



KYOGLÉ COUNCIL

EXTRAORDINARY COUNCIL MEETING AGENDA

**TO BE HELD AT KYOGLE COUNCIL CHAMBERS, STRATHEDEN
STREET, KYOGLE**

ON WEDNESDAY 28 SEPTEMBER 2016

Commencing at 5pm.

GENERAL MANAGER: DAVID TUXFORD

Dear Councillor,

In accordance with the provisions of the Local Government (General) Regulation 2005, you are hereby notified of the following Extraordinary Meeting to be held at the Kyogle Council Chambers, on Wednesday 28 September 2016 at 5pm.

DECLARATION OF PECUNIARY INTEREST

Councillors and Senior Staff are reminded to consider whether a Pecuniary Interest exists in any matter on the Agenda for this Meeting or raised during the course of the Meeting. The term "Pecuniary Interest" should be extended to include possible "conflicts of interest" and immediately declared prior to discussion of the Agenda item. Where a direct or indirect pecuniary interest exists, the member must refrain from commenting on or voting on the subject matter and must leave the Chamber.

BUSINESS

- | | |
|--------|-----------------------------------|
| Item 1 | Apologies |
| Item 2 | Opening Prayer |
| Item 3 | Traditional Lands Acknowledgement |
| Item 4 | Declaration of Interests |
| Item 5 | Reports |
| Item 6 | Urgent Business Without Notice |

DAVID TUXFORD
GENERAL MANAGER

COUNCIL PRAYER

"Almighty God, Ruler of all the Nations, we ask for your blessing upon this Meeting of Council.

Give us your wisdom to work in harmony and direct and prosper all that we do to the advancement of your glory and the true welfare of the People of the Council Area.

AMEN

Adopted by Council on October 21, 1991.
Resolution 91 /G 1159

Note: Council Policy is for the Mayor or Chairperson to lead the Council Meeting in the Prayer at the start of the first Meeting of the day.

Council acknowledges that this meeting is being held on the Traditional Lands of the Bundjalung people and we acknowledge elders, both past and present.

Adopted by Council on 11 December 2006.
Resolution 111206/21

DISCLAIMER

The advice or information contained within the Minutes enclosed with this Business Paper is given by the Council without liability or responsibility for its accuracy. Reliance cannot be placed on this advice or information until the Minutes have been duly accepted as an accurate record and confirmed by Resolution of Council.

(DAVID TUXFORD),
GENERAL MANAGER.

EXTRAORDINARY COUNCIL MEETING AGENDA

Wednesday 28 September 2016

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ITEM 1 APOLOGIES

ITEM 2 OPENING PRAYER

ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT

ITEM 4 DECLARATION OF INTERESTS

ITEM 5 REPORTS

5.1 OATHS AND AFFIRMATIONS

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: MANAGER CORPORATE SERVICES (GOVERNANCE)

Summary/Purpose

The *Local Government Amendment (Governance and Planning) 2016* requires Councillors to 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.

Community Strategic Plan Item(s)

- Governance and Community Service

Background Information

Section 233A of the Local Government Act, 1993:

Oath and affirmation for councillors

- (1) 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.*
- (2) 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 following form:*

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) 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 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.*
- (4) Any absence of a councillor from an ordinary meeting of the council that the councillor is not entitled to attend because of this section is taken to be an absence without prior leave of the council.*
- (5) Failure to take an oath of office or make an affirmation of office does not affect the validity of anything done by a councillor in the exercise of the councillor's functions.*
- (6) The general manager must ensure that a record is to be kept of the taking of an oath or the making of an affirmation (whether in the minutes of the council meeting or otherwise).*

Recommendation

That Councillors take an oath or make an affirmation of office.

5.2 ELECTION OF MAYOR

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: MANAGER CORPORATE SERVICES (GOVERNANCE)

Summary/Purpose

In accordance with *Section 227 of the Local Government Act, 1993*, (the Act) the election of Mayor is to be by the Councillors from among their numbers.

Community Strategic Plan Item(s)

- Governance and Community Service

Background Information

Mayoral Term

Section 230 (1) of the Act states that, "A mayor elected by councillors holds the office of the mayor for two years."

Election Procedure

The election procedure is to be in accordance with Schedule 7 of the *Local Government (General) Regulation 2005*.

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 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.

(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— Two candidates

(1) If there are only two candidates, the candidate with the higher number of votes is elected.

(2) If there are only two candidates and they are tied, the one elected is to be chosen by lot.

