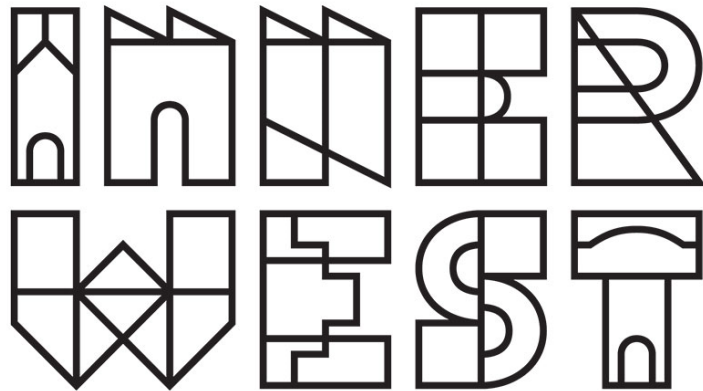


AGENDA



COUNCIL MEETING

TUESDAY 8 OCTOBER 2024

6:30 PM

Live Streaming of Council Meeting

In the spirit of open, accessible and transparent government, this meeting of the Inner West Council is being streamed live on Council's website. By speaking at a Council meeting, members of the public agree to being recorded and must ensure their speech to the Council is respectful and use appropriate language. A person who uses defamatory, discriminatory or offensive language may be exposed to liability for which Council takes no responsibility. Any part of this meeting that is held in closed session will not be recorded.

Council meetings are streamed live on [Council's website](#). This allows our community greater access to Council proceedings, decisions and debate.

Pre-Registration to Speak at Council Meetings

Members of the public must register by 2pm of the day of the Meeting to speak at Council Meetings. If you wish to register to speak please fill in a [Register to Speak Form](#), available from the Inner West Council website, including:

- your name;
- contact details;
- item on the Agenda you wish to speak to; and
- whether you are for or against the recommendation in the agenda.
- whether you are speaking in person or online

Are there any rules for speaking at a Council Meeting?

The following rules apply when addressing a Council meeting:

- keep your address to the point, the time allowed for each speaker is limited to three minutes. This time limit applies, no matter how many items are addressed by the speaker;
- when addressing the Meeting you must speak to the Chairperson;
- the Chairperson may curtail public participation where the information being presented is considered repetitive or irrelevant; and
- only 3 speakers for and against an Agenda Item are allowed.

What happens after I submit the form?

You will be contacted by Governance Staff to confirm your registration. If you indicated that you will speak online, you will be provided with a link to the online meeting. Your request will then be added to a list that is shown to the Chairperson on the night of the meeting.

Where Items are deferred, Council reserves the right to defer speakers until that Item is heard on the next occasion.

Accessibility

Inner West Council is committed to ensuring people with a disability have equal opportunity to take part in Council and Committee Meetings. At the Council Chambers at Ashfield, there is a hearing loop service available to assist persons with a hearing impairment. If you have any other access or disability related participation needs and wish to know more, call 9392 5536.

Persons in the public gallery are advised that under the Local Government Act 1993, a person may NOT record a Council meeting without the permission of Council.

Any persons found recording without authority will be expelled from the meeting.

“Record” includes the use of any form of audio, video and still camera equipment or mobile phone capable of recording speech.

An audio recording of this meeting will be taken for the purpose of verifying the accuracy of the minutes.

Statement of Ethical Obligations

The Mayor and Councillors are bound by the Oath/ Affirmation of Office made at the start of the Council term to undertake their civic duties in the best interests of the people of the Inner West Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act or any other Act, to the best of their skill and judgement.

It is also a requirement that the Mayor and Councillors disclose conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with Council's Code of Conduct and Code of Meeting Practice.

