



15 December 2021

Dear Councillor,

Your attendance is requested at a Special Council Meeting of the Blayney Shire Council to be held in the Chambers, Blayney Shire Community Centre on Thursday, 23 December 2021 at 6.00pm.

The meeting will be preceded by a Wiradjuri Welcome to Country and delivery of a Prayer.

The General Manager, as Returning Officer, will undertake the following items prior to the commencement of the meeting proper.

- (1) Livestreaming Video and Audio Check
- (2) Recording of Meeting Statement
- (3) Apologies for non-attendance
- (4) Disclosures of Interest
- (5) Reports of Staff – Executive Services
 - (a) Council Affirmation or Oath
 - (b) Election of Mayor
 - (c) Election of Deputy Mayor
 - (d) Delegate to Central Tablelands Water County Council
 - (e) Delegate to Upper Macquarie County Council

The Mayor will assume the Chair for consideration of the following business:

- (f) Countback By-Elections

Yours faithfully

Rebecca Ryan
General Manager

Meeting Calendar 2022

January

<u>Time</u>	<u>Date</u>	<u>Meeting</u>	<u>Location</u>
6.00pm	17 January 2022	Council Meeting	Community Centre
8.30am	19 January 2022	Orange360 Board Meeting	Orange
TBC	28 January 2022	Upper Macquarie County Council Meeting	Kelso

February

<u>Time</u>	<u>Date</u>	<u>Meeting</u>	<u>Location</u>
10.00am	4 February 2022	Traffic Committee Meeting	Community Centre
10.30am	9 February 2022	Central Tablelands Water Meeting	Grenfell
8.30am	16 February 2022	Orange360 Board Meeting	Orange
6.00pm	21 February 2022	Council Meeting	Community Centre

March

<u>Time</u>	<u>Date</u>	<u>Meeting</u>	<u>Location</u>
9.00am	11 March 2022	Mining and Energy Related Councils	Orange
9.00am	11 March 2022	Country Mayors Association	Sydney
8.30am	16 March 2022	Orange360 Board Meeting	Orange
6.00pm	21 March 2022	Council Meeting	Community Centre

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HELD ON THURSDAY 23 DECEMBER 2021

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LIVE STREAMING OF COUNCIL MEETINGS

In accordance with the Blayney Shire Council Code of Meeting Practice, this meeting will be recorded for the purpose of the live streaming function via our YouTube channel. The audio and visual live stream and recording, will allow members of the public to view proceedings via the Internet without the need to attend Council meetings. The objective of this service is to eliminate geographic and other access barriers for the community wishing to learn more about Council's decision making processes.

By speaking at the Council Meeting you agree to be livestreamed and recorded. Please ensure that if and when you speak at this Council Meeting that you ensure you are respectful to others and use appropriate language at all times.

Whilst Council will make every effort to ensure that live streaming is available, it takes no responsibility for, and cannot be held liable for technical issues beyond its control. Technical issues may include, but are not limited to the availability or quality of the internet connection, device failure or malfunction, unavailability of YouTube or power outages.

Live streams and archived recordings are a free public service and are not an official record of Council meetings. Recordings will be made of all Council meetings (excluding confidential items) and published to YouTube the day after the meeting. For a copy of the official public record, please refer to Council's Business Papers and Minutes page on Council's website.

Council does not accept any responsibility for any verbal comments made during Council meetings which may be inaccurate, incorrect, defamatory, or contrary to law and does not warrant nor represent that the material or statements made during the streamed meetings are complete, reliable, accurate or free from error.

Live streaming is primarily set up to capture the proceedings of the Council meeting and members of the public attending a Council meeting need to be aware they may be recorded as part of the proceedings.

01) COUNCILLOR OATH OR AFFIRMATION OF OFFICE

Department: Executive Services

Author: General Manager

CSP Link: 2. Local Governance and Finance

File No: GO.ME.8

Recommendation:

The General Manager will invite each Councillor to take the Oath or Affirmation of Office which will be recorded into the Council Meeting Minutes.

Reason for Report:

To enable each Councillor to take an Oath or Affirmation of Office and this be minuted for the public record.

This is the first agenda item for the Blayney Shire Council following the election of the new Council on Saturday 4 December 2021.

Report:

Under the Local Government Act (1993) all newly elected Councillors are required to take an Oath or Affirmation of Office. The prescribed words of the oath or affirmation must be taken by each Councillor at or before the first meeting of Council after being elected.

The General Manager will invite each Councillor to take the oath or affirmation, and this will be recorded in the minutes of the Council Meeting.

