

CLARENCE VALLEY TRANSPORT COMMITTEE

Having delegated power under Section 355 of the Local Government Act, 1993

CONSTITUTION

1. Interpretation

Unless otherwise indicated:

“Council” means Clarence Valley Council

“Act” means the Local Government Act, 1993.

“Committee” means the Clarence Valley Transport Committee.

2. Relationship of the Committee and Council

The Committee is appointed under s.355 of the Act to make recommendations to Council regarding transport (subject to the Act).

3. Membership of the Committee

3.1 The membership of the Committee shall be between five (5) and fifteen (15) persons appointed by the Council in accordance with this constitution. Alternates will be identified for operators and sector representatives.

3.2 Subject to clause 3.3, members are appointed for a period of approximately four (4) years (the term of the Council).

3.3 A person remains a member until:

3.3.1 death, or

3.3.2 that person ceases to be a member upon:

3.3.2.1 delivering a written resignation to Council,

3.3.2.2 being absent from three (3) consecutive meetings of the committee without leave of absence from the Committee,

3.3.2.3 receiving written notification from Council that that person’s membership of the Committee has been terminated, or

3.3.3 the date of the first Council elections following the appointment of the member.

3.4 Casual vacancies may be filled in accordance with clause 3.10. However, should the members of any committee number less than 6, then Council may seek nominations for the Committee.

3.5 Appointment of Members is carried out through Council resolution following a public meeting.

3.6 Within six (6) months following a Council election, Council shall hold a public meeting to seek nominations for membership of the Committee for the term of the Council. The date of the meeting will be determined by Council in consultation with the Committee.

3.7 Council will advertise a public meeting calling for nominations from targeted agencies and groups. The targeted groups are:

3.7.1 Transport Operators – targeted selection

- ❖ Busways
- ❖ Taxis – Clarence Valley representative for the North Coast Taxi Council – Grafton Taxis
- ❖ Community Transport
- ❖ NSW Trainlink
- ❖ Bus sector

3.7.2 Target Groups – advice on appointments to be obtained through consultation with groups

- ❖ Aboriginal people
- ❖ Youth
- ❖ People with a Disability
- ❖ Older people

3.7.3 Sector Representatives

- ❖ Social Futures Public Transport Development Project
- ❖ Transport for NSW
- ❖ NSW Health
- ❖ Other State Government Departments

3.7.4 Ex-officio members include senior officers from Clarence Valley Council, Councillors and others as requested by the committee.

3.7.5 Affiliate Members – to receive minutes as requested

3.7.6 One community member from each of the following areas:

Community members - geographic focus

- ❖ Clarence Coast
- ❖ Greater Grafton
- ❖ Clarence Country

3.8 All former members of the Committee are eligible for renomination.

3.9 All nominations shall be forwarded to Council for consideration by Council at a Council meeting. If there are fifteen (15) or less nominations, then all nominees will be eligible for membership. If there are more than fifteen (15) nominees then Council may select fifteen members from those nominated, the method of selection being at Council's sole discretion. Alternatively, Council may determine to increase the maximum number of members of the Committee to enable all nominees to be members.

3.10 Casual vacancies

Should a casual vacancy arise, the Committee Secretary should promptly advise Council. Council will invite nominations from the group that the retiring member represented and shall fill the vacancy from the nominations received.

4 Committee chairperson

At the first meeting of each new Committee, the Committee shall elect one of its number as Chairperson for a period of one (1) year. The method of election shall be decided by the Committee. This process will be repeated each year to determine the new Chairperson for the forthcoming year.

5 Committee Secretary

At the first meeting of each new Committee, the Committee shall elect one of its number as Secretary for a period of one (1) year. The method of election shall be decided by the Committee.

The role of the Secretary includes:

- ❖ Taking of minutes and distribution
- ❖ Preparation of the agenda in consultation with the Chairperson and distribution
- ❖ Drafting of media releases for Council consideration and distribution
- ❖ Liaison with Council's identified administration officer.

