials under Council's letterhead.
- To provide civic receptions as deemed appropriate.
- To invite any group or individual to address any committee or Council meeting.

DELEGATIONS TO THE DEPUTY MAYOR

1. To carry out the statutory functions of the Mayor and exercise the delegations conferred on the Mayor at the request of the Mayor or if the Mayor is prevented from exercising these functions or delegations, or if there is a casual vacancy in the office of Mayor.

FUNCTIONS OF THE GENERAL MANAGER

The functions of the general manager, as set out in Section 335 of the Local Government Act are:

- (a) to conduct the day-to-day management of the Council in accordance with the strategic plans, programs, strategies and policies of the Council;
- (b) to implement, without undue delay, lawful decisions of the Council;
- (c) to advise the Mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the Council;
- (d) to advise the Mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the Council and other matters related to the Council';
- (e) to prepare, in consultation with the Mayor and the governing body, the Council's community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report;
- (f) to ensure that the Mayor and other Councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their functions;
- (g) to exercise any of the functions of the Council that are delegated by the Council to the General Manager;
- (h) to appoint staff in accordance with the organisation structure determined under this Chapter and the resources approved by the Council;
- (i) to direct and dismiss staff;
- (j) to implement the Council's workforce management strategy; and
- (k) any other functions that are conferred or imposed on the General Manager by or under this or any other Act.

DELEGATIONS OF AUTHORITY TO THE GENERAL MANAGER

In accordance with the provisions of Sections 377, 378, 379 and 381 of the Local Government Act 1993, as amended, Council delegates to the General Manager the following functions:-

1. Operational Plan and Budget

To implement Council's adopted Operational Plan and Budget and carry out the regular services and operations of the Council within the sums voted by the Council for expenditure thereon and in accordance with the resolutions of the Council. To authorise variations of expenditure on individual line items which make up voted program items in Council's adopted budget, subject to the total voted expenditure in the program item not being exceeded.

2. Powers, authorities, duties and functions of the Council

To exercise and implement the powers, authorities, duties and functions of the Council under the Local Government Act and any other Act of Parliament or any rule, regulation, ordinance or by-law under or pursuant to any such Act but subject to Section 377 of the Local Government Act, including but not limited to:

- 2.1 Powers of entry under Sections 191 / 191A of the Local Government Act, 1993 and 118A of the Environmental Planning and Assessment Act and determining entry requirements under Section 193 (3) of the Local Government Act, 1993.
- 2.2 Issuing of planning certificates under Section 149 of the Environmental Planning and Assessment Act, 1979.
- 2.3 Issuing of Part 4A certificates under the Environmental Planning and Assessment Act, 1979.
- 2.4 Issuing of certificates under Section 603 of the Local Government Act, 1993.
- 2.5 Giving of orders to do or refrain from doing a thing under Sections 124 of the Local Government Act, 1993 and 121B of the Environmental Planning and Assessment Act, 1979.
- 2.6 Approving applications made under Section 68 of the Local Government Act, 1993 with the imposition of any conditions deemed necessary.
- 2.7 Abating or giving of an order to abate a public nuisance under Section 125 of the Local Government Act, 1993.
- 2.8 Issuing of penalty notices under Section 679(1) of the Local Government Act, 1993
- 2.9 Ordering that proceedings be taken for the recovery of any penalty in respect of any offence under the Local Government Act, 1993.

- 2.10 Ordering of all service of, and service, or giving of any notice, order or direction under relevant legislation.
- 2.11 The laying of the information, appearing in Court and doing all things and signing all such documents as may be necessary to prosecute any persons for breaches of the said Acts and Regulations.
- 2.12 The institution, commencement, presentation, carrying on and including on behalf of the Council a party to any proceedings, appearances and conciliations conducted by any Court or before any justice under the said Act and Regulations.
- 2.13 Consideration, issue of refusal to issue licences and permits.
- 2.14 Issuing of fines / penalty notices.
- 2.15 Appointing authorised officers under Section 114 of the Food Act, 2003.
- 2.16 Issuing of Prohibition Orders under Section 60 of the Food Act, 2003.
- 2.17 Written approvals in regard to the Food Standards Code, as delegated to Council by the NSW Food Authority.
- 2.18 Those to be undertaken as authorised officer under Section 126(2) of the Public Health Act, 1991 and the appointment of others as authorised officers.
- 2.19 Those to be undertaken as authorised officer under Section 187 of the Protection of the Environment Operations Act, 1997 and the appointment of others as authorised officers.
- 2.20 Those to be undertaken as authorised officer under Section 5 of the Companion Animals Act, 1999 and the appointment of others as authorised officers.
- 2.21 Those to be undertaken as authorised officer under Section 27 of the Swimming Pools Act, 1992 and the appointment of others as authorised officers.
- 2.22 Those to be undertaken as authorised officer under Section 251 of the Roads Act, 1993 and the appointment of others as authorised officers.
- 2.23 Those to be undertaken as impounding officer under Section 5 of the Impounding Act, 1993 and the appointment of others as impounding officers.
- 2.24 Those to be undertaken as inspector under Section 41 of the Noxious Weeds Act, 1993 and the appointment of others as inspectors.

3. Financial

- To accept quotations and enter into agreements for works and the supply of goods and services within the tender limit prescribed under Section 55 of Local Government Act, 1993 and within the funds allocated in Council's adopted Operational Plan and Budget.
- To approve plant and vehicle sales and purchases in accordance with Council's adopted Operating Plan and Budget.
- To authorise any work or activity which in his/her opinion is urgent, in consultation with the Mayor where possible, at a cost not exceeding \$50,000 subject to the work being reported to the next succeeding Ordinary Meeting of the Council, provided where possible all Councillors be informed.
- To expend up to \$50,000 in times of emergency, in consultation with the Mayor where possible, subject to the expenditure being reported to the next succeeding Ordinary Meeting of the Council, provided where possible all Councillors be informed.
- Sign Council cheques and authorise electronic payments drawn on authorised vouchers.
- To invest money in accordance with Section 625 of the Local Government Act, 1993.
- To borrow money in accordance with Section 621 of the Local Government Act, 1993, subject to any restrictions on borrowing by the Minister for Local Government.
- To enter into an agreement with a person or organisation for the payment overdue rates and charges over a period of time subject to the provisions of Council's Debt Recovery Policy.
- To write-off or reduce interest accrued on rates and charges under Section 564 of the Local Government Act where a person has complied with the terms of an agreement as to periodical payments of rates and charges.
- To approve applications seeking postponement of rates made under Section 585 of the Local Government Act, 1993.
- To approve of a refund being made in respect of all overpayments or credit adjustments for rates, charges and fees as recommended and vouched appropriately by the relevant Council officer.
- To declare the categorisation of each parcel of rateable land within the Bogan Shire Council area according to the provisions of Section 514 of the Local Government Act, 1993.
- To initiate debt recovery proceedings, including legal action, in line with Council policy for unpaid penalties, rates, fees and charges.