AGENDA

- 1 Acknowledgement of Country
- 2 Apologies and Request for Remote Attendance
- 3 Notice of Webcasting
- 4 Statement of Ethical Obligations
- 5 Disclosures of Interest (Part 4 (Pecuniary Interests) and Part 5 (non-pecuniary conflicts of interest) of Council's Code of Conduct)
- 6 Moment of Quiet Contemplation
- 7 Public Forum – Hearing from All Registered Speakers
- 8 Reports for Council Decision

ITEM	Page
C1024(1) Item 1 Oath Or Affirmation of Office for Councillors	5
C1024(1) Item 2 Election of Mayor and Deputy Mayor	7
C1024(1) Item 3 Countback to fill any casual vacancy on Council	23

9 Reports for Noting

Nil at the time of printing.

Item No: C1024(1) Item 1
Subject: OATH OR AFFIRMATION OF OFFICE FOR COUNCILLORS
Prepared By: Julian Sakarai - Acting Senior Manager Governance and Risk
Authorised By: Beau-Jane De Costa - Acting Director Corporate

RECOMMENDATION

That Council note the taking of the Oath or making of the Affirmation of office undertaken by each Councillor.

STRATEGIC OBJECTIVE

This report supports the following strategic directions contained within Council's Community Strategic Plan:

5: Progressive, responsive and effective civic leadership

EXECUTIVE SUMMARY

This report outlines the requirement under the *Local Government Act 1993 (Act)* for each Councillor to take an oath of office or make an affirmation of office at or before the first meeting of Council after the Councillor is elected.

BACKGROUND

In accordance with the section 233A of the *Act*, a Councillor must take an oath of office or make an affirmation of office at or before the first meeting of Council after the Councillor is elected.

DISCUSSION

A Councillor needs to be physically present before the General Manager, a legal practitioner or a justice of the peace when taking their oath or making their affirmation of office.

A Councillor who fails, without a reasonable excuse, to take the oath of office or make an affirmation of office is not entitled to attend a meeting as a Councillor (other than the first meeting of Council after the Councillor is elected to the office or a meeting at which the Councillor takes the oath or makes the affirmation) until that Councillor has taken the oath or made the affirmation.

The General Manager must then ensure that a record is kept of the taking of an oath or the making of an affirmation (whether in the minutes of the Council meeting or otherwise).

Fulfilling the requirements of the Oath or Affirmation of Office

To ensure compliance with section 233A of the *Local Government Act 1993*, it is recommended that each Councillor take the oath of office or make an affirmation of office during the meeting, held on 8 October 2024. The taking of oaths, or making of affirmations, by Councillors will be recorded in the minutes of the meeting to meet the requirements of the Act. In respect of any Councillors unable to attend the 8 October 2024 Council meeting in person, the General Manager will make arrangements for that Councillor to take the oath/make the affirmation of office before the Council meeting. The taking of the oath or making an affirmation of office outside the Council meeting will then be notified to Council and recorded in the minutes of the meeting.

A copy of the wording for the Oath or Affirmation is detailed 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 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.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the implementation of the proposed recommendations outlined in the report.

ATTACHMENTS

Nil.

Item No: C1024(1) Item 2
Subject: ELECTION OF MAYOR AND DEPUTY MAYOR
Prepared By: Julian Sakarai - Acting Senior Manager Governance and Risk
Authorised By: Beau-Jane De Costa - Acting Director Corporate Acting Director Corporate

Item 2

RECOMMENDATION

1. That Council determine the method of voting for the election of the Mayor and Deputy Mayor (*if more than one nomination is received*).
2. That Council conduct the election of the Mayor for a period serving from 8 October 2024 until September 2026, in accordance with the *Local Government Act 1993*, and the result be declared by the Returning Officer (*General Manager*).
3. That Council determine to elect a Deputy Mayor, and if so:
 - a) The length of term for the Deputy Mayor (*traditional until September the following year*); and
 - b) Determine the method of voting for the election of the Deputy Mayor (*if more than one nomination is received*).
4. That Council conduct the election of the Deputy Mayor for a period from 8 October 2024, until as determined, in accordance with Clause 3a above.

