

STRATHFIELD COUNCIL

# EXTRAORDINARY COUNCIL MEETING

## AGENDA

Strathfield Municipal Council

**Wednesday 12 January 2022**

12pm at the conclusion of Oath of Office Ceremony

Town Hall

65 Homebush Road, Strathfield



## Recording of Council Meetings

*Persons in the gallery are advised that under the Local Government Act, 1993 a person may NOT tape record the proceeding of a meeting of a council or committee without the authority of the council or committee. "Tape record" includes a video camera and an electronic device capable of recording speech.*

*Mobile phones must be turned off so as not to disrupt the meeting. Anyone, including Councillors, found using a mobile phone will be told to leave the meeting immediately and for the duration of the said meeting.*

*An audio recording of this meeting will be taken for minute taking purposes as authorised by the Local Government Act.*

*This meeting is live streamed on Council's website to allow the community to follow Council debates and decisions without the need to attend meetings in person. Members of the public attending or speaking at a meeting agree to have their image, voice and personal information (including name and address) recorded and publicly broadcast. Strathfield Council does not accept liability for any defamatory remarks or inappropriate comments that are made during the course of a meeting. Any part of the meeting that is held in closed session will not be streamed.*

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HENRY T WONG  
CHIEF EXECUTIVE OFFICER

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CS1	MAYORAL AND DEPUTY MAYORAL ELECTION
AUTHOR:	Melinda Aitkenhead, Director Corporate & Financial Services
APPROVER:	Henry T Wong, Chief Executive Officer

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## RECOMMENDATION

1. That Council conduct the election of the Mayor and Deputy Mayor by open voting.
2. That Council elect the Mayor for the term January 2022 until September 2023 term.
3. That Council elect the Deputy Mayor for the term January 2022 until September 2023.
4. That the Returning Officer conduct the election in accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*.

## PURPOSE OF REPORT

To detail the procedures for the conduct of the election of the Mayor for the term January 2022 until September 2023 and if approved, Deputy Mayor for the term January 2022 until September 2023.

## REPORT

Section 290(1) of the Act provides that the election of the Mayor shall take place within three weeks after the ordinary election, if it is the first election after an ordinary election of councillors.

Under section 230(1), a Mayor elected by councillors holds the office of Mayor for two years, subject to the Act.

### Election of Mayor

Section 282(2) of the *Local Government Act 1993* provides that the Council shall elect one of its members to be Mayor.

### Role of Mayor

Section 226 of the Act provides:

*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,*
- o) to exercise any other functions of the council that the council determines*

Procedure for the Mayoral Election - Local Government (General) Regulation 2021- Schedule 7

- a. The General Manager (or a person appointed by the general manager) is the Returning Officer.
- b. A councillor may be nominated without notice. The nomination is to be made in writing by two or more councillors, one of whom may be the nominee. Nomination forms can be obtained from the Returning Officer. The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
- c. The nomination is to be delivered or sent to the Returning Officer.
- d. The Returning Officer is to announce the names of the nominees at the council meeting at which the election is to be held.
- e. If only one councillor is nominated, that councillor is elected.
- f. If more than one councillor is nominated, council must resolve whether the election is to proceed by:
  - (i) preferential ballot, or
  - (ii) ordinary ballot, or
  - (iii) open voting.
- g. Preferential ballot and ordinary ballot will be secret ballots, open voting means voting by show of hands or similar means.
- h. If the election is to be held by ordinary or preferential ballot it shall be conducted by the preparation, marking and counting of the ballot papers in the presence of the Council. Clause 5 of Schedule 7 of the Regulation provides:

*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.*

*(Usual practice is to place a one (1) in the square opposite the name of your favoured candidate)*

- i. Clause 6 of Schedule 7 deals with an election involving two (2) candidates and provides:

*(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.*

**NOTE:** To choose a candidate by lot, the names of the candidates who have equal numbers 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** (Clause 12).

