



31 January 2022

AGENDA:

PAGE NO.

| | | |
|------------|--|----|
| (1) | OPENING PRAYER | |
| (2) | ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS | |
| (3) | RECEIPT OF APOLOGIES | |
| (4) | DISCLOSURES OF INTEREST | |
| | ‡ D11/2022 Disclosures of Interest | 4 |
| (5) | GENERAL MANAGER'S UNIT | |
| | GMU1/2022 Oath or Affirmation of Office | 5 |
| (6) | CORPORATE AND COMMUNITY | |
| | CC1/2022 Election of Deputy Mayor - 2022/2023..... | 8 |
| | CC2/2022 2021 Local Government Election - Casual Vacancy in Civic Office - Countback Option | 12 |
| | CC3/2022 Schedule of Ordinary Meetings of Council for 2022 | 30 |
| | CC4/2022 Council Committee Structure and Appointment of Delegates and Representatives..... | 33 |
| | CC5/2022 Review of Delegations - Section 380 of the Local Government Act 1993 | 44 |
| | CC6/2022 Local Government NSW 2022 Special Conference - Delegates and Voting Delegates | 55 |



Our Vision

Is for a safe, healthy environment where residents can enjoy a high quality of life. Our Cessnock City of the future will offer quality lifestyle and security, local services and shopping, local jobs, an unspoiled environment, safety, convenience, comfort and confidence in the future.

Council's Charter

- * To provide directly or on behalf of other levels of government after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively.
- * To exercise community leadership.
- * To exercise its functions with due regard for the cultural and linguistic diversity of its community.
- * To properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible.
- * To have regard to the long term and cumulative effects of its decisions.
- * To bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible.
- * To facilitate the involvement of Councillors, members of the public, users of facilities and services and Council staff in the development, improvement and co-ordination of Local Government.
- * To raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants
- * To keep the local community and State Government (and through it, the wider community) informed about its activities.
- * To ensure that, in the exercise of its regulatory functions, its acts consistently and without bias, particularly where an activity of the Council is affected.
- * To be a responsible employer.

Council's Values & Management Principles

| | |
|-----------------------------------|---|
| One Stop customer service | Responsibility for quality of services |
| Responsibility and accountability | Flatter management structures and eliminate duplication |
| Continually seek improvement | Recognise the dynamics of change |
| Planning on management activities | Adopt new approaches |
| Improve communication mechanisms | Protect and enhance the environment |
| The leadership role of Council | Fairness, equity, trust and integrity in all dealings |

Council's Corporate Goals

1. To promote and provide quality services and facilities which focus on the needs of the community.
2. To protect, enhance and promote our natural, developed and cultural environment.
3. To actively foster the creation of employment and sustainable development opportunities acceptable to community and environmental standards.
4. To be a professionally managed and customer focused organisation which provides leadership through partnerships with the community.
5. To identify needs, share information and provide opportunities for active participation and community consultation.



Council adopted Model Code of Conduct

Council adopted the Model Code of conduct on 16 September 2020. This Code provides details of statutory requirements and gives guidance in respect of the way in which pecuniary and conflict of interest issues should be approached.

Generally, the policies refer to the following issues:

1. Councillors are under an obligation at law to disclose any interest they may have in any matter before the Council and to refrain from being involved in any consideration or to vote on any such matter
2. Councillors must disclose any interest in any matter noted in the business paper prior to or at the opening of the meeting
3. The nature of the interest shall be included in the notification
4. Councillors shall immediately and during the meeting disclose any interest in respect of any matter arising during the meeting which is not referred to in the business paper
5. All declarations of interest shall be recorded by the General Manager
6. All disclosures of interest shall as far as is practicable be given in writing
7. Any member having a pecuniary or non-pecuniary significant conflict of interest shall leave the meeting and remain absent while the subject of the interest is being considered by Council.
8. The meeting shall not discuss any matter in which a councillor has a pecuniary or non-pecuniary significant conflict of interest while the councillor is present at the meeting.

Disclosures Of Interest

Report No. DI1/2022

Corporate and Community Services



SUBJECT: *DISCLOSURES OF INTEREST*
RESPONSIBLE OFFICER: *Chief Finance and Administration Manager - Matthew Plumridge*

RECOMMENDATION

That Councillors now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

SUMMARY

The provisions of Chapter 14 of the Local Government Act, 1993 regulate the way in which Councillors and nominated staff of council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions, voting on that matter, and require that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

ENCLOSURES

There are no enclosures for this report.

SUBJECT: *OATH OR AFFIRMATION OF OFFICE*
RESPONSIBLE OFFICER: *Director Corporate and Community Services - Robert Maginnity*

SUMMARY

This report provides information in relation to the oath or affirmation of office that the Mayor and Councillors are required to have pledged prior to the commencement of the first Ordinary Meeting of Council.

RECOMMENDATION

That Council notes the oath or affirmation of office pledged prior to the commencement of the first meeting of Council by Mayor Suvaal and Councillors Olsen, Burke, Dunn, Sander, Moores, Grine, Hawkins, Jackson, Paynter, Jurd, Hill and Watton.

BACKGROUND

Section 233A of the *Local Government Act 1993* 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.

REPORT/PROPOSAL

233A Oath and affirmation for councillors

- (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 [#93]] swear that I will undertake the duties of the office of councillor in the best interests of the people of [name of council area [#93]] and the [name of council [#93]] 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 [#93]] 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 [#93]] and the [name of council [#93]] 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)

General Manager's Unit

Report No. GMU1/2022

Corporate and Community Services



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)

Councillors have been made aware of this requirement as part of the induction process. The General Manager has ensured that a record is kept of the taking of the oath or affirmation, with this done by way of a signed statement containing the oath or affirmation. The recording of the taking of the oath or affirmation by each Councillor in the minutes of this Council meeting will also occur.

Councillors are also advised that in accordance with Section 234 of the *Local Government Act 1993* if a Councillor is absent without an approved leave of absence granted by resolution, for three consecutive ordinary Council meetings their civic office is automatically declared vacant.

Councillors should note that whilst an apology for missing an individual meeting is appropriate and adequate to record an absence, an apology lodged for a meeting does not satisfy the legislative need to specifically apply for and have granted a "leave of absence" when an extended absence may result in a Councillor missing three consecutive meetings.

OPTIONS

Councillor's must take an oath or affirmation or they will not be not entitled to attend further meetings as a councillor until such time as they take the oath or affirmation in the prescribed form.

CONSULTATION

General Manager
Governance Coordinator

STRATEGIC LINKS

a. Delivery Program

This reports links to the community's desired outcome of "*Civic Leadership and Effective Governance*".

b. Other Plans

N/A



IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

N/A

c. Legislative Implications

Section 233A of the *Local Government Act 1993* 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.

d. Risk Implications

N/A

e. Environmental Implications

N/A

f. Other Implications

N/A

CONCLUSION

The *Local Government Act 1993* prescribes that a Councillor must take an oath or affirmation of office at or before the first meeting of Council, and that a Councillor will not be entitled to attend Council meetings as a Councillor until an oath or affirmation is taken in the prescribed form.

ENCLOSURES

There are no enclosures for this report

Corporate and Community

Report No. CC1/2022

Corporate and Community Services



SUBJECT: *ELECTION OF DEPUTY MAYOR - 2022/2023*
RESPONSIBLE OFFICER: *Director Corporate and Community Services - Robert Maginnity*

SUMMARY

Council has historically elected a Deputy Mayor for a term of twelve months. There is no statutory requirement for the appointment of a position of Deputy Mayor, however if Council so determines, the term and the method of election to be used needs to be decided.

RECOMMENDATION

That the election of Deputy Mayor be held and determined by open ballot with the term of office to be from 9 February 2022 until the September 2023 Ordinary meeting.

BACKGROUND

The *Local Government Act 1993* (the Act) provides for Councillors to elect a person from among their number to be the Deputy Mayor. Historically Council has elected a Deputy Mayor each year for a term of twelve months. Council needs to determine if it is to elect a Deputy Mayor, the term of that appointment and the method of election to be used.

REPORT/PROPOSAL

Following the postponement of the scheduled September 2021 local government elections to 4 December 2021, Council at the meeting of 18 August 2021 elected Councillor Suvaal as Deputy Mayor with the period of office being from 3 September 2021 to 3 December 2021.

Following the election, Council needs to determine if it wishes to elect a Deputy Mayor and if so, the term of the appointment and the method of election.

In relation to a Deputy Mayor, Section 231 of the Act provides:

1. Councillors may elect a person from among their number to be the Deputy Mayor.
2. The person may be elected for the Mayoral term or a shorter term.
3. 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.
4. 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.

Schedule 7 of the *Local Government (General) Regulation 2005* outlines the election process for the position of Mayor or Deputy Mayor by Councillors under clause 394.

Corporate and Community

Report No. CC1/2022

Corporate and Community Services



The following procedure is prescribed:

- The General Manager (or delegate) will be the Returning Officer (clause 1).
- A nomination is to be made in writing by two or more Councillors, one of whom may be the nominee. The nominee must indicate consent to the nomination in writing (clause 2(2)).
- The nomination form has been provided as **Enclosure 1** and is to be delivered or sent to the General Manager, acting as Returning Officer (clause 2(3)). The Returning Officer will announce the names of the nominees at the Council meeting at which the election is to be held (clause 2(4)).
- If only one Councillor is nominated, that Councillor is elected (clause 3(1)). If more than one Councillor is nominated, the elected Council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting (clause 3(2)). Ballot has its normal meaning of secret ballot, and open voting means voting by a show of hands or similar means (clause 3(4)).
- The election is to be held at the Council meeting at which the elected Council resolves the method of voting (clause 3(3); clause 11.5 of Council's Code of Meeting Practice).

