

NOTICE OF COUNCIL MEETING

PUBLIC AGENDA

An Ordinary Meeting of City of Parramatta Council will be held in the CommBank Stadium, 11-13 O'Connell Street, Parramatta on Monday, 10 January 2022 at 6:30PM.

Brett Newman
CHIEF EXECUTIVE OFFICER

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	OPENING MEETING	
2	ACKNOWLEDGMENT OF THE TRADITIONAL LAND OWNERS	
3	WEBCASTING ANNOUNCEMENT	
4	OTHER RECORDING OF MEETING ANOUNCEMENT	
5	APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE	
6	DECLARATIONS OF INTEREST	
7	FAIR	
7.1	FOR APPROVAL: Election of the Lord Mayor	4
7.2	FOR APPROVAL: Election of the Deputy Lord Mayor	15
7.3	FOR APPROVAL: Filling Casual Vacancies in Civic Office	26
8	CONCLUSION OF MEETING	

FAIR

10 JANUARY 2022

7.1	FOR APPROVAL: Election of the Lord Mayor.....	4
7.2	FOR APPROVAL: Election of the Deputy Lord Mayor	15
7.3	FOR APPROVAL: Filling Casual Vacancies in Civic Office.....	26

FAIR

ITEM NUMBER	7.1
SUBJECT	FOR APPROVAL: Election of the Lord Mayor
REFERENCE	F2021/00521 - D08299812
REPORT OF	Governance Manager

WORKSHOP/BRIEFING DATE: 6 January 2022

PURPOSE:

The purpose of this report is to elect a Lord Mayor for the ensuing two (2) years to September 2023.

RECOMMENDATION

- (a) **That** in accordance with Schedule 7 of the Local Government (General) Regulation 2005, the Chief Executive Officer, as the Returning Officer, conduct the Election of the Lord Mayor.
- (b) **That** in the event that there be more than one (1) nomination, Council determine the method of voting, as outlined in paragraph 7 of this Report.
- (c) **That** the Office of Local Government and Local Government NSW be advised of the result of the election.
- (d) **Further, that** Local Members, surrounding Councils and other key stakeholders be informed of the result of the election.

BACKGROUND

1. Mayoral elections must be held at the first Council Meeting following an ordinary election. In accordance with Section 290 of the Local Government Act 1993 (the Act), an election of a Lord Mayor by the Councillors must be held:

1(a) if it is the first election after an ordinary election of councillors – within 3 weeks after the ordinary election...
2. Section 230 of the Act provides that a Mayor elected by Councillors holds this office for two (2) years. The office of the Mayor:

*“(3) The office of mayor--
(a) commences on the day the person elected to the office is declared to be so elected, and
(b) becomes vacant when the person's successor is declared to be elected to the office, or on the occurrence of a casual vacancy in the office.”*
3. It is noted that Section 233A of the Act requires Councillors to take an oath of office or make an affirmation of office at or before the first Council Meeting of the new term. The Oath / Affirmation of Office has been scheduled to take place prior to the commencement of this meeting.

4. Having regard to the off-cycle ordinary elections held on 4 December 2021 (postponed due to the COVID-19 pandemic), it is noted that the term of Council will be for a period of 33 months (normal term of Council being 48 months).
5. Council is advised that the two (2) year term of Lord Mayor will commence on 10 January 2022 and conclude in September 2023, when a subsequent election of the Lord Mayor will be held for the ensuing twelve (12) months (to September 2024).

ISSUES/OPTIONS/CONSEQUENCES

6. The Chief Executive Officer is nominated as Returning Officer for the election of the Lord Mayor.
7. Traditionally, the City of Parramatta Council has conducted the election of the Lord Mayor by open means. However, Council may determine an alternative method of voting as follows:
 - a. Open voting (ie by show of hands);
 - b. Ordinary ballot (ie a secret ballot (place an "x" against the candidate of their choice);
 - c. Preferential ballot (ie place 1, 2, 3 etc against each candidate).
8. The election of the Lord Mayor will be conducted in accordance with Schedule 7 of the Regulations, and as outlined in the Fact Sheet issued by the Office of Local Government on the Election of Mayor and Deputy Mayors by Councillors (as attached to this report).

CONSULTATION & TIMING

Stakeholder Consultation

9. The following stakeholder consultation has been undertaken in relation to this matter:

Date	Stakeholder	Stakeholder Comment	Council Officer Response	Responsibility
Nil				

Councillor Consultation

10. The following Councillor consultation has been undertaken in relation to this matter:

Date	Councillor	Councillor Comment	Council Officer Response	Responsibility
6/1/22	Workshop with all Councillors on the conduct of Mayoral and Deputy	Nil at the time of writing the report	NA	NA

	Mayoral Elections			
--	----------------------	--	--	--

LEGAL IMPLICATIONS FOR COUNCIL

11. There are no legal implications for Council associated with this report.

FINANCIAL IMPLICATIONS FOR COUNCIL

12. There are no unbudgeted financial implications associated with the election of the Lord Mayor, other than those allocated for the conduct of an ordinary Council Meeting. These costs are provided for within Council's current adopted budget.

