

Business Paper



Extra Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Tuesday 12 November 2024

at 6:00 PM

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Acknowledgement of Country

Acknowledgement of Country

Lithgow City Council acknowledges Wiradjuri Elders past and present of the Wiradjuri nation - the original custodians of the land on which the Lithgow's communities reside. The Council also extends our respects to our neighbouring nations.

Declaration of Webcasting

I inform all those in attendance at this meeting, that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements concerning any person, Councillor or employee, and refrain from discussing those matters subject to Closed Council proceedings as indicated in clause 14.1 of the code of meeting practice.

Present

Apologies

Declaration of Interest

Ethical Decision Making and Conflicts of Interest

A guiding checklist for Councillors, officers and community committees

Oath or Affirmation of Office

Councillors are reminded of the Oath or Affirmation taken of office, made under section 233A of the *Local Government Act 1993* when elected.

Ethical decision making

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

Conflict of interest

A conflict of interest is a clash between private interest and public duty. The test for conflict of interest:

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of 'corruption' – using public office for private gain.
- Important to consider public perceptions of whether you have a conflict of interest.

There are two types of conflict:

- **Pecuniary** – regulated by the *Local Government Act 1993* and Office of Local Government. A person with a pecuniary interest should at least disclose and not vote, but it would also in these cases be appropriate to leave the chamber.
 - **Non-pecuniary** – regulated by Codes of Conduct and policy. ICAC, Ombudsman, Office of Local Government (advice only). If declaring a Non-Pecuniary Conflict of Interest, a person with a non-pecuniary interest can choose to either disclose and vote, disclose and not vote or leave the Chamber.
 - Local Government Act 1993 and Model Code of Conduct
-

For more detailed definitions refer to the *Local Government Act 1993*, Chapter 14 Honesty and Disclosure of Interest and adopted Code of Conduct.

Identifying problems

1st Do I have private interests affected by a matter I am officially involved in? **2nd** Is my official role one of influence or perceived influence over the matter? **3rd** Do my private interests conflict with my official role?

Disclosure of pecuniary interests / non-pecuniary interests

Under the provisions of Section 440AAA(3) of the *Local Government Act 1993* (pecuniary interests) and the Model Code of Conduct it is necessary for you to disclose the nature of the interest when making a disclosure of a pecuniary interest or a non-pecuniary conflict of interest at a meeting.

A Declaration form should be completed and handed to the General Manager as soon as practicable once the interest is identified. Declarations are made at Item 3 of the Agenda: Declarations - Pecuniary, Non-Pecuniary and Political Donation Disclosures, and prior to each Item being discussed: The Declaration Form can be downloaded at

Public Forum

Any person registered to speak during Public Forum on a matters included in the business paper and registered via the Council website prior to 12 Noon on the day of the meeting will have the opportunity to speak. There will be only two speakers for and against, on each matter on the business paper.

Public forum will be allocated half an hour time in total with each speaker having 3 minutes to speak.

Speaker not registered for public forum will have an opportunity to speak on matters on the business paper if time permits.

1. Mayoral Minutes

The Mayor is able to table a Mayoral minute at the meeting if required.

2. Administration Reports

2.1. EXEC - 12/11/2024 - Councillor Delegates to Upper Macquarie County Council

Strategic Context for this matter:

Responsible Governance & Civic Leadership To develop community confidence in the organisation by the way it is directed, controlled and managed.

Responsible Officer: Ross Gurney - General Manager

Executive Summary

The purpose of the Extra Ordinary Meeting is to conduct two individual preferential elections for two Upper Macquarie County Council (UMCC) member positions to ensure that correct process is followed for the election. UMCC has asked that Lithgow Council's members be elected in time for UMCC's first meeting of the term (including induction) on Friday 15 November.

The purpose of this report is to seek the appointment of two Councillor delegates to the UMCC for the term of Council.

Administration's Recommendation

THAT Council elect two delegates to the Upper Macquarie County Council for the term of Council.

Attachments

1. Request for Extra Ordinary Meeting 12 November 2024 [2.1.1 - 1 page]
2. Councillor delegate UMCC Form [2.1.2 - 1 page]

Reference to any relevant previous minute

N/A

Background and discussion

Invalid Results of 28 October 2024 Election

The election of two delegates to UMCC at the Ordinary Meeting of Council held on 28 October 2024 is invalid on the following grounds.

- An individual election must be conducted for each of the two member positions.
- If more than two nominations are received, an election must be conducted by preferential ballot to ensure compliance with Schedule 9 of the Local Government (General) Regulation 2021 (further details below).