With the deferral of the elections to December 2021, if Council was to maintain its historical yearly appointment cycle and to realign the appointment term to the usual election cycle, the term of the Deputy Mayor would expire in September 2022. This report recommends that if Council determines to appoint a Deputy Mayor that the term be until the September 2023 meeting.

OPTIONS

1. Council decide not to elect a Deputy Mayor.
2. Council elect a Deputy Mayor, subject to:
 - 2.1 Term of Office
 - Council elect a Deputy Mayor for a 12 month period.
 - Council elect a Deputy Mayor for the remainder of the Mayoral term.
 - Council elect a Deputy Mayor for another designated term.
 - 2.2 Method of Election
 - The election of Deputy Mayor be by preferential ballot.
 - The election of Deputy Mayor be by ordinary ballot.
 - The election of Deputy Mayor be by open voting

CONSULTATION

General Manager

STRATEGIC LINKS

a. Delivery Program

This reports links to the community's desired outcome of "*Civic Leadership and Effective Governance*".



b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

N/A

b. Financial Implications

The fee applicable to an appointment to the Deputy Mayor position must be paid from the annual allocation to the Mayor as per sections 249 and 252 of the Act, with the applicable fee for 2021-22 set at \$1,000.

c. Legislative Implications

Section 231 of the Act provides that Councillors may elect a person from among their number to be the Deputy Mayor, and the person may be elected for the Mayoral term or a shorter term.

Schedule 7 of the *Local Government (General) Regulation 2005* outlines the election process for the position of Mayor or Deputy Mayor by Councillors under clause 394.

d. Risk Implications

N/A

e. Environmental Implications

N/A

f. Other Implications

N/A

CONCLUSION

The Act provides for the election of a Councillor to be the Deputy Mayor. Council needs to determine if it is to elect a Deputy Mayor, the term and the method of election to be used.

ENCLOSURES

[1↓](#) Nomination Form

NOMINATION PAPER DEPUTY MAYOR ELECTION

We, the undersigned Councillors, do hereby propose for nomination:

Councillor

as a candidate for Deputy Mayor at the election to be held on 9 February 2022

Name

Signature

Date

Councillor

Councillor

FORM OF CONSENT

I, Councillor

(full name of person proposed for nomination)

hereby consent to my being proposed for nomination

(signature of person proposed for nomination)

Date:

Please note: A nomination must be made in writing by two (2) or more Councillors and is not valid unless the nominee has indicated consent to the nomination in writing.

Nomination to be returned to the General Manager, as returning officer.

Corporate and Community

Report No. CC2/2022

Corporate and Community Services



SUBJECT: *2021 LOCAL GOVERNMENT ELECTION - CASUAL VACANCY IN CIVIC OFFICE - COUNTBACK OPTION*

RESPONSIBLE OFFICER: *Director Corporate and Community Services - Robert Maginnity*

SUMMARY

In accordance with the *Local Government Act 1993* (the Act) Council can elect to utilise a countback option to fill a casual vacancy in civic office within 18 months of the 2021 elections and dispense with the need for a by election should a casual vacancy occur.

To be able to use this option should a casual vacancy occur, Council is required to determine its position immediately following the 2021 elections.

RECOMMENDATION

1. That pursuant to Section 291A (1) (b) of the Local Government Act 1993 (the Act) Cessnock City Council declares 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.
2. That the General Manager notify the NSW Electoral Commission of the Council decision within 7 days of the decision.

BACKGROUND

Council has the ability to determine to use the countback option from the 2021 election results to fill a casual vacancy in civic office if it occurs within 18 months of the election. In this way the need to hold a by-election is avoided should a casual vacancy occur. Council needs to determine this immediately following the election.

REPORT/PROPOSAL

Sections 291 and 292 of the Act require a casual vacancy to be filled no later than three months after the vacancy occurs. The Minister may, under section 294 dispense with a By-Election 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.

Council can elect to use the provisions of Sec 291A of the Act to allow for a countback from the 2021 elections to fill a casual vacancy in civic office if the vacancy occurs within 18 months of the election (ie up to March 2023), rather than holding an attendance by-election. Council needs to determine this option at its first meeting following the 2021 elections.



This option is in accordance with Sec 291A of the Act, which provides:

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.
- (2) This section does not apply to a casual vacancy in the office of a councillor if the councillor who vacated office was elected--
 - (a) in an election using the optional preferential voting system (including the election of a mayor elected by the electors of an area), or
Note : See section 285 (Voting system for election of councillors).
 - (b) in an election without a poll being required to be held.
Note : See section 311 (Uncontested elections).
- (3) A casual vacancy to which this section applies is to be filled by a countback election conducted in accordance with the regulations.
- (4) A countback election to fill a casual vacancy to which this section applies must be conducted--
 - (a) by the returning officer who conducted the election at which the person whose departure created the casual vacancy was elected, or
 - (b) if that is not possible, by the substitute returning officer at that election, or
 - (c) if that is not possible, by a returning officer appointed in accordance with this Act.
- (5) If a countback election fails or the returning officer is otherwise unable to fill the casual vacancy by a countback election--
 - (a) the returning officer must notify the general manager of the council concerned, and
 - (b) a by-election in accordance with this Part must be held to fill the casual vacancy.
- (6) This section does not apply to a casual vacancy in the office of a councillor if the vacancy occurs before the day prescribed for the purposes of this section by the regulations.

The benefits are both financial and logistical, as the cost associated with a countback would be significantly less than a by-election. The estimated cost for the 2021 election is expected to be over \$466,000, and a by-election could be expected to be in excess of \$100,000.

In using the countback new candidates would not be able to run for Council as part of the countback process. The countback system is not available for a popularly elected Mayor.

Countback Process

The Countback election will be run using exactly the same ballot papers and the same voting count system as the general election.

Corporate and Community

Report No. CC2/2022

Corporate and Community Services



The Countback election is run with all ineligible candidates (eg councillors who have vacated their seat) being disregarded and their preferences reallocated accordingly. As an example, if the first candidate in a group was originally elected and is vacating their seat, the Above The Line preferences for that group would be allocated to the second candidate in that group, as would any Below The Line preferences that marked the first candidate in that group a 1 and the second candidate in that group a 2.

When the countback election is conducted, the same number of candidates will be “elected” as there were vacancies at the general election (because the same voting count system is used). Of these, the first newly “elected” candidate (ie not a sitting councillor) will be the candidate to be actually elected.

If a non-participating candidate (ie a candidate who did not want to be considered for election in this Countback election) was elected, their status is changed to ineligible and the countback is run again – this newly ineligible candidate will be disregarded and their preferences reallocated accordingly, per above. This process will continue until an eligible candidate is elected.

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.

Council decision

The elected Council is to determine its position in regards to using the countback option should a casual vacancy occur in Civic Office within 18 months of the 2021 elections. By using this option the need to hold an attendance by-election could be avoided if a casual vacancy occurs. This determination needs to be made immediately following the 2021 elections and the NSWEC advised if Council wishes to utilise this option.

OPTIONS

N/A

CONSULTATION

General Manager
Governance Coordinator

STRATEGIC LINKS

a. Delivery Program

This report is linked to the Community’s Desired Outcome Objective 5 “Civic Leadership and Effective Governance”.

b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

NA

b. Financial Implications

The 2021 election cost is expected to exceed \$466,000. Whilst the cost for a by-election would be lower, the anticipated cost would still be substantial, and likely exceed \$100,000.

c. Legislative Implications

The *Local Government Act 1993* and *Local Government (General) Regulation 2005* includes provisions for when a casual vacancy occurs and requirements for a by-election.

d. Risk Implications

N/A

e. Other Implications

N/A

CONCLUSION

Council is required to decide immediately following the 2021 elections if it wishes to use the countback option to fill a casual vacancy in civic office in the 18 months immediately following the election. Otherwise, an attendance by-election would be required to fill such a casual vacancy.

ENCLOSURES

[1](#) Post Election Guide for Councils - OLG

Post-election guide

for councils, county councils and
joint organisations

2021



Office of Local Government, Department of Planning, Industry and Environment
5 O'Keefe Avenue Locked Bag 3015 Phone 02 4428 4100 olg@olg.nsw.gov.au
NOWRA NSW 2541 NOWRA NSW 2541 TTY 02 4428 4209 www.olg.nsw.gov.au

Special arrangements can be made for our publications to be provided in large print or an alternative media format. If you need this service, please contact Client Services on 02 4428 4100.

DISCLAIMER

While every effort has been made to ensure the accuracy of the information in this publication, the Department of Planning, Industry and Environment expressly disclaims any liability to any person in respect of anything done or not done as a result of the contents of the publication or the data provided.

© NSW Department of Planning, Industry and Environment 2021
Produced by the Department of Planning, Industry and Environment

Post-election guide for councils, county councils and joint organisations

At the first meeting after the election

It is a matter for each council and joint organisation to set the agenda for their first meeting following the elections.

There are a range of matters that councils and joint organisations may wish to include in the agenda for consideration at the first meeting.

However, there are several key items of business that must be dealt with at the first meeting.

For councils, these include the following:

- the administration of councillors' oath or affirmation of office
- a resolution declaring that casual vacancies in the office of councillors will be filled using a countback in the first 18 months following the election where the council wants to fill vacancies this way instead of a by-election, and
- the election of the mayor where the mayor is elected by councillors and a deputy mayor where the council has one.

For county councils, these include the following:

- the administration of members' oath or affirmation of office, and
- the election of a chairperson.

Joint organisations must elect a chairperson at their first meeting after the elections.