- To make application for grants and to enter into grant agreements subject to any expenditure to be incurred on Council's part being within budgeted amounts.
- To require, accept and release any bank guarantee, bonds or deposits that may be required in connection with the use of Council assets or in connection with works or services being carried out.
- To waive fees and charges for the use of Council assets where circumstances warrant it.
- To authorise the refund of fees in total or in part in respect of applications either refused by Council or withdrawn by the applicant.

4 Development Applications

- 4.1 To approve plans of subdivision and other development applications that comply with sound planning practice, appropriate standards, legislation and Council policy. Applications expected to have significant unresolved social, economic or environmental impacts, designated developments and all assessments that result in a recommendation for refusal are to be reported to Council for determination.
- 4.2 To accept bonds, deeds or guarantees for the completion of road works and any other developer contributions associated with subdivisions.
- 4.3 The administration without limitation of the provisions of the National Construction Code.

5 Public Works and Roads

- 5.1 To close bridges and roads, or parts thereof, temporarily for repair, construction or when considered necessary subject to the provisions of the Roads Act, 1993.
- 5.2 To issue approvals for structures on footways under Sections 125 and 126 of the Roads Act, 1993.
- 5.3 To give direction to remove obstructions or encroachments on public roads under Section 107 of the Roads Act, 1993.
- 5.4 To quote and negotiate agreements for works to be carried out on behalf of NSW Road and Maritime Services and to sign all associated documentation on behalf of Council.
- 5.5 To authorise private works to be carried out in accordance with Council's charges for these works.
- 5.6 To approve, subject to NSW Police requirements and with conditions considered appropriate in the circumstances, or disapprove of applications for permission for commercial filming, street processions, triathlons, walkathons, marches, fun runs and the like on public roads.

6 General Administration

- 6.1 To determine the matters which are to be included in the business papers, subject to the inclusion of the following items whenever they arise, namely:
 - 6.1.1. Reports on matters which cannot be determined under delegated authority.
 - 6.1.2. Reports required to be submitted under any Act or Regulation.
 - 6.1.3. Matters requiring a determination of Council policy.
 - 6.1.4. Reports directed by Council to be submitted.
 - 6.1.5. Matters essential for the Council's information.
 - 6.1.6. Matters requested by the Mayor.
- 6.2 To sign and affix, in accordance with the requirements of the Local Government Act, 1993 and in the presence of the Mayor or Deputy Mayor, the seal of Council or to otherwise sign:
 - 6.2.1. Any mortgage, deed, contract of sale or other necessary document in connection with the sale of land, purchase of land, lease of land and/or buildings, and loans, in order to give effect to a decision of Council.
 - 6.2.2. Any legal agreement, contract, deed of indemnity or any other document as required, to give effect to a decision of the Council.
 - 6.2.3. Letters of introduction, where such are considered desirable and warranted.
 - 6.2.4. Any document, in order to give effect to a decision of Council or in regard to an action or decision of a Council officer – including the General Manager - authorised to act on behalf of Council.
 - 6.2.5. Any statement of defence or any other document prepared in connection with any legal or other proceedings against the Council, its members or staff.
 - 6.2.6. Any application, return or the like with Government agencies and other organisations with which Council conducts business.
 - 6.2.7. Withdrawal of caveat forms subject to Council requirements being met.
- 6.3 To attend to all correspondence addressed to Council either administratively or by referring it to Council.
- 6.4 To authorise the disposal of records in accordance with the provisions of the State Records Act.
- 6.5 To issue testimonials under Council's letterhead.
- 6.6 To provide references under the seal of Council to members of Council's staff with at least two years service.

- 6.7 To obtain legal advice from solicitors or counsel and institute, conduct and defend legal proceedings in respect of Council's activities in all Courts and instruct Council's solicitors and counsel where necessary.
- 6.8 To authorise and carry out the necessary action required to ensure compliance with any policy of Council.
- 6.9 To administer Council's salary system including the advancement and transfer of staff between grades and to approve salary increases in accordance with the Local Government Award.
- 6.10 To approve leave, salaries, wages and overtime for any member of staff.
- 6.11 To determine applications for staff learning and development opportunities, including conferences within Australia, provided budgeted funds are available.
- 6.12 To accept responsibility for Council's cost of dividing fences under the provisions of the Dividing Fences Act, 1991.
- 6.13 To vary, subject to agreement with the operator, the dates of opening and closing of the Nyngan Memorial Pool.
- 6.14 In the consultation with the Mayor, to respond to enquiries from the media on Council matters and to issue media releases and make statements to the media on behalf of Council.
- 6.15 To be Council's Local Emergency Management Officer, to delegate this appointment to an appropriate Council manager, to appoint deputies to this position from Council staff and to commit Council resources in emergency situations.
- 6.16 To carry out the functions delegated to the General Manager in any Council Policy.

Note: The General Manager may, under Section 378 of the Local Government Act, delegate any of the functions of the General Manager, other than this power of delegation.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Authority

Council Resolution No. 319/2012 dated 25 October 2012

Policy Owner / Further Assistance

General Manager

Review Date

October 2016

Revision History

Date	Description of Change	Sections Affected
25/10/2012	Adopted	All
22/09/2016	Local Government Act amendments	Functions of Mayor and General Manager

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

5 CODE OF MEETING PRACTICE

5.1 Introduction

The purpose of this report is for Council to note the current Code of Meeting Practice.

5.2 Background

The Local Government Act and Regulations provide that Council may establish a Code of Meeting Practice which regulates the conduct of meetings of Council and Committees of Council of which all the members are Councillors.

5.3 Discussion

Bogan Shire Council approved a Code of Meeting Practice on 23 June 1994. Certain legislative changes have required amendments to the Code which have been incorporated into the current version.

5.4 Attachment

Bogan Shire Council Code of Meeting Practice.

5.4 Recommendation

For information of Councillors and noting.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**



BOGAN SHIRE COUNCIL

CODE OF MEETING PRACTICE

Adopted by Council 23 June 1994

Minute 957/1994

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 2

CODE OF MEETING PRACTICE

PART 1-PRELIMINARY

1. Citation

This document may be cited as the Bogan Shire Council Code of Meeting Practice.

2. Commencement

This Code was adopted by Council on 23 June 1994.

3. Definitions

In this Policy:-

Amendment, in relation to an original motion, means a motion moving an amendment to that motion;

Chairperson,

- (a) in relation to a meeting of a Council - means the persons presiding at the meeting as provided by Clause 10 of this code.
- (b) in relation to a meeting of a committee of a Council - means the person presiding at the meeting as provided by Clause 33 of this code.

Committee, in relation to a Council, means a committee appointed or elected by the Council in accordance with Clause 28 or the Council when it has resolved itself into a committee of the whole;

record, means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a Councillor or an employee of the Council and, in particular, includes the minutes of meetings of a Council or of a committee of a Council;

the act, means the Local Government Act 1993.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 4

What happens when a quorum is not present?

