



Central Coast Council
Business Paper
Extraordinary Council Meeting
08 October 2024





COMMUNITY STRATEGIC PLAN 2018-2028

ONE – CENTRAL COAST IS THE COMMUNITY STRATEGIC PLAN (CSP) FOR THE CENTRAL COAST LOCAL GOVERNMENT AREA

ONE – CENTRAL COAST DEFINES THE COMMUNITY'S VISION AND IS OUR ROADMAP FOR THE FUTURE

ONE – CENTRAL COAST BRINGS TOGETHER EXTENSIVE COMMUNITY FEEDBACK TO SET KEY DIRECTIONS AND PRIORITIES

One - Central Coast will shape and inform Council's business activities, future plans, services and expenditure. Where actions are the responsibility of other organisations, sectors and groups to deliver, Council will work with key partners to advocate on behalf of our community.

Ultimately, every one of us who live on the Central Coast has an opportunity and responsibility to create a sustainable future from which we can all benefit. Working together we can make a difference.

RESPONSIBLE

WE'RE A RESPONSIBLE COUNCIL AND COMMUNITY, COMMITTED TO BUILDING STRONG RELATIONSHIPS AND DELIVERING A GREAT CUSTOMER EXPERIENCE IN ALL OUR INTERACTIONS.

We value transparent and meaningful communication and use community feedback to drive strategic decision making and expenditure, particularly around the delivery of essential infrastructure projects that increase the safety, liveability and sustainability of our region. We're taking a strategic approach to ensure our planning and development processes are sustainable and accessible and are designed to preserve the unique character of the coast.



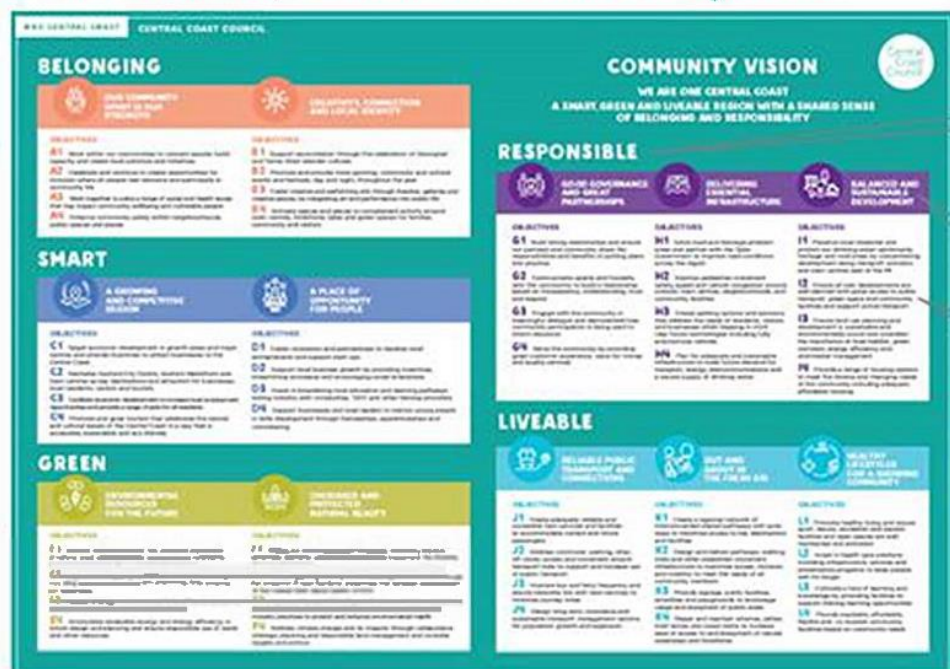
Good governance and great partnerships

G2 Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making

There are 5 themes, 12 focus areas and 48 objectives

COMMUNITY STRATEGIC PLAN 2018-2028 FRAMEWORK

All council reports contained within the Business Paper are now aligned to the Community Strategic Plan. Each report will contain a cross reference to a Theme, Focus Area and Objective within the framework of the Plan.



Theme

Focus Area

Objective

Meeting Notice

**The Extraordinary Council Meeting
of Central Coast Council
will be held in the Central Coast Council Chambers,
2 Hely Street, Wyong
on Tuesday 8 October 2024 at 6.30pm,
for the transaction of the business listed below:**

Please note: Councillors are reminded of their Oath or Affirmation of Office to undertake their duties in the best interests of the people of the Central Coast and Council and to faithfully and impartially carry out the functions, powers, authorities, and discretions vested in them under the *Local Government Act 1993*, or any other Act to the best of their ability and judgement. Councillors are also reminded of their obligations under the Code of Conduct to disclose and appropriately manage conflicts of interest.

In accordance with the *NSW Privacy and Personal Information Protection Act 1998*, you are advised that all discussion held during the Open Council meeting is recorded for the purpose of verifying the minutes. This will include any discussion involving a councillor, staff member or a member of the public.

1 Procedural Items

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David Farmer
Chief Executive Officer

Item No: 1.1
Title: Disclosure of Interest
Department: Corporate Services



8 October 2024 Extraordinary Council Meeting

Reference: F2024/00015 - D16436515
Author: Lisa Martin, Civic Support Officer Civic Support
Manager: Briony Stiles, Team Leader - Civic Support
Executive: Marissa Racomelara, Director Corporate Services

Recommendation

That Council and staff now disclose any conflicts of interest in matters under consideration by Council at this meeting.

Chapter 14 of the *Local Government Act 1993* ("LG Act") regulates the way in which the councillors and relevant staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public functions.

Section 451 of the LG Act states:

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

- (a) *the matter is a proposal relating to:*
 - (i) *the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or*
 - (ii) *the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and*
- (a1) *the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under section 443) in that person's principal place of residence, and*
- (b) *the councillor made a special disclosure under this section in relation to the interest before the commencement of the meeting.*
- (5) *The special disclosure of the pecuniary interest must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and must:*
 - (a) *be in the form prescribed by the regulations, and*
 - (b) *contain the information required by the regulations."*

Further, councillors are reminded of their oath or affirmation of office made under s233A of the LG Act and their obligations under the Code of Conduct adopted by Council, which applies to all councillors and staff. The Code relevantly provides that if a councillor or staff have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed as well as providing for a number of ways in which a non-pecuniary conflict of interests might be managed.



Item No: 1.2
Title: Apologies/Requests for Leave of Absence
Department: Corporate Services

8 October 2024 Extraordinary Council Meeting

Reference: F2024/00015 - D16447204
Author: Briony Stiles, Team Leader - Civic Support
Manager: Louise Rampling, Unit Manager Governance Risk and Legal
Executive: Marissa Racomelara, Director Corporate Services

Recommendation

That Council approves the request by Councillor John Mouland to attend the Extraordinary Council Meeting on 8 October 2024 at 6.30pm by audio-visual link because he will be in Europe at the time of the meeting and unable to attend in person.

Report

On 3 October 2024, Councillor Mouland made a request in writing to the Chief Executive Officer (CEO) to attend the Extraordinary Council Meeting on 8 October 2024 by audio-visual (AV) link. The request indicated that Councillor Mouland would be in Europe at the time of the meeting, and this was the reason he would be prevented from attending the meeting in person.

Clause 6.21 of the Code of Meeting Practice (the Code) provides that councillors may attend and participate in meetings of the Council by AV link with the approval of the Council. Such a request must be made in writing prior to the meeting, in accordance with clause 6.21 of the Code.

Clause 6.24 confirms that a Councillor who has requested approval to attend a meeting via AV link is entitled to participate in the meeting by AV link until the Council determines whether to approve their request. The Councillor is taken to be present at the meeting and may participate in a decision in relation to their request to attend the meeting by AV link.

