



## BUSINESS PAPER

# EXTRA ORDINARY MEETING OF COUNCIL

To be held on

**Wednesday, 9 October 2024**

**8:30am**

at

## Walcha Council Chambers

2W Hamilton Street, Walcha

### Members:

Mr Glen O'Brien

Mr Stephen McCoy

Mrs Rachel Greig

Mrs Anne-Marie Pointing

Mr Eric Noakes

Mr Gary Olrich

Mr Adam Iuston

Mr Hyde Thomson

Quorum – 5 Members to be Present

WO/2024/02181

**AGENDA**

Submitted to Council: 9 October 2024

..... General Manager ..... *Eric H Noakes* Mayor



Dear Mayor & Councillors

You are requested to attend the Extra Ordinary Meeting of the Walcha Council to be held in the Council Chambers, Hamilton Street, Walcha on **Wednesday, 9 October 2024** commencing at **8:30am**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Phillip Hood'.

Phillip Hood  
General Manager

**STATEMENT OF ETHICAL OBLIGATIONS:**

The Mayor and Councillors are bound by the Oath / Affirmation of Office made at the start of the Council term to undertake their duties in the best interests of the people of Walcha Council community and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act or any other Act, to the best of their skill and judgement.

Council Officials are also reminded of the requirement declare and appropriately manage any conflicts of interest they may have in relation to matters considered at this meeting in accordance with Council's Code of Conduct and Code of Meeting Practice.

**NOTICE:**

The Ordinary, Extra-Ordinary and Committee open meetings of Council will be audio recorded for community transparency and minute taking purposes. The audio recording of all Ordinary and Extra-Ordinary Meetings of Council will be uploaded to Council's website.

**ACKNOWLEDGEMENT OF COUNTRY:**

We acknowledge the Dunghutti people as the traditional owners of the land that we meet on. We pay our respects to the Elders, past, present and emerging. We acknowledge and recognise their continuing connection to land, water and community of which we are a part.

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# Item 2:

# Affirmation by Councillors



# Item 3:

# Declarations of Interest



# Item 4:

  

# Senior Officers' Reports



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**Item:** 4.1 **Ref:** WO/2024/01883  
**Title:** Election of Mayor & Deputy Mayor  
**Author:** General Manager  
**Previous Items:** Not Applicable  
**Attachment:** No

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**Community Strategic Plan Reference:**

**Strategy 8.1.2:** *Provide a framework for the efficient and effective administration of Council.*

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1. **RECOMMENDATION:** That in the event that there is more than one Councillor nominated for each positions of Mayor or Deputy Mayor, then the method of election to determine the position(s) be by Ordinary Ballot FURTHER THAT the Returning Officer destroy all documentation following such elections.
  2. **RECOMMENDATION:** That Councillor \_\_\_\_\_ is elected Mayor of Walcha and Councillor \_\_\_\_\_ is elected Deputy Mayor for the ensuing term until September 2024.
  3. **RECOMMENDATION:** That, in accordance with the provisions of Section 377 of the Local Government Act, 1993, the Delegations of Authority listed within the report be made to the Mayor, Councillor \_\_\_\_\_ and the Deputy Mayor, Councillor \_\_\_\_\_ respectively.
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**Introduction:**

Section 2333(2)(b) of the *Local Government Act, 1993* (the Act) states a Councillor and Mayor civic office expires on the day of the Council's Ordinary Election. Section 290 (1) of the Act states the election of the Mayor by the Councillors is to be held:

- (a) *If it is the first election after an ordinary election of councillors – within three weeks after the ordinary election, or*
- (b) *If it is not that first election or an election to fill a casual vacancy – during the month of September.*

Schedule 7 of the Local Government (General) Regulation 2005, provides for the manner in which the Mayor and the Deputy Mayor are to be nominated and elected.

**Report:**

**A. Nomination**

The Regulation provides that a Councillor may be nominated without notice for the position of 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 indicates his or her consent to the nomination in writing.



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

Councillors will be provided with appropriate nomination forms by the General Manager who, in accordance with the provisions of the Regulation, acts as Returning Officer.

### **B. Method of Election**

If only one Councillor is nominated for each of the positions of Mayor or Deputy Mayor, then that Councillor is elected to the position for which they nominated.