STRATEGIC OBJECTIVE

This report supports the following strategic directions contained within Council’s Community Strategic Plan:

- 5: Progressive, responsive and effective civic leadership

EXECUTIVE SUMMARY

This report has been prepared to conduct the election of Mayor and Deputy Mayor (if Council determines to appoint a Deputy Mayor) from 8 October 2024 until September 2026 (or as determined for the Deputy Mayor). The decision to have a Deputy Mayor is a decision for the Council and is recommended in this report based on the current practice of Council.

The method of voting used at Mayoral elections must be determined at the meeting at which the election is being held. The options open to Council are open voting, ordinary ballot, and preferential ballot. Traditionally, Council conducts elections for the Mayor and Deputy Mayor by open voting. It is the most transparent and least bureaucratic method of voting, and reflects normal Council voting methods. It is also the method of voting that can most easily accommodate Councillors attending remotely. If Council resolves to conduct the election by preferential or ordinary ballot, this will require all Councillors, whether in person or attending remotely, to use an online voting system that will ensure secrecy. However, this is not recommended as Council has not used the system before, and there is a risk of technical issues.

BACKGROUND

It is a requirement of the Act that each local government area has a mayor elected in accordance with the provisions of the Act. The Act provides that the councillors of a local government area may elect a person from among their number to be the deputy mayor.

DISCUSSION

In accordance with section 230 of the *Local Government Act 1993* (the Act), a mayor elected by the councillors holds the office of mayor for 2 years. The deputy mayor may be elected for the mayoral term or a shorter term. Council’s historical practice in respect of the Deputy Mayoral term has been to set it for one year, which in this case would be until September 2025.

The decision to have a Deputy Mayor is a decision for the Council. It is recommended in this report based on the historical practice of Council, and to ensure Council has sufficient capacity in the event the Mayor is otherwise unable to exercise the Mayoral functions. If Council resolves to appoint a Deputy Mayor, Council has previously resolved to pay the Deputy Mayor a fee of \$10,000 per annum. The legislation requires that any fee set for the Deputy Mayor is taken from the annual fee payable to the Mayor. It is at Council’s discretion to determine the fee payable to the Deputy Mayor, if any.

Under section 231(3) of the Act, the Deputy Mayor may exercise any function of the Mayor for any of the following reasons:

1. At the request of the Mayor;
2. If the Mayor is prevented by illness, absence or otherwise from exercising the function; and
3. If there is a casual vacancy in the office of the Mayor.

If Councillors do not proceed with the election of a Deputy Mayor for the ensuing year, they may elect a Deputy Mayor at another time if the Mayor is prevented by illness, absence or otherwise prevented from exercising their role. In the event that the Deputy Mayor is prevented by illness, absence or otherwise from exercising their role, the Councillors may elect another Councillor to act as the Deputy Mayor.

Under section 3(3) of Schedule 7 of the *Regulation*, the method of voting used at mayoral elections must be determined at the meeting at which the election is being held. The options open to Council are open voting, ordinary ballot, and preferential ballot. Traditionally, Council conducts elections for the Mayor and Deputy Mayor by open voting. It is the most transparent and least bureaucratic method of voting, and reflects normal Council voting methods. It is also the method of voting that can most easily accommodate Councillors attending remotely. If Council resolves to conduct the election by preferential or ordinary ballot, this will require all Councillors, whether in person or attending remotely, to use an online voting system that will ensure secrecy. However, this is not recommended as Council has not used the system before, and there is a risk of technical issues.

Nomination Process

The General Manager is designated as the Returning Officer for the election of the Mayor and Deputy Mayor.

Nominations for the position of Mayor and Deputy Mayor must be in writing and signed by two or more Councillors, one of whom may be the nominee.

A standard nomination form has been prepared for this purpose and provided to all Councillors (*Attachment 2*).

Each nominee must confirm their consent to the nomination in writing.

Nominations are to be provided to the Returning Officer before or at the meeting of Council at which the election is scheduled to be conducted. The Returning Officer will announce details of the nominations at that meeting. If there is only one nominee, they are to be declared elected.

If there is more than one nominee, Council is to determine the preferred method of voting and proceed accordingly.

