



TWEED SHIRE COUNCIL

# **AGENDA**

## **EXTRAORDINARY COUNCIL MEETING**

**Tuesday 15 September 2009**

**Mayor: Cr J van Lieshout**

**Councillors: Cr B Longland, Deputy Mayor  
Cr D Holdom  
Cr K Milne  
Cr W Polglase  
Cr K Skinner  
Cr P Youngblutt**

### **COUNCIL'S CHARTER**

Tweed Shire Council's charter comprises a set of principles that are to guide Council in the carrying out of its functions, in accordance with Section 8 of the Local Government Act, 1993.

Tweed Shire Council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- to exercise community leadership;
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism;
- to promote and to provide and plan for the needs of children;
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- to have regard to the long term and cumulative effects of its decisions;
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government;
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants;
- to keep the local community and the State government (and through it, the wider community) informed about its activities;
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected;
- to be a responsible employer.

## ITEMS FOR CONSIDERATION OF COUNCIL:

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## **ABORIGINAL STATEMENT**

The Mayor acknowledged the Bundjalung Aboriginal Nation with the following statement::

*"We wish to recognise the generations of the local Aboriginal people of the Bundjalung Nation who have lived in and derived their physical and spiritual needs from the forests, rivers, lakes and streams of this beautiful valley over many thousands of years as the traditional owners and custodians of these lands."*

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## ORDINARY ITEMS FOR CONSIDERATION

### REPORTS THROUGH THE GENERAL MANAGER

### REPORTS FROM THE GENERAL MANAGER

#### 1 [GM-ECM] Election of Mayor and Deputy Mayor for the Period to September 2010

#### ORIGIN:

General Manager

#### SUMMARY OF REPORT:

Section 290(1)(b) of the Local Government Act provides that the election of the Mayor by the Councillors is to be held as follows:-

*"if it is not that first election or an election to fill a casual vacancy - during the month of September; "*

Section 290(2) further states:

*"If the councillors fail to elect a mayor as required by this section, the Governor may appoint one of the councillors as the mayor."*

#### RECOMMENDATION:

**That Council determines the procedure for electing the Mayor/Deputy Mayor as per the following options which are in accordance with Schedule 7 of the Local Government (General) Regulation 2005:**

- Ordinary Ballot
- Ordinary Ballot by way of open voting
- Preferential Ballot.

**REPORT:**

It is necessary for Council to resolve the way in which an election for the positions of Mayor and Deputy Mayor (should it be necessary) is to proceed whether by preferential ballot, ordinary ballot, or open voting. Preferential ballot and ordinary ballot are to be secret ballots. Open voting means voting by a show of hands or similar means.

Schedule 7 of the (General) Regulation sets out the procedure to be followed for the conduct of the election of the Mayor and Deputy Mayor, under the ordinary ballot system. Schedule 7 of the Regulation is reproduced for Council's information:

Appropriate nomination forms are attached for each position.

**LOCAL GOVERNMENT (GENERAL) REGULATION 2005 - SCHEDULE 7****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.*

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**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.*

**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.*
- (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 Associations of New South Wales.*

#### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

#### **POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

For Councillors Only:

1. Nomination for the Position of Mayor (ECM 1871875).
  2. Nomination for the Position of Deputy Mayor (ECM 1871877).
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