

11 September 2020

Dear Councillor,

You are kindly requested to attend the **Extraordinary Meeting** of Wingecarribee Shire Council to be held remotely using audio visual link and is open to members of the community via webcast on **Wednesday 16 September 2020** commencing at **6.00pm**.

Yours faithfully

Barry W Paull
Acting General Manager

SCHEDULE

6.00pm Council Meeting begins



Business

- 1. OPENING OF THE MEETING**
- 2. ACKNOWLEDGEMENT OF COUNTRY**
- 3. PRAYER**
- 4. APOLOGIES**
- 5. DECLARATIONS OF INTEREST 1**
- 6. CORPORATE STRATEGY AND DEVELOPMENT SERVICES**
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- 7. CLOSED COUNCIL**

Nil
- 8. MEETING CLOSURE**

Our Mission, Our Vision, Our Values

OUR MISSION

To create and nurture a vibrant and diverse community growing and working in harmony with our urban, agricultural and natural environments

OUR VISION

Leadership: *'An innovative and effective organisation with strong leadership'*

People: *'A vibrant and diverse community living harmoniously, supported by innovative services and effective communication with Council'*

Places: *'Places that are safe, maintained, accessible, sympathetic to the built and natural environment, that supports the needs of the community'*

Environment: *'A community that values and protects the natural environment enhancing its health and diversity'*

Economy: *'A strong local economy that encourages and provides employment, business opportunities and tourism'*

OUR VALUES

Integrity, trust and respect

Responsibility and accountability

Communication and teamwork

Service quality

Council Chambers

Recording and Webcasting of Ordinary and Extraordinary Meetings of Council

This meeting is being recorded and webcast via Facebook and a person's image and/or voice may be publicly broadcast. Attendance at the meeting is to be taken as consent by a person to their image and/or voice being webcast. Any part of the meeting that is held in closed session will not be webcast.

Council requests that everyone in attendance is respectful and uses appropriate language. All speakers should refrain from making any defamatory, discriminatory or offensive comments or releasing any personal information about another individual without their consent. Council accepts no liability for any damage that may result from defamatory, discriminatory or offensive comments made by persons attending meetings – all liability will rest with the individual who made the comments.

Individuals acting in a disorderly manner can be asked by the Chairperson to leave the meeting under the Council's Code of Meeting Practice.

The recording will be available for viewing on the internet for 12 months and retained as a Council record. The recording is subject to copyright.

The meeting must not be recorded by others without the prior written consent of Council in accordance with Council's Code of Meeting Practice.

Council's webcasting of meetings via Facebook is designed to encourage constructive dialogue. We remind users to be digitally responsible and respect their fellow posters. We ask users to keep comments relevant and not to spam or post personal or commercially sensitive information. This includes content that may be defamatory, derogatory, offensive or discriminatory towards Council employees, Councillors or other persons or organisations. Failure to follow Facebook house rules will result in comments being deleted and if this behaviour persists the user will be blocked.

Please ensure that all electronic devices including mobile phones are switched to silent.

ACKNOWLEDGEMENT OF COUNTRY

I would like to acknowledge the Traditional Custodians of this land and pay my respect to Elders both past and present. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today.

APOLOGIES

Nil at time of print

DECLARATIONS OF INTEREST

101/3, 101/3.1

The provisions of Chapter 14 of the *Local Government Act 1993* regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest and the reasons for declaring such interest must be disclosed as soon as practicable after the start of the meeting.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions or voting on that matter and further require that the member vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

6 CORPORATE STRATEGY AND DEVELOPMENT SERVICES

6.1 Election of Mayor for 2020-2021 Term

Reference:	102/4
Report Author:	Coordinator Corporate Strategy and Governance
Authoriser:	Group Manager Corporate and Community
Link to Community	
Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

The purpose of this report is to invite nominations for the Office of the Mayor for the term until the ordinary Council election on 4 September 2021. The election of the Mayor must be held in accordance with Division 2 of Part 2 and sections 282 and 290 of the *Local Government Act 1993* ('the Act') and clause 394 and Schedule 7 of the *Local Government (General) Regulation 2005* ('the Regulation').

RECOMMENDATION

1. **THAT** pursuant to Item 3(2) of Part 1 of Schedule 7 of the *Local Government (General) Regulation 2005*, Council determines that the election of the Mayor proceed by way of open voting.
2. **THAT** the election of the Mayor for the term until the NSW Local Government elections on 4 September 2021 be conducted.