Procedures for Mayoral Election

1. The General Manager will announce the item of business being the election of the Mayor. The General Manager being also the Returning Officer for the election of the Mayor and Deputy Mayor will proceed to conduct the election.
2. The Returning Officer reads out the names of the nominees and seeks confirmation that the nominee has accepted the nomination. If only one Councillor has been nominated for the position of the Mayor, the nominee is elected.
3. If more than one candidate has been nominated, Council must determine by resolution the method of voting to be used for the election of the Mayor by way of one of the following methods:
 - a) Open voting – i.e. by show of hands.
 - b) Ordinary ballot – i.e. a secret ballot (place an “X” against the candidate of their choice);
 - c) Preferential ballot – i.e. place 1, 2, 3 etc. against each candidate;
4. The Returning Officer must ask for a motion to be put to the meeting by one of the Councillors on the preferred method of voting for the election of a Mayor.

Method of Voting – Open voting

1. Each Councillor is entitled to vote for only one candidate in each round of voting. Nominations will be recorded on the tally sheet in the order in which they were received.

2. When all candidates' names have been written on a tally sheet, the Returning Officer announces the names of the candidates, and starts the voting for each candidate and asks Councillors to raise their hands for the candidate they are voting for.
3. The Returning Officer announces the number of votes received for each candidate. The minute taker also records the vote for each Councillor.
4. The Returning Officer checks with the minute taker that each Councillor has voted. If a Councillor has not voted it should be confirmed that they are abstaining (an informal vote).
5. If there are only two candidates for the position of Mayor and the voting is higher for one candidate than another (number of formal votes recorded on the tally sheet), the Returning Officer then announces the result. In the event of a tied vote, in accordance with section 12 of Schedule 7 of the *Local Government (General) Regulation 2021*, the Returning Officer will write the names of the candidates on similar slips of paper, fold them and place them in a hat to be chosen by lot and request a staff member to shake the hat. The Returning Officer will then draw a name out of the hat. The candidate whose name is drawn out will be declared Mayor.
6. If there are three or more candidates, the candidate with the lowest number of votes for the position of Mayor is excluded. The voting continues as above until there are only two candidates remaining. In the event that the lowest number of votes are tied, in accordance with section 12 of Schedule 7 of the *Local Government (General) Regulation 2021*, the Returning Officer will write the names of the candidates on similar slips of paper, fold them and place them in a hat to be chosen by lot and request a staff member to shake the hat. The Returning Officer will then draw a name out of the hat. The candidate whose name is drawn out will be excluded.

Method of Voting – Ordinary ballot

1. The Returning Officer announces the names of the candidates and records the nominations on the ballot paper in the order in which the nominations were received.
2. The Returning Officer writes the names on one set of the ballot papers and initials the front of each ballot paper. A staff member distributes the ballot papers and collects them when completed and gives it to the Returning Officer who counts the votes and records them on the tally sheet. The Returning Officer announces the results.
3. In the event that the lowest number of votes are tied, in accordance with section 12 of Schedule 7 of the *Local Government (General) Regulation 2021*, the Returning Officer will write the names of the candidates on similar slips of paper, fold them and place them in a hat to be chosen by lot and request a staff member to shake the hat. The Returning Officer will then draw a name out of the hat. The candidate whose name is drawn out will be excluded.
4. The Returning Officer writes the names of the remaining candidates on a further set of the ballot papers and initials the front of each ballot paper. The staff member distributes ballot papers listing the remaining candidates and collects them when completed and gives it to the Returning Officer who again counts the votes and records them on the tally sheet and announces the results. The process continues until two candidates remain, where a final vote takes place.
5. In the event of a tied vote between the two remaining candidates, in accordance with section 12 of Schedule 7 of the *Local Government (General) Regulation 2021*, the Returning Officer will write the names of the candidates on similar slips of paper, fold them

and place them in a hat to be chosen by lot and requests a staff member to shake the hat. The Returning Officer will then draw a name out of the hat. The candidate whose name is drawn out will be declared as Mayor.

