

Replacement Report

---

**REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES**

**40 [TCS-CM] Councillor Numbers**

**ORIGIN:**

**Corporate Governance**

**SUMMARY OF REPORT:**

Council is required to determine the number of Councillors for the electoral term commencing September 2012.

**RECOMMENDATION:**

**That Council determines the number of Councillors for the electoral term commencing September 2012.**

## Replacement Report

---

### REPORT:

During the period of Council whilst under Administration it was resolved at its meeting of 12 April 2006, following a public consultation process, to reduce the number of Councillors from 11 to 7. This was as a result of the Local Government Amendment Act 2005 which allowed Council a one-off opportunity to resolve to apply to the Minister for Local Government for approval to reduce the number of councillors on the Council, without the holding of a constitutional referendum. This reduction in councillor numbers took effect at the September 2008 election.

Section 224(2) of the Local Government Act 1993 requires Council not less than 12 months before the next ordinary election, to determine the number of its councillors for the following term. Notwithstanding the provisions of this section the Division of Local Government through Circulars 11-12 dated 29 June 2011 and 11-30 dated 6 October 2011 have advised that the *Local Government Amendment (Elections) Act 2011* has resulted in the following amendments to the Local Government Act 1993:

1. Enables councils, in certain circumstances, to make an application to the Minister for Local Government for approval to reduce the number of their councillors without the need for approval at a constitutional referendum
2. Enables councils, in certain circumstances, to make an application to the Minister for approval to abolish all wards in their areas without the need for approval at a constitutional referendum
3. Provides that a by-election need not be held to fill a casual vacancy in the office of a councillor (but not a mayor elected by the electors) if a constitutional referendum has approved a reduction in the number of councillors for the council area but the reduction has not yet taken effect
4. Enables councils to apply to the Minister for an order dispensing with the requirement to hold a by-election where a casual vacancy in the office of a councillor (including a mayor elected by the electors of an area) occurs within 18 months before an ordinary election, and
5. Contains provisions of a consequential, savings and transitional nature.

Should Council wish to alter its councillor numbers, there are two courses of action currently available:

1. **Reduce** - Section 224A of the Act now provides councils with a further limited opportunity to make application to the Minister for approval to reduce their councillor numbers without the need for approval at a constitutional referendum. Applications must be made no later than 28 November 2011.

This approval would have the effect of changing the number of councillors for the electoral term commencing September 2016.

## Replacement Report

---

2. **Increase** - It must seek and receive approval of its electors at a constitutional referendum for an increase in numbers in conjunction with the 2012 elections, which would become effective for the electoral term commencing September 2016.

Alternatively, if Council is satisfied with the existing number of councillors it should resolve that the status quo of seven councillors be retained.

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

The application of provisions of Sections 224(2) and 224(A) of the Local Government Act 1993 and the Local Government Amendment (Elections) Act 2011, as identified in the report.

### **POLICY IMPLICATIONS:**

Nil.

### **UNDER SEPARATE COVER/FURTHER INFORMATION:**

*To view any "non confidential" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

1. Memo to Councillors dated 8 July 2011 (which includes the Division of Local Government Circular No. 11-12 dated 29 June 2011) - Constitutional Arrangements for Councils - Amendments to the Local Government Act 1993 (ECM 35694407)
  2. Division of Local Government Circular No. 11-30 dated 6 October 2011 - Constitutional Referendums (ECM 40060980)
-

**Replacement Report**

---

**THIS PAGE IS BLANK**