

Ordinary Meeting

Meeting Date: Tuesday, 25 January, 2022
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.00pm

Membership (Quorum - 7)
All Councillors

Note:

An Official Ceremony will be held from 3.30pm prior to the commencement of the Ordinary Meeting of the Council, which will include:

- Welcolme to Country
- Smoking ceremony and Yidaki performance
- Presentation of Mayoral Chains
- Mayoral oath and affirmation of office
- Councillor oaths and affirmations

Please note: The proceedings of this meeting (including presentations, deputations and debate) will be webcast and may be recorded and broadcast under the provisions of the Code of Meeting Practice. Your attendance at this meeting is taken as consent to the possibility that your image and/or voice may be recorded and broadcast to the public.

Agenda

1. **Acknowledgement of Country**
2. **Opening Prayer**
3. **Australian National Anthem**
4. **Apologies / Leave of Absence**
5. **Confirmation of Minutes**
 - Ordinary Meeting - 2 November 2021
 - Extra Ordinary Meeting - 23 November 2021
6. **Declarations of Interest**
7. **Presentation of Petitions**
8. **Mayoral Minute**
9. **Deputations and Presentations**
10. **Notices of Motion / Questions on Notice**

Nil

11. Committee Reports

Nil

12. ReportsCEO

| | | |
|--------|--|---|
| CL22.1 | Declaration of Poll - Ordinary Election - Saturday 4 December 2021 | 1 |
| CL22.2 | Retirement - Director City Development Phil Costello | 2 |
| CL22.3 | Determination of Date and Time of Council Meetings and Councillor Briefings..... | 4 |

City Performance

| | | |
|---------|--|----|
| CL22.4 | Election of Deputy Mayor and Assistant Deputy Mayor | 16 |
| CL22.5 | Use of Countbacks to fill Casual Vacancies for Councillors | 24 |
| CL22.6 | Instruments of Delegation - Mayor and Chief Executive Officer..... | 27 |
| CL22.7 | Ordinary Meeting - Order of Business | 40 |
| CL22.8 | Community Consultation & Committee System | 42 |
| CL22.9 | LGNSW Special Conference 2022 - Voting Delegates and Motions..... | 45 |
| CL22.10 | LGNSW Water Management Conference 2022..... | 60 |

City Development

| | | |
|---------|---|----|
| CL22.11 | Variations to Development Standards - December Quarter 2021 | 62 |
|---------|---|----|

13. Confidential ReportsReports

| | | |
|---------|--|--|
| CCL22.1 | Proposed Strategic Property Purchase - Nowra Riverfront Precinct <i>Local Government Act - Section 10A(2)(d)(ii) - Information that would, if disclosed, confer a commercial advantage on a competitor of the council. There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests.</i> | |
|---------|--|--|

CL22.1 Declaration of Poll - Ordinary Election - Saturday 4 December 2021

HPERM Ref: D21/241751

Department: Business Assurance & Risk

Approver: Stephen Dunshea, Chief Executive Officer

Reason for Report

This report is being submitted directly to the Ordinary Meeting to advise Council of the result of the Election held on Saturday, 4 December 2021.

Recommendation

That the report of the Chief Executive Officer regarding the Declaration of Poll, Ordinary Election, Saturday 4 December 2021, be received for information.

Options

1. As recommended
2. That Council receive the report of the Chief Executive Officer and add other recommendations related to the election results.

Background

Notice is hereby given that as a result of the election held on Saturday, 4 December 2021, the Returning Officer, Mr Sam Tooley, has declared the following person duly elected as Mayor of the City of Shoalhaven for the ensuing period, in accordance with the provisions, Clause 356, of the Local Government (General) Regulation 2005.

Amanda Findley

Notice is also given that as a result of the Election held on Saturday, 4 December 2021, the Returning Officer, Mr Sam Tooley, has declared the following persons duly elected as Councillors of the City of Shoalhaven for the Wards indicated hereunder, in accordance with the provisions, Clause 356, of the Local Government (General) Regulation 2005.

Ward One

John Wells
Tonia Gray
Matthew Norris
Serena Copley

Ward Two

Greg Watson
Evan Christen
John Kotlash
Paul Ell

Ward Three

Mark Kitchener
Muriel (Moo) D'Ath
Liza Butler
Patricia White

CL22.1

CL22.2 Retirement - Director City Development Phil Costello

HPERM Ref: D22/5110

Approver: Stephen Dunshea, Chief Executive Officer

Reason for Report

This report is being submitted directly to the Ordinary Meeting due to the retirement date of the Director City Development being 28 January 2022.

Recommendation

That Council note the retirement of Phil Costello, Director City Development and formally congratulate and thank Phil for his contribution to Shoalhaven City Council and the community during his period of employment with Shoalhaven City Council.

Background

After a long and distinguished career spanning some 40 years, Director City Development, Phil Costello has announced his much deserved retirement and will finish duties with Shoalhaven City Council on 28 January 2022.

Phil commenced with Council in August 2017 as Director Planning, Environment and Development with his diverse portfolio including leadership of Council's Building and Compliance, Strategic Planning, Development and Environmental Services functions. The 2020 Organisational Review saw Phil transition to the position of Director, City Development and he has most diligently undertaken that role through to his retirement.

This is not the only time Phil has worked at Shoalhaven City Council. In 1997 Phil successfully applied for the position of Building Manager, bringing years of experience as Environmental Health Officer with the NSW Health Commission to Shoalhaven City Council. Other roles in Phil's career have included Senior Health and Building Surveyor with Wyong Shire Council, Manager Environmental Services at Lockhart Shire Council, and a private business venture.

It has been a pleasure to work with Phil since I joined Council in 2018, initially as a colleague Director and more recently as his Chief Executive Officer. I have very much appreciated Phil's steady and confident advice and I have called upon him many times to assist me in working my way through the many challenges that come with the planning, development and environmental services functions that Shoalhaven Council undertakes.

I'm sure that the Mayor and Councillors will agree with me that Phil's guidance and advice on these matters, whilst full, frank and fearless, is always delivered in a most calm, confident and reassuring manner.

I commend Phil on the significant achievements he has made during his time with Council. Phil has led his team through significant challenges in recent years including the recovery efforts following the Currowan Fire of 2019/20 and the subsequent significant flooding events.

These devastating events were closely followed by the COVID-19 Pandemic which required urgent action to adapt work practices to ensure it remained 'business as usual' as much as possible with the majority of his team working remotely.

CL22.2

A good example of such adaptability being facilitating community consultation meetings on sensitive planning matters during the pandemic using digital technology. The active use of digital media under Phil's watch has proven to be most beneficial - saving time and money for both staff and customers whilst at all times remaining COVID safe.

Other significant environmental achievements during Phil's leadership include:

- Significant development of Coastal Management Programs required under the Coastal Management Act 2016.
- Worked with DPIE – Lands (Crown Lands) and DPI Fisheries to achieve tangible and pragmatic outcomes for intervention associated with the opening of Intermittently Closed and Open Lakes and Lagoons (ICOLLs), including Shoalhaven River, Lake Conjola and Tabourie Lake.
- Completed flood management studies, including for the Shoalhaven River and St Georges Basin, for the provision of technical information to NSW SES to protect communities associated with the flood risk.
- Implementation of Biodiversity Offset Schemes under the Biodiversity Conservation Act 2016 to enable a balanced approach between development and environmental enhancement.

Phil's retirement also represents a loss to planning and environmental services more broadly in local government given his standing in the industry and the high regard in which his colleagues hold him.

We hope Phil takes with him fond memories of his time at Shoalhaven City Council and we wish him and Jill all the very best for the future

My thanks and appreciation are extended to Phil.

CL22.3 Determination of Date and Time of Council Meetings and Councillor Briefings

HPERM Ref: D21/241820

Department: Business Assurance & Risk

Approver: Stephen Dunshea, Chief Executive Officer

Attachments:

1. Proposed Meeting Schedule - Two Ordinary Meetings (Monday) [↓](#)
2. Proposed Meeting Schedule - Re- establishment of Core Committees of previous term of Council [↓](#)
3. Instruments of Delegation - Development & Environment Committee and Strategy & Assets Committee [↓](#)

Reason for Report

To consider options in setting the configuration of Core Committees and the time, date, and place for the Council meetings for February – October 2022.

Recommendation

That Council:

1. Adopt a schedule of Ordinary Meeting dates as per the attached schedule (**Attachment 1** to this report) providing for two (2) Ordinary Council Meetings per month held on a Monday subject to the following:
 - a. Meetings and briefings not being held on public holidays or during the following periods:
 - i. LGNSW Special Conference – 28 February to 2 March 2022
 - ii. Easter break – 15 to 18 April 2022
 - iii. NSW Coastal Conference – 31 May to 2 June 2022
 - iv. Australian Local Government Association National General Assembly –19 to 22 June 2022 – (dates not confirmed)
 - v. Mid-year Council Recess - July 2022 NSW school holidays– 4 to 16 July 2022
 - vi. The 2022 Annual Conference of Local Government NSW - 23 to 25 October 2022 – (dates not confirmed)
2. Disestablish the “Core” Committees being the Development & Environment Committee and the Strategy & Assets Committee.
3. Reaffirm the authorisations to the Chief Executive Officer as set out in the report.
4. Determine the start time for Council meetings to be generally at 5.00pm.
5. Determine the start time for Councillor Briefings to be generally at 4.00 pm.

CL22.3

Options

1. Re-establish Core Committees of Development and Environment Committee and Strategy and Assets Committee as per the previous term of the Council.

Implications: To facilitate the Council's consideration of this option, the following two documents have been attached to this report:

Attachment 2 – Proposed list of meeting dates for Core Committee and Ordinary Meetings (following the practice of the previous Council)

Attachment 3 – Instrument of Delegations for the Development and Environment and Strategy and Assets Committees.

The effective re-establishment of the Core Committees with the same structure, function, delegation as the previous term of the Council will require the Council to make a resolution which addresses several key points. Wording for a suggested recommendation is outlined below should the Council wish to adopt this option. Based on initial conversations with councillors during induction sessions the CEO has been removed from membership in the below recommendation. Should significantly reworking of the dates of meetings be required or amendments be made to delegations of the Committee it is recommended that these be addressed in detail at a further meeting of the Council to ensure any changes are both practical and lawful.

The Council may consider it prudent at this time to re-establish the Committees of the previous term of Council for the period of February to September 2022 to retain continuity and allow new members of the Council to experience this Model before determining to apply a different model for the period of September 2022 to September 2023.

Option 1 Draft Recommendation – To establish Core and Council Meeting arrangements as per the previous term of Council

That Council:

1. *Pursuant to Section 355(b) of the Local Government Act 1993, establish the following 'Core' Council Committees:*
 - a. *Strategy and Assets Committee*
 - b. *Development and Environment Committee*
2. *The membership and quorums be set as follows:*
 - a. *Strategy and Assets Committee*
 - *Membership*
Mayor
All Councillors
 - *Chairperson has casting vote*
 - *Quorum: Five (5)*
 - b. *Development and Environment Committee*
 - *Membership*
Mayor
All Councillors
 - *Chairperson has casting vote*
 - *Quorum: Five (5)*

3. *That a Chairperson and Deputy Chairperson be appointed for each of the Core Committees:*
 - a. *Strategy and Assets Committee*
 - i. *Chairperson – INSERT NAME*
 - ii. *Deputy Chairperson – INSERT NAME*
 - b. *Development and Environment Committee*
 - i. *Chairperson – INSERT NAME*
 - ii. *Deputy Chairperson – INSERT NAME*
4. *The Delegations of the Strategy and Assets Committee and the Development and Environment Committees be as outlined in Attachment 3 to this report.*
5. *Adopt a schedule of Ordinary and Committee meeting dates as per the attached schedule (Attachment 2 to this report) providing:*
 - a. *A Three (3) week cycle of meeting dates per month, held on a Tuesday as follows:*
 - i. *Week 1 - Development and Environment Committee.*
 - ii. *Week 2 – Strategy and Assets Committee.*
 - iii. *Week 4 – Ordinary Meeting.*
 - b. *Meetings and briefings not being held during the following periods:*
 - i. *LGNSW Special Conference – 28 February to 2 March 2022*
 - ii. *Easter break – 15 to 18 April 2022*
 - iii. *NSW Coastal Conference – 31 May to 2 June 2022*
 - iv. *Australian Local Government Association National General Assembly – 19 to 22 June 2022 – (dates not confirmed)*
 - v. *Mid-year Council Recess - July 2022 NSW school holidays– 4 to 16 July 2022*
6. *The 2022 Annual Conference of Local Government NSW - 23 to 25 October 2022 – (dates not confirmed)*
7. *Reaffirm the authorisations to the Chief Executive Officer as set out in the report*
8. *Determine the start time for Council and Committee meetings to be generally at 5.00pm*
9. *Determine the start time for Councillor Briefings to be generally at 4.00 pm*

2. Not re-establish the Core Committees of the Council and opt to have two Ordinary Meetings of the Council per month as recommended and outlined in the report.

Implications:

A proposed meeting schedule for this arrangement is outlined in **Attachment 1** to the report. There are several efficiencies this model may create outlined in the report.

