

## **8.1. Election of Deputy Mayor**

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**ATTACHMENTS:**

1. LOCAL GOVERNMENT (GENERAL) REGULATION 2005 - SCHEDULE 7 [8.1.1 - 4 pages]

**PURPOSE:**

To conduct an election for the position of Deputy Mayor, in accordance with Council's Deputy Mayor Policy. In accordance with the Local Government (General) Regulation 2005, the General Manager is the Returning Officer and this item will therefore be facilitated by the General Manager.

**EXECUTIVE SUMMARY:**

As resolved by Council on 28 September 2020, the current term of office for the Deputy Mayor will expire on 3 September 2021.

As the current term of Council, including that of the Mayor, has been extended to 3 December 2021, it is proposed that an election of the Deputy Mayor for the balance of the Council term take place at the Council meeting to be held on Monday 23 August 2021.

Nominations may be made without notice and must be in writing, in accordance with clause 2 of Schedule 7 of the Local Government (General) Regulation 2005 (The Schedule), a copy of which is attached. Schedule 7 governs the election of a mayor or deputy mayor by councillors.

By close of business on Wednesday 18 August 2021) three (3) nominations were received for:

- Cr Stephen Barbour
- Cr Kathy Brodie
- Cr Jessica Keen

As more than one nomination has been received, an election will be conducted in accordance with The Schedule.

**FINANCIAL IMPLICATIONS:**

Nil.

**RECOMMENDATION:**

- 1. THAT** an election be held to elect a Deputy Mayor for the balance of the Council term.
- 2. THAT** Council determine the method of voting, giving consideration to the provisions of the Deputy Mayor Policy for Open Voting and the online participation by Councillors at Council meetings due to the current Public Health Order.
- 3. THAT** the Coordinator General, Planning Delivery and Local Government and the Secretary and Chief Executive Officer of Local Government New South Wales be advised of the election result.

## **LINK TO COMMUNITY STRATEGIC PLAN**

The relationship with the Community Strategic Plan is as follows:

5. Our Civic Leadership

5.2 Council is well governed and customer focused

## **BACKGROUND**

Section 231 of the Local Government Act 1993 states that:

- (1) The Councillors may elect a person from among their number to be the Deputy Mayor.*
- (2) The person may be elected for the mayoral term or a shorter term.*
- (3) The Deputy Mayor may exercise any function of the Mayor at the request of the Mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of Mayor.*
- (4) The Councillors may elect a person from among their number to act as Deputy Mayor if the Deputy Mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no Deputy Mayor has been elected.*

Council's Deputy Mayor Policy states:

*4.4 Appointment - In accordance with Council's Code of Meeting Principles and Practices, the election of the Deputy Mayor (for the period 1 October to 30 September) will take place at the Council meeting held in September annually. Nominations for Deputy Mayor will close on the date advised by staff, the deadline related to the report deadline for the September meeting.*

*In line with Council's Open Government Policy, elections shall be conducted by open voting unless, at the meeting in which the election is to take place, Council resolves to hold a secret ballot. Should the Council resolve to hold a ballot, ballot papers will be distributed to Councillors. The ballot shall be conducted in accordance with Schedule 7 Part 2 of the Local Government (General) Regulation 2005.*

## **CONSULTATION REQUIREMENTS**

Community engagement is not required.

## **DETAIL**

Following the rescheduling of the Local Government elections by the State Government from 4 September 2021 to 4 December 2021, the NSW Electoral

Commission issued an FAQ sheet provide further information in respect to why the election was postponed and some insights on how the December election may progress depending on the COVID situation at the time. The following question was included:

***What does the postponement of the elections mean for deputy mayors?***

*Deputy mayors may be elected for the mayoral term or a shorter term. Deputy mayors hold their office for the term specified by the council's resolution. If a deputy mayor's term expires before election day on 4 December 2021, an election may need to be held for deputy mayor. It should be noted however, that councils are not required under the Act to have a deputy mayor.*

At its meeting held 28 September 2020, Council resolved the following:

*With no further nominations received, the General Manager declared Councillor Barbour elected unopposed to the position of Deputy Mayor for the period from 1 October 2020 to **3 September 2021** (emphasis added).*

Council would normally consider the election of the Deputy Mayor at its September Ordinary Meeting. However, given the previous resolution of Council, it will be necessary for the matter to be considered at the August Council meeting.

The Deputy Mayor will be elected for the balance of the Council term, which is currently due to expire on 3 December 2021.

Nomination forms were distributed to all Councillors on 12 August 2021.

**Election procedure**

Part 3 of The Schedule 7 in the Regulations provides that 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.

However, Council's Deputy Mayor Policy (clause 4.4) and past practice has been to elect the Deputy Mayor through open voting. Open voting is the only available method with remote participation.

The Mayor will hand over to the General Manager (or a person appointed by the General Manager) to conduct the election as the Returning Officer (The Schedule, Part 3)

The result of the election (including the name of the candidate elected as 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. (The Schedule, Part 13)



## New South Wales Consolidated Regulations

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### LOCAL GOVERNMENT (GENERAL) REGULATION 2005 - SCHEDULE 7

#### SCHEDULE 7 – Election of mayor by councillors

(Clause 394)

#### Part 1 - Preliminary

##### 1 Returning officer

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

##### 2 Nomination

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

##### 3 Election

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the council meeting at which the council resolves on the method of voting.
- (4) In this clause--

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

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

## **Part 2 - Ordinary ballot or open voting**

### **4 Application of Part**

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

### **5 Marking of ballot-papers**

- (1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.
- (2) The formality of a ballot-paper under this Part must be determined in accordance with clause 345 of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

### **6 Count--2 candidates**

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

### **7 Count--3 or more candidates**

- (1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
- (2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- (3) If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

## **Part 3 - Preferential ballot**

### **8 Application of Part**

This Part applies if the election proceeds by preferential ballot.

## 9 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers "1", "2" and so on against the various names so as to indicate the order of their preference for all the candidates.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

## 10 Count

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

## 11 Tied candidates

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

## Part 4 - General

### 12 Choosing by lot

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer



so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen.

### **13 Result**

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

(a) to be declared to the councillors at the council meeting at which the election is held by the returning officer, and

(b) to be delivered or sent to the Secretary and the Chief Executive Officer of Local Government NSW.

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