



BUSINESS PAPER

EXTRAORDINARY MEETING OF COUNCIL

To be held on

Wednesday, 13 May 2020
9am

at

Audio visual

Members

Councillor Simon Murray (Mayor)
Councillor Libby Martin (Deputy Mayor)
Councillor Peter Bailey
Councillor Jon Galletly
Councillor Diane Gray
Councillor Andrew Murat
Councillor Debra O'Brien
Councillor Margaret O'Connor
Councillor Dorothy Robinson
Councillor Ian Tiley
Councillor Bradley Widders

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meeting, in accordance with Council's Code of Meeting Practice, as consideration of this matter in open Council would be contrary to the public interest.

15.2 FOR DECISION: Legal advice provided to CEO

As this report deals with personnel matters concerning particular individuals (Section 10A(2)(a) of the Local Government Act 1993). Council closes the meeting, in accordance with Council's Code of Meeting Practice, as consideration of this matter in open Council would be contrary to the public interest.

15.3 FOR DECISION: Written advice is provided by Counsel Lucy Saunders

As this report deals with personnel matters concerning particular individuals (Section 10A(2)(a) of the Local Government Act 1993). Council closes the meeting, in accordance with Council's Code of Meeting Practice, as consideration of this matter in open Council would be contrary to the public interest.

15.4 FOR DECISION: Meeting to resolve deferred motion ECM 12 March 2020

As this report deals with personnel matters concerning particular individuals (Section 10A(2)(a) of the Local Government Act 1993). Council closes the meeting, in accordance with Council's Code of Meeting Practice, as consideration of this matter in open Council would be contrary to the public interest.

Item: 7.1 **Ref:** AINT/2020/05216
Title: FOR DECISION: That items 10.1 and 10.2 New England Rail Trail be rescinded **Container:** ARC16/0025
Author: Dorothy Robinson, Councillor
Attachments: 1. Rescission Motion Item 10.1 and 10.2 - Rail Trail - received 9am 27 February 2020 CR O'Connor, Robinson and O'Brien
Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

Report:

We the undersigned Councillors hereby request that Minute No.: 11/20 passed at 26 February 2020 Council Meeting be rescinded. The Minute read:

10.1 FOR DECISION: New England Rail Trail Business Case and Future Maintenance Responsibility *Ref: AINT/2019/27700 (ARC16/0085)*

- a) That Armidale Regional Council note the New England Rail Trail Draft Business Case developed by Regional Development Australia Northern Inland (RDANI).
- b) That Council endorse further works be undertaken in relation to establishing the governance structure for oversight of bringing the Rail Trail to the commencement of design and project planning. The governance structure should comprise ARC, GISC and NERT (minority). It's key responsibilities will be:
 - a. Scoping the project
 - b. Providing advice to the respective Councils on the management of the process in relation to the transfer of the rail corridor
 - c. Commission a detailed business case, including the whole of life costs of maintaining the track and give advice to the Councils on it.
 - d. Commission a study on the potential economic value-added from the development of the rail trail
 - e. Advise Councils on the financial and economic impacts of a rail trail
 - f. Prepare land tenure and funding applications.
- c) That Council support the necessary Act of NSW Parliament to close the rail corridor and seek advice from the State Government on the process to have the rail track declassified and made available for development of the trail.
- d) That Council seek advice on the potential funding streams from State and Federal Government for the development and operation of the rail trail.

10.2 FOR DECISION: Supplementary Rail Trail Report
(ARC16/0085)

Ref: AINT/2020/02672

- a) That the Armidale Regional Council supports further development of an operational business case which is self-sustaining (not reliant on local government subsidies) and economically attractive to potential funding bodies such as the NSW and Federal Governments.
- b) That a maximum amount of \$25K be allocated over the next six months to assist and

further develop existing business plans for this Project, as preparation for deliberations by Council to pursue future funding for the Project.

Cr Dorothy Robinson

Cr Margaret O'Connor

Cr Deborah O'Brien

.....
Councillor

.....
Councillor

.....
Councillor

Summary/Introduction:

This report seeks Council's approval to rescind a minute from a previous Council Meeting.

Item: 8.1 **Ref:** AINT/2020/09716
Title: FOR DECISION: Friends of the ABC **Container:** ARC16/0025
Author: Libby Martin, Councillor
Attachments: Nil

Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

I hereby give notice of my intention to move the above motion at the Extraordinary Council to be held on 13 May 2020.