3. Adopt a different framework or arrangement of Core Committees for the period of February to September 2022

Implications:

Should this option be pursued detail would need to be provided in a further report to the Council for formal adoption of the Council to ensure that a resolution with

CL22.3

adequate detail and form is made by the Council and that any delegations afforded to the Committee are lawful. Recommended wording for a resolution is provided below for the Council:

Option 3 Draft Recommendation – To create a new framework of Core and Council Meeting arrangements

That Council:

1. *Pursuant to Section 355(b) of the Local Government Act 1993, establish the following ‘Core’ Council Committees: (INSERT DETAIL)*
2. *A report be provided to an Ordinary Meeting of the Council to be held on (INSERT DATE) to clarify the purpose, function and delegation, and schedule of meetings including such Committees prior to their first meeting.*
3. *That Membership and Quorum of the Committee be as follows: (INSERT DETAIL))*
4. *That the Chairperson and Deputy Chairperson of the Committees be as follows:*
5. *Set the dates of the next Ordinary Meetings of the Council as follows (INSERT DETAIL)*
6. *Reaffirm the authorisations to the Chief Executive Officer as set out in the report*
7. *Determine the start time for Council and Committee meetings to be generally at 5.00pm*
8. *Determine the start time for Councillor Briefings to be generally at 4:00 pm*

Background

Council’s Code of Meeting Practice states that “*The Council shall, by resolution, set the frequency, time, date and place of its ordinary meetings*” in accordance with Section 365 of the Local Government Act (namely at least ten times each year, each time in a different month).

How and when Council meetings are held is up to each Council to decide, although the Local Government Act 1993 requires Council to meet at least 10 times a year, each time in a different month.

Some Councils meet only once a month. Many larger Councils meet more frequently because they have a higher volume of business. Councillors should be given at least three days’ notice of meetings, except for extraordinary meetings called in an emergency.

All formal Council meetings must be held in accordance with requirements in the Local Government Act 1993, the Local Government (General) Regulation 2021 (Regulation) and the Council’s Code of Meeting Practice to determine a schedule of meetings the Council needs to determine the decision-making structure it wishes to put in place.

The decision-making structure of the Council.

The Local Government Act establishes the Council as the decision-making body with respect to the functions of the Council. In practice, decisions can be made by the Elected Council (at Ordinary and Extra Ordinary Meetings) or by an individual or body under Delegated Authority.

[The Local Government Act at Section 377](#) sets that the Council may delegate functions of the Council (other than some specific listed functions) to the CEO or any other person or body (not including another employee of the Council). A separate report is provided on the Agenda of this Meeting to outline proposed delegations to be provided to the CEO and Mayor of the Council in the form of an *Instrument of Delegation*.

CL22.3

In addition to Council meetings, Councils can establish Committees to oversee specific functions, projects or programs and report back to the Council on those matters. A Council Committee is one where members of the Committee are Councillors only. (As opposed to Advisory Committees which have other members, such as community representatives.)

Council must specify the function, purpose, and delegation of each of its Committees when such a Committee is appointed but may amend those functions or purpose and delegation from time to time.

Establishing 'Council Committees'

A Council Committee is to consist of The Mayor, and such other Councillors as are elected by the Councillors or appointed by Council only.

The Chairperson of each Council Committee (i.e., a Committee consisting of only Councillors) of Council must be:

- a) The mayor; or
- b) If the Mayor does not wish to be the Chairperson of the Committee – a member of the Committee elected by the Council; or
- c) If the Council does not elect such a member – a member of the Committee elected by the Committee.

The Committee must be chaired by the Mayor, or a Chair elected from its membership or by the Council. The Mayor does not have to be the Chair of the Committee.

The meetings of Council Committees are required to be conducted in accordance with the meeting rules prescribed under the Act, the Regulation and Council's Code of Meeting Practice.

Each Councillor, whether a member of a Committee or not, is entitled to attend and speak at a meeting of a Council Committee. However, only Councillors who are members of the Committee are entitled to put business on the Committee's agenda, move or second a motion at the Committee meeting, or vote at the meeting.

Core Committees, Advisory Committees or Boards and Working Parties.

The previous term of the Council continued the practice of establishing two (2) Committees which were referred to as "Core" Committees which were given delegation to determine many functions of the Council. Some other Councils use the term '*Standing Committees*' for these Committees. Each of the Core Committees had membership of all Councillors and the CEO. The addition of the CEO meant that these Councillors were not 'Council Committees' as outlined above.

The 'Core Committees' each were provided extensive delegations to deal with the functions of the Council which are permissible to be delegated in their subject areas. Those delegations are detailed in **Attachment 3** to this report. This meant that the Committees themselves have the power to determine (resolve) a course of action rather than requiring resolution by the full Council.

The Core Committees established by the previous Council were

- Development and Environment Committee

This Committee was provided delegation to deal with functions related to deal with Planning and Development and Environmental matters including:

- Local Environmental Plans (LEPs) and Development Control Plans (DCP's)
- Contribution Plans and Voluntary Planning agreements
- Policies and strategies with respect to town planning and environmental matters

- Determination and review of Development Applications referred to the Committee for determination, including applications where there are variations to development standards of more than 10% and variations from acceptable solutions
- policies and strategies of the Council in respect to sustainability matters related to climate change, biodiversity, waste, water, energy, transport, and sustainable purchasing.

- Strategy and Assets Committee

This Committee was provided delegation to deal with functions relating to:

- Council's Corporate and Community Planning
- Policies plans and strategies (other than Town Planning)
- Operations of Holiday Haven Tourist Parks
- Crown Land Management
- Shoalhaven Water
- Strategic Land Holding
- Council Property Management
- Determination of Tenders valued at over \$1 million

This report recommends that the practice of the previous Council with respect to the establishment of the 'Core Committees' be changed for this Council term to a schedule of two Ordinary Meetings per month on a Monday. The reasons for this recommended change are:

- Efficiencies will result by having Council consider matters only once rather than repetitive decision making with items becoming a recommendation from a Committee
- Our decision-making processes will be clearer for the Community – all matters are determined by one body.
- It will allow quicker turn around for decisions required to be made by the elected Council (i.e., on two occasions each month rather than one)
- Reduction in the overall time Councillors are required to spend in formal meetings and briefings each month, noting that the Council will have the opportunity to move into 'Committee of the Whole' arrangements for informal discussion when required
- The Code of Meeting Practice of the Council and therefore meeting practice will be clearer and more consistent for those participating in and watching decision making meetings
- It will reduce time taken by repeated deputations,
- The issues of conflict of interest by the provision of a vote to the CEO in Committee delegated decisions will be removed, with the decisions falling to elected representatives, with support and guidance of the CEO.

Frequency/Date and Time of Meetings

During the last term Shoalhaven City Council has held 'Core Committee' and Council Meetings commencing at 5pm on Tuesdays.

Briefing sessions are usually held on Thursdays preceding those meetings from 4pm (concluding at 7pm or before). These are confidential sessions.

The Council may set these times and days to suit their requirements. When considering times and dates, Council may consider:

- Availability of all Councillors for the majority of meetings (where possible to achieve)
- Accessibility of members of the public to attend meetings where required (in addition to webcasting)
- Work, Health and Safety of Councillors and Staff to attend and travel to and from the meetings.
- Provisions of the Code of Meeting Practice (e.g., The current Code sets that meeting must conclude by 10pm)

- Achieving an efficient and effective use of resources for the decision-making requirements of the Council.

Meeting Business papers are required to be provided to the Council 3 days prior to the meeting. The current practice is for reports are published and provided to Councillors on the Thursday afternoon prior to a meeting held on the following Tuesday. Adjustment to the meeting days, may require a relative adjustment to business paper delivery timeframes.

The proposal for Meetings to be changed from a Tuesday to a Monday would permit time in the schedule to publish the Business Paper each Wednesday, allowing consideration by the Councillors of the reports prior to the briefing sessions held on Thursdays.

Authorities provided to the Chief Executive Officer with respect to meeting arrangements.

As is the usual practice, it is recommended that Council resolve to provide the following authorisation to the Chief Executive Officer to enable the smooth scheduling and conduct of meetings without Council resolution:

- a) Calling of any Briefing Sessions or Meetings of any established Committees: the Chief Executive Officer be authorised to call Special Meetings or Briefing Sessions for any of the Core or Advisory Committees and Boards.
- b) Commencement Time for any regular Council Committees: The Chief Executive Officer be authorised to make changes to the commencing time for Council Committees where appropriate.
- c) Advisory Committees – Frequency of Meetings: Advisory Committees to meet as adopted by Council subject to Chief Executive Officer, in consultation with the Chairperson, being authorised to call meetings on a more regular basis to consider urgent and/or important business.
- c) To allow the Chief Executive Officer to consider alternate venues for the Ordinary Meeting of Council in special circumstances (noting that Webcasting services will be required)

Financial Implications

The frequency and time dedicated to Committee meetings has a direct correlation with the administrative costs of those meetings.

Proposed Schedule of Ordinary Meetings only – Feb 2022 to Oct 2022

| | | |
|-----------------------|---------|---|
| February 2022 | | |
| Monday 7 | 5:00 pm | Ordinary Meeting |
| Monday 21 | 5:00 pm | Ordinary Meeting |
| March 2022 | | |
| Monday 14 | 5:00 pm | Ordinary Meeting |
| Monday 28 | 5:00 pm | Ordinary Meeting |
| April 2022 | | |
| Monday 11 | 5:00 pm | Ordinary Meeting |
| Tuesday 26 | 5:00 pm | Ordinary Meeting |
| May 2022 | | |
| Monday 9 | 5:00 pm | Ordinary Meeting |
| Monday 23 | 5:00 pm | Ordinary Meeting |
| June 2022 | | |
| Monday 13 | 5:00 pm | Ordinary Meeting |
| Monday 27 | 5:00 pm | Ordinary Meeting |
| July 2022 | | |
| Monday 18 | 5:00pm | Ordinary Meeting (<i>if required</i>) |
| Monday 25 | 5:00 pm | Ordinary Meeting |
| August 2022 | | |
| Monday 8 | 5:00 pm | Ordinary Meeting |
| Monday 22 | 5:00pm | Ordinary Meeting |
| September 2022 | | |
| Monday 12 | 5:00 pm | Ordinary Meeting |
| Monday 26 | 5:00pm | Ordinary Meeting |
| October 2022 | | |
| Monday 10 | 5:00 pm | Ordinary Meeting |
| Monday 31 | 5:00 pm | Ordinary Meeting |

Other important dates:

Special LGNSW Conference Monday 28 February – Wednesday 2 February 2022

Easter – Friday 15 April – Monday 18 April 2022

Anzac Day Public Holiday – Monday 25 April 2022

Queen's Birthday – Monday 6 June 2022

Australian Local Government Association National General Assembly – Sunday 19 to

Wednesday 22 June 2022

Mid Year Break – Monday 4 July to Friday 15 July 2022

Labour Day – Monday 3 October 2022

The 2022 Annual Conference of Local Government NSW is currently scheduled to be held from 23 to 25 October 2022

Proposed Schedule of Ordinary Meetings and Core Committee Meetings – Feb 2022 to Oct 2022

| | | |
|-----------------------|---------|-------------------------------------|
| February 2022 | | |
| Tuesday 1 | 5:00 pm | Development & Environment Committee |
| Tuesday 8 | 5:00 pm | Strategy & Assets Committee |
| Tuesday 22 | 5:00 pm | Ordinary Meeting |
| March 2022 | | |
| Tuesday 8 | 5:00 pm | Development & Environment Committee |
| Tuesday 15 | 5:00 pm | Strategy & Assets Committee |
| Tuesday 22 | 5:00 pm | Ordinary Meeting |
| April 2022 | | |
| Tuesday 5 | 5:00 pm | Development & Environment Committee |
| Tuesday 12 | 5:00 pm | Strategy & Assets Committee |
| Tuesday 26 | 5:00 pm | Ordinary Meeting |
| May 2022 | | |
| Tuesday 3 | 5:00 pm | Development & Environment Committee |
| Tuesday 10 | 5:00 pm | Strategy & Assets Committee |
| Tuesday 24 | 5:00 pm | Ordinary Meeting |
| June 2022 | | |
| Tuesday 7 | 5:00 pm | Development & Environment Committee |
| Tuesday 14 | 5:00 pm | Strategy & Assets Committee |
| Tuesday 28 | 5:00 pm | Ordinary Meeting |
| July 2022 | | |
| Monday 18 | 5:00 pm | Development & Environment Committee |
| Tuesday 19 | 5:00 pm | Strategy & Assets Committee |
| Tuesday 26 | 5:00 pm | Ordinary Meeting |
| August 2022 | | |
| Tuesday 2 | 5:00 pm | Development & Environment Committee |
| Tuesday 9 | 5:00pm | Strategy & Assets Committee |
| Tuesday 23 | 5:00pm | Ordinary Meeting |
| September 2022 | | |
| Tuesday 6 | 5:00 pm | Development & Environment Committee |
| Tuesday 13 | 5:00pm | Strategy & Assets Committee |
| Tuesday 27 | 5:00pm | Ordinary Meeting |
| October 2022 | | |
| Tuesday 4 | 5:00 pm | Development & Environment Committee |
| Tuesday 11 | 5:00 pm | Strategy & Assets Committee |
| Tuesday 25 | 5:00 pm | Ordinary Meeting |

Current Core Committees and delegations

Strategy and Assets Committee

THAT pursuant to s377(1) of the *Local Government Act 1993* (LG Act) the Committee is delegated the functions conferred on Council by the LG Act any other Act or delegated to Council, as are specified in the Schedule, subject to the following limitations:

- i. The Committee cannot exercise any function delegated to the Council which by the terms of that delegation cannot be sub-delegated;
- ii. The Committee cannot exercise any function which s377(1) of the LG Act provides cannot be delegated by Council;
- iii. The Committee cannot exercise a function which is expressly required by the LG Act or any other Act to be exercised by resolution of the Council; and
- iv. The Committee cannot exercise any function which is a function of the General Manager under s335 of the LG Act.

