

BUSINESS PAPER

Special Meeting

Wednesday 19 February 2020

Roma Administration Centre

NOTICE OF MEETING

Date: 19 February 2020

Mayor:

Councillor T D Golder

Deputy Mayor:
Councillors:

Councillor J L Chambers
Councillor N H Chandler
Councillor P J Flynn
Councillor G B McMullen
Councillor W M Newman
Councillor C J O'Neil
Councillor D J Schefe
Councillor J M Stanford

Chief Executive Officer:

Ms Julie Reitano

Senior Management:

Mr Rob Hayward (Deputy Chief Executive Officer/Director
Corporate, Community & Commercial Services)
Ms Sharon Frank (Director Corporate, Community & Commercial
Services)

Please find attached agenda for the **Special Meeting** to be held at the Roma Administration Centre on
February 19, 2020 at 9.50AM



Julie Reitano
Chief Executive Officer

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Confidential Items

In accordance with the provisions of section 275 of the *Local Government Regulation 2012*, a local government may resolve to close a meeting to the public to discuss confidential items that it's Councillors or members consider it necessary to close the meeting.

C Confidential Items

C.1 Tender 20019 - Evaluation Report - Bigger Big Rig Observation Tower and Treewalk

Classification: Closed Access

Local Government Regulation 2012 Section 275(c) (e) (h) the local government budget; AND contracts proposed to be made by it; AND other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.

C.2 Bigger Big Rig Financial Analysis

Classification: Closed Access

Local Government Regulation 2012 Section 275(h) other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.

C.3 Extension of time request for Smart Cities and Suburbs Program - install supervisory control and data acquisition (SCADA)

Classification: Closed Access

Local Government Regulation 2012 Section 275(c) the local government budget.

C.4 Organisational Structure

Classification: Closed Access

Local Government Regulation 2012 Section 275(a) (c) (h) the appointment, dismissal or discipline of employees; AND the local government budget; AND other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.

C.5 Employment Documents

Classification: Closed Access

Local Government Regulation 2012 Section 275(a) (b) (c) (h) the appointment, dismissal or discipline of employees; AND industrial matters affecting employees; AND the local government budget; AND other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.

Closure

OFFICER REPORT

Meeting: Special 19 February 2020

Date: 19 February 2020

Item Number: 6.1

File Number: D20/13956

SUBJECT HEADING: Acceptable Request Guidelines

Classification: Open Access

Officer's Title: Chief Executive Officer

Executive Summary:

The previous Acceptable Request Guidelines formed part of the Elected Member Request and Assistance Policy.

As part of the Belcarra Reforms there have been changes to S170A of the *Local Government 2009*. This has necessitated a review of the guidelines. It is also proposed to extract the guidelines and publish them as a separate document.

Officer's Recommendation:

That the Acceptable Request Guidelines be adopted as an updated and separate document.

Individuals or Organisations to which the report applies:

Are there any individuals or organisations who stand to gain a benefit, or suffer a loss, (either directly or indirectly) depending on the outcome of consideration of this matter?

(Note: This is to assist Councillors in identifying if they have a Material Personal Interest or Conflict of Interest in the agenda item - i.e. whether they should participate in the discussion and decision making).

Councillors

Chief Executive Officer

Acronyms:

Are there any industry abbreviations that will be used in the report?

Note: This is important as particular professions or industries often use shortened terminology where they refer to the matter on a regular basis. However, for individuals not within the profession or industry it can significantly impact the readability of the report if these aren't explained at the start of the report).

Acronym	Description
Nil	Nil

Context:

Why is the matter coming before Council?

As part of the Belcarra Reforms there have been changes to S170A of the *Local Government 2009*. This has necessitated a review of the guidelines. It is also proposed to extract the guidelines and publish these as a separate document.

The current document has been graphically designed and includes photos of the current term of Council. In preparation for the new Council, it has been incorporated into a Word document.

It has also been updated to reflect some of the learnings and experience since the new guidelines were adopted.

Background:

Has anything already happened in relation to this matter?