That Council acknowledge the dedication of the staff of the ABC and thank them for their emergency broadcasting services during the recent months of catastrophic fires.

.....
Cr Libby Martin
7 April 2020

Item: 8.2 **Ref:** AINT/2020/05598
Title: FOR DECISION: Air quality working group **Container:** ARC16/0025
Author: Dorothy Robinson, Councillor
Attachments: 1. Air Quality_WG_TOR_EOI_Approved_ESAC_11_Feb_2020
submitted to Council by Chair Cr Robinson 14th February 2020
2. Please_advertise_ESAC_WG_EOI_ASAP_14Feb_20120
Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

I hereby give notice of my intention to move the above motion at the Extraordinary Council to be held on 13 May 2020.

- a) **That Council notes the intended interpretation of Resolution 273/19 c) was to give Council Advisory Committees the power to set up Working Groups as long as their functions lie within the responsibilities of each Committee, as set out in its TOR.**
- b) **That Council endorses the intended interpretation of 273/19.**
- c) **That Council endorses the TOR and advertises the Expressions of interest for an Air Quality Working Group unanimously approved by the Environmental Sustainability Advisory Committee (ESAC), as requested in an email to the CEO on 14 February 2020 by 7 councillors.**
- d) **That Council authorizes ESAC to review applications and select members for its Climate Emergency and Air Quality Working Groups.**

BACKGROUND

ARC Resolution 273/19 (11 Dec 2019) states: That Council Committees are able to establish Working Groups (WG) to progress matters within the Committee's Terms of Reference, and that the formation of such working groups is at the discretion of the Committee.

The existing TOR of Council Committees do not prevent the setting up of WG, so there is no conflict with Resolution 273/19.

No advice was given at or before the December OCM that 273/19 could be interpreted differently to the intended meaning, e.g. that Council would need to go to the extra time and effort of specifically changing the TOR of every Council Committee to allow WG, or that this resolution would not have the same effect.

The Office of Local Government advised that if there was any possible ambiguity in a resolution, councillors could document the intended interpretation to the CEO. This was done in a statement by 7 councillors emailed to the CEO on 14 February.

Consequently, resolution 273/19 should be interpreted according to the meaning that was intended by the councillors who voted it, as advised by the Office of Local Government.

.....
Cr Dorothy Robinson
16 March 2020

Item:	8.3	Ref: AINT/2020/05599
Title:	FOR DECISION: Request for information	Container: ARC16/0025
Author:	Dorothy Robinson, Councillor	
Attachments:	Nil	

Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

I hereby give notice of my intention to move the above motion at the Extraordinary Council to be held on 13 May 2020.

- a) **That ARC notes the Information and Privacy Commissioner's (IPC) Report recommending that Council reconsiders its decision to withhold information. The IPC report, a public document, is available at https://www.dropbox.com/s/1a3tt17covz1ufr/IPC_Review_GIPA_ARC_Should_Reconsider.pdf**
- b) **That Council complies with the IPC recommendation and GIPA requirement to release all requested information for which there is no overriding public interest against confidential disclosure to the parties concerned.**
- c) **That Council releases in confidence to all councillors the brief and all associated material provided to Chris Ronalds that formed the basis of her confidential report that Council paid for.**

.....
Cr Dorothy Robinson
16 March 2020

Management Comment

The GIPA Act requires authorities, including Councils, to appoint a Public Officer who is responsible for the coordination and decision making involved in GIPA applications. This matter was appropriately managed by the properly appointed Public Officer and parts A and B have now been finalised.

Item: 8.4 **Ref:** AINT/2020/05603
Title: FOR REQUEST: Meeting with Council's legal team **Container:**
ARC16/0025
Author: Dorothy Robinson, Councillor
Attachments: Nil

Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

I hereby give notice of my intention to move the above motion at the Extraordinary Council to be held on 13 May 2020.

That a follow-up to the 12 March meeting of council's legal team with councillors is held as soon as possible for further clarification of the issues that were discussed.

.....
Cr Dorothy Robinson
16 March 2020

Management Comment

On 15 April 2020, Council was provided with a written report from Lucy Saunders of Counsel. Ms Saunders has advised her preference that Councillors prepare written questions for her to provide written responses. This ensures that all Councillors are provided the same information. Councillors will be provided a copy of the written report and a date for which to provide any questions for Counsel.