A decision whether to approve a request by a Councillor to attend a meeting by AV link must be made by a resolution of the Council, and the resolution must state the meeting to which it applies and the reason why the Councillor is being permitted to attend the meeting by AV link, as set out in clause 6.25 of the Code.

Clause 6.27 of the Code states that a decision whether to approve a request to attend by AV link is at the Council's discretion, although Council must act reasonably when considering such requests.

If the request to attend the meeting via AV link is refused, the Councillor's link to the meeting is to be terminated. If a Councillor is permitted to attend via AV link, they are taken to be attending the meeting in person for the purposes of the Code and have the same voting rights as if they were attending the meeting in person (clause 6.29).

While councillors attending by AV link have the same right as in-person attendees to vote on a motion, the [Post-election guidance](#) issued by the Office of Local Government (OLG) indicates the position is different for elections of the mayor and deputy mayor. The election of the mayor and deputy mayor may proceed by one of the three methods set out in the Local Government (General) Regulation 2021: open voting (show of hands), ordinary ballot or preferential ballot. The OLG's Post-election guide for councils states that councillors need to be present at the meeting in person to participate in voting by ordinary or preferential ballot.

On this basis, a councillor attending by AV link will only be able to participate in the election of the mayor and deputy mayor if the Council resolves to conduct those elections by way of open voting.



Item No: 2.1
Title: Oath or Affirmation of Office
Department: Corporate Services

8 October 2024 Extraordinary Council Meeting

Reference: F2024/00015 - D16281240
Author: Alysha Coussos, Section Manager Governance
Manager: Louise Rampling, Unit Manager Governance Risk and Legal
Executive: Marissa Racomelara, Director Corporate Services

Recommendation

That Council notes the taking of the oath or making of the affirmation of office by each councillor in accordance with the Local Government Act 1993.

Report purpose

This report is to confirm that each councillor has taken the oath of office or made an affirmation of office in accordance with the requirements of the *Local Government Act 1993*.

Executive Summary

The *Local Government Act 1993* (the Act) requires newly elected councillors to take an oath or make an affirmation of office at or before the first Council meeting after the councillor is elected.

Background

Section 233A of the Act states:

- (1) *A councillor must take an oath of office or make an affirmation of office at or before the first meeting of the council after the councillor is elected.*
- (2) *The oath or affirmation may be taken or made before the general manager of the council, an Australian legal practitioner or a justice of the peace and is to be in the following form—*

Oath

I [name of councillor] swear that I will undertake the duties of the office of councillor in the best interests of the people of [name of council area] and the [name of council] and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Affirmation

I [name of councillor] solemnly and sincerely declare and affirm that I will undertake the duties of the office of councillor in the best interests of the people of [name of council area] and the [name of council] and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

- (3) *A councillor who fails, without a reasonable excuse, to take the oath of office or make an affirmation of office in accordance with this section is not entitled to attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected to the office or a meeting at which the councillor takes the oath or makes the affirmation) until the councillor has taken the oath or made the affirmation.*
- (4) *Any absence of a councillor from an ordinary meeting of the council that the councillor is not entitled to attend because of this section is taken to be an absence without prior leave of the council.*
- (5) *Failure to take an oath of office or make an affirmation of office does not affect the validity of anything done by a councillor in the exercise of the councillor's functions.*
- (6) *The general manager must ensure that a record is to be kept of the taking of an oath or the making of an affirmation (whether in the minutes of the council meeting or otherwise).*

Report

Under the Act, councillors are required to take an oath of office or make an affirmation of office at or before the first meeting of the council after the councillor is elected. The first meeting of Council following the 14 September 2024 election is the extraordinary meeting held on 8 October 2024.

The taking of the oath or making of the affirmation by each councillor will be recorded in the minutes of this Council meeting.

Financial Considerations

Nil.

Link to Community Strategic Plan

Theme 4: Responsible

Goal G: Good governance and great partnerships

R-G2: Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making.

Risk Management

Section 233A of the Act prescribes that councillors (including mayors) must take an oath of office or make an affirmation of office at or before the first meeting of the council after the councillor is elected. Councillors are not entitled to attend council meetings as a councillor until an oath or affirmation is taken in the prescribed form. If a councillor is absent without leave for three consecutive ordinary council meetings their office is automatically declared vacant.

Critical Dates or Timeframes

The oath or affirmation must be taken or made before or at the first meeting of the council on 8 October 2024.

Attachments

Nil.

Item No: 2.2
Title: Election of the Mayor
Department: Corporate Services



8 October 2024 Extraordinary Council Meeting

Reference: F2022/02823 - D16184378
Author: Alysha Croussos, Section Manager Governance
Manager: Louise Rampling, Unit Manager Governance Risk and Legal
Executive: Marissa Racomelara, Director Corporate Services

Recommendation

That Council:

- 1 Determines, for the purpose of clause 3(2) of Schedule 7 of the Local Government (General) Regulation 2021, that if more than one candidate is nominated for election as mayor, the method of voting is to be by:***
 - a) open voting, OR***
 - b) ordinary ballot OR***
 - c) preferential ballot.***
- 2 Proceeds to conduct the election of the mayor, with the Chief Executive Officer as returning officer, in accordance with section 394 and Schedule 7 of the Local Government (General) Regulation 2021.***

Report purpose

This report is to determine the method of election for the position of mayor and to outline the procedure for conducting that election.

Executive Summary

Councillors must elect a mayor from among their number within 14 days of the declaration of the ordinary election. The method of election is to be determined by the Council.

The procedure to elect a mayor is prescribed in Schedule 7 of the *Local Government (General) Regulation 2021*.

Background

Sections 225 and 227 of the *Local Government Act 1993* (the Act) provide that an area must have a mayor who is elected by the councillors of the area, unless there has been a decision by referendum that the mayor be elected by electors.

Section 230 of the Act provides that a mayor elected by councillors holds this office for two (2) years, subject to the Act. The office of the mayor commences on the day the person elected to the office is declared to be so elected, and becomes vacant when the person's successor is declared to be elected to the office, or on the occurrence of a casual vacancy in the office.

Section 282(2) notes that the mayor of an area who is to be elected by the councillors for the area is to be elected by the councillors from among their number.

For councils coming out of administration, section 290(1)(d) of the Act requires that mayoral elections be held within 14 days after the election of the councillors.

Report

As there has been no decision by referendum for a mayor to be elected by the electors, the councillors must elect a mayor from among their own number to hold office for two (2) years.

Clause 394 of the *Local Government (General) Regulation 2021* (Regulation) requires the election of a mayor to be conducted in accordance with Schedule 7 of the Regulation.

By way of overview, Part 1 of Schedule 7 provides that:

- The Chief Executive Officer (or their nominee) is the Returning Officer for the election of the mayor.
- A councillor is to be nominated in writing by two or more councillors, one of whom may be the nominee, and the nomination is not valid unless the nominee consents to the nomination in writing.
- The nomination is to be delivered or sent to the Returning Officer.
- If only one councillor is nominated, that councillor is elected as mayor.
- If more than one councillor is nominated, the council is to resolve whether the election is to proceed by:
 - Open voting (show of hands);
 - Ordinary ballot (secret ballot);
 - Preferential ballot (secret ballot by way of preferential voting).
- Counting will be conducted in accordance with Parts 2 or 3 of Schedule 7, depending on the method of voting adopted by council.

The Office of Local Government (OLG) has prepared an [Election of Mayor and Deputy Mayor by Councillors Fact Sheet](#). This Fact Sheet states that open voting is the most transparent and

least bureaucratic method of voting and reflects normal council voting methods. On this basis, it is recommended that the mayoral election be conducted by way of open voting.

