

# Business Paper

## EXTRAORDINARY COUNCIL MEETING

**COUNCIL CHAMBERS, GUNDAGAI**

**6:00PM, MONDAY 10TH JANUARY, 2022**

**Administration Centres: 1300 459 689**

The Mayor & Councillors  
Cootamundra-Gundagai Regional Council  
PO Box 420  
Cootamundra NSW 2590

#### NOTICE OF MEETING

An Extraordinary Meeting of Council will be held in the Council Chambers, Gundagai on:

**Monday, 10th January, 2022 at 6:00PM**

The agenda for the meeting is enclosed.

Phillip McMurray  
General Manager

#### **Live Streaming of Meetings Statement**

**This meeting is streamed live via the internet and an audio-visual recording of the meeting will be publicly available on Council's website.**

**By attending this meeting, you consent to your image and, or, voice being live streamed and publicly available. Please refrain from making any defamatory statements.**

# AGENDA

## Order Of Business

<b>1</b>	<b>Acknowledgement of Country .....</b>	<b>5</b>
<b>2</b>	<b>Open Forum not conducted at extraordinary meetings .....</b>	<b>5</b>
<b>3</b>	<b>Apologies .....</b>	<b>5</b>
<b>4</b>	<b>Disclosures of Interest .....</b>	<b>5</b>
<b>5</b>	<b>General Manager's Report.....</b>	<b>6</b>
<b>5.1</b>	<b>Business.....</b>	<b>6</b>
5.1.1	Oath or Affirmation of Council.....	6
5.1.2	Election of the Mayor for the term 10th January 2022 - September, 2023.....	8
5.1.3	Election of the Deputy Mayor 10th January 2022 - September, 2023 .....	10
5.1.4	Filling of Vacancies .....	12
5.1.5	Review of Delegations of Authority of General Manager.....	13
5.1.6	Committees requiring Council Representatives .....	16
5.1.7	Meeting Dates for Ordinary Meetings of Council for 2022 .....	18



**1 ACKNOWLEDGEMENT OF COUNTRY**

Council acknowledges the Wiradjuri people, the Traditional Custodians of the Land at which the meeting is held and pays its respects to Elders, both past and present, of the Wiradjuri Nation and extends that respect to other Aboriginal people who are present.

**2 OPEN FORUM NOT CONDUCTED AT EXTRAORDINARY MEETINGS****3 APOLOGIES****4 DISCLOSURES OF INTEREST**

## 5 GENERAL MANAGER'S REPORT

### 5.1 BUSINESS

#### 5.1.1 OATH OR AFFIRMATION OF COUNCIL

DOCUMENT NUMBER	359776
REPORTING OFFICER	Marianne McInerney, Executive Assistant to the General Manager
AUTHORISING OFFICER	Phillip McMurray, General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>4. Good governance: an actively engaged community and strong leadership team</b></p> <p>4.3 Cootamundra-Gundagai Regional Council is a premier local government Council</p>
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	Compliance with s233A of the Local Government Act, 1993
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

### INFORMATION

1. Under Section 233A of the Local Government Act, 1993 Councillor must take an oath of office or make an affirmation of office at, or before the first meeting of the Council after the election. Accordingly the oath or affirmation of office of the newly elected councillors is to be conducted at this meeting.
2. Oaths or affirmations of office must be taken individually by each councillor and be recorded in the Minutes of this Extraordinary Meeting.

#### Introduction

What this means for Council:

- Cootamundra-Gundagai Regional Council will need to make arrangements for the oath or affirmation to be taken by each councillor at the first meeting of a newly-elected council.
- Councillors should be made aware of this requirement prior to the first meeting of a newly-elected council.
- An oath or affirmation should be taken by each councillor as the first item of business for the meeting.
- The General Manager must ensure that a record is kept of the taking of the oath or affirmation. This can be done by way of a signed statement containing the oath or affirmation or by recording the taking of the oath or affirmation by each councillor in the minutes of the council meeting.

- If the Councillor is unable to attend the first council meeting, he or she may take the oath or affirmation of office at another location in the presence of the general manager.
- The oath or affirmation of office may also be taken before an Australian legal practitioner or a Justice of the Peace.
- The taking of the oath or affirmation outside a council meeting must be publicly recorded by the Council.
- Where an oath or affirmation is taken outside a council meeting, a Council staff member should also be present to ensure that an accurate record can be kept by the Council.

The wordings of the oath and affirmation are as follows:

### **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 Cootamundra/Gundagai and the Cootamundra-Gundagai Regional 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 Cootamundra/Gundagai and the Cootamundra-Gundagai Regional Council 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.