To ensure costliness and timeliness, similar questions asked by Councillors will be answered in globo.

Item: 8.5 **Ref:** AINT/2020/05612
Title: FOR DECISION: Council's panel of solicitors **Container:** ARC16/0025
Author: Margaret O'Connor, Councillor
Attachments: Nil

Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

I hereby give notice of my intention to move the above motion at the Extraordinary Council to be held on 13 May 2020.

That Councillors are provided with a copy of the scope document for all Solicitors that are on Council's panel of solicitors.

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Cr Margaret O'Connor
16 March 2020

Item: 8.6 **Ref:** AINT/2020/05613
Title: FOR DECISION: Copy of Sparke Helmore retainer **Container:**
ARC16/0025
Author: Margaret O'Connor, Councillor
Attachments: Nil

Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

I hereby give notice of my intention to move the above motion at the Extraordinary Council to be held on 13 May 2020.

That Councillors are provided with a copy of its document of retainer for Sparke Helmore Solicitors.

.....
Cr Margaret O'Connor
16 March 2020

Item: 8.7 **Ref:** AINT/2020/10276
Title: FOR DECISION: Legal advice provided to CEO **Container:** ARC16/0025
Author: Dorothy Robinson, Councillor
Attachments: Nil

Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

I hereby give notice of my intention to move the above motion at the Extraordinary Council to be held on 13 May 2020.

a) That all councillors are provided with the legal advice obtained in 2019 by ARC concerning emails sent by Councillors to each other and the CEO, including any advice on apprehended bias, and the brief and instructions on which that advice was based.

b) That all councillors are provided with the brief and instructions issued to Chris Ronalds SC and on which her legal advice was based.

Background

Legal professional privilege is owned by the client. In this case the client is ARC, the governing body of which is the elected Councillors. All Councillors have a duty to be well informed and conduct themselves with reasonable care and diligence.

Councillors are entitled to see all legal advice if it is relevant to their duties. There are some exceptions to the above for a councillor (or company director) who is engaged in litigation against the Council/company.

Members of the governing body viewing, reading or having a copy of legal advice does not waive the legal privilege.

All Councillors are bound by the Local Government Act (LGA) and by the common law to not disclose legally privileged information. The governing body may make a decision to release the advice, or may waive privilege by their actions (e.g. referring to the legal advice in media releases).

Councillors are required by the LGA to make considered and well informed decisions. This necessarily requires them to have access to all information which is relevant to carrying out their functions under the LGA.

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Cr Dorothy Robinson
9 April 2020

Item:	9.1	Ref: AINT/2020/02631
Title:	FOR INFORMATION: Arts, Cultural and Heritage Advisory Committee change of chair	Container: ARC16/0217
Author:	Hayley Ward, Interim Museum Team Leader	
Attachments:	Nil	

Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

RECOMMENDATION:

- a) **That the Terms of Reference of the Arts, Cultural and Heritage Advisory Committee provides for the Mayor to assume chair of it.**
- b) **In Terms of Clause a new Chair has been elected, Ms Caroline Downer, by the committee itself.**

Context

The CEO received a letter in December 2019 from an external member of the Arts, Cultural and Heritage Advisory Committee raising concerns about the way the meetings were Chaired and the lack of outcomes initiated by the committee due to ineffective meeting management. The letter alleged that the concerns were held by other members of the committee.

The CEO and Mayor met with external members of the committee in February 2020 to discuss their concerns. The members were unanimous in agreeing that a change in Chair was essential for the committee to work more effectively and achieve beneficial strategic outcomes for arts, culture and heritage in the LGA.

As per the Terms of Reference the Mayor will assume the position of Chair until such time as the committee appoints a new Chair.

The CEO and Mayor contacted the current Chair of the Arts, Cultural and Heritage Advisory Committee to advise of the members' concerns and the outcome of the meeting.

NOTE

This motion was deferred from the February meeting as the former chair requested mediation with the Mayor over the change. However the change of chair was requested by committee members not the Mayor and as a result mediation with the Mayor would not change the members' stance as they are committed to going forward with the new chair.

Purpose

To ensure that the Arts, Cultural and Heritage Advisory Committee is supported to work efficiently and effectively to develop beneficial strategic outcomes in the LGA that aligns with Council's Operational and Delivery Plans.

Proposal, Research and Analysis

The committee's Terms of Reference states that:

- The Mayor will determine the Chairperson of the committee or the position shall be determined by an election at the first meeting of a new term of the committee.

