

AGENDA



INNER WEST COUNCIL

EXTRAORDINARY COUNCIL MEETING

THURSDAY 21 SEPTEMBER 2017

6.30pm

As the main purpose of this meeting is to conduct the election of the Mayor and Deputy Mayor and other formalities. There will be no opportunity for members of the public to apply to speak at this meeting.

Location: Ashfield Chambers, 260 Liverpool Road Ashfield

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Item No: C0917 Item 1
Subject: OATH OR AFFIRMATION OF OFFICE FOR COUNCILLORS
File Ref: 17/4718/103111.17
Prepared By: Ian Naylor - Manager Civic and Executive Support
Authorised By: Tanya Whitmarsh - Group Manager Governance

SUMMARY

The purpose of this report is to outline the requirement for all Councillors to undertake an Oath or Affirmation of Office at the first meeting of the Council after being elected..

RECOMMENDATION

THAT Councillors undertake either an Oath or Affirmation of Office.

BACKGROUND

In August 2016, the State Government passed and gazetted a number of changes to the Local Government Act. One of these changes was the requirement for all Councillors to undertake an Oath or Affirmation of Office at or before the first meeting of the Council after being elected (Section 233A of the Act).

The Office of Local Government issued a circular to all NSW councils on 25 July 2017 setting out the requirements for undertaking an Oath or Affirmation of Office as shown below:-

- An oath or affirmation should be taken by each councillor as the first item of business for the meeting.
- The General Manager must ensure that a record is kept of the taking of the oath or 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 affirmation by each councillor in the minutes of the council meeting.
- If the councillor is unable to attend the first council meeting, he or she may take the oath or affirmation of office at another location in the presence of the general manager.
- 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 affirmation outside a council meeting must be publicly recorded by the council.
- Where an oath or affirmation is taken 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 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 must be held.

Fulfilling the Requirements for the Oath or Affirmation of Office**Item 1**

In order to meet the requirements of the Act in relation to the Oath or Affirmation of Office, the General Manager has recommended that each Councillor undertake either an Oath or Affirmation of Office during the meeting and record it in the Minutes to meet the requirements of the Act. A copy of the wording for the Oath or Affirmation is shown 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 the Inner West and the Inner West 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 Inner West and the Inner West 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.

ATTACHMENTS

Nil.

Item No: C0917 Item 2
Subject: ELECTION OF MAYOR AND DEPUTY MAYOR
File Ref: 17/4718/103086.17
Prepared By: Ian Naylor - Manager Civic and Executive Support
Authorised By: Tanya Whitmarsh - Group Manager Governance

SUMMARY

The purpose of this report is to outline the procedures for the election of the Mayor and Deputy Mayor.

RECOMMENDATION

THAT Council:

- 1. Determine the length of term for the Deputy Mayor; and**
- 2. Determine the method for voting and conduct the election of Mayor and Deputy Mayor.**

BACKGROUND

In August 2016, the State Government passed and gazetted a number of changes to the Local Government Act. One of these changes was the term of the Mayor (Section 230 of the Act). The term of the Mayor is now to be for two years. However, with a council election due in September 2020, the second Mayoral term of this Council will only be for 12 months.

The term of the Deputy Mayor however can be for the Mayoral Term or a shorter term as the Council determines (Section 231 of the Act).

PROCEDURES FOR MAYORAL ELECTION

1. General Manager indicates that the election will be conducted under the provisions of the Local Government Act and Regulations. It is necessary for the Council to determine the method of voting to be used for the election of Mayor and Deputy Mayor.

Under paragraph three of the Regulations it states:

2. If only one Councillor is nominated that Councillor is elected.
3. If more than one Councillor is nominated, Council is to resolve whether the election is to proceed by;
 - a) preferential ballot
 - b) ordinary ballot
 - c) open voting

Traditionally, councils conduct elections for the Mayor and Deputy Mayor by open voting. If Council decided to conduct the election by preferential or ordinary ballot, then the General Manager will conduct the election as outlined in the Regulations below.

4. Council determines the method of voting.
5. General Manager calls for nominations for Mayor.

- a) A Councillor may be nominated without notice for election as Mayor or Deputy Mayor.
- b) The nomination is to be made in writing by 2 or more Councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
- c) The nomination to be delivered or sent to the Returning Officer (General Manager) prior to the commencement of the Meeting.
- d) The Returning Officer (General Manager) is to announce the names of the nominees at the meeting.
- e) If only two nominations are received, then voting is conducted as resolved and the Returning Officer declares the winner. If voting is tied, the one elected is to be chosen by lot.
- f) If more than two nominations, voting is conducted as resolved and the Returning Officer eliminates the person with the smallest number of votes until there is a winner. If voting is tied, the one elected is to be chosen by lot.
- g) Mayor takes up his or her seat. Mayor normally asks the General Manager to conduct the election of Deputy Mayor.
- h) General Manager then conducts the voting for Deputy Mayor in the same way as above, ie. call for nominations, voting, declare result.

