

AGENDA

Notice is hereby given that an Ordinary Meeting of Council will be held at the Civic Centre, Dee Why on

Wednesday 29 December 2021

Beginning at 10am for the purpose of considering and determining matters included in this agenda.



Ray Brownlee PSM
Chief Executive Officer

OUR VISION

Delivering the highest quality service valued and trusted by our community

OUR VALUES

Trust Teamwork Respect Integrity Service Leadership

**Agenda for an Ordinary Meeting of Council
to be held on Wednesday 29 December 2021
at the Civic Centre, Dee Why
Commencing at 10am**

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1.0 ACKNOWLEDGEMENT OF COUNTRY

As a sign of respect, Northern Beaches Council acknowledges the traditional custodians of these lands on which we gather and pays respect to Elders past and present.

2.0 TAKING OF OATHS AND AFFIRMATIONS

Councillors are to take an oath or affirmation of office in accordance with the Local Government Act 1993.
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3.0 APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE AND REMOTE ATTENDANCE

In accordance with Part 6 of the Code of Meeting Practice, apologies must be received and accepted from absent councillors and a leave of absence from the Council Meeting may be granted.

In accordance with Council resolution 286/21 requests by councillors to attend meetings remotely via audio-visual link will be considered by Council.

4.0 CHIEF EXECUTIVE OFFICER'S DIVISION REPORTS

ITEM 4.1	ELECTION OF MAYOR
REPORTING MANAGER	EXECUTIVE MANAGER GOVERNANCE AND RISK
TRIM FILE REF	2021/703708
ATTACHMENTS	1 Download Nomination Form - Mayor

BRIEF REPORT

PURPOSE

To consider the election of the Mayor, and the method by which the election will be conducted for the Mayoral term of office from 29 December 2021 to September 2023.

REPORT

Section 225 of the Local Government Act, 1993 (the Act) requires a council to have a Mayor and the Northern Beaches Council must elect its Mayor in accordance with section 227(a) of the Act, that is, the Council itself is to elect one of its members to the office of Mayor. Under section 230(1), a Mayor elected by Councillors holds the office of Mayor for two years, subject to the Act.

The Office of Local Government has advised that because of the postponement of the ordinary council elections to 4 December 2021, mayors elected by councillors during this term will have a shorter term than the usual two years.

Councils that elect their mayors are required under the Act 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.

Conducting the Election of the Mayor

A nomination for the office of Mayor (Attachment 1) is to be made in writing by two 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.

The Returning Officer is to announce the names of the nominees at the Council meeting at which the election is to be held.

If only one councillor is nominated, that councillor is elected. If more than one councillor is nominated, the Council is to resolve whether the election is to proceed by:

- (a) open voting
- (b) ordinary ballot
- (c) preferential ballot.

The election is to be held at the Council meeting at which the Council resolves on the method of voting. The Returning Officer is to conduct the ballot.

If the method is open vote this is to be conducted by a show of hands or similar means. If the method is by preferential or ordinary ballot, this will be conducted by a secret vote.

Secret votes are not able to be conducted by remote audio-visual methods, therefore in the event some councillors are granted approval by the Council to participate in the Council meeting by remote audio-visual link, the most practicable method will be to conduct the election by open voting.

Summary of Election Procedure

- Nomination papers are distributed to Councillors prior to the meeting (Attachment 1).
- Councillors will be called upon by the Returning Officer to submit their nomination papers.
- Nominations received will be read to the Council meeting by the Returning Officer who will ask if any of the candidates nominated wish to decline the nomination.
- If there are more candidates than one, an election will be carried out in accordance with the provisions of Schedule 7 of the Local Government (General) Regulation 2021.
- Councillors will resolve whether the election is to proceed by open voting, by ordinary ballot or by preferential ballot.
- If a secret ballot is required:
 - Ballot papers will be prepared and distributed to councillors for marking
 - Upon completion of marking of the ballot papers by councillors, the ballot papers will be collected on behalf of the Returning Officer and the votes will be counted
 - When the ballot or ballots, as required pursuant to the provisions of Schedule 7, have been completed and a result obtained, the Returning Officer will announce the results at the meeting.

Detailed Procedures for Election Methods

Open Voting

An open vote will be conducted by a show of hands.

If there are only two candidates, the candidate with the higher number of votes is elected. If there are only two candidates and they are tied, the one elected is to be chosen by lot.

If there are three or more candidates, separate and continuing ballots are taken to exclude the candidate with the lowest number of votes, until only two candidates remain.

Ordinary Ballot

If the election proceeds by ordinary ballot, the Returning Officer is to determine the manner in which votes are to be marked on the ballot papers.

The formality of a ballot paper must be determined in accordance with clause 345 of the Local Government (General) Regulation 2021.

An informal ballot paper must be rejected at the count.

If there are only two candidates, the candidate with the higher number of votes is elected. If there are only two candidates and they are tied, the one elected is to be chosen by lot.

If there are three or more candidates, separate and continuing ballots are taken to exclude the candidate with the lowest number of votes, until only two candidates remain.

Preferential Ballot

The steps to conduct a preferential ballot are as follows:

Councillors are to mark their votes by placing the number '1' '2' and so on, against the listed candidates' names so as to indicate the order of their preference for all candidates.

An informal ballot-paper must be rejected at the count. The formality of a ballot paper is to be determined in accordance with clause 345 of the Local Government (General) Regulation 2021.

