

Extraordinary Council Meeting

Business Paper

Notice is hereby given that an Extraordinary Council Meeting of Parkes Shire Council will be held in the Parkes Council Chamber, 2 Cecile Street, Parkes, on Tuesday 7 March 2023 at 4.30pm.



Kent Boyd PSM
GENERAL MANAGER

Governing Body

Composition:	Ten (8) Councillors
Membership:	Councillor M Applebee, Councillor J Cass, Councillor W Jayet, Councillor K McGrath, Councillor D Weber, Councillor G Wilson
Quorum:	6 Councillors
Chairperson:	Chairperson, Councillor K Keith OAM
Deputy Chairperson:	Deputy Chairperson, Councillor N Westcott

Pursuant to section 223 of the *Local Government Act 1993*, the role of Parkes Shire Council's governing body is:

- To direct and control the affairs of Parkes Shire Council in accordance with the *Local Government Act 1993*, in consultation with the General Manager.
- To provide effective civic leadership to the local community.
- To ensure as far as practicable the financial sustainability of the Council.
- To ensure as far as practicable that the Council acts in accordance with the principles set out in Chapter 3 of the *Local Government Act 1993* and other strategic plans, programs, strategies and policies of the Council.
- To determine and adopt a rating and revenue policy and Operational Plans that support the optimal allocation of the Council's resources to implement the strategic plans (including the Community Strategic Plan) of the Council and for the benefit of the local area.
- To keep under review the performance of the Council, including service delivery.
- To make decisions necessary for the proper exercise of the Council's regulatory functions.
- To determine the process for appointment of the General Manager by the Council and to monitor the General Manager's performance.
- To determine the senior staff positions within the organisation structure of the Council, following consultation with the General Manager.
- To consult regularly with community organisations and other key stakeholders and keep them informed of the Council's decisions and activities.
- To be responsible for ensuring that the Council acts honestly, efficiently and appropriately.

Matters determined by meetings of Parkes Shire Council's governing body will include all those non-delegable functions identified in section 377 of the *Local Government Act 1993*.

Council Chambers

Seating Plan



PUBLIC GALLERY

Guiding Principles

In accordance with section 8A of the *Local Government Act 1993*, Councillors are reminded of the guiding principles applicable to decision-making by local councils:

- Councils should recognise diverse local community needs and interests.
- Councils should consider social justice principles.
- Councils should consider the long-term and cumulative effects of actions on future generations.
- Councils should consider the principles of ecologically sustainable development.
- Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

Statement of Ethical Obligations

In accordance with clause 3.22 of Council's Code of Meeting Practice, Councillors are reminded of their Oath or Affirmation of Office made under section 233A of the Act and their obligations under Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

Oath or Affirmation of Office

The Oath or Affirmation is taken by each Councillor whereby they swear or declare to undertake the duties of the office of Councillor in the best interests of the people of the Parkes Shire and Parkes Shire Council and that they will faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the *Local Government Act 1993* or any other Act to the best of their ability and judgment.

Conflicts of Interest

All Councillors must declare and manage any conflicts of interest they may have in matters being considered at Council meetings in accordance with the Council's Code of Conduct. All declarations of conflicts of interest and how the conflict of interest was managed will be recorded in the minutes of the meeting at which the declaration was made.

Councillors attending a meeting by audio-visual link must declare and manage any conflicts of interest they may have in matters being considered at the meeting in accordance with Council's Code of Conduct. Where a Councillor has declared a pecuniary or significant non-pecuniary conflict of interest in a matter being discussed at the meeting, the Councillor's audio-visual link to the meeting will be suspended or terminated for the time during which the matter is being considered or discussed by Council, or at any time during which Council is voting on the matter.

Councillors should ensure that they are familiar with Parts 4 and 5 of Council's Code of Conduct in relation to their obligations to declare and manage conflicts of interests.

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1 OPENING OF MEETING

In the spirit of open, accessible and transparent government, meetings of Parkes Shire Council are video recorded and webcast, consistent with Council's Code of Meeting Practice and the *Local Government Act 1993*.