- (2) A meeting of a Council must be adjourned if a quorum is not present:
 - (a) within half an hour after the time designated for the holding of the meeting; or
 - (b) at any time during the meeting.
- (3) In either case, the meeting must be adjourned to a time, date and place fixed:
 - (a) by the chairperson; or
 - (b) in his or her absence by the majority of the Councillors present; or
 - (c) failing that, by the General Manager.
- (4) The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the Councillors present.

8. Presence at Council Meetings

- (1) A Councillor cannot participate in a meeting of Council unless personally present at the meeting.

9. Who is entitled to attend meetings?

- (1) **[General public]** Everyone is entitled to attend a meeting of the Council and those of its committees of which all the members are Councillors, except as provided by this clause.
- (2) **[Exclusion of public]** A Council or such a committee may close to the public only so much of its meeting as comprises the receipt or discussion of any of the following:-
 - (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;

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 5

- (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) information concerning the nature and location of a place or an item of Aboriginal significance on community land;
 - (i) alleged contraventions of any code of conduct requirements applicable under section 440.
- (3) [**Grounds to be specific**] The grounds on which a meeting is closed to the public must be specified in the decision to close the meeting and recorded in the minutes of the meeting.

**PART 3 - PROCEDURE FOR THE CONDUCT
OF COUNCIL MEETINGS**

10. Chairperson

Who presides at meetings of the Council?

- (1) The Mayor or, at his or her request or in his or her absence, the Deputy Mayor (if any) presides at meetings of the Council.
- (2) If the Mayor and the Deputy Mayor (if any) are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council.
- (3) If no chairperson is present at a meeting of a Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.
- (4) The election must be conducted:
 - (a) by the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election;
or
 - (b) if neither of them is present at the meeting or there is no General Manager or designated employee - by the person, who called the meeting or a person acting on his or her behalf.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 7

12. Decisions of Council

What constitutes a decision of the Council?

- (1) A motion supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council.

Motions to be seconded

- (2) A motion or an amendment cannot be debated unless on until it has been seconded. This clause is subject to clauses 21(2) and 12(5)(5).

How subsequent amendments may be moved

- (3) If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the council at any one time.

Motions of dissent

- (4) (1) A Councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.

(2) If a motion of dissent is carried, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the business paper and proceed with it in due course.

(3) Despite clause 12(5) only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

Limitation as to number of speeches

- (5) (1) A Councillor who, during a debate at a meeting of a Council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.

(2) Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 8

- (3) A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- (4) Despite subclause (1) and (2), if at least 2 Councillors have spoken in favour of a motion or an amendment and at least 2 Councillors have spoken against the motion or amendment, any Councillor may move that the question be now put.
- (5) The chairperson must immediately put to the vote a motion that the question be now put without the motion being seconded and without debate.
- (6) If a motion that the question be now put is passed, the chairperson must, after the mover of the motion has exercised his or her right of reply under subclause (1), immediately put the question to the vote without further debate.
- (7) If a motion that the question be now put is rejected, the chairperson must resume the debate on the original motion or amendment.

Rescinding or altering resolutions

- (6) (1) A resolution passed by a Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in time for such notice to be included in the business paper for the meeting at which it is to be presented.
- (2) If notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.
- (3) If a motion has been negatived by a Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with the Council's Code of Meeting Practice.
- (4) A notice of motion to alter or rescind a resolution and a notice of motion which has the same effect as a motion which has been negatived by the "Council, must be signed by 3 Councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negatived, as the case may be".

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 10

- (3) However, the General Manager may be excluded from a meeting of the Council or a committee while the Council or committee deals with a matter relating to the standard of performance of the General Manager or the terms of the employment of the General Manager.

16. Questions may be put to Councillors and Council employees

- (1) A Councillor :-
 - (a) may, through the chairperson, put a question to another Councillor; and
 - (b) may, through the General Manager, put a question to a Council employee.
- (2) However, a Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.
- (3) The Councillor must put every such question directly, succinctly and without argument.
- (4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this clause.

17. Order of business

- (1) At a meeting of a Council (other than an extraordinary meeting), the general order of business (except as provided by this Code) shall be :-
 1. Opening Prayer
 2. Remembrances
(A period of silence offered in memory of members or former members of the community deceased since the previous meeting).
 3. Apologies
 4. Declarations of Interest
 5. Mayoral minutes
 6. Confirmation of minutes of previous meetings.
 7. Business Arising from previous minutes.
 8. General Manager 's Report incorporating reports from Managers

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 12

- (4) If in the opinion of the General Manager, business to be transacted at a meeting of the Council or of a committee of the Council is a kind of business referred to in Section 10(A) of the Act, the business may be included in a confidential business paper. All other business to be transacted at the meeting must be included in an ordinary business paper.
- (5) If a confidential business paper is prepared for a kind of business referred to in Section 10(A) of the Act, the business must be referred to in the ordinary business paper prepared for the same meeting.
- (6) A Council and each such committee will have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the business paper for the meeting. This does not apply to a business paper for a matter that, in the opinion of the General Manager, is likely to be considered when the meeting is closed to the public.
- (7) The copies are to be available to the public as nearly as possible to the time they are available to Councillors.
- (8) The copies are to be available free of charge.

19. Giving notice of business

- (1) A Council must not transact business. at a meeting-of the Council :
 - (a) unless a Councillor has given notice of the business in writing ten days before the meeting;
 - (b) unless notice of the business has been sent to the Councillors in accordance with Section 367 of the Act.
- (2) Subclause (1) does not apply to the consideration of business at a meeting if the business:-
 - (a) is already before, or directly relates to a matter that is already before, the Council, or
 - (b) is the election of a chairperson to preside at the meeting as provided by Clause 236 or
 - (c) is a matter or topic put to the meeting by the chairperson in accordance with Clause 243, or
 - (d) is a motion for the adoption of recommendations of a Committee of the Council.
- (3) Despite Subclause (1), business may be transacted at a meeting of a council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
 - (a) a motion is passed to have the business transacted at the meeting, and
 - (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.Such a motion can be moved without notice.
- (4) Despite clause 12(5) only the mover of a motion referred to in Subclause (3) can speak to the motion before it is put.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 13

20. Business paper for extraordinary meeting

- (1) The General Manager must ensure that the business paper for an extraordinary meeting of a Council deals only with the matters stated in the notice of the meeting.

21. Official Minutes

- (1) If the Mayor is the chairperson at a meeting of a Council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.
- (2) Such a minute, when put to the meeting, takes precedence over all business on the Council's business paper for the meeting. The chairperson (but only if the chairperson is the Mayor) may move the adoption of the minute without the motion being seconded.
- (3) A recommendation made in a minute of the chairperson (being the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council.