Oaths and affirmations of office

Under the *Local Government Act 1993*¹ (the Act) councillors (including mayors) are required to take an oath or make an affirmation of office.

The prescribed words of the oath and affirmation are provided below.

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."

¹ section 233A

Oaths or affirmations of office must be taken or made by each councillor at or before the first meeting of the council after being elected.

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.

Councillors need to be physically present before the general manager, legal practitioner or justice of the peace when taking their oath or making their affirmation of office.

Councils will need to make arrangements for the oath or affirmation to be taken or made by each councillor at the first meeting.

Councillors should be made aware of this requirement prior to the first meeting.

An oath or affirmation should be taken or made by each councillor as the first item of business for the first meeting.

The general manager must ensure that a record is kept of the taking of the oath or making of the affirmation.

This can be done by way of a signed statement containing the oath or affirmation or by recording the taking of the oath or making of the affirmation by each councillor in the minutes of the council meeting.

If a councillor is not able to attend the first council meeting, they may take the oath or affirmation of office at another location in front of the general manager.

As noted above, the oath or affirmation of office may also be taken before an Australian legal practitioner or a justice of the peace.

The taking of the oath or making an affirmation of office outside a council meeting must be publicly recorded by the council.

Where an oath or affirmation is taken or made outside a council meeting, a council staff member should also be present to ensure that an accurate record can be kept by the council.

A councillor who fails, without a reasonable excuse, to take the oath or make an affirmation of office, will not be entitled to attend council meetings until they do so and will be taken to be absent without leave.

If a councillor is absent without leave for three consecutive ordinary council meetings their office is automatically declared vacant and a by-election or countback must be held.

These requirements also apply to members and chairpersons of county councils.

Decision on using countbacks to fill casual vacancies

Following the 2021 local government elections, councils will, for the first time, have the option of using a countback of votes cast at the last ordinary election to fill casual vacancies occurring in the offices of councillors in the first 18 months after the election.

This will allow councils to use a countback to fill vacancies at a lower cost than the cost of holding a by-election.

To exercise the option of using a countback to fill casual vacancies occurring in the first 18 months following the election, councils must resolve, at their first meeting after the election, to use a countback to fill casual vacancies.

If councils do not resolve this at the first meeting after the election, they will be required to fill casual vacancies through a by-election.

It is recommended that councils use the following resolution to exercise the option to use a countback to fill casual vacancies:

"Pursuant to section 291A(1)(b) of the *Local Government Act 1993* (the Act) **[name of council]** declares that casual vacancies occurring in the office of a councillor within 18 months after the last ordinary election of councillors for the Council on **[insert date of election]** 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 directs the general manager to notify **[insert name of election manager]** of the Council's decision within 7 days of the decision."

Where councils resolve² to fill casual vacancies using a countback in the first 18 months of their terms, the general manager is required under the *Local Government (General) Regulation 2005*³ (the Regulation) to notify the election manager of the council's ordinary election of the council's resolution within 7 days of the resolution.

For all councils other than Fairfield and Penrith City Councils, the election manager is the NSW Electoral Commissioner.

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 vacancies.

² section 291A(1)(b)

³ clause 393C(3)

⁴ sections 234(5) and 233(2)(b)

Mayoral elections

Under the Act⁴, the civic offices of mayors elected by councillors expire on the day of the council's ordinary election.

Councils that elect councillors must hold a mayoral election at a council meeting within three weeks of the declaration of the election⁵.

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 Schedule 7 of the Regulation.

Schedule 7 prescribes three methods of election of mayors:

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

The Office of Local Government has prepared guidance to assist councils to conduct mayoral and deputy mayoral elections which is available [here](#).

Councillors need to be present at the meeting in person to participate in voting by means other than an open ballot.

Mayors elected by councillors normally hold their office for two years (unless a casual vacancy occurs)⁶. Because of the postponement of the ordinary council elections to 4 December 2021, mayors elected by councillors during the next term will have a shorter term than the usual two years.

Councils that elect their mayors are required under the Act⁷ to hold mid-term mayoral elections in the month of September. This means that the mid-term mayoral elections will need to be held in September 2023. The

⁵ section 290

⁶ section 230(1)

⁷ Section 290(1)(b)

mayor elected at the mid-term mayoral election will hold their office until the day of the council's next ordinary election in September 2024 when their civic office as a councillor and mayor will expire.

Deputy Mayors hold their office for the term specified in the council's resolution.

Elections of chairpersons of county councils

Under the Act⁸, the civic office of chairpersons of county councils expire on the election day for the constituent council they are a councillor on.

County councils will need to elect a chairperson at their first meeting after the ordinary local government elections⁹.

The election of the chairperson of a county council must be conducted in accordance with Schedule 9 of the Regulation.

The process for electing chairpersons of county councils is the same as the process for electing mayors of councils, and county councils can adapt the Office of Local Government's guidance on mayoral elections for this purpose.

That guidance is available [here](#).

County council members need to be present at the meeting in person to participate in voting by means other than open voting.

As with mayors elected by councillors, chairpersons of county councils hold their office for two years (unless a casual vacancy occurs)¹⁰.

Elections of chairpersons of joint organisations

Under the Act¹¹, the civic office of chairpersons of joint organisations also expire on the election day for the member council they are a councillor on.

Joint organisations will need to elect a chairperson at their first meeting after the ordinary local government elections¹².

The election of the chairperson of a joint organisation must be conducted in accordance with Schedule 7A of the Regulation.

The Office of Local Government has provided guidance to assist joint organisations to conduct elections for the chairperson in part 2.3 of the *Joint Organisation Implementation Guidelines*.

The Guidelines are available [here](#).

Voting representatives of the board need to be present at the meeting in person to participate in voting by means other than open voting.

As with mayors elected by councillors, chairpersons of joint organisations hold their office for two years (unless a casual vacancy occurs)¹³.

⁸ section 391(3)(b)(iii)

⁹ clause 1(b) of Schedule 9

¹⁰ section 391(2)

¹¹ section 400V(4)(b)(iii)

¹² clause 1(b) of Schedule 7A

¹³ section 400V(2)

Within three months of the election

Lodgement of written returns of interest

Under the *Model Code of Conduct for Local Councils in NSW*¹⁴ (Model Code of Conduct) all councillors, members of county councils and voting representatives of the boards of joint organisations must lodge a written return of interests with the general manager (or the executive officer in the case of joint organisations) within three months of their election or appointment unless they have submitted a return within the previous three months.

Returns of interests are an important accountability mechanism for promoting community confidence in decision making by councillors and others and for ensuring that they disclose and appropriately manage conflicts of interest they may have in matters dealt with by the council or joint organisation.

Among other things, councillors and others who are required to complete returns of interests must disclose the following types of interests in their returns:

- interests in real property
- gifts
- contributions to travel
- interests and positions in corporations
- whether they are a property developer or a close associate of a property developer
- positions in trade unions and professional or business associations
- dispositions of real property
- sources of income, and
- debts.

It is important that councillors and others complete their returns of interests correctly and disclose all relevant interests.

The Office of Local Government has issued a *Guide to Completing Returns of Interest* to assist in the completion of returns.

The Guide is available [here](#).

Under the Model Code of Conduct¹⁵, general managers and executive officers must maintain a register of returns of interests and returns must be tabled at the first meeting of the council or board of the joint organisation after they are required to be lodged.

Returns of interests must also be made publicly available free of charge on councils', county councils' and joint organisations' websites, unless there is an overriding public interest against disclosure of the information contained in them or to do so would impose unreasonable additional costs on the council or joint organisation.

For more information, see the Information and Privacy Commission's *Guideline 1: For local councils on the disclosure of information contained in the returns disclosing the interests of councillors and designated persons* which is available [here](#).

¹⁴ clause 4.21(a)

¹⁵ clauses 4.24 and 4.25

Within six months of the election

Completion of induction and refresher training for mayors and councillors

Under the Regulation¹⁶, the general manager must ensure that induction training is delivered to each councillor who has been elected to the council for the first time and refresher training to each councillor who is re-elected to the council, within 6 months of their election.

The general manager must also ensure that supplementary induction training is delivered to the mayor in addition to the training they receive as a councillor within 6 months of their election¹⁷.

Councillors and the mayor must make all reasonable efforts to participate in any induction, refresher or supplementary training offered to them.

Councils will be required to report in their 2021-22 annual reports the names of the mayor and councillors who completed induction, refresher and, in the case of mayor, supplementary training during the year¹⁸.

The general manager must also ensure that an ongoing professional development program is delivered to the mayor and each other councillor over the course of their terms on council.

Ongoing professional development programs delivered to the mayor and councillors must provide support and assistance to them in the development of the skills necessary to perform

their roles and ensure that they maintain those skills over the course of their terms of office¹⁹.

The content of the ongoing professional development program delivered to the mayor and each councillor must be developed in consultation with them, having regard to the specific skills required by the mayor and each individual councillor and the governing body as a whole to perform their roles effectively.

As with induction, refresher and supplementary training, the mayor and each councillor must make all reasonable efforts to participate in any ongoing professional development program delivered to them.

Councils must report the names of the mayor and councillors who participated in any ongoing professional development program in their annual reports and the number of seminars, circulars and other activities delivered as part of the ongoing professional development program²⁰.

The Office of Local Government has issued *Councillor Induction and Professional Development Guidelines* to assist councils to deliver induction, refresher and supplementary training for the mayor and councillors and to design and deliver an ongoing professional development program for them. The Guidelines are available [here](#).

These requirements also apply to county councils but not to joint organisations.

The Office of Local Government's Guidelines provide specific guidance to county councils on how they can comply with these requirements.

¹⁶ clause 183

¹⁷ clause 184

¹⁸ clause 186

¹⁹ clause 185

²⁰ clause 186

Before 30 June 2022

Review of the community strategic plan

Councils must review the community strategic plan before 30 June 2022.

