

Mayor: Cr K Milne

Councillors: P Allsop
R Byrnes
C Cherry (Deputy Mayor)
R Cooper
J Owen
W Polglase

Agenda

Extraordinary Council Meeting Thursday 19 September 2019

held at
Council Chambers, Murwillumbah Civic & Cultural Centre,
Tumbulgum Road, Murwillumbah
commencing at 5.30pm

Principles for Local Government

The object of the principles for Tweed Shire Council, as set out in Section 8 of the Local Government Amendment (Governance and Planning) Bill 2016, is to provide guidance to enable council to carry out its functions in a way that facilitates a local community that is strong, healthy and prosperous.

Guiding Principles for Tweed Shire Council

(1) Exercise of functions generally

The following general principles apply to the exercise of functions by Tweed Shire Council:

- (a) Provide strong and effective representation, leadership, planning and decision-making.
- (b) Carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Work with others to secure appropriate services for local community needs.
- (h) Act fairly, ethically and without bias in the interests of the local community.
- (i) Be responsible employers and provide a consultative and supportive working environment for staff.

(2) Decision-making

The following principles apply to decision-making by Tweed Shire Council (subject to any other applicable law):

- (a) Recognise diverse local community needs and interests.
- (b) Consider social justice principles.
- (c) Consider the long term and cumulative effects of actions on future generations.
- (d) Consider the principles of ecologically sustainable development.
- (e) Decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

(3) Community participation

Council should actively engage with the local community, through the use of the integrated planning and reporting framework and other measures.

Items for Consideration of Council:

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REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

- 1 [GM-EXT] Method of Election of Deputy Mayor for period ending September 2020

SUBMITTED BY: General Manager

mhm



Making decisions with you

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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
2.2 Engagement
2.2.4 Councillor and Civic Business - To make informed decisions in the best interest of the community.

ROLE: **Leader**

SUMMARY OF REPORT:

Council in November 2016 resolved to appoint a Deputy Mayor and that the term would be based on a 12 month basis and therefore Council now needs to determine a Deputy Mayor for the period ending September 2020.

RECOMMENDATION:

That Council determines the procedure for electing the Deputy Mayor as per the following options which are in accordance with Schedule 7 of the Local Government (General) Regulation 2005:

- Ordinary Ballot
- Preferential Ballot
- Open Voting

REPORT:

Council in November 2016 resolved to appoint a Deputy Mayor and that the term would be based on a 12 month basis and therefore Council now needs to determine a Deputy Mayor for the period ending September 2020.

With reference to the Deputy Mayor, the following section of the Local Government Act 1993 provides relevance:

Section 231 - Deputy Mayor

- (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.*

As an outcome of the resolution of November 2016 it is necessary for Council to resolve the way in which an election for the position of Deputy Mayor (should it be necessary) is to proceed whether by preferential ballot, ordinary ballot, or open voting. Preferential ballot and ordinary ballot are to be secret ballots. Open voting means voting by a show of hands or similar means.

Schedule 7 of the (General) Regulation (reproduced for Council's information) sets out the procedure to be followed for the conduct of the election of the Deputy Mayor, which is the same process for the election of the Mayor.

Appropriate nomination forms are attached.

LOCAL GOVERNMENT (GENERAL) REGULATION 2005 - SCHEDULE 7 SCHEDULE 7 – Election of mayor by councillors

(Clause 394)

Part 1 - Preliminary

1 Returning officer

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

2 Nomination

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

3 Election

- (1) *If only one councillor is nominated, that councillor is elected.*
- (2) *If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.*
- (3) *The election is to be held at the council meeting at which the council resolves on the method of voting.*
- (4) *In this clause:
"ballot" has its normal meaning of secret ballot.
"open voting" means voting by a show of hands or similar means.*

Part 2 - Ordinary ballot or open voting

4 Application of Part

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

5 Marking of ballot-papers

- (1) *If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.*
- (2) *The formality of a ballot-paper under this Part must be determined in accordance with clause 345 (1) (b) and (c) and (6) of this Regulation as if it were a ballot-paper referred to in that clause.*
- (3) *An informal ballot-paper must be rejected at the count.*

6 Count-2 candidates

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

7 Count-3 or more candidates

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

Part 3 - Preferential ballot

8 Application of Part

This Part applies if the election proceeds by preferential ballot.

9 Ballot-papers and voting

- (1) *The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers "1", "2" and so on against the various names so as to indicate the order of their preference for all the candidates.*
- (2) *The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.*
- (3) *An informal ballot-paper must be rejected at the count.*

10 Count

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

11 Tied candidates

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

Part 4 - General

12 Choosing by lot

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

13 Result

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

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

(b) *to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Associations of New South Wales.*

OPTIONS:

The election may proceed by:

1. Ordinary Ballot
2. Preferential Ballot
3. Open Voting

CONCLUSION:

It is recommended that Council determines the procedure for electing the Deputy Mayor as per the following options which are in accordance with Schedule 7 of the Local Government (General) Regulation 2005:

- Ordinary Ballot
- Preferential Ballot
- Open Voting

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

As per the relevant Clauses and Schedules of the Local Government (General) Regulation 2005.

b. Budget/Long Term Financial Plan:

No additional expenditure is incurred through the election of the Deputy Mayor.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

The following attachment is provided for the Councillors only:

Attachment 1.

Nomination Form for the position of Deputy Mayor
September 2019 to September 2020 (ECM6027499).

2 [GM-EXT] Election of Deputy Mayor for Period Ending September 2020

SUBMITTED BY: General Manager

mhm



Making decisions with you

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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.4 Councillor and Civic Business - To make informed decisions in the best interest of the community.

ROLE: Leader

SUMMARY OF REPORT:

While there is no legislative requirement for Council to appoint a Deputy Mayor, Council has historically made such an appointment and in November 2016, resolved that the appointment would be for a period of 12 months.

Following the determination of the method of electing the Deputy Mayor and if an election is necessary depending on the number of nominations received, an election must ensue. This report details the requirements of electing the Deputy Mayor for the next twelve month period.

RECOMMENDATION:

That the Deputy Mayor for the period ending September 2020 is Councillor

REPORT:

It should be noted that the Local Government Act 1993 was updated in September 2016 with reference to the term in office following election of the Mayor and Deputy Mayor. With reference to the Deputy Mayor, the following section of the Local Government Act 1993 provides relevance:

Section 231 - Deputy Mayor

- (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.*

The election (should it be necessary) will occur in accordance with the applicable clauses of the Local Government (General) Regulation 2005 – Schedule 7. The result of such election will be formally declared to the Councillors at the Extraordinary Council meeting at which the election is held by the returning officer.

At its meeting on Thursday 17 November 2016 Council resolved that:

- "1. Council determines to elect a Deputy Mayor and the term of this appointment to be 12 months ..."*

During the current term the following Councillors have been elected as Deputy Mayor:

2016-2017	Councillor Chris Cherry
2017-2018	Councillor Reece Byrnes
2018-2019	Councillor Chris Cherry

This report details the requirements of electing the Deputy Mayor for the next twelve month period which will cease prior to the general Local Government elections which are scheduled for 12 September 2020.

OPTIONS:

Election of Deputy Mayor for the period ending September 2020.

CONCLUSION:

Following the determination of the method of electing the Deputy Mayor and if an election is required depending on the number of nominations received, an election must ensue.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.
Local Government Act 1993 Section 231.

b. Budget/Long Term Financial Plan:

There are no further budgetary implications in the election of the Deputy Mayor to the expenditures already allowed in the budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.