(Succinct overview of the relevant facts, without interpretation)

In 2018 Council, as part of the governance review, adopted a new Elected Member Request and Assistance Policy.

It incorporated the guidelines that must be adopted by resolution of Council about the way in which Councillors request advice and information to assist in performing their responsibilities under the *Local Government Act 2009*.

Legislation, Local Laws, State Policies & Other Regulatory Requirements:

What does the legislation and other statutory instruments include about the matter under consideration?

(Include an extract of the relevant section's wording of the legislation – please do not just quote the section number as that is of no assistance to Councillors)

This pertains specifically to S170A of the *Local Government Act 2009*.

Council Policies or Asset Management Plans:

Does Council have a policy, plan or approach ordinarily followed for this type of decision?

What are relevant sections of the policy or plan?

(Quote/insert the relevant section's wording / description within the report)

Elected Member Request and Assistance Policy

Input into the Report & Recommendation:

Have others' views or input been sourced in developing the report and recommendation to Council? (i.e. other than the report author?) What did each say?

(Please include consultation with the funding body, any dates of critical importance or updates or approvals required)

King and Company

Funding Bodies:

Is the project externally funded (or proposed to be)? If so, are there any implications in relation to the funding agreement or grant application.

(Please do not just include names)

Nil

This Financial Year's Budget:

Will the matter under consideration impact how much Council collects in income or how much it will spend? How much (\$) ? Is this already included in the budget? (Include the account number and description).

If the matter under consideration has not been included in the budget, where can the funds be transferred from? (Include the account number and description) What will not be done as a result?

Nil

Future Years' Budgets:

Will there need to be a change in future years' budgets to cater for a change in income or increased expenditure as a result of Council's decision? How much (\$) ? (e.g. estimate of additional maintenance or operating costs for a new or upgraded project)

Nil

Impact on Other Individuals or Interested Parties:

Is there anyone who is likely to be particularly interested in or impacted by the decision, or affected by the recommendation if adopted? What would be their key interests or concerns?

(Interested Parties Analysis - IS9001:2015)

Nil

Risks:

What could go wrong if Council makes a decision on this matter? (What is the likelihood of it happening and the consequence if it does) (List each identified risk in a table)

Risk	Description of likelihood & consequences
Nil	Nil

Advice to Council:

What do you think Council should do, based on your skills, qualifications and experience, your knowledge of this and related matters, and the facts contained in the report?

(A summary of what the employee thinks Council needs to hear, not what they think individual Councillors want to hear – i.e. employees must provide sound and impartial advice – the employee's professional opinion)

That the Acceptable Request Guidelines be adopted as an updated and separate document.

Recommendation:

What is the 'draft decision' based on the advice to Council?

Does the recommendation suggest a decision contrary to an existing Council policy? If so, for what reason?

(Note: recommendations if adopted by Council become a legal decision of government and therefore must be clear and succinct about the action required by employees (unambiguous)).

Does this recommendation suggest a decision contrary to an existing Council policy? If so, for what reason?

That the Acceptable Request Guidelines be adopted as an updated and separate document.

Link to Corporate Plan:

Corporate Plan 2018-2023

Strategic Priority 4: Growing our region

4.1 Work with our communities to identify priorities, and provide leadership and advocacy to grow our region

4.1.4 Prepare a new Elected Member Request Policy incorporating reviewed Acceptable Request Guidelines.

Supporting Documentation:

[1](#) Acceptable Request Guidelines (Draft)

D20/13628

Report authorised by:

Chief Executive Officer

Purpose:

To provide the framework, in accordance with Section 170A of the *Local Government Act 2009*, about the way in which a Councillor may:

- (1) Ask an employee for advice to help the councillor carry out his or her responsibilities under the *Local Government Act 2009*;
- (2) Ask the Chief Executive Officer to provide information or documents that the local government has access to relating to the local government.

