



RESCISSION MOTION

18 January 2010

RM1	ORGANISATION RESTRUCTURE
	FILE: 924 CLRS JCG, DFS, EAC {Folio No. *}

Notice is hereby given that we intend to move the following Rescission Motion at the Extraordinary Meeting of Kempsey Shire Council on 18 January 2010.

That resolution number 2009.917 from the Ordinary Meeting held 15 December 2009, as printed below:

"That this matter be deferred until such time that the General Manager makes further enquiries as to the requirements under the relevant Acts."

be rescinded.

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COUNCILLOR J C GRIBBIN

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COUNCILLOR D F SAUL

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COUNCILLOR E A CAMPBELL

In the event of this Rescission Motion being successful we intend to move the following:

- 1. That the General Manager shows councillors where in the Local Government Act 1993 no. 30 that a councillor cannot be privy to staffing numbers and positions. Councillors decide on budgeting requirements and this information is required to make valued decisions on staff funding structures.**
- 2. That Councillors be made aware of employment conditions of existing senior staff i.e. Directors.**
- 3. That Councillors be made aware of employment conditions of new Directors.**
- 4. That councillors be provided with a schematic layout of the organisational structure emanating from the organisational review with details of all cost variances for the implementation of the**

revised structure. That this structure indicate the number of positions within each functional area of each department. That details outlining the roles and responsibility of each council department under the revised structure be clarified.

5. That Councillors be provided with a list of positions that have private use of a Council vehicle, and the conditions of use.
6. That a councillor workshop be scheduled prior to the budget meetings for the General Manager to outline benefits, including cost benefits to the community for a five director structure as opposed to a 2, 3 or 4 director structure.

GENERAL MANAGER'S COMMENT

It is intended to report back to Council on how the Director and Manager positions would align with the functions of the Council to provide the information on who are the contact points for various activities. This information is being finalised and was to go to the February meeting.

The current working papers have been attached at [Appendix A - Page RM1](#)

And [Appendix B - Page RM2](#) which should outline to the Councillor the areas to which enquiries can be directed. These may change as a result of discussions with the staff and unions, which is currently underway.

It should be noted that the changes are not in place at this stage and the existing contracts remain as they are for Council services. A more formalised version will be developed in the future which can be used by Councillors. Input from Councillors on the type of enquiries they wish to have shown in the listing will allow for the expansion over time of this document, if required.

While it was proposed to report on staff numbers in the Management Plan, where they would be reported against the goals so that Councillors could get an indication of the amount of resources dedicated to each role, the information on the number of staff under each Manager has been included in the information provided here. It is considered that aligning staff resources against the outcomes of the Council has much greater merit in allowing Councillors to determine the level of resources that is applied to each goal.

The Local Government Act sets out, at section 335, the functions of the General Manager. The fourth dot point under subsection 2, shows the function of the General Manager as being to appoint staff within the organisation structure (organisational structure based on the functions of the Council has already been put before the Council) and the resources approved by the Council. The level of resources is approved through the setting of the annual budget and through subsequent decisions of the Council.

In determining the changes to staffing to achieve the various functions, care has been taken to ensure that the available funding has not been exceeded as a result of the calculated impact of the changes, as outlined in the report to Council dated 11 August 2009. The exception to this has been in the establishment of the Director of Water position, which would have an additional estimated cost, as reported to Council on 10 November 2009.

The recommendation calls for details on a number of staffing positions. I would include an extract from the Promoting Better Practice Report undertaken into the Shoalhaven City Council in February 2009 (emphasis added).

“Another example is councillors’ intervention concerning the performance of a particular staff member within the council structure and the attempt by the elected council to determine the future of that position on the basis of the incumbent’s performance. The Local Government Act clearly outlines the role and responsibility of the general manager and council employees and the roles of the mayor and elected councillors. Under the Act all staffing matters rest wholly within the functions of the general manager. The mayor and elected councillors have a role for the setting of strategic policies, objectives and direction for the council, as well as the role to review the organisation’s performance at that same high level. It is therefore inappropriate for elected councillors to make decisions regarding staff appointment, working conditions, performance, or have access to specific employee details or information.”

The above is considered to clearly set out that the Councillors’ role is that of a high level review, not a detailed review of positions, conditions and pay rates of specific employees, as seems to be requested here. The only requirement for reporting on staff contractual conditions is set out in the Local Government Act at section 338, which requires reporting on the contractual conditions of senior staff as defined in the Act, of which this Council has no such positions.

In relation to point 5, private use of a motor vehicle is considered an employment condition for particular individuals and would also fall under the above area of “specific employee details or information”.

Motor vehicles are used as part of the incentive scheme for attracting and retaining staff. As such it is considered a personnel matter relating to the individual and not for public information or required by Councillors to carry out their duties, as section 335 and the above Best Practice Review note clearly sets out that the appointment of staff is the role of the General Manager. It is also considered an operational matter.

It is considered that the General Manager has been provided with a certain level of resources to appoint and retain staff, it is up to the Councillors to determine whether the way in which the General Manager employs and manages the staff is appropriate through performance management of the General Manager.

In relation to point number 6, a report has previously been presented on the case for the four directorate structure compared to a two directorate structure. This report outlined the believed benefits of the movement to four Directors, which recommendation was subsequently approved by the Council. While it did not explicitly set out the existing three Director structure in an organisational chart it did outline the benefits that were seen in moving from three Directors to four Directors. A decision was made to follow a four directorate structure based on that report.

Subsequent to this, the Councillors considered a change to a five directorate structure based on information on the need for a smaller number but higher qualified staff within the water area.

The value of a report to revisit this matter is questioned when two, three and four Director structures have already been considered and the addition of a fifth

Director has been considered specifically. It would also require the process of recruitment of the Director to be put on hold pending the outcome of the Council's second review of the information.

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D L Rawlings
GENERAL MANAGER