If more than one Councillor is nominated for the position of either Mayor or Deputy Mayor, an election is to be held and the Council must resolve whether that election is to proceed by preferential ballot, by ordinary ballot or by open voting. The election is to be held at the meeting at which Council determines the method of voting.

“Ballot” has its normal meaning of secret ballot and “open voting” means voting by show of hands or similar means.

The election of Mayor and then Deputy Mayor will now take place by the method of election resolved by Council. The term for the Mayor and Deputy Mayor will be for two year, until September 2026.

### **C. Delegations of Authority**

Section 377 of the *Local Government Act, 1993* provides the authority for Council to delegate its powers. It provides that Council may, by resolution, delegate to the General Manager or any other person or body (excluding another employee of Council) certain of its functions.

Subsequent to those changes, the following authorities are now delegated to the Mayor.

#### **TO THE MAYOR:**

To perform on behalf of Council the following powers, authorities, duties and functions within the terms of the Local Government Act and Regulations thereunder:-

1. To appoint any Councillor to represent either the Mayor or the Council at any function or Meeting or other event as the Mayor deems appropriate or necessary.
2. In conjunction with the General Manager to approve the admittance of new Councils in the Mid-North Weight of Loads Group.



3. The authority to adjudicate on or to grant approvals as appropriate under the terms of the adopted Code of Conduct for Local Government provided that in all cases, a right of appeal to the full Council shall exist.
4. The authority to consider and determine Council's response to representations seeking leniency or outlining extenuating circumstances from persons who have been served with a Penalty Notice. This determination shall extend only to those representations referred through the New South Wales Police Service Infringement Processing Bureau.
5. The authority to approve a mode of travel, other than by Council vehicle, for Councillors travelling on Council business, as circumstances may, from time to time, warrant.
6. In accordance with the provisions of Section 378(2) of *the Local Government Act, 1993*, authority to approve Council orders for the provision of goods and services up to the amount of two thousand dollars (\$2,000).

In the absence of the Mayor, Councillor ....., these powers are delegated to the Deputy Mayor, Councillor ....., EXCEPT for Clause 6..

**TO THE DEPUTY MAYOR:**

To perform on behalf of Council the following powers, authorities, duties and functions within the terms of the Local Government Act and Regulations thereunder:-

1. During periods of absence of the Mayor, Councillor ....., the Delegations made to Councillor ..... shall be deemed to be made to the Deputy Mayor, Councillor ....., EXCEPT for Clause 6.





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**Item:** 4.2 **Ref:** WO/2024/01884  
**Title:** Countbacks to Fill Vacancies – Post Election  
**Author:** General Manager  
**Previous Items:** Not Applicable  
**Attachment:** No

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**Community Strategic Plan Reference:**

**Strategy Number 8.1.2:** *Provide a framework for the efficient and effective administration of Council.*

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**RECOMMENDATION:** Pursuant to Section 291A(1)(b) of the *Local Government Act, 1993, (the Act)* Walcha Council **DECLARES** that casual vacancies occurring in the office of a Councillor within 18 months after the last Ordinary Election of Councillors for the Council on 14 September 2024 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 directs the General Manager to notify the NSW Electoral Commission of the Council’s decision within 7 days of the decision.

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**Introduction:**

Following the 2024 Local Government Elections, Councils will have the option of using a countback of votes cast at the last Ordinary Election to fill casual vacancies occurring in the offices of Councillors in the first 18 months after the election.

**Report:**

This will allow Council the use of countback to fill vacancies at a lower cost than the cost of holding a by-election. To exercise this option Councils must resolve, at their first meeting after the election, to use a countback to fill casual vacancies. This report is to facilitate this option.

Countbacks are not available to fill casual vacancies in the office of a Councillor where:

- The Councillor who vacated office was elected at an election using the optional preferential voting system (ie: elections where only one civic office is required to be filled such as the election of popularly elected mayors), or
- The Councillor was elected at an uncontested election.

A by-election must be used to fill these vacancies.

Legal Implications:

There are no legal implications arising from this report.

Financial Implications:

There would be a financial saving if one of the Councillors vacated the office as Council would not have to hold a by-election.



Environmental Implications:

There are no environmental implications arising from this report.

Social Implications:

There are no social implications arising from this report.

Policy Implications:

There are no policy implications arising from this report.