REPORT

BACKGROUND

In accordance with sections 227(a) and 282(2) of the Act, the Mayor of Wingecarribee Shire Council is elected by the Councillors from among their number. Under section 230(1) of the Act, mayors elected by councillors hold office for two years and the current term of the Mayor was due to conclude with the NSW Local Government ordinary elections that were originally scheduled to take place on 12 September 2020. However, as a result of the ongoing impacts of the COVID-19 pandemic, the NSW Government decided to postpone these elections until 4 September 2021.

The NSW Office of Local Government (OLG) has subsequently advised in its *Circular 20-29: September 2020 mayoral elections* ('OLG Circular 20-29') that councils which elected mayors in September 2018 must have mayoral elections in September 2020 when the two-year term of the current mayor expires, and that the mayor elected in September 2020 will hold their office until ordinary elections are held on 4 September 2021.

In addition, at its meeting of 12 August 2020 Council resolved as follows (MN 321/20):

1. *THAT an Extraordinary Meeting be held on Wednesday 16 September 2020 via video conference commencing at 6.00pm to conduct the election of Mayor and Deputy Mayor.*

AGENDA FOR THE EXTRAORDINARY MEETING OF COUNCIL

Wednesday 16 September 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



2. *THAT in accordance with Schedule 7, Part 1 Preliminary 3 of Local Government (General) Regulation 2005, the method of electing the Mayor and Deputy Mayor for the 2020/2021 term be by Open Voting.*

This resolution had regard to OLG Circular 20-29, which advised that open voting (e.g. a show of hands) can be undertaken remotely where a council is conducting its meeting by audio visual link; however, ordinary and preferential ballots are secret ballots and Councillors will need to attend the meeting in person if the election is to be by way of an ordinary or preferential vote.

If more than one Councillor is nominated for election as Mayor, Council is required to again resolve the method of electing the Mayor at this Extraordinary Meeting. This is because Items 3(2) and 3(3) of Part 1 of Schedule 7 of the Regulation provide that:

- (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.*

This report has been prepared in accordance with the Code of Meeting Practice, Council resolution MN 321/20 and section 290(1)(b) of the Act which requires that this election of a mayor by the councillors takes place during the month of September.

REPORT

Clause 394 of the Regulation relevantly provides that:

If a Mayor or Deputy Mayor is to be elected by the councillors of an area, the election is to be in accordance with Schedule 7.

Item 3(2) of Part 1 of Schedule 7 of the Regulation prescribes three methods for the election of a mayor by councillors:

- open voting (e.g. a show of hands)
- ordinary ballot, or
- preferential ballot.

As noted above, Council has already resolved at its meeting of 12 August 2020 to elect the Mayor and Deputy Mayor by way of open voting. However, in order for the election of the Mayor to comply with Item 3(3) of Part 1 of Schedule 7 of the Regulation, Council is required to again resolve the method of electing the Mayor at the meeting at which the election is to take place.

The OLG has published a fact sheet providing guidance on how councils are to conduct elections for the Mayor and Deputy Mayor. A copy of this fact sheet is provided at **Attachment 1**. The fact sheet includes a copy of Schedule 7 of the Regulation.

The nomination paper for the election of the Mayor for 2020-2021 has been circulated to all Councillors with this business paper and is also provided at **Attachment 2** to this report.

In accordance with Item 1 of Part 1 of Schedule 7 of the Regulation, the General Manager (or a person appointed by the General Manager) is the Returning Officer.

Nominations will be accepted by the Returning Officer in person or by email until the commencement of the Extraordinary Meeting of Council to be held on Wednesday 16 September 2020.

COMMUNICATION AND CONSULTATION

Community Engagement

Not applicable.

Internal Communication and Consultation

Not applicable.

External Communication and Consultation

Not applicable.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The election of the Mayor must be held in accordance with Division 2 of Part 2 and sections 282 and 290 of the Act and clause 394 and Schedule 7 of the Regulation.

COUNCIL BUDGET IMPLICATIONS

There are no budget implications associated with the election of the Mayor.

RELATED COUNCIL POLICY

Code of Meeting Practice

OPTIONS

The only option available to Council is to elect a Mayor for the 2020-2021 Term.