Oath

I (**Councillor Name**) swear that I will undertake the duties of the office of Councillor in the best interests of the people of Blayney Shire and the Blayney Shire 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 (**Councillor Name**) 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 Blayney Shire and the Blayney Shire 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.

Risk/Policy/Legislation Considerations:

As per s233A of the Local Government Act (1993), if a Councillor is unable to attend the first Council meeting, they may take the oath or affirmation of office at another location in the presence of the General Manager and another staff member, before an Australian legal practitioner or a Justice of the Peace.

However, Council must publicly record the taking of the oath or affirmation outside the Council meeting.

A Councillor who fails, without a reasonable excuse, to take the oath of office or make an affirmation of office in accordance with this section is not entitled to attend a meeting as a Councillor (other than the first meeting of the Council after being elected) until the Councillor has taken the oath or made the affirmation.

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

Budget Implications:

Nil

Enclosures (following report)

Nil

Attachments (separate document)

Nil

02) ELECTION OF MAYOR**Department:** Executive Services**Author:** General Manager**CSP Link:** 2. Local Governance and Finance**File No:** GO.ME.2

Recommendation:

That Council accept the nomination(s) for position of Mayor; and if more than one nomination is received, conduct the election by the open voting method.

Reason for Report:

For Council to receive the nomination(s) and elect from its members a Mayor, who will undertake the roles and responsibilities of this position until September 2023. The role of the Mayor as the leader of the elected representatives is an important position, being spokesperson and principal member of the Council.

Report:

The Mayor presides over Council and Committee meetings and is the primary liaison/advocate with state and federal members of parliament. The Mayor supervises the General Manager's day to day activities, approving leave and facilitates the General Manager's contract and annual performance reviews.

The Mayor represents Council on regional organisations, intergovernmental bodies and other organisations. Blayney Shire Council Mayor is a voting delegate on the Central NSW Joint Organisation Board, the Association of Mining and Energy Related Councils, NSW Country Mayors Association and LGNSW (Local Government NSW).

The postponement of local government elections; from 2020 to 2021 then from September to December, means the Mayoral term will be shorter than the usual 2 years. A mid-term Mayoral election will need to be held in September 2023.

Risk/Policy/Legislation Considerations:

In accordance with the Local Government Act (1993) s290 Council must elect a Mayor within 3 weeks of the ordinary election.

Division 2 (s225-230) details the role and election of the Mayor by the elected body. In Blayney Shire Council, the person elected to the office of Mayor is by the Councillors from among their number.

The voting procedure is as determined by the NSW Local Government (General) Regulation (2021) Schedule 7:

- The General Manager is the returning officer
- Nominations are to be made in writing
- A nomination not valid unless the nominee has indicated consent in writing
- The nomination is to be delivered to or sent to the General Manager
- The names of the nominees will be announced at the Council meeting

If only one Councillor nominated, that Councillor is elected. If more than one Councillor is nominated, the Council must resolve whether the election is to proceed by preferential or ordinary ballot (secret) or open voting

A blank nomination form for completion has been provided to Councillors.

Budget Implications:

Nil

Enclosures (following report)

Nil

Attachments (separate document)

Nil

03) ELECTION OF DEPUTY MAYOR

Department: Executive Services

Author: General Manager

CSP Link: 2. Local Governance and Finance

File No: GO.ME.2

Recommendation:

1. That Council elect a Deputy Mayor for the same term of office as the Mayor.
2. That Council accept the nomination(s) for position of Deputy Mayor; and if more than one nomination is received, conduct the election by the open voting method.

Reason for Report:

For Council to receive the nomination(s) and elect from its members a Deputy Mayor, who will undertake the roles and responsibilities of this position for the term as determined by Council.

Report:

The Deputy Mayor may exercise any function of the Mayor at the request of the Mayor or if the Mayor is prevented by illness, absence or otherwise or if there is a casual vacancy in the office of Mayor. The Deputy Mayor is Council's alternate voting delegate on the regional organisations including the Central NSW Joint Organisation; NSW Country Mayors and Association of Mining and Energy Related Councils.

Risk/Policy/Legislation Considerations:

In accordance with the Local Government Act (1993) s231, Council may elect a Deputy Mayor for the same or a shorter term as the Mayor.

It is recommended that the term of the Deputy Mayor be the same as that of the Mayor, which for this cycle, as a result of the postponement of local government elections is 1 year and 9 months.