The role of Council's identified Administration Officer:

- ❖ Room bookings
- ❖ Preparation of Council Reports relating to committee matters
- ❖ Financial matters – reimbursement of travel expenses, budget monitoring, expenditure processes
- ❖ Liaison with Council officers as requested by the committee

6 Conduct of Meetings

- 6.1 At all meetings of the Committee the Chairperson shall occupy the Chair and preside. In the absence of the Chairperson, the Committee shall elect one of its number to preside at the Meeting.
- 6.2 A Meeting shall not proceed unless a quorum of at least one (1) more than half the number of members are present.
- 6.3 Meetings of the Committee shall be held as often as the Committee decides, but not less than one (1) every three (3) months without the written consent of Council.
- 6.4 All meetings of the Committee are open to the public and members of the public are entitled to attend those meetings. Meetings should be held in a location that is open to and accessible by the public. Members of the public attending meetings may not address the meeting without the consent of the majority of members present. Members of the public do not have a vote.
- 6.5 Decisions of the Committee shall be by majority of the members present at each Meeting and each member shall have one vote. In the event of voting on any matter being equal for or against, the matter shall be referred to Council for decision. The Chairperson shall have a casting vote.
- 6.6 A record of minutes in the usual form shall be kept by the Secretary of all Meetings.
- 6.7 Members shall observe the provisions of the Act in relation to declarations of interest in business placed before the Committee. Members should also be aware of conflicts of interest that they may have and should not vote on any matter in which their private interest conflicts with the matter under discussion. Interest declared by any member shall be recorded in the Minutes of the Meeting. Members encouraged to be pro-active in relation to Declarations of Pecuniary/Non-Pecuniary interest with Agenda items prior to meetings. Items should be forwarded through the Chair for inclusion, to allow prior notice for declarations to be made.
- 6.8 If the Chairperson or Secretary ceases to be a member of the Committee, the remaining members of the committee shall vote one (1) their number to fill the executive vacancy.
- 6.9 The Secretary shall forthwith notify Council of:

6.9.1 any decision that needs to be referred to Council under paragraph 6.5, and

6.9.2 any member who fails to attend three (3) consecutive meetings of the Committee without prior notification.

7 Powers and Duties Delegated to the Committee under s.377 of the Act

7.1. Terms of Reference

- ❖ To provide advice and recommendations to Council on transport
- ❖ To provide a forum for discussion of transport solutions
- ❖ To develop transport initiatives through consultation
- ❖ To provide advice and recommendations to transport providers
- ❖ To provide a link between Council and transport providers
- ❖ To promote sustainable and accessible transport options for Clarence Valley and Regional NSW
- ❖ To engage in development of Social Impact Assessment policy and guidelines in relation to public transport

7.2. Committee Scope

- ❖ Buses
- ❖ Point to Point Transport (under 13 seats)
- ❖ Trains
- ❖ Ferries
- ❖ Health Related Transport
- ❖ Community Transport
- ❖ Walking
- ❖ Cycling
- ❖ Aviation
- ❖ Scooters
- ❖ Accessible transport
- ❖ Development Assessment

7.3 A copy of the minutes with recommendations to be forwarded to Council within 7 working days of the Committee meeting being held.

7.4 Sub-committees – the Transport Committee has and will have the capacity to form sub-committees.

7.5 No authority is extended to the Committee to:

7.5.1 engage any employees or enter into any contracts, or

7.5.2 further delegate any of these powers and duties to any person or body.

8 Financial Matters

8.1 Travel allowance for community representatives to be paid at Council travel rates, on submission of completed Travel Reimbursement form.

8.2 Council will provide limited funding to undertake activities subject to its annual budget decisions.

9 Notice

Any notice required to be given by Council under this Constitution may be:

- 9.1 sent to the last known address of the member, and
- 9.2 deemed to be received on the second day after posting.

10. Relationships

- 10.1 Minutes and agendas will be available on Council's website for community information.
- 10.2 Other Council Advisory Committees (s.355)
Minutes will be exchanged between all relevant Council advisory committees. The Secretary will identify matters of significance for this committee to be included on the agenda.
- 10.3 Other Interagencies
Council officers will advise the Secretary of matters of significance for this committee to be included on the agenda.