If a candidate has an absolute majority of first preference votes, that candidate is elected.

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.

A candidate who then has an absolute majority of votes is elected. If no candidate has the absolute majority of votes, the candidate with the lowest number of votes is excluded. The preferences from the excluded candidate are distributed. The process continues until one candidate has received an absolute majority of votes.

Under the Regulation "absolute majority", in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot papers.

Tied candidates

The steps for a tied vote are as follows:

If on any count of votes there are two candidates in, or remaining in the election and the numbers of votes cast for the two 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.

If on any count of votes there are three or more candidates in, or remaining in the election and the numbers of votes cast for two 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.

Explanation of choosing by lots

If a process is to be determined by lot then this refers to the selection of a candidate by the Returning Officer where the names of candidates are to be written on similar slips of paper, folded and mixed and selected randomly from a barrel.

TIMING

A Mayor elected by the Councillors holds the office of Mayor for two years. Due to the postponement of the ordinary council elections to 4 December 2021, mayors elected by councillors during this term will have a shorter term than the usual two years.

Councils that elect their mayors are required under the Act 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.

LINK TO COUNCIL STRATEGY

This report relates to the Community Strategic Plan Outcome of Good Governance - Goal 19: Our Council is transparent and trusted to make decisions that reflect the values of the community.

FINANCIAL CONSIDERATIONS

The provision for an office of the Mayor is included within Council's existing operational budget.

ENVIRONMENTAL CONSIDERATIONS

The election of the Mayor does not have an environmental impact.

SOCIAL CONSIDERATIONS

The civic responsibilities and community leadership role of the Mayor are outlined under section 226 of the Act.

Section 226 of the Act states that the role of the Mayor is as follows:

- (a) to be the leader of the council and a leader in the local community*
- (b) to advance community cohesion and promote civic awareness*
- (c) to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities*
- (d) to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council*
- (e) to preside at meetings of the council*
- (f) to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act*
- (g) to ensure the timely development and adoption of the strategic plans, programs and policies of the council*
- (h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the council*
- (i) to promote partnerships between the council and key stakeholders*
- (j) to advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council*
- (k) in conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community*
- (l) to carry out the civic and ceremonial functions of the mayoral office*
- (m) to represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level*
- (n) in consultation with the councillors, to lead performance appraisals of the general manager*
- (o) to exercise any other functions of the council that the council determines.*

GOVERNANCE AND RISK CONSIDERATIONS

The election of the Mayor is in line with sections 225 and 227 of the Local Government Act 1993.

RECOMMENDATION OF CHIEF EXECUTIVE OFFICER

That:

1. Council to determine the method of voting for the election of the Mayor for the December 2021 - September 2023 Mayoral term to be conducted by one of the following methods:
 - i. Open voting
 - ii. Ordinary ballot
 - iii. Preferential ballot.
 2. Nominations be called for candidates for the Office of Mayor for the December 2021 - September 2023 Mayoral term.
 3. The election of the Mayor for the December 2021 – September 2023 Mayoral term be held in accordance with the provisions of the *Local Government (General) Regulation 2021*.
-



Nomination Form

Office of Mayor

In accordance with Clause 2 of Schedule 7 of the Local Government (General) Regulation 2021,

Councillor is hereby nominated for

(name of nominee)

the office of **MAYOR** of Northern Beaches Council for a term as determined by Council under section 227 of the Local Government Act, 1993.

Nominators

1. Councillor
(name) (signature)

2. Councillor
(name) (signature)

Nominee

I, Councillor, consent to this nomination.

(name)

.....
(Signature) (date)

Clause 394 and Schedule 7 of the Local Government (General) Regulation, 2021 outline the statutory provisions for the nomination of candidates for election of **Mayor** by Councillors as follows:

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.

ITEM 4.2	ELECTION OF DEPUTY MAYOR
REPORTING MANAGER	EXECUTIVE MANAGER GOVERNANCE AND RISK
TRIM FILE REF	2021/703933
ATTACHMENTS	1 ↓ Deputy Mayor Nomination Form

BRIEF REPORT

PURPOSE

To consider the election of a councillor to the office of Deputy Mayor and the method by which the election will be conducted.

REPORT

Section 231 of the Local Government Act 1993 provides that Council may elect one of its members as Deputy Mayor. 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.

Should Council resolve to elect a Deputy Mayor, nominations shall be called for candidates for the office. If a Deputy Mayor is to be elected by the councillors, the election is to be in accordance with Schedule 7 of the Local Government (General) Regulation 2021.

If Council decides to elect a Deputy Mayor, the person may be elected for the mayoral term, or a shorter term.

In the event that two or more candidates accept a nomination for the office of Deputy Mayor, Council shall determine the method for conducting the election.

Conducting the Elections of the Deputy Mayor

A nomination for the office of Deputy Mayor is to be made in writing and endorsed by two 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.

The Returning Officer is to announce the names of the nominees at the Council meeting at which the election is to be held.

If only one councillor is nominated, that councillor is elected. If more than one councillor is nominated, the Council is to resolve whether the election is to proceed by:

- (a) open voting
- (b) ordinary ballot
- (c) preferential ballot.

The election is to be held at the Council meeting at which the Council resolved on the method of voting. The Returning Officer is to conduct the ballot.

If the method is open vote this is to be conducted by a show of hands. If the method is by preferential or ordinary ballot, this will be conducted by a secret vote.

