



LITHGOW CITY COUNCIL

AGENDA

EXTRAORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

29 SEPTEMBER 2008

AT 7.00pm

# AGENDA

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**PRESENT**

**QUESTIONS FROM THE PUBLIC GALLERY - NIL**

**DECLARATION OF INTEREST**

**MAYORAL MINUTES - NIL**

**REPORTS**

General Manager Reports

**COMMITTEE MEETINGS - NIL**

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## NOTIFICATION OF EXTRAORDINARY MEETING

### ITEM:1 NOTIFICATION OF EXTRAORDINARY MEETING OF COUNCIL

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24<sup>th</sup> September 2008

To the General Manager  
Lithgow City Council

I, Councillor Neville Castle seek an ExtraOrdinary Meeting of Council to be called to deal with the election of Mayor, Deputy Mayor, Chairs of the Committees, appointment of Council to external bodies for the period of September 2008 to September 2009.

We wish to also deal with the Delegations to the General Manager, Mr Roger Bailey from September 2008.

  
Signed: Councillor Neville Castle

## GENERAL MANAGER REPORTS

### ITEM:2 GM - 29/09/08 - NOMINATIONS FOR AND ELECTIONS FOR THE POSITION OF MAYOR 2008/09

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#### COMMENTARY

With the new Council now elected the Council is required to elect a Mayor to preside over the Council for the coming 12 month term.

With the completion of the Council Elections Council now needs to elect a Mayor for the coming term, as described by Section 230(1) which provides that a mayor elected by councillors holds office for one year, subject to the Act.

Section 290(1)(a) of the Act requires the election of the mayor to be conducted at a meeting held within 3 weeks after an ordinary election.

#### **290 When is an election of a mayor by the councillors to be held?**

- (1) *The election of the mayor by the councillors is to be held:*
  - (a) *if it is the first election after an ordinary election of councillors-within 3 weeks after the ordinary election, or*
  - (b) *if it is not that first election or an election to fill a casual vacancy-during the month of September, or*
  - (c) *if it is the first election after the constitution of an area-within 14 days after the appointment of a provisional council or the first election of the council if a provisional council is not appointed, or*
  - (d) *if the relevant council is a non-functioning council, or a council of which all civic offices have been declared vacant, and the election is the first to be held after the appointment or election of the councillors-within 14 days after the appointment or election of the councillors.*
- (2) *If the councillors fail to elect a mayor as required by this section, the Governor may appoint one of the councillors as the mayor.*

The election is to be conducted by the general manager or in his or her absence, a Council employee designated by the General Manager, or in the event that all of these people are absent, by the person who called the meeting.

The Mayoral Fee presently paid by Lithgow City Council is \$18,000pa that may be paid. This is paid in addition to the fees paid to a councillor.

#### **Nominations**

Nominations are now invited for the Office of Mayor for the 2008/09 term (until September 2009). The elections of Mayor of Lithgow City Council must be held in accordance with Schedule 7 of the Local Government (General) Regulation, 2005 and Council's Code of Meeting Practice.

In accordance with Section 227(a) of the Local Government Act, 1993 the Mayor of Lithgow City Council is elected by the councillors from among their number.

Schedule 7 of the Local Government (General) Regulation, 2005, outlines the following procedures for the election of Mayor.

### **Returning Officer**

The General Manager (or a person nominated by the General Manager) is the Returning Officer.

### **Nomination**

A councillor may be nominated without notice for election as Mayor. The nomination is to be made in writing by two (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.

The nomination is to be delivered or sent to the Returning Officer, who shall announce the names of the nominees at the Council meeting at which the election is to be held.

### **Election**

If only one councillor is nominated for the position of Mayor, that councillor is elected. If more than one councillor is nominated Council must determine if voting is to be by preferential ballot, by ordinary ballot (both secret ballots) or by Open Voting (voting by a show of hands or similar means). The elections of Mayor and Deputy Mayor are the only times Council can choose to vote by way of secret ballot. In **all** other matters open voting must be used. The election is to be held at the Council meeting at which the Council resolves on the method of voting.