**5.1.2 ELECTION OF THE MAYOR FOR THE TERM 10TH JANUARY 2022 - SEPTEMBER, 2023**

DOCUMENT NUMBER	359745
REPORTING OFFICER	Marianne McInerney, Personal Assistant to the General Manager
AUTHORISING OFFICER	Phillip McMurray, General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>4. Good governance: an actively engaged community and strong leadership team</b>  4.3 Cootamundra-Gundagai Regional Council is a premier local government Council
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	The election of a Deputy Mayor may be conducted pursuant to Section 231 of the Local Government Act, 1993. Such election is conducted in accordance with Schedule 7 of the Local Government (General) Regulation, 2021.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

**RECOMMENDATION**

1. Council determine the method of electing the Mayor with it being noted that in accordance with Schedule 7 of the Local Government (General) Regulation 2021, the method must be either:
  - I. Preferential Ballot, or
  - II. Ordinary Ballot, or
  - III. Open Voting.
2. The election of the Mayor for the 2022/23 term proceed.
3. Council determine to elect a Deputy Mayor.

Introduction

Subsequent to the election of councillors to Cootamundra-Gundagai Regional Council, the election of a councillor to the office of mayor for the 2022/2023 term is required.

Discussion

1. Nomination papers for the election of Mayor for the 10<sup>th</sup> January, 2022 – September, 2023 term have been circulated to all Councillors.
2. In accordance with Clause 1 of Schedule 7, of the Local Government (General) Regulation, 2021, the General Manager is the Returning Officer.
3. Nominations will be accepted by the Returning Officer, until the time the matter is before Council at this Meeting and the Returning Officer declares nominations to have closed.



4. The election is to be conducted in accordance with the Local Government (General) Regulation 2021 (Clause 394 and Schedule 7). Clause 394 and Part 1 of Schedule 7 are reproduced below:

*Clause 394*

*If a Mayor or Deputy Mayor is to be elected by the Councillors of an area, the election is to be in accordance with Schedule 7.*

*Schedule 7 Part 1*

*Returning Officer*

- 1.** *The General Manager (or a person appointed by the General Manager) is the returning officer.*

*Nomination*

- 2.**
  - 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.*

*Election*

- 3.**
  - 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.*

**5.1.3 ELECTION OF THE DEPUTY MAYOR 10TH JANUARY 2022 - SEPTEMBER, 2023**

DOCUMENT NUMBER	359746
REPORTING OFFICER	Marianne McInerney, Personal Assistant to the General Manager
AUTHORISING OFFICER	Phillip McMurray, General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>4. Good governance: an actively engaged community and strong leadership team</b>  4.3 Cootamundra-Gundagai Regional Council is a premier local government Council
FINANCIAL IMPLICATIONS	There are no financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	The election of a Deputy Mayor may be conducted pursuant to Section 231 of the Local Government Act, 1993. Such election is conducted in accordance with Schedule 7 of the Local Government (General) Regulation, 2021.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

**RECOMMENDATION**

1. **Subject to Council resolving to elect a Deputy Mayor (previous Item on the agenda) the election of the Deputy Mayor for the 10<sup>th</sup> January, 2022 to September, 2023 term proceed.**
2. **Council determine the method of electing the Deputy Mayor with it being noted that in accordance with Schedule 7 of the Local Government (General) Regulation 2021, the method must be either:**
  - i. **Preferential Ballot, or**
  - ii. **Ordinary Ballot, or**
  - iii. **Open Voting.**

Introduction

1. Section 231 of the Local Government Act, 1993, provides that Councillors may elect a person from among their number to be the Deputy Mayor. The Councillor may be elected as Deputy Mayor for the Mayoral term or a shorter term.
2. 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 from exercising the function or if there is a casual vacancy in the office of Mayor.

Discussion

3. The provisions of the Local Government (General) Regulation 2021, Clause 394 and Schedule 7, apply to the election of the Deputy Mayor in the same manner as they apply to the election of the Mayor.

4. Nomination papers for the election of Deputy Mayor for 10<sup>th</sup> January, 2022 to September, 2023 term have been circulated to all Councillors.
5. In accordance with Clause 1 of Schedule 7 of the Local Government (General) Regulation 2021, the General Manager is the Returning Officer.
6. Nominations will be accepted by the Returning Officer, until the time the matter is before Council at this meeting and the Returning Officer declares nominations to have closed.
7. It is noted that the election of Deputy Mayor will only proceed if Council resolves to elect a Deputy Mayor in the previous item on this agenda.