Impact

Committee membership is made up of local arts and cultural professionals who can provide specialist advice to Council on strategic matters within the creative arts industries. Their expert advice is supported by best practice industry standards that can assist Council achieve quality artistic, economic, social and place making outcomes based on the Operational and Delivery Plan.

Summary

Input from the community to Council is vital to the effective delivery of its services. It is critical that advisory committees operate efficiently and effectively to provide the best advice to council, and members' expertise is valued in the decision making process. This is especially relevant in supporting Council and the community after recent fires and during the ongoing drought.

Item: 9.2 **Ref:** AINT/2020/13190
Title: FOR INFORMATION Covid-19 - support provided to community by ARC
Container: ARC18/2692
Author: Kim Bryan, General Manager Organisational Development
Attachments: 1. ARC Response to COVID-19 01.05.20 for ECM 13 May 2020

FOR INFORMATION

The attached report details some of the actions taken and proposed additional assistance by Council to help the community through these times. It is essential that any measures introduced are manageable and do not put the Council into an unsustainable situation.

Context

Councillor O'Connor submitted several notices of motion requesting support be provided to community groups regarding Covid-19. This report details support currently being provided by Armidale Regional Council.

Item: 12.1 **Ref:** AINT/2020/02855
Title: FOR DECISION: Minutes - Arts, Culture and Heritage Advisory
Committee 12 February 2020 **Container:** ARC16/0217
Author: Hayley Ward, Interim Museum Team Leader
Attachments: 1. Minutes - Arts, Cultural and Heritage Advisory Committee - 12
February 2020

Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

RECOMMENDATION:

That the Minutes of the Arts, Cultural & Heritage Advisory Committee meeting held on 12 February 2020 be noted and the following recommendations endorsed:

- a) **That Caroline Downer be elected the new chair of the Arts, Cultural and Heritage Advisory Committee.**
- b) **That Council affirm its commitment to arts, culture and heritage and retains specialist knowledge within the organisation to advocate, guide and provide advice in this area.**
- c) **That \$5,000 is allocated to an annual public art fund for current and future projects.**
- d) **That \$20,000 is allocated to an annual community arts grant program developed and administered by the Arts, Cultural and Heritage Advisory Committee.**
- e) **That cultural tourism is recognised as one of the key economic drivers for the region and receives appropriate resourcing, including budget, to strengthen and grow the industry.**

MANAGEMENT COMMENT:

Recommendations c) and d) will be taken into consideration in the 2020/2021 budget.

Item: 12.2 **Ref:** AINT/2020/05421
Title: FOR DECISION: Minutes - Arts, Cultural and Heritage Advisory
Committee 11 March 2020 **Container:** ARC16/0217
Author: Hayley Ward, Interim Museum Team Leader
Attachments: 1. Minutes - Arts, Cultural and Heritage Advisory Committee - 11
March 2020

Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

RECOMMENDATION:

That the Minutes of the Arts, Culture and Heritage Committee meeting held on 11 March be noted and the following recommendations endorsed:

- a) **That Council base its cultural tourism planning on the following principles:**
- i. **The Armidale Region has a rich arts and cultural life.**
 - ii. **Visitors to the Armidale region are interested in local history and culture.**
 - iii. **Visitors stay longer and spend more when they attend and experience arts, culture and heritage.**
 - iv. **People travel for arts events and make return visits.**

Item:	14.1	Ref: AINT/2020/05607
Title:	Questions on Notice: Cr Robinson	Container: ARC16/0033
Author:	Dorothy Robinson, Councillor	
Attachments:	Nil	

Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

Question on notice 1.

Will Councillors be permitted to see the brief provided to the Masterplan consultants? If not, why not?

Question on notice 2.

An article in the Armidale Express on 13 March shows a picture of the business being considered in a closed council meeting. What measures are being taken to investigate this issue and prevent recurrences?

Question on notice 3.

What measures is ARC taking to safeguard the community in response to the Corona virus outbreak, e.g. extending provisions for council employees to work at home, holding meetings electronically instead of in person when permitted under NSW legislation, provision of hand sanitizers and other protective equipment, meeting with all the major stakeholders such as UNE, schools, HNE Health, nursing homes and the business chamber, use of council's Environmental Health Officers to educate businesses and the community on best practice, working with community groups to identify and assist socially isolated and vulnerable groups, developing emergency plans, and lobbying other levels of government for assistance?