13. The current remuneration payable to the Lord Mayor in the conduct of their duties is in the order of \$112,520 (in accordance with the Local Government Remuneration Tribunal Annual Report and Determination dated 23 April 2021). The remuneration payable is provided for within Council's current adopted budget.

	FY 21/22	FY 22/23	FY 23/24	FY 24/25
Revenue				
Internal Revenue				
External Revenue				
Total Revenue	Nil			
Funding Source				
Operating Result				
External Costs				
Internal Costs				
Depreciation				
Other				
Total Operating Result	Nil			
Funding Source				
CAPEX				
CAPEX				
External				
Internal				
Other				
Total CAPEX	Nil			




Patricia Krzeminski
Governance Manager

Richard Sheridan
Chief Financial Officer

Jillian Khoo
Executive Director Corporate Services

Brett Newman
Chief Executive Officer

ATTACHMENTS:

- | | | | |
|---|-----------------------------------------------------------------------------------|---------------------------------------------------------------------|---------|
| 1 |  | OLG Fact Sheet - Election of Mayor and Deputy Mayors by Councillors | 6 Pages |
| 2 |  | Nomination Form - Lord Mayor | 1 Page |
| |  | | |

REFERENCE MATERIAL

Fact Sheet

ELECTION OF MAYOR AND DEPUTY
MAYOR BY COUNCILLORS

Summary

Councillors must elect a mayor from among their number every two years unless they have a popularly elected mayor.

Councillors may also elect a deputy mayor. The deputy mayor may be elected for the mayoral term or a shorter term.

The election of the mayor and the deputy mayor must be conducted in accordance with clause 394 and Schedule 7 of the *Local Government (General) Regulation 2005* (the Regulation).

The purpose of this document is to assist councils to conduct mayoral and deputy mayoral elections in accordance with these requirements. It includes scripts for key activities to help returning officers exercise their functions. These scripts are provided in the text boxes inserted in the relevant parts of this document.

How can councils use this document?

Electing a mayor is an important activity. It is vital that the process is smooth, open and easy to follow and not rushed or confusing. Where necessary, it may be appropriate to stop and provide clarification for the benefit of councillors, staff or the gallery.

Returning officers can circulate this document prior to the meeting to help councillors understand the election process.

Election of a mayor after an ordinary election of councillors

An election for mayor must be held within three weeks of the declaration of the ordinary election at a meeting of the council.

The returning officer is to be the general manager or a person appointed by the general manager.

As no mayor or deputy mayor will be present at the start of the meeting, the first business of the meeting should be the election of a chairperson to preside at the meeting. Alternatively, the returning officer may assume the chair for the purpose of conducting the election.

Mid-term election of a mayor

A mayor elected by councillors holds office for two years. A mid-term mayoral election must be held in the September two years after the ordinary election of councillors or the first election of a new council following its establishment.

Procedures

Prior to the meeting

Before the council meeting at which the election is to be conducted, the returning officer will give notice of the election to the councillors.

The notice is to set out how a person may be nominated as a candidate for election as chairperson.

As returning officer, I now invite nominations for the position of mayor/deputy mayor for [name of council] for a two year period.

In accordance with the Local Government (General) Regulation 2005, two or more councillors may nominate a councillor (one of whom may be the nominee) for the position of mayor/deputy mayor. Nominations must be in writing and the nominee must consent to their nomination in writing.

A councillor may be nominated without notice for election as mayor or deputy mayor. The nomination 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 checks the nomination forms and writes the nominees' names on a candidates' sheet.

At the meeting

At the start of the first meeting after an ordinary election, in the absence of a chairperson, the returning officer assumes the chair and announces that the first item of business is to be the election of a mayor.

If a chairperson is present, they announce that the first item of business is the election of the mayor then vacates the chair for the returning officer who will then conduct the election.

The returning officer reads out the names of the nominees and seeks confirmation that the nominee has accepted the nomination.

If only one councillor has been nominated for the position of mayor/deputy mayor, the nominee is elected.

As there is only one nominee for the role of mayor/deputy mayor, I declare that [name of successful candidate] is elected as mayor/deputy mayor for the ensuing two years.

If more than one candidate has been nominated, the council must determine by resolution, the method of voting for the position of mayor/deputy mayor, by way of one of the following methods:

- Open voting – i.e. by show of hands
- Ordinary ballot – i.e. a secret ballot (place an "X" against the candidate of their choice)
- Preferential ballot – i.e. place 1, 2, 3 etc. against each candidate.

The returning officer must ask for a motion to be put to the meeting by one of the councillors on the preferred method of voting for the election of a chairperson. This must then be seconded and voted on by the councillors.

Note: In the event of a tie, if there is a chairperson, they may use their casting vote. If there is a tie and no chairperson, an election for the role of chairperson should be conducted. Then the election for mayor resumes.

Open voting (show of hands)

Open voting is the most transparent method of voting. It is also the least bureaucratic method and reflects normal council voting methods.

