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# Election of chairperson and deputy chairperson

Responsible Officer: General Manager (Phillip Rudd)

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## Recommendation

That Council:

1. Conduct an election for a chairperson and deputy chairperson consistent with the election process for chairpersons of county councils in the *Local Government Act 1993* and the *Local Government (General) Regulation 2021* and that:
  - i). If there is more than one nomination, council resolve the method of election (to be either by preferential ballot, ordinary ballot or open voting); and
  - ii). The result of the election (including the names of those elected) be declared at the meeting and that those elected hold office for two years.

## Background

A chairperson of a county council must be elected in accordance with Schedule 8 of the *Local Government (General) Regulation 2021* ('LG Regulation').<sup>1</sup>

For the purposes of this report, an election for a chairperson is to be held at the first meeting of Council after the term of the previous chairperson has ended.<sup>2</sup> This occurred on the date of the ordinary councillor elections, being 4 December 2021.<sup>3</sup>

A copy of Schedule 8 of the LG Regulation which prescribes the procedure to be followed to elect the chairperson is attached for information (Attachment 1). A summary of that process is set out in Attachment 2.

### Election of a deputy chairperson – local rule

Council's Code of Meeting Practice contains a local rule that makes provision for the election of a deputy chairperson to occur at the same time and in the same manner as the 'annual' election of the chairperson. This local rule is for administrative convenience given that the *Local Government Act 1993* ('LG Act') does not make provision for the election of a deputy chairperson as it does for the election of a deputy mayor of a local council.

The reference to 'annual' in Council's Code of Meeting Practice is taken to be omitted to reflect the below mentioned amendments recently made to the LG Act and to give effect to the intention that the election of the deputy chairperson should ordinarily occur at the same time and in the same manner as that of the chairperson so that the terms of each position are in alignment.

### Term of office – chairperson and deputy chairperson

Following amendments passed in May 2021 to the LG Act, the chairperson of a county council now holds office for a two year term.<sup>4</sup> The office of chairperson commences on the day the person elected is declared to be elected, being the day of the council meeting at which the election is held

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<sup>1</sup> Section 395 *Local Government (General) Regulation 2021* (NSW).

<sup>2</sup> Section 1(b) Part 1 Schedule 8 *Ibid*.

<sup>3</sup> Section 391(3)(iii) *Local Government Act 1993* (NSW).

<sup>4</sup> Section 391(2) *Ibid*.

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by the returning officer.<sup>5</sup> A vacancy occurs when the person's successor is declared to be elected to the office, or on the occurrence of a casual vacancy in the office.<sup>6</sup>

By virtue of Council's Code of Meeting Practice these arrangements also apply to the position of deputy chairperson.

## **Governance**

This report has been prepared having regard to the requirements of the *Local Government Act 1993* and the *Local Government (General) Regulation 2021*.

## **Finance**

The fees paid to members (including the chairperson) are in accordance with the 'Chairperson and member fees' policy and budget adopted in conjunction with the 2020/21 Operational plan. The policy provides that the fees payable to the chairperson and members are 100% of the maximum determined by the Local Government Remuneration Tribunal.

## **Legal**

Refer to the 'Background' section of the report.

The General Manager is the returning officer for the purposes of holding the election for chairperson and deputy chairperson.<sup>7</sup>

## **Consultation**

Not applicable.

## **Conclusion**

Council elects a chairperson and deputy chairperson every second year. The election process for the chairperson is set out in Schedule 8 of the LG Regulation and Council has determined through its Code of Meeting Practice that that process will also apply to the election of the deputy chairperson.

## **Attachments**

1. [Schedule 8 of the \*Local Government \(General\) Regulation 2021\*](#).
2. Summary of Schedule 8 LG Regulation election process.
3. Nomination forms (*copies will also be available at the meeting*).

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<sup>5</sup> Section 391(3)(a) Ibid.

<sup>6</sup> Section 391(3)(b) Ibid.

<sup>7</sup> Section 2 Part 1 Schedule 8 *Local Government (General) Regulation 2021* (NSW).

## Attachment 2

### Summary of election process

All references cited in the following tables relate to the *Local Government (General) Regulation 2021*.