22. Report of an Office of Local Government Departmental representative to be tabled at Council meeting

When a report of a Departmental representative has been presented to a meeting of a Council in accordance with section 433 of the Act, the Council must ensure that the report:

- (a) is laid on the table at that meeting; and
- (b) is subsequently available for the information of Councillors at all reasonable times.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 14

PART 4 – KEEPING ORDER AT MEETINGS

23. Questions of order

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

24. Acts of disorder

- (1) A Councillor commits an act of disorder if the Councillor, at a meeting of a Council or a committee of a Council:
 - (a) contravenes the Act or any regulation in force under the Act; or
 - (b) assaults or threatens to assault another Councillor or person present at the meeting; or
 - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or committee, or addresses or attempts to address the Council or committee on such a motion, amendment or matter; or
 - (d) insults or makes personal reflections on or imputes improper motives to any other Councillor; or
 - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or committee into contempt.
- (2) The chairperson may require a Councillor
 - (a) To apologise for an act of disorder referred to in subclause (1)(a) or (b); or
 - (b) to withdraw a motion or an amendment referred to in subclause (1)(c) and, where appropriate, to apologise without reservation; or
 - (c) to retract and apologise for an act of disorder referred to in subclause (1)(d) or (e).

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 16

28. Council may appoint committees

- (1) A Council may appoint or elect such committees as it considers necessary.
- (2) Such a committee may consist of:-
 - (a) such number of Councillors only of the Council as the Council decides; or
 - (b) such number of Councillors and such members of the general public as the Council decides.
- (3) The quorum for a meeting of such a committee is to be:
 - (a) such number of members as the Council decides; or
 - (b) if the Council has not decided a number - a majority of the members of the Committee.

29. Functions of committees

A Council must specify the functions of each of its committees when the committee is appointed or elected, but may from time to time amend those functions.

30. Notice of Committee meetings to be given

- (1) The General Manager of a Council must send to each Councillor at least 7 days before each meeting of the committee, a notice specifying:
 - (a) the time and place at which and the date on which the meeting is to be held; and
 - (b) the business proposed to be transacted at the meeting.
- (2) However, notice of less than 7 days may be given of a committee meeting called in an emergency.

31. Non-members entitled to attend committee meetings

A Councillor who is not a member of a committee of a Council is entitled to attend and speak at, but is not entitled to vote at, a meeting of the committee.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 17

32. Procedure in committees

- (1) Each committee of a Council may regulate its own procedure.
- (2) Without limiting subclause (1), a committee of a Council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.

33. Chairperson and deputy chairperson of committees

- (1) The chairperson of each committee of the Council must be:
 - (a) the Mayor; or
 - (b) if the Mayor does not wish to be the chairperson of a committee - a member of the committee elected by the Council; or
 - (c) if the Council does not elect such a member - a member of the committee elected by the committee.
- (2) A Council may elect a member of a committee of the Council as deputy chairperson of the committee. If the Council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
- (3) If neither the chairperson nor the deputy chairperson of a committee of a Council is able or willing to preside at a meeting of the committee the committee must elect a member of the committee to be acting chairperson of the committee.
- (4) The chairperson is to preside at a meeting of a committee of a Council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.
- (5) The Mayor is, by virtue of holding that office, a member of each committee of the Council.

34. Absence from committee meetings

- (1) A member ceases to be a member of a committee if the member (other than the Mayor);
 - (a) has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or
 - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 18

- (2) Subclause (1) does not apply if all of the members of the Council are members of the committee.

Note: The expression "year" means the period beginning 1 July and ending the following 30 June. See the dictionary to the Act.

35. Reports of Committees

- (1) If in a report of a committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation.
- (2) The recommendations of a committee of the Council are, so far as adopted by the Council, resolutions of the Council.

36. Disorder in committee meetings

The provisions of the Act and of this Regulation relating to the maintenance of order in Council meetings apply to meetings of committees of the Council in the same way as they apply to meetings of the Council.

37. Committee may expel certain persons from its meetings

- (1) If a meeting or part of a meeting of a committee of a Council is closed to the public in accordance with section 10(2) of the Act, the committee may, by resolution, expel from the place where the meeting is being held, any person who is not a Councillor.
- (2) If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from, and, if necessary, restrain the person from re-entering, that place.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 19

PART 6 - MISCELLANEOUS

38. Information relating to proceedings at closed meetings not to be disclosed.

Disclosure and misuse of information

- (1) A person must not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:
- (a) with the consent of the person from whom the information was obtained, or
 - (b) in connection with the administration or execution of this Act, or
 - (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings, or
 - (d) in accordance with a requirement imposed under the *Ombudsman Act 1974* or the *Government Information (Public Access) Act 2009*, or
 - (e) with other lawful excuse.

(1A) In particular, if part of a meeting of a Council or a Committee of a Council is closed to the public in accordance with section 10A (1), a person must not, without the authority of the Council or the Committee, disclose (otherwise than to the Council or a Councillor of the Council) information with respect to the discussion at, or the business of, the meeting.

- (1B) Subsection (1A) does not apply to:
- (a) the report of a Committee of a Council after it has been presented to the Council, or
 - (b) disclosure made in any of the circumstances referred to in subsection (1) (a)–(e), or
 - (c) disclosure made in circumstances prescribed by the regulations, or
 - (d) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with section 12.

(2) A person acting in the administration or execution of this Act must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known, for the purpose of gaining either directly or indirectly a financial advantage for the person, the person's spouse or de facto partner or a relative of the person.

- (3) A person acting in the administration or execution of this Act, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person, influence:
- (a) the determination of an application for an approval, or
 - (b) the giving of an order.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 20

39. Inspection of the minutes of a Council or committee

- (1) An inspection of the minutes of a Council or committee of a Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes.
- (2) The General Manager must ensure that the minutes of the Council and any minutes of a committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

Note: Section 12 of the Act confers a right to inspect the minutes of a Council or committee of a Council.

40. Access to records

- (1) Council may refuse a request for information if there is an overriding public interest against disclosure or if searching for the requested information would require unreasonable and substantial diversion of Council's resources. Council will explain to the applicant the reasons for applying any exemption. (GIPA Act 2009)
- (2) In determining whether there is an overriding public interest against the disclosure of the information, Council will fully consider the Public Interest Test as provided for in the Government Information (Public Access) Act 2009. (GIPA Act 2009)
- (3) An applicant who has been refused access by Council to information requested has three options of review available:-
 - (a) Internal Review
 - (b) Review by the Information Commissioner
 - (c) Review by the Administrative Decisions Tribunal. (GIPA Act 2009)

41. Tape recording of meeting of Council or committee prohibited without permission.

- (1) A person may use a tape recorder to record the proceedings of a meeting of a Council or a committee of a Council only with the authority of the Council or committee.
- (2) A Council or committee may, by resolution, expel from the place where it is holding a meeting any person who uses a tape recorder in contravention of this clause.
- (3) If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from and if necessary restrain the person from re-entering, that place.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Page 21

- (4) In this clause, tape recorder includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

42. Public access to correspondence and reports

- (1) A Council and a committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- (2) This section does not apply if the correspondence or reports:
- (a) relate to a matter that was received or discussed; or
 - (b) were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

6 COUNCIL INFORMATION

6.1 Introduction

The purpose of this report is to provide all Councillors, particularly those who haven't served on Council before, with certain pertinent information.