The OLG has prepared guidance explaining the requirements and process in more detail, which is available on their website under the [Mayoral Elections](#) page.

The annual fee to be paid to the mayor was fixed at \$110,970 by Council resolution on 28 May 2024. On that occasion, it was also resolved that an annual fee of \$10,000 be paid to the Deputy Mayor (if there is one), with that fee to be deducted from the annual fee paid to the Mayor.

Financial Considerations

Financial Year (FY) Implications

The proposal does not have financial implications for the current year or outer years in the LTFP.

Budget and Long-Term Financial Plan (LTFP) Impact

The FY adopted budget includes funding for this proposal.

The remuneration payable to the mayor for the 2024-25 financial year is \$110,970, as resolved by Council on 28 May 2024 (in accordance with the Local Government Remuneration Tribunal Annual Report and Determination dated 29 April 2024). The fee of \$10,000 payable to the Deputy Mayor (if there is one) will be deducted from the mayor's annual fee. The mayoral remuneration is provided for within Council's current adopted budget.

Link to Community Strategic Plan

Theme 4: Responsible

Goal G: Good governance and great partnerships

R-G2: Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making.

Risk Management

If the councillors fail to elect a mayor as required by the Act, the Governor may appoint one of the councillors as the mayor in accordance with section 290(2) of the Act.

Critical Dates or Timeframes

In accordance with section 290(1)(d) of the Act, as Council is coming out of administration, the election of the mayor by the councillors is to be held within 14 days after the appointment or election of the councillors (which took place on 1 October 2024).

Attachments

Nil.

Item No: 2.3
Title: Election of Deputy Mayor
Department: Corporate Services



8 October 2024 Extraordinary Council Meeting

Reference: F2022/02823 - D16389923
Author: Louise Rampling, Unit Manager Governance Risk and Legal
Executive: Marissa Racomelara, Acting Chief Executive Officer

Recommendation

That Council:

- 1 Determines to elect a deputy mayor for a term of two (2) years from the date of this meeting.***
- 2 Determines, for the purpose of clause 3(2) of Schedule 7 of the Local Government (General) Regulation 2021, that if more than one candidate is nominated for election as deputy mayor, the method of voting is to be by:***
 - a) open voting, OR***
 - b) ordinary ballot OR***
 - c) preferential ballot.***
- 3 Proceeds to conduct the election of the deputy mayor, with the Chief Executive Officer as returning officer, in accordance with section 394 and Schedule 7 of the Local Government (General) Regulation 2021.***

Report purpose

This report is to determine whether councillors wish to elect a deputy mayor, the term of appointment of any deputy mayor and the method of voting for such an election.

Executive Summary

It is open to councillors to elect a deputy mayor from among their number. The deputy mayor may exercise any function of the mayor at the request of the mayor, or in the mayor's absence.

The deputy mayor may be elected for the mayoral term of two (2) years or a shorter term.

The procedure to elect a deputy mayor is prescribed in Schedule 7 of the *Local Government (General) Regulation 2021*.

Background

Section 231 of the *Local Government Act 1993* (the Act) allows a deputy mayor to be elected by the councillors from among their number for the mayoral term or a shorter term. The deputy mayor may exercise any function of the mayor:

- at the mayor's request, 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.

Under section 369 of the Act, the deputy mayor also presides at Council meetings at the request of the mayor or in the mayor's absence.

If Council resolves to elect a deputy mayor, the deputy mayor must be nominated and elected in accordance with the process set out in Schedule 7 of the *Local Government (General) Regulation 2021*. These provisions have been outlined in the business paper relating to the Election of the Mayor, so are not repeated here.

Report

The role of the deputy mayor, as set out in the Act, is to exercise the functions of the mayor (including presiding at meetings of Council) at the mayor's request or in the mayor's absence.

If a deputy mayor is not elected and the mayor is not present at any Council meeting, the Council will need to elect a chairperson as the first item of business at that meeting, in accordance with clause 369 of the Act and the procedures set out in clauses 7.3 to 7.8 of Council's Code of Meeting Practice. There may also be a need for a resolution of Council to delegate functions to another councillor should the elected mayor be unable, for any reason, to exercise a function of the office of the mayor.

It is recommended that Council resolves to elect a deputy mayor so there is a structured and formal mechanism in place for the exercise of the mayoral functions should the mayor be unavailable.

If it is resolved to elect a deputy mayor, Council will need to determine the term of that appointment. The deputy mayor may be elected for the mayoral term or a shorter term. It is recommended that a deputy mayor be elected for two (2) years to align with the statutory term for the mayor.

The election of a deputy mayor, if more than one councillor is nominated, may proceed by open voting, ordinary ballot (secret ballot) or preferential ballot (secret ballot by way of preferential voting). As with the election of the mayor, the open voting method is recommended for electing the deputy mayor, as this is the most transparent and least

bureaucratic method of voting and reflects Council's accepted voting method as outlined in the Code of Meeting Practice.

In accordance with section 249(5) of the Act, Council may pay the Deputy Mayor a fee for such time as the Deputy Mayor acts in the office of the Mayor. The amount of the fee paid must be deducted from the Mayor's annual fee. The annual fee to be paid to the deputy mayor was fixed at \$10,000 - which is just over 4 weeks of the Mayoral annual fee - by Council resolution on 28 May 2024. It is open to Council to make a further resolution in respect of the fee payable to the Deputy Mayor.

Financial Considerations

Financial Year (FY) Implications

The proposal does not have financial implications for the current year or outer years in the LTFP.

Budget and Long-Term Financial Plan (LTFP) Impact.

The FY adopted budget includes funding for this proposal.

Section 249(5) of the Act states that a council may pay the deputy mayor a fee determined by the council for such time as the deputy mayor acts in the officer of the mayor, and the amount of the fee so paid must be deducted from the mayor's annual fee.

Council resolved, on 28 May 2024, that an annual fee of \$10,000 be paid to the Deputy Mayor, with that fee to be deducted from the annual fee paid to the Mayor. As the remuneration payable to the deputy mayor is deducted from the mayor's annual fee (which has been provided for within Council's current adopted budget), there are no budgetary implications if a deputy mayor is elected.

Link to Community Strategic Plan

Theme 4: Responsible

Goal G: Good governance and great partnerships

R-G3: Provide leadership that is transparent and accountable, makes decisions in the best interest of the community, ensures Council is financially sustainable and adheres to a strong audit process.

Risk Management

If a deputy mayor is not elected, there is a risk that any absence or unavailability of the mayor will need to be dealt with on an ad hoc basis. This risk is controlled by the appointment of a deputy mayor.

Options

- 1 That Council elects a deputy mayor for a term of two (2) years and determines the method of voting for that election. **(This is the recommended option.)**
- 2 That Council does not elect a deputy mayor. (This is not the recommended option as there may be occasions where a deputy mayor is required to undertake the functions of the mayor.)

Attachments

Nil

Item No: 2.4
Title: Instrument of Delegation for the Chief Executive Officer
Department: Corporate Services



8 October 2024 Extraordinary Council Meeting

Reference: F2022/02823 - D16217768
Author: Alysha Croussos, Section Manager Governance
Manager: Louise Rampling, Unit Manager Governance Risk and Legal
Executive: Marissa Racomelara, Director Corporate Services

Recommendation

That Council reviews and makes no changes to the Instrument of Delegation to the Chief Executive Officer, dated 26 April 2021, at Attachment 1.

Report purpose

For the elected Council to review the delegations which have been issued to the Chief Executive Officer (CEO).