The voting procedure is as determined by the NSW Local Government (General) Regulation (2021) Schedule 7:

- The General Manager is the returning officer
- Nominations are to be made in writing
- A nomination not valid unless the nominee has indicated consent in writing
- The nomination is to be delivered to or sent to the General Manager
- The names of the nominees will be announced at the Council meeting

If only one Councillor nominated, that Councillor is elected. If more than one Councillor is nominated, the Council must resolve whether the election is to proceed by preferential or ordinary ballot (secret) or open voting

A blank nomination form for completion has been provided to Councillors.

Budget Implications:

Nil

Enclosures (following report)

Nil

Attachments (separate document)

Nil

04) CENTRAL TABLELANDS WATER COUNTY COUNCIL

Department: Executive Services

Author: General Manager

CSP Link: 2. Local Governance and Finance

File No: GO.ME.1

Recommendation:

That Council accept the nomination(s) for position of Delegates to Central Tablelands Water County Council; and if more than two nominations are received an election be held in accordance with the Regulations.

Reason for Report:

To provide notice that the election of two Council Delegates on Central Tablelands Water County Council is required by Blayney Shire Council and that nominations will be received by the General Manager.

Report:

Central Tablelands Water (CTW) is the trading name adopted by Central Tablelands County Council, a regional water authority constituted under NSW Local Government Legislation. CTW was first proclaimed in 1944 and now provides potable water supply to those connected properties within Blayney Shire Council, Cabonne Shire Council and Weddin Shire Council.

The governing body is responsible for managing the affairs of the County Council and for CTW this includes two Councillors from each of the constituent Councils, Blayney Shire, Cabonne Shire and Weddin Shire.

Councillors who serve as Delegates on County Councils are required to undertake the same responsibilities as for the Council they represent and the particular County Council Policies. Delegates receive a councillor remuneration and reimbursement of costs as established by the NSW Local Government Remuneration Tribunal; and determined in the County Council payment of expenses and provision of facilities Policy.

Council Meetings are usually held on the second Wednesday of alternate months, commencing in February of each year. The meetings are generally alternated between the towns of Grenfell, Blayney and Canowindra.

Unless specifically excluded a County Council is bound by the same provisions of NSW Local Government legislation, reporting and compliance requirements as per a General Purpose Council.

Risk/Policy/Legislation Considerations:

The Local Government Act (1993) details who comprise the governing body of a County Council (Chapter 12, Part 5, s390 clause3).

It is those Councillors from a constituent Council who are eligible to be elected as members of the governing body of the County Council, in accordance with the Regulations.

Part 11, Division 12 of the Local Government (General) Regulation (2021) refers to Schedule 9 (s396, part 2) to conduct the election of members of County Councils by the respective constituent Council.

In summary the key points from Schedule 9 include:

- The General Manager is the returning officer
- Nominations must be in writing delivered to the returning officer and is not valid unless the nominee has indicated consent to the nomination
- The names of the nominees will be announced at the Council meeting
- If the number of candidates nominated is not more than the number to be elected, those candidates are to be declared elected
- If there are more candidates than the number to be elected, an election is to be held, determined by preferential ballot, conducted in the presence of Council
- The votes are counted in accordance with Schedule 4 of the Regulation

Schedule 4 (clause 3-6) of the Regulation, prescribes the counting of an election for only one candidate:

- The candidate elected is the one who first receives an absolute majority of first preferences
- If no candidate receives an absolute majority, the candidate with the lowest number of first preferences is eliminated and their second preference is counted as a first preference vote for that candidate
- The process of elimination continues if necessary until a candidate receives an absolute majority

Therefore, in accordance with Schedule 4 of the Regulation, the election of the two Blayney Shire Council members of Central Tablelands County Council will be conducted separately, one member at a time.

Councillors have been provided with a blank nomination form for completion.

Budget Implications:

Nil

Enclosures (following report)

Nil

Attachments (separate document)

Nil

05) UPPER MACQUARIE COUNTY COUNCIL

Department: Executive Services

Author: General Manager

CSP Link: 2. Local Governance and Finance

File No: GO.ME.1

Recommendation:

That Council accept the nomination(s) for position of Delegates to Upper Macquarie County Council; and if more than 2 nominations are received an election be held in accordance with the Regulations.

Reason for Report:

To provide notice that the election of 2 Council Delegates on Upper Macquarie County Council is required by Blayney Shire Council and that nominations will be received by the General Manager.

Report:

Upper Macquarie County Council (UMCC) is the control authority for biosecurity weed threats (formerly known as noxious weeds) in the areas of Bathurst Regional Council, Blayney Shire Council, Lithgow City Council and Oberon Council. The Council covers a region of approximately 13,500 square kilometres servicing a very diverse area that includes productive agricultural lands, forests and large areas of national park.