Council accepts no liability for any defamatory, discriminatory or offensive remarks or gestures made during the course of meetings. Opinions expressed or statements made by individual participants are the opinions or statements of those individuals, and do not imply any form of endorsement by Council.

Closed sessions of Council meetings are not video recorded or webcast.

Recordings and webcasts are protected by copyright and owned by Council, and published to Council's website. No part may be copied, recorded, reproduced or transmitted without the prior written consent of the General Manager. Any recording or webcast is not, and shall not, be taken to be an official record of Council or discussion depicted therein. Only the official minutes may be relied upon as an official record of the meeting.

Authorised media representatives are permitted to record meetings provided written notice has been lodged. A person may be expelled from a meeting for recording without notice. Recordings may only be used for the purpose of accuracy of reporting and are not for broadcast, or to be shared publicly. No recordings of any private third-party conversations or comments of anyone within the Chamber are permitted.

Please ensure that mobile phones and other electronic devices are turned off or are in silent mode for the duration of the meeting.

Under Council's Code of Meeting Practice, individuals acting in a disorderly manner can be asked by the Chairperson to leave the meeting.

2 ACKNOWLEDGEMENT OF COUNTRY

The Mayor will invite a Councillor to deliver an Acknowledgement of Country:

Parkes Shire Council acknowledges the Wiradjuri People who are the Traditional Custodians of the Land. I would also like to pay respect to the Elders past, present and emerging of the Wiradjuri Nation and extend that respect to other Aboriginal peoples from other nations who are present.

Alternatively, the Councillor may deliver the following Acknowledgement of Country in Wiradjuri language, which has been provided by Mr Geoff Anderson, a Wiradjuri Elder resident of the Parkes Shire:

Wiradjuri language	English translation
Badhu yinganha yindyamarra-gu Wiradjuri mayiny bu Wiradjuri manhang	<i>I give respect to Wiradjuri people and Wiradjuri soil.</i>
Badhu gulbarra ngali Yama Wiradjuri ngurambang bu ngali garrariwibarra gu marambir Niiringal	<i>I understand we are on Wiradjuri country and can work together to a better tomorrow.</i>
Mandaang guwu	<i>Thank you.</i>

3 PRAYER

4 APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE

In accordance with clauses 5.3, 5.4 and 5.5 of Council's Code of Meeting Practice, apologies must be received and accepted from absent Councillors and a leave of absence from the Council Meeting may be granted.

5 APPLICATIONS TO ATTEND BY AUDIO-VISUAL LINK

In accordance with clauses 5.18 and 5.19 of Council's Code of Meeting Practice, Councillors may attend and participate in meetings by audio-visual link with the approval of the Council.

Requests by Councillors for approval to attend a meeting by audio-visual link must be made in writing to the General Manager prior to the meeting in question and provide reasons why the Councillor will be presented from attending the meeting in person.

Councillors attending a meeting by audio-visual link are reminded that they must ensure that no other person is within sight or hearing of the meeting at any time that the meeting is closed to the public under section 10A of the *Local Government Act 1993*.

Note: Consistent with clause 5.43 of Council's Code of Meeting Practice, attendance by Council staff at meetings of the Council by audio-visual link shall be with the approval of the General Manager.

6 CONFIRMATION OF MINUTES

7 DISCLOSURES OF INTERESTS

In accordance with Part 16 of Council's Code of Meeting Practice, all Councillors must disclose and manage any conflicts of interest they may have in matters being considered at the meeting.

Council's Code of Conduct deals with pecuniary and non-pecuniary conflicts of interest and political donations, and provides guidance on how these issues should be managed.

Councillors, and where applicable, other Council Officials, must be familiar with Council's Code of Conduct and their obligations to disclose and manage any conflicts of interest that they may have in matters being considered at this Council Meeting.

Note: Councillors and staff who declare an Interest at the Council Meeting are also required to complete a Declaration of Interest form.