**5.1.4 FILLING OF VACANCIES**

DOCUMENT NUMBER	358293
REPORTING OFFICER	Teresa Breslin, Governance Officer
AUTHORISING OFFICER	Phillip McMurray, General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>4. Good governance: an actively engaged community and strong leadership team</b>  4.1 Decision-making is based on collaborative, transparent and accountable leadership
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	Pursuant to s.291A of the Local Government Act 1993.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

**RECOMMENDATION**

**Pursuant to section 291A(1)(b) of the Local Government Act 1993 (the Act) Cootamundra-Gundagai Regional 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 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 directs the General Manager to notify NSW Electoral Commissioner of the Council's decision within 7 days of the decision.**

Introduction

Following the 2021 local government elections, councils will, for the first time, 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.

This will allow councils to use a countback to fill vacancies at a lower cost than the cost of holding a by-election.

Discussion

To exercise the option of using a countback to fill casual vacancies occurring in the first 18 months following the election, councils must resolve, at their first meeting after the election, to use a countback to fill casual vacancies.

If councils do not resolve this at the first meeting after the election, they will be required to fill casual vacancies through a by-election.

Where councils resolve to fill casual vacancies using a countback in the first 18 months of their terms, the general manager is required under the Local Government (General) Regulation 2005 (the Regulation) to notify the NSW Electoral Commissioner of the council's resolution within 7 days of the resolution.

**5.1.5 REVIEW OF DELEGATIONS OF AUTHORITY OF GENERAL MANAGER**

DOCUMENT NUMBER	358228
REPORTING OFFICER	Teresa Breslin, Governance Officer
AUTHORISING OFFICER	Phillip McMurray, General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>4. Good governance: an actively engaged community and strong leadership team</b>  4.1 Decision-making is based on collaborative, transparent and accountable leadership
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	To comply with s.380 of the Local Government Act (1993)
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

**RECOMMENDATION**

- 1. Following the review of the delegations of the General Manager in accordance with section 380 of the Local Government Act 1993, the General Manager, or the person who acts in that position, continue to be granted all of the functions, powers, duties and authorities of the Council that it may lawfully delegate under the Local Government Act 1993, any other Act, regulation, instrument, rule or the like (including any functions, powers, duties and authorities delegated to the Council by any authority, body, person or the like) except those functions prescribed in section 377(1) of the Local Government Act 1993.**
- 2. The General Manager, or the person who acts in that position, be granted the additional delegation to authorise urgent works and other expenditures outside of the adopted budget up to an amount of \$20,000.**

Introduction

Section 380 of the Local Government Act, 1993 requires that Council review all its delegations during the first 12 months of each term of office.

Discussion

Section 377 of the Local Government Act 1993 (the “Act”) provides:

(1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following--

- (a) the appointment of a general manager,
- (b) the making of a rate,
- (c) a determination under [section 549](#) as to the levying of a rate,
- (d) the making of a charge,

- (e) the fixing of a fee,
- (f) the borrowing of money,
- (g) the voting of money for expenditure on its works, services or operations,
- (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),
- (i) the acceptance of tenders to provide services currently provided by members of staff of the council,
- (j) the adoption of an operational plan under [section 405](#),
- (k) the adoption of a financial statement included in an annual financial report,
- (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
- (m) the fixing of an amount or rate for the carrying out by the council of work on private land,
- (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,
- (o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the [Environmental Planning and Assessment Act 1979](#),
- (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under [section 194](#),
- (q) a decision under [section 356](#) to contribute money or otherwise grant financial assistance to persons,
- (r) a decision under [section 234](#) to grant leave of absence to the holder of a civic office,
- (s) the making of an application, or the giving of a notice, to the Governor or Minister,
- (t) this power of delegation,
- (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.

(1A) Despite subsection (1), a council may delegate its functions relating to the granting of financial assistance if--

- (a) the financial assistance is part of a specified program, and
- (b) the program is included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and
- (c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and
- (d) the program applies uniformly to all persons within the council's area or to a significant proportion of all the persons within the council's area.

(2) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Departmental Chief Executive except as provided by the instrument of delegation to the council.

(3) A council may delegate functions to a joint organisation only with the approval, by resolution, of the board of the joint organisation.

These delegations are however subject to the following limitations:

1. The General Manager is entitled to carry out any functions delegated to the Council by the Departmental Chief Executive or the Minister, subject to any express limitations imposed by the Departmental Chief Executive or Minister;
2. The delegation to the General Manager is limited in accordance with Council's adopted policies in force from time to time, and must be performed in accordance with such policies.
3. The delegated power, authority, duty or function being performed in accordance with the Law.