6.2 Background

Fit for the Future

As part of the NSW Government's Local Government reform program which commenced in 2014, Bogan Shire Council was required to prepare a proposal, by 30 June 2015, to the Minister for Local Government explaining how it is "Fit for the Future" and, as a starting point, was instructed to consider the options of either a "Rural Council in Orana JO or merge with Warren".

Integrated Planning and Budgeting

The Local Government Act requires Council to carry out a strategic planning process with significant community involvement to develop a hierarchy of plans that guide policy, budgeting and decision making. This process is illustrated on Attachment 1.

Council Management Team

The General Manager is responsible for day-to-day overall management of the Council and is supported by managers who have responsibility for particular matters.

6.3 Discussion

Fit for the Future

Council's submission was assessed by the Independent Pricing and Regulatory Tribunal (IPART) with Council being found "Fit for the Future as a Rural Council" having met every one of the IPART benchmarks with no merger required.

It is the Government's expectation that Bogan Shire Council implements our Rural Council Plan, - detailed in Section 3 of our Fit for the Future submission - which will, over time, see an improvement in our financial performance ratios.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

A copy of the Proposal is included in the mailout for all Councillors who have not previously received one.

Integrated Planning and Budgeting

Council's Community Strategic Plan, the overarching strategy document, commenced in 2012 and is due to be revised before 30 June 2017.

Council's four-year Delivery Program also commenced in 2012 and has been updated each year since. The Delivery Program is also due to be revised before 30 June 2017.

Bogan Shire Council adopted an Operational Plan and Budget for the financial year up to 30 June 2017 at its meeting held on 23 June 2016.

This Plan and Budget sets out Council's strategic priorities and outcomes, the particular strategies and activities to be implemented to achieve those priorities and outcomes as well as the funding allocated to them.

The Bogan Shire Council Community Strategic Plan, Delivery Program and Operational Plan and Budget are included in the mailout for all Councillors who have not previously received one and are also available on Council's website or on request at the Council Chambers.

Council Management Team

Attachment 2 contains details of Council's current management team and their areas of responsibility.

6.4 Attachment

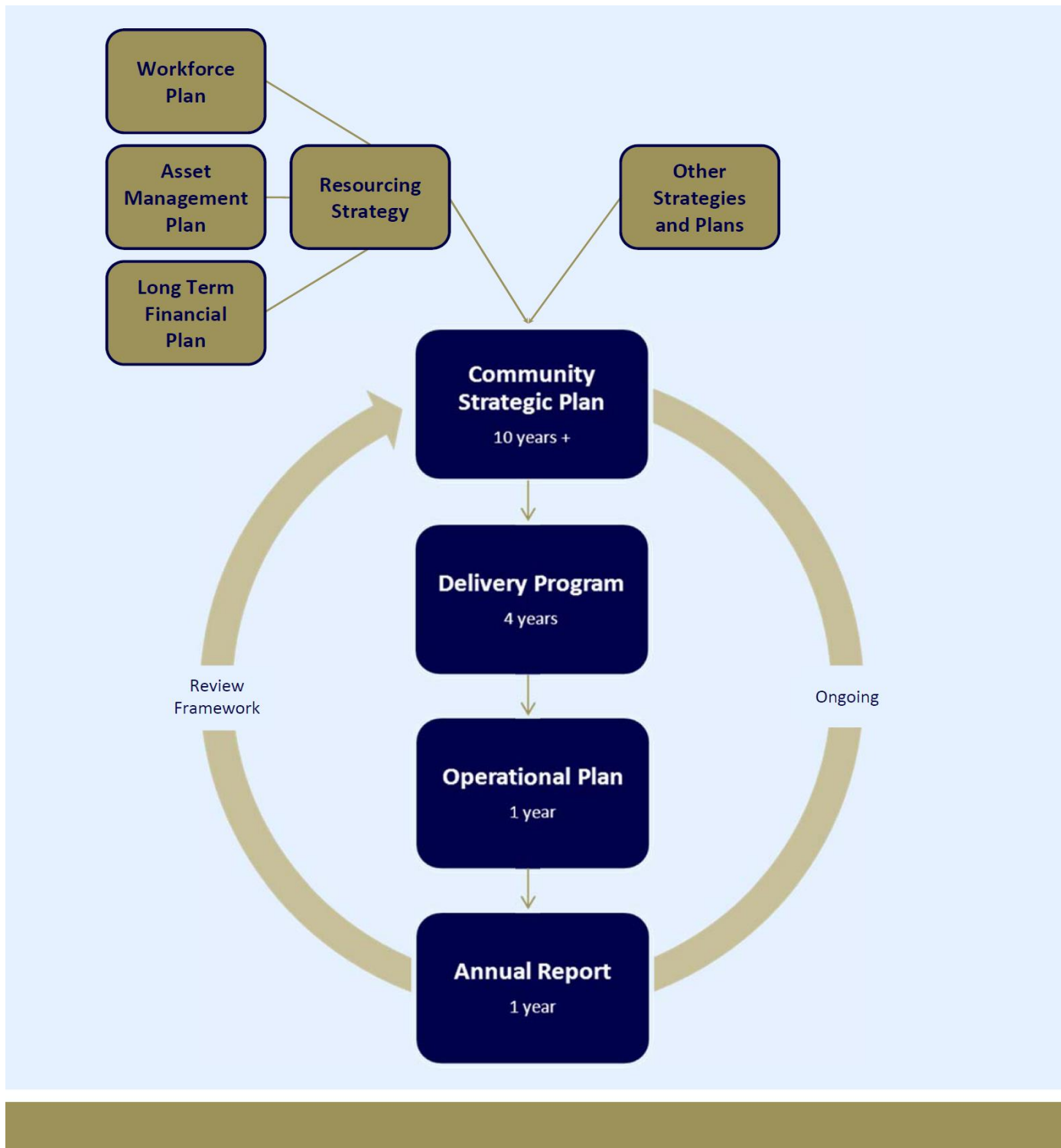
1. Integrated Planning and Reporting Process
2. Council Management Team

6.5 Recommendation

For noting.

General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am

Attachment 1



**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Attachment 2

Bogan Shire Council Management – September 2016

Derek Francis - General Manager

- Day-to-day overall management of the Council in accordance with the strategic plans, programs, strategies and policies of the Council.