Executive Summary

Council must review its delegations within the first 12 months of its term. It is recommended that no changes be made to the CEO's existing delegations, noting that the Performance Improvement Order issued on 19 September 2024 provides Council can change its delegations only with the concurrence of the Deputy Secretary of the Office of Local Government.

Background

Section 380 of the *Local Government Act 1993* (NSW) (the Act) requires Council to review all delegations during the first 12 months of each term of office, and it is best practice that such a review takes place at the commencement of the new Council term.

Section 377 of the Act stipulates which functions are delegable to the Chief Executive Officer, and which functions are to remain only within the power of the elected Council. Section 378 of the Act states that the Chief Executive Officer may sub-delegate a function to staff.

Report

The CEO was issued with his current Instrument of Delegation on his commencement with Council on 12 April 2021. This Instrument of Delegation delegates to the CEO all of Council's

functions, except those which must not be delegated by the operation of s377(1) of the Act, for the period of the CEO's appointment, in accordance with the resolution of Council on 25 February 2021.

The existing delegation of functions to the CEO allows Council to be efficiently and effectively managed. It is not proposed to make any changes to the CEO's delegation, noting that the Performance Improvement Order issued to Council on 19 September 2024 by the Minister for Local Government states Council can only change its delegations with the concurrence of the Deputy Secretary of the Office of Local Government (OLG).

While not specifically noted in the CEO's delegation, it is observed that the CEO grants final approval for payments for councillor expenses in accordance with the [Councillor Expenses and Facilities Policy](#). For probity reasons, approval for the payment of the Mayor's expenses will be co-signed by the Deputy Mayor.

Financial Considerations

Nil.

Link to Community Strategic Plan

Theme 4: Responsible

Goal G: Good governance and great partnerships

R-G3: Provide leadership that is transparent and accountable, makes decisions in the best interest of the community, ensures Council is financially sustainable and adheres to a strong audit process.

Risk Management

There is a risk of non-compliance with the Performance Improvement Order if the CEO's delegations are changed without the concurrence of the Deputy Secretary of the OLG. This risk is controlled by maintaining the CEO's current delegations.

Options

- 1 Council reviews and makes no changes to the Chief Executive Officer's current Instrument of Delegation. **(This is the recommended option.)**



2.4 Instrument of Delegation for the Chief Executive Officer (cont'd)

- 2 Council determines to change the CEO's Instrument of Delegation and seeks the concurrence of the Deputy Secretary of the Office of Local Government. (This is not the recommended option.)

Critical Dates or Timeframes

Council is required to review its delegations within the first 12 months of each term of office.

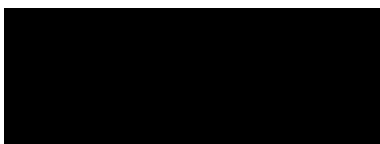
Attachments

- 1  Instrument of Delegation to David Farmer CEO effective 12 April 2021 D14607010




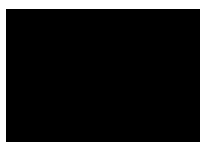
Instrument of Delegation to Chief Executive Officer, Mr David Farmer

On 25 February 2021 the Central Coast Council ("the Council") resolved pursuant to s. 377 of the *Local Government Act 1993* to delegate to Mr David Farmer all of the Council's functions (except for those functions which must not be delegated by the operation of s. 377(1) of the *Local Government Act 1993*) for the period that Mr Farmer is appointed in the position of General Manager [Chief Executive Officer] of the Council commencing from 12 April 2021.



.....
Mr Dick Persson AM
Administrator
Central Coast Council
26 April 2021

I accept the delegation and sub-delegation made to me by this instrument.



.....
Mr David Farmer
Date: 27/04/2021



Item No: 2.5
Title: Instrument of Delegation for the Mayor
Department: Corporate Services



8 October 2024 Extraordinary Council Meeting

Reference: F2022/02823 - D16442718
Author: Alysha Croussos, Section Manager Governance
Manager: Louise Rampling, Unit Manager Governance Risk and Legal
Executive: Marissa Racomelara, Director Corporate Services

Recommendation

That Council:

- 1 Seeks concurrence from the Deputy Secretary of the Office of Local Government to delegate to the Mayor those functions set out in the Instrument of Delegation to Mayor at Attachment 1.***
- 2 If concurrence is received, delegates to the Mayor the functions set out in the Instrument of Delegation to the Mayor at Attachment 1.***

Report purpose

This report presents the Instrument of Delegation to the Mayor so that concurrence can be sought from the Deputy Secretary of the Office of Local Government before those functions are delegated by Council to the Mayor.

Executive Summary

It is proposed that certain functions be delegated to the Mayor to allow for efficient management of the organisation. As this is a change to Council's delegations, the Performance Improvement Order requires that concurrence first be obtained from the Deputy Secretary of the Office of Local Government.

Background

In accordance with the Performance Improvement Order issued to Council on 19 September 2024, concurrence must be sought from the Deputy Secretary of the Office of Local Government to change Council's delegations. As there is no current delegation to the office of mayor, the proposed delegation constitutes a change to Council's delegations.

Report

In accordance with section 377 of the Act, it is proposed that Council delegates to the Mayor the functions outlined in the Instrument of Appointment to the Mayor at Attachment 1. The Mayor will be able to sub-delegate these functions to the Deputy Mayor, with the general limitation that the Deputy Mayor may only exercise these functions:

- a) at the request of the Mayor, or
- b) if the Mayor is prevented by illness, absence or otherwise from exercising these functions, or
- c) there is a casual vacancy in the office of the Mayor.

Stakeholder Engagement

Nil

Financial Considerations

Nil

Link to Community Strategic Plan

Theme 4: Responsible

Goal G: Good governance and great partnerships

R-G3: Provide leadership that is transparent and accountable, makes decisions in the best interest of the community, ensures Council is financially sustainable and adheres to a strong audit process.

Risk Management

The proposed delegation has been drafted using the most recently available provisions from the Local Government Legal delegations database. This database is designed to assist councils to ensure their delegation documents are prepared correctly and kept up to date in accordance with the latest legislation.

Options

- 1 Council seeks the concurrence of the Deputy Secretary of the Office of Local Government before delegating functions to the Mayor as proposed. **(This is the recommended option.)**
- 2 Council delegates functions to the Mayor without the concurrence of the Deputy Secretary of the Office of Local Government. (This is not the recommended option.)

Attachments

1 DRAFT - Instrument of Delegation to the Mayor D16437173

CENTRAL COAST COUNCIL INSTRUMENT OF DELEGATION TO MAYOR

On Tuesday, 8 October 2024, the Central Coast 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.
 - (a) **Subject to** any condition or limitation on a Function specified in Schedule 1; and
 - (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.
6. 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: Sub-delegated Functions

Local Government Act 1993

Function Code	Function	Condition/ Limitation (if any)
LG Act 004	<p>Mayor Functions –</p> <p>Authority to exercise and/or perform the role of the mayor.</p> <p>Pursuant To –</p> <p>sections 226.</p>	<p>The following items are to be included on the Instrument of Delegation to the Mayor:</p> <ol style="list-style-type: none"> 1. Authority, in cases of emergency where it is not practical to wait for the next scheduled meeting of Council, to exercise such functions of the Council as necessary in the situation, except those functions listed under Section 377 of the Act, and those regulatory functions under Chapter 7 of the Act. This delegation applies only to those functions properly held by the Council and does not extend to statutory functions of the Chief Executive Officer under Section 335 of the Act. 2. Authority to affix the corporate seal of Central Coast Council to all documents necessary for Council to enter into or be a party to any property or commercial transaction, provided that the transaction has already been authorised by a specific resolution of Council. 3. Recruitment, appointment, oversight and performance management of the Chief Executive Officer in accordance with the Office of Local Government's <i>Guidelines for the Appointment and Oversight of General Managers</i>, Section 352 of the Act and relevant Council policies and procedures.