SCHEDULE

- a. Make recommendations to Council and consider, formulate, review and adopt policies in relation to Council's corporate & community planning under Part 2 of Chapter 13 of the LG Act, asset management and in connection with the other functions listed in this Schedule and in particular to make recommendations to Council in respect of the content of Council's community strategic plan, delivery program, operational plan, and resourcing strategy within the meaning of Part 2 of Chapter 13 of the LG Act;
- b. Make recommendations to Council and consider, formulate, review and adopt Council policies, plans and strategies other than those in respect of town planning and environmental matters, and any other matter referred to the Committee by the Chief Executive Officer;
- c. Make recommendations in respect of the introduction of new fees or charges or the alteration of existing fees and charges for inclusion in the Council's next operational plan within the meaning of s405 of the LG Act;
- d. Monitor, review and consider matters relating to the operations and strategic direction of Council's Holiday Haven Tourist Parks Group;
- e. All functions in respect of the management of, and facilities provided on Crown Land in respect of which Council is the 'Crown Land Manager' under Division 3.4 of the *Crown Lands Management Act 2016* and the making of recommendations to Council regarding such matters where the function is not dealt with under the delegations to the Chief Executive Officer or cannot be delegated by Council;
- f. Provision of corporate direction to Shoalhaven Water in respect of powers delegated to it by Council regarding the construction, alteration or maintenance of water and sewerage works, effluent works and pump out removal;
- g. Authorise the expenditure of funds raised under s64 of the LG Act within the limits outlined in, and in accordance with Council's adopted Development Servicing Plan and other relevant adopted Council policies;
- h. Make recommendations to Council in respect of fees and charges for water and wastewater services provided by Council;
- i. Develop, implement, review and adopt strategic policies for water, sewerage and effluent operations of Council;
- j. Undertake preliminary investigations (feasibility, cost benefit, risk analysis, etc.) into development opportunities for Council's strategic land holdings and make recommendations to Council;
- k. Review and make recommendations to Council in relation to:

- i. The sale prices of land in connection with residential and industrial Council subdivisions;
- ii. The sale of Council property or the purchase or resumption of land;
- iii. The compensation to be offered in respect of land resumed by Council; and
- iv. Properties leased/rented by Council, or properties leased/rented from Council other than those delegated to the Chief Executive Officer for approval and execution in accordance with MIN14.912 and MIN15.237 of the Council.

Note: MIN14.912 delegates authority to the Chief Executive Officer to approve and execute leases and licences that are for a maximum term of 5 years; and are in accordance with current policies and relevant legislation; and have an annual rental of \$5,000 or less; and have not been objected to as a result of the public exhibition process (Community Land).

In addition, MIN14.912 delegates authority to the Chief Executive Officer to approve and execute telecommunications licences where the agreement relates to an existing telecommunication site.

Note: MIN15.237 delegates authority to the Chief Executive Officer to approve and finalise all lease negotiations in relation to the properties now managed by Integrity Real Estate ... and to sign any documents necessary to give effect to this resolution.

- I. To determine and accept all tenders with a value of \$1 Million or more with the following exceptions (MIN17.334):
 - i. Those tenders required by law to be determined by full Council (MIN17.334),
 - ii. Those tenders where the recommendation is to not accept any tender (which will be reported directly to Ordinary) (GD19.164).

Development and Environment Committee

THAT pursuant to s377(1) of the *Local Government Act 1993* (LG Act) the Committee is delegated the functions conferred on Council by the *Environmental Planning & Assessment Act 1979* (EPA Act), LG Act or any other Act or delegated to Council, as are specified in the Schedule, subject to the following limitations:

- i. The Committee cannot make a decision to make a local environmental plan to classify or reclassify public land under Division 1 of Part 2 of Chapter 6 of the LG Act;
- ii. The Committee cannot review a section 8.11 or section 8.9 EPA Act determination made by the Council or by the Committee itself;
- iii. The Committee cannot exercise any function delegated to the Council which by the terms of that delegation cannot be sub-delegated;
- iv. The Committee cannot exercise any function which s377(1) of the LG Act provides cannot be delegated by Council; and
- v. The Committee cannot exercise a function which is expressly required by the LG Act or any other Act to be exercised by resolution of the Council.

SCHEDULE

- a. All functions relating to the preparation, making, and review of local environmental plans (LEPs) and development control plans (DCPs) under Part 3 of the EPA Act.
- b. All functions relating to the preparation, making, and review of contributions plans and the preparation, entry into, and review of voluntary planning agreements under Part 7 of the EPA Act, as well as the preparation, entry into, and review of works in kind agreements that provide a material public benefit in part or full satisfaction of a condition imposed under Part 7 of the EPA Act. (MIN21.99)
- c. The preparation, adoption, and review of policies and strategies of the Council in respect of town planning and environmental matters and the variation of such policies.

- d. Determination of variations to development standards related to development applications under the EPA Act where the development application involves a development which seeks to vary a development standard by more than 10% and the application is accompanied by a request to vary the development standard under clause 4.6 of Shoalhaven Local Environmental Plan 2014 or an objection to the application of the development standard under State Environmental Planning Policy No. 1 – Development Standards.
- e. Determination of variations from the acceptable solutions and/or other numerical standards contained within the DCP or a Council Policy that the Chief Executive Officer requires to be determined by the Committee
- f. Determination of development applications that Council requires to be determined by the Committee on a case-by-case basis.
- g. Review of determinations of development applications under sections 8.11 and 8.9 of the EP&A Act that the Chief Executive Officer requires to be determined by the Committee.
- h. Preparation, review, and adoption of policies and guidelines in respect of the determination of development applications by other delegates of the Council.
- i. The preparation, adoption and review of policies and strategies of the Council in respect to sustainability matters related to climate change, biodiversity, waste, water, energy, transport, and sustainable purchasing.
- j. The preparation, adoption and review of policies and strategies of the Council in respect to management of natural resources / assets, floodplain, estuary and coastal management.

CL22.4 Election of Deputy Mayor and Assistant Deputy Mayor

HPERM Ref: D21/340473

Department: Business Assurance & Risk
Approver: Kevin Voegt, Director - City Performance

Attachments: 1. OLG Fact Sheet [↓](#)
2. Nomination Form (councillors information folder) [⇒](#)

Reason for Report

To elect a Deputy Mayor and consider the election of an Assistant Deputy Mayor.

Recommendation

That Council

1. Resolve the period for which the elected Deputy Mayor will hold office.
2. Conduct an election (by show of hands) for Deputy Mayor for the resolved period.
3. Conduct an election (by show of hands) for an Assistant Deputy Mayor for the resolved period should the Council consider it necessary to retain this position.

Options

1. Elect and appoint a Deputy Mayor and an Assistant Deputy Mayor.
2. Elect and appoint a Deputy Mayor only.

Background

Under the provisions of Section 231 of the Local Government Act 1993 (LG Act) the Councillors may elect a person from among their members to be the Deputy Mayor. A Deputy Mayor may be elected for the Mayoral term or a shorter term.

The practice of the Council has traditionally been an appointment for 12 months. The decision for a 12-month appointment was made on the basis that at the time, there was only 12 months or less remaining in the Council term.

The current options for Council to determine with respect to the tenure of the election for these roles are:

- The period from January 2022 until September 2022 (8 months)
- The period from January 2022 until September 2023 (20 months)
- The period from January 2022 until September 2024 (2 years 8 months)

Council has previously appointed an Assistant Deputy Mayor who may exercise the function of Deputy Mayor if the Deputy Mayor is prevented by illness, absence or otherwise from exercising the function of the Deputy Mayor. Election to the position of Assistant Deputy Mayor should follow the same procedure as for Deputy Mayor if Council considers the position is required.

The Deputy Mayor or the Assistant Deputy Mayor in his/her absence may exercise any function of the Mayor at the request of the Mayor or if the Mayor is prevented by illness,

absence or otherwise from exercising the function or if there is a casual vacancy in the office of the Mayor.

The Deputy Mayor also has a specific function under Section 369:

“369 Who presides at meetings of the council?”

(1) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor (if any) presides at meetings of the Council.

(2) If the Mayor and the Deputy Mayor (if any) are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council.”

The Returning Officer for the Election will be the Director – City Performance (Kevin Voegt). Completed nomination forms are requested to be submitted to the Returning Officer prior to Midday on Monday 24 January 2022.

Schedule 7 of the Local Government (General) Regulation 2021 prescribes three methods of election of these positions:

- open ballot (e.g. a show of hands)
- ordinary ballot, or
- preferential ballot.

The method of election is as outlined in the Attachment 1, being the Office of Local Government Factsheet – Election of Mayor and Deputy Mayor released September 2018.

The Nomination forms are provided under separate cover for use by Councillors. Additional forms are available from the Director – City Performance.

Payment for the Deputy Mayor

Section 249(5) Local Government Act allows Council to elect to pay the Deputy Mayor a fee when acting in the office of the Mayor. The amount of the fee must be deducted from the Mayor’s annual fee.

The option to determine if fees will be paid to the Deputy Mayor will be included in a future report to Council.

A request was sent to all NSW Councils asking their position on paying the Deputy Mayor fees deducted from the Mayoral fee. At the time of writing this report 38 responses have been received.

- 22 Councils do not pay the Deputy Mayor fees.
- 7 Councils pay 100% of additional Mayoral fee during the time the Deputy is acting (some with provisions relating to the length of time acting as Mayor)
- 7 Councils pay a percentage of the Mayoral Fee ranging from 10% to 50%
- 2 Councils pay a specific amount - \$1,200 and \$3,621

Fact Sheet

ELECTION OF MAYOR AND DEPUTY MAYOR BY COUNCILLORS



Summary

Councillors must elect a mayor from among their number every two years unless they have a popularly elected mayor.

Councillors may also elect a deputy mayor. The deputy mayor may be elected for the mayoral term or a shorter term.

The election of the mayor and the deputy mayor must be conducted in accordance with clause 394 and Schedule 7 of the *Local Government (General) Regulation 2005* (the Regulation).

The purpose of this document is to assist councils to conduct mayoral and deputy mayoral elections in accordance with these requirements. It includes scripts for key activities to help returning officers exercise their functions. These scripts are provided in the text boxes inserted in the relevant parts of this document.

How can councils use this document?

Electing a mayor is an important activity. It is vital that the process is smooth, open and easy to follow and not rushed or confusing. Where necessary, it may be appropriate to stop and provide clarification for the benefit of councillors, staff or the gallery.

Returning officers can circulate this document prior to the meeting to help councillors understand the election process.

Election of a mayor after an ordinary election of councillors

An election for mayor must be held within three weeks of the declaration of the ordinary election at a meeting of the council.

The returning officer is to be the general manager or a person appointed by the general manager.

As no mayor or deputy mayor will be present at the start of the meeting, the first business of the meeting should be the election of a chairperson to preside at the meeting. Alternatively, the returning officer may assume the chair for the purpose of conducting the election.

Mid-term election of a mayor

A mayor elected by councillors holds office for two years. A mid-term mayoral election must be held in the September two years after the ordinary election of councillors or the first election of a new council following its establishment.

Procedures

Prior to the meeting

Before the council meeting at which the election is to be conducted, the returning officer will give notice of the election to the councillors.

The notice is to set out how a person may be nominated as a candidate for election as chairperson.

As returning officer, I now invite nominations for the position of mayor/deputy mayor for [name of council] for a two year period.

In accordance with the Local Government (General) Regulation 2005, two or more councillors may nominate a councillor (one of whom may be the nominee) for the position of mayor/deputy mayor. Nominations must be in writing and the nominee must consent to their nomination in writing.

A councillor may be nominated without notice for election as mayor or deputy mayor. The nomination is to be made in writing by two or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.

The returning officer checks the nomination forms and writes the nominees' names on a candidates' sheet.

At the meeting

At the start of the first meeting after an ordinary election, in the absence of a chairperson, the returning officer assumes the chair and announces that the first item of business is to be the election of a mayor.

If a chairperson is present, they announce that the first item of business is the election of the mayor then vacates the chair for the returning officer who will then conduct the election.

The returning officer reads out the names of the nominees and seeks confirmation that the nominee has accepted the nomination.

If only one councillor has been nominated for the position of mayor/deputy mayor, the nominee is elected.

As there is only one nominee for the role of mayor/deputy mayor, I declare that [name of successful candidate] is elected as mayor/deputy mayor for the ensuing two years.

If more than one candidate has been nominated, the council must determine by resolution, the method of voting for the position of mayor/deputy mayor, by way of one of the following methods:

- Open voting – i.e. by show of hands
- Ordinary ballot – i.e. a secret ballot (place an "X" against the candidate of their choice)
- Preferential ballot – i.e. place 1, 2, 3 etc. against each candidate.

The returning officer must ask for a motion to be put to the meeting by one of the councillors on the preferred method of voting for the election of a chairperson. This must then be seconded and voted on by the councillors.

Note: In the event of a tie, if there is a chairperson, they may use their casting vote. If there is a tie and no chairperson, an election for the role of chairperson should be conducted. Then the election for mayor resumes.

Open voting (show of hands)

Open voting is the most transparent method of voting. It is also the least bureaucratic method and reflects normal council voting methods.

The returning officer will advise the meeting of the method of voting and explains the process.

It has been resolved that the method of voting for the position of mayor/deputy mayor will be by show of hands.

Each councillor is entitled to vote for only one candidate in each round of voting.

I will now write each candidate's name on a slip of paper and deposit it in a barrel. The first name out of the barrel will be written first on the tally sheet, with second name out being written second on the tally sheet, etc.

When all candidates' names have been written on the tally sheet, the returning officer announces the names of the candidates and, commencing with the first candidate, states the following:

Would those councillors voting for [name of candidate] please raise your hand.

The returning officer records the number of votes for each successive candidate on the tally sheet and announces the number of votes received for each candidate.

The minute taker records the vote of each councillor.

The returning officer should check with the minute taker that each councillor has voted. If a councillor has not voted it should be confirmed that they are abstaining (an informal vote).

Two candidates

If there are only two candidates for the position of mayor/deputy mayor and the voting is higher for one candidate than another (number of formal votes recorded on the tally sheet), the returning officer then announces the result.