LOCAL GOVERNMENT (GENERAL) REGULATION 2005 - SCHEDULE 7

SCHEDULE 7 – Election of mayor by councillors

(Clause 394)

Part 1 - Preliminary

1 Returning officer

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

2 Nomination

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

3 Election

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.

(3) The election is to be held at the council meeting at which the council resolves on the method of voting.

(4) In this clause:

"**ballot**" has its normal meaning of secret ballot.

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

Part 2 - Ordinary ballot or open voting

4 Application of Part

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

5 Marking of ballot-papers

(1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.

(2) The formality of a ballot-paper under this Part must be determined in accordance with clause 345 (1) (b) and (c) and (6) of this Regulation as if it were a ballot-paper referred to in that clause.

(3) An informal ballot-paper must be rejected at the count.

6 Count-2 candidates

(1) If there are only 2 candidates, the candidate with the higher number of votes is elected.

(2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

7 Count-3 or more candidates

(1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.

(2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.

(3) If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.

(4) A further vote is to be taken of the 2 remaining candidates.

(5) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.

(6) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

Part 3 - Preferential ballot

8 Application of Part

This Part applies if the election proceeds by preferential ballot.

9 Ballot-papers and voting

(1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers "1", "2" and so on against the various names so as to indicate the order of their preference for all the candidates.

(2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.

(3) An informal ballot-paper must be rejected at the count.

10 Count

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

11 Tied candidates

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

Part 4 - General

12 Choosing by lot

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

13 Result

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

- (a) to be declared to the councillors at the council meeting at which the election is held by the returning officer, and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Association of New South Wales.

ATTACHMENTS

Nil.

Item No: C0917 Item 3
Subject: AMENDMENT TO COUNCIL MEETING SCHEDULE
File Ref: 17/4718/103319.17
Prepared By: Ian Naylor - Manager Civic and Executive Support
Authorised By: Tanya Whitmarsh - Group Manager Governance

SUMMARY

The purpose of this report is to replace the Council Meeting scheduled for 26 September with an Ordinary Council Meeting on 12 October.

RECOMMENDATION

THAT the Council Meeting scheduled for 26 September be rescheduled to 12 October 2017 and public notice of this change be published in local newspapers and on Council's website.

BACKGROUND

At the Ordinary Council Meeting of 6 December 2016, Council fixed the Council Meetings dates for 2017. The Council resolved that meetings after the local government election be held as follows; "*Ordinary Council meetings be held on 26 September, 24 October, 21 November and 12 December 2017*".

Due to the timing of the result of the Council Election and the timeframe to consider reports on WestConnex and Sydenham to Bankstown planning matters it is proposed to change the Ordinary Council Meeting scheduled for 26 September to Thursday 12 October. This will allow sufficient time for submissions and Council reports to be prepared in relation to these matters.

FINANCIAL IMPLICATIONS

Nil.

OTHER STAFF COMMENTS

Nil.

PUBLIC CONSULTATION

Nil.

CONCLUSION

Nil.

ATTACHMENTS

Nil.

Item No: C0917 Item 4
Subject: PANEL OF CODE OF CONDUCT REVIEWERS
File Ref: 17/4718/83647.17
Prepared By: Ian Naylor - Manager Civic and Executive Support
Authorised By: Tanya Whitmarsh - Group Manager Governance

SUMMARY

This report addresses the need to appoint a panel of independent conduct reviewers as required under Council's Code of Conduct and pursuant to provisions under sections 440 and 440A of the *NSW Local Government Act 1993*.

RECOMMENDATION

THAT Council appoint as its Code of Code of Reviewer Panel for a period of 4 years (expiring on 21 September 2021) the following:

Name	Organisation
Phil O'Toole	Centium Group Pty Ltd
Peter Moroney	Nemesis Consultancy Group Pty Ltd
John Renshaw / Kelvin Kenney	O'Connor Marsden & Associates Pty Ltd
Wayne Gilbert	PKF Forensic and Risk Services Pty Ltd
Monica Kelly	Prevention Partners
Kath Roach	SINC Solutions
Rob Ryan	Strategic Risk Solutions
Kathryn Thane	Train Reaction Pty Ltd
Council's Internal Ombudsman*	

BACKGROUND

In accordance with *Procedures for the Administration of the Model Code of Conduct for NSW Local Councils* issued by the Office of Local Government, Council must appoint a panel of conduct reviewers who can review complaints made under Council's Code of Conduct. The term of the current panel of conduct reviewers expired in July, therefore Council needs to appoint a new panel of conduct reviewers.