Schedule 2: Policy Authorities

Code	Policy Authority	Conditions / Limitations (if any)
N/A	To make media statements and issue media releases in respect of Council, in accordance with Council's policies.	N/A

Schedule 3: General Limitations

Limitations (if any)
N/A

[Name of Mayor]

Mayor

Date: Tuesday 8 October 2024

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.

[Name of Mayor]

Mayor

Date: Tuesday 8 October 2024

Item No: 2.6
Title: Proposed Ordinary Council Meeting Schedule - 2025
Department: Corporate Services



8 October 2024 Extraordinary Council Meeting

Reference: F2022/02823 - D16217769
Author: Alysha Croussos, Section Manager Governance
Manager: Louise Rampling, Unit Manager Governance Risk and Legal
Executive: Marissa Racomelara, Director Corporate Services

Recommendation

That Council determines to hold Ordinary Meetings of Council at 2 Hely Street, Wyong, commencing at 6.30pm, on each of the following dates in 2025:

- ***25 February 2025***
- ***25 March 2025***
- ***29 April 2025***
- ***27 May 2025***
- ***24 June 2025***
- ***22 July 2025***
- ***26 August 2025***
- ***23 September 2025***
- ***28 October 2025***
- ***25 November 2025***
- ***9 December 2025***

Report purpose

This report is to confirm the date, time and place for holding Ordinary Council Meetings during 2025.

Executive Summary

Council is required to meet at least ten times per year, each time in a different month. The Code of Meeting Practice requires Council to set the frequency, time, date and place of its Ordinary Meetings by resolution.

Background

Section 365 of the [Local Government Act 1993](#) (the Act) provides that Council must meet at least ten times per year, with each meeting being in a different month.

Clause 5.1 of Council's Code of Meeting Practice states:

Ordinary Meetings of Council will be held on the fourth Tuesday of the months of January to November inclusive and on the second Tuesday of the month of December at 2 Hely Street, Wyong commencing at 6.30 PM.

Clause 5.2 of the Code requires Council to set or vary the frequency, time, date and place of its Ordinary Meetings by resolution.

Report

It is proposed that Ordinary Council Meetings be held during 2025 as follows:

<i>Date</i>	<i>Day</i>	<i>Time</i>	<i>Location</i>
25 February 2025	Tuesday	6:30 PM	Council Chambers, 2 Hely Street, Wyong
25 March 2025	Tuesday	6:30 PM	Council Chambers, 2 Hely Street, Wyong
29 April 2025	Tuesday	6:30 PM	Council Chambers, 2 Hely Street, Wyong
27 May 2025	Tuesday	6:30 PM	Council Chambers, 2 Hely Street, Wyong
24 June 2025	Tuesday	6:30 PM	Council Chambers, 2 Hely Street, Wyong
22 July 2025	Tuesday	6:30 PM	Council Chambers, 2 Hely Street, Wyong
26 August 2025	Tuesday	6:30 PM	Council Chambers, 2 Hely Street, Wyong
23 September 2025	Tuesday	6:30 PM	Council Chambers, 2 Hely Street, Wyong
28 October 2025	Tuesday	6:30 PM	Council Chambers, 2 Hely Street, Wyong
25 November 2025	Tuesday	6:30 PM	Council Chambers, 2 Hely Street, Wyong
9 December 2025	Tuesday	6:30 PM	Council Chambers, 2 Hely Street, Wyong

This schedule proposes eleven (11) meetings, which is above the Act's minimum requirement of ten (10) meetings per annum.

It is proposed to not hold a January meeting, which is common practice among councils in NSW. It is also proposed to schedule the April meeting for the fifth Tuesday of the month, instead of the fourth Tuesday of the month, due to the Easter public holidays.

Subsequent changes to the arrangements for Ordinary Meetings can be made via Council resolution.

An alternative meeting schedule may be proposed by councillors, provided it allows for at least ten Council meetings, with each meeting being in a different month. Any increase in the number of meetings or a significant change to the proposed meeting cycle would need to be considered in light of resourcing requirements and potential budgetary implications.

Financial Considerations

Funding to support the proposed scheduling of Ordinary Council Meetings is included in the existing operational budget.

Link to Community Strategic Plan

Theme 4: Responsible

Goal G: Good governance and great partnerships

R-G2: Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making.

Risk Management

Council meetings provide an open and transparent public forum where the decisions of Council are made. Setting the schedule for Ordinary Council Meetings in advance provides the community with certainty and the opportunity for engagement.

Options

- 1 Council resolves to hold Ordinary Council Meetings as detailed in this report. **(This is the recommended option).**
- 2 Council adopts an alternative schedule of Ordinary Council Meetings, noting this may have resourcing and financial implications. (This is not recommended).

Attachments

Nil.

Item No: 2.7
Title: Performance Improvement Order on Central Coast Council
Department: Corporate Services



8 October 2024 Extraordinary Council Meeting

Reference: F2024/00015 - D16421233
Author: Stephanie Prouse, Section Manager, Councillor and Democratic Services
Manager: Louise Rampling, Unit Manager Governance Risk and Legal
Executive: David Farmer, Chief Executive Officer

Recommendation

That Council:

- 1 Notes the correspondence from the Minister for Local Government, The Hon. Ron Hoenig MP, dated 19 September 2024.***
- 2 Tables and acknowledges the Performance Improvement Order to the Central Coast Council, issued under section 428A of the Local Government Act 1993 from the Minister for Local Government, The Hon. Ron Hoenig MP, dated 19 September 2024.***
- 3 Publishes the Performance Improvement Order on Council's website, in accordance with section 438D(2) of the Local Government Act 1993.***
- 4 Invites the Deputy Secretary of the Office of the Local Government to discuss the Performance Improvement Order with Councillors.***
- 5 Endorses to undertake the actions described in Schedule 2 of the Performance Improvement Order over the next 12 months, including the completion of a compliance report on the implementation of the Performance Improvement Order.***

Report purpose

This report is to inform the Council of the receipt of the Performance Improvement Order (PIO) that was served by The Hon. Ron Hoenig MP under section 438A of the *Local Government Act 1993*.

Executive Summary

On 19 September 2024, Council was formally served by the Minister for Local Government, The Hon. Ron Hoenig MP with a Performance Improvement Order (PIO) under section

438A of the *Local Government Act 1993*. Refer to (Attachment 1 and 2) for the Minister's letter and PIO, respectively.

The period of compliance with the PIO finishes 12-months from the PIO issue date of 19 September 2024. During that time, Council staff and Councillors will comply with the PIO.

The following are Council's reporting obligations under the PIO:

- Council is to provide a quarterly compliance report to the Deputy Secretary OLG.
- As part of the first quarterly compliance report to the Deputy Secretary OLG, Council is to provide the Operational Plan and updated Long Term Financial Plan (LTFP), the adopted Code of Meeting Practice and the Councillor/ Staff Interaction policy.
- Each quarterly report must also include:
 - the quarterly business reporting statement
 - use of the Councillor request system
 - any determination of 'acts of disorder' made at a Council Meeting.

Council must meet all compliance milestones and provide a final report to the Minister by 19 September 2025.

Background

In 2024, the Office of Local Government NSW invited the NSW local government Administrators to discuss the possibility of a provision of a mechanism to provide clear expectations for the future governance and operation of the Council under the newly elected Council.