[Name of candidate] has the higher number of formal votes and as a result I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

In the event of a **tied vote**, the returning officer will advise the meeting of the following process.

In accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the

names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be declared as mayor/deputy mayor.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests a staff member to shake the barrel.

The returning officer then draws a name out of the barrel and shows the meeting.

I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

Three or more candidates

If there are three or more candidates, the candidate with the lowest number of votes for the position of mayor/deputy mayor is excluded.

[Name of candidate], having the lowest number of votes, is excluded.

The voting continues as above until there are only two candidates remaining (see voting for **two candidates** above).

In the event that the **lowest number of votes are tied**, the returning officer advises the meeting of the following process:

In accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be excluded.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests a staff member to shake the barrel.

The returning officer then draws a name out of the barrel and shows it to the meeting.

I declare that [name of candidate] is excluded.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

Ordinary ballot – (secret ballot)

The returning officer advises the meeting of the method of voting and explains the process.

It has been resolved that the method for voting for the position of mayor/deputy mayor will be by ordinary ballot, in other words by placing an "X" against the candidate of the councillor's choice.

The returning officer announces the names of the candidates for mayor/deputy mayor and writes each name on a slip of paper and deposits it in a barrel.

The returning officer requests that a staff member shakes the barrel and advises that the order in which the names will appear on the ballot paper will be determined by a draw out of the barrel, i.e. first name out of the barrel is written first on the ballot papers and so on.

It will be necessary to have a number of blank papers as this process may require more than one round of voting.

The returning officer writes the names on one set of the ballot papers and initials the front of each ballot paper.

A staff member distributes the ballot papers and collects them into the ballot box when completed and gives it to the returning officer who counts the votes and records them on the tally sheet.

The returning officer announces the results.

[Name of candidate], having the lowest number of votes, is excluded.

In the event that the **lowest number of votes are tied**, the returning officer advises the meeting of the following process:

In accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be excluded.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests a staff member to shake the barrel.

The returning officer then draws a name out of the barrel and shows it to the meeting.

I declare that [name of candidate] is excluded.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

The returning officer writes the names of the remaining candidates on a further set of the ballot papers and initials the front of each ballot paper.

The staff member distributes ballot papers listing the remaining candidates and collects them into the ballot box when completed and gives it to the returning officer who again counts the votes and records them on the tally sheet and announces the results.

The process continues until two candidates remain, where a final vote takes place.

[Name of candidate] has the higher number of votes and I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

In the event of a **tied vote** between the two remaining candidates, the returning officer makes the following statement and announces the process.

The votes are tied between [name of candidate 1] and [name of candidate 2] having received [number] votes each, and, in accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel.

Please note that the candidate whose name is drawn out will be declared as mayor/deputy mayor.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests that a staff member shakes the barrel.

The returning officer then draws a name out of the barrel and shows the meeting.

I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

Preferential ballot

The returning officer explains the process.

It has been resolved that the method for voting for the position of mayor/deputy mayor will be by preferential ballot, i.e. placing 1, 2 and so on against the candidate of the councillor's choice in order of preference for all candidates.

The returning officer announces the names of the candidates for mayor/deputy mayor and writes each candidate's name on a slip of paper and deposits it in a barrel.

The returning officer requests that a staff member shakes the barrel and advises that the order in which the names will appear on the ballot paper will be determined by a draw out of the barrel, i.e. first name out of the barrel is written first on the ballot papers and so on.

The returning officer writes the names on the ballot papers and initials the front of each ballot paper. This method of voting requires only one set of ballot papers.

A staff member distributes the ballot papers and collects them when completed and gives them to the returning officer who counts the first preference votes and records them on the tally sheet.

If a candidate has an absolute majority of first preference votes (more than half), the returning officer declares the outcome.

[Name of candidate], having an absolute majority of first preference votes, is elected as mayor/deputy mayor for the ensuing two years.

If no candidate has the absolute majority of first preference votes, the returning officer excludes the candidate with the lowest number of first preference votes.

[Name of candidate], having the lowest number of first preference votes, is excluded.

The preferences from the excluded candidate are distributed. This process continues until one candidate has received an absolute majority of votes, at which time the returning officer announces the result.

[Name of candidate], having an absolute majority of votes, is elected as mayor/deputy mayor for the ensuing two years.

In the event of a **tied vote** where there are only two candidates remaining in the election, the returning officer explains the process.

The votes are tied between [name of candidate 1] and [name of candidate 2] having received [number] votes each, and, in accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be declared as mayor/deputy mayor.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests a staff member to shake the barrel. The returning officer then draws a name out of the barrel and shows the meeting.

I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

In the event that the **lowest number of votes are tied** and where there are three or more candidates remaining in the election, the returning officer advises the meeting of the process.

In accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be excluded and their preferences distributed.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests that a staff member shakes the barrel.

The returning officer then draws a name out of the barrel and shows the meeting.

I declare that [name of candidate] is excluded and any votes cast for them will be distributed by preference.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

Schedule 7 - Election of Mayor by Councillors

Part 1 Preliminary

1 Returning officer

The general manager (or a person appointed by the general manager) is the returning officer.

2 Nomination

- (1) A councillor may be nominated without notice for election as mayor or deputy mayor
- (2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The nomination is to be delivered or sent to the returning officer.
- (4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.

3 Election

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the council meeting at which the council resolves on the method of voting.
- (4) In this clause:

ballot has its normal meaning of secret ballot.

open voting means voting by a show of hands or similar means.

Part 2 Ordinary ballot or open voting

4 Application of Part

This Part applies if the election proceeds by ordinary ballot or by open voting.

5 Marking of ballot-papers

- (1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.
- (2) The formality of a ballot-paper under this Part must be determined in accordance with clause 345 (1) (b) and (c) and (6) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

6 Count—2 candidates

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

7 Count—3 or more candidates

- (1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
- (2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- (3) If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

Part 3 Preferential ballot

8 Application of Part

This Part applies if the election proceeds by preferential ballot.

9 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The Councillors are to mark their votes by placing the numbers "1", "2" and so on against the various names so as to indicate the order of their preference for all the candidates.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

10 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes. That candidate is elected.
- (4) In this clause, "**absolute majority**", in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot-papers.

11 Tied candidates

- (1) If, on any count of votes, there are 2 candidates in, or remaining in, the election and the numbers of votes cast for the 2 candidates are equal—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
- (2) If, on any count of votes, there are 3 or more candidates in, or remaining in, the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

Part 4 General

12 Choosing by lot

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen.

13 Result

The result of the election (including the name of the candidate elected as mayor or deputy mayor) is:

- a) to be declared to councillors at the council meeting at which the election is held by the returning officer, and
- b) to be delivered or sent to the Departmental Chief Executive and to the Chief Executive of Local Government New South Wales.

CL22.5 Use of Countbacks to fill Casual Vacancies for Councillors

HPERM Ref: D21/528909

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

Reason for Report

To allow Council to consider the options available to use countbacks of the votes cast at the 4 December 2021 Local Government Election to fill casual vacancies of Councillors, which may occur in the first 18 months after the election or to hold by-elections should this situation occur.

Recommendation

That Council determine if the option available to use countbacks of the votes cast at the 4 December 2021 Local Government Election to fill casual vacancies of Councillors, which may occur in the first 18 months after the election or to hold by-elections should this situation occur will be utilised.

Options

1. That the Council pass a resolution at this meeting to declare that any vacancies in the office of Councillor that occur within the 18 months following the 4 December 2021 Election will be filled by a countback.

Implications: Any casual vacancies occurring in the office of a Councillor within 18 months after the election of Councillors on 4 December 2021 will be filled by countback rather than a by-election. The wording of the recommendation to achieve this is specifically outlined by the NSW Electoral Office to enact the provision as outlined below and MUST be resolved at this first meeting of the Council if it is to occur.

Required Wording – Recommendation for Countback to occur

“That

- I. Pursuant to section 291A(1)(b) of the Local Government Act 1993 (the Act) Shoalhaven City Council declare that casual vacancies occurring in the office of a Councillor within 18 months after the last Ordinary election of Councillors for the Council on 4 December 2021 are to be filled by a countback of votes cast at that election for the office in accordance with section 291A of the Act; and*
- II. The Council directs the CEO to notify the NSW Electoral Commissioner of the Council’s decision within 7 days of the decision.”*

2. That Council does not proceed with the option of a Countback method.

Required Wording – “That Council receive the report for information.”

Implications:

Any vacancy that occurs within this term will be filled by by-election unless Ministerial approval is given by the Minister under Section 294 of the *Local Government Act* to dispense with the need for a by-election.(i.e. In the last 18 months of the Council term).

There is no further opportunity for Council to resolve to use a Countback other than at this meeting of 25 January 2022. It is estimated that the cost of a by-election would be in excess of \$200,000 to be funded by the Council.

Background

Following amendment to the Local Government Act, Council has the option to determine the process for filling casual Councillor vacancies which may occur within the first 18 months after an election under Section 291A(1) of the *Local Government Act* (see below). In the case of the 4 December 2021 Election, this 18-month period concludes on 4 June 2023.

The choices available to the Council in this circumstance are to fill any such vacancy by either a countback from the last election or a by-election.

If Council determines to fill casual vacancies of Councillors using the countback method, a resolution (as worded in Option 1 of this report) needs to be passed at the first meeting held after the election and the NSW Electoral Commissioner must be notified within 7 days of the decision being made.

If Council does not pass the resolution at Option 1, any vacancies must be filled via a by-election process, and it is noted that if the vacancy occurs within the 18-month period prior to the next election additional provisions apply where Council may make an application under Section 294 of the *Local Government Act* for the Minister to dispense with the need for a by-election.

Section 291A (1) of the Local Government Act states that:

291A Countback to be held instead of by-election in certain circumstances:

- (1) *This section applies to a casual vacancy in the office of a Councillor if;*
- (a) *the casual vacancy occurs within 18 months after the date of the last Ordinary election of the Councillors for the area, and*
 - (b) *the Council has at its first meeting following that Ordinary election of Councillors, by resolution, declared that any such casual vacancy is to be filled by a countback of votes cast at the last election for that office.*

Countbacks are not available to fill casual vacancies in the office of a Councillor where:

- The Councillor who vacated office was elected at an election using the optional preferential voting system (i.e., elections where only one civic office is required to be filled such as the election of a popularly elected Mayor) or;
- The Councillor was elected at an uncontested election.

If a Casual vacancy occurs in the office of the Mayor, the vacancy may be filled as outlined in Section 294 (3) & (4) of the Act.

Section 294 of the Local Government Act states that:

294 Dispensing with by-elections

- (1) *This section applies if a casual vacancy occurs in the office of a councillor, including a mayor elected by the electors of an area, within 18 months before the date specified for the next ordinary election of the Councillors for the area.*
- (2) *If such a casual vacancy occurs in the office of a councillor (but not the office of a mayor elected by the electors), the Minister may, on the application of the council –*
- (a) *order that the vacancy not be filled, or*
 - (b) *order the holding on a stated day of a by-election to fill the vacancy and revoke any earlier order made under paragraph (a).*

- (3) *If such a casual vacancy occurs in the office of a mayor elected by the electors, the casual vacancy is to be filled by the Governor appointing to the vacant office a councillor nominated by the council.*
- (4) *If the council does not nominate a Councillor for the purposes of subsection (3), the Governor may appoint one of the Councillors to the vacant office.'*

The legislative arrangement for countbacks has not been available at previous elections of the Council and as a result, there is no commentary available on the benefits of the practice other than the financial reason outlined below and the speed at which a vacancy may be filled under this method (49 days from notification of vacancy) as opposed to the calling and conduct of a by-election.

Financial Implications

It is noted that the financial implications to Council of a by-election are estimated to be in excess of \$200,000 so there is a financial benefit to Council in resolving to use countbacks of the votes cast at the 4 December 2021 Local Government Election to fill casual vacancies of Councillors.

CL22.6 Instruments of Delegation - Mayor and Chief Executive Officer

HPERM Ref: D21/241784

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

Attachments: 1. Draft Instrument of Delegation - Mayor [↓](#)
2. Draft Instrument of Delegation - Chief Executive Officer [↓](#)

Reason for Report

To provide the Instruments of Delegation for the Mayor, the Chief Executive Officer, and provisions to allow for an Acting Chief Executive Officer when required.

Recommendation

That Council:

1. Restore the Delegations of authority to the Chief Executive Officer as outlined in the Instrument of Delegation provided as Attachment 1 and outlined in this report
2. Delegate to the Mayor the authority as outlined in the Instrument of Delegation as provided as Attachment 2 and outlined in this report.
3. That for the period 25 January 2022 to 30 September 2022, one of the persons (determined by the Mayor at the relevant time) holding the position of:
 - a. Director, City Development;
 - b. Director, City Futures;
 - c. Director, City Lifestyles;
 - d. Director, City Performance;
 - e. Director, City Servicesbe appointed to act as Chief Executive Officer if the Chief Executive Officer is sick or otherwise absent from work on leave or for any other purpose. Such appointment is to cease upon the return to work of the Chief Executive Officer or by other resolution of the Council.
4. Authorise that any person acting as Chief Executive Officer pursuant to this resolution has all the functions, delegations, and sub-delegations given to the Chief Executive Officer by the Council.

Options

1. To adopt the instruments of delegation provided as attachments to the report and include in the resolution the recommended provisions to allow for a Director to be appointed as Acting Chief Executive Officer.

Implications: The Instruments of delegations and recommendations proposed have been updated following review.

2. To adopt differing Instruments of delegation and /or provisions for the appointment of an Acting Chief Executive Officer

Implications: Amendments to the proposed Instruments of Delegation and/or recommendations for appointment of an Acting Chief Executive Officer may impact upon the ability of the Council to make lawful decisions of the Council. It would be strongly recommended that should the Council wish to amend those proposed, that legal advice be sought.