Secret votes are not able to be conducted by remote audio-visual methods, therefore in the event some councillors are granted approval by the Council to participate in the Council meeting by remote audio-visual link, the most practicable method will be to conduct the election by open voting.

Summary of Election Procedure

- Nomination papers are distributed to Councillors prior to the meeting (Attachment 1).
- Councillors will be called upon by the Returning Officer to submit their nomination papers.
- Nominations received will be read to the Council meeting by the Returning Officer who will ask if any of the candidates nominated wish to decline the nomination.
- If there are more candidates than one, an election will be carried out in accordance with the provisions of Schedule 7 of the Local Government (General) Regulation 2021.
- Councillors will resolve whether the election is to proceed by open voting, by ordinary ballot or by preferential ballot.
- If a secret ballot is required:
 - Ballot papers will be prepared and distributed to councillors for marking
 - Upon completion of marking of the ballot papers by councillors, the ballot papers will be collected on behalf of the Returning Officer and the votes will be counted
 - When the ballot or ballots, as required pursuant to the provisions of Schedule 7, have been completed and a result obtained, the Returning Officer will announce the results at the meeting.

Detailed Procedures for Election Methods

Open Voting

An open vote will be conducted by a show of hands.

If there are only two candidates, the candidate with the higher number of votes is elected. If there are only two candidates and they are tied, the one elected is to be chosen by lot.

If there are three or more candidates, separate and continuing ballots are taken to exclude the candidate with the lowest number of votes, until only two candidates remain.

Ordinary Ballot

If the election proceeds by ordinary ballot, the Returning Officer is to determine the manner in which votes are to be marked on the ballot papers.

The formality of a ballot paper must be conducted in accordance with clause 345 (1) (b) and (c) of the Local Government (General) Regulation 2021.

An informal ballot paper must be rejected at the count.

If there are only two candidates, the candidate with the higher number of votes is elected. If there are only two candidates and they are tied, the one elected is to be chosen by lot.

If there are three or more candidates, separate and continuing ballots are taken to exclude the candidate with the lowest number of votes, until only two candidates remain.

Preferential Ballot

The steps to conduct a preferential ballot are as follows:

Councillors are to mark their votes by placing the number '1' '2' and so on, against the listed candidates' names so as to indicate the order of their preference for all candidates.

An informal ballot-paper must be rejected at the count. The formality of a ballot paper is to be determined in accordance with clause 345 (1) (b) and (c) of the Local Government (General) Regulation 2021.

If a candidate has an absolute majority of first preference votes, that candidate is elected.

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.

A candidate with an absolute majority of votes is elected. If no candidate has the absolute majority of first preference votes, the candidate with the lowest number of votes is excluded. The preferences from the excluded candidate are distributed. The process continues until one candidate has received an absolute majority of votes.

Under the Regulation "absolute majority", in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot papers.

Tied candidates

The steps for a tied vote are as follows:

If on any count of votes there are two candidates in, or remaining in the election and the numbers of votes cast for the two 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.

If on any count of votes there are three or more candidates in, or remaining in the election and the numbers of votes cast for two 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.

Explanation of choosing by lots

If a process is to be determined by lot then this refers to the selection of a candidate by the Returning Officer where the names of candidates are to be written on similar slips of paper, folded and mixed and selected randomly from a barrel.

TIMING

The Deputy Mayor may be elected for the mayoral term, or a shorter term.

A Mayor elected by the Councillors holds the office of Mayor for two years. Due to the postponement of the ordinary council elections to 4 December 2021, mayors elected by councillors during this term will have a shorter term than the usual two years.

Councils that elect their mayors are required under the Act 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.

LINK TO COUNCIL STRATEGY

This report relates to the Community Strategic Plan Outcome of Good Governance - Goal 19: Our Council is transparent and trusted to make decisions that reflect the values of the community.

FINANCIAL CONSIDERATIONS

The provision for an office of Deputy Mayor is included within Council's existing operational budget.

ENVIRONMENTAL CONSIDERATIONS

The election of the Deputy Mayor does not have an environmental impact.

SOCIAL CONSIDERATIONS

The civic responsibilities and community leadership role of the Deputy Mayor are outlined under section 226 of the Act.

Section 231(3) of the Act states that:

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.

GOVERNANCE AND RISK CONSIDERATIONS

The election of the Deputy Mayor is in line with section 231 of the Local Government Act 1993.

RECOMMENDATION OF CHIEF EXECUTIVE OFFICER

That Council:

1. Determine whether to elect a Deputy Mayor in accordance with section 231 of the Local Government Act 1993 and the length of term of this office.
 2. Determine the method of election for the Deputy Mayor.
-



Nomination Form

Office of Deputy Mayor

In accordance with Clause 2 and Schedule 7 of the Local Government (General) Regulation 2021,

Councillor is hereby nominated for

(name of nominee)

the office of **DEPUTY MAYOR** of Northern Beaches Council for a term as determined by Council under section 231(2) of the Local Government Act, 1993.

Nominators

1. Councillor
(name) (signature)

2. Councillor
(name) (signature)

Nominee

I, Councillor, consent to this nomination.

(name)

.....
(Signature) (date)

Clause 394 and Schedule 7 of the Local Government (General) Regulation, 2021 outline the statutory provisions for the nomination of candidates for election of **Deputy Mayor** by Councillors as follows:

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.