The governing body is responsible for managing the affairs of the County Council and for UMCC this includes 2 Councillors from each of the 4 local government areas Bathurst Regional, Lithgow City, Oberon and Blayney Shire.

Councillors who serve as Delegates on County Councils are required to undertake the same responsibilities as for the Council they represent and the particular County Council Policies. Delegates receive a councillor remuneration and reimbursement of costs as established by the NSW Local Government Remuneration Tribunal; and determined in the County Council payment of expenses and provision of facilities Policy.

Meetings are held every second month, generally in the UMCC offices in Kelso.

Unless specifically excluded a County Council are bound by the same provisions of NSW Local Government legislation, reporting and compliance requirements as per a General Purpose Council.

Risk/Policy/Legislation Considerations:

The Local Government Act (1993) details who comprise the governing body of a County Council (Chapter 12, Part 5, s390 clause 3).

It is those Councillors from a constituent Council who are eligible to be elected as members of the governing body of the County Council, in accordance with the Regulations.

Part 11, Division 12 of the Local Government (General) Regulation (2021) refers to Schedule 9 (s396, part 2) to conduct the election of members of County Councils by the respective constituent Council.

In summary the key points from Schedule 9 include:

- The General Manager is the returning officer
- Nominations must be in writing delivered to the returning officer and is not valid unless the nominee has indicated consent to the nomination
- The names of the nominees will be announced at the Council meeting
- If the number of candidates nominated is not more than the number to be elected, those candidates are to be declared elected
- If there are more candidates than the number to be elected, an election is to be held, determined by preferential ballot, conducted in the presence of Council
- The votes are counted in accordance with Schedule 4 of the Regulation

Schedule 4 (clause 3-6) of the Regulation, prescribes the counting of an election for only one candidate:

- The candidate elected is the one who first receives an absolute majority of first preferences
- If no candidate receives an absolute majority, the candidate with the lowest number of first preferences is eliminated and their second preference is counted as a first preference vote for that candidate
- The process of elimination continues if necessary until a candidate receives an absolute majority

Therefore, in accordance with Schedule 4 of the Regulation, the election of the two Blayney Shire Council members of Upper Macquarie County Council will be conducted separately, one member at a time.

Councillors have been provided with a blank nomination form for completion.

Budget Implications:

Nil

Enclosures (following report)

Nil

Attachments (separate document)

Nil

06) COUNTBACK BY-ELECTIONS

Department: Executive Services

Author: General Manager

CSP Link: 2. Local Governance and Finance

File No: GO.EL.5

Recommendation:

Pursuant to section 291A(1)(b) of the Local Government Act (1993) (the Act) Blayney Shire Council declares that casual vacancies occurring within 18 months after the last ordinary election of Councillors for the Council on Saturday 4 December 2021 are to be filled by a countback of votes cast at that election for the office in accordance with section 291A of the Act and direct the General Manager to notify the NSW Electoral Commissioner of the Council's decision.

Reason for Report:

To formally resolve on the method by which casual vacancies of Councillors are filled, within the first 18 months of the local government election, held on 4 December 2021.

Report:

Amendments to the Local Government (General) Regulation (2021) gave effect to the 2014 amendments to the Local Government Act (1993);

- providing Council the option of holding a countback election to fill casual vacancies in the first 18 months of the council term instead of holding a costly by-election; and
- prescribing the administrative requirements for countback elections.

Following the December 2021 ordinary council elections, Councils will be able to fill casual vacancies in civic office that arise in the first 18 months following the election by a countback election, saving the expense of a by-election.

A Council retains the option of applying to the Minister for Local Government to dispense with a by-election, in the last 18 months of a Council term should the situation arise.

Risk/Policy/Legislation Considerations:

Section 291A of the Local Government Act prescribes the application of a countback to be held instead of by-election when there is a casual vacancy in the office of a Councillor if:

- (a) the casual vacancy occurs within 18 months after the date of the last ordinary election of Councillors for the area, and

- (b) Council has at its first meeting following that ordinary election of Councillors, by resolution, declared that any such casual vacancy is to be filled by a countback of votes cast at the last election for that office.

Budget Implications:

The cost of an election is approximately \$76k, irrespective of whether it is a full election or a by-election. This recommendation will save Council a potential \$76k should a Councillor leave office before June 2023.

Enclosures (following report)

Nil

Attachments (separate document)

Nil