3. To defer the adoption of the differing instruments to allow for further information or advice.

Implications: The Mayor will not be able to apply delegations until such time as they are approved by the Council.

Background

In accordance with Section 380 of the *Local Government Act, 1993* each Council must review its delegations within the first 12 months of each term of office.

In accordance with Section 377 (see below) of the *Local Government Act 1993* Council may delegate to the General Manager (CEO) the functions of Council with the exception of those listed below.

377 General power of the council to delegate

(1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following--

(a) the appointment of a general manager,

(b) the making of a rate,

(c) a determination under section 549 as to the levying of a rate,

(d) the making of a charge,

(e) the fixing of a fee,

(f) the borrowing of money,

(g) the voting of money for expenditure on its works, services or operations,

(h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),

(i) the acceptance of tenders to provide services currently provided by members of staff of the council,

(j) the adoption of an operational plan under section 405,

(k) the adoption of a financial statement included in an annual financial report,

(l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,

(m) the fixing of an amount or rate for the carrying out by the council of work on private land,

(n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,

(o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979 ,

- (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,*
- (q) a decision under section 356 to contribute money or otherwise grant financial assistance to persons,*
- (r) a decision under section 234 to grant leave of absence to the holder of a civic office,*
- (s) the making of an application, or the giving of a notice, to the Governor or Minister,*
- (t) this power of delegation,*
- (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.*

Delegations to the General Manager (CEO) allow the normal functions of Council to be undertaken without the requirement of resolutions from Council.

Council previously resolved on 7 April 2020, at an Extraordinary/Special Meeting of the Council (MIN20.240 – 7(k)) to temporarily adjust the delegation of the CEO with respect to Development Application processing due to COVID-19.

As NSW has reached the required vaccination levels to allow NSW Health to remove the majority of restrictions regarding COVID-19 the attached delegation removes the adjustment under MIN20.240.

Attachment 1 provides the proposed Instrument of Delegations for the Chief Executive Officer.

Attachment 2 provides the proposed Instrument of Delegation for the Mayor.

In accordance with Section 226 of the Local Government Act, 1993 the role of the Mayor is as follows:

- (a) to be the leader of the council and a leader in the local community,
- (b) to advance community cohesion and promote civic awareness,
- (c) to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities,
- (d) to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council,
- (e) to preside at meetings of the council,
- (f) to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act,
- (g) to ensure the timely development and adoption of the strategic plans, programs and policies of the council,
- (h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the council,
- (i) to promote partnerships between the council and key stakeholders,
- (j) to advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council,
- (k) in conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community,
- (l) to carry out the civic and ceremonial functions of the mayoral office,
- (m) to represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level,
- (n) In consultation with the councillors, to lead performance appraisals of the general manager [CEO],
- (o) to exercise any other functions of the council that the council determines.

It is anticipated that the Mayor in carrying out the civic and ceremonial functions of the Mayoral office, will facilitate attendance and participation in civic duties by other Councillors

when the Mayor is unable to attend. To ensure this is effectively managed in a way which provides opportunities to members of the elected Council, the Mayor is given authority to nominate relevant representatives of the Council, with particular respect to relevant Ward Councillors to attend events in place of the Mayor when the Mayor is an apology. This will effectively rescind MIN19.791 (parts 1 to 4) and MIN20.777 (parts 1 & 2).

MIN19.791

That:

- 1. The Mayor will attend and represent on behalf of Shoalhaven City Council.*
- 2. If the Mayor is unable to attend, The Deputy Mayor will attend and represent on behalf of Shoalhaven City Council.*
- 3. If the Mayor and Deputy Mayor are unable to attend, The Assistant Deputy Mayor will attend and represent on behalf of Shoalhaven City Council.*
- 4. In the event the Mayor, Deputy Mayor or Assistant Deputy Mayor are unable to attend Ward Councillors will be asked to attend and represent on behalf of Council.*
- 5. A wreath be supplied to a Councillor attending any commemoration service in their own right or when representing the Mayor.*

MIN20.777

That Council reindorse the following and expanded policy regarding the Deputy Mayor, Assistant Deputy Mayor and Ward Councillors in respect of when the Mayor is unable to act, or attend any invited event, function, meeting or such like occasion:

- 1. An apology from the Mayor without a delegate attending is not an option.*
- 2. In respect of Council or Mayoral Duties or invitations when the Mayor is unable to act or attend the Deputy Mayor shall be requested to attend in the Mayor's place, if the Deputy Mayor is unable then the Assistant Deputy Mayor is to be invited and should the Assistant Deputy Mayor be unable to attend to the function it shall be offered to a Ward Councillor who lives in the area where the event is to be held. The Councillors acting in this role shall be selected in rotation.*
- 3. When a Minister of the Crown or senior Government Official is visiting the area and the Mayor or CEO is aware of the visit, Ward Councillors are to be extended an invitation to attend.*
- 4. A full register of functions, events and such like and those Councillors who are called on to act for the Mayor shall be kept by the CEO and be published to Councillors monthly.*

In accordance with advice received, specific recommendations are proposed to allow for the appointment of an Acting Chief Executive Officer in circumstances where the Chief Executive Officer is absent.

CL22.6

SHOALHAVEN CITY COUNCIL

INSTRUMENT OF DELEGATION TO Mayor

On Tuesday, _____ the Shoalhaven City Council ("**Council**") resolved that:

1. All previous delegations of Functions the subject of this Instrument be revoked.
2. Pursuant to section 377 of the LG Act to delegate to the Mayor authority to exercise and/or perform on behalf of the Council the Council's Functions identified in **Schedule 1** subject to any condition or limitation specified.
3. The Mayor be conferred authority to carry out the Policy Authorities listed in **Schedule 2** and undertake any administrative actions necessary to carry out those Policy Authorities.
4. These delegations and authorities are subject to, and are to be exercised in accordance with:
 - a. the requirements of the relevant Legislation;
 - b. any conditions or limitations set out in **Schedule 1**, **Schedule 2** and **Schedule 3**; and
 - c. any resolution or policy, procedure or budget adopted from time to time by the Council.
5. These delegations and authorities are effective from the date of the Resolution of the Council and remain in force until amended or revoked by a resolution of the Council.
6. In this delegation:
 - o '**Functions**' means powers, authorities, duties and functions and anything ancillary or related to the exercise or performance thereof.
 - o '**Legislation**' means legislation enacted by the parliament of New South Wales and the parliament of the Commonwealth of Australia, including an Act, regulation made under an Act, by-law, rule or ordinance.
 - o '**LG Act**' means the *Local Government Act 1993* as amended.

Schedule 1: Delegated Functions

Local Government Act 1993

| Function Code | Function | Condition/ Limitation (if any) |
|---------------|-------------------|--------------------------------|
| LG Act 004 | Mayor Functions – | |

| | | |
|--|--|--|
| | Authority to exercise and/or perform the role of the mayor. Pursuant To – section 226 | |
|--|--|--|

Schedule 2: Policy Authorities

| Code | Policy Authority | Condition / Limitation (if any) |
|---|--|---------------------------------|
| MA02 - Appoint members of Committees and Panels | Authority to appoint members of the Building Awards Selection Panel and the Australia Day Awards Selection Panel and members of other committees or panels as determined by a resolution of Council. Pursuant to MIN12.1091 dated 25 September 2012 | |

Schedule 3: General Limitations

| Limitation (if any) |
|---------------------|
| N/A |

Pursuant to a Resolution of the Council at its meeting of Tuesday, _____,

Pursuant to MIN16.696, CL16.6 HPERM Ref: D16/304939 of 4 October 2016

Stephen DUNSHEA

Chief Executive Officer

Date: _____

Review date: _____

Delegate Acknowledgement of Delegation

I _____ do hereby acknowledge that I have read and understood this Instrument of Delegation and that I will perform these delegations and authorities in accordance with this Instrument of Delegation and my position description.

Mayor of Shoalhaven City Council

Date:

© 2021 - Local Government Legal

DRAFT

CL22.6 - Attachment 1

SHOALHAVEN CITY COUNCIL

INSTRUMENT OF DELEGATION TO CHIEF EXECUTIVE OFFICER

On Tuesday, _____ the Shoalhaven City Council ("**Council**") resolved that:

1. All previous delegations of Functions the subject of this Instrument be revoked.
2. The person who from time to time holds the position of General Manager of Council ("**Chief Executive Officer**"), being at the date of this instrument Stephen DUNSHEA, be delegated authority under section 377 of the LG Act, to exercise and/or perform on behalf of Council the Council's Functions under all Legislation in force and as amended from time to time:
 - 2.a **Subject to** any condition or limitation on a Function specified in Schedule 1; and
 - 2.b **Excluding** those Functions:
 - i. that are expressly prohibited from delegation as listed under Section 377 of the LG Act;
 - ii. which are expressly required by legislation to be exercised by a resolution of the Council.
3. The Chief Executive Officer be sub-delegated authority to exercise and/or perform on behalf of Council the Functions delegated to the Council under, and in accordance with, the instrument of delegation to the Council set out in **Schedule 2, excluding** those Functions which pursuant to the terms of the delegation to the Council may not be sub-delegated.
4. The Chief Executive Officer be conferred authority to carry out the Policy Authorities listed in **Schedule 3** and undertake any administrative actions necessary to carry out those Policy Authorities.
5. The Chief Executive Officer be delegated any Function which is taken to be conferred or imposed on the Council pursuant to section 381(1) of the LG Act.
6. In the absence of the Chief Executive Officer that a person appointed by resolution to act as Chief Executive Officer assume all Functions, delegations, and sub-delegations of the Chief Executive Officer for the period only of the absence of the Chief Executive Officer unless otherwise resolved by the Council.
7. These delegations and authorities are subject to, and are to be exercised in accordance with:
 - a.a the requirements of the relevant Legislation;
 - a.b any conditions or limitations set out in **Schedule 1** and **Schedule 3**; and
 - a.c any resolution or policy, procedure or budget adopted from time to time by the Council.
8. These delegations and authorities are effective from the date of the Resolution of the Council and remain in force until amended or revoked by a resolution of the Council.

9. In this delegation:

- **“Functions”** means powers, authorities, duties and functions and anything ancillary or related to the exercise or performance thereof.
- **“Legislation”** means legislation enacted by the parliament of New South Wales and the parliament of the Commonwealth of Australia, including an Act, regulation made under an Act, by-law, rule or ordinance.
- **“LG Act”** means the *Local Government Act 1993* as amended.

Schedule 1: Limitations

| Part A – Limitations applicable to specific statutory Function (if any) | |
|---|---|
| Legislation | Limitation (if any) |
| EPA Act 004B | Determination of DA – refer MIN20.240 (part 7k) – All draft refusals of DA's must be reported to the Development & Environment Committee or Council for determination |
| Part B – General Limitations | |
| N/A | |

Schedule 2: Instruments of Delegation to Council

| Delegator | Instrument Name | Date Of Instrument |
|-----------------------------|---|---------------------------|
| Department of Fair Trading | Instrument of delegation under section 21 of the Plumbing and Drainage Act 2011 | Thursday, 8 November 2012 |
| Roads and Maritime Services | Transport Administration Act Delegation - Section 50 | Monday, 31 October 2011 |

Schedule 3: Policy Authorities

| Code | Policy Authority | Conditions / Limitations (if any) |
|------------------------------------|---|-----------------------------------|
| AA05 - Crisis Management - Level 1 | Authority to direct staff and other resources, authorise expenditure or any other action necessary for the management of a crisis and | N/A |

| | | |
|--|---|-----|
| | <p>the recovery of operations in accordance with Council's <i>Business Continuity Plan</i>, the <i>Local Government Act 1993</i> or other relevant Acts.</p> <p>Pursuant to the <i>Local Government Act 1993</i>, Council's <i>Business Continuity Plan</i> and other relevant legislation.</p> | |
| F01 - Authority to Operate on Accounts - Shoalhaven City Council | <p>Authorised to:</p> <p>a) to operate on any accounts now opened or to be opened by the Shoalhaven City Council with financial institutions</p> <p>b) Authority to sign, draw, make, accept and negotiate cheques and electronic transfers on behalf of Shoalhaven City Council.</p> <p>Pursuant to the resolution of the Executive Management Team Meeting 15 December 2020 (EM20.343).</p> | N/A |
| F02 - Accounts Receivable - Write-Offs <\$4000 | <p>To authorise the abandonment or write off of accounts receivable for any amount up to but not exceeding \$4,000.</p> <p>Pursuant to the Local Government Act 1993, Council policies - Rates and Other Monies - Delegation of Authority to Write Off (POL16/199 s3(b)) and Revenue - Debt Recovery (POL 16/119 s5) as reviewed from time to time</p> | N/A |
| GM01 POL14/66 - International Gift Giving and Receiving | <p>Authority to administer the giving and receiving of gifts to the City as a result of international interactions by Councillors or staff, according to Code of Conduct Guidelines.</p> <p>Pursuant to the Local Government Act 1993 and Council POL 14/66 - International Gift Giving Policy as reviewed from time to time</p> | N/A |
| GM02 - Leases < 5 Years < \$5000 | <p>Authority to approve and execute leases and licences that are a maximum term of 5 years, are in accordance with current policies and relevant legislation, have an annual rental of \$5,000 or less and have not been objected to as a result of the public exhibition process.</p> | N/A |