Obligations	
Pecuniary Interests	<p>A Councillor who has a pecuniary interest in any matter with which the Council is concerned, and who is present at a meeting of the Council at which the matter is being considered, must disclose the nature of the interest to the meeting.</p> <p>The Councillor must not be present at, or in sight of, the meeting:</p> <ul style="list-style-type: none"> (a) At any time during which the matter is being considered or discussed, or (b) At any time during which the Council is voting on any question in relation to the matter.
Non-Pecuniary Conflicts of Interest	<p>A Councillor who has a non-pecuniary conflict of interest in a matter, must disclose the relevant private interest in relation to the matter fully and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter.</p>
Significant Non-Pecuniary Conflicts of Interest	<p>A Councillor who has a significant non-pecuniary conflict of interest in relation to a matter under consideration at a Council meeting, must manage the conflict of interest as if they had a pecuniary interest in the matter.</p>
Less than Significant Non-Pecuniary Interests	<p>A Councillor who determines that they have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest must also explain why conflict of interest is not significant and does not require further action in the circumstances.</p>

8 LATE BUSINESS

9 CONFIDENTIAL MATTERS

RECOMMENDATION

That Extraordinary Council Meeting:

1. Moves into Closed Session to deal with the matters below, which are classified as confidential under section 10A(2) of the *Local Government Act 1993* for the reasons specified:

**9.1 CRITICAL DROUGHT RELIEF PROJECT BORE 2 SWITCHBOARD
SWITCHROOM ANCILLARY ELECTRICAL WORKS - PSC2022145**

This matter is considered to be confidential under Section 10A(2) - d(i) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

Further it is considered that discussions of this matter in open Council would, on balance, be contrary to the public interest as it would prejudice Council's ability to secure the optimum outcome for the community.

9.2 SALE OF INDUSTRIAL LAND - SALEYARDS ROAD PARKES

This matter is considered to be confidential under Section 10A(2) - c of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

Further it is considered that discussions of this matter in open Council would, on balance, be contrary to the public interest as it would prejudice Council's ability to secure the optimum outcome for the community.

2. Exclude the media and public from the meeting on the basis that the business to be considered is classified as confidential, pursuant to 10A(1), 10(2) and 10A(3) of the *Local Government Act 1993*.
3. Withhold reports and correspondence relevant to the subject business be withheld from the media and public as provided by section 11(2) of the *Local Government Act 1993*.
4. Make public resolutions made by the Council in Closed Session after the conclusion of the Closed Session, and record such resolutions in the minutes of the Council meeting.

BACKGROUND, ISSUES AND COMMENTARY

In accordance with section 10A(2) of the *Local Government Act 1993*, Council may close part of its meeting to deal with business of the following kind:

- (a) Personnel matters concerning particular individuals (other than councillors).
- (b) Personal hardship of any resident or ratepayer.
- (c) Information that would, if disclosed, confer a commercial advantage on a person with whom 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 a person who supplied it: or
 - (ii) Confer a commercial advantage on a competitor of Council;

- (iii) Reveal a trade secret.
- (e) Information that would, if disclosed, prejudice the maintenance of law.
- (f) Matters affecting the security of Council, Councillors, Council staff and Council property.
- (g) Advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds 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.

It is my opinion that the business listed in the recommendation is of a kind referred to in section 10A(2) of the *Local Government Act 1993* and, under the provisions of the Act and the *Local Government (General) Regulation 2021*, should be dealt with in a part of the meeting that is closed to members of the public and the media.

Pursuant to section 10A(4) of the Act and clauses 14.9–14.10 of Council's Code of Meeting Practice, members of the public may make representations to the meeting immediately after the motion to close part of the meeting is moved and seconded, as to whether that part of the meeting should be closed.

10 REPORT OF CONFIDENTIAL RESOLUTIONS

In accordance with clauses 14.22 and 14.23 of Council's Code of Meeting Practice, resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the Chairperson as soon as practicable. Such resolutions must be recorded in the publicly available minutes of the meeting.