The returning officer will advise the meeting of the method of voting and explains the process.

It has been resolved that the method of voting for the position of mayor/deputy mayor will be by show of hands.

Each councillor is entitled to vote for only one candidate in each round of voting.

I will now write each candidate's name on a slip of paper and deposit it in a barrel. The first name out of the barrel will be written first on the tally sheet, with second name out being written second on the tally sheet, etc.

When all candidates' names have been written on the tally sheet, the returning officer announces the names of the candidates and, commencing with the first candidate, states the following:

Would those councillors voting for [name of candidate] please raise your hand.

The returning officer records the number of votes for each successive candidate on the tally sheet and announces the number of votes received for each candidate.

The minute taker records the vote of each councillor.

The returning officer should check with the minute taker that each councillor has voted. If a councillor has not voted it should be confirmed that they are abstaining (an informal vote).

Two candidates

If there are only two candidates for the position of mayor/deputy mayor and the voting is higher for one candidate than another (number of formal votes recorded on the tally sheet), the returning officer then announces the result.

[Name of candidate] has the higher number of formal votes and as a result I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

In the event of a **tied vote**, the returning officer will advise the meeting of the following process.

In accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the

names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be declared as mayor/deputy mayor.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests a staff member to shake the barrel.

The returning officer then draws a name out of the barrel and shows the meeting.

I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

Three or more candidates

If there are three or more candidates, the candidate with the lowest number of votes for the position of mayor/deputy mayor is excluded.

[Name of candidate], having the lowest number of votes, is excluded.

The voting continues as above until there are only two candidates remaining (see voting for **two candidates** above).

In the event that the **lowest number of votes are tied**, the returning officer advises the meeting of the following process:

In accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be excluded.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests a staff member to shake the barrel.

The returning officer then draws a name out of the barrel and shows it to the meeting.

I declare that [name of candidate] is excluded.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

Ordinary ballot – (secret ballot)

The returning officer advises the meeting of the method of voting and explains the process.

It has been resolved that the method for voting for the position of mayor/deputy mayor will be by ordinary ballot, in other words by placing an "X" against the candidate of the councillor's choice.

The returning officer announces the names of the candidates for mayor/deputy mayor and writes each name on a slip of paper and deposits it in a barrel.

The returning officer requests that a staff member shakes the barrel and advises that the order in which the names will appear on the ballot paper will be determined by a draw out of the barrel, i.e. first name out of the barrel is written first on the ballot papers and so on.

It will be necessary to have a number of blank papers as this process may require more than one round of voting.

The returning officer writes the names on one set of the ballot papers and initials the front of each ballot paper.

A staff member distributes the ballot papers and collects them into the ballot box when completed and gives it to the returning officer who counts the votes and records them on the tally sheet.

The returning officer announces the results.

[Name of candidate], having the lowest number of votes, is excluded.

In the event that the **lowest number of votes are tied**, the returning officer advises the meeting of the following process:

In accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be excluded.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests a staff member to shake the barrel.

The returning officer then draws a name out of the barrel and shows it to the meeting.

I declare that [name of candidate] is excluded.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

The returning officer writes the names of the remaining candidates on a further set of the ballot papers and initials the front of each ballot paper.

The staff member distributes ballot papers listing the remaining candidates and collects them into the ballot box when completed and gives it to the returning officer who again counts the votes and records them on the tally sheet and announces the results.

The process continues until two candidates remain, where a final vote takes place.

[Name of candidate] has the higher number of votes and I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

In the event of a **tied vote** between the two remaining candidates, the returning officer makes the following statement and announces the process.

The votes are tied between [name of candidate 1] and [name of candidate 2] having received [number] votes each, and, in accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel.

Please note that the candidate whose name is drawn out will be declared as mayor/deputy mayor.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests that a staff member shakes the barrel.

The returning officer then draws a name out of the barrel and shows the meeting.

I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

Preferential ballot

The returning officer explains the process.

It has been resolved that the method for voting for the position of mayor/deputy mayor will be by preferential ballot, i.e. placing 1, 2 and so on against the candidate of the councillor's choice in order of preference for all candidates.

The returning officer announces the names of the candidates for mayor/deputy mayor and writes each candidate's name on a slip of paper and deposits it in a barrel.

The returning officer requests that a staff member shakes the barrel and advises that the order in which the names will appear on the ballot paper will be determined by a draw out of the barrel, i.e. first name out of the barrel is written first on the ballot papers and so on.

The returning officer writes the names on the ballot papers and initials the front of each ballot paper. This method of voting requires only one set of ballot papers.

A staff member distributes the ballot papers and collects them when completed and gives them to the returning officer who counts the first preference votes and records them on the tally sheet.

If a candidate has an absolute majority of first preference votes (more than half), the returning officer declares the outcome.

[Name of candidate], having an absolute majority of first preference votes, is elected as mayor/deputy mayor for the ensuing two years.

If no candidate has the absolute majority of first preference votes, the returning officer excludes the candidate with the lowest number of first preference votes.