- j. Clause 7 of Schedule 7 deals with an election involving three (3) or more candidates and provides:

*Count – three (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 Schedule 7 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.*

#### Election of Deputy Mayor

Section 231 of the Act provides:

- a) The councillors may elect a person from among their number to be the Deputy Mayor.*
- b) The person may be elected for the mayoral term or a shorter term.*
- c) The Deputy Mayor 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 Mayor.*

- d) The councillors may elect a person from among their number to act as Deputy Mayor if the Deputy Mayor is prevented by illness, absence or otherwise from exercising a function under this section or if no Deputy Mayor has been elected.*

The procedure to be followed for electing a Deputy Mayor is the same as that used for electing the Mayor and a nomination form for the position of Deputy Mayor can be obtained from the Returning Officer.

#### **FINANCIAL IMPLICATIONS**

There are no financial implications.

#### **ATTACHMENTS**

There are no attachments for this report.

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**CS2                    METHOD TO FILL CASUAL VACANCIES**

**AUTHOR:**        Melinda Aitkenhead, Director Corporate & Financial Services

**APPROVER:**    Henry T Wong, Chief Executive Officer

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**RECOMMENDATION**

That Council select one of the options below:

1. That Council determine whether or not to declare how any casual vacancies in the office of a councillor that occurs within 18 months after the date of the last ordinary election of councillors for the area is to be filled by a countback of votes cast at the last election held for that office. If this option is selected that the CEO be required to inform the NSW Electoral Commission within 7 days of the Council's decision.

**OR**

2. That any casual vacancies which occur in the office of a councillor for this term will be filled through the holding of a by-election.

**PURPOSE OF REPORT**

Council has for the first time, pursuant to section 291A(1) of the *Local Government Act 1993* the option of using a countback of votes cast at the last ordinary election. Due to this new requirement, this report seeks Council's consideration of its preferred method to fill any casual vacancies occurring in the office of a councillor within 18 months of the election.

**REPORT**

Council has an option to use the countback method in the event of a councillor vacancy within 18 months of the last ordinary election (for example, due to resignation). This is the first time this option has been provided to councils.

In accordance with section 291A of the *Local Government Act 1993*, to take up this option Council must, by resolution, declare that any casual vacancy that occurs in the office of a councillor within 18 months of the date of the last ordinary election of the councillors for the area is to be filled by a countback of votes cast at the last election of Councillors. If Council resolves to fill casual vacancies using a countback the Chief Executive is required under Section 393C of the *Local Government (General) Regulation 2021* to notify the Council's election manager, NSW Electoral Commission within 7 days of the resolution.

If Council does not resolve to fill casual vacancies using a countback at its first meeting after the ordinary election it will be required to fill casual vacancies using a by-election.

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 popularly elected mayors), or
- the councillor was elected at an uncontested election.

A by-election must be used to fill these types of vacancies.

This report puts forward two options for Council to consider. Council is requested to select one of these options.

### **Countback elections**

The NSW Electoral Commission provides the following information regarding countback elections.

1. The Electoral Commissioner is notified of a casual vacancy, within seven days of it occurring.
2. A returning officer is appointed within 14 days of the notification of the vacancy.
3. Casual vacancy notices are issued 2 to 14 days from the appointment of the returning officer.
4. Where a candidate is interested, they must submit a formal application to the returning officer. The application period closes after 10 days of the notices being issued.
5. The countback is conducted within 14 days of the vacancy notices being issued.
6. It may take up to a month for the results to be declared.

A countback election must be completed within 49 days, and applications for candidates to participate is open for 10 days. If there are no eligible candidates, an attendance by-election must be held.

If there is only one eligible candidate, that candidate is elected. If there are multiple eligible candidates, a countback election is conducted. In a countback election, the returning officer:

- Uses preference data from ballot papers from the previous local government ordinary election.
- Uses the same proportional representation method used in the original election.
- Effectively re-runs the election making the vacating councillor ineligible and distributing each of their ballot papers to the next preference on the ballot paper.
- If a non-eligible candidate would be elected, the election is re-run with that candidate's ballot papers also distributed to their next preference on the ballot paper.
- Re-runs the countback until an eligible candidate is elected.

At a countback election, a sitting councillor cannot be unelected, and non-eligible candidates cannot be elected.

## **FINANCIAL IMPLICATIONS**

In the event of a casual vacancy in the office of councillor there will be costs associated with either the use of a countback election or conducting a by-election. Those costs would need to be funded from existing operational budgets through a re-allocation process. It is anticipated the cost of using the countback method could be lower than a by-election.

## **ATTACHMENTS**

There are no attachments for this report.