### **Ordinary Ballot**

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.
  - a. If there are only 2 candidates, the candidate with the higher number of votes is elected.
  - b. If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.
3.
  - a. If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
  - b. 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.
  - c. If, after that, 3 or more candidates still remain, the procedure set out in subclause 3(b) is to be repeated until only 2 candidates remain.
  - d. A further vote is to be taken of the 2 remaining candidates.
  - e. Clause 2 of the above then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
  - f. If at any stage during a count under subclause 3(a) or 3(b), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

### **Open Voting**

Follows the same procedures as for ordinary ballot excepting it is by a show of hands or similar means.

### **Preferential Ballot**

1. This part applies if the election proceeds by preferential ballot.
2. 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.

### **Count for Preferential Ballot**

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 the clause “absolute majority” in relation to votes means a number which is more than one-half of the number of formal unexhausted ballot papers.

### **Preferential Voting – 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.

### **General**

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**.

### Notes:

- (i) Nomination forms for the position of Mayor and Deputy Mayor are enclosed with this meeting agenda. These may be completed and returned to the Returning Officer at any time before the Ordinary Council Meeting scheduled for Monday September 29 **OR** at this Extra-Ordinary Meeting up to the time that the Returning Officer announces that nominations are closed;
- (ii) Elections at Lithgow City have been conducted under the Open Voting system in recent years;
- (iii) “Open Voting” means voting by a show of hands or similar means;

- (iv) “Ballot” has its normal meaning of secret ballot; and
- (v) “Ordinary Ballot” means indicating the name, or if applicable the placing of the number 1 only against the name, of your preferred candidate.

Nomination forms for the position of Mayor are coloured **BLUE** and are enclosed with the business paper and will also be available at the ExtraOrdinary Meeting of Council.

The returning officer will call for the 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 as per the decision made on the previous report.

Section 209 (b) of the Local Government Act requires Council to hold the election for the position of Mayor by the Councillors within 3 weeks after the Ordinary election. By virtue of this report and the recommendation is contained therein, Council will have satisfied its requirements under the Local Government Act.

#### **POLICY IMPLICATIONS**

NIL

#### **FINANCIAL IMPLICATIONS**

NIL

#### **LEGAL IMPLICATIONS**

NIL

#### **ATTACHMENTS**

1. Nomination Forms

#### **RECOMMENDATION**

##### **THAT:**

1. Council proceed with the election of the Mayor; and
2. Council to determine whether the vote is to proceed by ordinary ballot, preferential ballot or by open voting.



**ITEM:3 GM - 29/09/08 - NOMINATIONS FOR THE ELECTION OF DEPUTY MAYOR**

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**COMMENTARY**

Councillors **may** elect one from their number to be the Deputy Mayor. The person may be elected for the Mayoral term or a shorter one (s.231).

The Deputy Mayor's role is to exercise any function and delegation of the Mayor:-

- i) At the request of the Mayor; or
- ii) If the Mayor is prevented by illness, absence or otherwise from exercising the function; or
- iii) If there is a casual vacancy in the Office of Mayor.

If no Deputy Mayor is elected or if the Deputy Mayor is unable to act, Councillors may elect one of their number to act as Deputy Mayor.

This Council in the past has elected a Deputy Mayor for a term of 12 months, i.e. September to September.

The procedure for the election of Deputy Mayor is the same as the procedure for the election of Mayor.

Additional fees, if any, for holding the position of Deputy Mayor are **deducted** from payments to the Mayor. No fees are presently paid by Council.

Nominations forms for the position of Deputy Mayor are coloured **GREEN** and are enclosed with the business paper and will also be available at the ExtraOrdinary Meeting of Council.

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

Section 231 of the Local Government Act 1993 provides that the Councillors may elect a person from among their number to be the Deputy Mayor. The term may be for the Mayoral term or a shorter term. It has been common practice at Lithgow City Council for the position of Deputy Mayor to be exactly the same length of time as the position of Mayor as determined in Section 231 (2) of the Local Government Act 1993.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

1. Nomination Forms

**RECOMMENDATION**

**THAT:**

1. Council notes the report on the appointment of and procedure for the election of a Deputy Mayor;
2. Council resolve that the Deputy Mayor is to be elected from its number for the Mayoral term;
3. If a Deputy Mayor is to be appointed then hold an election for that position on the same basis as for the Mayoral position; and
4. Determine the fee that is to be paid to the Deputy Mayor.