[Name of candidate], having the lowest number of first preference votes, is excluded.

The preferences from the excluded candidate are distributed. This process continues until one candidate has received an absolute majority of votes, at which time the returning officer announces the result.

[Name of candidate], having an absolute majority of votes, is elected as mayor/deputy mayor for the ensuing two years.

In the event of a **tied vote** where there are only two candidates remaining in the election, the returning officer explains the process.

The votes are tied between [name of candidate 1] and [name of candidate 2] having received [number] votes each, and, in accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be declared as mayor/deputy mayor.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests a staff member to shake the barrel. The returning officer then draws a name out of the barrel and shows the meeting.

I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

In the event that the **lowest number of votes are tied** and where there are three or more candidates remaining in the election, the returning officer advises the meeting of the process.

In accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be excluded and their preferences distributed.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests that a staff member shakes the barrel.

The returning officer then draws a name out of the barrel and shows the meeting.

I declare that [name of candidate] is excluded and any votes cast for them will be distributed by preference.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

Schedule 7 - Election of Mayor by Councillors

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. That candidate 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 councillors at the council meeting at which the election is held by the returning officer, and
- b) to be delivered or sent to the Departmental Chief Executive and to the Chief Executive of Local Government New South Wales.



NOMINATION FOR ELECTION OF LORD MAYOR

We hereby nominate Councillor _____ for election as Lord Mayor for the City of Parramatta for the ensuing term.

Name	_____	(Signed)	_____
	(Printed)	(Dated)	_____
Name	_____	(Signed)	_____
	(Printed)	(Dated)	_____

I hereby accept nomination for election as Lord Mayor of the City of Parramatta for the ensuing term.

Name	_____	(Signed)	_____
	(Printed)	(Dated)	_____

SUBMITTING NOMINATION FORMS

DULY COMPLETED NOMINATION FORMS SHOULD BE DELVIERED TO THE CHIEF EXECUTIVE OFFICER/RETURNING OFFICER, PREFERABLY BEFORE THE COMMENCEMENT OF THE MEETING BEING HELD FOR THE ELECTION OF THE LORD MAYOR.

FAIR

ITEM NUMBER	7.2
SUBJECT	FOR APPROVAL: Election of the Deputy Lord Mayor
REFERENCE	F2021/00521 - D08305347
REPORT OF	Governance Manager

WORKSHOP/BRIEFING DATE: 6 January 2022

PURPOSE:

The purpose of this report is to outline the required procedure to elect a Deputy Lord Mayor for the ensuring 20 months to September 2023.

RECOMMENDATION

- (a) **That** in accordance with Schedule 7 of the Local Government (General) Regulation 2005, the Chief Executive Officer, as the Returning Officer, conduct the Election of the Deputy Lord Mayor.
- (b) **That** in the event that there be more than one (1) nomination, Council determine the method of voting, as outlined in paragraph 5 of this Report.
- (c) **That** the Office of Local Government and Local Government NSW be informed of the result of the election.
- (d) **Further, that** Local Members, surrounding Councils and other key stakeholders be informed of the result of the election.

BACKGROUND

1. Section 231 of the Local Government Act 1993 (the Act) provides that Councils may chose to elect a 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.”*
 2. Additionally, Section 249 of the Act provides that *a Council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor’s annual fee.*
 3. The City of Paramatta Council has traditionally elected a Deputy Lord Mayor for a period of 12 months. Having regard to the off-cycle election conducted in
-

December 2021, it is recommended that the term of the Deputy Lord Mayor coincide with the term of the Lord Mayor until September 2023.

ISSUES/OPTIONS/CONSEQUENCES

4. The Chief Executive Officer is nominated as Returning Officer for the election of the Deputy Lord Mayor.
5. Traditionally, Council has conducted the election of the Deputy Lord Mayor by open voting. However, Council may determine an alternative method of voting as follows:
 - a. Open voting (ie by show of hands);
 - b. Ordinary ballot (ie a secret ballot (place an "x" against the candidate of their choice);
 - c. Preferential ballot (ie place 1, 2, 3 etc against each candidate).
6. The election of the Deputy Lord Mayor will be conducted in accordance with Schedule 7 of the Regulations, and as outlined in the Fact Sheet issued by the Office of Local Government on the Election of the Mayor and Deputy Mayor by Councillors (as attached to this report).
7. In accordance with section 249 of the Local Government Act 1993 (LG Act), *Council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.*
8. Council may wish to determine a fee to pay to the Deputy Mayor at a later date, should leave of absence be sought and granted to the Lord Mayor during the term of office.