Method of Voting – Preferential ballot

1. The Returning Officer announces the names of the candidates and records the nominations on the ballot paper in the order in which the nominations were received.
2. The Returning Officer writes the names of candidates on the ballot papers and initials the front of each ballot paper. This method of voting requires only one set of ballot papers. A staff member distributes the ballot papers and collects them when completed and gives them to the Returning Officer who counts the first preference votes and records them on the tally sheet. If a candidate has an absolute majority of first preference votes (more than half), the Returning Officer declares the outcome.
3. If no candidate has the absolute majority of first preference votes, the Returning Officer excludes the candidate with the lowest number of first preference votes. The preferences from the excluded candidate are distributed. This process continues until one candidate has received an absolute majority of votes, at which time the Returning Officer announces the result.
4. In the event of a tied vote where there are only two candidates remaining in the election, in accordance with section 12 of Schedule 7 of the *Local Government (General) Regulation 2021*, the Returning Officer will write the names of the candidates on similar slips of paper, fold them and place them in a hat to be chosen by lot and request a staff member to shake the hat. The Returning Officer will then draw a name out of the hat. The candidate whose name is drawn out will be declared as Mayor.

Procedures for Deputy Mayoral Election

If Council determines to elect a Deputy Mayor, the election process set out above will be followed for the Deputy Mayoral election.

Results

The results of the election (including the name of the candidate elected as Mayor and Deputy Mayor) will be declared to the Councillors at the Council meeting at which the election is held by the Returning Officer (General Manager) and will be provided to the Secretary and the Chief Executive Officer of Local Government NSW.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the implementation of the proposed recommendations outlined in the report other than the provision of the Mayoral allowance, and if appointed, Deputy Mayoral allowance, which Council has already adopted in the annual budget.

ATTACHMENTS

1. [Local Government \(General\) Regulation 2021 \(NSW\) Schedule 7 Election of mayor by councillors](#)
2. [Mayor and Deputy Mayor nomination form](#)
3. [OLG Fact Sheet - Election of Mayor and Deputy Mayor by Councillors](#)

Schedule 7 Election of mayor by councillors

(Section 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 section—
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 section 345 of this Regulation as if it were a ballot-paper referred to in that section.
- (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 subsection (2) is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Section 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 subsection (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 section 345 of this Regulation as if it were a ballot-paper referred to in that section.
- (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 section, *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 Secretary and the Chief Executive Officer of Local Government NSW.



**NOMINATION FOR
POSITION OF MAYOR**

We the undersigned Councillors nominate

Councillor _____

for the position of **MAYOR** for the period commencing 8 October 2024 until September 2026.

PROPOSERS/NOMINATING COUNCILLORS:

NAME IN BLOCK LETTERS

SIGNATURE

DATE

NAME IN BLOCK LETTERS

SIGNATURE

DATE

NAME IN BLOCK LETTERS

SIGNATURE

DATE

NOMINEE CONSENT TO NOMINATION

I, the above nominated Councillor _____ accept nomination for the position of **MAYOR**.

SIGNATURE

IMPORTANT NOTE:

The nomination will be declared invalid if it is not signed by at least two (2) Councillors as proposers, one of which can be the nominated person. The nominee must also sign as accepting the nomination.



**NOMINATION FORM
POSITION OF DEPUTY MAYOR**

Item 2

We the undersigned Councillors nominate

Councillor _____

for the position of **DEPUTY MAYOR** for the period commencing 8 October 2024 until September 2025 (pending Council confirmation of Deputy Mayor’s length of term).

PROPOSERS/NOMINATING COUNCILLORS:

_____	_____	_____
NAME IN BLOCK LETTERS	SIGNATURE	DATE
_____	_____	_____
NAME IN BLOCK LETTERS	SIGNATURE	DATE
_____	_____	_____
NAME IN BLOCK LETTERS	SIGNATURE	DATE

NOMINEE CONSENT TO NOMINATION

I, the above nominated Councillor _____ accept nomination for the position of **DEPUTY MAYOR**.

SIGNATURE

IMPORTANT NOTE:

The nomination will be declared invalid if it is not signed by at least two (2) Councillors as proposers, one of which can be the nominated person. The nominee must also sign as accepting the nomination.