CONCLUSION

Due to the postponement of the NSW Local Government ordinary elections from 12 September 2020 for one year as a result of the COVID-19 pandemic, Council is required to elect a Mayor for the term until the ordinary Council election on 4 September 2021 in

AGENDA FOR THE EXTRAORDINARY MEETING OF COUNCIL

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accordance with Division 2 of Part 2 and sections 282 and 290 of the Act and clause 394 and Schedule 7 of the Regulation.

ATTACHMENTS

1. Fact Sheet - Election of Mayor and Deputy Mayor by Councillors
2. Nomination Paper for the Election of Mayor



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.

6.1 Election of Mayor for 2020-2021 Term

ATTACHMENT 1 Fact Sheet - Election of Mayor and Deputy Mayor by Councillors



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.

6.1 Election of Mayor for 2020-2021 Term

ATTACHMENT 1 Fact Sheet - Election of Mayor and Deputy Mayor by Councillors



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.

6.1 Election of Mayor for 2020-2021 Term

ATTACHMENT 1 Fact Sheet - Election of Mayor and Deputy Mayor by Councillors



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.

6.1 Election of Mayor for 2020-2021 Term

ATTACHMENT 1 Fact Sheet - Election of Mayor and Deputy Mayor by Councillors



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.

6.1 Election of Mayor for 2020-2021 Term

ATTACHMENT 1 Fact Sheet - Election of Mayor and Deputy Mayor by Councillors



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.

**EXTRAORDINARY COUNCIL MEETING**

Wednesday 16 September 2020

NOMINATION PAPER**ELECTION OF MAYOR**

We, the undersigned Councillors of Wingecarribee Shire Council, do hereby propose for nomination:

(Name)
Please print name

as a candidate for the Office of Mayor of the Wingecarribee Shire Council at the election to be held on 16 September 2020.

Signed: 1. (Name)
Please print name and sign

2. (Name)
Please print name and sign

3. (Name)
Please print name and sign

I, (Name), consent to my nomination for election as Mayor, Wingecarribee Shire Council.

Signed: _____

Note: Schedule 7 Part 1 of the Local Government (General) Regulation 2005 prescribes:

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.

6.2 Election of Deputy Mayor for 2020-2021 Term

Reference:	102/4
Report Author:	Coordinator Corporate Strategy and Governance
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

The purpose of this report is to invite nominations for the Office of the Deputy Mayor. The election of the Deputy Mayor must be held in accordance with section 231 of the *Local Government Act 1993* ('the Act') and clause 394 and Schedule 7 of the *Local Government (General) Regulation 2005* ('the Regulation').

RECOMMENDATION

1. **THAT** pursuant to Item 3(2) of Part 1 of Schedule 7 of the *Local Government (General) Regulation 2005*, Council determines that the election of the Deputy Mayor proceed by way of open voting.
2. **THAT** the election of the Deputy Mayor for the term until the NSW Local Government elections on 4 September 2021 be conducted.

REPORT

BACKGROUND

In accordance with section 231(1) of the Act, the Deputy Mayor of Wingecarribee Shire Council is elected by the Councillors from among their number. Under section 231(2) of the Act, the Deputy Mayor may be elected for the mayoral term or a shorter term.

Along with the term of the Mayor, the current term of the Deputy Mayor was due to conclude with the NSW Local Government ordinary elections that were originally scheduled to take place on 12 September 2020. However, as a result of the ongoing impacts of the COVID-19 pandemic, the NSW Government decided to postpone these elections until 4 September 2021.

The NSW Office of Local Government (OLG) has subsequently advised in its *Circular 20-29: September 2020 mayoral elections* ('OLG Circular 20-29') that councils which elected mayors in September 2018 must have mayoral elections in September 2020 when the two-year term of the current mayor expires, and that the mayor elected in September 2020 will hold their office until ordinary elections are held on 4 September 2021. The OLG further advised that councils must also hold an election for deputy mayor if the deputy mayor's term is expiring.

In addition, at its meeting of 12 August 2020 Council resolved as follows (MN 321/20):

1. *THAT an Extraordinary Meeting be held on Wednesday 16 September 2020 via video conference commencing at 6.00pm to conduct the election of Mayor and Deputy Mayor.*

AGENDA FOR THE EXTRAORDINARY MEETING OF COUNCIL

Wednesday 16 September 2020

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



2. *THAT in accordance with Schedule 7, Part 1 Preliminary 3 of Local Government (General) Regulation 2005, the method of electing the Mayor and Deputy Mayor for the 2020/2021 term be by Open Voting.*

This resolution had regard to OLG Circular 20-29, which advised that open voting (e.g. a show of hands) can be undertaken remotely where a council is conducting its meeting by audio visual link; however, ordinary and preferential ballots are secret ballots and Councillors will need to attend the meeting in person if the election is to be by way of an ordinary or preferential vote.