CONSULTATION & TIMING

Stakeholder Consultation

9. The following stakeholder consultation has been undertaken in relation to this matter:

Date	Stakeholder	Stakeholder Comment	Council Officer Response	Responsibility
Nil				

Councillor Consultation

10. The following Councillor consultation has been undertaken in relation to this matter:

Date	Councillor	Councillor Comment	Council Officer Response	Responsibility
6/1/22	Workshop with all Councillors on the conduct of	Nil at the time of writing the report	NA	NA

	Mayoral and Deputy Mayoral Elections			
--	--------------------------------------------------	--	--	--

LEGAL IMPLICATIONS FOR COUNCIL

11. There are no legal implications for Council associated with this report.

FINANCIAL IMPLICATIONS FOR COUNCIL

12. There are no unbudgeted financial implications associated with the election of the Lord Mayor, other than those allocated for the conduct of an ordinary Council Meeting. These costs are provided for within Council's current adopted budget.
13. Section 249 of the LG Act provides that *a Council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.*
14. Historically, Council has not determined a fee to be paid to the Deputy Lord Mayor for such times as they act in the office of the Lord Mayor. However, should Council wish to consider determining a fee to be paid to the Deputy Lord Mayor for times when they act in the office of the Lord Mayor, the fee can be determined at a time when leave of absence is sought and granted to the Lord Mayor during the term of office.

	FY 21/22	FY 22/23	FY 23/24	FY 24/25
Revenue				
Internal Revenue				
External Revenue				
Total Revenue	Nil			
Funding Source				
Operating Result				
External Costs				
Internal Costs				
Depreciation				
Other				
Total Operating Result	Nil			
Funding Source				
CAPEX				
CAPEX				
External				
Internal				
Other				
Total CAPEX	Nil			



Patricia Krzeminski
Governance Manager

Richard Sheridan
Chief Financial Officer

Jillian Khoo
Executive Director Corporate Services

Brett Newman
Chief Executive Officer

ATTACHMENTS:

- | | | | |
|---|-----------------------------------------------------------------------------------|----------------------------------------------------------------|---------|
| 1 |  | Fact Sheet - Election of Mayor and Deputy Mayor by Councillors | 6 Pages |
| 2 |  | Nomination Form - Deputy Lord Mayor | 1 Page |

REFERENCE MATERIAL

Fact Sheet

ELECTION OF MAYOR AND DEPUTY
MAYOR BY COUNCILLORS

Summary

Councillors must elect a mayor from among their number every two years unless they have a popularly elected mayor.

Councillors may also elect a deputy mayor. The deputy mayor may be elected for the mayoral term or a shorter term.

The election of the mayor and the deputy mayor must be conducted in accordance with clause 394 and Schedule 7 of the *Local Government (General) Regulation 2005* (the Regulation).

The purpose of this document is to assist councils to conduct mayoral and deputy mayoral elections in accordance with these requirements. It includes scripts for key activities to help returning officers exercise their functions. These scripts are provided in the text boxes inserted in the relevant parts of this document.

How can councils use this document?

Electing a mayor is an important activity. It is vital that the process is smooth, open and easy to follow and not rushed or confusing. Where necessary, it may be appropriate to stop and provide clarification for the benefit of councillors, staff or the gallery.

Returning officers can circulate this document prior to the meeting to help councillors understand the election process.

Election of a mayor after an ordinary election of councillors

An election for mayor must be held within three weeks of the declaration of the ordinary election at a meeting of the council.

The returning officer is to be the general manager or a person appointed by the general manager.

As no mayor or deputy mayor will be present at the start of the meeting, the first business of the meeting should be the election of a chairperson to preside at the meeting. Alternatively, the returning officer may assume the chair for the purpose of conducting the election.

Mid-term election of a mayor

A mayor elected by councillors holds office for two years. A mid-term mayoral election must be held in the September two years after the ordinary election of councillors or the first election of a new council following its establishment.

Procedures

Prior to the meeting

Before the council meeting at which the election is to be conducted, the returning officer will give notice of the election to the councillors.

The notice is to set out how a person may be nominated as a candidate for election as chairperson.

As returning officer, I now invite nominations for the position of mayor/deputy mayor for [name of council] for a two year period.

In accordance with the Local Government (General) Regulation 2005, two or more councillors may nominate a councillor (one of whom may be the nominee) for the position of mayor/deputy mayor. Nominations must be in writing and the nominee must consent to their nomination in writing.

A councillor may be nominated without notice for election as mayor or deputy mayor. The nomination 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 checks the nomination forms and writes the nominees' names on a candidates' sheet.

At the meeting

At the start of the first meeting after an ordinary election, in the absence of a chairperson, the returning officer assumes the chair and announces that the first item of business is to be the election of a mayor.

If a chairperson is present, they announce that the first item of business is the election of the mayor then vacates the chair for the returning officer who will then conduct the election.

The returning officer reads out the names of the nominees and seeks confirmation that the nominee has accepted the nomination.

If only one councillor has been nominated for the position of mayor/deputy mayor, the nominee is elected.

As there is only one nominee for the role of mayor/deputy mayor, I declare that [name of successful candidate] is elected as mayor/deputy mayor for the ensuing two years.

If more than one candidate has been nominated, the council must determine by resolution, the method of voting for the position of mayor/deputy mayor, by way of one of the following methods:

- Open voting – i.e. by show of hands
- Ordinary ballot – i.e. a secret ballot (place an "X" against the candidate of their choice)
- Preferential ballot – i.e. place 1, 2, 3 etc. against each candidate.

