



TAMWORTH REGIONAL COUNCIL

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993 that a **Meeting of Tamworth Regional Council** will be held in the **Council Chambers, Lands Building, Nemingha Room, 25-27 Fitzroy Street, Tamworth**, commencing at **6.30pm**.

EXTRAORDINARY COUNCIL AGENDA

15 OCTOBER 2024

**PAUL BENNETT
GENERAL MANAGER**

Order of Business

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Council

Meeting Date: 2nd and 4th Tuesday of the month commencing at 6:30pm.

Matters determined by Ordinary meetings will include all those non-delegable functions identified in Section 377 of the Local Government Act as follows:

- *“the appointment of a general manager*
- *the making of a rate*
- *a determination under section 549 as to the levying of a rate*
- *the making of a charge*
- *the fixing of a fee*
- *the borrowing of money*
- *the voting of money for expenditure on its works, services or operations*
- *the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)*
- *the acceptance of tenders which are required under this Act to be invited by the council*
- *the adoption of an operational plan under section 405*
- *the adoption of a financial statement included in an annual financial report*
- *a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6*
- *the fixing of an amount or rate for the carrying out by the council of work on private land*
- *the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work*
- *the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the [Environmental Planning and Assessment Act 1979](#)*
- *the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194*
- *a decision under section 356 to contribute money or otherwise grant financial assistance to persons*
- *the making of an application, or the giving of a notice, to the Governor or Minister*
- *this power of delegation*
- *any function under this or any other Act that is expressly required to be exercised by resolution of the council.”*

Other matters and functions determined by Ordinary Council Meetings will include:

- *Notices of Motion*
- *Notices of Motion of Rescission*
- *Council Elections, Polls, Constitutional Referendums and Public Hearings/Inquiries*
- *Ministerial Committees and Inquiries*
- *Mayor and Councillors Annual Fees*
- *Payment of Expenses and Provision of Facilities to Mayor and Councillors*
- *Local Government Remuneration Tribunal*
- *Local Government Boundaries*
- *NSW Ombudsman*
- *Administrative Decisions Tribunal*
- *Delegation of Functions by the Minister*
- *Delegation of Functions to General Manager and Principal Committees*
- *Organisation Structure*
- *Code of Conduct*
- *Code of Meeting Practice*
- *Honesty and Disclosure of Interests*
- *Access to Information*
- *Protection of Privacy*
- *Enforcement Functions (statutory breaches/prosecutions/recovery of rates)*
- *Dispute Resolution*
- *Council Land and Property Development*
- *Annual Financial Reports, Auditors Reports, Annual Reports and Statement of the Environment Reports*
- *Performance of the General Manager*
- *Equal Employment Opportunity*
- *Powers of Entry*
- *Liability and Insurance*
- *Membership of Organisations*

Membership: All Councillors
Quorum: Five members
Chairperson: The Mayor
Deputy Chairperson: The Deputy Mayor

Community Consultation Policy

The first 30 minutes of Open Council Meetings is available for members of the Public to address the Council Meeting or submit questions either verbally or in writing, on matters INCLUDED in the Business Paper for the Meeting.

Members of the public will be permitted a maximum of three minutes to address the Council Meeting. An extension of time may be granted if deemed necessary.

Members of the public seeking to represent or speak on behalf of a third party must satisfy the Council or Committee Meeting that he or she has the authority to represent or speak on behalf of the third party.

Members of the public wishing to address Council Meetings are requested to contact Council either by telephone, in person or online prior to 4:30pm the day prior to the Meeting to address the Council Meeting. Persons not registered to speak will not be able to address Council at the Meeting.

Council will only permit three speakers in support and three speakers in opposition to a recommendation contained in the Business Paper. If there are more than three speakers, Council's Governance division will contact all registered speakers to determine who will address Council. In relation to a Development Application, the applicant will be reserved a position to speak.

Members of the public will not be permitted to raise matters or provide information which involves:

- personnel matters concerning particular individuals (other than Councillors);
- personal hardship of any resident or ratepayer;
- information that would, if disclosed confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business;
- Commercial information of a confidential nature that would, if disclosed:
 - prejudice the commercial position of the person who supplied it, or
 - confer a commercial advantage on a competitor of the Council; or
 - reveal a trade secret;
- information that would, if disclosed prejudice the maintenance of law;
- matters affecting the security of the Council, Councillors, Council staff or Council property;
- advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege;
- information concerning the nature and location of a place or an item of Aboriginal significance on community land;
- alleged contraventions of any Code of Conduct requirements applicable under Section 440; or
- on balance, be contrary to the public interest.