On 2 September 2024, the Administrator Rik Hart received a formal letter from the Minister for Local Government, the Hon. Ron Hoenig MP, giving notice of his intention to issue a Performance Improvement Order (PIO) to Council, under the Minister's powers and in accordance with the *Local Government Act 1993* (the Act).

At that time, the Minister invited Council to make a submission in respect of the proposed PIO. The Council's submission outlined the reasons for agreeing to the PIO proposed to be issued to Council.

At the Extraordinary Council Meeting of 6 September 2024, the Administrator, Rik Hart tabled an Administrator Minute to consider and table the notice to issue a PIO to Council by The Hon. Ron Hoenig MP.

The following was resolved on the motion of the Administrator:

Resolved

I formally move that Council:

- 353/24 *Notes the correspondence from the Minister for Local Government, The Hon. Ron Hoenig MP, dated 2 September 2024.*
- 354/24 *Considers and tables the proposed Performance Improvement Order to the Central Coast Council, under Section 438A of the Local Government Act 1993 from the Minister for Local Government, The Hon. Ron Hoenig MP, dated 2 September 2024.*
- 355/24 *Provides the attached submission to the Minister for Local Government, The Hon. Ron Hoenig MP by Monday 9 September.*

In accordance with resolution 355/24, Council provided a submission to the Minister for Local Government, The Hon. Ron Hoenig MP on Friday 6 September 2024.

Report

On 19 September 2024, Council was formally served with the attached signed Performance Improvement Order from the Hon. Ron Hoenig MP. In the Minister's correspondence, The Hon. Ron Hoenig MP confirmed that he had carefully considered Council's submission and all the information available prior to deciding.

The Hon. Ron Hoenig MP issued the PIO to Council to establish clear expectations around Council's performance over the next 12 months.

The PIO sets clear expectations for the future governance and operation of the Council and identifies actions to be taken to ensure that Council's sound financial position is maintained.

The Hon. Ron Hoenig MP's reasons for the PIO are summarised below:

- Council needs to keep its budget discipline and maintain its financial sustainability, particularly given its program of asset renewal in its water and sewer business, key environmental management projects and the ongoing management of operational costs,
- Council needs to ensure it maintains access to appropriate staff expertise and engagement to provide secure advice to the councillors on financial, governance and regulatory matters,
- Council should only be changing strategic priorities with clear understanding of costs and have supporting strategies to ensure that Council doesn't fund initiatives through either debt or inappropriate access of restricted funds, and

- Council needs to continue to deliver and implement the changes required as part of the recommendations of the McCulloch Inquiry.

As part of the PIO process, the Office of Local Government will:

- Monitor the implementation of performance improvement orders.
- Advise Council in writing of the outcome of the Minister's consideration of its compliance report.
- Publish orders, compliance reports and monitoring assessments on its website.

Stakeholder Engagement

Consultation (internal)

- The Chair of the Audit, Risk and Improvement Committee was informed of the intention to issue the PIO via the Administrator Minute at the Extraordinary Council meeting on 6 September 2024.

Communication/Community engagement

- A copy of the Notice of Intention was placed on the public record at the Extraordinary Council Meeting on 6 September 2024 and is available on Council's website.
- The PIO is available on the [Office of Local Government's website](#).

Financial Considerations

Financial Year (FY) Implications

The proposal does not have financial implications for the current year or outer years in the LTFP.

Budget and Long-Term Financial Plan (LTFP) Impact.

The FY adopted budget includes funding for this proposal.

Tasks required to comply with the PIO will be completed with existing resourcing and as part of existing mandated processes. Should there be any additional costs associated with the oversight required by ARIC, these would be identified as part of the relevant Quarterly Budget Review process.

Link to Community Strategic Plan

Theme 4: Responsible

Goal G: Good governance and great partnerships

R-G3: Provide leadership that is transparent and accountable, makes decisions in the best interest of the community, ensures Council is financially sustainable and adheres to a strong audit process.

Risk Management

Non-compliance with the PIO would lead to further consequences being imposed, including increased Ministerial interventions, together with damage to the Council's reputation, and possibly reflecting poorly on individual councillors. Such reputational harm is avoidable, but expensive and disruptive if allowed to occur. However, to control this risk, the Councillor induction and training programs have been prepared to facilitate initial and ongoing compliance with the PIO, such that the risk of non-compliance is mitigated, and Councillors can act on decisions available to them in accordance with the PIO.

Council should maintain visibility over the PIO and Council's compliance with it.

Options



Council has been served with the PIO and must comply with the terms set by the Minister for Local Government, The Hon. Ron Hoenig MP.

Critical Dates or Timeframes

As per Schedule 2 of the PIO, Council is required to provide quarterly reports to the Office of Local Government:

- Q1 (first report): October-December 2024
- Q2: January-March 2025
- Q3: April-June 2025
- Q4: July-September 2025
- Final Compliance Report on the implementation of the Performance Improvement Order, due no later than 19 September 2025.

Attachments

- | | | |
|--|--|-----------|
| 1  | Correspondence from the Minister for Local Government dated 19 September 2024 | D16423956 |
| 2  | Minister for Local Government signed Performance Improvement Order for Central Coast Council | D16423961 |

The Hon. Ron Hoenig MP

Leader of the House in the Legislative Assembly
Vice-President of the Executive Council
Minister for Local Government



Our Ref: A898435 / MO24 -0840

Mr Rik Hart
Administrator
Central Coast Council
PO Box 20
Wyong NSW 2259

Via email: ask@centralcoast.nsw.gov.au and Rik.Hart@centralcoast.nsw.gov.au

Dear Mr Hart,

I refer to previous correspondence concerning my intention to issue a Performance Improvement Order (PIO) to Central Coast Council (Council) under section 438A of the *Local Government Act 1993* (the Act).

I have carefully considered Council's submission, made on 6 September 2024 following by a resolution of Council.

Having considered all the information available to me, including Council's submission, I have formed the view that action must be taken to ensure there is no loss to the improvement of Council's performance as it transitions out of Administration. As a consequence I have decided to issue a PIO to establish clear expectations around Council's performance over the next 12 months. The reasons for my decision to issue a PIO are set in the body of the enclosed PIO.

It is important that the newly elected body works together with the Council's General Manager and staff to ensure compliance with the terms of the PIO. I have also asked the Office of Local Government to contact Council to provide an opportunity for the Deputy Secretary to discuss the PIO with Councillors.

I expect that Council will table the PIO at an open Council meeting and place the PIO on Council's website in accordance with section 438D(2) of the Act.

I have made Mr Brett Whitworth, Deputy Secretary, Local Government, to be available on 02 4428 4100 or via olg@olg.nsw.gov.au should you have any questions or wish to discuss the PIO.

Yours sincerely,

The Hon. Ron Hoenig MP
Leader of the House in the Legislative Assembly
Vice-President of the Executive Council
Minister for Local Government

19 SEP 2024

Encl: Performance improvement Order

CC: Mr David Farmer, General Manager, Central Coast Council

52 Martin Place Sydney NSW 2000
GPO Box 5341 Sydney NSW 2001

02 7225 6150
nsw.gov.au/ministerhoenig

Local Government Act 1993


Section 438A

Performance Improvement Order

I, the Honourable Ron Hoenig MP, Minister for Local Government, do, by this order under section 438A of the *Local Government Act 1993* (the Act), require the Central Coast Council (Council) for the reasons specified in Schedule 1 below, to undertake the actions described in Schedule 2 below within the period specified.

This Order takes effect upon service on Council.