ITEM 4.3	COUNCILLORS WELCOME AND INAUGURAL SPEECHES
REPORTING MANAGER	EXECUTIVE MANAGER GOVERNANCE AND RISK
TRIM FILE REF	2021/739058
ATTACHMENTS	NIL

BRIEF REPORT

PURPOSE

To provide councillors with an opportunity to make a three-minute inaugural speech.

REPORT

All councillors are officially welcomed to the new term of Council with an opportunity to make a three-minute inaugural speech.

Councillors will be invited to speak by the Mayor in alphabetical order.

LINK TO COUNCIL STRATEGY

This report relates to the Community Strategic Plan Outcome of:

- Good Governance - Goal 19: Our Council is transparent and trusted to make decisions that reflect the values of the community.

FINANCIAL CONSIDERATIONS

There are no financial considerations relating to this matter.

ENVIRONMENTAL CONSIDERATIONS

There are no environmental considerations relating to this matter.

SOCIAL CONSIDERATIONS

Providing an optional opportunity for councillors to make an inaugural speech for the new term of Council enables the community to get to know their local elected representatives.

GOVERNANCE AND RISK CONSIDERATIONS

Inaugural speeches are a ceremonial convention used in parliaments (not typically in local government) to provide a positive platform for elected representatives to make official acknowledgments or share personal experiences, stories or outline their policy intentions.

RECOMMENDATION OF CHIEF EXECUTIVE OFFICER

That councillors are invited to make a three-minute inaugural speech if they wish.

5.0 DISCLOSURES OF INTEREST

In accordance with Part 17 of the Code of Meeting Practice, all Councillors must disclose and manage any conflicts of interest they may have in matters being considered at the meeting.

6.0 PUBLIC FORUM AND PUBLIC ADDRESS

In accordance with Part 5 of the Code of Meeting Practice, residents, ratepayers, applicants or other persons may request to address Council in relation to any one matter related to the general business of Council but not the subject of a report on the agenda (Public Forum) and no more than two matters listed for consideration on the agenda (Public Address).

7.0 ITEMS RESOLVED BY EXCEPTION

In accordance with Part 14 of the Code of Meeting Practice, items that are dealt with by exception are items where the recommendations contained in the staff reports in the agenda are adopted without discussion.

9.0 CORPORATE AND LEGAL DIVISION REPORTS

ITEM 9.1	DELEGATED AUTHORITY TO MAYOR OVER NEW YEAR RECESS 2021/2022
REPORTING MANAGER	EXECUTIVE MANAGER GOVERNANCE AND RISK
TRIM FILE REF	2021/709183
ATTACHMENTS	NIL

BRIEF REPORT

PURPOSE

To consider the arrangements for delegated authority of the Council over the 2021-2022 recess.

REPORT

The Council is not scheduled to sit in January 2022. For reasons of practicality, in the absence of the Council's availability to exercise its functions over the 2021-22 recess, and in the event of a matter that requires attention arising, Council may delegate any of its functions (other than non-delegable functions) to the Mayor during this period.

It is proposed that delegation be granted to the Mayor for the 2021-22 recess from 30 December 2021 to 31 January 2022 inclusive. A report outlining how the delegated authority was exercised during the period will be provided to Council at the 22 February 2022 ordinary Council meeting.

Section 226 of the Local Government Act 1993 also provides that the role of the Mayor is '*to exercise, in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council*'.

Section 377 of the Local Government Act 1993 provides that Council may, by resolution, delegate any of the functions of the Council to the general manager or any other person (not including another employee of the Council). Under section 377 of the Local Government Act 1993 the following powers, duties or functions of the Council cannot be delegated and can only be exercised by resolution of the Council:

- the appointment of a general manager
- the making of a rate
- a determination under section 549 as to the levying of a rate
- the making of a charge
- the fixing of a fee
- the borrowing of money
- the voting of money for expenditure on its works, services or operations
- the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)
- the acceptance of tenders to provide services currently provided by members of staff of the council
- the adoption of an operational plan under section 405
- the adoption of a financial statement included in an annual financial report
- a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
- the fixing of an amount or rate for the carrying out by the council of work on private land

- the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work
- the review of a determination made by the council, and not by a delegate of the Council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979
- the power of the Council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194
- a decision under section 356 to contribute money or otherwise grant financial assistance to persons
- a decision under section 234 to grant leave of absence to the holder of a civic office
- the making of an application, or the giving of a notice, to the Governor or Minister
- this power of delegation
- any function under this or any other Act that is expressly required to be exercised by resolution of the council.

LINK TO COUNCIL STRATEGY

This report relates to the Community Strategic Plan Outcome of Good Governance - Goal 19: Our Council is transparent and trusted to make decisions that reflect the values of the community.

FINANCIAL CONSIDERATIONS

Decisions which are made under a delegated authority of the Council during this period may have financial considerations. These will be addressed in the report outlining the exercising of the delegated authority during the period.

ENVIRONMENTAL CONSIDERATIONS

Decisions made under a delegated authority of the Council during this period may have environmental considerations. These will be addressed in the report to Council outlining the exercising of the delegated authority during the period.

SOCIAL CONSIDERATIONS

Decisions made under a delegated authority of the Council during this period may have social considerations. These will be addressed in the report to Council outlining the exercising of the delegated authority during the period.

GOVERNANCE AND RISK CONSIDERATIONS

It is considered a prudent practice in the absence of the Council for delegated authority to be granted over the end of year recess in the event of a critical or urgent matter arising. Decisions which are made during this period may have governance and risk considerations. These will be addressed in the report to Council (in February 2022) outlining the exercising of the delegated authority during the period.