During May 2017, SSROC undertook an expression of interest and evaluation process to establish a panel of conduct reviewers for member councils. The evaluation panel consisted of two governance professionals from member councils and one SSROC representative. In assessing the submissions received, the evaluation panel gave consideration to the

- skills of the individuals / organisations to review complaints made under the Code of Conduct
- criteria for conduct reviewers detailed in the Model Code of Conduct
- need to offer to Councils a wide range of expertise
- skills and relative pricing levels that would provide to Councils a range of potential options depending upon the type of review that would be undertaken.

The evaluation panel unanimously agreed that the first 8 individuals / organisations listed in the table included in this report be accepted as members of the Code of Conduct Review Panel for SSROC member Councils.

Council has resolved to enter into a shared service agreement with Cumberland and the City of Parramatta Councils for the provision of a shared Internal Ombudsman. The Internal

Ombudsman will manage code of conduct complaints for Council and refer matters for investigation to one of the 8 individuals / organisations included in the SSROC Panel. However, to receive Code of Conduct complaints the Internal Ombudsman must also be listed as a conduct reviewer on the Inner West Council's panel of conduct reviewers.

The Internal Ombudsman has been recruited through a competitive process to meet the requirements of the Code of Conduct for the IWC panel of Code of Conduct reviewers. The Internal Ombudsman has been included in the recommended panel of conduct reviewers as shown in the following table.

Proposed IWC Panel of Conduct Reviewers

Name	Organisation
Phil O'Toole	Centium Group Pty Ltd
Peter Moroney	Nemesis Consultancy Group Pty Ltd
John Renshaw / Kelvin Kenney	O'Connor Marsden & Associates Pty Ltd
Wayne Gilbert	PKF Forensic and Risk Services Pty Ltd
Monica Kelly	Prevention Partners
Kath Roach	SINC Solutions
Rob Ryan	Strategic Risk Solutions
Kathryn Thane	Train Reaction Pty Ltd
Council's Internal Ombudsman*	

* Not part of the SSROC panel of conduct reviewers but added to Council's panel so that they can manage code of conduct complaints for Council and refer matters for investigation to one of the 8 individuals / organisations listed on the SSROC Panel.

FINANCIAL IMPLICATIONS

Nil.

ATTACHMENTS

Nil.

Item No: C0917 Item 5
Subject: REFERRAL OF DRAFT 30 JUNE 2017 FINANCIAL STATEMENTS FOR AUDIT
File Ref: 17/4718/103326.17
Prepared By: Pav Kuzmanovski - Group Manager Finance
Authorised By: Michael Tzimoulas - Deputy General Manager Chief Financial and Administration Officer

SUMMARY

The purpose of this report is to refer Council's draft 2016/17 financial reports for the period to be audited by the Auditor General in accordance with s413 of the Local Government Act 1993.

RECOMMENDATION

THAT Council refer Council's draft 2016/17 financial reports for audit pursuant to S413 of the *Local Government Act 1993*

BACKGROUND

Pursuant to Section 413 of the Local Government Act, which requires Council to prepare financial reports for each year and must refer them to audit as soon as practicably possible, this report is being tabled to request Council to endorse the release of the draft financial statements for audit. Due to the timing of Local Government elections, this is the first opportunity that Council has had to table such report.

The Audit Office of NSW under the Auditor General have taken control of the conduct of Local Government audits for the year ended 30 June 2017. Councils are required to have their financial reports audited by the Audit Office via their partner PWC. This differs from previous years where Council previously appointed their external auditors through a competitive tender process on a 5 year basis.

The Audit Office of NSW under the Auditor General have taken control of the conduct of Local Government audits for the year ended 30 June 2017. Councils are required to have their financial reports audited by the Audit Office via their partner PWC. This differs from previous years where Council previously appointed their external auditors through a competitive tender process on a 5 year basis. Council's audited financial reports will be tabled at the 24th October Council meeting for endorsement and subsequently placed on public exhibition for 28 days. A final report will be tabled at the November 2017 Council meeting to table any comments made by the public and seek final endorsement of the financial reports.

FINANCIAL IMPLICATIONS

Nil.

OTHER STAFF COMMENTS

Nil.

PUBLIC CONSULTATION

Nil.

CONCLUSION

Nil.

ATTACHMENTS

Nil.