Under the Act²¹, councils may endorse the existing plan, endorse amendments to the existing plan or develop and endorse a new community strategic plan.

The community strategic plan must identify the main priorities and aspirations for the future of the local government area for the next 10 years from when the plan is endorsed and establish strategic objectives together with strategies for achieving those objectives.

Councils must ensure that the community strategic plan:

- addresses civic leadership, social, environmental and economic issues in an integrated manner
- is based on social justice principles of equity, access, participation and rights
- is adequately informed by relevant information relating to civic leadership, social, environmental and economic issues, and
- is developed having due regard to the State government's State Plan and other relevant State and regional plans of the State government.

A draft community strategic plan or amendment of the community strategic plan must be placed on public exhibition for a period of at least 28 days and submissions received by the council must be considered before the plan or amendment is endorsed by the council.

Within 28 days after a community strategic plan being endorsed, the council must post a copy of the plan on the council's website and provide a copy or a link to the plan on the council's website to the Office of Local Government.

Further guidance on reviewing and endorsing community strategic plans is available [here](#).

Adoption of the delivery program

Under the Act²², councils must establish a new delivery program to cover their principal activities for the 4-year period commencing on 1 July 2022.

Councils' delivery programs must detail the principal activities to be undertaken by the council to implement the strategies established by the community strategic plan within the resources available under the council's resourcing strategy.

The delivery program must include a method of assessment to determine the effectiveness of each principal activity detailed in the delivery program in implementing the strategies and achieving the strategic objectives at which the principal activity is directed.

Before the delivery program is adopted by the council, the draft delivery program must be placed on public exhibition for a period of at least 28 days and submissions received by the council must be considered by it.

Further guidance on developing and adopting a new delivery program is available [here](#).

²¹ section 402

²² section 404

Within twelve months of the election

Review and adoption of local approvals and orders policies

Under the Act²³, councils' and county councils' local approvals and orders policies are automatically revoked 12 months after each ordinary election unless adopted after the election.

Councils and county councils should review their existing local approvals and orders policies after the election to ensure they are current and fit for purpose.

If the policies are still required and the council proposes to adopt them with or without amendment, it must first exhibit the draft policy for at least 28 days and invite submissions for a period of at least 42 days²⁴.

After considering submissions, councils may decide to amend the policy, adopt the policy without amendment or not to adopt the policy.

If the council decides to amend the draft policy, it may publicly exhibit the amended draft local policy or, if the council is of the opinion that the amendments are not substantial, it may adopt the amended draft policy without further public exhibition.

Adoption of councillors' expenses and facilities policy

Under the Act²⁵, councils, county councils and joint organisations must adopt a new policy on the payment of expenses and the provision of facilities to the mayor (or chairperson) and councillors (a section 252 policy) within 12 months of the election.

Before adopting a new section 252 policy, councils and joint organisations should review their existing policy to ensure it continues to be appropriate.

Recent amendments to the Regulation²⁶ now require policies adopted under section 252 to provide for the making of payment of expenses associated with carer responsibilities that are adequate or reasonable.

Councils should ensure when reviewing their policies that the policy makes adequate provision for meeting councillors' carer expenses.

Before adopting a new section 252 policy, councils must give public notice of their intention to adopt the policy and allow at least 28 days for the making of public submissions.

Councils must comply with this requirement even if they propose to adopt the same policy as the existing policy.

Under the Act, before adopting the policy, councils must consider any submissions and make any appropriate changes to the draft policy²⁷.

²³ section 165

²⁴ section 160

²⁵ section 252

²⁶ clause 403

²⁷ section 253

Joint organisations must consult with their member councils about the content of their section 252 policy before adopting it.

To assist councils and joint organisations in reviewing and adopting a section 252 policy, the Office of Local Government has issued *Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW* under section 23A of the Act.

The Guidelines are available [here](#).

Councils' policies must comply with the Guidelines²⁸.

The Office of Local Government has also issued a model expenses and facilities policy that councils may wish to use or adapt for their own purposes.

The model policy is available [here](#).

Specific guidance for joint organisations on the adoption of a section 252 policy is provided in part 2.6 of the *Joint Organisation Implementation Guidelines*.

The Guidelines are available [here](#).

Review of organisation structure

Under the Act²⁹, councils, county councils and joint organisations must review their organisation structure within 12 months of the election.

When reviewing the organisation structure, councils and joint organisations may re-determine the organisation structure but are not required to do so.

In determining the organisation structure, the governing body of the council or joint organisation must, after consulting the general manager (or the executive officer), determine:

- the senior staff positions within the organisation structure of the council or joint organisation
- the roles and reporting lines of holders of senior staff positions, and
- the resources to be allocated towards the employment of staff.

A council or joint organisation cannot determine a position to be a "senior staff" position unless:

- the responsibilities, skills and accountabilities of the position are generally equivalent to those applicable to the Executive Band of the *Local Government (State) Award*, and
- the total remuneration package payable with respect to the position is equal to or greater than the minimum remuneration package (within the meaning of Part 3B of the *Statutory and Other Offices Remuneration Act 1975*) payable with respect to senior executives whose positions are graded Band 1 under the *Government Sector Employment Act 2013*. As of 2020-21 this is \$192,600.

The general manager (or the executive officer in the case of a joint organisation), must, after consulting the governing body of the council or joint organisation, determine the positions (other than the senior staff positions) within the organisation structure of the council or joint organisation.

The positions within the organisation structure of a council must be determined to give effect to the priorities set out in the community strategic plan and the council's delivery program.

²⁸ section 252(5)

²⁹ section 333

Specific guidance for joint organisations on the determination of their organisation structure is provided in part 2.11 of the *Joint Organisation Implementation Guidelines*.

The Guidelines are available [here](#).

Adoption of a code of meeting practice

Under the Act³⁰, councils, county councils and joint organisations must adopt a code of meeting practice that incorporates the mandatory provisions of the *Model Code of Meeting Practice for Local Councils in NSW* (Model Meeting Code) prescribed by the Regulation within 12 months of the election.

Councils' and joint organisations' adopted codes of meeting practice must not contain provisions that are inconsistent with the mandatory provisions of the Model Meeting Code.

Councils' and joint organisations' adopted codes may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions.

Councils and joint organisations are not required to adopt the non-mandatory provisions of the Model Meeting Code and can adapt them to meet their own needs.

Before adopting a code of meeting practice, councils must prepare a draft code and exhibit it for at least 28 days and invite submissions for a period of at least 42 days³¹.

Councils must consider all submissions received and may, after considering submissions, decide to amend the non-mandatory provisions of its draft code, or to adopt the draft code.

If the council decides to amend its draft code, it may re-exhibit the amended draft or, if the council considers that the amendments are not substantial, it may adopt the amended draft code without public exhibition³².

The Regulation³³ prescribes that a joint organisation must consult with its member councils about the content of its proposed code of meeting practice before adopting it.

A new Model Meeting Code will be prescribed before the local government elections that will include non-mandatory provisions governing attendance at meetings by audio visual link.

This will allow councils and joint organisations to adopt the new provisions when they adopt their new codes of meeting after the election.

Further information about the Model Meeting Code is available [here](#).

Specific guidance for joint organisations on the adoption of a code of meeting practice is provided in part 2.8 of the *Joint Organisation Implementation Guidelines*.

The Guidelines are available [here](#).

Review of delegations

Under the Act³⁴, councils and county councils must review all their delegations within 12 months of election.

Councils may, by resolution, delegate to the general manager or any other person or body (but not an employee of the council other than the general manager) any of the functions of the council other than those referred to in section 377 of the Act³⁵.

³⁰ section 360

³¹ section 361

³² section 362

³³ clause 397C

³⁴ section 380

³⁵ section 377

The general manager may, in turn, sub-delegate a function delegated to them by the council to any person or body (including another employee of the council)³⁶.

Review of the code of conduct

Under the Act³⁷, councils, county councils and joint organisations must review their adopted codes of conduct within 12 months of the election and make such adjustments as they consider appropriate.

Councils, county councils and joint organisations must adopt a code of conduct that incorporates the provisions of the Model Code of Conduct prescribed by the Regulation.

A council's or joint organisation's adopted code of conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "council officials" for the purposes of the Model Code of Conduct (e.g. volunteers, contractors and members of wholly advisory committees).

A council's or joint organisation's adopted code of conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct.

However, a council's or joint organisation's adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.

In other words, councils and joint organisations can strengthen but cannot dilute the provisions of the Model Code of Conduct in their adopted codes of conduct.

The Minister for Local Government has announced a review of the regulatory framework for dealing with councillor misconduct and councils and joint organisations may wish to consider deferring the review of their codes of conduct until the review has been completed and any outcomes of the review are implemented, provided this occurs within 12 months of the elections.

Further information on the Model Code of Conduct is available [here](#).

Specific guidance for joint organisations on the code of conduct is provided in part 2.5 of the *Joint Organisation Implementation Guidelines*.

The Guidelines are available [here](#).

Adoption of a statement of strategic regional priorities

Joint organisations must adopt a statement of strategic regional priorities within 12 months of the elections for their member councils³⁸.

The statement of regional priorities must set out the strategic regional priorities for the joint organisation's area and the strategies and plans for delivering them.

Joint organisations must consult with their member councils about the content of the proposed statement of strategic regional priorities.

Once adopted, the statement of regional priorities must be published on the joint organisation's website.

Specific guidance for joint organisations on the preparation of a statement of strategic regional priorities is provided in part 2.9 of the *Joint Organisation Implementation Guidelines*. The Guidelines are available [here](#).