RECOMMENDATION OF DIRECTOR CORPORATE AND LEGAL

That:

1. Council, pursuant and subject to the limitations of section 377 of the Local Government Act 1993, delegate all of its functions to the Mayor during the 2021-22 recess being the period from 30 December 2021 to 31 January 2022 inclusive.
 2. A report be provided to the 22 February 2022 Council meeting outlining how the delegated authority was exercised.
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ITEM 9.2	VOTING DELEGATES FOR SPECIAL LOCAL GOVERNMENT NSW CONFERENCE
REPORTING MANAGER	EXECUTIVE MANAGER GOVERNANCE AND RISK
TRIM FILE REF	2021/689790
ATTACHMENTS	1 LGNSW Conference Motions submission guide

BRIEF REPORT

PURPOSE

To determine the councillor voting delegates to attend the Local Government NSW (LGNSW) Special Conference to be held Monday 28 February to Wednesday 2 March 2022.

REPORT

LGNSW is a member-based industry body for the local government sector. The [LGNSW Special Conference](#) will be held from Monday 28 February to Wednesday 2 March 2022 in person at the Hyatt Regency Sydney. The conference will include the debate and resolution of motions setting LGNSW's advocacy agenda for 2022.

Northern Beaches Council is entitled to send up to ten voting delegates to the Special Conference. Nominated delegates are to be advised to LGNSW by 17 February 2022.

Under the rules to submit motions to the LGNSW conference (Attachment 1) any motions put must first be supported by a Council resolution. This means councillors wishing to have motions on the agenda for the Special Conference will first need to put forward the motion to Council to consider.

Given the deadline for motions to be submitted to LGNSW is 30 January 2022, the opportunity for Council to also resolve a motion to be put to the LGNSW conference is available while this item is being considered at the 29 December 2021 meeting.

LINK TO COUNCIL STRATEGY

This report relates to the Community Strategic Plan Outcome of:

- Good Governance - Goal 19: Our Council is transparent and trusted to make decisions that reflect the values of the community.

FINANCIAL CONSIDERATIONS

Funds are allocated from the 2021/22 budget for councillor attendance at conferences in accordance with the Councillor Expenses and Facilities Policy.

ENVIRONMENTAL CONSIDERATIONS

Councillors interact with other metropolitan, regional and rural councils to share knowledge of trends and ideas across the industry and to explore and progress opportunities for improving the environmental impact, and sustainability and resilience of the local government sector.

SOCIAL CONSIDERATIONS

As per the above, this provides an opportunity for councillors to explore and progress innovations for improving the social impacts of the local government sector.

GOVERNANCE AND RISK CONSIDERATIONS

Councils have an opportunity to submit motions to the LGNSW Special Conference to further the strategic capacity and policy position of local government. Participating in strategic forums such as this is in line with Council's strategic direction to be a leader in its industry.

RECOMMENDATION OF DIRECTOR CORPORATE AND LEGAL

That Council:

1. Nominate up to ten councillors as voting delegates to attend the Local Government NSW Special Conference from Monday 28 February to Wednesday 2 March 2022.
 2. Consider any motions to be put forward for consideration at the Local Government NSW Special Conference.
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LGNSW Special Conference Motions Submission Guide

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Motions Submission Guide

1. Introduction

Each year, member councils across NSW submit a range of motions to an Annual Conference conducted by Local Government NSW (LGNSW). These motions relate to strategic local government issues which affect members state-wide and introduce new or emerging policy issues and actions. They are debated and resolved by Conference delegates, with successful resolutions guiding LGNSW's advocacy priorities for the year ahead.

However, stay-at-home orders and the postponement of local government elections have forced a truncated Annual Conference in 2021, with insufficient time for proper motion debate. To ensure motions are properly debated and resolved by members, LGNSW will hold an additional Special Conference from 28 February to 2 March 2022.

All LGNSW member councils are invited to submit motions to this Special Conference, with the following Guide outlining the Motion development and submission process.

2. Deadlines

Members are encouraged to submit motions [online](#) as early as possible to allow assessment of the motions and distribution of the Business Paper before the Conference. Under LGNSW Rules, the latest date motions can be accepted for inclusion in the Business Paper is **12 midnight (AEDT) on Sunday 30 January 2022** (28 days prior to Conference).

3. Criteria for motion submission

The LGNSW Board has resolved that motions will be included in the Business Paper for the Conference only where they:

1. are consistent with the objects of LGNSW (see Rule 4 of the Association's [rules](#)),
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 the local government policy agenda of LGNSW 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.

Council members are encouraged to review [Action Reports](#) (on the member only pages of the LGNSW website) from previous Conferences and the [LGNSW Policy Platform](#) before submitting motions for this year's Special Conference to ensure the proposed motion wording reflects any recent developments and does not duplicate existing positions..

4. How to write a motion

Motions adopted at Conferences inform LGNSW's advocacy actions on behalf of the local government sector. LGNSW includes the exact wording of motions when writing to ministers, departments and agencies post-conference, so it is important that the wording of motions clearly outlines your council's policy intent or objective.

The format of motions, as much as possible, should call on a specific body (e.g. LGNSW, state government, federal government, a specific department or minister) and have a specific outcome that the motion is aiming to achieve. The wording should be unambiguous.