**ITEM:4 GM - 29/09/08 - DELEGATIONS TO MAYOR AND DEPUTY MAYOR**

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**COMMENTARY**

Council has now appointed its Mayor for the coming year to September 2009. It is appropriate that the Council provide direction for the Mayor through delegations for that period. Section 226 of the Local Government Act 1993 specifies the role of the Mayor, as;

- To exercise, in the case of necessity, the policy-making functions of the governing body of the Council between meetings of the Council;
- To exercise such other functions of the Council as the Council determines;
- To preside at meetings of the Council; and
- To carry out the civic and ceremonial functions of the mayoral office.

Through delegations the Council more clearly details the powers of its Mayor and also makes for a more efficient organisation.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

NIL

**RECOMMENDATION**

**THAT:**

**1. MAYOR**

Pursuant to the Local Government Act and Regulations, and any expressed policy or direction of Council, that Council in accordance with the provisions of Section 377 of the Local Government Act 1993 and every other enabling statutory power, delegates to the person who occupies the position of Mayor, to perform on behalf of Council the following powers, authorities, duties or functions.

i. Council Seal

Authorise the Mayor to be the necessary witness to documents requiring Council's seal.

ii. Media Relations

To make media statements or releases on behalf of Council.

iii. Policy Making

To exercise in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council.

iv. Correspondence

To sign correspondence on behalf of the Council.

v. Urgent Works

To authorise any work which is deemed urgent at a cost not exceeding \$5,000 provided that such expenditure is reported to the Council at its next Ordinary Meeting.

vi. Complaints Against the General Manager

The Mayor shall have the power to investigate substantive written complaints against the General Manager and shall, if warranted, report to the next Ordinary Meeting of Council.

vii. Attendance at Conference, Seminars and functions by Councillors

The Mayor may authorise a councillor to attend a conference, seminar or function within and outside the Council area. (Conference means conferences, seminars, congresses, forums, workshops, courses, meetings, deputations, information and training sessions events, etc, held within Australia, related to the industry of local government - See Policy - Payment of Expenses and Provision of Facilities for Councillors.

viii. General Manager

The power to determine applications by the General Manager for leave and pursuant to the contract of employment with the General Manager the power to determine requests by the General Manager to vary the structure of the salary package but not the value of the total package.

ix. Acting General Manager

To appoint a person to act as General Manager where the position is vacant, or the holder of the position is suspended from duty, is sick, on leave or absent.

x. Code of Conduct Committee

The Mayor, Deputy Mayor and General Manager shall have the power to select members of the Code of Conduct Committee.

**2. DEPUTY MAYOR**

i. Council Seal

Authorise the Deputy Mayor to be the necessary witness to documents requiring Council's seal.

ii. In the absence of the Mayor

In the absence of the Mayor and subject to compliance with the requirements of the Local Government Act 1993, and any expressed policy or direction of the Council, the Council pursuant to the provisions of Section 377 of the Act, and every other enabling statutory power, delegates to the person who occupies the position of Deputy Mayor to exercise and perform on behalf of the Council the powers, authorities, duties and functions of the Mayor including the powers, authorities, duties and functions which the council has delegated by this Instrument to the Mayor.

**ITEM:5 GM - 29/09/08 - ELECTION OF CHAIRPERSON AND / OR DEPUTY CHAIRPERSON FOR THE POLICY AND STRATEGY COMMITTEE**

---

**SUMMARY**

The purpose of this report is for Council to consider the position of Chairperson and Deputy Chairperson for Policy and Strategy Committee.

**COMMENTARY**

Clause 267 of the Local Government (General) Regulations 2005 indicates that:

1. The Chairperson of each Committee of Council must be:
  - a) The Mayor, or
  - b) If the Mayor does not wish to be the chairperson of a committee - a member of the committee elected by the Council, or
  - c) If the Council does not elect such a member - a member of the committee elected by the committee
2. A Council may elect a member of a committee of the Council as Deputy Chairperson of the committee. If the Council does not elect a Deputy Chairperson of such a committee, the committee may elect a Deputy Chairperson.
3. If neither the Chairperson nor the Deputy Chairperson of a committee of Council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting Chairperson of the committee.
4. The Chairperson is to preside at a meeting of a committee of a Council. If the Chairperson is unable or unwilling to preside, the Deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the Deputy Chairperson is able or willing to preside, the acting Chairperson is to preside at the meeting.