The returning officer must ask for a motion to be put to the meeting by one of the councillors on the preferred method of voting for the election of a chairperson. This must then be seconded and voted on by the councillors.

Note: In the event of a tie, if there is a chairperson, they may use their casting vote. If there is a tie and no chairperson, an election for the role of chairperson should be conducted. Then the election for mayor resumes.

Open voting (show of hands)

Open voting is the most transparent method of voting. It is also the least bureaucratic method and reflects normal council voting methods.

The returning officer will advise the meeting of the method of voting and explains the process.

It has been resolved that the method of voting for the position of mayor/deputy mayor will be by show of hands.

Each councillor is entitled to vote for only one candidate in each round of voting.

I will now write each candidate's name on a slip of paper and deposit it in a barrel. The first name out of the barrel will be written first on the tally sheet, with second name out being written second on the tally sheet, etc.

When all candidates' names have been written on the tally sheet, the returning officer announces the names of the candidates and, commencing with the first candidate, states the following:

Would those councillors voting for [name of candidate] please raise your hand.

The returning officer records the number of votes for each successive candidate on the tally sheet and announces the number of votes received for each candidate.

The minute taker records the vote of each councillor.

The returning officer should check with the minute taker that each councillor has voted. If a councillor has not voted it should be confirmed that they are abstaining (an informal vote).

Two candidates

If there are only two candidates for the position of mayor/deputy mayor and the voting is higher for one candidate than another (number of formal votes recorded on the tally sheet), the returning officer then announces the result.

[Name of candidate] has the higher number of formal votes and as a result I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

In the event of a **tied vote**, the returning officer will advise the meeting of the following process.

In accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the

names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be declared as mayor/deputy mayor.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests a staff member to shake the barrel.

The returning officer then draws a name out of the barrel and shows the meeting.

I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

Three or more candidates

If there are three or more candidates, the candidate with the lowest number of votes for the position of mayor/deputy mayor is excluded.

[Name of candidate], having the lowest number of votes, is excluded.

The voting continues as above until there are only two candidates remaining (see voting for **two candidates** above).

In the event that the **lowest number of votes are tied**, the returning officer advises the meeting of the following process:

In accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be excluded.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests a staff member to shake the barrel.

The returning officer then draws a name out of the barrel and shows it to the meeting.

I declare that [name of candidate] is excluded.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

Ordinary ballot – (secret ballot)

The returning officer advises the meeting of the method of voting and explains the process.

It has been resolved that the method for voting for the position of mayor/deputy mayor will be by ordinary ballot, in other words by placing an "X" against the candidate of the councillor's choice.

The returning officer announces the names of the candidates for mayor/deputy mayor and writes each name on a slip of paper and deposits it in a barrel.

The returning officer requests that a staff member shakes the barrel and advises that the order in which the names will appear on the ballot paper will be determined by a draw out of the barrel, i.e. first name out of the barrel is written first on the ballot papers and so on.

It will be necessary to have a number of blank papers as this process may require more than one round of voting.

The returning officer writes the names on one set of the ballot papers and initials the front of each ballot paper.

A staff member distributes the ballot papers and collects them into the ballot box when completed and gives it to the returning officer who counts the votes and records them on the tally sheet.

The returning officer announces the results.

[Name of candidate], having the lowest number of votes, is excluded.

In the event that the **lowest number of votes are tied**, the returning officer advises the meeting of the following process:

In accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be excluded.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests a staff member to shake the barrel.

The returning officer then draws a name out of the barrel and shows it to the meeting.

I declare that [name of candidate] is excluded.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

The returning officer writes the names of the remaining candidates on a further set of the ballot papers and initials the front of each ballot paper.

The staff member distributes ballot papers listing the remaining candidates and collects them into the ballot box when completed and gives it to the returning officer who again counts the votes and records them on the tally sheet and announces the results.

The process continues until two candidates remain, where a final vote takes place.

[Name of candidate] has the higher number of votes and I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

In the event of a **tied vote** between the two remaining candidates, the returning officer makes the following statement and announces the process.

The votes are tied between [name of candidate 1] and [name of candidate 2] having received [number] votes each, and, in accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel.

Please note that the candidate whose name is drawn out will be declared as mayor/deputy mayor.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests that a staff member shakes the barrel.

The returning officer then draws a name out of the barrel and shows the meeting.

I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

Preferential ballot

The returning officer explains the process.

It has been resolved that the method for voting for the position of mayor/deputy mayor will be by preferential ballot, i.e. placing 1, 2 and so on against the candidate of the councillor's choice in order of preference for all candidates.

The returning officer announces the names of the candidates for mayor/deputy mayor and writes each candidate's name on a slip of paper and deposits it in a barrel.

The returning officer requests that a staff member shakes the barrel and advises that the order in which the names will appear on the ballot paper will be determined by a draw out of the barrel, i.e. first name out of the barrel is written first on the ballot papers and so on.

The returning officer writes the names on the ballot papers and initials the front of each ballot paper. This method of voting requires only one set of ballot papers.