Examples of clearly-worded Annual Conference motions:

Minister for Rural and Regional NSW

That LGNSW lobbies the NSW State Government to appoint a Minister for Rural and Regional NSW with suitable resources to undertake meaningful representative activities.

Natural Disaster Funding, Day Labour

That LGNSW requests the Australian and NSW governments reinstate the claimable expense for the use of council staff during their normal working hours to attend to natural disaster relief and recovery funded works and reverse the present policy that effectively requires the mandatory use of contractors for recovery works.

Companion Animal Act matters

That LGNSW advocates that the NSW Government takes the following steps to improve the management of companion animals:

- establish an integrated on-line statewide registration process as an improved service to companion animal owners;
- resolve difficulties with the *Companion Animals Act 1998* definition of an "Authorised Officer", by using the definition contained in the *Impounding Act 1993* as the definition in both Acts, allowing councils choice in the business model for its area; and
- review the dismissal of charges under section 10 of the *Crimes (Sentencing Procedure) Act 1999* in relation to offences under the *Companion Animals Act 1998*.

For more examples see Business Papers from [past Conferences](#) on the LGNSW website.

5. Demonstrating evidence of council support for motion

The member submitting the motion must provide accompanying evidence of support for the motion. Such evidence may include an attachment note or extract from the minutes of the council meeting, at which the member council resolved to submit the motion for consideration by the Conference. In the absence of a council meeting, the evidence should be a letter signed by both the Mayor and General Manager.

6. How to submit a motion

LGNSW members are invited to submit motions through an [online portal](#) from 12 July 2021.

Each motion submission should include responses to the following fields:

1. **Council name**
2. **Contact details** of relevant officer
3. **Motion category** (e.g. *planning, economic, environment etc. This assists with assigning motions to the relevant policy staff and grouping related motions in the Conference Business Paper.*)
4. **Motion title** (a few words)
5. **Motion** (a sentence or two which includes the call to action)
6. **Background note** (a paragraph or two to explain the context and importance of the issue to the local government sector)
7. **Evidence of council support** for the motion (e.g. *extract of council meeting minutes*)

Once a motion has been submitted it cannot be edited without contacting LGNSW, so please review the content carefully before submission.

7. How LGNSW manages incoming motions

The LGNSW Board has established a committee and delegated the function of managing incoming motions for the Conference to this committee. The Chief Executive will refer motions to the committee and the committee will assess whether the motion meets or doesn't meet the criteria, or if

it is unclear whether it meets the criteria. This assessment forms the final decision on which motions are included in the Conference Business Paper.

Prior to the committee making a final decision, LGNSW may contact the council that submitted the motion to seek clarity on its intent or wording.

Incoming motions which seek to change any long-held Fundamental [Principles](#), will be highlighted in the Business Paper for members' information at time of voting.

Motions which are consistent with existing LGNSW positions or current LGNSW actions, or that are operational and can be actioned without a Conference resolution, may still be printed in the Business Paper but will not be debated at the Conference.

8. What happens to motions at the LGNSW Conference

Standing orders are outlined at the front of the Business Paper and adopted at the commencement of each Conference. They outline the manner in which the Conference deals with motions. The standing orders adopted at the 2019 Conference can be found in **Attachment A**.

During debate on motions at Conference, the standing orders generally permit councillor delegates to speak in support of or against each motion. Following a vote on a motion, the motion is either carried and becomes a resolution of the Conference, or it is defeated.

9. Post-conference: Updates to the LGNSW Policy Platform

LGNSW's [Policy Platform](#) consolidates the voices of councils across NSW, reflecting the collective positions of local government on issues of importance to the sector. Importantly, the Policy Platform guides LGNSW in its advocacy on behalf of the local government sector.

The Policy Platform consists of two parts: LGNSW's Fundamental Principles, and the more targeted Position Statements.

- **Fundamental Principles** are the enduring and overarching principles that direct LGNSW's response to broad matters of importance to the local government sector. These Fundamental Principles are endorsed (or amended) by LGNSW members at Annual Conferences (or this year, at the Special Conference).
- **Position Statements** contain LGNSW's more detailed positions on specific issues and guide LGNSW's work on, and response to, policy issues of the day. Position Statements are subordinate to LGNSW's Fundamental Principles but are more agile and are targeted at specific policy issues as they arise.

Changing Fundamental Principles

Where a motion conflicts or may conflict with a Fundamental Principle, this will be clearly highlighted for delegates in the Conference Business Paper. If the motion is adopted as a resolution at Conference, then the relevant Fundamental Principle will be changed.

It is expected that changes to the Fundamental Principles will be uncommon, given their broad focus and general acceptance among the local government sector.

Changing Position Statements

Following each Conference, LGNSW will review resolutions of that Conference to determine whether the intent of each resolution is adequately covered by existing Position Statements. Where the Position Statements do not adequately include the intent of a resolution, LGNSW will update an existing Position Statement or draft a new Position Statement, to be endorsed by the LGNSW Board as part of the LGNSW Policy Platform.

LGNSW members will be informed of updates to the LGNSW Policy Platform.

10. Post-conference: Determining LGNSW Advocacy Priorities

Following the LGNSW Special Conference, LGNSW will review the resolutions and identify key areas of focus to guide LGNSW's advocacy for the coming year. These areas of focus are also informed by member feedback, the LGNSW strategic plan, position statements, emerging issues, and Board input.