7 Count—Three or more candidates

(1) If there are three or more candidates, the one with the lowest number of votes is to be excluded.

(2) If three 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, three or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only two candidates remain.

(4) A further vote is to be taken of the two remaining candidates.

(5) Clause 6 of this Schedule then applies to the determination of the election as if the two remaining candidates had been the only candidates.

(6) If at any stage during a count under subclause (1) or (2), two 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 two candidates in, or remaining in, the election and the numbers of votes cast for the two 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 three or more candidates in, or remaining in, the election and the numbers of votes cast for two 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.

(Note: Council has previously utilised the ordinary ballot system)

Recommendation

That Council appoints the General Manager as Returning Officer to conduct the election of the Mayor in accordance with Schedule 7 of the Local Government (General) Regulation 2005 and that the election be byballot.

Notes: Council is to determine the method of voting to be preferential ballot, ordinary ballot or open voting. Council has previously utilised the ordinary ballot system.

345 Informal ballot-papers

- (1) (b) it has not been initialled on the front by an election official, or
- (c) it contains a mark or writing that, in the returning officer's opinion, would enable the elector to be identified.
- (5) Despite subclause (1), a ballot-paper of an elector at an election is not informal merely because it has not been initialled on the front by an election official, so long as it bears the mark referred to in clause 305 (2).
- (6) Despite subclause (1), a ballot-paper of an elector at an election is not informal by virtue of the existence of an unnecessary mark on the ballot-paper if, in the opinion of the returning officer, the elector's intention is clearly indicated on the ballot-paper.

305 Form of ballot-papers

- (2) Every ballot-paper must contain a mark:
 - (a) in relation to an election administered by a general manager— that bears the name of the council.

5.3 ELECTION OF DEPUTY MAYOR

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: MANAGER CORPORATE SERVICES (GOVERNANCE)

Summary/Purpose

Council to determine if it requires a Deputy Mayor and if so, Council must conduct an election in the same manner as that of the Mayor.

Community Strategic Plan Item(s)

- Governance and Community Service

Background Information

Section 231 Local Government Act, 1993 provides for the Deputy Mayor to be elected similarly to the Mayor if Council so determines that a Deputy Mayor is required.

Section 231 Deputy mayor

- (1) The councillors may elect a person from among their number to be the deputy mayor.
- (2) The person may be elected for the mayoral term or a shorter term.

Result

The result of the election (including the name of the candidate elected as 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 NSW.

Recommendation

That Council:

1. Elects a Deputy Mayor from among their numbers.
2. Sets the term of the Deputy Mayor as
3. Appoints the General Manager as Returning Officer to conduct the election of the Deputy Mayor in accordance with Schedule 7 of the Local Government (General) Regulation 2005 and that the election be byballot.

5.4 COUNCIL COMMITTEES

REPORT BY: GENERAL MANAGER'S OFFICE
CONTACT: MANAGER CORPORATE SERVICES

Summary/Purpose

To identify Council Committees and their membership for the next 12 months.

Community Strategic Plan Item(s)

- Governance and Community Service

Report

Council needs to establish the membership of the Council Committees for the 2016/2017 year.

Committees identified as 355 in the below table fall under Section 355 (b) of the Local Government Act, 1993 and as a result are covered by Council's insurance.

355 of the Act states:

How does a council exercise its functions?

A function of a council may, subject to this Chapter, be exercised:
(b) by a committee of the council

Note: All Councillors are able to attend committees as observers. Participation rights reside with the nominated Councillor.

Recommendation

That Council:

1. Receives and notes the report, *Council Committees*.
2. Adopts the following Committee List and Councillor Membership structure:

Committee	Councillor Member(s)
General Manager's Review Committee	Mayor, Deputy Mayor and one Councillor. (The General Manager has the option of nominating another Councillor).
Traffic Committee.	One Councillor.
Internal Audit Committee.	One Councillor.
Australia Day Committee – Kyogle, 355.	One Councillor.

Committee	Councillor Member(s)
Australia Day Committee – Woodenbong, 355.	One Councillor.
Australia Day Committee – West of the Range, 355.	One Councillor.
Kyogle Youth Advisory Committee, 355.	One Councillor.
Kyogle Fairymount Festival Committee. New Committee and to have 355 status.	One Councillor.