Members of the public will not be permitted to use Community Consultation to abuse, vilify, insult, threaten, intimidate or harass Councillors, Council staff or other members of the public. Conduct of this nature will be deemed to be an act of disorder and the person engaging in such behaviour will be ruled out of the order and may be expelled.

Disclosure of Political Donations or Gifts

If you have made a relevant planning application to Council which is listed for determination on the Council Business Paper you must disclose any political donation or gift made to any councillor or employee of the Council within the period commencing two years before the application is made and ending when the application is determined (Section 147(4) Environmental Planning and Assessment Act 1979).

If you have made a relevant public submission to Council in relation to a relevant planning application which is listed for determination on the Council Business Paper you must disclose any political donation or gifts made to any councillor or employee of the Council by you as the person making the submission or any associate within the period commencing two years before the submission is made and ending when the application is determined (Section 147(5) Environmental Planning and Assessment Act 1979).

AGENDA

- 1 APOLOGIES AND LEAVE OF ABSENCE**
- 2 COMMUNITY CONSULTATION**
- 3 MINUTES OF PREVIOUS MEETING SUBMITTED FOR APPROVAL**

RECOMMENDATION

That the Minutes of the Ordinary Meeting held on Tuesday, 10 September 2024, copies of which were circulated be taken as read and confirmed as a correct record of the proceedings of the Meeting.

4 DISCLOSURE OF INTEREST

Pecuniary Interest

Non Pecuniary Conflict of Interest

Political Donations

5 MAYORAL MINUTE

Nil

6 NOTICE OF MOTION

Nil

OPEN COUNCIL REPORTS

7 ENVIRONMENT AND PLANNING

Nil

8 INFRASTRUCTURE AND SERVICES

Nil

9 GOVERNANCE, STRATEGY AND FINANCE

9.1 RETURNING OFFICER

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Lisa May, Coordinator Governance and Executive Services

RECOMMENDATION

That the advice in relation to the role of the Returning Officer for any election required for the position of Mayor and Deputy Mayor be received and noted and the General Manager act as the Returning Officer.

SUMMARY

The purpose of this report is to advise Council that the General Manager will be the Returning Officer.

COMMENTARY

Schedule 7 of the Local Government (General) Regulation 2021 states that the General Manager (or a person appointed by the General Manager) will act as the Returning Officer for any election required to elect the Mayor and Deputy Mayor

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Schedule 7 of the Local Government (General) Regulation 2005 provides that the General Manager (or a person appointed by the General Manager) is the Returning Officer. Consequently, the General Manager will conduct any election required for the position of Mayor and Deputy Mayor.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and Collaborative Leadership

9.2 METHOD OF VOTING

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Lisa May, Coordinator Governance and Executive Services

RECOMMENDATION

That the advice in relation to the methods of voting for any election required for the position of Mayor and Deputy Mayor be received and noted.

SUMMARY

The purpose of this report is to inform the Council of the provisions of Schedule 7 of the Local Government (General) Regulation 2021 for any election required to elect the Mayor and Deputy Mayor.

COMMENTARY

The procedures for the election of the Mayor and the Deputy Mayor are as follows:

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

7 Count—3 or more candidates

- (1) *If there are three or more candidates, the one with the lowest number of votes is to be excluded.*
- (2) *If three 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, three or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only two candidates remain.*
- (4) *A further vote is to be taken of the two remaining candidates.*
- (5) *Clause 6 of this Schedule then applies to the determination of the election as if the two remaining candidates had been the only candidates.*
- (6) *If at any stage during a count under subclause (1) or (2), two 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 two candidates in, or remaining in, the election and the numbers of votes cast for the two candidates are equal—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.*
- (2) *If, on any count of votes, there are three or more candidates in, or remaining in, the election and the numbers of votes cast for two or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.*

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.*

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Schedule 7 of the Local Government (General) Regulation 2021, provides for any election required to elect the Mayor and Deputy Mayor.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and Collaborative Leadership

9.3 DETERMINATION OF METHOD OF VOTING FOR ELECTION OF MAYOR AND DEPUTY MAYOR

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Lisa May, Coordinator Governance and Executive Services

RECOMMENDATION

That Council elect the Mayor and Deputy Mayor for the ensuing term by Ordinary Ballot.