Dated this 19th day of September 2024



The Hon. Ron Hoenig, MP.
Minister for Local Government

Schedule 1

1.1 Reasons for Order – section 438A(3)(a) of the Act

1. Council needs to keep its budget discipline to maintain its financial sustainability, particularly given its program of asset renewal in its water and sewer business, key environmental management projects and the ongoing management of operational costs,
2. Council needs to ensure it maintains access to appropriate staff expertise and engagement to provide secure advice to the councillors on financial, governance and regulatory matters,
3. Council should only be changing strategic priorities with clear understanding of costs and have supporting strategies to ensure Council doesn't fund initiatives through either debt or inappropriate access of restricted funds, and
4. Council needs to continue to deliver and implement the changes required as part of the recommendations of the McCulloch Inquiry.

Schedule 2

2.1 Action required to improve performance – section 438A(3)(b) of the Act

In accordance with section 438A of the *Local Government Act 1993*, this order requires that:

2.1.1 Staffing

1. Council can only terminate its general manager's contract of employment with the concurrence of the Deputy Secretary of the Office of Local Government (OLG),
2. Council can only change its delegations with the concurrence of the Deputy Secretary OLG,
3. Council can only restructure the organisation with the concurrence of the Deputy Secretary OLG,

2.1.2 Financial oversight and discipline

4. Council must implement any ongoing recommendations from the Public Inquiry. The recommendations made in the report on the review of Council's governance practices under the oversight of the Audit, Risk and Improvement Committee (AIRC),
5. Council must engage its ARIC on "any significant changes" to council's priorities direction and take into account any recommendations,
6. Council must implement the adopted budget and operations plan for 2024/25. Any significant changes must be agreed by the Deputy Secretary OLG,
7. Council must publicly document the impact of all Council's resolutions on Council's Long Term Financial Plan (LTFP),
8. Council must not make financial decisions that impact adversely on Council's financial metrics as measured through the Office of Local Government financial indicators,
9. Council is to maintain an appropriate level of unrestricted cash and expend externally restricted funds only for the purpose for which they are set aside,
10. Council must take necessary steps to ensure timely and accurate financial monitoring and reporting including at a minimum the Quarterly Business Report, which is to be submitted to OLG for review and made clearly available to the community on Council's website,

2.1.3 Governance

11. Council is to ensure that best practice governance standards are implemented and maintained. This is to be achieved by Council providing resources to the General Manager to ensure that:
 - a. governance standards are maintained,
 - b. the operational plan can be delivered,
 - c. infrastructure maintenance meets the operational plan and LTFP requirements, and
 - d. there is consistent improvement in financial ratios.
12. Council can only amend its councillor/staff interaction policy with the concurrence of the Deputy Secretary OLG, noting the general manager may update the staff list that can be contacted by councillors,
13. Council must ensure that the general manager develops a councillor request system to manage email requests from councillors. The system should ensure that communications are respectful, the number of requests are reasonable and include provisions permitting the general manager to impose limitations where disrespectful or excessive use of the system occurs,

2.1.4 Council meeting practices

14. Council must ensure its code of meeting practice complies with the *Model Code of Meeting Practice for Local Councils in NSW* (the Model Meeting Code),
15. Council must ensure councillor briefings are open to the public unless the general manager is satisfied that grounds exist under the Act to exclude members of the public from a briefing to consider information that should not be made public, and

16. Council must conduct its meetings in accordance with its code of meeting practice and must not make decisions at councillor briefings and workshops.

2.2 Period for compliance with Order

1. The Council is to comply with this order for 12 months from the date of issue.

2.3 Reporting obligations

1. The Council is to provide a quarterly compliance report to the Deputy Secretary OLG. As part of the first report Council is to provide to the Deputy Secretary OLG:
 - a) the Operational Plan and updated LTFP,
 - b) the adopted code of meeting practice, and
 - c) the councillor/staff interaction policy
2. Each quarterly report is also to include:
 - a) the quarterly business reporting statement,
 - b) use of the councillor request system, and
 - c) any determinations of 'acts of disorder' made at a council meeting

Item No: 2.8
Title: Outcome of Constitutional Referendum
Department: Corporate Services



8 October 2024 Extraordinary Council Meeting

Reference: F2024/00236 - D16413167
Author: Louise Rampling, Unit Manager Governance Risk and Legal
Executive: Marissa Racomelara, Director Corporate Services

Recommendation

That Council:

- 1 Notes the constitutional referendum held on 14 September 2024 was declared passed on 1 October 2024, with a result of YES to the question of whether voters favour a reduction in the number of councillors from fifteen (15) to nine (9) and the number of wards from five (5) to three (3).***
- 2 Notes the changes approved at the constitutional referendum will not come into effect until the electoral term commencing in September 2028, except that a casual vacancy in the office of a councillor during the current term will not be filled unless it would result in Council having fewer than nine (9) councillors.***
- 3 Notes that a further report will be presented to Council in relation to dividing the area into three (3) wards, including undertaking consultation, public notice and exhibition of a proposed ward boundary plan in accordance with section 210A of the Local Government Act 1993.***

Report purpose

This report is to advise the results of the constitutional referendum held on 14 September 2024 and consider its impacts on Council.

Executive Summary

The constitutional referendum held in conjunction with the general election on 14 September supported a reduction in the number of councillors from 15 to 9 and a reduction in the number of wards from 5 to 3, with each ward electing 3 councillors.

This elector-approved reduction in the number of councillors and the number of wards will come into effect for the electoral term commencing in September 2028. It will, however, impact the current term in that:

- A casual vacancy in the office of a councillor will not be filled if the number of councillors will remain at or above the number approved in the referendum; and
- Before the area is divided into three wards, Council must undertake consultation with the Electoral Commissioner and the Australian Statistician, together with public exhibition of the ward proposal.

Background

Under section 16 of the *Local Government Act 1993* (the Act), a council must obtain the approval of its electors at a constitutional referendum to change the number of councillors.

Section 224(2) of the Act requires that, not less than 12 months before an ordinary election, the council must determine the number of its councillors for the following term. If a council has determined to change the number of its councillors, it must obtain approval at a constitutional referendum.

In 2021, Council resolved to hold a constitutional referendum in conjunction with the next general election for voters to determine whether they favoured a reduction in the number of Central Coast councillors from fifteen to nine, and the number of wards to three. Following consultation with the Office of Local Government, it was resolved to adopt the following referendum question:

“Do you favour a reduction in the number of Central Coast Councillors from 15 to 9 and a reduction in the number of wards from 5 to 3, with each ward electing 3 councillors?”

The referendum was held in conjunction with the general election on 14 September 2024. Voters received an additional ballot paper and wrote either YES or NO in response to the referendum question.

In the lead-up to the 2024 election and referendum, information about the referendum - including the background behind the decision, points for and against the referendum question, and concept three-ward maps - was shared with the community through a range of communications channels. The Australian Electoral Commission developed a range of educational resources on the process for the referendum.

Report

The results of the referendum were announced on 1 October 2024, with YES receiving 61.74% of the vote count and NO receiving 38.26%. As YES was supported by a majority of the formal votes cast, the question was declared passed.

The outcome of the referendum will come into effect for the 2028 electoral term, with nine councillors representing three wards. However, the approved reduction in the number of councillors and wards will impact Council during the current term in two ways:

1. a casual vacancy in the office of a councillor will not be filled, and
2. before the area is divided into wards, Council must comply with the requirements under the Act for consultation and public exhibition.

Under section 294B of the Act, if a reduction in councillor numbers is approved at a referendum and has not yet taken effect, a casual vacancy in the office of a councillor (but not a mayor elected by the councillors), must not be filled if the number of councillors will remain at or above the number approved at the referendum.