ATTACHMENT 1: CONFLICTS OF INTEREST

It is your responsibility to disclose to the meeting any conflict of interest¹ you may have in any matter that is considered at that meeting. If you have a conflict of interest then, having declared that interest, you may (depending on the nature of the interest):

- (i) take no action where the potential for conflict is minimal,
- (ii) limit your involvement if practical (for example, participate in discussion but not in decision making or vice-versa),
- (iii) remove the source of the conflict (for example, relinquishing or divesting the personal interest that creates the conflict), or
- (iv) have no involvement by absenting yourself from and not taking part in any debate or voting on the issue (particularly if you have a significant conflict of interest)

If you have a conflict of interest in a matter to be discussed at a meeting, then you should declare your interest as soon as possible – preferably at the beginning of the meeting by stating:

- (a) what your interest is (it may be an interest you have in a property located in an area where the Committee is recommending work be carried out, or it may be that you are an executive member of an organisation or club that is the subject of discussion and/or a recommendation by your Committee), and
- (b) what action you will be taking when that matter comes up for discussion at the meeting.

The Secretary will record your declaration of interest in the meeting minutes and the details of your conflict and how you dealt with it at the meeting.

In some circumstances, the conflict between your Committee obligations and your personal obligations or your duty to another organisation or club may be such that they cannot be reconciled and you may need to consider resigning from the Committee.

¹ A conflict of interest can arise when you have other involvements or interests that make it difficult for you to always remain impartial when involved in Committee discussions and decision-making. These can include:

- business or professional activities
- employment or accountability to other people or organizations
- membership of other community organizations or clubs
- ownership of property or other assets

The conflict may lead to:

- Financial benefit – eg. sale of goods or privileged information
- Political benefit – eg. gaining or losing political support
- Personal benefit – eg. career advancement or increased standing in the community

ATTACHMENT 2: PECUNIARY AND NON-PECUNIARY INTERESTS

442 What is a “pecuniary interest”?

- (1) For the purposes of this Chapter, a **pecuniary interest** is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.
- (2) A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section 448.

What is a Non- Pecuniary interest?

A Non-Pecuniary Interest does not have a financial component. It can involve personal or family relationships or involvement in sporting, social or cultural activities that could influence your judgement or decisions, even though there is no financial benefit to you.

443 Who has a pecuniary interest?

- (1) For the purposes of this Chapter, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
 - (a) the person, or
 - (b) the person’s spouse or de facto partner or a relative of the person, or a partner or employer of the person, or
 - (c) a company or other body of which the person, or a nominee, partner or employer of the person, is a member.

Note. “De facto partner” is defined in section 21C of the *Interpretation Act 1987*.

- (2) (Repealed)
- (3) However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (1) (b) or (c):
 - (a) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
 - (b) just because the person is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or
 - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

448 What interests do not have to be disclosed?

The following interests do not have to be disclosed for the purposes of this Part:

- (a) an interest as an elector,
- (b) an interest as a ratepayer or person liable to pay a charge,
- (c) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this Part,
- (d) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part,
- (e) an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not),
- (f) an interest of a member of a council committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee,
- (g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible uses of:

- (i) land in which the person or a person, company or body referred to in section 443 (1) (b) or (c) has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or
- (ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i), if the person or the person, company or body referred to in section 443 (1) (b) or (c) would by reason of the proprietary interest have a pecuniary interest in the proposal,
- (h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company,
- (i) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership,
- (j) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
 - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation,
 - (ii) security for damage to footpaths or roads,
 - (iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract,
- (k) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor),
- (l) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252,
- (m) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor,
- (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,
- (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or member of a council committee,
- (p) an interest arising from appointment of a councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

Division 3 Disclosure of pecuniary interests at meetings

451 Disclosure and presence in meetings

- (1) A councillor or a member of a council committee who has a pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- (2) The councillor or member must not be present at, or in sight of, the meeting of the council or committee:
 - (a) at any time during which the matter is being considered or discussed by the council or committee, or
 - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- (3) For the removal of doubt, a councillor or a member of a council committee is not prevented by this section from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or member has an interest in the matter of a kind referred to in section 448.

- (4) Subsections (1) and (2) do not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting, if:
- (a) the matter is a proposal relating to:
 - (i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or
 - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
 - (b) the councillor made a special disclosure under this section in relation to the interest before the commencement of the meeting.
- (5) The special disclosure of the pecuniary interest must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and must:
- (a) be in the form prescribed by the regulations, and
 - (b) contain the information required by the regulations.

Note. The code of conduct adopted by a council for the purposes of section 440 may also impose obligations on councillors, members of staff of councils and delegates of councils.