| | | |
|---|---|-----|
| | <p>Community Land MIN14.912.</p> <p>Authority to approve and execute telecommunications licences where the agreement relates to an existing telecommunication site</p> <p>Pursuant to the Local Government Act 1993 and Council MIN15.237 adopted at Council Meeting 21 April 2015</p> | |
| GM03 - Leases - Integrity Real Estate | <p>Authority to approve and finalise all lease negotiations in relation to the properties managed by Integrity Real Estate and to sign any documents necessary (MIN15.237).</p> <p>Pursuant to the Local Government Act 1993 and Council MIN15.237 adopted at Council Meeting 21 April 2015</p> | N/A |
| GM04 - POL16/10 - Expend Funds for Tree Removal | <p>Authority to expend funds to remove trees subject to a Court Order under the <i>Trees (Dispute Between Neighbours) Act 2006</i>.</p> <p>Pursuant to the <i>Environmental Planning & Assessment Act 1979</i>, the <i>Trees (Dispute Between Neighbours) Act 2006</i> and Council Tree Management Policy - POL 16/10 as reviewed from time to time</p> | N/A |
| GM08 - Determine and Accept Tenders < \$1M | <p>Authority to determine and accept any tenders with a value of less than \$1M except those tenders required by law to be determined by the Council; and</p> <p>Authority to determine and accept tenders initiated by the Illawarra Shoalhaven Joint Organisation (ISJO) on behalf of all or a majority of member councils.</p> <p>Pursuant to a Resolution of Council dated 26 April 2017 – MIN17.334</p> <p>Note: Tenders will be reported directly to the Ordinary Meeting when the recommendation is to not accept any tender (Group Directors Meeting 3 December 2019 GD19.164)</p> | N/A |

| | | |
|--|---|-----|
| GM12 - COVID 19 – Rent Relief – Occupiers of Council Owned or Managed Properties | Authority to review the status category of Not Impacted tenants if representations are received making a case for being impacted. Pursuant to MIN20.242 adopted 7 April 2020 | N/A |
| GM13 - COVID 19 – Refund of Section 7.11 Contributions | For the purpose of approving the refund of Section 7.11 contributions the CEO/delegate will be the sole arbitrator in determining and assessing the status of a development regarding it satisfying the refund criteria or if the development is staged that a point of approximately 25% of the stage has been reached at which point the CEO/delegate may make the refund. Pursuant to MIN20.275 adopted 28 April 2020 | N/A |
| GM14 - COVID 19 – Refund of Section 64 Contributions | For the purpose of approving the refund of Section 64 contributions the CEO/delegate will be the sole arbitrator in determining and assessing the status of a development regarding it satisfying the refund criteria or if the development is staged that a point of approximately 25% of the stage has been reached at which point the CEO/delegate may make the refund. Pursuant to MIN20.276 adopted 28 April 2020 | N/A |
| GM15 - COVID 19 – Water Usage Accounts | Provide the CEO (Director Shoalhaven Water) general delegated authority to determine all requests for fire impacted properties on their merit. For clarity, where an application is made the CEO be authorised to waive the difference between the water used during the fire event to the meter reading for the same period in the previous year. The fire event being where the RFS Incident Controller advised residents they should consider leaving or it was too late to leave. Pursuant to MIN20.136 adopted 25 February 2020 | N/A |
| GM16 - General Manager - COVID 19 - Stimulus to Business - Reduction of Fees & | That the reduction of any fees and charges to business, that would assist business viability, | N/A |

| | | |
|--|--|-----|
| Charges | be delegated to the Chief Executive Officer. Pursuant to MIN20.442 adopted 23 June 2020. | |
| PED00 - EP&A Act - Council's Delegable Functions _ LEP's | Authority to exercise the powers of Council in accordance with Section 2.4 of the Environmental Planning and Assessment Act 1979 in respect to Local Environmental Plans (LEPs) and minor amendments to existing LEPs. Pursuant to the <i>Local Government Act 1993</i> and Section 2.4 of the EPA Act 1979 | N/A |

Pursuant to a Resolution of the Council at its meeting of Tuesday, _____,

Mayor

Date: Tuesday, _____

Review date: _____

Chief Executive Officer's acknowledgement of Delegations of Authority

I _____, currently employed by the Council in the position of Chief Executive Officer, do hereby acknowledge that I have read and understood this Instrument of Delegation and that I will perform these delegations and authorities in accordance with this Instrument of Delegation and my position description.

Chief Executive Officer of Shoalhaven City Council

Date:

CL22.7 Ordinary Meeting - Order of Business

HPERM Ref: D21/241795

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

Reason for Report

The Local Government (General) Regulation 2021 states that at a meeting of the Council (other than an Extra Ordinary meeting) the General Order of Business is as fixed by the Council's Code of Meeting Practice or as fixed by resolution of the Council.

Recommendation

That Council adopt the Order of Business, as follows, for the Ordinary Meetings of Council:

1. Acknowledgement of Country
2. Opening Prayer
3. Australian National Anthem
4. Apologies/Leave of Absence
5. Confirmation of Minutes
6. Declarations of Interest
7. Presentation of Petitions
8. Mayoral Minutes
9. Deputations & Presentations
10. Call Over of the Business Paper
11. Report of Committees
12. Report of the Shoalhaven Traffic Committee (if required)
13. Officers Reports
14. Notices of Motion and Questions on Notice
15. Addendum Reports
16. Confidential Reports

*If any items of business require attendance of specialist staff (e.g., Legal, Insurance, Property) then Council will generally consider those items following the Deputations

Options

1. Council adopts the order of business as shown in the recommendation.
2. Council changes the order of business by removing or altering the order of items of business.

Background

Council's Code of Meeting Practice provides that "the Order of Business" on the Agenda for Council and Committee Meetings be as fixed by the Code or by resolution of Council. In accordance with Clause 8.1 of the Code of Meeting Practice the Council should now adopt a general order of business which applies to its meetings in this new term.

The Order of Business outlined in the recommendation is the Order of Business which was in use at the conclusion of the previous Council term with the exception of the placement of the Notices of Motion and Questions of Notice on the Agenda. This change reflects that which is proposed in the latest [Model Code of Meeting Practice released by the Office of Local Government on 29 October 2021](#) as their suggested order and is proposed as it focuses the decision making on the business arising from the strategic priorities of the Council.

Also included in the recommendation is the reinstatement of the Call Over of the Business Paper. This provides a prompt to the Council to utilise the provisions of the Code of Meeting Practice with respect to calling out only those items of business that require discussion.

For practical reasons, the welcoming aspects of the meeting should occur at the beginning of the meeting before the business of the meeting is dealt with.

The items of the Australian National Anthem and the Opening Prayer are traditional opening items for Ordinary Meetings of Shoalhaven City Council which all previous Councils have opted to include in the Order of Business.

In the previous term, the Council resolved that the Opening Prayer on the Order of Business was to be a 'Christian Prayer'. The Council may wish to retain the previous approach or may consider alternatives such as a 'Multi-faith Prayer' or alternatively a 'Moment of Prayer or Reflection' for this term of the Council.

With respect to the business of the Meeting, any Mayoral Minute will take precedence over all business on the Council's agenda for the meeting. There is no specified order for business following the Mayor Minute required under the Local Government Act or Regulations.

The Council may pass a resolution at any meeting to change the order of business for that meeting (Clause 8.2).

Council will need to reconsider meeting practice when it considers the adoption of a new Code of Meeting Practice prior to June 2022.

CL22.8 Community Consultation & Committee System

HPERM Ref: D21/335239

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

Attachments: 1. Proposed Committee List arising from Councillor Workshop on 18 January 2022. (under separate cover) [⇒](#)

Reason for Report

This report is being submitted directly to the Ordinary Meeting due to the determination of Councillor membership, confirm or disband the purpose/objective, delegated authority and quorum of Council's Committees.

Recommendation

That Council

1. Continue the operation of the following Committees, Boards & Reference Groups pursuant to Section 355 – Local Government Act and pursuant to Section 377 with purpose, delegation and sitting fee (if applicable), Councillor and staff membership and quorum as outlined in the attachment to the report:
 - a. Audit, Risk and Improvement Committee (39763E) and authorise the Committee to carry out the roles and responsibilities in accordance with the Audit Committee guidelines published by the Office of Local Government and Council's Audit, Risk & Improvement Committee charter.
 - b. Regional Development Committee (39964E)
 - c. Senior Staff Contractual Matters Committee (5001E).
 - d. North Floodplain Risk Management Committee (59952E)
 - e. Central Floodplain Risk Management Committee (59951E)
 - f. Southern Floodplain Risk Management Committee (59950E)
 - g. North Coastal Management Program Advisory Committee (64354E)
 - h. Central Coastal Management Program Advisory Committee (64355E)
 - i. Southern Coastal Management Program Advisory Committee (64356E)
 - j. Aboriginal Advisory Committee (1209E)
 - k. Business and Employment Development Committee (38821E)
 - l. Homelessness Taskforce Shoalhaven (55584E)
 - m. Inclusion and Access Advisory Group (1228E)
 - n. Motor Sports Complex Working Party (69319E)
 - o. Natural Area Volunteers Group (42643E)
 - p. Nowra CBD Revitalisation Strategy Committee (50242E)
 - q. Rural Fire Service Strategic Planning Committee (1227E)
 - r. Shoalhaven Arts Board (2123E)
 - s. Shoalhaven City Mayor's Relief Fund (3926E)

- t. Shoalhaven Entertainment Centre Councillor Reference Group (61867E)
- u. Shoalhaven Heads Estuary Taskforce (45866E).
- v. Shoalhaven Sports Board (12623E)
- w. Shoalhaven Tourism Advisory Group (1490E)
- x. Strategic Planning Working Party (65374E)
- y. Youth Advisory Committee (1506E)
2. Disband the Infringement Review Panel (59312E) and this be reflected in the Council's Compliance Policy.
3. Appoint Councillor and staff membership of each Committee or Board as outlined in the Attachment to the report.
4. Note that the Urgent Grant Submissions Committee (65067E) has expired in accordance with MIN20.700.

Options

1. That Council adopt the Committees with their purpose, terms of reference, delegations, membership and meeting frequency, as outlined in the attachment, and note that the Urgent Grant Submissions Committee has expired.

Implications: This will continue current resourcing allocations and community membership.

2. That the proposed list of Committees be altered, and/or those purpose, terms of reference, delegations, membership and meeting frequency, be amended.

Implications: Dependent upon the extent of the amendments, resources for the administration and support of Committees and other resource allocations may be impacted.

Background

At the commencement of each term, the Council establishes its process of community consultation in terms of advisory and other Committees to inform the Council. These Committees are reviewed each year, usually in September, and other amendments are proposed to the Council throughout the term, when identified or required.

The attachment and this report outlines the Councillor and staff representation for Council's existing Committees and boards at the end of the previous term of the Council. The names populated in the attachment are those which were raised and discussed at the Workshop of Councillors held on 18 January 2022 and submitted nominations. Areas highlighted in the attachment will need further clarification in the determination of this item .

The Council may wish to remove, amend the purpose and objectives or reappoint the Committee or Board by determining Councillor and staff representative members for the period of February to September 2022.

The recommendation of this report to disband the Infringement Review Panel arises from discussion of Councillors at the workshop held on 18 January 2022 and the views of Councillors that this Panel was no longer required. It is noted that the Panel is established under the Compliance Policy and necessary adjustments will need to be made with respect to that policy.

Once the Council has determined the Committees and Boards, meetings of the Committees and Boards will be called with initial discussions to consider the terms of reference and any

adjustments to be recommended to the Council with respect to membership. Any adjustments to the Terms of Reference or Membership will be reported to the Council for determination.

The Terms of Reference of Committees and Boards are considered to be policies of the Council and may be viewed on the [Policies and Procedures](#) section of the Council website which is listed in alphabetical order.

Please note that the Homelessness Taskforce Shoalhaven (55584E) was reconvened on 14 October 2021 after Council endorsed the re-establishment of the Taskforce at the Strategy & Assets Committee meeting held on 14 September 2021 (MIN21.638).

CL22.9 LGNSW Special Conference 2022 - Voting Delegates and Motions

HPERM Ref: D21/338192

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

Attachments: 1. Letter of Invitation [↓](#)

Reason for Report

This report is being submitted directly to the Ordinary Meeting due to the requirement for Council to resolve the Conference motions to meet the submission deadline of 30 January 2022.

Also, to approve attendance and nominate voting representatives at the 2021 LGNSW Special Conference to be held at Hyatt Regency Sydney from Monday 28 February to Wednesday 2 March 2022.

Recommendation

That:

1. Council approve attendance by all interested Councillors at the 2021 LGNSW Special Conference to be held at Hyatt Regency Sydney from Monday 28 February to Wednesday 2 March 2022, and such attendance be deemed as Council business.
2. Registration fees be met in accordance with Council's adopted policy.
3. Council confirm one of the voting delegates at the 2021 LGNSW Special Conference to be the Mayor.
4. Council determine the other four (4) Councillors to attend the conference as Council's voting delegates as follows:
 - a.
 - b.
 - c.
 - d.
5. The motions outlined within the report which have been submitted to the conference be retained as the Council's contribution to the Business Paper of the LGNSW Special Conference.

Options

1. As recommended.

Implications: The representation of the Council at the Conference will be complete, and Council's previously submitted motions will be retained on in the Business Paper of the 2021 LGNSW Special Conference.

2. That Council does not accept the motions as outlined in the report and proposes alternatives, and/or does not nominate voting representatives.

Implications: Motions will need to be worded and endorsed

Background

The [Local Government NSW \(LGNSW\) Annual Conference](#) is the main policy making event for the NSW local government sector. The 2021 conference was separated into two components, due to the rescheduling of the Local Government Elections:

- A one-hour Annual Conference to present the annual report and financial reports, which was conducted online on Monday 29 November 2021; and
- A Special Conference, including the debate and resolution of motions setting the advocacy agenda for 2022, to be held in person at the Hyatt Regency Sydney from Monday 28 February to Wednesday 2 March 2022.

