



# **EXTRAORDINARY MEETING OF COUNCIL**

To be held at 5pm on

**Tuesday 20 September 2016**

Council Chambers

11 Manning Street, KIAMA NSW 2533

## **Order of Business**

- 1 Apologies
- 2 Acknowledgement of Traditional owners
- 3 Report of the General Manager
- 4 Closure

## COUNCIL OF THE MUNICIPALITY OF KIAMA

Council Chambers  
11 Manning Street  
KIAMA NSW 2533

16 September 2016

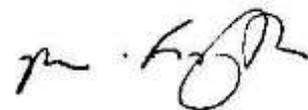
To the Chairman & Councillors:

### NOTICE OF EXTRAORDINARY MEETING

You are respectfully requested to attend an **Extraordinary Meeting** of the Council of Kiama, to be held in the **Council Chambers**

**11 Manning Street, KIAMA NSW 2533** on **Tuesday 20 September 2016** commencing at **5pm** for the consideration of the undermentioned business.

Yours faithfully



Michael Forsyth  
**General Manager**

**TABLE OF CONTENTS**

---

<b>ITEM</b>	<b>SUBJECT</b>	<b>PAGE NO</b>
<b>1</b>	<b>APOLOGIES .....</b>	<b>4</b>
<b>2</b>	<b>ACKNOWLEDGEMENT OF TRADITIONAL OWNERS .....</b>	<b>4</b>
<b>3</b>	<b>REPORT OF THE GENERAL MANAGER.....</b>	<b>5</b>
	3.1 Oath or Affirmation of Office by Councillors .....	5
	3.2 Election of Mayor .....	8
	3.3 Election of Deputy Mayor .....	13
<b>4</b>	<b>CLOSURE .....</b>	<b>14</b>

**AGENDA FOR THE  
EXTRAORDINARY MEETING OF KIAMA MUNICIPAL COUNCIL  
TUESDAY 20 SEPTEMBER 2016**

**1 APOLOGIES**

**2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

*“On behalf of those present, I would like to show my respect and acknowledge the traditional owners of the Land, of Elders past and present, on which this meeting takes place, and extend that respect to other Aboriginal and Torres Strait Islander people present.”*

### 3 REPORT OF THE GENERAL MANAGER

#### 3.1 Oath or Affirmation of Office by Councillors

CSP Objective: 4 Responsible Civic Leadership that is Transparent, Innovative and Accessible

CSP Strategy: 4.1 Ensure we remain a strong, independent and sustainable local government authority to plan, deliver and advocate for the needs of our community

Delivery Program: 4.1.1 Undertake a program of engagement with State, regional and local authorities and organisations, and community members to ensure Council remains an independent and viable entity

#### Summary

This report advises of the procedure for the taking of the oath or affirmation of office by Councillors.

#### Finance

Not applicable.

#### Policy

Not applicable.

#### Attachments

1 Copy of the Councillors oath and affirmation

#### Enclosures

Nil

### **RECOMMENDATION**

That Councillors take an oath or affirmation of office.

### **BACKGROUND**

As a result of the recent amendments to the Local Government Act 1993 a Councillor must take an oath of office or make an affirmation of office at or before the first meeting of the Council after the Councillor is elected.

The oath or affirmation may be taken or made before the General Manager of the Council, an Australian legal practitioner or a Justice of the Peace and is to be in the attached form.

A Councillor who fails without a reasonable excuse to take the oath of office or make an affirmation of office is not entitled to attend a meeting as a Councillor (other than the first meeting of the Council after the Councillor is elected to the office or a meeting at which the Councillor takes the oath or makes the affirmation) until the Councillor has taken the oath or made the affirmation.

Report of the General Manager

3.1 Oath or Affirmation of Office by Councillors (cont)

---

Any absence of a Councillor from an ordinary meeting of the Council that the Councillor is not entitled to attend is taken to be an absence without prior leave of the Council.

**Attachment**

**Oath**

*I [name of councillor] swear that I will undertake the duties of the office of councillor in the best interests of the people of [name of council area] and the [name of council] and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.*

**Affirmation**

*I [name of councillor] solemnly and sincerely declare and affirm that I will undertake the duties of the office of councillor in the best interests of the people of [name of council area] and the [name of council] and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.*

### 3.2 Election of Mayor

CSP Objective: 4 Responsible Civic Leadership that is Transparent, Innovative and Accessible

CSP Strategy: 4.4 Ensure a policy framework exists which meets all legislative requirements and community expectations

Delivery Program: 4.4.1 Ensure corporate legislative compliance

#### Summary

This report advises of the procedure for the election of the Mayor.