³⁶ section 378

³⁷ section 440(7)

³⁸ clause 397H



Corporate and Community

Report No. CC3/2022

Corporate and Community Services



SUBJECT: *SCHEDULE OF ORDINARY MEETINGS OF COUNCIL FOR 2022*

AUTHOR: *Director Corporate and Community Services - Robert Maginnity*

SUMMARY

This report proposes the schedule of Ordinary Meetings of Council for 2022 following the 2021 Local Government elections in accordance with section 365 of the *Local Government Act 1993* (the Act).

RECOMMENDATION

That Council adopts the schedule of Ordinary Meetings of Council for 2022:

16 February 2022
16 March 2022
20 April 2022
18 May 2022
15 June 2022
20 July 2022
17 August 2022
21 September 2022
19 October 2022
16 November 2022
14 December 2022

BACKGROUND

Council needs to determine the scheduled dates for the Ordinary Meetings of Council for 2022 following the 2021 Local Government Elections.

REPORT

Council is required to adopt a schedule of meeting dates every year and the Act requires a council to meet a minimum of 10 times per year, each time in a different month.

Part 3 of Council's Code of Meeting Practice references meetings being scheduled on the third Wednesday of each calendar month at 6:30pm, with the exception that there is no scheduled meetings in January. Council can amend the frequency and/or times of meetings if required or make an amendment to the meeting schedule when it reviews its Code of Meeting Practice.

Council at the meeting of 22 September 2021 set the meeting dates for October and November 2021 following the postponement of the Local Government Elections, as well as scheduling an Extraordinary meeting for the 9 February 2022 to allow for the newly Council to consider a range of procedural reports required to be considered at the first meeting.

Corporate and Community

Report No. CC3/2022

Corporate and Community Services



Council needs to set the meeting dates for 2022, and the recommendation to this report sets out the dates proposed for the monthly meetings of Council. Should there be urgent business arising outside of any scheduled calendar of meetings, and that business is outside the delegations of the General Manager and Mayor, an Extraordinary Council Meeting can be called.

At this stage the dates are not known for the LGNSW 2022 Annual Conference, with this expected to be announced at the 2022 Special Conference being held 28 February to 2 March 2022. The Annual Conference is normally held during October, although due to COVID impacts the 2020 and 2021 dates were impacted. The proposed meeting schedule for 2022 accommodates the Special Conference and dependent on the timing of the Annual Conference, the meeting date for October may need to be amended if dates conflict.

To assist Councillors in management of the monthly meeting cycle the agenda preparation process has been modified with the agenda being distributed to Councillors and the public on the Wednesday the week prior to the meeting, rather than the Friday as the prescribed minimum period for notification under the Act. This allows Councillors additional time for preparation and review prior to the monthly Council meeting. Additionally, a Councillor agenda review with the Executive is held on the Wednesday prior to scheduled Ordinary meetings.

OPTIONS

The Code of Meeting Practice prescribes a monthly meeting of Council (excluding January) and the Act requires Council to adopt a schedule of meeting dates every year, with a council to meet a minimum of 10 times per year, each time in a different month.

CONSULTATION

General Manager

STRATEGIC LINKS

a. Delivery Program

This report is linked to the objectives of *Encouraging More Community Participation in Decision Making* and *Civic Leadership and Effective Governance*.

b. Other Plans

N/A

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

Clause 3.1 of the Code of Meeting Practice deals with the number and timing of meetings.

b. Financial Implications

N/A

Corporate and Community

Report No. CC3/2022

Corporate and Community Services



c. Legislative Implications

Under section 365 of the Act, Councils are required to meet at least 10 times each year, each time in a different month unless the Minister has approved a reduction in the number of times that a Council is required to meet each year under section 365A.

Under section 9(1) of the Act, Council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings.

d. Risk Implications

N/A.

e. Other Implications

N/A

CONCLUSION

Council is required to adopt a schedule of meeting dates every calendar year and section 365 of the Act requires a council to meet a minimum of 10 times per year, each time in a different month. This report seeks Council's consideration of the meeting schedule for 2022.

ENCLOSURES

There are no enclosures for this report.

SUBJECT: *COUNCIL COMMITTEE STRUCTURE AND APPOINTMENT OF DELEGATES AND REPRESENTATIVES*

RESPONSIBLE OFFICER: *Chief Finance and Administration Manager - Matthew Plumridge*

SUMMARY

Council has a Committee structure requiring Council's review and determination of its representation to these Committees. A Council may, by resolution, establish such Committees as it considers necessary and appoint Councillors to represent Council on these Committees.

Council may also nominate Councillors to be representatives on external Committees managed and controlled by other organisations.

RECOMMENDATION

1. That Council adopts the following Internal and Statutory Committees for the Term of Council:

Internal Committees

- Aboriginal and Torres Strait Islander Committee (Mayor + 2 Councillors)
- Section 355 (Tidy Towns & Halls) Committees (No Councillors)

Statutory Committees

- Audit, Risk and Improvement Committee (Mayor + 1 Councillor)
- Floodplain Management Committee (Mayor + 2 Councillors)
- Local Traffic Committee (1 Councillor)
- Organisational and General Manager's Performance Review Committee (Mayor + 4 Councillors)

2. That Council seeks expressions of interest for community representation on the Aboriginal and Torres Strait Islander Committee and the Floodplain Management Committee.

3. That Council appoints the community representatives listed in Table 1 of Enclosure 1 to the respective Section 355 Committees as volunteers for the care, control and management of Council's community and recreation facilities, other Council owned and controlled land, and any appropriate programs and initiatives in line with Council's policies or approvals.

4. That Council authorises the General Manager to execute the Instrument of Delegation in a form of a deed with each of the appointed community representatives for each of the respective Section 355 Committees.

5. That Council authorises the management of the Section 355 Committees to be in accordance with the Instrument of Delegation and in accordance with any other practices and procedures adopted by the General Manager.

6. That Council determines delegates and alternates for the Internal, Statutory and External Committees as per the table in Enclosure 2.
7. That Council notes that the following Committees ceased to exist at the end of the previous term of Council:
 - Dollar For Dollar Grants Committee (Mayor + 2 Councillors)
 - Council Initiated Awards Committee (Mayor + 2 Councillors)
 - Roads Review Committee (Mayor + 4 Councillors)
 - Strategic Property and Community Facilities Committee (Mayor + 3 Councillors)

BACKGROUND

By way of a Council resolution and pursuant to sections 355 and 377 of the *Local Government Act 1993* (the Act), the Council can delegate the exercise of functions to committees. There are three types of Committees that require Councillor representation (with the exception of Section 355 Committees).

1. Internal Committees
2. Statutory Committees
3. External Committees

Committees cease at the end of a Council term, with expiring Committees including:

Internal Committees

- **Aboriginal and Torres Strait Islander Committee** (Mayor + 2 Councillors)
- **Dollar for Dollar Grants** (Mayor + 2 Councillors) last adopted on 14/12/2016 – CC80/2016
- **Section 355 Committees (Tidy Towns and Halls)** (No Councillors)
- **Council Initiated Awards Committee** (Mayor + 2 Councillors) last adopted on 16/11/2016 - MM4/2016
- **Strategic Property and Community Facilities Committee** (Mayor + 4 Councillors) – last adopted on 21/10/2020 – CC101/2020
- **Roads Review Committee** – Mayor + 3 Councillors) - NoM BN29/2018, formation of committee – 3/10/2018; and NoM BN14/2019, formation and expansion of committee – 19/06/2019

Statutory Committees

- **Audit Risk and Improvement Committee** (Mayor + 1 Councillor) – pursuant to sections 428A and 428B of the Act
- **Floodplain Management Committee** (Mayor + 2 Councillors) – pursuant to Appendix D of the Floodplain Development Manual mandated by the Department of Planning, Industry and Environment

Corporate and Community

Report No. CC4/2022

Corporate and Community Services



- **Local Traffic Committee**– functions and responsibilities imposed by the *Road Transport (Safety and Traffic Management) Act 1999* (NSW) and corresponding Regulations, and the *Roads Act 1993* (NSW)
- **Organisational and General Manager Review Committee** – pursuant to the Office of Local Government’s Guidelines for the Appointment and Oversight of General Managers, and the corresponding contract templates.

External Committees

At the commencement of a new Council term following local government election, community, business and other organisations seek nominations for representation on their organisations and External Committees. These bodies maintain their own Terms of Reference and reporting requirements and do not fall under the control of Council. However, participation ensures that Council has an opportunity to be appraised of issues of community concern, and to contribute to decision making in these areas. During the previous Council term, Council had the representation on the following external committees:

- **Hunter and Central Coast Joint Regional Planning Panel**
- **Austar Coal Mine Consultative Committee**
- **Cessnock/Kurri Kurri Local Health Advisory Committee**
- **Lower Hunter and Hunter Bush Fire Management Committee**
- **Public Libraries NSW (Central East Zone) Committee**
- **Hawkesbury/Nepean Local Government Advisory Committee**
- **Hunter Water Consultative Committee**
- **Vintage Design Review** (No Councillor representatives)
- **Buttai Quarry Consultative Committee**
- **Blackhill Quarry Consultative Committee**
- **Cessnock Correctional Centre Consultative Committee**
- **Hunter Joint Organisation (Mayor only)**
- **Hunter Valley Wine and Tourism Alliance**
- **Hunter Resource Recovery**
- **Association of Mining Related Councils**
- **Hydro Community Reference Group**
- **Lower Hunter Community Reference Group of the Hunter Local Land Services**
- **Greater Blue Mountains World Heritage Area Advisory Committee**

(NB: Mayor is ex-officio of all Internal Committees that are not Section 355 Committees)

The following Committees will cease to exist as their adoption was only for the previous Council term:

- **Dollar for Dollar Grants** (Mayor + 2 Councillors)
- **Council Initiated Awards** (Mayor + 2 Councillors)
- **Roads Review Committee**
- **Strategic Property and Community Facilities**

(Note: if Council wishes to have these committees continue, it is recommended that they are formed as Advisory Groups rather than committees or by using guidelines for administration of the functions and have the outcomes reported to Council for adoption. So for the Dollar for Dollar grants or Council initiated awards for example, applications could be considered and assessed in a similar manner to the Town Coordinators annual allocations.