A vacancy in the office of councillor can occur in a range of circumstances, as set out in section 234 of the Act. These circumstances include where a councillor dies, resigns, is disqualified from holding civic office, becomes bankrupt or is absent from three (3) consecutive ordinary meetings without leave.

If a councillor vacancy occurs during the current term, but nine or more councillors remain in office, then Council is not permitted to fill that vacancy.

As the referendum has approved a change to the number of wards, it will also be necessary for the current Council to undertake the consultation required by section 210A of the Act. This includes consulting with the Electoral Commissioner and the Australian Statistician, as well as public exhibition of the proposal. Council must prepare and publicly exhibit a plan detailing the proposed ward boundary plan for not less than 28 days and provide an opportunity for submissions regarding the plan to be made for not less than 42 days. Council must consider submissions received in accordance with the Act.

A further report will be presented to Council outlining an implementation plan for the revised ward boundaries, including a timetable for establishing options for new ward boundaries and maps, according to the objectives of the Act.

Stakeholder Engagement

Nil.

Financial Considerations

Financial Year (FY) Implications

The proposal does not have financial implications for the current year or outer years in the LTFP.

Budget and Long-Term Financial Plan (LTFP) Impact.

The FY adopted budget includes funding for this proposal.

Tasks required for Council to meet its obligations in relation to consultation and public exhibition of the new ward boundaries will be completed within existing staff resourcing. Should there be any additional costs associated with these actions, these will be identified as part of the relevant Quarterly Budget Review process.

Link to Community Strategic Plan

Theme 4: Responsible

Goal G: Good governance and great partnerships

R-G3: Provide leadership that is transparent and accountable, makes decisions in the best interest of the community, ensures Council is financially sustainable and adheres to a strong audit process.

Risk Management

Non-compliance with the statutory pre-conditions for effecting a change to the number of wards would result in difficulties administering the next general election, as well as potential damage to Council's reputation. To control this risk, an implementation plan and timetable for undertaking the requisite consultation and public exhibition will be prepared and presented to Council for endorsement.

Options

The outcome of the constitutional referendum is binding and cannot be changed except by further constitutional referendum conducted in accordance with the Act.

Critical Dates or Timeframes

The consultation required by section 210A of the Act must take place before the 2028 general election.

Attachments

Nil.



Item No: 2.9
Title: Local Government NSW Annual Conference 2024 - Attendance and Voting
Department: Corporate Services

8 October 2024 Extraordinary Council Meeting

Reference: F2024/00015 - D16426701
Author: Briony Stiles, Team Leader - Civic Support
Manager: Stephanie Prouse, Section Manager, Councillor and Democratic Services
Executive: Marissa Racomelara, Director Corporate Services

Recommendation

That Council:

- 1 Appoints seven (7) councillors to be voting delegates on policy motions at the 2024 Local Government NSW Annual Conference.***
- 2 Requests the Chief Executive Officer to notify Local Government NSW of those appointments no later than Wednesday 6 November 2024.***

Report purpose

The purpose of this report is to determine the councillor voting delegates who will attend the 2024 Local Government NSW (LGNSW) Annual Conference to vote on policy motions.

Executive Summary

The 2024 Local Government NSW Annual Conference will be held in Tamworth from 17 to 19 November 2024. Council is entitled to send seven (7) delegates to the 2024 Conference to vote on motions. Council will need to determine by resolution which councillors will be voting delegates, so that LGNSW can be advised of the nominated voting delegates before 5pm on Wednesday 6 November 2024.

Background

The LGNSW Annual Conference is an annual policy-making meeting for NSW local councils and enables council delegates across NSW to come together to share ideas and debate issues that shape local government.

Central Coast Council is an ordinary financial member of LGNSW for the 2024-25 financial year and may send delegates to attend the Annual Conference.

Further details about the Conference, including the Conference Program, are available on the [Local Government NSW](#) website.

Report

The 2024 LGNSW Annual Conference is scheduled to be held at Tamworth Regional Entertainment and Conference Centre from Sunday 17 to Tuesday 19 November 2024. It is an opportunity for councillors to be involved in discussions and consideration of motions about matters which affect local government across NSW. There will be no LGNSW Board election at this Conference, as LGNSW Board elections occur biennially and 2024 is not a Board election year.

Each financial member of LGNSW is entitled to a certain number of voting delegates based on the formula prescribed at Rule 23 of the LGNSW Rules. Central Coast Council has been advised that it is entitled to seven (7) voting delegates.

The Councillor Expenses and Facilities Policy states that the number of councillors permitted to attend the LGNSW should align with the number of allocated voting delegates as determined by LGNSW. Accordingly, the cost of councillor attendance by seven (7) voting delegates will be met by Council.

LGNSW requires members to advise the names of their nominated voting delegates by 5pm on Wednesday 6 November 2024. Subject to the LGNSW rules and Australian Electoral Commission requirements, a member may notify LGNSW of a change to the name of an already nominated voting delegate (a substitute delegate) if required.

Each year, LGNSW members are invited to submit motions to the Annual Conference. Under LGNSW rules, the latest date motions can be accepted for inclusion in the business paper is Sunday 20 October 2024. The criteria for motion submission are set out in detail in the [Conference Motions Submission Guide](#).

The Conference Motions Submission Guide notes that a motion must be accompanied by evidence of support. Such evidence can take the form of:

- an attachment note or extract from the minutes of the council meeting at which the member council resolved to submit the motion for consideration by the Conference, or
- in the absence of a council meeting, a letter signed by both the Mayor and General Manager.

2.9 Local Government NSW Annual Conference 2024 - Attendance and Voting (cont'd)

The closing date for motions is before the next Ordinary Council Meeting on Tuesday 29 October. Accordingly, a council resolution in support of a motion could be obtained only by calling an Extraordinary Council Meeting in accordance with the [Code of Meeting Practice](#).

Stakeholder Engagement

Councillors were informed of the annual conference, the determination of voting delegates and the submission of motions during the Councillor Induction Session on Saturday 5 October 2024.

Financial Considerations

Financial Year (FY) Implications

The proposal has cost financial implications for the current FY only.

Budget and Long-Term Financial Plan (LTFP) Impact.

The FY adopted budget includes funding for this proposal.

Funds have been allocated in the 2024-25 budget for attendance by councillors and relevant staff at the 2024 LGNSW Annual Conference. In accordance with the Councillor Expenses and Facilities Policy, Council will reimburse the seven (7) voting delegates the cost of registration fees, travel, accommodation, meals not covered by the conference registration, and the cost of the official conference dinner for an accompanying person of a councillor. While it is open to a non-voting councillor to attend the Conference as an observer, approval to attend a conference is subject to a written request to the Chief Executive Officer pursuant to sections 43 to 45 of the Councillor Expenses and Facilities Policy.

Link to Community Strategic Plan

Theme 4: Responsible

Goal G: Good governance and great partnerships

R-G1: Build strong relationships and ensure our partners and community share the responsibilities and benefits of putting plans into practice.

Risk Management

Nil.

2.9 Local Government NSW Annual Conference 2024 - Attendance and Voting (cont'd)

Options

- 1 Determine the seven councillors who will be formally nominated as Council's voting delegates at the 2024 NSWLG Conference. **(This is the recommended option).**

Critical Dates or Timeframes

Deadline	Action
Sunday 20 October 2024	Closing date for motion submission for inclusion in the Conference Business Paper
Wednesday 6 November 2024	CEO must notify LGNSW of Council voting delegate appointments
Sunday 17 November 2024	LGNSW Annual Conference starts
Tuesday 19 November 2024	LGNSW Annual Conference concludes

Attachments

Nil.