Additional notes in relation to Section 170A of the Local Government Act 2009:

- Section 170A (7) - The **acceptable requests guidelines** are guidelines:
 - Adopted by resolution of the local government;
 - That may place reasonable limits on requests that a councillor may make;
- Section 170A (4) – The requirement to provide information or documents do not pertain to:
 - a record of the conduct tribunal; or
 - a record of a former conduct review body; or
 - if disclosure of the information or document to the councillor would be contrary to an order of a court or tribunal; or
 - that would be privileged from production in a legal proceeding on the ground of legal professional privilege.

Policy:

1. Written requests for **information, documents or advice** for a Councillor are to be forwarded to: S170A@maranoa.qld.gov.au

Councillors – please include a description of the topic in the subject heading. This will facilitate recordkeeping in relation to the request.

If a Councillor is unsure about what information is required, an initial conversation with the Director or CEO will help frame the e-mail request for the Councillor.

2. Verbal requests for **advice** (where information can be provided on the spot)

When	Who
Council meetings and workshops	CEO, Directors, Managers, attending officers
Outside Council meetings or workshops	<p>Urgent:</p> <ul style="list-style-type: none"> - Pertaining to a Directorate -> Director - Pertaining to the whole Council or unsure -> CEO <p><i>The Director and/or CEO may refer the verbal request for advice to another officer – e.g. Manager.</i></p> <p>Non-urgent:</p> <p>If the Director or CEO cannot answer the question on the spot, the Councillor will be asked to put the request in writing to the e-mail address (S170A). Alternatively, (if practical) the Director or CEO can take the details and forward these to the e-mail address (S170A) for the relevant officers to collate the information.</p>

Verbal requests outside Council meetings and workshops should be quick and infrequent requests for advice. Responses to written requests through the S170A e-mail address can be collated by the relevant officers and reviewed by the Manager and Director.

Other provisions:

- **Purpose / context for information or advice**

Ideally, the reason or purpose for seeking access to information or advice should be provided as the advice may be different depending on the circumstances. Councillors who do not wish to provide the reason or purpose for seeking access to information or advice should exercise caution in using the information or advice in different circumstances.

- **Not all information is accessible by a Councillor**

Section 170A (4) states that requests for advice or information do not apply to:

- a record of the conduct tribunal; or
- a record of a former conduct review body; or
- if disclosure of the information or document to the councillor would be contrary to an order of a court or tribunal; or
- that would be privileged from production in a legal proceeding on the ground of legal professional privilege.

Information about a community member or employee that is subject to privacy or other legislation may also not be accessible (for example, the *Information Privacy Act 2009*, *Crime and Corruption Act 2001*, *Public Interest Disclosure Act 2010*, *Food Act 2006*).

If it is not permissible to provide access, the Director or CEO will advise the Councillor as to the reasons.

- **Additional input**

In collating the response for a Councillor, where applicable, the response will provide:

- input from employees most likely to have information relevant to the request;
- an explanation of any issues with the information that relate to confidentiality or other sensitive matters;
- any other contextual information.

- **Response / information of relevance to all Councillors / decision makers**

Where a response would be helpful or relevant to all Councillors, the Director or CEO may circulate it to the Councillors' e-mail group. This will be particularly important where multiple requests have been, or are likely to be, received about the same or similar matter, or the matter relates to the Council meeting agenda item.

- **Excess or untimely use of Council resources**

Where the Director or CEO has concerns about the time that will be required to collate requested information, the request is to be tabled at a Council meeting for consideration. The Council may consider placing reasonable limits on requests that a Councillor may make as permitted under Section 170A(7)(a) of the *Local Government Act 2009*.

Where the collation of the information would impact on the Council's ability to meet its legislative deadlines, the Director or CEO is authorised to refer the request to a Council meeting.

- **Consideration of likely cost vs public benefit**

Responses to requests for information can sometimes be time consuming to collate. This redirects employee time away from their day to day responsibilities which impacts on the delivery of the Council's priorities, projects and services. If in doubt about what information is required, an initial conversation with the Director or CEO will help narrow the area of focus enabling a faster and more effective response. Councillors should also be mindful of peak periods for operational workloads and priorities (e.g. significant requests for information about rates during the last week of the discount period when there are high community demands on Rates employees' time).