Debb Wood – Manager People and Culture

- Bogan Bush Mobile
- Bogan Shire Early Learning Centre
- Community Development and Museum
- Corporate Planning and Reporting
- Human Resource Management
- Library Services
- Payroll
- Tourism and Visitor Information Centre
- Workplace Health & Safety

Graeme Bourke – Manager Engineering

- Airport Operations
- Asset Management
- Civil Works & Maintenance
- Community Facilities and Sportsfields
- Levee Bank
- Plant Management
- Road Construction and Maintenance
- Sewerage / Waste water
- Water

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Steph Waterhouse – Finance Manager

- Administration
- Budgeting – Operational and Capital
- Cash Management and Investments
- Customer Services Management
- Financial Accounting
- Financial Reporting
- ICT Services
- Records Management
- Risk Management and Insurance

Ty Robson – Acting Manager Development and Environmental Services

- Environmental Health
- Environmental Management
- Management / Maintenance of Council properties
- Noxious Weeds
- Nyngan Memorial Pool
- Parks, Gardens and Street Trees
- Planning & Development
- Ranger Services
- Waste Management

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

7 CODE OF CONDUCT

7.1 Introduction

The purpose of this report is for Council to note Council's current Code of Conduct and recommend that all Councillors attend the Code of Conduct workshop to be held at the conclusion of this Extraordinary Meeting.

7.2 Background

Section 440 of the Local Government Act states that Council must adopt a Code of Conduct that incorporates the provisions of the model code referred to in Clause 193(1) of the Local Government (General) Regulations as "*The Model Code of Conduct for Local Councils in NSW* published in the Gazette on 13 November 2015".

7.3 Discussion

Bogan Shire Council adopted the Model Code of Conduct on 25 February 2016, including an Amendment in relation to Part 6, Relationship between Council officials, which states: "*Bogan Shire Council recognises that, particularly in a small country town like Nyngan, certain family relationships do exist between Councillors and Council staff. It is acknowledged that some interactions will take place between staff and Councillors as family members where Council-related business is discussed. However, this in no way detracts from the obligations that these Councillors and Council staff have under the Model Code, particularly in relation to Part 6 – Relationship between Council Officials*".

Local Government NSW has been contracted to conduct a facilitated training workshop on the Code of Conduct for all Councillors scheduled to follow immediately after the conclusion of this extraordinary meeting. This workshop is expected to last approximately three to four hours.

7.4 Attachment

Bogan Shire Council Code of Conduct.

7.5 Recommendation

1. For information of Councillors and noting of the Bogan Shire Code of Conduct.
2. That all Councillors attend the LGNSW Code of Conduct training workshop to be held at the conclusion of this Extraordinary Meeting.

Derek Francis

General Manager


**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**



Office of
Local Government

Office of Local Government

**MODEL CODE OF CONDUCT
FOR LOCAL COUNCILS IN NSW**



Office of Local Government
Model Code of Conduct
for Local Councils in NSW
adopted by BSC 25 February 2016
Minute 020/2016

November 2015

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

ACCESS TO SERVICES

The Office of Local Government is located at:

Levels 1 & 2

5 O'Keefe Avenue
NOWRA NSW 2541

Locked Bag 3015
NOWRA NSW 2541

Phone 02 4428 4100
Fax 02 4428 4199
TTY 02 4428 4209

Level 9, 6 - 10 O'Connell Street
SYDNEY NSW 2000

PO Box R1772
ROYAL EXCHANGE NSW 1225

Phone 02 9289 4000
Fax 02 9289 4099
Email olg@olg.nsw.gov.au
Website www.olg.nsw.gov.au

OFFICE HOURS

Monday to Friday
8.30am to 5.00pm

(Special arrangements may be made if these hours are unsuitable)
All offices are wheelchair accessible.

ALTERNATIVE MEDIA PUBLICATIONS

Special arrangements can be made for our publications to be provided in large print or an alternative media format. If you need this service, please contact our Executive Branch on 02 4428 4100.

DISCLAIMER

While every effort has been made to ensure the accuracy of the information in this publication, the Office of Local Government expressly disclaims any liability to any person in respect of anything done or not done as a result of the contents of the publication or the data provided.

© NSW Office of Local Government 2015
ISBN 978-1-922001-38-2
Produced by the Office of Local Government



Office of
Local Government

www.olg.nsw.gov.au

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

CONTENTS

Part 1	Introduction	2
Part 2	Purpose of the code of conduct	3
Part 3	General conduct obligations	4
Part 4	Conflict of interests	6
Part 5	Personal benefit	11
Part 6	Relationship between council officials	13
Part 7	Access to information and council resources	15
Part 8	Maintaining the integrity of this code	19
Part 9	Definitions	21

General Manager's Report to the Extraordinary Meeting of Council held in the Council Chambers on 22 September 2016 at 9.30am

PART 1 INTRODUCTION

This Model Code of Conduct for Local Councils in NSW ("the Model Code of Conduct") is made for the purposes of section 440 of the *Local Government Act 1993* ("the Act"). Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code. For the purposes of section 440 of the Act, the Model Code of Conduct comprises all parts of this document.

Councillors, administrators, members of staff of council, independent conduct reviewers, members of council committees including a conduct review committee and delegates of the council must comply with the applicable provisions of council's code of conduct in carrying out their functions as council officials. It is the personal responsibility of council officials to comply with the standards in the code and regularly review their personal circumstances with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the Act. The Act provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office. A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

Failure by a member of staff to comply with council's code of conduct may give rise to disciplinary action.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

PART 2
**PURPOSE OF THE CODE
OF CONDUCT**

The Model Code of Conduct sets the minimum requirements of conduct for council officials in carrying out their functions. The Model Code is prescribed by regulation.

The Model Code of Conduct has been developed to assist council officials to:

- understand the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in the integrity of local government.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

PART 3

GENERAL CONDUCT OBLIGATIONS

General conduct

- 3.1** You must not conduct yourself in carrying out your functions in a manner that is likely to bring the council or holders of civic office into disrepute. Specifically, you must not act in a way that:
- a) contravenes the Act, associated regulations, council's relevant administrative requirements and policies
 - b) is detrimental to the pursuit of the charter of a council
 - c) is improper or unethical
 - d) is an abuse of power or otherwise amounts to misconduct
 - e) causes, comprises or involves intimidation, harassment or verbal abuse
 - f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
 - g) causes, comprises or involves prejudice in the provision of a service to the community. (*Schedule 6A*)
- 3.2** You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (*section 439*)
- 3.3** You must treat others with respect at all times.

Fairness and equity

- 3.4** You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.5** You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

General Manager's Report to the Extraordinary Meeting of Council held in the Council Chambers on 22 September 2016 at 9.30am

Harassment and discrimination

- 3.6** You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

Development decisions

- 3.7** You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.
- 3.8** In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

Binding caucus votes

- 3.9** You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.10** For the purposes of clause 3.9, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 3.11** Clause 3.9 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 3.12** Clause 3.9 does not apply to a decision to elect the Mayor or Deputy Mayor or to nominate a person to be a member of a council committee.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

PART 4

CONFLICT OF INTERESTS

- 4.1** A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 4.2** You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.
- 4.3** Any conflict of interests must be managed to uphold the probity of council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 4.4** Private interests can be of two types: pecuniary or non-pecuniary.

What is a pecuniary interest?