At the Special Conference, Delegates will vote on motions which help determine the policies and priorities for LGNSW and the sector. It is a key event for Local Government where Councillors from across the state come together to share ideas and debate issues that shape the way the sector functions and is governed.

For Council to participate fully in the conference, it is recommended the Council register attendees, nominate voting delegates, and submit motions for debate within the timeframes specified in this paper.

Registration to attend the Conference

The program and registration information for the three-day Special Conference from 28 February to 2 March 2022 are at <https://lgnswconference.org.au>. Costs associated with the conference are:

| | |
|-------------------------------------|------------|
| Member Standard Registration | \$1,094.50 |
| Conference Dinner Ticket (optional) | \$176.00 |

Registration closes on 14 February 2022.

The 2021/22 Council budget contains provision for all Councillors to attend the conference should they wish to do so.

Attached to this report is a copy of the Letter of Invitation for the Conference (Attachment 1). Councillors who wish to be registered to attend and have accommodation booked for this conference should notify the Executive Office so that arrangements can be made in advance of the 14 February registration deadline.

Voting delegates

Voting delegates must be registered to attend the Conference and be registered as a voting delegate.

Confirmation has been received from LGNSW that Council will have five (5) voting entitlements at the Conference to vote on motions.

Council is required to advise LGNSW of the names of its nominated voting delegates for the Special Conference by 5pm (AEDT) on Thursday **17 February 2022**.

Voting delegates may not appoint a proxy to attend or vote at formal business sessions on their behalf.

It is proposed that Council nominates the Mayor plus four (4) Councillors to attend as voting delegates.

Motions

LGNSW has called for the submission of motions. Councils are encouraged to formulate motions submitted in terms of the current policy statements.

LGNSW recognised that Councils would not know who their Councillors would be until late December but encouraged submission of motions to the conference as early as possible. Accordingly, the following six (6) motions that were endorsed by Councillors at the Ordinary meeting on 28 September 2021 have been submitted for the business paper of the Conference.

Motion 1 - Extending Bushfire Grant Funding

That Local Government NSW advocates to the NSW Government to amend the criteria for Bushfire Grant Funding to enable Councils to continue to repair damaged infrastructure in severely affected areas.

Background

The 2019-2020 Black Summer bushfires continue to have a significant impact in many Local Government areas, with infrastructure still in need of replacement or repair. Councils are highly appreciative of the assistance already provided, in particular from the Bushfire Local Economic Recovery Fund. However, not all grant opportunities are aimed at longer-term rehabilitation of damaged areas that needs to continue after the disaster. It is requested that the NSW Government broaden the criteria for Bushfire Recovery Grants to allow for damaged infrastructure to be replaced.

Motion 2 - Impact of Holiday Homes

That Local Government NSW asks the NSW Government to consider legislative tools to assist Councils with the impact of short-term rental platforms on local communities with respect to long-term rental availability.

Background

Local rental markets are being challenged by the growth of short-term accommodation platforms such as Airbnb and HomeAway, with long-term housing stock for residents being repurposed as holiday homes.

A 2018 research project commissioned by the Australian Coastal Councils Association, Planning responses to online short-term holiday rental platforms, found that coastal localities require support to respond to the proliferation of short term holiday rentals, which account for a median of 4% of all housing stock, with rates in popular localities as high as 17%.

The NSW Government has been working on state-wide provisions to help manage short term rental accommodation. These cover some of the regulatory approaches identified in this research project, including:

- Consistent short term rental accommodation definition and associated clarification
- Standards for short term accommodation – fire safety standards
- Enable local planning responses – ability to reduce number of days (360 to 180) in Council areas or parts of them.

The NSW Government's current proposed response to short term rental accommodation will at this stage be fully operational by the end of 2021.

The Government is requested to help provide more tools that councils can apply to address these issues, as recommended by the Australian Coastal Councils Association study. The Government could also consider undertaking a study into how short-term rentals impact on the economic recovery of local commercial centres. Councils also recognise the importance of being "open for business" and proportionate regulation.

Motion 3 - Code of Conduct Procedures

That Local Government NSW request the State Government to amend the Model Code of Conduct Procedures to remove the current role of the elected Council in determination of sanctions arising from conduct investigations.

Background

The current Model Code of Conduct Procedures includes at Part 7, provision for a report being presented to the Council when an independent investigator determines that the conduct of a Councillor investigated constitutes a breach of the Code of Conduct. The role of the Council in this regard under the procedures is to consider the investigation report and determine a sanction which should be applied to the Councillor.

It is proposed that the determination of sanctions is best made by an independent authority, rather the elected Council. Given the political and/or factional nature of some Councils, the current procedure may permit situations where the determination of a sanction against a Councillor is based on other factors and not reflect community and procedural expectations.

Motion 4 - Infrastructure Contributions Reforms

That Local Government NSW call upon the NSW Government to withdraw the Environment, Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021 and undertake further consultation with the Local Government Sector on the proposed reforms.

Background

NSW Councils have called on the NSW Government to withdraw proposed infrastructure contribution rule changes from Parliament which could see the nature of these important contributions change.

These contributions by developers help fund critical local infrastructure works associated with new developments where possible.

Shoalhaven City Council has concerns about the NSW Infrastructure Contributions Reforms following the NSW Government's introduction of the Environment, Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021 into the NSW Parliament in June 2021.

Local Government NSW is urged to continue advocating to protect Local Government from any amendments to infrastructure contributions which leave Councils and communities exposed to expending ratepayer funds on new infrastructure made necessary by new development, currently the responsibility of developers.

Motion 5 - Funding for Social and Affordable Housing

That Local Government NSW requests the NSW Government to provide increased assistance to Councils for additional funding for social and affordable housing.

Background

The Shoalhaven Local Government Area is currently experiencing a crisis situation with respect to housing availability, social housing availability and general housing affordability in our community. This crisis is shared with many other Councils across the state.

A whole-of-government approach is advocated to address the housing affordability crisis in New South Wales. It is proposed that the Association request urgent funding for increased provision of social and affordable housing to meet the needs of a growing number of residents in housing stress, particularly those marginalised by the current private housing market.

Motion 6 - Social and Affordable Housing Models

That Local Government NSW requests that the State Government investigate different models for social and affordable housing, such as equity share and covenant housing.

Background

The NSW Government is called upon to act, including regulatory reforms, to facilitate innovative housing types that demonstrably improve affordability. These housing types include but are not necessarily limited to shared equity homebuyer schemes (appropriately targeted/means tested for low-moderate income groups); covenant housing (below-market rate homes with land title restrictions making housing affordable in perpetuity – e.g. through restricting capital gain profits/mandating below-market rents etc); subsidised key worker housing; tiny house developments; meanwhile uses; build-to-rent with mandated affordability; rent-to-buy schemes; net-zero carbon and passive design homes (to reduce ongoing costs of housing); housing co-operatives and capped profit development models. Innovative housing models such as those described above could be tested in the form of pilot projects, design competitions and demonstration projects to evaluate affordability outcomes and facilitate appropriate supporting regulation.

Previous Council support: Shoalhaven City Council Submission to NSW Government Discussion Paper: A Housing Strategy for NSW (June 2020) adopted by Council 25/8/2020 (MIN20.596).

At this meeting the Council may resolve to remove one or more of the resolutions above or to submit further urgent motions for inclusion in the Conference Business Paper by 12 midnight AEST, Sunday, **30 January 2022**. All motions must be adopted by Council before submission. Given the timing of this deadline, any additional motions proposed will need to be articulated in full and endorsed in the Council resolution of this item to allow inclusion in the Business Paper of the Conference.

CL22.9



Our ref: Rxx/xxxx Out-
10 August 2021
GMs and Mayors

Dear Member,

OFFICIAL NOTICE

Local Government NSW Annual Conference: 29 Nov (online)

Event: LGNSW Annual Conference 2021

Time & Date: 0930, 29 November, 2021

Venue: Online

As a result of COVID constraints and the further postponement of local government elections, Local Government NSW (LGNSW) will this year truncate the Annual Conference to a one-hour, online event from 0930 on 29 November 2021, followed by a Special Conference from 28 February 2022.

While the Special Conference will incorporate the debate and resolution of motions and a range of keynote speakers, the Annual Conference online event will be limited to the adoption of standing orders, along with reports from the President and Treasurer.

The following letter contains important information to help you to plan ahead and participate fully in the Annual Conference online event.

Registration to attend the Conference

Registrations to the online Annual Conference is free, with attendees asked to register online on [the LGNSW website](#).

Voting Delegates: 2021 Annual Conference and Board election

Separate from Conference registration, members must advise LGNSW of the name(s) of their nominated voting delegates for both or the Annual Conference and LGNSW Board election by **5pm (AEDT) on Tuesday 5 October 2021**.

Details on how to advise LGNSW of the names of their voting delegates for the Special Conference will be emailed directly to members at a later date.

Voting entitlements

The formula for calculating members' voting entitlements is prescribed at rule 23 of the LGNSW rules. A copy of the LGNSW (Federal) rules may be found [here](#).



The **number of voting delegates** that each member is entitled to send to the Annual Conference and for voting in the Board election is listed in **Appendix A**. Column A indicates the number of voters for voting at the Annual Conference and, where applicable, Column B indicates the number of voters for voting in the Board election.

In accordance with the LGNSW rules, only members that were financial on 1 March 2021 (the 'calculation date') have been allocated voting entitlements. To exercise voting rights, members also need to be financial on the date the 'roll of voters' closes (31 August 2021).

Nomination as a voting delegate

Ordinary members need to advise LGNSW of the name(s) of their nominated voting delegate(s) for voting on Standing Orders and the Treasurer's Report, as well as voting in the Board election.

Associate members need to advise LGNSW of the name(s) of their nominated voting delegate(s) for voting at the Annual Conference only.

Nominations received after **5pm (AEDT) on Tuesday 5 October 2021** cannot be accepted. However, a member may, subject to the LGNSW rules, notify LGNSW of a change to the name of an already nominated voting delegate for voting on motions (a substitute delegate - see below).

For further information on voting entitlements and processes, [email Adam Dansie](mailto:adam.dansie@lgnsw.org.au) or call (02) 9242 4140.

Substitution of nominated voting delegates for voting on motions

Subject to the LGNSW rules, Ordinary members and Associate members may notify a change to the name of a nominated voting delegate for voting at the Annual Conference under rule 34(b) of the LGNSW rules (a substitute delegate). This is achieved by giving notice in writing signed by either the Mayor/Chairperson (or Deputy Mayor/Deputy Chairperson with the Mayor/Chairperson's written delegated authority), or General Manager/Chief Executive Officer (or Acting General Manager/Acting Chief Executive Officer with the General Manager/Chief Executive Officer's written delegated authority).

Written notice should be sent to Andrew Olivares (LGNSW) at andrew.olivares@lgnsw.org.au.

Further instructions on how to substitute voting delegates, and a link to a 'Substitute Delegate Form' will be provided in future Conference communications.

Business Papers

The Annual Conference Business Paper is expected to be available on the LGNSW website and forwarded to members (in electronic format) approximately two weeks prior to the Conference.



Previously Booked Accommodation

Conference delegates who have booked accommodation directly through the previously-provided Conference booking link will have their rooms all automatically cancelled without penalty. Accommodation at the Hyatt Regency Sydney for the Special Conference (28 February to 2 March 2022) will need to be re-booked via this special link:

[Rebook Hyatt Regency Sydney for Special Conference](#)

Delegates who had already reserved accommodation for November 28 (with the Hyatt Regency Sydney or other hotels) through other means will need to cancel their original reservations via their original booking platform.

Privacy Statement

LGNSW, which is regulated by the *Privacy Act 1988* (Cth), collects private information about registered attendees to the Conference such as names, addresses, telephone numbers, credit card information and email addresses. We use the private information you give us to process your registration and to send you information in relation to the Conference.

If you choose not to provide some or all of the private information that we have sought, LGNSW may be unable to process your registration, or it may result in you being unable to vote at the Conference. Further information about how LGNSW collects, holds and uses private information is contained in LGNSW's Privacy Policy which is available on the [LGNSW website](#).

Further details

Further details about the Conference can be found on the [LGNSW website](#).

I look forward to seeing you online at the Conference in November.