A staff member distributes the ballot papers and collects them when completed and gives them to the returning officer who counts the first preference votes and records them on the tally sheet.

If a candidate has an absolute majority of first preference votes (more than half), the returning officer declares the outcome.

[Name of candidate], having an absolute majority of first preference votes, is elected as mayor/deputy mayor for the ensuing two years.

If no candidate has the absolute majority of first preference votes, the returning officer excludes the candidate with the lowest number of first preference votes.

[Name of candidate], having the lowest number of first preference votes, is excluded.

The preferences from the excluded candidate are distributed. This process continues until one candidate has received an absolute majority of votes, at which time the returning officer announces the result.

[Name of candidate], having an absolute majority of votes, is elected as mayor/deputy mayor for the ensuing two years.

In the event of a **tied vote** where there are only two candidates remaining in the election, the returning officer explains the process.

The votes are tied between [name of candidate 1] and [name of candidate 2] having received [number] votes each, and, in accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be declared as mayor/deputy mayor.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests a staff member to shake the barrel. The returning officer then draws a name out of the barrel and shows the meeting.

I declare that [name of candidate] is elected as mayor/deputy mayor for the ensuing two years.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

In the event that the **lowest number of votes are tied** and where there are three or more candidates remaining in the election, the returning officer advises the meeting of the process.

In accordance with clause 12 of Schedule 7 of the Local Government (General) Regulation 2005, I will now write the names of the candidates on similar slips of paper, fold them and place them in the barrel. Please note that the candidate whose name is drawn out will be excluded and their preferences distributed.

It is appropriate to show the meeting the names and the barrel. Councillors may inspect but not touch the items.

The returning officer places the names of the candidates into the barrel and requests that a staff member shakes the barrel.

The returning officer then draws a name out of the barrel and shows the meeting.

I declare that [name of candidate] is excluded and any votes cast for them will be distributed by preference.

The returning officer then draws out the remaining name and reads it for completeness. The second name should be shown to the meeting.

Schedule 7 - Election of Mayor by Councillors

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. That candidate 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 councillors at the council meeting at which the election is held by the returning officer, and
- b) to be delivered or sent to the Departmental Chief Executive and to the Chief Executive of Local Government New South Wales.



NOMINATION FOR ELECTION OF DEPUTY LORD MAYOR

We hereby nominate Councillor _____ for election as Deputy Lord Mayor for the City of Parramatta for the ensuing term.

Name	_____	(Signed)	_____
	(Printed)	(Dated)	_____
Name	_____	(Signed)	_____
	(Printed)	(Dated)	_____

I hereby accept nomination for election as Deputy Lord Mayor of the City of Parramatta for the ensuing term.

Name	_____	(Signed)	_____
	(Printed)	(Dated)	_____

SUBMITTING NOMINATION FORMS

DULY COMPLETED NOMINATION FORMS SHOULD BE DELVIERED TO THE CHIEF EXECUTIVE OFFICER/RETURNING OFFICER, PREFERABLY BEFORE THE COMMENCEMENT OF THE MEETING BEING HELD FOR THE ELECTION OF THE DEPUTY LORD MAYOR.

FAIR

ITEM NUMBER	7.3
SUBJECT	FOR APPROVAL: Filling Casual Vacancies in Civic Office
REFERENCE	F2021/00521 - D08305361
REPORT OF	Governance Manager

WORKSHOP/BRIEFING DATE: 6 January 2022

PURPOSE:

The purpose of this report is to seek Council's approval to fill casual vacancies in Civic Office within the first 18 months of a Local Government Election by way of countback of votes cast at the Local Government Elections (held 4 December 2021) in accordance with Section 291A of the Local Government Act 1993.

RECOMMENDATION

- (a) **That** the City of Parramatta Council, pursuant to Section 291A of the Local Government Act 1993 (the Act), declares that casual vacancies occurring in the office of a Councillor within 18 months after the last ordinary election of Councillors for the Council on 4 December 2021 are to be filled by a countback of votes cast at that election for the office in accordance with Section 291A of the Act.
- (b) **That** Council delegate authority to the Chief Executive Officer to negotiate, finalise and execute all documents and agreements with the NSW Electoral Commission in connection with this matter.
- (c) **Further, that** the Chief Executive Officer notify the NSW Electoral Commission of the Council's decision within seven (7) days of the decision.

BACKGROUND

- 1. In September 2019, Council entered into a contract with the NSW Electoral Commission for the administration of the elections, on behalf of the Chief Executive Officer. The last Local Government Elections were held on 4 December 2021.