SUMMARY

The purpose of this report is for Council to determine the voting method to be used in electing the Mayor and Deputy Mayor for the ensuing term.

COMMENTARY

Schedule 7 of the Local Government (General) Regulation 2021 provides that if only one Councillor is nominated for the position of Mayor or Deputy Mayor, that Councillor is elected.

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.

Ballot has its normal meaning of secret ballot and **open voting** means voting by a show of hands or similar means.

(a) Policy Implications

Council's past practice has been to conduct the Election for the position of Mayor and Deputy Mayor by ordinary ballot.

(b) Financial Implications

Nil

(c) Legal Implications

Schedule 7 of the Local Government (General) Regulation 2021 sets out the provisions for methods of Voting for election of Mayor and Deputy Mayor.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and Collaborative Leadership

9.4 NOMINATIONS FOR THE POSITION OF MAYOR

DIRECTORATE: OFFICE OF THE GENERAL MANAGER

AUTHOR: Lisa May, Coordinator Governance and Executive Services

RECOMMENDATION

That the Returning Officer calls for nominations for the position of Mayor for the ensuing term and if two or more nominations are received, an election be conducted.

SUMMARY

The purpose of this report is to call for and announce nominations received for the position of Mayor for the ensuing 24-month period or until the next Local Government Election.

COMMENTARY

Nomination Forms for the position of Mayor have been distributed and will also be available at the Ordinary Meeting.

The Returning Officer will call for final lodgement of nominations at the Meeting. After the final call for nominations, the Returning Officer will announce the names of the nominee(s). If necessary, an election will then be conducted.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Section 290(1)(b) of the Local Government Act requires Council to hold the election of the Mayor by the Councillors within three weeks after the ordinary election. Section 230(1) of the Local Government Act determines a Mayor elected by the Councillors holds the Office of Mayor for two years.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and Collaborative Leadership

9.5 NOMINATIONS FOR THE POSITION OF DEPUTY MAYOR

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Lisa May, Coordinator Governance and Executive Services

RECOMMENDATION

That the Returning Officer calls for nominations for the position of Deputy Mayor for the ensuing term and if two or more nominations are received, an election be conducted.

SUMMARY

The purpose of this report is to call for and announce nominations received for the position of Deputy Mayor for the ensuing 12-month period or until the next Local Government Election.

COMMENTARY

Nomination Forms for the position of Deputy Mayor have been distributed and will also be available at the Ordinary Meeting.

The Returning Officer will call for final lodgement of nominations at the Meeting. After the final call for nominations, the Returning Officer will announce the names of the nominee(s). If necessary, an election will then be conducted.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Section 231 of the Local Government Act 1993 in relation to the 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.*

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and Collaborative Leadership

9.6 METHOD OF FILLING CASUAL VACANCIES IN COUNCIL

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Lisa May, Coordinator Governance and Executive Services

RECOMMENDATION

Pursuant to section 291A(1)(b) of the Local Government Act 1993 Tamworth Regional Council declares that casual vacancies occurring in the office of a councillor within 18 months after the last ordinary election of the Councillors for the Council on 14 September 2024 are to be filled by a countback of votes cast at that election for the office in accordance with section 291A of the Act and directs the General Manager to notify the NSW Electoral Commission of the Council's decision within seven days of the decision.

SUMMARY

The purpose of this report is to request that Council resolve to fill casual vacancies occurring in the office of a Councillor within 18 months of the election by a countback of votes cast at the election.

COMMENTARY

The Office of Local Government (OLG) circular 24-15 issued on 15 August 2024, Councils were advised that there are a number of key decisions that need to be addressed at the first Meeting of Council. One of those decisions was the method for filling casual vacancies occurring in the office of a Councillor within the first 18 months following the election.