#### Finance

Not applicable.

#### Policy

Not applicable.

#### Attachments

- 1 Schedule 7 of the Local Government (General) Regulation 2005

#### Enclosures

- 1 Nomination form for position of Mayor - 2016/2018 - pro forma

### **RECOMMENDATION**

That Council:

1. Receive written nominations for the Office of Mayor for the period to September 2018.
2. Determine the form of election, if required.
3. Thereafter, proceed with the election of the Mayor.

### **BACKGROUND**

The NSW Parliament recently passed amendments to the Local Government Act 1993, known as the Phase 1 reforms, focusing mainly on improving Council governance and strategic business planning. As part of the amendments the term of office for a Mayor elected by Councillors has been increased to two (2) years.

Schedule 7 of the Local Government (General) Regulation 2005 (a copy of which is attached) sets out the procedures for the election of a Mayor by Councillors. The General Manager is appointed as the Returning Officer for such an election. Nominations can be made without notice, but must 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.

A "pro forma" nomination form has been prepared and circulated with this business paper (enclosed) for Councillors to use if so desired. There is no necessity to use this form, but the criteria detailed above must be met for a nomination to be valid.

## Report of the General Manager

## 3.2 Election of Mayor (cont)

---

The nomination forms must be delivered to the General Manager and can be so delivered at any time up to consideration of this item. Further pro forma nomination forms will be available at the Council meeting.

If only one Councillor is nominated, that Councillor is elected as Mayor. If more than one Councillor is nominated, Council must determine the form of election to be held, viz:

- Preferential balloting (voting “1”, “2”, “3” in order of preference – secret ballot)
- Ordinary ballot (“First Past the Post” by secret ballot)
- Open voting (“First Past the Post” by show of hands)

Where at any time in such an election there is equality in votes for the remaining two candidates, a draw by lot is undertaken with the candidate first drawn being taken to be elected. If at any time there is equality for two or more candidates when three or more candidates remain in the count (ie when a draw by lot will not decide the election), a draw by lot is undertaken and the candidate first drawn is excluded.

Local Government (General) Regulation 2005 [NSW]  
Schedule 7 Election of mayor by councillors

## Schedule 7 Election of mayor by councillors

(Clause 394)

### 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.

Local Government (General) Regulation 2005 [NSW]  
Schedule 7 Election of mayor by councillors

#### 7 Count—3 or more candidates

- (1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
- (2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- (3) If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

### Part 3 Preferential ballot

#### 8 Application of Part

This Part applies if the election proceeds by preferential ballot.

#### 9 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers "1", "2" and so on against the various names so as to indicate the order of their preference for all the candidates.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

#### 10 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.
- (4) In this clause, *absolute majority*, in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot-papers.

#### 11 Tied candidates

- (1) If, on any count of votes, there are 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.

Local Government (General) Regulation 2005 [NSW]  
Schedule 7 Election of mayor by councillors

---

- (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 the councillors at the council meeting at which the election is held by the returning officer, and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Association of New South Wales.

### 3.3 Election of Deputy Mayor

CSP Objective: 4 Responsible Civic Leadership that is Transparent, Innovative and Accessible

CSP Strategy: 4.4 Ensure a policy framework exists which meets all legislative requirements and community expectations

Delivery Program: 4.4.1 Ensure corporate legislative compliance

#### Summary

This report advises of the procedure for the election of the Deputy Mayor.

#### Finance

Not applicable.

#### Policy

Not applicable.

#### Attachments

Nil

#### Enclosures

- 1 Nomination for position of Deputy Mayor - pro forma

### **RECOMMENDATION**

That Council:

1. determine the term of the Deputy Mayor.
2. proceed with the election of a Deputy Mayor for the determined term and that such election be conducted in the same manner as that which applied to the election of the Mayor.

### **BACKGROUND**

Section 231 of the Act provides that Council may elect one of its members as the Deputy Mayor for the Mayoral term or for a shorter term if so resolved.

The Deputy Mayor may act in the Office of the Mayor on the Mayor's request or during such time (if any) as the Mayor is prevented by absence from so doing, or during such time as a casual vacancy exists in the Office of Mayor.

While acting in place of the Mayor, the Deputy Mayor may exercise any function of that office. Section 249(5) of the Act provides that Council may pay a fee to the Deputy Mayor where that person acts in the Office of Mayor. Any such fee must be approved and determined by Council, and is deducted from the Mayor's fee.

Council may determine the manner of election for the position of Deputy Mayor as detailed in the item dealing with the Mayoral election.

Council policy has been to formally elect a Deputy Mayor each year.

**4 CLOSURE**