Corporate and Community

Report No. CC4/2022

Corporate and Community Services



Internal Committees (with the exception of Section 355 Committees) and Statutory Committees can be comprised of elected members, staff, community representatives, stakeholder organisation and /or independent experts. By virtue of section 360 of the Act and clause 2.3 of Council's Code of Meeting Practice, such committees can develop their own terms of reference for the orderly conduct of committee meetings. Those committees that consist of Councillor only must operate in accordance with Council's Code of Meeting Practice and including meeting agendas, public attendance and webcasting, even if the committees are advisory in nature.

Statutory Committees are committees that are mandated either by legislation or some other legislative instrument to be formed in order to perform functions bestowed upon them or upon Council.

In consideration of the above, charters that outline how such committees will perform are being reviewed and will be presented to Council for adoption in line with best practice principles from Council's Code of Meeting Practice in order to achieve good governance.

Some Internal Committees are established in accordance with Section 355 of the Act, hence the name Section 355 Committees, and are granted individual delegation of authority by the elected Council in accordance with section 377 of the Act.

To enable Committee meeting coordination and continuity and to promote a more efficient governance model, it is suggested that Council appoint at least one alternate delegate to each Committee and in the case of larger Committees, it would be appropriate to have two alternate delegates.

REPORT/PROPOSAL

The following Council Committee structure are proposed for the current term of Council:

1: Internal Committees

- **Aboriginal and Torres Strait Islander Committee**
- **Section 355 Committees** (Halls and Tidy Towns)

2: Statutory Committees

- **Audit, Risk and Improvement Committee**
- **Floodplain Management Committee**
- **Traffic Committee**
- **Organisational and General Manager's Review Committee**

Section 355 Committees:

- Abermain Plaza Hall
- Abermain School of Arts
- Branxton Community Hall
- Crawfordville Community Hall
- Ellalong Community Hall
- Former Greta Council Chambers

Corporate and Community

Report No. CC4/2022

Corporate and Community Services



- Former Greta Courthouse
- Greta Arts and Sports Community Hall
- Kearsley Community Hall
- Kurri Kurri Senior Citizens Hall
- Laguna Community Hall
- Mulbring Park Tennis Court
- North Cessnock Community Hall
- Pokolbin Community Hall
- Marthaville
- Abermain / Neath Tidy Town
- Bellbird Tidy Town
- Branxton Tidy Town
- Bucketty Tidy Town
- Cessnock Tidy Town
- Greta Tidy Town
- Ellalong Tidy Town
- Kearsley Tidy Town
- Millfield Tidy Town
- North Rothbury Tidy Town
- Paxton Tidy Town
- Weston Heritage and Tidy Town
- Wollombi Tidy Town
- Wollombi Community Hall
- Weston Civic Centre

It is recommended that Council appoint Councillor delegates, seek community representation as appropriate for Committees, and that the General Manager appoint relevant staff as required to these Committees.

Council has traditionally made appointments to these Committees for a twelve month period. However, Council can determine they be for a longer period, ie up to the full term of this Council.

Council is also represented on a number of external Committees and organisations, therefore if Council determines to continue its participation, the following organisations will require representatives:

3. External Committees

- **Hunter and Central Coast Joint Regional Planning Panel**
- **Austar Coal Mine Community Consultative Committee**
- **Cessnock/Kurri Kurri Local Health Advisory Committee**
- **Lower Hunter & Hunter Bush Fire Management Committee**
- **Public Libraries NSW (Central East Zone) Committee**
- **Hawkesbury /Nepean Catchment Management Authority Local Government Advisory Committee**
- **Hunter Water Consultative Committee**
- **Buttai Quarry Consultative Committee**
- **Blackhill Quarry Consultative Committee**
- **Cessnock Correctional Centre Consultative Committee**
- **Hunter Joint Organisation (Mayor only)**

Corporate and Community

Report No. CC4/2022

Corporate and Community Services



- **Hunter Valley Wine and Tourism Alliance**
- **Hunter Resource Recovery**
- **Hydro Community Reference Group**
- **Lower Hunter Community Reference Group of the Hunter Local Land Services**
- **Greater Blue Mountains World Heritage Area Advisory Committee**

OPTIONS

N/A

CONSULTATION

General Manager
Directors
Managers and staff connected with various Committees
Governance Team

STRATEGIC LINKS

a. Delivery Program

Committee participation and consultation is linked to all the objectives in the Delivery Program, with an emphasis on Objective 5: Encouraging community participation and leadership, and making Council more responsive to the community.

b. Other Plans

NIL

IMPLICATIONS

a. Policy and Procedural Implications

All committees noted in this report, except for external committees, will perform in accordance with their Charters, their Instruments of Delegations and/or any practices and procedures adopted by the General Manager.

b. Financial Implications

Existing Committee operations are covered under the current budget. New Committees may need to submit a proposal for funding if required. Councillor expenses for attendance at committee meetings is covered by the Councillor Facilities and Expenses Policy and are included in the Operational Plan.

c. Legislative Implications

Adopting the Statutory Committees as recommended will ensure Council remains compliant with the relevant legislative obligations.

Corporate and Community

Report No. CC4/2022

Corporate and Community Services



d. Risk Implications

All of the Charters, Instruments of Delegation and relevant committee practices and procedures adopted by the General Manager embody:

- the principles of the OLG's model Code of Meeting Practice where appropriate,
- the expectation of members to abide by Council's Code of Conduct and other policies, as appropriate
- principles of fraud control and corruption prevention; and
- any other risk management controls and measures.

e. Other Implications

Involving the Community in Council's decision making and policy making is crucial to the upholding of democracy.

Councillor non-attendance at Committee meetings will impact the quorum, and may result in committee meetings being inquorate.

The more Councillors are able to interact with the community and participate in matters that concern the community, the more familiar they will become of the pressing issues and trending expectations. Consequently, Councillors will be able to build on the trust the community puts on them and the Council administration.

CONCLUSION

It is recommended that Council adopt the Committee structure proposed and nominate delegates and alternates to the various Committees listed.

ENCLOSURES

- 1 [↓](#) External Internal and Statutory Committee Nominations

Councillor Committee Membership Nominations

Internal Committees

| | | |
|----------|------------------------|---|
| 1 | Name: | Aboriginal and Torres Strait Islander Committee |
| | Membership: | Three Councillors |
| | Recommendation: | Council to nominate: Councillor: Councillor: Councillor: |

Statutory Committees

| | | |
|----------|------------------------|---|
| 1 | Name: | Audit Risk and Improvement Committee |
| | Membership: | Two Councillors |
| | Recommendation: | Council to nominate: Councillor: Councillor: |
| 2 | Name: | Floodplain Management Committee |
| | Membership: | The Mayor and two Councillors |
| | Recommendation: | Council to nominate: Councillor: Councillor: |
| 3 | Name: | Traffic Committee |
| | Membership: | One Councillor plus one alternate member |
| | Recommendation: | Councillor: Councillor: (alternate) |
| 4 | Name: | Organisational & General Manager's Review Committee |
| | Membership: | Mayor plus four Councillors |
| | Recommendation: | Council to nominate: Councillor" Councillor: Councillor: Councillor: Councillor: |

External Committees

| | | |
|----------|------------------------|---|
| 1 | Name: | Austar Coal Mine Consultative Committee |
| | Membership: | One Councillor and one alternate representative |
| | Recommendation: | Council to nominate: Councillor: Councillor: (alternate) |
| 2 | Name: | Cessnock/Kurri Kurri Local Health Advisory Committee |
| | Membership: | One Councillor and one alternate representative |
| | Recommendation: | Council to nominate: Councillor: Councillor: (alternate) |
| 3 | Name: | Lower Hunter and Hunter Bush Fire Management Committee |
| | Membership: | One Councillor and one alternate representative |
| | Recommendation: | Council to nominate: Councillor: Councillor : (alternate) |
| 4 | Name: | Public Libraries NSW (Central East Zone) Committee |
| | Membership: | One Councillor and one alternate representative |
| | Recommendation: | Council to nominate: Councillor: Councillor: (alternate) |
| 5 | Name: | Hawkesbury/Nepean Catchment Management Authority Local Government Advisory Committee |
| | Membership: | One Councillor and one alternate representative |
| | Recommendation: | Council to nominate: Councillor: Councillor: (alternate) |
| 6 | Name: | Hunter Water Consultative Committee |
| | Membership: | One Councillor and one alternate representative |
| | Recommendation: | Council to nominate: Councillor: Councillor: (alternate) |
| 7 | Name: | Buttai Quarry Consultative Committee |
| | Membership: | One Councillor and one alternate representative |
| | Recommendation: | Council to nominate: Councillor: Councillor: (alternate) |

| | | |
|-----------|------------------------|---|
| 8 | Name: | Blackhill Quarry Consultative Committee |
| | Membership: | One Councillor and one alternate representative |
| | Recommendation: | Council to nominate: Councillor: Councillor: (alternate) |
| 9 | Name: | Cessnock Correctional Centre Consultative Committee |
| | Membership: | Mayor |
| | Recommendation: | Membership defined as per Charter |
| 10 | Name: | Hunter Joint Organisation |
| | Membership: | Mayor |
| | Recommendation: | Membership defined as per Charter |
| 11 | Name: | Hunter Valley Wine and Tourism Alliance |
| | Membership: | Mayor, General Manager and one other (eg Councillor, member of community) |
| | Recommendation: | Council to nominate: Councillor: |
| 12 | Name: | Hunter Resource Recovery |
| | Membership: | General Manager and Delegate |
| | Recommendation: | Membership defined as per Charter |
| 13 | Name: | Hydro Community Reference Group |
| | Membership: | One Councillor and one alternate representative |
| | Recommendation: | Council to nominate: Councillor: Councillor: (alternate) |
| 14 | Name: | Lower Hunter Community Reference Group of the Hunter Local Land Services |
| | Membership: | One Councillor and one alternate representative |
| | Recommendation: | Council to nominate: Councillor: Councillor: (alternate) |

| | | |
|-----------|------------------------|--|
| 15 | Name: | Greater Blue Mountains World Heritage Area Advisory Committee |
| | Membership: | One Councillor |
| | Recommendation: | Council to nominate: Councillor: |
| 16 | Name: | Hunter and Central Coast Joint Regional Planning Panel (JRPP) |
| | Membership: | Two Councillors and two alternate Councillors Two independent members (appointed until November 2022) |
| | Recommendation: | Council to nominate: Councillor: Councillor: Councillor: (alternate) Councillor: (alternate) |

