

To: General Manager, Manly Council
From: Clr Candy Bingham
Date: 31/3/14

NOTICE OF MOTION

I hereby give notice that at the Combined Meeting of 7th April, 2014, I will propose the following motion:

SUBJECT: Amendments to Code of Meeting Practice

That:

1. In relation to a Notice of Motion submitted for the Agenda:
Clause 6.9 (2) of Council's *Code of Meeting Practice* be amended to read as follows:

"The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would be) unlawful. The general manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council"

2. In relation to Matters of Urgency:
Clause 6.6 (3) of Council's *Code of Meeting Practice* be amended to read as follows:

"Despite subclause (1) above, business may be transacted at a meeting of Council when due notice of the business has not been given to Councillors. However, this can only happen if:

(a) a motion is passed to have the business transacted at the meeting; and

(b) after such a motion has been passed, 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."

Background

Part 1 – Relating to Inclusion of Motions on the Agenda

In both wording and effect, Clause 6.9 (2) of Council's current *Meeting Code* varies materially from the provisions of Clause 240(2) of *the Regulation*, and may encourage the formation of opinions and the carrying out of actions on the part of the general manager that exceed the power available under *the Regulation*, and the *Meeting Code* should therefore be amended to reflect exactly the words of *the Regulation*.

The *Local Government (General) Regulation No. 240 (2)*:

- Requires the general manager not to include any in the agenda any business which, in his or her opinion, is unlawful.
- Requires the general manager to report any such omission to the next council meeting.
- Does not permit the formation of any other opinion, or the carrying out of any other action, on the part of the general manager, in relation to the business that may be included in an agenda for a meeting.

Manly Council's *Meeting Code Clause 6.9 (2)*:

- Allows the general manager discretion to exclude from the business paper any notice of motion which, in his or her opinion, is out of order.
- Does not require the general manager to report any such omission to the next council meeting.
- Does permit the formation of opinions, and the carrying out of action, on the part of the general manager, in matters other than whether or not the proposed business is unlawful.

Where there is any difference in what is said or required, The Act, Regulation and Model Code must be followed.

Part 2 – Relating to Matters of Urgency.

Note 2.4 of the Office of Local Government's *Meetings Practice Note No 16* dated August 2009, includes, in relation to what business can be discussed at council meetings:

*"Business ruled by the chairperson to be of great urgency (cl.241(3) of the Regulation) **but only after a motion is passed to allow this particular business to be dealt with.** This motion can be moved without notice."* (Emphasis added)

Regulation 241(3) makes it quite clear that the correct procedure in relation to business without notice (Matters of Urgency) involves two discrete steps:

- 1) Firstly, a motion to transact the business without notice is moved and seconded, the mover speaks to the motion, and the motion is put to the meeting. Under Regulation 254, the names of the mover and seconder of the motion, and whether it is passed or lost, must be recorded in the minutes.

2) Secondly, if the urgency motion is carried the chairperson rules on whether or not the matter is one of great urgency.

The fact that the chairperson is not entitled to rule on the urgency of the matter until after a urgency motion is carried by Council is confirmed at p13 of the *Practice Note*.

Obviously if the urgency motion is not carried by Council then there is no need for the chairperson to make any ruling on urgency.

Clr Candy Bingham
31st March, 2014