Under Council's Code of Meeting Practice, Council may determine the method of voting for the position of Deputy Chairperson of the Policy and Strategy Committee. If more than one Councillor is nominated, Council must resolve whether an election is to be preceded by a preferential ballot, ordinary ballot or by open voting.

**BALLOT:** Has a normal meaning of secret ballot and **OPEN VOTING** - Means voting by a show of hands or similar means.

Council has in previous times opted for the use of open voting method for such elections.

In accordance with Council's adopted Code of Meeting Practice the General Manager (or other employee designated by the General Manager) shall be the returning Officer for any such elections.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

NIL

**RECOMMENDATION**

**THAT:**

1. Council seek advice from the Mayor as to his desire to be the Chairman of the Policy and Strategy Committee
2. Should the Mayor not wish to be the Chairperson then Council decide on the method to be used for the election of Chairperson of the Policy and Strategy Committee
3. Council elect a Deputy Chairperson of the Policy and Strategy Committee.
4. Council decide on the method to be used for the election of Deputy Chairperson and if required Chairperson of the Policy and Strategy Committee
5. If necessary conduct the election for the positions of Chairperson and/or Deputy Chairperson of the Policy and Strategy Committee

**ITEM:6 GM - 29/09/08 - ELECTION OF CHAIRPERSON AND/OR DEPUTY CHAIRPERSON FOR THE FINANCE AND SERVICES COMMITTEE**

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**SUMMARY**

The purpose of this report is for Council to consider the position of Chairperson and Deputy Chairperson for Finance and Services Committee.

**COMMENTARY**

Clause 267 of the Local Government (General) Regulations 2005 indicates that:

1. The Chairperson of each Committee of Council must be:
  - a) The Mayor, or
  - b) If the Mayor does not wish to be the chairperson of a committee - a member of the committee elected by the Council, or
  - c) If the Council does not elect such a member - a member of the committee elected by the committee
2. A Council may elect a member of a committee of the Council as Deputy Chairperson of the committee. If the Council does not elect a Deputy Chairperson of such a committee, the committee may elect a Deputy Chairperson.
3. If neither the Chairperson nor the Deputy Chairperson of a committee of Council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting Chairperson of the committee.
4. The Chairperson is to preside at a meeting of a committee of a Council. If the Chairperson is unable or unwilling to preside, the Deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the Deputy Chairperson is able or willing to preside, the acting Chairperson is to preside at the meeting.

Under Council's Code of Meeting Practice, Council may determine the method of voting for the position of Deputy Chairperson and if required Chairperson of the Finance and Services Committee. If more than one Councillor is nominated, Council must resolve whether an election is to be preceded by a preferential ballot, ordinary ballot or by open voting.

**BALLOT** - Has a normal meaning of secret ballot and **OPEN VOTING** - Means voting by a show of hands or similar means.

Council has in previous times opted for the use of open voting method for such elections.

In accordance with Council's adopted Code of Meeting Practice the General Manager (or other employee designated by the General Manager) shall be the returning Officer for any such elections.



**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

NIL

**RECOMMENDATION**

**THAT:**

1. Council seek advice from the Mayor as to his desire to be the Chairman of the Finance and Services Committee
2. Should the Mayor not wish to be the Chairperson then Council decide on the method to be used for the election of Chairperson of the Finance and Services Committee
3. Council elect a Deputy Chairperson of the Finance and Services Committee.
4. Council decide on the method to be used for the election of Deputy Chairperson and or Chairperson of the Finance and Services Committee.
5. If necessary conduct the election for the positions of Chairperson and/or Deputy Chairperson of the Finance and Services Committee.

**ITEM:7                    GM - 29/09/08 - COUNCIL COMMITTEES AND EXTERNAL BODIES**

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**COMMENTARY**

The purpose of this report is for Council to consider the appointment of delegates to external (Non Principle) Committees, organisations and other working groups.