As the elections will be conducted "afresh", new nominations will be called for the two elections. Any Councillors who nominated for the 28 October 2024 election will need to re-nominate and other Councillors may also nominate.

UMCC Legal Basis

The Local Government Act 1993 empowers the Governor to establish County Councils by proclamation. The proclamation is the constitution of the County Council.

The County Council must have a governing body which is responsible for managing the affairs of the County Council. The members of the governing body are elected from among the Councillors of the constituent Councils (Section 390).

The functions of the County Council are set out in the proclamation and may comprise “any one or more of the functions of a council under” the Act.

With limited exceptions, including the power to make and levy an ordinary rate, the Local Government Act applies to general purpose County Councils and members of County Councils in the same way as it applies to Councils and Councillors.

The method of constitution of a County Council is no different to that of other Councils. Only the method of election of Councillors and the particularity of the functions of County Councils differentiates them from general purpose Councils. The method of election is similar to collegiate voting and provides indirect election.

The role of a member of a County Council is the same as that of a Councillor as set out in Section 232 of the Local Government Act which, because Section 400 of the Act, also applies to members of a County Council. Members of the governing body of the County Council represent the interests of the constituent Council by which they are elected to the County Council.

UMCC is the weeds authority for the council areas of Bathurst, Blayney, Lithgow and Oberon. The UMCC has four principal program areas -

- Weed Biosecurity Compliance Program,
- Business Management Program,
- Landholder Support Program, and
- Roadside Weed Control program.

As a member, the Council is entitled to appoint two Councillors as delegates on the UMCC. The election of appointment of delegates to the UMCC is for the term of the Council. The role carries a small annual stipend. The UMCC typically meets on 6 weekly cycles, generally in the afternoon. The first meeting of the UMCC will establish the meeting arrangements.

UMCC currently trades as Central Tablelands Weeds Authority (CTWA).

Central Tablelands Weeds Authority (CTWA)

Central Tablelands Weeds Authority’s core function is to detect priority weeds and actively encourage landholders to correctly manage the identified priority weed in accordance with the Central Tablelands Local Lands Services Strategic Weed Management Plan. CTWA believes in cooperating with all landholders to achieve the best results in managing priority weeds. If we all work together, we can reduce the impact of priority weeds.

However, in some instances it is faced with uncooperative landholders whereby an escalation in the compliance process is required. This can result in the issuance of Penalty Infringement Notices or Court Prosecution. Although these methods are not in the spirit of the Authority and its Weeds Biosecurity Officers, they are nonetheless, necessary on limited occasions. CTWA derives such enforcement powers from the Biosecurity Act 2015 (NSW).

Nominations for Councillor Delegates

Schedule 9 of the Local Government (General) Regulation 2021 applies. The nomination:

- (a) may be made without notice by any councillor of the Council,
- (b) is to be in writing delivered or sent to the returning officer, and
- (c) is not valid unless the nominee has indicated consent to the nomination in writing

Election of Delegates

The Local Government (General) Regulation 2021, Schedule 9, prescribes how a councillor is to be elected as a member of a county council. If there are more than two nominees, then an election is to be held by way of preferential ballot. A Nomination Form will be separately distributed to the Councillors. Councillors are to return the form to the General Manager, or it is to be handed to the General Manager at the commencement of the meeting.

The procedure for the election will be:

1. The General Manager will be the Returning Officer.
2. The General Manager will call for further nominations.
3. Nominations will be closed.
4. The Returning Officer will announce the names of the nominees.
5. If more than two nominations are received, an election will be held.
6. The election is to be conducted by preferential ballot.
7. The election is to be declared at the Council meeting at which the ballot is held.

Consultation and Communication

N/A

Policy

N/A

Legal

The subject matter of this report is a function of Council conferred by the Local Government Act 1993 and Local Government (General) Regulation 2021 (Schedule 9).

Risk Management

N/A

Financial

There is minimal additional cost arising from holding the Extra Ordinary meeting on 12 November as a Councillor Information session is already scheduled in the evening. The additional cost mainly relates to a minor amount of administrative staff overtime.

Councillor members of UMCC are paid a statutory member fee which is set on an annual basis by the Local Government Remuneration Tribunal and then adopted by UMCC.

3. Business of Great Urgency

In accordance with Clause 241 of the Local Government Act (General) Regulations 2005 business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:

- a) A motion is passed to have the business transacted at the meeting; and
- b) The business proposed to be brought forward is ruled by the Chairperson to be of great urgency.