LGNSW's Advocacy Priorities for the following year are then submitted for endorsement by the LGNSW Board, and communication to members via email.

As LGNSW undertakes advocacy actions on each of the Conference resolutions throughout the year, these actions and their outcomes will be published in LGNSW's Action Report. ([Past Action reports](#) are available on the member only pages of the LGNSW website).

11. Further information

For further information on the motion submission process, please contact Beau Reid, Policy Officer at beau.reid@lgnsw.org.au.

Frequently Asked Questions

How do I know if my proposed motion is consistent with existing LGNSW policy positions?

The subject matter expert within council is best placed to identify this (for example, if the motion relates to a planning matter, this question should be answered by the Planning Manager). Subject matter experts are encouraged to review LGNSW's [Policy Platform](#) to gain an understanding of LGNSW's position on a particular matter to help identify whether your proposed motion is consistent.

What is the deadline for submitting motions?

Members are encouraged to submit motions [online](#) as soon as possible to allow assessment of the motions and distribution of the Business Paper before the Conference. However, in line with the LGNSW Rules, the latest date motions can be accepted for inclusion in the Conference Business Paper is **12 midnight AEST on Sunday 30 January 2022** (28 days prior to Conference).

LGNSW can receive more than 300 motions for an Annual Conference. Submitting motions as early as possible helps LGNSW to manage the large volume of motions received within a short period of time and allows LGNSW to seek clarification on any motions if required.

I'm unsure which motion category or sub-category I should select in the online portal

If you are unsure, just select the category you think best fits. LGNSW can reallocate the motion if necessary.

What if my council will not meet to consider motions for the LGNSW Special Conference until after the 30 January 2022 deadline?

LGNSW understands that some councils will not hold their first meeting of the new council term until after the 30 January 2022 deadline to submit motions for inclusion in the Business Paper.

The LGNSW Rules set the deadline of midnight on 30 January 2022 for motions to be submitted for potential inclusion in the Conference Business Paper. However, the LGNSW Rules do also allow for councils to submit motions with less than 28 days' notice and the LGNSW Board may allow these to be considered at Conference as **late items**.

If councils cannot meet the 30 January 2022 timeline, we encourage councils to submit motions as late items as soon as possible after the deadline.

Who should be the council contact for motions?

We recommend the council contact is someone who is available during the months that motions are open, and able to respond promptly to communications between the subject matter expert, your council and LGNSW. Some councils have identified the General Manager and others have identified the Governance Officer – it is a decision for each council.

Will the COVID-19 pandemic affect the motions process?

The LGNSW Conference motions process is an important policy setting process for the local government sector. The Conference will follow government guidelines on safe events and social distancing. In 2020, the LGNSW conference was held online due to COVID-19 health and safety orders and delegates had the opportunity to debate motions during the conference. However, member feedback indicated an in-person conference is preferable, and LGNSW is seeking to do this with the Special Conference from 28 February to 2 March 2022.

How can I amend my council's motion that I've already submitted?

Once a motion has been submitted it cannot be edited without contacting LGNSW so please review the content carefully before submission. If you need to edit a submitted motion, please contact Beau Reid, Policy Officer at beau.reid@lgnsw.org.au. You may need to provide evidence of support for the change (see section 5).

Attachment A – Excerpt of LGNSW 2019 Annual Conference Standing Orders

The 2020 Annual Conference was held wholly online and as such the standing orders differed substantially from past years. The 2019 standing orders are included below as a guide.

Manner of dealing with Conference Business

11. Conference Business will be dealt with in any order at the discretion of the Chairperson.
12. Nothing in these Standing Orders shall prevent the Chairperson from dealing with motions concurrently.

In the case of motions

13. The Chairperson, upon coming to a motion set out in the Business Paper, must ask whether there is any dissent to the proposed resolution the subject of the item and, if no dissent be signified, may at any time, declare the motion carried.
14. Where dissent is signified, the Chairperson shall require the motion to be moved and seconded.
15. If the motion is moved and seconded, the Chairperson may, at any time during debate, make such inquiries as to the nature of the dissent so as to confine any debate to the issues genuinely in dispute or to explore amendments to the proposed resolution which satisfactorily accommodate the moving and dissenting Delegates and Delegates generally.
16. Movers of motions shall be permitted two (2) minutes to introduce their proposed resolution into debate and one and a half (1.5) minutes in reply. All other speakers shall each be permitted to speak once for one and a half (1.5) minutes. The Conference may, on application by a speaker, permit that speaker to have one, but only one, further period of one and a half (1.5) minutes in which to speak.
17. A Delegate seconding a motion shall not be permitted to speak until at least one Delegate has spoken in dissent.
18. The Chairperson may, during the course of debate direct a speaker to confine his or her speech so as to:
 - a. limit repetition of matters addressed by other speakers;
 - b. limit debate about matters or issues not genuinely disputed.
19. Except as otherwise provided herein, it shall not be in order to move that any resolution be immediately put until at least two Delegates, in addition to the mover and the seconder, shall have had an opportunity to speak on the resolution then before the Conference.
20. A Delegate can, without notice, move to dissent from the ruling of the Chairperson on a point of order. If that happens, the Chairperson must suspend the business before the Conference until a decision is made on the motion of dissent;
 - a. If a motion of dissent is passed, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business to the agenda and proceed with it in due course; and
 - b. Despite any clause to the contrary, only the mover of a motion of dissent and the Chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.
21. A Delegate may not substitute from the floor of the Conference a new motion for one listed in the Business Paper unless the new motion is substantially the same, and dealing with the same subject matter, as the original motion, and the new motion is accompanied by written evidence that it has the support of the member concerned.
22. When an amendment is before the Conference, no further amendment shall be discussed until that amendment has been dealt with.