Councils must, by resolution, declare that casual vacancies occurring in the office of a Councillor within 18 months of the election are to be filled by a countback of votes cast at the election if councils want to fill vacancies by these means. Councils that do not resolve to fill vacancies using a countback at their first meeting after the election will be required to fill vacancies using a by-election (section 291A of the Act).

(a) Policy Implications

Nil

(b) Financial Implications

By resolving to fill casual vacancies by countback of votes in the first 18 months, Council avoids the potential cost of hosting a by-election should any casual vacancies arise within this timeframe.

(c) Legal Implications

Section 291A of the Local Government Act sets out the provisions in which a countback is held instead of a by-election in the event of a casual vacancy.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and Collaborative Leadership

9.7 PROPOSED MOTIONS FOR THE LOCAL GOVERNMENT NSW 2024 CONFERENCE

DIRECTORATE: LIVEABLE COMMUNITIES
AUTHOR: Gina Vereker, Director Liveable Communities

RECOMMENDATION

That in relation to the report “Proposed Motions for the Local Government NSW 2024 Conference”, Council authorise the following motions to be submitted to Local Government NSW:

- (i) resourcing the assessment of renewable energy project Development Applications; and*
- (ii) ensuring an adequate CIV percentage for Renewable Energy VPAs.*

SUMMARY

This purpose of this report is to recommend to Council motions for submission to Local Government NSW (LGNSW) for the 2024 LGNSW Annual Conference.

COMMENTARY

The 2024 Local Government NSW Annual Conference will be held at the Tamworth Regional Entertainment Conference Centre (TRECC) from Sunday 17 to Tuesday 19 November 2024.

To date, Councillors have not submitted any Motions and it is noted that the closing date for submissions is 20 October 2024. LGNSW recommends that motions be strategic, affect members state-wide and introduce now or emerging policy issues and actions.

Proposed Motions

Resourcing the assessment of renewable energy project Development Applications

That LGNSW calls on the NSW State Government and Department of Planning, Housing and Infrastructure to allocate qualified, experienced town planners from its departmental ranks to relocate to rural and regional areas to act as the local Council planner responsible for the review of all Development Applications for State Significant renewable energy projects, with this initiative funded by the State Government.

Supporting note

Tamworth Regional Council is currently aware of at least nineteen renewable energy projects in different stages of project development that are either located within the Tamworth Region or will impact Tamworth Council infrastructure and communities. Council officers/subject matter experts across the organisation are required to provide technical information in a range of disciplines to the proponents, their consultants, and to the Department of Planning, Housing and Infrastructure (DPHI). Council’s Development Planners have the greatest involvement, acting as internal ‘manager’ of the development application, consolidating the Council wide responses to the SEARs (Secretary’s Environmental Assessment Requirements), EIS (Environmental Impact Statement) and draft conditions of consent, to formulate commentary to the DPHI as well as engaging with concerned local communities.

Council receives no Development Application fees for this significant workload.

Ensuring an adequate CIV percentage for Renewable Energy VPAs

That LGNSW calls on the NSW State Government and Department of Planning, Housing and Infrastructure to:

- (a) Increase the per megawatt value of community benefits for wind and solar farm development adopted in the Department's Draft Energy Policy Framework; and
- (b) Ensure the Department's Draft Energy Policy Framework include a standardised community benefit contribution/payment for battery energy storage systems and transmission lines.

Supporting Note

The rollout of the government's renewable energy framework including battery energy and transmission line infrastructure and its accelerated timeframe is creating significant community impacts across rural and regional LGAs. There is a clear and valid expectation that renewable energy companies, including proponents of battery energy storage systems and those delivering transmission infrastructure on behalf of the government ensure that councils and their local communities are appropriately financially recognised and compensated for these impacts.

(a) Policy Implications

The LGNSW Policy Platform reflects the collective positions of local government on issues of importance and guides LGNSW in its advocacy on behalf of the local government sector. Member Councils are encouraged to review the Action Reports from previous conferences before submitting motions for the 2024 Conference. Action reports from previous conferences are available on the Annual Conference page on the LGNSW website.

(b) Financial Implications

Nil

(c) Legal Implications

Nil

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus area 9 – Open and Collaborative Leadership

10 COMMUNITY SERVICES

Nil

11 REPORTS TO BE CONSIDERED IN CLOSED COUNCIL

Nil