- **Additional review (E-mail S170A@maranoa.qld.gov.au)**

Councillors must inform the Chief Executive Officer if they believe a S170A request has not been appropriately responded to (E-mail Subject heading - Additional review - Description of Topic). The Chief Executive Officer will undertake a review of the matter. Where a Councillor seeks a further review it may be referred by either party to the next available Council meeting.

- **Publically available information**

A Councillor need not make a request for information under this policy if they are able to obtain the information from sources available to the public.

- **Referral of request to Council by Director or CEO**

The Policy recognises there may be instances where the provision of information or advice may be of concern to the Director or CEO and supports referral of the request to a Council meeting if:

- the information is not reasonably available to the employee/s;
- the employee/s do not feel qualified to provide the requested advice and there are not employees on staff with the requisite knowledge or qualifications relevant to the type of information requested;
- the employee is not satisfied that the information is required to assist the Councillor carry out his or her responsibilities under the Act; or
- the employee considers that use of resources to comply with the request would breach Council's obligations during a caretaker period not to publish or distribute election material (see *Local Government Act 2009*, section 90D)

- **Seeking of legal advice**

In some instances, a Councillor request for information or assistance may involve the application of specific legislation. Often that will involve a simple extract of information from the relevant Act or Regulation. However, where the response may involve some interpretation, the Director or CEO may, at the CEO's discretion, obtain external advice and provide that advice to all Councillors.

- **Requests by individuals other than a Mayor or Councillor**

To remove any doubt, if the Mayor or Councillor is seeking to access information or advice to carry out his or her responsibilities under the *Local Government Act 2009*, the approach must be made by the Mayor or Councillor themselves rather than through other staff.

Local Government Act 2009

170 Giving directions to local government staff

(1) *The mayor may give a direction to the chief executive officer.*

(2) *However, a direction under subsection (1) must not be inconsistent with a resolution, or a document adopted by resolution, of the local government.*

(3) *No councillor, including the mayor, may give a direction to any other local government employee.*

Note—

Contravention of subsection (3) is misconduct that could result in disciplinary action being taken against a councillor. See sections 150L(1)(c)(iv), 150AQ and 150AR.

Administrative support staff are provided under Council's Expenses Reimbursement Policy (4.4) for administrative support. Those employees cannot provide directions to other employees to provide information or advice.

In instances where officers are in receipt of requests for information or advice, the details of the request and the requestor (which Councillor), are to be e-mailed to S170A@maranoa.qld.gov.au.

- **Requests not compliant with the acceptable request guidelines**

Section 170A (5) of the *Local Government Act 2009* states that a request of a councillor (for advice or information) is of no effect if the request does not comply with the acceptable requests guidelines, unless:

- the councillor is the mayor; or
- the councillor is the chairperson of a committee of Council if the request relates to the role of the chairperson.

Where an employee is approached for information or advice from a Councillor, details of the request will be forwarded upon receipt (whether received by telephone, email or in person) via e-mail to the Director and CEO.

In the case of field based employees, this can be done by advising their Team Leader, Team Coordinator or Manager who will e-mail the details of the request to the Director and CEO.

The employee is not to act on that request for information or advice, unless they are specifically authorised to do so consistent with the elected Council's policy directions. The reasons for this are:

- The employee or employees approached may not be aware of all the relevant information, particularly where multiple teams and departments have knowledge about the issue. The employee or employees approached may unintentionally mislead the Councillor;
- Councillor may receive incomplete advice including about Council's legislative obligations – why something is currently done in a particular way. This will potentially impact the Councillor's contribution to decision making when the matter comes before Council.

- **Timeliness of responses to Councillors**

Requests made under this policy to the S170A e-mail address will be provided:

- (a) within 10 business days after receiving the request; or
- (b) if the chief executive officer reasonably believes it is not practicable to comply with the request within 10 business days—within 20 business days after receiving the request.

If the chief executive officer forms the belief mentioned in subsection (b), the chief executive officer must give the councillor notice about the belief and the reasons for the belief within 10 business days after receiving the request.