Due to a number of these Committees no longer functioning and the extensive level of representation on other organisations, it is time to review the efficiency and effectiveness of the previous system. Appointment could be made to the following committees and external bodies.

| <b>Committees</b>                             | <b>2007/08 Representative</b>                           | <b>2008/09 Representative</b> |
|---|---|-------------------------------|
| Citizens Access Committee                     | All Councillors   |                               |
| Community Services Committee                  | Councillor Wayne McAndrew                               |                               |
| Lithgow Correctional Centre Committee         | Councillor N L Castle<br>The General Manager            |                               |
| Kirk Connell Correctional Centre Committee    | Councillor N L Castle<br>The General Manager            |                               |
| Environmental Advisory Committee              | Councillor N L Castle<br>Councillor H K Fisher          |                               |
| General Managers Performance Review Committee | Mayor and Deputy Mayor                                  |                               |
| Lithgow Tourism Board                         | Councillor M M Collins                                  |                               |
| Sister Cities Committee                       | Councillor M J Wilson                                   |                               |
| Sports Advisory Committee                     | Councillor N L Castle<br>Councillor B S Moran           |                               |
| Traffic Local Authority Committee             | Councillor H K Fisher<br>General Manager<br>(alternate) |                               |
| Union Theatre Management Committee            | Councillor M J Wilson                                   |                               |
| Wallerawang Tidy Towns                        | Councillor B S Moran<br>Councillor M M Collins          |                               |
| Waste Management Committee                    | All Councillors   |                               |

**External Bodies**

|   |  |  |
|---|--|--|
| Animal Advisory Committee                                   | Councillor H K Fisher                                    |  |
| Arts Out West Committee                                     | The General Manager                                      |  |
| Bells Line of Road Motoring<br>Tri-Partite Working Party    | Councillor N L Castle<br>General Manager                 |  |
| Blue Mountains Tourism<br>Limited                           | Mr Malcolm Wells   |  |
| Bracey Family Committee                                     | NIL - New Committee                                      |  |
| Bush Fire Advisory<br>Committee                             | Councillor B S Moran<br>General Manager                  |  |
| Central West Group<br>Apprentices                           | Councillor M J Wilson                                    |  |
| Cooinda Nursing Homes<br>Management Committee               | Councillor B S Moran<br>General Manager                  |  |
| Economic Development<br>Committee                           | NIL - New Committee                                      |  |
| Lithgow Business<br>Association                             | Councillor B S Moran<br>The Mayor<br>The General Manager |  |
| Lithgow Information &<br>Neighbourhood Centre Inc<br>(LINC) | Councillor M J Wilson                                    |  |
| Upper Macquarie County<br>Council                           | Councillor B P Morrissey<br>Councillor H K Fisher        |  |
| Tanderra Nursing Home<br>Management Committee               | Councillor B S Moran<br>Councillor M M Collins           |  |
| Coleman House Portland                                      | Councillor N L Castle                                    |  |
| Crystal Theatre Committee                                   | Councillor N L Castle                                    |  |
| Centroc   | Councillor N L Castle<br>General Manager                 |  |
| Tabulam Management<br>Committee                             | Councillor M M Collins<br>Councillor N L Castle          |  |
| Western Research Institute                                  | Councillor M M Collins                                   |  |
| Pine Dale Coal Mine<br>Community Committee                  | Councillor H K Fisher                                    |  |
| Cullen Valley Coal Mine<br>Community Committee              | Independent<br>Councillor W McAndrew                     |  |
| Lamberts Gully Coal Mine<br>Community Committee             | Councillor H K Fisher                                    |  |
| Invincible Coal Mine<br>Community Committee                 | Independent  |  |
| Clarence Coal Mine<br>Community Committee                   | Independent  |  |
| Baal Bone Coal Mine<br>Community Committee                  | Independent  |  |
| Angus Place Coal mine<br>Community Committee                | Councillor H K Fisher                                    |  |

## **Working Groups**

|                                     |   |  |
|-------------------------------------|---|--|
| Working Group of Strategic Plan     | Councillor B S Moran<br>Councillor M J Wilson<br>Councillor M M Collins<br>Councillor N L Castle<br>Councillor H K Fisher |  |
| Wolgan Valley Railway Working Group | NIL - New Group   |  |

It may be appropriate for a small working party of Councillors and Senior Officers to be established to review the need for any other committees or perhaps a Special Meeting of Council could be programmed to review the issues.