23. *No more than one amendment upon any motion shall be considered unless notice of such further amendment is given before the amendment then under discussion has been dealt with.*
24. *The mover of an amendment which has been adopted as the motion shall (as in the case of the mover of an original motion) have the right of reply to any further amendments submitted.*

New motions from the floor of Conference

25. *At least 24 hours' notice shall be given before dealing with any new motions introduced during the Conference (Rule 28(d)).*
26. *Where a Member seeks to introduce a new motion during the Conference, they shall submit the motion and evidence that the motion has the support of the member concerned, to the Association's Chief Executive (or the Chief Executive's nominee), in writing.*
27. *The Chief Executive (or the Chief Executive's nominee), upon receiving a new motion submitted during the Conference, shall immediately record the time that they receive the motion and make arrangements for copies of the motion to be provided to Delegates.*

Motions that reflect existing LGNSW policy

28. *Motions submitted for inclusion in the Business Paper to the Conference which reflect existing LGNSW policy (Category 2 motions) shall remain existing LGNSW policy unless superseded or replaced by a subsequent Conference resolution.*

In the case of all other Conference Business

29. *All other Conference Business will be dealt with at the discretion of the Chairperson.*

Manner of voting

30. *Only Members' nominated voting Delegates and members of the Board may debate and vote on motions.*
31. *Except as hereinafter provided voting on any matter shall be on the show of cards.*
32. *The Chairperson may direct that voting on any matter be taken by show of voting cards or by use of electronic voting.*
33. *After a show of voting cards or on conclusion of an electronic vote the Chairperson may either:*
 - a. *declare the question resolved in the affirmative or negative; or*
 - b. *if voting cards have been used, call for a new vote using electronic voting.*
34. *A Division may be called following a vote on the show of cards by no less than 10 Delegates.*
35. *A Division will be taken by use of electronic voting.*

Suspending Standing Orders

36. *Standing Orders may be suspended by a majority of those present, provided the meeting is in quorum. A motion to this effect shall be open to debate.*

Outstanding business

37. *In the event that the Conference, having commenced in quorate, subsequently loses a quorum and is unable to consider any item(s) of business properly put before the Conference, they shall be referred to the Association's Board for consideration.*

ITEM 9.3	METHOD TO FILL CASUAL VACANCIES
REPORTING MANAGER	EXECUTIVE MANAGER GOVERNANCE AND RISK
TRIM FILE REF	2021/779871
ATTACHMENTS	NIL

BRIEF REPORT

PURPOSE

For Council to consider its preferred method to fill any casual vacancies occurring in the office of a councillor within 18 months of the election.

REPORT

Council has an option to use the countback method in the event of a councillor vacancy within 18 months of the election (for example, due to resignation).

In accordance with section 291A of the Local Government Act 1993, to take up this option Council must, by resolution, declare that any casual vacancy that occurs in the office of a councillor within 18 months of the date of the last ordinary election of the councillors for the area is to be filled by a countback of votes cast at the last election for that office.

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

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

Countback elections

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

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

A countback election must be completed within 49 days, and applications for candidates to participate is open for 10 days.

If there are no eligible candidates, an attendance by-election must be held. If there is only one eligible candidate, that candidate is elected. If there are multiple eligible candidates, a countback election is conducted. In a countback election, the returning officer:

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

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

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

LINK TO COUNCIL STRATEGY

This report relates to the Community Strategic Plan Outcome of:

- Good Governance - Goal 19: Our Council is transparent and trusted to make decisions that reflect the values of the community.

FINANCIAL CONSIDERATIONS

In the event of a casual vacancy in the office of councillor there will be costs associated with either the use of a countback election or conducting a by-election. Those costs would need to be funded from existing operational budgets through a re-allocation process. It is anticipated the cost of using the countback method would be lower than a by-election. When the countback provisions were introduced to Parliament in 2014, the Minister for Local Government cited the potential for cost savings as a driver of the amendments.

ENVIRONMENTAL CONSIDERATIONS

There are no material environmental considerations relating to this matter however it is anticipated the countback option may be more environmentally sustainable by reducing the demand for resources required to administer a by-election.

SOCIAL CONSIDERATIONS

Voting in local government elections is mandatory and an important opportunity for the community to choose their representatives.

GOVERNANCE AND RISK CONSIDERATIONS

The decision made in relation to this matter will have effect in the event of a casual vacancy in civic office. Council will be able to comply with its legislative obligations regardless of which method Council chooses.

Expanding the use of countback provisions is one of the advocacy agendas listed by Local Government NSW in its 2021 Policy Platform which states *"16.8 Eliminate the need for council by-elections, by extending countback provisions to the first two years of a council term, and extending the minister's discretion to provide councils with the option of avoiding a by-election for a casual vacancy during the latter two years of a council term."*

RECOMMENDATION OF DIRECTOR CORPORATE AND LEGAL

That Council **select one** of these options:

1. Declare that any casual vacancy in the office of a councillor that occurs within 18 months after the date of the last ordinary election of councillors for the area is to be filled by a countback of votes cast at the last election held for that office.

OR

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



northern
beaches
council