- 4.5** A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (*section 442*)
- 4.6** A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (*section 443*)
- 4.7** Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
 - a) councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (*section 449*)
 - b) councillors and members of council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*)
 - c) designated persons immediately declare, in writing, any pecuniary interest. (*section 459*)
- 4.8** Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.
- 4.9** Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

General Manager's Report to the Extraordinary Meeting of Council held in the Council Chambers on 22 September 2016 at 9.30am

What are non-pecuniary interests?

- 4.10** Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- 4.11** The political views of a councillor do not constitute a private interest.

Managing non-pecuniary conflict of interests

- 4.12** Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.
- 4.13** If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 4.12.
- 4.14** How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.
- 4.15** As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:
- a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
 - b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
 - c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

- 4.16** If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:
- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official
 - b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply.
- 4.17** If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 4.18** If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- 4.19** Despite clause 4.16(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff through the general manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 4.16(b) above.

Reportable political donations

- 4.20** Councillors should note that matters before council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.
- 4.21** Where a councillor has received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
 - b) where the major political donor has a matter before council,
- then the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 4.16(b).

General Manager's Report to the Extraordinary Meeting of Council held in the Council Chambers on 22 September 2016 at 9.30am

4.22 For the purposes of this Part:

- a) a "reportable political donation" is a "reportable political donation" for the purposes of section 86 of the *Election Funding, Expenditure and Disclosures Act 1981*,
- b) a "major political donor" is a "major political donor" for the purposes of section 84 of the *Election Funding, Expenditure and Disclosures Act 1981*.

4.23 Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.

4.24 If a councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 4.21, that councillor is not prevented from participating in a decision to delegate council's decision-making role to council staff through the general manager or appointing another person or body to make the decision in accordance with the law (see clause 4.19 above).

Loss of quorum as a result of compliance with this Part

4.25 Where a majority of councillors are precluded under this Part from consideration of a matter the council or committee must resolve to delegate consideration of the matter in question to another person.

4.26 Where a majority of councillors are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the councillors may apply in writing to the Chief Executive to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interests.

4.27 The Chief Executive will only exempt a councillor from complying with a requirement under this Part where:

- a) compliance by councillors with a requirement under the Part in relation to a matter will result in the loss of a quorum, and
- b) the matter relates to the exercise of a function of the council that may not be delegated under section 377 of the Act.

4.28 Where the Chief Executive exempts a councillor from complying with a requirement under this Part, the councillor must still disclose any interests they have in the matter the exemption applies to in accordance with the requirements of this Part.

General Manager's Report to the Extraordinary Meeting of Council held in the Council Chambers on 22 September 2016 at 9.30am

- 4.29** A councillor, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interests in the matter, is permitted to participate in consideration of the matter, if:
- a) the matter is a proposal relating to
 - i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or
 - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
 - b) the non-pecuniary conflict of interests arises only because of an interest that a person has in that person's principal place of residence, and
 - c) the councillor declares the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part.

Other business or employment

- 4.30** If you are a member of staff of council considering outside employment or contract work that relates to the business of the council or that might conflict with your council duties, you must notify and seek the approval of the general manager in writing. (*section 353*)
- 4.31** As a member of staff, you must ensure that any outside employment or business you engage in will not:
- a) conflict with your official duties
 - b) involve using confidential information or council resources obtained through your work with the council
 - c) require you to work while on council duty
 - d) discredit or disadvantage the council.

Personal dealings with council

- 4.32** You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

PART 5

PERSONAL BENEFIT

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

Gifts and benefits

- 5.1** You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.
- 5.2** You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Token gifts and benefits

- 5.3** Generally speaking, token gifts and benefits include:
- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
 - i) the discussion of official business
 - ii) council work related events such as training, education sessions, workshops
 - iii) conferences
 - iv) council functions or events
 - v) social functions organised by groups, such as council committees and community organisations
 - b) invitations to and attendance at local social, cultural or sporting events
 - c) gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
 - d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers
 - e) prizes of token value.

General Manager's Report to the Extraordinary Meeting of Council held in the Council Chambers on 22 September 2016 at 9.30am

Gifts and benefits of value

- 5.4** Notwithstanding clause 5.3, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

How are offers of gifts and benefits to be dealt with?

- 5.5** You must not:
- a) seek or accept a bribe or other improper inducement
 - b) seek gifts or benefits of any kind
 - c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty
 - d) accept any gift or benefit of more than token value
 - e) accept an offer of cash or a cash-like gift, regardless of the amount.
- 5.6** For the purposes of clause 5.5(e), a "cash-like gift" includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.
- 5.7** Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Mayor or the general manager. The recipient, supervisor, Mayor or general manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register. The gift or benefit must be surrendered to council, unless the nature of the gift or benefit makes this impractical.

Improper and undue influence

- 5.8** You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the appropriate exercise of their representative functions.
- 5.9** You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for council in order to obtain a private benefit for yourself or for any other person or body.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

PART 6

**RELATIONSHIP BETWEEN
COUNCIL OFFICIALS**

Obligations of councillors and administrators

- 6.1** Each council is a body politic. The councillors or administrator/s are the governing body of the council. The governing body has the responsibility of directing and controlling the affairs of the council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.
- 6.2** Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager in the performance of council's functions by way of council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (*section 352*)
 - b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate (*Schedule 6A of the Act*)
 - c) contact a member of the staff of the council on council related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
 - d) contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to council's external auditors or the Chair of council's audit committee who may be provided with any information by individual councillors reasonably necessary for the external auditor or audit committee to effectively perform their functions.

Obligations of staff

- 6.3** The general manager is responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation of the decisions of the council without delay.
- 6.4** Members of staff of council must:
- a) give their attention to the business of council while on duty
 - b) ensure that their work is carried out efficiently, economically and effectively
 - c) carry out lawful directions given by any person having authority to give such directions
 - d) give effect to the lawful decisions, policies, and procedures of the council, whether or not the staff member agrees with or approves of them
 - e) ensure that any participation in political activities outside the service of the council does not conflict with the performance of their official duties.

General Manager's Report to the Extraordinary Meeting of Council held in the Council Chambers on 22 September 2016 at 9.30am

Obligations during meetings

- 6.5 You must act in accordance with council's Code of Meeting Practice, if council has adopted one, and the *Local Government (General) Regulation 2005* during council and committee meetings.
- 6.6 You must show respect to the chair, other council officials and any members of the public present during council and committee meetings or other formal proceedings of the council.

