

AGENDA

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1. Acknowledgement to Country

Shellharbour City Council acknowledges the Traditional Owners and Custodians of the Land on which we are meeting and pays its respects to Elders past and present.

Webcasting Comment

The public gallery should note that Council records and webcasts its Council Meetings live to enhance the accessibility of Council Meetings to the broader Shellharbour City Community.

Council Meetings can now be viewed live via webcast, downloaded from Council's website for later viewing, or purchased from Council for viewing on a computer.

At the appropriate time during the meeting pre registered or invited members of the gallery may Address the Council at which time their image, comments or submissions will be broadcast live and recorded.

Council accepts no responsibility for any defamatory or offensive statements.

Please ensure that mobile phones and other electronic devices are turned off or are in silent mode for the duration of the meeting.

2. Apologies / Leave of Absence**3. Confidential Business (Committee of the Whole)**

Nil

4. Pecuniary Interest and Conflict of Interest Declarations

Note: Councillors who declare a Pecuniary Interest at the Council Meeting are also required to complete a Pecuniary Interest Declaration form.

5. Addresses to Council

6. Reports

6.1 New Election of Mayor (10023370)

To the Mayor and Councillors

Division: General Manager's Department

Department: Executive Services

Manager: Michael Willis - General Manager

Author: Michael Willis - General Manager

Summary

It has been brought to our attention that the election of the Mayor at the Extraordinary Council Meeting on 17 September 2013 was not conducted strictly in accordance with Local Government (General) Regulation 2005 - Schedule 7 Clause 3. While this does not alter the validity of the result of that election (as the Mayor was duly declared elected), its outcome could be challenged in the Administrative Decisions Tribunal (ADT).

Advice was sought from the Division of Local Government which has suggested that for the avoidance of doubt, the Council start the process again from the beginning and call for nominations for the office of Mayor. I concur with this advice, and have set out below the background to this matter along with the appropriate recommendations.

Background

Schedule 7 of the Local Government (General) Regulation 2005 sets out the procedures for the election of a Mayor by Councillors. The General Manager is appointed as the Returning Officer for such an election. Nominations can be made without notice, but must 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 election conducted on 17 September 2013 was between three candidates and resulted in the following votes:

Cr Marsh (2)

Cr Rankin (2)

Cr Saliba (3)

Cr Saliba was then declared elected as Mayor.

As the two lowest votes were tied, what should have occurred was for the names of both unsuccessful candidates to be placed in a draw by lot to eliminate one of them, and for

there to be a further show of hands for each of the two remaining candidates for the office of Mayor.

To avoid any doubt over the result of the election of the Mayor on 17 September 2013 is to conduct a fresh election for the office of Mayor. This new election will not affect the election of Deputy Mayor held on 17 September 2013 unless a different candidate is now elected as Mayor.

Process for election of Mayor

A blank nomination form has been prepared and circulated with this business paper for Councillors to use if so desired. There is no necessity to use this form, but the criteria detailed above must be met for a nomination to be valid. The nomination forms must be delivered to the General Manager and can be so delivered at any time up to consideration of this item. Further blank nomination forms will be available at the Council Meeting.

Council will need to decide on whether or not the Mayor will be elected by secret ballot (preferential or ordinary) or open voting. Local Government (General) Regulation 2005 - Schedule 7 Clause 3 details the method of election:

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."

The Mayor normally holds office for 12 months, with an election held in September of each year.

Where at any time in such an election there is equality in votes for the remaining two candidates, a draw by lot is undertaken with the candidate first drawn being taken to be elected. If at any time there is equality for two or more candidates when three or more candidates remain in the count (i.e. when a draw by lot will not decide the election), a draw by lot is undertaken and the candidate first drawn is excluded.

There are no financial implications in electing a mayor.

Consultations

Internal

Nil

External

Nil

Political Donations Disclosure

Not applicable

Recommendation

That for the avoidance of doubt regarding the election of Mayor on 17 September 2013 and in order to comply with the Local Government Act and Regulations that a new election be called for the position of Mayor and that:

- 1. Written nominations be called for the Office of Mayor;**
- 2. Council determine the form of election;**
- 3. Thereafter, Council proceed with the election of the Mayor;**
- 4. That in the event that there is a change of Mayor an election then be held for the position of Deputy Mayor.**

Approved for Council's consideration: _____

Attachments

Nil

- 7. Committee of the Whole in Closed Session: Adjournment**

- 8. Committee of the Whole: Consideration of Adoption of Decisions Reached in Closed Session**