

# LC05 EXEMPTION FROM PRIMARY AND ORDINARY RETURNS

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## 1 PURPOSE

This section provides information to members of Section 86 committees about their responsibility to complete Primary Returns and Ordinary Returns, and informs them that Council has exempted them from this requirement.

## 2 SCOPE

All members of Section 86 committees are bound by the requirements of the Local Government Act 1989 (the Act) to submit Primary Returns and Ordinary Returns, unless specifically exempted by the Council.

## 3 PRIMARY RETURNS AND ORDINARY RETURNS

The Act requires members of special committees (which includes Section 86 committees) to lodge Primary and Ordinary Returns.

However, Council can determine that the members of a special committee do not need to lodge returns. This is usually only done after considering what powers have been delegated to that committee.

If you are in any doubt about whether or not you should lodge interest returns, you should seek advice from Council.

### **3.1 Primary returns**

Unless exempted by Council, a member of a special committee must lodge a Primary Return within 30 days after becoming a member of the committee.

Information that needs to be included in a Primary Return includes information about offices you hold in companies or organisations, shares and land you own and trusts you are involved in.

### **3.2 Ordinary returns**

If you are required to lodge interest returns, you must lodge an Ordinary Return twice each year.

- Within 40 days after 30 June, and
- Within 40 days after 31 December.

An ordinary return includes similar information to a primary return, plus information about gifts valued at \$500 or more.

Where Ordinary Returns are required to be submitted by a Section 86 committee member, the returns will be issued directly to the committee member by Council within the appropriate timeframe.

## **4 EXEMPTION FOR SECTION 86 COMMITTEES**

The current Council has exempted members of Section 86 committees from the requirement to submit Primary Returns and Ordinary Returns. This decision was made by resolution at the Ordinary Meeting of Council on 28 February 2017.

A copy of the minute is provided as Attachment 1.

Future Councils will decide on whether they continue the exemption for Section 86 committees. The next Council election is in October 2020.

## **5 REVIEW**

The Director Corporate Services will review this procedure for any necessary amendments no later than 2 years after adoption of this current version.

## Attachment 1

ORDINARY COUNCIL MEETING MINUTES

28 FEBRUARY 2017

### 10 COMPLIANCE REPORTS

#### 10.1 EXEMPTION FOR MEMBERS OF SPECIAL COMMITTEES

**File Number:** 02/01/003  
**Author:** Michelle Hargreaves, Administration Officer  
**Authoriser:** Sharon Morrison, Director Corporate Services  
**Attachments:** Nil

#### RECOMMENDATION

That this report seeks Council's approval to exempt members of special (section 86) committees of Council from the requirement to submit Primary Returns and Ordinary Returns under Section 81(2) and 81(5) of the Local Government Act 1989.

#### CONFLICT OF INTEREST

Nil

#### PREVIOUS COUNCIL DISCUSSION

A report seeking exemption for the members of special (section 86) committees of Council from the requirements of Section 81(2) and 81(5) of the Local Government Act 1989 was accepted by Council at the Ordinary Meeting held on 25 March 2013.

#### BACKGROUND

Under Section 81(2) and 81(5) of the Local Government Act 1989 (the Act) Councillors, nominated officers, and members of special committees must submit Primary Returns (being the first submission) and Ordinary Returns (being subsequent submissions) to the Chief Executive Officer within 40 days after 30 June and 31 December each year. Section 81(6) states:

A Councillor, a member of a special committee or a nominated officer must disclose the following information in the primary return as at the date of the primary return:

- a) the name of any company or other body in which he or she holds any office whether as a director or otherwise;
- b) the name or description of any company or body in which he or she holds a beneficial interest unless the total value of the interest does not exceed \$10,000 and the total value of issued shares of the company or body exceeds \$10 million;
- c) the address or description of any land in the municipal district of the Council or in a municipal district which adjoins that municipal district in which he or she has any beneficial interest other than by way of security for any debt;
- d) a concise description of any trust in which he or she holds a beneficial interest or of which he or she is a trustee and a member of his or her family holds a beneficial interest;
- e) any other substantial interest whether of a pecuniary nature or not of him or her or of a member of his or her family of which he or she is aware and which he or she considers might appear to raise a material conflict between his or her private interest and his or her public duty as a Councillor, a member of a special committee or nominated officer.

Clause (81)(7) states:

A Councillor, a member of a special committee or a nominated officer must disclose in an ordinary return the following information in relation to the return period:

- a) if he or she has held an office whether as director or otherwise in any company or body, corporate or unincorporated—the name of the company or body;
- b) the name or description of any company or body in which he or she holds or has held a beneficial interest unless the total value of the interest does or did not exceed \$10000 and the total value of issued shares of the company or body exceeds \$10 million;
- c) the address or description of any land in the municipal district of the Council or in a municipal district which adjoins that municipal district in which he or she had any beneficial interest other than by way of security for any debt;
- d) a concise description of any trust in which he or she held a beneficial interest or of which he or she is a trustee and a member of his or her family held a beneficial interest;
- e) particulars of any gift of or above the amount or value of the gift disclosure threshold received by him or her, either directly or indirectly, other than a gift received—
  - (i) from a person who is a relative of him or her; or
  - (ii) as hospitality at an event or function he or she attended in an official capacity as the Mayor, a Councillor, a member of Council staff or a member of a special committee;
- f) any other substantial interest whether of a pecuniary nature or not of him or her or of a member of his or her family of which he or she is aware and which he or she considers might appear to raise a material conflict between his or her private interest and his or her public duty as a Councillor, member of a special committee or nominated officer.

## ISSUES/DISCUSSION

This process is currently undertaken for Councillors and nominated officers (senior officers of Council and other members of the Council staff nominated by the Chief Executive Officer), but not for members of special committees.

At the Ordinary Meeting of Council held on 25 March 2013, the Council exempted members of special (section 86) committees from this requirement in accordance with Section 81(2A) of the Act.

The basis of the 2013 exemption was that Council relies on the volunteer effort of the many community members who contribute to the various committees, and that the requirements of the Act would be onerous to those volunteers, and may deter some community members from remaining on committees due to the personal nature of the information that is required to be disclosed in the Primary and Ordinary Returns.

Section 81(2B) of the Act states that Council must review any exemptions in force under Section 2A of the Act within 12 months after a general election. This report recommends that Council continues to exempt all community committee members of special (section 86) committees from the requirements of Section 81(2) and 81(5) of the Act.

## COST/BENEFITS

There are no financial costs associated with the resolution.

## RISK ANALYSIS

This resolution reduces the risk of community committee members resigning from their committees due to the requirement of having to disclose personal information to Council.

## CONSULTATION AND ENGAGEMENT

Nil

**RESOLUTION 2017/49**

Moved: Cr Geoff Curnow  
Seconded: Cr Colleen Condliffe

That Council exempt members of special (section 86) committees of Council from the requirement to submit Primary Returns and Ordinary Returns under Section 81(2) and 81(5) of the Local Government Act 1989.

CARRIED

UNCONFIRMED