If more than one Councillor is nominated for election as Deputy Mayor, Council is required to again resolve the method of electing the Deputy Mayor at this Extraordinary Meeting. This is because Items 3(2) and 3(3) of Part 1 of Schedule 7 of the Regulation provide that:

- (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.*

This report has been prepared in accordance with the Code of Meeting Practice, Council resolution MN 321/20 and section 231 of the Act.

REPORT

Clause 394 of the Regulation relevantly provides that:

If a Mayor or Deputy Mayor is to be elected by the councillors of an area, the election is to be in accordance with Schedule 7.

Item 3(2) of Part 1 of Schedule 7 of the Regulation prescribes three methods for the election of Deputy Mayor by councillors:

- open voting (i.e. a show of hands)
- ordinary ballot, or
- preferential ballot.

As noted above, Council has already resolved at its meeting of 12 August 2020 to elect the Mayor and Deputy Mayor by way of open voting. However, in order for the election of the Deputy Mayor to comply with Item 3(3) of Part 1 of Schedule 7 of the Regulation, Council is required to again resolve the method of electing the Deputy Mayor at the meeting at which the election is to take place.

The OLG has published a fact sheet providing guidance on how councils are to conduct elections for the mayor and deputy mayor. A copy of this fact sheet is provided at **Attachment 1** to Report 6.1 in this Business Paper. The fact sheet includes a copy of Schedule 7 of the Regulation.

The nomination paper for the election of the Deputy Mayor for 2020-2021 has been circulated to all Councillors with this business paper and is also provided at **Attachment 1** to this report.

In accordance with Item 1 of Part 1 of Schedule 7 of the Regulation, the General Manager (or a person appointed by the General Manager) is the Returning Officer.

Nominations will be accepted by the Returning Officer in person or by email until the commencement of the Extraordinary Meeting of Council to be held on Wednesday 16 September 2020.

COMMUNICATION AND CONSULTATION

Community Engagement

Not applicable.

Internal Communication and Consultation

Not applicable.

External Communication and Consultation

Not applicable.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The election of the Deputy Mayor must be held in accordance with section 231 of the Act and clause 394 and Schedule 7 of the Regulation.

COUNCIL BUDGET IMPLICATIONS

There are no budget implications associated with the election of the Deputy Mayor.

RELATED COUNCIL POLICY

Code of Meeting Practice.

OPTIONS

The only option available to Council is to elect a Deputy Mayor for the 2020-2021 Term.

CONCLUSION

Due to the postponement of the NSW Local Government ordinary elections from 12 September 2020 to 4 September 2021 as a result of the COVID-19 pandemic, Council is required to elect a Deputy Mayor for the mayoral term until the ordinary Council election on 4 September 2021.

AGENDA FOR THE EXTRAORDINARY MEETING OF COUNCIL

Wednesday 16 September 2020

**REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY
AND DEVELOPMENT SERVICES**



ATTACHMENTS

1. Nomination Paper for the Election of Deputy Mayor

Mark Pepping

Deputy General Manager Corporate, Strategy and Development Services

Friday 11 September 2020



EXTRAORDINARY COUNCIL MEETING

Wednesday 16 September 2020

NOMINATION PAPER

ELECTION OF DEPUTY MAYOR

We, the undersigned Councillors of Wingecarribee Shire Council, do hereby propose for nomination:

(Name) _____
Please print name

as a candidate for the Office of Deputy Mayor of the Wingecarribee Shire Council at the election to be held on 16 September 2020.

Signed: 1. (Name) _____
Please print name and sign

2. (Name) _____
Please print name and sign

3. (Name) _____
Please print name and sign

I, (Name) _____, consent to my nomination for election as Deputy Mayor, Wingecarribee Shire Council.

Signed: _____

Note: Schedule 7 Part 1 of the Local Government (General) Regulation 2005 prescribes:

1 Returning officer

The General Manager (or a person appointed by the General Manager) is the returning officer.

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- (1) A Councillor may be nominated without notice for election as mayor or deputy mayor.
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ballot has its normal meaning of secret ballot.
open voting means voting by a show of hands or similar means.



Barry W Paull
Acting General Manager

Friday 11 September 2020