Attachment 2

Item No: C1024(1) Item 3
Subject: COUNTBACK TO FILL ANY CASUAL VACANCY ON COUNCIL
Prepared By: Julian Sakarai - Acting Senior Manager Governance and Risk
Authorised By: Beau-Jane De Costa - Acting Director Corporate

Item 3

RECOMMENDATION

1. That Council pursuant to section 291A(1)(b) of the *Local Government Act 1993* (the Act), declare that casual vacancies occurring in the office of a Councillor within 18 months after the last ordinary election of Councillors for the Council on 14 September 2024, 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 if Council determines to fill any casual vacancies by a countback election pursuant to section 291A of the *Local Government Act 1993*, that Council directs the General Manager to notify the New South Wales Electoral Commission of the Council’s decision within 7 days of the decision, as required by section 393C of the *Local Government (General) Regulation 2021*.

STRATEGIC OBJECTIVE

This report supports the following strategic directions contained within Council’s Community Strategic Plan:

5: Progressive, responsive and effective civic leadership

EXECUTIVE SUMMARY

This report presents to Council for determination 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.

If Council does not resolve this at the first meeting after the election, they will be required to fill casual vacancies (should they arise) through a by-election.

BACKGROUND

A countback option for councils was introduced for the first time following the 2021 local government elections, giving Councils the option of avoiding the cost of by-elections in the first 18 months of councils’ terms by filling vacancies via countback.

DISCUSSION

Following the 2024 local government election, councils can determine that a countback election will be held to fill any casual vacancy that occurs within 18 months after the date of that ordinary election. This allows councils who opt in to use a countback to fill casual vacancies at a significantly lower cost than the cost of holding a by-election.

In a countback election, the Returning Officer:

- uses preference data from ballot papers from the previous local government ordinary election
- uses the same proportional representation method used in the original election

- effectively re-runs the election making the vacating Councillor ineligible and distributing each of their ballot papers to the next preference on the ballot paper
- if a non-eligible candidate would be elected, the election is re-run with that candidate's ballot papers also distributed to their next preference on the ballot paper
- re-runs the countback until an eligible candidate is elected.

The Returning Officer contacts all unelected candidates from the local government ordinary election who may still qualify to be elected to the office of Councillor. Where the candidate is interested, they must submit a formal application to the Returning Officer. All candidates who submit and do not withdraw their application become eligible candidates. If there is only one eligible candidate, that candidate is elected. If there are multiple eligible candidates, a countback election is conducted.

A countback election is used to elect a councillor to fill a single vacancy, where the vacating councillor was elected under the proportional representation method (that is, where two or more candidates were elected at a local government ordinary election). If there are multiple vacancies, a separate countback election is held for each vacancy. Where Council resolves to fill casual vacancies using a countback the General Manager is required under Section 393C of the *Local Government (General) Regulation 2021* (the Regulation) to notify the Council's election manager within 7 days of the resolution. Inner West Council's election manager is the NSW Electoral Commission.

If Council does not resolve to allow a countback at the first meeting after the election, or if there are no eligible candidates, Council will be required to fill casual vacancies through a by-election. In addition, countbacks are not available to fill casual vacancies in the office of a Councillor where:

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

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

Council can still opt to conduct a by-election even if it resolves to utilise the countback method at its first meeting in the event of a casual vacancy within 18 months of the election. Council could do this by rescinding its earlier resolution. Council cannot, however, utilise the countback method where it has not resolved to do so at its first meeting of the Council term.

The recommendation in the report has been taken from the suggested wording in the Office of Local Government Post-Election Guide.

FINANCIAL IMPLICATIONS

The cost of a by-election in one ward may cost up to \$350,000. The cost can be alleviated by utilising the countback method. A small cost is associated with the appointment of a Returning Officer to conduct the countback process, estimated to be approximately \$10,000.

ATTACHMENTS

1. [Local Government \(General\) Regulation 2021 - Schedule 9A Countback elections](#)