Inappropriate interactions

- 6.7 You must not engage in any of the following inappropriate interactions:
 - a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
 - b) Council staff approaching councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
 - c) Council staff refusing to give information that is available to other councillors to a particular councillor.
 - d) Councillors and administrators who have lodged a development application with council, discussing the matter with council staff in staff-only areas of the council.
 - e) Councillors and administrators being overbearing or threatening to council staff.
 - f) Councillors and administrators making personal attacks on council staff in a public forum.
 - g) Councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.
 - h) Council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
 - i) Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.
 - j) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by council associated with current or proposed legal proceedings unless permitted to do so by council's general manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

PART 7

**ACCESS TO INFORMATION
AND COUNCIL RESOURCES**

**Councillor and administrator access
to information**

- 7.1 The general manager and public officer are responsible for ensuring that members of the public, councillors and administrators can gain access to the documents available under the *Government Information (Public Access) Act 2009*.
- 7.2 The general manager must provide councillors and administrators with information sufficient to enable them to carry out their civic office functions.
- 7.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with council procedures.
- 7.4 Members of staff of council who provide any information to a particular councillor in the performance of their civic duties must also make it available to any other councillor who requests it and in accordance with council procedures.
- 7.5 Councillors and administrators who have a private (as distinct from civic) interest in a document of council have the same rights of access as any member of the public.

**Councillors and administrators to properly
examine and consider information**

- 7.6 Councillors and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with council's charter.

Refusal of access to documents

- 7.7 Where the general manager and public officer determine to refuse access to a document sought by a councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the councillor or administrator to perform their civic duty (see clause 7.2). The general manager or public officer must state the reasons for the decision if access is refused.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Use of certain council information

7.8 In regard to information obtained in your capacity as a council official, you must:

- a) only access council information needed for council business
- b) not use that council information for private purposes
- c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with council
- d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

7.9 You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.

7.10 In addition to your general obligations relating to the use of council information, you must:

- a) protect confidential information
- b) only release confidential information if you have authority to do so
- c) only use confidential information for the purpose it is intended to be used
- d) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- e) not use confidential information with the intention to cause harm or detriment to your council or any other person or body
- f) not disclose any information discussed during a confidential session of a council meeting.

Personal information

7.11 When dealing with personal information you must comply with:

- a) the *Privacy and Personal Information Protection Act 1998*
- b) the *Health Records and Information Privacy Act 2002*
- c) the Information Protection Principles and Health Privacy Principles
- d) council's privacy management plan
- e) the Privacy Code of Practice for Local Government

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Use of council resources

- 7.12** You must use council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.
- 7.13** Union delegates and consultative committee members may have reasonable access to council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:
- a) the representation of members with respect to disciplinary matters
 - b) the representation of employees with respect to grievances and disputes
 - c) functions associated with the role of the local consultative committee.
- 7.14** You must be scrupulous in your use of council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.
- 7.15** You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 7.16** You must not use council resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 7.17** You must not use council letterhead, council crests and other information that could give the appearance it is official council material for:
- a) the purpose of assisting your election campaign or the election campaign of others, or
 - b) for other non-official purposes.
- 7.18** You must not convert any property of the council to your own use unless properly authorised.
- 7.19** You must not use council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Councillor access to council buildings

- 7.20** Councillors and administrators are entitled to have access to the council chamber, committee room, Mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.
- 7.21** Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or delegate) or as provided in the procedures governing the interaction of councillors and council staff.
- 7.22** Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence council staff decisions.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

PART 8

MAINTAINING THE INTEGRITY OF THIS CODE

- 8.1** You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this code or its administration.

Complaints made for an improper purpose

- 8.2** You must not make a complaint or cause a complaint to be made under this code for an improper purpose.

- 8.3** For the purposes of clause 8.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:

- a) to intimidate or harass another council official
- b) to damage another council official's reputation
- c) to obtain a political advantage
- d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
- e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
- f) to avoid disciplinary action under this code
- g) to take reprisal action against a person for making a complaint under this code except as may be otherwise specifically permitted under this code
- h) to take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this code except as may be otherwise specifically permitted under this code
- i) to prevent or disrupt the effective administration of this code.

Detrimental action

- 8.4** You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this code except as may be otherwise specifically permitted under this code.

- 8.5** You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this code except as may be otherwise specifically permitted under this code.

General Manager's Report to the Extraordinary Meeting of Council held in the Council Chambers on 22 September 2016 at 9.30am

- 8.6** For the purposes of clauses 8.4 and 8.5 detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
 - b) intimidation or harassment
 - c) discrimination, disadvantage or adverse treatment in relation to employment
 - d) dismissal from, or prejudice in, employment
 - e) disciplinary proceedings.

Compliance with requirements under this code

- 8.7** You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.
- 8.8** You must comply with a reasonable and lawful request made by a person exercising a function under this code.
- 8.9** You must comply with a practice ruling made by the Office of Local Government.
- 8.10** Where you are a councillor or the general manager, you must comply with any council resolution requiring you to take action as a result of a breach of this code.

Disclosure of information about the consideration of a matter under this code

- 8.11** You must report breaches of this code in accordance with the reporting requirements under this code.
- 8.12** You must not make allegations of suspected breaches of this code at council meetings or in other public forums.
- 8.13** You must not disclose information about the consideration of a matter under this code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this code.

Complaints alleging a breach of this part

- 8.14** Complaints alleging a breach of this Part (Part 8) by a councillor, the general manager or an administrator are to be made to the Office of Local Government.
- 8.15** Complaints alleging a breach of this Part by other council officials are to be made to the general manager.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

**PART 9
DEFINITIONS**

In the Model Code of Conduct the following definitions apply:

the Act	the <i>Local Government Act 1993</i>
act of disorder	see the definition in clause 256 of the Local Government (General) Regulation 2005
administrator	an administrator of a council appointed under the Act other than an administrator appointed under section 66
Chief Executive	Chief Executive of the Office of Local Government
committee	a council committee
conflict of interests	a conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
council committee	a committee established by resolution of council
"council committee member"	a person other than a councillor or member of staff of a council who is a member of a council committee
council official	includes councillors, members of staff of council, administrators, council committee members, conduct reviewers and delegates of council
councillor	a person elected or appointed to civic office and includes a Mayor
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	see the definition in section 441 of the Act
election campaign	includes council, State and Federal election campaigns
personal information	information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion
the Regulation	the Local Government (General) Regulation 2005

The term "you" used in the Model Code of Conduct refers to council officials.

The phrase "this code" used in the Model Code of Conduct refers also to the procedures for the administration of the Model Code of Conduct prescribed under the Local Government (General) Regulation 2005.

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

For more information on the Office of Local
Government Code of Conduct visit our website

www.olg.nsw.gov.au



Office of
Local Government

**General Manager's Report to the Extraordinary Meeting of Council
held in the Council Chambers on 22 September 2016 at 9.30am**

Authority

Council Resolution No. 020/2016 – 25 February 2016

Policy Owner / Further Assistance

General Manager

**Amendment – in relation to Part 6 –
Relationship Between Council Officials**

Bogan Shire Council recognises that, particularly in a small country town like Nyngan, certain family relationships do exist between Councillors and Council staff. It is acknowledged that some interactions will take place between staff and Councillors as family members where Council-related business is discussed. However, this in no way detracts from the obligations that these Councillors and Council staff have under the Model Code, particularly in relation to Part 6 – Relationship between Council Officials.