Question on notice 4.

Please provide the total commercial and residential water use in a) Guyra and b) in the 4 weeks to 16 March 2020.

Question on notice 5.

According to the August 2019 business paper, ARC has incurred legal costs of \$64,659 'for reviewing various matters relating to the interaction between councillors and between councillors and the CEO.' Please provide total legal expenditure and other costs (including staff time) on investigating the interaction between councillors and between councillors and the CEO since the CEO took up office.

Question on notice 6.

The Armidale Express, 12 March 2020 quotes Cr Murray: "I deferred the matter because in our code of practice anyone can call a vote as long as there are two councillors speaking for it and two speaking against it, and we only had one councillor speak against it," he said. "I took legal advice on that yes."

Please provide the name of the legal firm that provided the advice Cr Murray mentions on the Code Meeting Practice.

Question on notice 1.

Answer

The brief that went out to the open market for the preparation of the Armidale Regional 2040 Plan (previously known as the Masterplan) is available to interested Councillors. The Brief was

placed on tenderlink 19 June and closed on 19 July after which two proposals were received; one from CM+ and the other from Oxigen.

Staff went back to both consultants seeking further information on:

- More details on the strategies and approaches to engage with the whole community not just our usual pre 1965's but all sectors of the community
- Further detail on the integration and harmonisation of Councils current plans/strategies.

Following this further information being provided the submissions were against the brief and CM+ was appointed as the preferred consultant to undertake the work.

CM+ commenced in September 2019, and the highlights the points at which the Councillors have been briefed or involved to date:

- 17-6-19 – Briefing of Councillors on the masterplan project.
- 3-12-19 – Briefing session as part of EMT with Councillors provided by Ambrose.
- 4-12-19 – Briefing session and workshop at the Airport with Councillors and CM+.
- 3 and 4-12-19 – Café Catch Up Sessions with community. Some Councillors attended the Armidale session.
- 14-3-2020 – Briefing with Councillors following the Citizens Panel. 4 councillors attended.

Question on notice 2.

Answer

Council staff has conducted a review of the circumstances following the use by the Armidale Express of a picture which included matters being considered in a closed session of Council. Council staff have concluded that the photo was taken from the public area adjacent to the Chamber by the media. In the future, without change to the current doors of the chamber, Council staff would be unable to prohibit this occurring in the future.

Question on notice 3.

Answer

Armidale Regional Council was the first Council in our region to transfer staff to a work from home model. Indoor staff have been assisted with required facilities (such as office chairs, laptops, monitors etc) to enable the staff to work from home. The entire indoor workforce was transferred from office based to home based in a matter of three working days. Staff in the storeroom are working to ensure supply chains of disinfectant and hand sanitisers. However, supplies are severely restricted. Council staff have also been in contact with UNE and with the Department of Health. The Community Services team continue to liaise with other relevant agencies and organisations.

Question on notice 4.

Answer

Estimated Total Residential and Non-residential water usage for the last four weeks (17 Feb - 15 March 2020)

	Residential, ML	Non-residential, ML
Armidale	87.51	37.50
Guyra	10.99	19.34

Question on notice 5.

Answer

Since January 2019 we have spent \$159,933 on code of conduct matters and advice regarding the interaction of Councillors with staff. Given the current number of code of conduct complaints under investigation we anticipate a further \$120,000-\$150,000 to be spent in the next 6 month period.

Question on notice 6.

Answer

Advice given to the Mayor was direct in nature and not provided through Council's Governance Team. The legal advice was provided by Lindsay Taylor verbally during his talk with councillors last month. Councillor Robinson and Councillor O'Connor did not participate in the session attended by councillors, therefore were not privy to this information.

Item: 14.2 **Ref:** AINT/2020/05624
Title: Questions on Notice: Cr O'Connor **Container:** ARC16/0033
Author: Margaret O'Connor, Councillor
Attachments: Nil

Council at its meeting on 22 April 2020 resolved that the matter be deferred to the meeting to be held on 13 May 2020.

Question on Notice 1.

Has Sparke Helmore Solicitors ever been on Council's panel of solicitors?

Question on Notice 2.

Who videoed the Mayor's video message to the community released on 13 March 2020?

Question on Notice 1.

Answer

Sparke Helmore is on Council's panel of solicitors.

Question on Notice 2.

Answer

Armidale Regional Council's Communications' staff.