Yours sincerely

Cr Linda Scott
President



Appendix A

Members' voting entitlements: 2021 Annual Conference and Board election

| Member | Column A – Number of voters for voting on motions | Column B – Number of voters for voting in Board election |
|-------------------------|--|--|
| Albury (R/R) | 4 | 4 |
| Armidale Regional (R/R) | 3 | 3 |
| Ballina (R/R) | 3 | 3 |
| Balranald (R/R) | 1 | 1 |
| Bathurst Regional (R/R) | 3 | 3 |
| Bayside (M/U) | 9 | 9 |
| Bega Valley (R/R) | 3 | 3 |
| Bellingen (R/R) | 2 | 2 |
| Berrigan (R/R) | 1 | 1 |
| Blacktown (M/U) | 11 | 11 |
| Bland (R/R) | 1 | 1 |
| Blayney (R/R) | 1 | 1 |
| Blue Mountains (R/R) | 4 | 4 |
| Bogan (R/R) | 1 | 1 |
| Bourke (R/R) | 1 | 1 |
| Brewarrina (R/R) | 1 | 1 |



| | | |
|---------------------------------------|----|----|
| Broken Hill (R/R) | 2 | 2 |
| Burwood (M/U) | 3 | 3 |
| Byron (R/R) | 3 | 3 |
| Cabonne (R/R) | 2 | 2 |
| Camden (M/U) | 6 | 6 |
| Campbelltown (M/U) | 9 | 9 |
| Canada Bay (M/U) | 5 | 5 |
| Canterbury-Bankstown (M/U) | 11 | 11 |
| Carrathool (R/R) | 1 | 1 |
| Castlereagh-Macquarie County (R/R) | 1 | 0 |
| Central Coast (R/R) | 7 | 7 |
| Central Darling (R/R) | 1 | 1 |
| Central Tablelands Water County (R/R) | 1 | 0 |
| Cessnock (R/R) | 4 | 4 |
| Clarence Valley (R/R) | 4 | 4 |
| Cobar (R/R) | 1 | 1 |
| Coffs Harbour (R/R) | 4 | 4 |
| Coolamon (R/R) | 1 | 1 |
| Coonamble (R/R) | 1 | 1 |
| Cootamundra-Gundagai Regional (R/R) | 2 | 2 |
| Cowra (R/R) | 2 | 2 |
| Cumberland (M/U) | 9 | 9 |
| Dubbo Regional (R/R) | 4 | 4 |
| Dungog (R/R) | 1 | 1 |



| | | |
|---------------------------------|---|---|
| Edward River (R/R) | 1 | 1 |
| Fairfield (M/U) | 9 | 9 |
| Far West Joint Organisation | 1 | 0 |
| Federation (R/R) | 2 | 2 |
| Forbes (R/R) | 1 | 1 |
| Georges River (M/U) | 9 | 9 |
| Gilgandra (R/R) | 1 | 1 |
| Glen Innes Severn (R/R) | 1 | 1 |
| Goldenfields Water County (R/R) | 1 | 0 |
| Greater Hume (R/R) | 2 | 2 |
| Griffith (R/R) | 3 | 3 |
| Gunnedah (R/R) | 2 | 2 |
| Gwydir (R/R) | 1 | 1 |
| Hawkesbury City (M/U) | 5 | 5 |
| Hawkesbury River County (M/U) | 2 | 0 |
| Hay (R/R) | 1 | 1 |
| Hilltops (R/R) | 2 | 2 |
| Hornsby (M/U) | 9 | 8 |
| Hunters Hill (M/U) | 2 | 2 |
| Inner West (M/U) | 9 | 9 |
| Inverell (R/R) | 2 | 2 |
| Junee (R/R) | 1 | 1 |
| Kempsey (R/R) | 3 | 3 |
| Kiama (R/R) | 3 | 3 |



| | | |
|--|---|---|
| Kimbriki Environmental Enterprises Pty Ltd (M/U) | 1 | 0 |
| Ku-ring-gai (M/U) | 6 | 6 |
| Kyogle (R/R) | 1 | 1 |
| Lachlan (R/R) | 1 | 1 |
| Lake Macquarie (R/R) | 7 | 7 |
| Lane Cove (M/U) | 3 | 3 |
| Leeton (R/R) | 2 | 2 |
| Lismore (R/R) | 3 | 3 |
| Lithgow (R/R) | 3 | 3 |
| Liverpool (M/U) | 9 | 9 |
| Liverpool Plains (R/R) | 1 | 1 |
| Lockhart (R/R) | 1 | 1 |
| Maitland (R/R) | 4 | 4 |
| Mid-Coast (R/R) | 4 | 4 |
| Moree Plains (R/R) | 2 | 2 |
| Mosman (M/U) | 3 | 3 |
| Murray River (R/R) | 2 | 2 |
| Murrumbidgee (R/R) | 1 | 1 |
| Muswellbrook (R/R) | 2 | 2 |
| Nambucca (R/R) | 2 | 2 |
| Narrabri (R/R) | 2 | 2 |
| Narrandera (R/R) | 1 | 1 |
| Narromine (R/R) | 1 | 1 |
| Newcastle (R/R) | 7 | 7 |



| | | |
|---|----|----|
| New England County (R/R) | 1 | 0 |
| Norfolk Island Regional Council (R/R) | 1 | 0 |
| North Sydney (M/U) | 5 | 5 |
| Northern Beaches (M/U) | 10 | 10 |
| Northern Sydney Regional Organisation of Councils (M/U) | 1 | 0 |
| Oberon (R/R) | 1 | 1 |
| Orange (R/R) | 3 | 3 |
| Parkes (R/R) | 2 | 2 |
| Parramatta, City of (M/U) | 10 | 9 |
| Penrith (M/U) | 9 | 9 |
| Port Macquarie-Hastings (R/R) | 4 | 4 |
| Port Stephens (R/R) | 4 | 4 |
| Queanbeyan-Palerang Regional (R/R) | 4 | 4 |
| Randwick (M/U) | 9 | 9 |
| Richmond Valley (R/R) | 3 | 3 |
| Riverina Water County (R/R) | 1 | 0 |
| Rous County (R/R) | 1 | 0 |
| Ryde (M/U) | 6 | 6 |
| Shellharbour (R/R) | 4 | 4 |
| Shoalhaven (R/R) | 5 | 5 |
| Singleton (R/R) | 3 | 3 |
| Snowy Monaro Regional (R/R) | 3 | 3 |
| Snowy Valleys (R/R) | 2 | 2 |
| Southern Sydney Regional Organisation of Councils | 1 | 0 |



| | | |
|--|----|---|
| (M/U) | | |
| Strathfield (M/U) | 3 | 3 |
| Sutherland Shire (M/U) | 9 | 9 |
| Sydney, City of (M/U) | 10 | 9 |
| Tamworth Regional (R/R) | 4 | 4 |
| Temora (R/R) | 1 | 1 |
| Tenterfield (R/R) | 1 | 1 |
| The Hills Shire (M/U) | 9 | 9 |
| Tweed (R/R) | 4 | 4 |
| Upper Hunter (R/R) | 2 | 2 |
| Upper Lachlan (R/R) | 1 | 1 |
| Upper Macquarie County (R/R) | 1 | 0 |
| Uralla (R/R) | 1 | 1 |
| Wagga Wagga (R/R) | 4 | 4 |
| Walcha (R/R) | 1 | 1 |
| Walgett (R/R) | 1 | 1 |
| Warren (R/R) | 1 | 1 |
| Warrumbungle (R/R) | 1 | 1 |
| Waverley (M/U) | 5 | 5 |
| Weddin (R/R) | 1 | 1 |
| Wentworth (R/R) | 1 | 1 |
| Western Sydney Regional Organisation of Councils (M/U) | 1 | 0 |
| Willoughby (M/U) | 5 | 5 |
| Wingecarribee (R/R) | 4 | 4 |



| | | |
|-------------------|------------|------------|
| Wollondilly (R/R) | 4 | 4 |
| Wollongong (R/R) | 7 | 7 |
| Woollahra (M/U) | 5 | 5 |
| Yass Valley (R/R) | 2 | 2 |
| LGNSW Board (M/U) | 10 | 10 |
| LGNSW Board (R/R) | 8 | 8 |
| TOTAL: | 476 | 458 |

CL22.9 - Attachment 1

CL22.10 LGNSW Water Management Conference 2022

HPERM Ref: D22/12850

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

Reason for Report

To consider Councillor attendance at the LGNSW Water Management Conference scheduled for Wednesday, 9 February 2022 to Friday, 11 February 2022 in Narrabri, NSW.

Recommendation

That Council

1. Notes the details of the LGNSW Water Management Conference 2022 scheduled for 9 to 11 February 2022 in Narrabri, NSW.
2. Authorises available Councillors to attend the conference and such attendance be deemed Council Business.
3. Travel, registration fees, accommodation and all reasonable out-of-pocket expenses be met in accordance with its adopted policy.
4. Request Councillors attending the conference to provide a written report within 30 days of returning from the conference.

Options

1. As per the recommendation.
2. That Council limit the number of Councillors attending the Conference to a number the Council considers suitable and such attendance be deemed Council Business.
3. That Council not approve Councillor attendance at the Conference as Council Business.

Background

The LGNSW Water Management Conference 2022 is considered relevant to Local Government and information in relation to the conference can be found on the [LGNSW website](#).

Costs associated with the conference are estimated as follows:

- Registration: \$720.00
- Travel, accommodation and out of pocket expenses: not yet determined.

An option available to Council is to define the number of Councillors attending the conference and for Council to determine the appropriate Councillors authorised to attend.

The Conference commences at 3.00pm Wednesday, 9 February 2022 and concludes at 3.30pm Friday, 11 February 2022.

Council meetings during this time have not yet been determined and will be set in accordance with what is resolved at the Ordinary Meeting on Tuesday 25 January 2022.

CL22.10

Policy Implications

The Council Members – Payment of Expenses and Provision of Facilities Policy limits attendance at conferences to three per annum per Councillor, exclusive of any conference arranged by either the State or National Local Government Associations. This conference is organised by Local Government NSW.

Financial Implications:

Funds are available for Councillors to attend this conference.

CL22.11 Variations to Development Standards - December Quarter 2021

HPERM Ref: D21/540189

Department: Development Services

Approver: Phil Costello, Director - City Development

Reason for Report

This report is being submitted directly to the Ordinary Meeting due to the requirement that the information contained in the report is to be reported to the full elected Council and to the Department of Planning, Industry and Environment.

Council is required to consider variations to development standards (contained in an environmental planning instrument such as the Shoalhaven Local Environmental Plan) which exceed 10%, with lesser variations able to be dealt with by staff, under delegation.

Council is also required to publish the variations in addition to reporting the variations to the full Council and the Department of Planning, Industry and Environment.

Recommendation

That Council receive the Variations to Development Standards – June Quarter Report 2021 for information.

Options

1. Receive the report for information.

Implications: Council will be complying with the reporting provisions as detailed in *Circular PS20-002 Variations to development standards*.

2. Resolve an alternative and provide details to staff.

Implications: Depending on what is resolved, the Council would need to ensure compliance observing that the Department undertakes periodic audits.

Background

SEPP 1 and clause 4.6 have allowed flexibility in the application of development standards by allowing the consideration of development proposals that meet the objective of a development standard but not its stated value.

On 5 May 2020, the Department of Planning, Industry and Environment issued a new circular (PS20-002) which replaced PS18-003 and issued assumed concurrence, governance, and reporting requirements for consent authorities. It also advised that Council reports are to come through the Planning Portal and the repeal of SEPP 1. The concurrence is conditional (for example, variations exceeding 10% which must be reported to Council, staff cannot exercise delegations).

A link to the circular can be found [here](#).

Procedural and reporting requirements

To ensure transparency and integrity in the planning framework, the Department requires monitoring and reporting measures.

- A written application must be made to support a variation.
- An online register of all variations to be maintained.
- A report must be submitted through the Portal.
- A report of all variations from a Council must be provided to a meeting of the Council at least once a quarter.

Audit

The Department will continue to carry out random audits to ensure the above monitoring and reporting measures are complied with. The Department and the NSW Independent Commission Against Corruption will continue to review and refine the audit strategy.

It is noted that the application has been the subject of ICAC investigations (amongst other things) referred to as Operation Dasha. More information is available [here](#). The Department is currently reviewing the application of clause 4.6.

Should ongoing non-compliance be identified with one or more consent authorities, the Secretary is able to consider revoking the notice allowing concurrence to be assumed, either generally for a consent authority or for a specific type of development.

Conclusion

The repeal of SEPP 1 came into effect from 1 February 2020 as part of the SEPP Review Program to update and simplify the NSW Planning system.

The variations are provided to the Department in the form of a spreadsheet and are published as soon as possible after the quarter has ended.

The table below is based on the spreadsheet but is simplified for easier reading. The spreadsheets are viewable on Council's webpage and are published quarterly as soon as possible after the last day of the month.

1. Table – Variations December Quarter 2021

| DA | Lot | DP | Street Name | Suburb | Post Code | Description | Standard Varied | Extent of Variation | Decision | Date |
|-----------|-----|-------|-------------------|-----------------|-----------|--|-----------------|---------------------|----------|------------|
| DA21/1673 | 1 | 21597 | St Vincent Street | Ulladulla | 2538 | "Residential Other" (Mixed use – commercial and residential flats (24) & car parking | Height | 6.4% | Approval | 01/11/2021 |
| DA21/1962 | 11 | 22226 | Haiser Rd | Greenwell Point | 2540 | Alterations and additions to a dwelling | Height | 9.61% | Approval | 23/12/2021 |

LOCAL GOVERNMENT AMENDMENT (GOVERNANCE & PLANNING) ACT 2016

Chapter 3, Section 8A Guiding principles for councils

(1) Exercise of functions generally

The following general principles apply to the exercise of functions by councils:

- (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Councils should work with others to secure appropriate services for local community needs.
- (h) Councils should act fairly, ethically and without bias in the interests of the local community.
- (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

(2) Decision-making

The following principles apply to decision-making by councils (subject to any other applicable law):

- (a) Councils should recognise diverse local community needs and interests.
- (b) Councils should consider social justice principles.
- (c) Councils should consider the long term and cumulative effects of actions on future generations.
- (d) Councils should consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

(3) Community participation

Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

Chapter 3, Section 8B Principles of sound financial management

The following principles of sound financial management apply to councils:

- (a) Council spending should be responsible and sustainable, aligning general revenue and expenses.
- (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) Councils should have effective financial and asset management, including sound policies and processes for the following:
 - (i) performance management and reporting,
 - (ii) asset maintenance and enhancement,
 - (iii) funding decisions,
 - (iv) risk management practices.
- (d) Councils should have regard to achieving intergenerational equity, including ensuring the following:
 - (i) policy decisions are made after considering their financial effects on future generations,
 - (ii) the current generation funds the cost of its services

Chapter 3, 8C Integrated planning and reporting principles that apply to councils

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by councils:

- (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) Councils should identify strategic goals to meet those needs and aspirations.
- (c) Councils should develop activities, and prioritise actions, to work towards the strategic goals.
- (d) Councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- (e) Councils should regularly review and evaluate progress towards achieving strategic goals.
- (f) Councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.
- (g) Councils should collaborate with others to maximise achievement of strategic goals.
- (h) Councils should manage risks to the local community or area or to the council effectively and proactively.
- (i) Councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.