- **Scope of Acceptable Request Guidelines**

To remove any doubt, it is not the intention of these guidelines to:

- override or circumvent other Council policies that relate to information, documents and advice for or on behalf of **customers** rather than for **councillors'** use.
- circumvent other legislative frameworks that govern the provision of information or documents to members of the public (e.g. *Right to Information Act 2009*).

Other than in the case of publically available information, in relation to a customers' request for documents and information, those decisions are required by law to be made a Council officer. Generally the delegated decision maker is the Director Corporate & Community Services.

If a Councillor including the Mayor is asking for advice or information for or on behalf of a customer, a quick guide for Councillors to the other processes that are to be used (in lieu of S170A e-mail address) are included below for ease of reference:

Customer / Ratepayer matters	Council Policy	Contact details
Do you want to request a particular service or action now or in the future Any request for information should also be forwarded to this e-mail address in the first instance. An initial assessment will be undertaken to ascertain if the <i>Right to Information Act 2009</i> applies or if the information be made available.	Customer Request Policy	customer.service@maranoa.qld.gov.au Name of the Customer and details of the request.
Do you have a complaint or concern about something Council or one of its representatives has already done or failed to do	Complaint Management Policy or Process	Internal.review@maranoa.qld.gov.au Name of the Customer and details of the complaint.

- **Request for Agenda items**

If Councillors are contemplating a request for an agenda report, it is recommended that Councillors first lodge a S170A request as there may be relevant information already prepared or steps actioned that would influence the need for, or content of, a report.

OFFICER REPORT

Meeting: Special 19 February 2020

Date: 19 February 2020

Item Number: 6.2

File Number: D20/14003

SUBJECT HEADING: Queensland Audit Office Final Management Letter
2018/19

Classification: Open Access

Officer's Title: Mayor

Executive Summary:

The 2018/19 financial audit was completed by the Queensland Audit Office (QAO) on 30 September 2019 with the certified Financial Statements forwarded to the Mayor on 1 October 2019. Following some final updates by the Queensland Audit Office, the Final Management Report for 2018/19 is now presented to Council by the Mayor.

Officer's Recommendation:

That:

1. Pursuant to section 213(3) of the *Local Government Regulation 2012*, Council receive and note the Queensland Audit Office Final Management Report for 2018/19 as presented by the Mayor.
2. The updated Annual Report and Our Performance in Focus document be adopted with the replacement pages.

Body of Report:

Council has been advised of some changes to the Management Report. An updated copy is tabled as the Final Management Report.

Consultation (internal/external):

Queensland Audit Office
Pitcher Partners

Risk Assessment (Legal, Financial, Political etc.):

Nil

Policy Implications:

Nil

Financial Resource Implications:

Nil

Link to Corporate Plan:

Corporate Plan 2018-2023

Strategic Priority 2: Delivering strong financial management

2.3 Keep our accounts in order

2.3.1 Provide timely, accurate and complete financial information for: - Council to make decisions; - Reports to the community and other stakeholders about Council's budgets and financial activities; - Financial returns and claims.

Supporting Documentation:

Nil.

Report authorised by:

Chief Executive Officer

OFFICER REPORT

Meeting: Special 19 February 2020

Date: 19 February 2020

Item Number: 6.3

File Number: D20/14011

SUBJECT HEADING: Corporate Plan

Classification: Open Access

Officer's Title: Chief Executive Officer

Executive Summary:

Tabling the updated Corporate Plan for adoption.

Officer's Recommendation:

That the updated plan be adopted.

Body of Report:

During the course of the annual report and operational plan preparation a number of refinements were identified.

This is now tabled for Council's review.

Policy Implications:

The Corporate Plan is one of the financial planning documents required under Section 104 (5)(a)(i) of the *Local Government Act 2009*.

Financial Resource Implications:

The budget also needs to be consistent with the Corporate Plan.

Link to Corporate Plan:

Corporate Plan 2018-2023

Strategic Priority 2: Delivering strong financial management

2.1 Plan for our region's financial future

2.1.2 Prepare and publish compliant documents by the due dates.

Supporting Documentation:

Nil