### **POLICY IMPLICATIONS**

NIL

### **FINANCIAL IMPLICATIONS**

NIL

### **LEGAL IMPLICATIONS**

NIL

### **RECOMMENDATION**

#### **THAT:**

- 1.The information be received.
- 2.Council determine the appointments to be made to the Committees as listed in the report

**ITEM:8 GM - 29/09/08 - DELEGATIONS TO THE GENERAL MANAGER**

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**REFERENCE**

NIL

**SUMMARY**

For the effective management of Council delegations need to be made to the General Manager.

**COMMENTARY**

The Committee appointed by Council has appointed Mr Roger Bailey as the General Manager.

A Council may, by resolution, delegate to the General Manager of the Council or any other person or body (not including another employee of the Council) any of the functions of the Council other than matters set out specifically in Section 377. This section provides a lengthy list of matters which may not be delegated by a council.

A General Manager may in turn delegate any of their functions other than the power of delegation. A General Manager may delegate any of the functions of a General Manager, other than this power of delegation. A General Manager may sub-delegate a function delegated to the General Manager by a Council to any person or body, including another employee of Council.

A person must not, under any other Act, delegate a function to the General Manager, except with the approval of the Council or to an employee of the Council, except with the approval of the Council and the General Manager.

**Legislation - The relevant sections of the Act are:**

***How does a council exercise its functions?***

**355.** *A function of a council may, subject to this Chapter, be exercised:*

- (a) by the council by means of the councillors or employees, by its agents or contractors, by financial provision, by the provision of goods, equipment, services, amenities or facilities or by any other means; or*
- (b) by a committee of the council; or*
- (c) partly or jointly by the council and another person or persons; or*
- (d) jointly by the council and another council or councils (including by means of a Voluntary Regional Organisation of Councils of which the councils concerned are members), or*
- (e) by a delegate of the council (which may, for example, be a Voluntary Regional Organisation of Councils of which the council is a member).*

***General power of the council to delegate***

**377.** *(1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council, other than the following:*

- *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 the management plan under section 406*
  - *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 of 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 of 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*
- (2) *A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Director-General except as provided by the instrument of delegation to the council.*

### ***Delegations by the General Manager***

- 378.** (1) *The general manager may delegate any of the functions of the general manager, other than this power of delegation.*

- (2) *The general manager may sub-delegate a function delegated to the general manager by the council to any person or body (including another employee of the council).*
- (3) *Subsection (2) extends to a function sub-delegated to the general manager by the council under section 377(2).*

**Delegation of regulatory functions**

**379.** *A regulatory function of a council under Chapter 7 must not be delegated or sub-delegated to a person or body other than:*

- (a) *a committee of the council of which all the members are councillors or of which all the members are either councillors or employees of the council; or*
  - (b) *an employee of the council; or*
  - (c) *a county council*
- (2) *A regulatory function of a county council under Chapter 7 must not be delegated or sub-delegated to a person or body other than:*
- (a) *a committee of the county council of which all the members are members of the county council or of which all the members are either members of the county council or employees of the county council, or*
  - (b) *any employee of the county council, or*
  - (c) *a council*
- (3) *However, if:*
- (a) *a regulatory function is delegated to a county council, the function may be delegated to the general manager and by the general manager to an employee of the county council, or*
  - (b) *a regulatory function is delegated to a council, the function may be delegated to the general manager and by the general manager to an employee of the council*

**CONCLUSION**

It is necessary to provide the General Manager with power to perform all lawful functions on behalf of the Council other than those functions the Council chooses.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

NIL

**RECOMMENDATION**

**THAT** Council delegate to the General Manager, Roger William Bailey, the authority to exercise all discretionary functions that Council is capable of delegating and is not prohibited from so doing under section 377 of the Local Government Act, 1993, and also excluding any specific functions which Council has, by resolution, reserved to Council.