SUBJECT: *REVIEW OF DELEGATIONS - SECTION 380 OF THE LOCAL GOVERNMENT ACT 1993*

AUTHOR: *Chief Finance and Administration Manager - Matthew Plumridge*

SUMMARY

Under Section 380 of the *Local Government Act 1993* (the Act), Council must review all of its delegations within the first 12 months of an Ordinary Election. This report is provided for Council's consideration and adoption of delegations, as recommended.

RECOMMENDATIONS

1. That Council delegates the functions in accordance with the Instrument of Delegation to the Mayor attached to this report as Enclosure 1.
2. That Council delegates the functions in accordance with the Instrument of Delegation to the General Manager attached to this report as Enclosure 2.
3. That Council delegates the functions of the Mayor to the Deputy Mayor with the general limitations 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) if there is a casual vacancy in the office of Mayor.
4. That Council appoints the three Directors (Planning & Environment, Works and Infrastructure and Corporate and Community Services) to act in the capacity of the General Manager as nominated by the General Manager in each instance, in the absence of the General Manager, and that such appointment ceases upon the return to work of the General Manager.
5. That any person acting as General Manager pursuant to this resolution has all the functions, delegations and sub-delegations given to the General Manager by the Council.

BACKGROUND

The purpose of this report is to inform the elected Council of the delegable functions to be performed by the Mayor, General Manager and acting General Managers when considering them for adoption.

Council is required to review and adopt all delegations by the elected Council within twelve months of the election, and it is best practice that such a review takes place at the commencement of the new Council term.

Corporate and Community

Report No. CC5/2022

Corporate and Community Services



Section 377 of the Act stipulates which functions are delegable to the General Manager and which functions are to remain only within the power of the elected Council. Section 355 stipulates to who any delegable functions can be delegated.

The Mayor's delegations have been reviewed and are shown at **Enclosure 1** and the General Manager's delegations have been reviewed and are shown at **Enclosure 2**.

REPORT

This report seeks to delegate the functions in accordance with the Instrument of Delegation to the Mayor attached to this report and delegate the functions in accordance with the Instrument of Delegation to the General Manager attached to this report.

It also proposes to delegate the functions of the Mayor to the Deputy Mayor with the general limitations 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) if there is a casual vacancy in the office of Mayor.

Additionally, this report proposes to appoint the three Directors (Planning & Environment, Works and Infrastructure and Corporate and Community Services) to act in the capacity of the General Manager, in the absence of the General Manager, and that such appointment ceases upon the return to work of the General Manager.

Council subscribes to the Hunter Council's Local Government Legal Delegations Database. This tool is designed to assist local councils to ensure that their delegation documents are prepared correctly and are kept up to date in accordance with the latest legislation.

The Delegations Database, including the schedule of legislative functions has been drafted by lawyers from Local Government Legal and is updated when legislation is amended, enacted, or repealed. This allows for Council to ensure that its delegations of authority, appointment of authorised persons, and authority cards are up-to-date and lawful. Subscribing Council's will be notified when the schedule of legislative functions is amended, so a council can elect when to amend its delegations.

CONSULTATION

General Manager
Director Corporate & Community Services
Governance Coordinator
Senior Legal and Governance Officer

STRATEGIC LINKS

a. Delivery Program

This report is linked to the Community Strategic Plan Cessnock 2027, specifically, the key objective of *Civic Leadership and Effective Governance*.

b. Other Plans

N/A

STATUTORY IMPLICATIONS

a. Policy and Procedural Implications

The delegation of functions under the Act allows the Council organisation to be efficiently and effectively managed. Council supports these delegations by adopting policies on a wide range of issues to provide guidance to the General Manager and staff in carrying out their delegated duties.

b. Financial Implications

N/A

c. Legislative Implications

The delegations to the General Manager meet the requirements of Section 377(1) and Section 335 of the Act. The delegations to the Mayor meet the requirements of Section 226 of the Act (the role of the Mayor).

d. Risk Implications

N/A

e. Other Implications

N/A

OPTIONS

1. Adopt the recommendation.
2. Council may wish to vary the terms of some elements of the proposed delegations but in doing so should consider any impacts on the efficient operation of the Council.

Option 1 is the preferred option.

CONCLUSION

The delegations proposed for the General Manager and Mayor in this report will facilitate the effective functioning of the Council in accordance with the principles of the Act.

ENCLOSURES

- [1↓](#) Attachment 1 - Mayor Jay Suvaal - Delegations
- [2↓](#) Attachment 2 - General Manager Lotta Jackson - Delegations



CESSNOCK CITY COUNCIL

INSTRUMENT OF DELEGATION TO Mayor

On Wednesday, 9 February 2022 the Cessnock 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:
 - **‘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: Delegated Functions

Local Government Act 1993

| Function Code | Function | Condition/ Limitation (if any) |
|---------------|---|---|
| LG Act 004 | <p>Mayor Functions – Authority to exercise and/or perform the role of the mayor.</p> <p>Pursuant To – section 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 to approve or refuse public access applications in accordance with the Council's policy and Code of Meeting Practice. 2. Authority, in the 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 General Manager under Section 335 of the Act. 3. Authority to affix the corporate seal of Cessnock City 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 specific resolution of Council. 4. Recruitment, appointment, oversight and performance management of the General Manager in accordance with the Office of Local Government's <i>Guidelines for the Appointment and Oversight of General Managers</i>, section and relevant Council policies and procedures. |

Schedule 2: Policy Authorities

| Code | Policy Authority | Conditions / Limitations (if any) |
|------|------------------|-----------------------------------|
| N/A | N/A | N/A |

Schedule 3: General Limitations

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

Jay Suvaal

Mayor of Cessnock City Council

Date: Wednesday, 9 February 2022

Delegate Acknowledgement of Delegation

I, **Jay Suvaal**, 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.

Jay Suvaal

Mayor of Cessnock City Council

Date: Wednesday, 9 February 2022



CESSNOCK CITY COUNCIL

INSTRUMENT OF DELEGATION TO GENERAL MANAGER

On Wednesday, 9 February 2022 the Cessnock 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 ("**General Manager**"), being at the date of this instrument Eva Liselotte Jackson, 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:
 - 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.
3. The General Manager 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 General Manager 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 General Manager 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 General Manager that a person appointed by resolution to act as General Manager assume all Functions, delegations, and sub-delegations of the General Manager for the period only of the absence of the General Manager unless otherwise resolved by the Council.
7. 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** and **Schedule 3**; and
 - 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.
 - **“Internal Controlled Documents”** means protocols, guidelines, procedures, plans and other internal documents that are set of corporate rules that must be followed. Internal Controlled Documents usually relate to staff and do not impact the community.
 - **“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* (NSW) and as amended from time to time.
 - **“EPA Act”** means the *Environmental Planning and Assessment Act 1979* (NSW) and as amended from time to time

Schedule 1: Limitations

| Part A – Limitations applicable to specific statutory Function (if any) | |
|---|---|
| Legislation | Limitation (if any) |
| LG Act | The General Manager be delegated all of the delegable functions of the Council excluding those functions specified in clauses (a) to (u) of section 377(1) of the LG Act. |
| EPA Act | <ul style="list-style-type: none"> a) The General Manager may only determine development applications and section 4.55 applications under the <i>EPA Act</i> where the application: <ul style="list-style-type: none"> i. in the General Manager’s opinion does not represent a significant variation of the Council’s policy/environmental planning instruments or has been the subject of significant objection; or ii. has not been the subject of a written request made by at least three Councillors for the matter to be reported to the Council for decision. |

| |
|---|
| Part B – General Limitations |
| The Council fixes the amount of \$10,000 as the amount above which rates, charges and debts owed to the Council may be written off only by resolution of the Council, pursuant to clauses 131(1), 131(2) and 213(2) of the <i>Local Government (General) Regulation 2021</i> (NSW). |
| The Council delegates authority to the General Manager to grant leases of Council property where the total lease rentals payable to the Council are less than \$1 million for the contract term. |
| The Council may direct at any time by resolution that a matter be referred to the Council for decision, in which event this delegation shall not apply to such particular matter unless and until such direction or resolution is revoked by further resolution. |

Schedule 2: Instruments of Delegation to Council

| Delegator | Instrument Name | Date Of Instrument |
|-----------|-----------------|--------------------|
| | | |

