

## 7. NOTICES OF MOTION

### 7.1. NOTICE OF MOTION - RESCIND MINUTE AMENDMENT

**COUNCILLOR** Cr Michael Kerr

#### NOTICE OF MOTION

I hereby give Notice of my intention to move a rescinding Motion at the Council Meeting scheduled for Tuesday 12 December 2023 and I am giving the required 5 full days' notice of the intent to do so as required LGR2012 s262.

**"That:**

- 1. Council rescinds the following sections of the amendment made to item 5.1 Confirm Minutes – Ordinary Meeting held 27 June 2023.**
  - a. That the Minutes of the Ordinary Meeting held Tuesday 27 June 2023 be amended by removing the extra details in Item 6.3 (Port Douglas Aquatic Precinct – Report on Engagement Findings),**
  - b. That the Minutes of the Ordinary Meeting held Tuesday 27 June 2023 be amended by removing the extra details in Item 7.1 (Notice of Motion – Daintree Ferry)**
  
- 2. Council removes the following statement “Legal advice obtained states that the Chair cannot make this ruling.” from the minutes on items 7.1 Notice of Motion – Daintree Ferry and 7.2 Notice of Motion – Media Relations Policy”**

#### BACKGROUND

The motion on 25 July to amend the minutes from 27 June was unlawful and should not have been ratified by the council. The minutes of 27 June should not have been amended in the manner they were, with the exception of adding the Media Relations Policy as it was not made publicly available as required under LGR s254F in the publicly made agenda documents.

The minutes in their original form unmistakably reflected what occurred, what was presented at the meeting and what was recorded by the online streaming. The amendments made were not made to 'correct errors' nor were the changes made with respect to their accuracy as a record of the proceedings.

The minutes for 27 June have now been confirmed and published, as have the minutes for 25 July. The motion that was voted on 25 July, while technically unlawful, must duly be recorded in the minutes because it is evident a vote occurred and a resolution was made. To correct this error in the minutes and ensure that the council and councillors are seen to have acted in a lawful manner as expected by the community this rescinding motion is proposed.

Councillors have now been informed of the correct procedures for accepting minutes and that no discussion about the unconfirmed minutes is permitted, except regarding their accuracy as a record of the meeting.

At the meeting held 27 June, no mention of legal advice was presented during arguments nor was any evidence in regard to the chair's legal ability to enforce an out-of-order motion given

in the chamber. This is not an accurate record of what occurred at the meeting and therefore a misrepresentation of the meeting by the minutes. The video recording of this meeting confirms that this did not occur and should be removed from the minutes.

### **Douglas Shire Council Standing Orders**

3.4. The minutes of a preceding meeting whether an ordinary or a special meeting, not previously confirmed shall be taken into consideration, at every ordinary meeting of Council, in order that such minutes may be confirmed *and no discussion shall be permitted with respect to such minutes except with respect to their accuracy as a record of the proceedings.*

### **Queensland Government Best Practice Standing orders June 2023**

The minutes of a preceding meeting, whether an ordinary or a special meeting, not previously confirmed will be taken into consideration, at every ordinary meeting of the local government, in order that the minutes may be confirmed. *No discussion will be permitted about these minutes except with respect to their accuracy as a record of the proceedings. Amendments to the minutes may be made prior to confirming the minutes.* This must be done by moving a motion to amend the minutes that must be voted on and carried. Once the resolution is passed the minutes can be amended. All councillors present at the meeting can vote to confirm the minutes including those who were absent at the previous meeting and those who had a conflict of interest at the previous meeting. Once the minutes are confirmed by resolution of the meeting they cannot be changed.

### **OFFICER'S COMMENT**

The operation of Council meetings is prescribed in Chapter 5A, Part 2 of the *Local Government Act 2009* and Chapter 8, Part 2 of the *Local Government Regulation 2012*. The Department of State Development, Infrastructure, Local Government and Planning have developed Best Practice Standing Orders for Council Meetings to provide written rules for the orderly conduct of Council meetings.

In accordance with s254F(1) of the *Local Government Regulation 2012*, the Chief Executive Officer is responsible for ensuring minutes are taken under the supervision of the Chair.

The historical derivation of the term 'minutes' refers to an outline or summary of proceedings, rather than to a full record of everything which occurs. Minutes should be as concise as circumstances permit and do not need to be verbatim or include debate or argument, but it is useful to capture sufficient information for the permanent written record to understand the context of decisions and resolutions, particularly where they differ from a recommendation in the officer's report (which has already been made public when the agenda was published).

Where it is evident that matters of significance are discussed/documents are tabled and voted on at the meeting, they should be recorded in the minutes to give context to decisions.

In accordance with s 254F(4) of the *Local Government Regulation 2012*, minutes of a preceding meeting **MUST** be confirmed at every ordinary meeting of Council and published on the website as soon as practicable after they are confirmed.

As outlined in the Best Practice Standing Orders, no discussion will be permitted with respect to the minutes except with respect to their accuracy as a record of the proceedings. Errors (such as typos, mis-spelling etc) can be corrected.

Amendments to the minutes (to correct errors) may be made prior to confirming the minutes. This must be done by moving a motion to amend the minutes that must be voted on and carried. Once the resolution is passed the minutes can be amended.

For obvious reasons, someone cannot say something did not occur (as recorded in the minutes as a record of proceedings) if it did in fact occur. Further, the minutes are only one record of the meeting, as there is also a video recording (in real time).

In the absence of specific rules (as could be outlined in Council's Standing Orders) regarding the content and level of detail of minutes, the content and level of detail of minutes are a matter for the Chief Executive Officer and the Chair to determine. Regardless of what is recorded in the written minutes, the use of recorded audio-visual meetings means that anything said at a meeting is on the permanent record.

## **ATTACHMENTS**

Nil