Further, if a function is conferred or imposed on an employee of the Council under any other legislation, the function is deemed to be conferred or imposed on the Council and is delegated to the General Manager.

In order to optimise the functioning and operations of Council it is recommended the maximum allowable delegations continue to be provided to the General Manager. Accordingly, it is proposed that the General Manager, or the person who acts in that position, continue to be granted all of the functions, powers, duties and authorities of the Council that it may lawfully delegate under the Local Government Act 1993, any other Act, regulation, instrument, rule or the like (including any functions, powers, duties and authorities delegated to the Council by any authority, body, person or the like) except those functions prescribed in section 377(1) of the Local Government Act, 1993 (as referred to and listed earlier in this report).

It should also be noted that the General Manager formerly received delegation to authorise urgent works and other expenditures outside of the adopted budget up to an amount of \$20,000. In order to ensure there is sufficient scope for such approvals in extraordinary circumstances it is recommended that this delegation be granted.

**5.1.6 COMMITTEES REQUIRING COUNCIL REPRESENTATIVES**

DOCUMENT NUMBER	354074
REPORTING OFFICER	Marianne McInerney, Executive Assistant to the General Manager
AUTHORISING OFFICER	Phillip McMurray, General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>4. Good governance: an actively engaged community and strong leadership team</b>  4.3 Cootamundra-Gundagai Regional Council is a premier local government Council
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

**RECOMMENDATION**

**A Councillor, or where required Councillors, be nominated as delegate/s on the committees detailed in the report.**

Introduction

There are occasions where Councillors are invited to be delegates of Council on Advisory Committees. The following Committees, Section 355 Committees, Advisory Committees and external Boards require a council representative or delegate:

<b>Committee Name</b>	<b>Delegates/ Representatives required</b>
Audit, Risk and Improvement Committee (ARIC)	Two (2) Councillor delegates
Finance Committee	Three (3) Councillor delegates (consisting of Mayor and two (2) Councillors)
Local Traffic Advisory Committee	One (1) Councillor delegate
Access and Inclusion Advisory Committee	One (1) Councillor delegate
Cootamundra Tourism Action Group Advisory Committee	One (1) Councillor delegate
Gundagai Tourism Action Group Advisory Committee	One (1) Councillor delegate
Cootamundra Aerodrome Users Group Advisory Group	One (1) Councillor delegate
Gundagai Youth Council	One (1) Councillor delegate
Cootamundra Youth Council	One (1) Councillor delegate



The Cootamundra Showground Users Group s.355 Committee	One (1) Councillor delegate
The Art Centre Cootamundra s.355 Committee	One (1) Councillor delegate
Cootamundra Heritage Centre s.355 Committee	One (1) Councillor delegate
Stockinbingal Ellwood's Hall s.355 Committee	One (1) Councillor delegate
Wallendbeen Memorial Hall s.355 Committee	One (1) Councillor delegate
Muttama Hall Management s.355 Committee	One (1) Councillor delegate
Muttama Creek Regeneration Group s.355 Committee	One (1) Councillor delegate
Goldenfields Water County Council	One (1) Councillor delegate
The Riverina Regional Library	Three (3) delegates (consisting of one (1) member of staff, one (1) councillor and one (1) alternate delegate)

**5.1.7 MEETING DATES FOR ORDINARY MEETINGS OF COUNCIL FOR 2022**

DOCUMENT NUMBER	341677
REPORTING OFFICER	Marianne McInerney, Personal Assistant to the General Manager
AUTHORISING OFFICER	Phillip McMurray, General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>4. Good governance: an actively engaged community and strong leadership team</b>  4.3 Cootamundra-Gundagai Regional Council is a premier local government Council
FINANCIAL IMPLICATIONS	There are no financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

**RECOMMENDATION**

- 1. The Ordinary Meetings of Council remain on the last Tuesday of the Month from January to November at 6:00pm.**
- 2. The Ordinary Meeting held in December remain on the second Tuesday at 6:00pm.**
- 3. The current arrangement of alternating meetings between Cootamundra and Gundagai remain.**
- 4. Alternatives to the current meeting arrangements be considered if requested.**

Introduction

A report is submitted annually for Councillors to consider the dates and times of Ordinary Council Meetings for the following year.

It is timely to review and consider alternative days and times should any Councillor be of the opinion that the current format is unsustainable. General discussion by Council is encouraged to raise any concerns in relation to the day of the month and the time the ordinary meetings are held.