ISSUES/OPTIONS/CONSEQUENCES

- 2. Section 291A of the Local Government Act 1993 (the Act) provides that should any casual vacancy occur within the first 18 months of an election, the opportunity to fill those vacancies by way of the "countback of votes" method (instead of a full by-election) must be determined by Council at the first Council Meeting of the new term. Specifically, Section 291A states:

291A Countback to be held instead of by-election in certain circumstances

- (1) *This section applies to a casual vacancy in the office of a councillor if--*
 - (a) *the casual vacancy occurs within 18 months after the date of the last ordinary election of the councillors for the area, and*

- (b) *the council has at its first meeting following that ordinary election of councillors, by resolution, declared that any such casual vacancy is to be filled by a countback of votes cast at the last election for that office.*
 - (2) *This section does not apply to a casual vacancy in the office of a councillor if the councillor who vacated office was elected--*
 - (a) *in an election using the optional preferential voting system (including the election of a mayor elected by the electors of an area), or*
Note : See section 285 (Voting system for election of councillors).
 - (b) *in an election without a poll being required to be held.*
Note : See section 311 (Uncontested elections).
 - (3) *A casual vacancy to which this section applies is to be filled by a countback election conducted in accordance with the regulations.*
 - (4) *A countback election to fill a casual vacancy to which this section applies must be conducted--*
 - (a) *if the election at which the person whose departure created the casual vacancy was elected was administered by the Electoral Commissioner--by a returning officer appointed by the Electoral Commissioner, or*
 - (b) *if the election at which the person whose departure created the casual vacancy was elected was administered by a returning officer appointed by an electoral services provider engaged by the council--by a returning officer appointed by the electoral services provider.*
 - (5) *If a countback election fails or the returning officer is otherwise unable to fill the casual vacancy by a countback election--*
 - (a) *the returning officer must notify the general manager of the council concerned, and*
 - (b) *a by-election in accordance with this Part must be held to fill the casual vacancy.*
 - (5A) *If an electoral services provider engaged by the council is unable to appoint a returning officer for the purposes of subsection (4)(b), a by-election in accordance with this Part must be held to fill the casual vacancy.*
 - (6) *This section does not apply to a casual vacancy in the office of a councillor if the vacancy occurs before the day prescribed for the purposes of this section by the regulations.*
3. It is recommended that Council resolve to fill any casual vacancy that may occur within the first 18 months of an ordinary election by way of the countback of votes cast at the last election.

CONSULTATION & TIMING

Stakeholder Consultation

4. The following stakeholder consultation has been undertaken in relation to this matter:

Date	Stakeholder	Stakeholder Comment	Council Officer Response	Responsibility
19 November 2021	NSW Electoral Commission	Provision of accurate wording for the recommendation for Council to consider declaring a countback method for the purposes of filling casual vacancies within the first 18 months of an ordinary election. Provision of estimated costs for both countback method and full by-election.	Noted.	Governance

Councillor Consultation

5. The following Councillor consultation has been undertaken in relation to this matter:

Date	Councillor	Councillor Comment	Council Officer Response	Responsibility
6 January 2022	Briefing with all Councillors	Nil at the time of writing this report		

LEGAL IMPLICATIONS FOR COUNCIL

6. Should Council not consider the method of filling casual vacancies that may occur within the first 18 months of an ordinary election at the first Council Meeting, Council would be unable to utilise the countback of votes cast at the last election, and would be required to conduct a full by-election.
7. Should Council resolve in accordance with the report recommendation, then any agreement required for the provision of countback services to Council would be prepared and reviewed by Council's legal services unit, prior to execution by the Chief Executive Officer.

FINANCIAL IMPLICATIONS FOR COUNCIL

8. The cost to Council for the NSW Electoral Commission to administer the Local Government Elections on 4 December 2021 was in the order of \$1,230,000.

9. It is difficult to accurately anticipate the cost of a by-election or countback at this time, however the NSW Electoral Commission have provided some advice in relation to the costs associated with filling casual vacancies by way of either a by-election or countback method.

By-Election

The costs of a normal by-election with attendance and postal voting are in the region of 70%-80% of the cost of an ordinary election. For a single ward, the cost would be lower however, there are a number of fixed costs that would affect the overall costings. Based on the cost of the 2021 Elections, it may be appropriate to estimate the cost of a by-election for a single ward in the vicinity of \$400,000 to \$500,000.

Countback

The NSW Electoral Commission have not priced countback elections as there are a number of variables which would affect the cost. However, it is noted that there would be no requirement for pre-poll venues, polling places and very few staff would be required to conduct a countback, the cost would be significantly lower than a conventional by-election.

10. Should Council resolve in accordance with the recommendation, the costs to conduct a countback of the votes cast at the last ordinary election would be funded from general revenue. Any costs associated with a countback would be included in the appropriate quarterly budget review for Council's ratification.

	FY 21/22	FY 22/23	FY 23/24	FY 24/25
Revenue				
Internal Revenue				
External Revenue				
Total Revenue				
Funding Source				
Operating Result				
External Costs				
Internal Costs				
Depreciation				
Other				
Total Operating Result				
Funding Source				
CAPEX				
CAPEX				
External				
Internal				
Other				
Total CAPEX				

Patricia Krzeminski
Governance Manager

Richard Sheridan

Chief Financial Officer

Jillian Khoo

Executive Director Corporate Services

Brett Newman

Chief Executive Officer

ATTACHMENTS:

There are no attachments for this report.

REFERENCE MATERIAL