Schedule 3: Policy Authorities

| Code | Policy Authority | Conditions / Limitations (if any) |
|--|--|-----------------------------------|
| C12 - Role of Superintendent | Perform the role of Superintendent for contracts and tenders. | N/A |
| C13 - Sign contracts (without seal) | Authority to sign contracts, for the provision of works and services, other than those requiring the Seal of Council, subject to the approval under the Council's adopted Purchasing Policy. | N/A |
| C22 - Role of Principal's Representative | Perform the role of Principal's representative for contracts and tenders. | N/A |
| Controlled Documents | Adopt and enforce internal Controlled Documents in relation to operational matters and the day-to-day management of the council | |
| C9 - Execute contracts of sale | Authority to execute contracts of sale or purchase for the leasing/licensing of property where Council has approved such action by resolution. | N/A |

| | | |
|--|--|-----|
| Authority to sign and execute Waivers, Deeds of Indemnity, Deeds of Release and other similar agreements | Authority to sign and execute Waivers, Deeds of Indemnity, Deeds of Release and other similar agreements with respect to industrial relation matters, public liability claims and other matters requiring compensation. | N/A |
| G1 - Authorise leave | Authorise staff time sheets, overtime, sick and annual leave, long service leave, special employee leave, leave without pay, job share arrangements, temporary motor vehicle leases and attendance at seminars within New South Wales. | N/A |
| G11 - Speak to media | Speak on behalf of the Council to the media in accordance with Council's adopted Media Policy. | N/A |
| G12 - Issue media releases and statements | Issue media releases & statements and co-ordinate media requests for visits to the Council, in accordance with the Council's adopted Media Policy. | N/A |
| G13 - Confidential Items Business Papers | Determine what items are to be marked "confidential" on Council Business Papers in accordance with the Council's Code of Meeting Practice. | N/A |
| G17 - Act on Council's behalf resolving industrial disputes | Act on Council's behalf in resolving industrial disputes. | N/A |
| G2 - Authorise time sheets, overtime etc | Authorise staff time sheets, overtime, sick and annual leave and attendance at seminars within the Hunter Region. | N/A |
| G23 - Council Seal | Authorise care and control of the Council Seal (Clause 400 of the <i>Local Government (General) Regulation 2021</i> (NSW) and as amended from time to time) | N/A |
| G3 - Authorise time sheets and leave | Authorise staff time sheets and sick and annual leave. | N/A |
| G4 - Direct and control staff | Direct and control Council staff in the performance of their duties. | N/A |

| | | |
|--|--|-----|
| G8 - Sign salary sacrifice agreements | Sign Salary Sacrifice Agreements in accordance with the provisions of the <i>Local Government (State) Award 2020</i> (NSW) and as amended from time to time. | N/A |
| R21 - Instructions to council's lawyers including institution of legal proceedings | Give instructions to the Council's lawyers including institution of legal proceedings. | N/A |
| R24 - Close any Council facility - dangerous | Close any Council owned facility for all activities and for a specified period where such activities would, in the position holder's opinion, result in undue damage to the facility or expose the public and/or Council staff to danger. | N/A |
| W17 - Arrange commit resources emergency Airport | Arrange to commit the resources of Council in an emergency situation at Cessnock Airport at the request of the Civil Aviation Safety Authority, AirServices Australia, NSW Police, Fire & Rescue NSW, Local Emergency Operation Controller, Rural Fire Service or State Emergency Service. | N/A |

Jay Suvaal

Mayor Cessnock City Council

Date: Wednesday, 9 February 2022

General Manager's acknowledgement of Delegations of Authority

I, **Eva Liselotte Jackson**, currently employed by the Council in the position of General Manager, 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.

Eva Liselotte Jackson

General Manager of Cessnock City Council

Date: Wednesday, 9 February 2022

Corporate and Community

Report No. CC6/2022

Corporate and Community Services



SUBJECT: *LOCAL GOVERNMENT NSW 2022 SPECIAL CONFERENCE - DELEGATES AND VOTING DELEGATES*

RESPONSIBLE OFFICER: *Director Corporate and Community Services - Robert Maginnity*

SUMMARY

The Local Government NSW (LGNSW) Special Conference 2022 is scheduled to be held in Sydney from 28 February to 2 March 2022. With the deferral of the local government elections to 4 December 2021, the 2021 Annual conference was split into two components, a one hour online conference on 29 November 2021 and a Special Conference in February 2022. Council needs to consider delegates and voting delegates for the Special Conference.

RECOMMENDATION

- 1. That Council determines delegates to attend the 2022 Local Government NSW Special Conference.**
- 2. That Council determines the four voting delegates for the 2022 Local Government NSW Special Conference.**
- 3. That Council notes the previously endorsed motion seeking an increase in the NSW Stormwater Levy for submission to the 2020 Local Government NSW Special Conference.**

BACKGROUND

Council usually determines attendees and voting delegates to the LGNSW Annual Conference following an application process and consideration at a subsequent Council meeting. Council is entitled to four voting delegates however there is no restriction on the number of Councillors able to attend.

Due to the Council elections being deferred to December 2021, the conference was split into two separate components, with a one day online Annual Conference held on 29 November 2021 and an in person Special Conference in February 2022 to consider motions.

As an interim measure leading up to the rescheduled elections preliminary registrations were made for six councillors, which was to be subject to confirmation by Council at a meeting following the elections.

REPORT/PROPOSAL

The Annual Conference was to be held at the Hyatt Regency Hotel in Sydney from 28-30 November 2021, however with the deferral of council elections to December 2021, the decision has been made to split the event into two components:

- A one day Annual Conference to present the annual report and financial reports, which will be conducted online from 9.30am on Monday 29 November 2021.

Corporate and Community

Report No. CC6/2022

Corporate and Community Services



- A Special Conference, including debate and resolution of motions setting out the advocacy agenda for 2022 – to be held in person from Monday 28 February to Wednesday 2 March 2022.

Council needs to consider attendees and voting delegates for the Special Conference in 2022. There is a closing date for advising LGNSW of voting delegates of 17 February 2022. Preliminary registrations have been made for 6 Councillors, however Council may elect to have more delegates attend.

Delegates and voting Delegates

In accordance with Council Policy, Councillor's wishing to attend the LGNSW Annual Conference would normally be requested to make application to the General Manager by a specified date so that Council could determine the attendees and voting delegates at a subsequent Council meeting.

With the revised timeframes Council needs to determine the four voting delegates for the Special Conference and advise LGNSW by 17 February 2022 of the voting delegates. With the makeup of the newly elected Council not known and as delegates must be a Councillor, six delegates were registered on an interim basis with changes able to be made at a later stage following confirmation by Council.

Council may elect to send more than the four voting delegates. Accommodation has been secured for those already registered in the one location close to the conference venue. Should Council elect to send more delegates, there is no guarantee that suitable accommodation can be secured in the same venue.

Motions for the Conference

LGNSW has sought to have motions for consideration at the Special Conference and extended the submission date for inclusion in the conference agenda to 30 January 2022.

The LGNSW Board goal is to ensure the motions debate centres on advancing section wide policy agenda. This means proposed motions should seek to be strategic, affect members state-wide and introduce new or emerging policy issues and actions.

An online facility was available for submission of motions. Those motions only will be included in the conference business paper where they:

1. are consistent with the objects of the Association;
2. relate to Local Government in NSW and/or across Australia;
3. concern or are likely to concern Local Government as a sector;
4. seek to advance Local Government policy agenda of the Association and/or improve governance of the Association;
5. have a lawful purpose (a motion does not have a lawful purpose if its implementation would require or encourage non-compliance with prevailing laws);
6. are clearly worded and unambiguous in nature; and
7. do not express preference for one or several members over one or several other members.

Corporate and Community

Report No. CC6/2022

Corporate and Community Services



For those Councils submitting motions, supporting evidence such as Council minutes from the meeting where the motions were agreed to are required.

Council when considering the Minutes of the Floodplain Management Committee meeting of 2 June 2021 in relation to Report FLOCLM11/2021 – Stormwater Levy Review resolved,

1. ***That the General Manager writes on behalf of Council to the Hunter Joint Organisation seeking support for a pricing review of the NSW Stormwater Levy.***
2. ***That the General Manager writes on behalf of Council to the Floodplain Management Association seeking advocacy on a pricing review for the NSW Stormwater Levy.***
3. ***The Council approves submitting a motion to Local Government NSW Conference seeking an increase in the NSW Stormwater Levy.***

Accordingly, this motion has already been endorsed by Council for submission to the LGNSW Board.

OPTIONS

Attendance at the conference is not mandatory; however the conference is conducted by the peak industry association and attendance and participation is considered to be vital in an effective and representative advocacy industry body.

Council may elect to send any number of attendees (subject to registration availability). Council is only entitled to a maximum of four voting delegates.

CONSULTATION

General Manager
LG NSW

STRATEGIC LINKS

a. Delivery Program

This report is linked to the Community's Desired Outcome Objective 5 "Civic Leadership and Effective Governance".

b. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

Application for attendance at the Local Government NSW Annual Conference is in accordance with Council Policy.

Corporate and Community

Report No. CC6/2022

Corporate and Community Services



b. Financial Implications

Funding is available for attendance in the Councillor's conference budget vote, with an estimated cost for the face to face conference of \$2,500 per attendee. This includes transport, accommodation, conference/workshop registration and meals.

c. Legislative Implications

N/A

d. Risk Implications

N/A

e. Other Implications

N/A

CONCLUSION

This report provides information on the amended Local Government NSW Annual Conference and provides Council with the opportunity to determine attendees and voting delegates for the 2022 Special Conference.

ENCLOSURES

There are no enclosures for this report.