3. Appoints the following Councillors to the following committees:

- (a) General Manager Review Committee - Mayor, Deputy Mayor, Councillor.....(insert name).
- (b) Traffic Committee - Councillor.....(insert name).
- (c) Internal Audit Committee - Councillor.....(insert name).
- (d) Australian Day Committee Kyogle - Councillor.....(insert name).
- (e) Australian Day Committee Woodenbong - Councillor.....(insert name).
- (f) Australian Day Committee West of the Range - Councillor.....(insert name).
- (g) Kyogle Youth Advisory Committee - Councillor.....(insert name).
- (h) Kyogle Fairymount Festival Committee - Councillor.....(insert name).

5.5 COUNCIL DELEGATES

REPORT BY: GENERAL MANAGER'S OFFICE
CONTACT: MANAGER CORPORATE SERVICES

Summary/Purpose

The purpose of this report is to identify Council delegates and their membership for the next 12 months.

Community Strategic Plan Item(s)

- Governance and Community Service

Recommendation

That Council:

1. Receives and notes the report, *Council Delegates*.
2. Adopts the following Delegates List and Membership structure:

Organisation	Delegate(s)
Kyogle Chamber of Commerce	One Councillor
NSW Rural Fire Service "Service Level Agreement"	Mayor
NOROC (Northern Rivers Regional Organisation of Councils)	Mayor
Woodenbong to Legume Alliance	Councillor Councillor
Kyogle Bushfire Management Committee	One Councillor
Shires Association of New South Wales "A" Division	Mayor
National Timber Councils' Association	Councillor Councillor
Police Accountability Community Team (PACT)	Mayor
Area Health Board Community Engagement Committee	One Councillor
Kyogle Tidy Towns	One Councillor
Reconciliation Committee	One Councillor
Joint Regional Planning Panel	Two delegates, Mayor and Deputy Mayor or Councillor. *See note

**At least one delegate should have some expertise/experience in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.*

3. Appoints the following Councillors as delegates to the following committees:

- (a) Kyogle Chamber of Commerce - Councillor.....(insert name)
- (b) NSW Rural Fire Service - Mayor.....(insert name).
- (c) Northern Rivers Regional Organisation of Councils - Mayor.....(insert name).
- (d) Woodenbong to Legume Alliance - Councillors.....(insert names).
- (e) Kyogle Bushfire Management Committee - Councillor.....(insert name).
- (f) Shires Association of NSW "A" Division - Mayor.....(insert name).
- (g) National Timber Councils' Association - Councillors.....(insert names).
- (h) Police Accountability Community Team - Mayor.....(insert name).
- (i) Area Health Board Community Engagement Committee - Councillor.....(insert name).
- (j) Kyogle Tidy Towns - Councillor.....(insert name).
- (k) Reconciliation Committee - Councillor.....(insert name).
- (l) Joint Regional Planning Panel - Councillors(insert names).

5.6 COUNCIL MEETING CYCLE

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: MANAGER CORPORATE SERVICES (GOVERNANCE)

Summary/Purpose

The purpose of this report is to identify Council meeting dates and times for the upcoming 12 month period.

Background Information

Under the Local Government Act 1993, Council is required to hold at least 10 monthly Ordinary meetings per year.

Report

Currently, Ordinary Meetings are being held on the second Monday of each month commencing at 5pm with the exception of January where no Ordinary Meeting is held due to the Christmas/New Year holiday period. Accordingly, Council normally has 11 Ordinary Meetings each year.

Recommendation

That Council adopts the following Ordinary Council meeting dates and times:

Ordinary Meetings
Monday, 10 October 2016, 5pm
Monday, 14 November 2016, 5pm
Monday, 12 December 2016, 5pm
Monday, 13 February 2017, 5pm
Monday, 13 March 2017, 5pm
Monday, 10 April 2017, 5pm
Monday, 8 May 2017, 5pm
Tuesday, 13 June 2017, 5pm (Monday the 12 th is the Queen's Birthday Holiday)
Monday, 10 July 2017, 5pm
Monday, 14 August 2017, 5pm
Monday, 11 September 2017, 5pm

ITEM 6 URGENT BUSINESS WITHOUT NOTICE

Section 242 - Local Government Regulation Agenda for extraordinary meetings

(1) The general manager must ensure that the agenda for an extraordinary meeting of a council deals only with the matters stated in the notice of the meeting.

(2) Despite subclause (1), business may be transacted at an extraordinary meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:

(a) a motion is passed to have the business transacted at the meeting, and

(b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.

(3) Despite clause 250, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.