General manager (or delegate) is the returning officer	Sch. 8 cl. 2
The general manager (or a person appointed by the general manager) is the returning officer.	
Nominations (Nomination forms enclosed)	Sch. 8 cl. 4
<ol style="list-style-type: none"><li>(1) A councillor may be nominated for election as chairperson/deputy chairperson without notice.</li><li>(2) Nominations must be in writing by two or more councillors (one of whom may be the nominee) and include the nominee's written consent to the nomination.</li><li>(3) Nominations are to be delivered or sent to the returning officer.</li><li>(4) The returning officer is to announce the names of the nominees at the meeting at which the election is to be held.</li></ol>	
Resolving method of election	Sch. 8 cl. 5
<b>One nomination</b> The nominee is elected.	
<b>More than one nomination</b> Council must resolve whether the election is to proceed by: <ol style="list-style-type: none"><li>(a) Preferential <i>ballot</i>* (Attachment 1 (Sch. 8 Part 3 clauses 10-13) refer to the <span style="background-color: #90EE90;">green</span> tables below), or</li><li>(b) Ordinary <i>ballot</i>* or (Attachment 1 (Sch. 8 Part 2 clauses 6-9) refer to the <span style="background-color: #FF0000;">red</span> tables below), or</li><li>(c) <i>Open voting</i>** (Attachment 1 (Sch. 8 Part 2 clauses 6-9) refer to the <span style="background-color: #FF0000;">red</span> tables below).</li></ol>	
* <i>ballot</i> has its normal meaning of secret ballot.	
** <i>open voting</i> means voting by a show of hands or similar means.	

PREFERENTIAL BALLOT	
• Ballot-papers and voting	Sch. 8 cl. 11
The ballot-papers are to contain the names of all the candidates. Place the numbers '1', '2' and so on against the names listed to indicate the order of preference for all the candidates.  An informal ballot-paper is one that has not been initialled on the front by an election official (except where the ballot-paper bears the name of the council), or contains a mark or writing that, in the returning officer's opinion, would enable the elector to be identified (cl. 305(2); cl. 345(1)(b) and (c) and (5)).  An informal ballot-paper must be rejected at the count.	
• Count	Sch. 8 cl. 12
<ol style="list-style-type: none"><li>(1) If a candidate has an <i>absolute majority</i>* of first preference votes, that candidate is elected.</li><li>(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 the person are transferred to the candidates with second preferences on those ballot-papers.</li><li>(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</li></ol>	

## PREFERENTIAL BALLOT

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. That candidate is elected.

\***absolute majority** in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot-papers.

### • Tied candidates

Sch. 8 cl. 13

- (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.**

### Count: choosing by lot

Sch. 8 cl. 14

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.**

## ORDINARY BALLOT OPEN VOTING

### • Marking of ballot-papers

Sch. 8 cl. 7

An informal ballot-paper is one that has not been initialled on the front by an election official (except where the ballot-paper bears the name of the council), or contains a mark or writing that, in the returning officer's opinion, would enable the elector to be identified (cl. 305(2); cl. 345(1)(b) and (c) and (5)).

An informal ballot-paper must be rejected at the count.

### • Count

Sch. 8 cl. 8-9

#### 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.**

#### 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 at (2) above is repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates:
  - (a) The candidate with **the higher number of votes is elected.**
  - (b) If the 2 candidates are tied, **the one elected is to be chosen by lot.**

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(5) If at any stage during a count under (1) or (2) above, 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

**Count: choosing by lot**

**Sch. 8 cl. 14**

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.

**Result**

**Sch. 8 cl. 15**

The result of the election (including the name of the elected chairperson and deputy chairperson) must be:

- (a) declared to the councillors at the council meeting at which the election is held by the returning officer, and
- (b) delivered or sent to the Chief Executive Officer and to the Secretary of Local Government NSW.

	<b>NOMINATION FORM</b> <b>Chairperson</b>
<b>We nominate Councillor:</b> ..... for the position of Chairperson of Rous County Council.	
..... (name / signature)	...../...../2022
..... (name / signature)	...../...../2022
<b>I consent to the nomination:</b>	
..... Signature	...../...../2022



**NOMINATION FORM**

**Deputy Chairperson**

**We nominate Councillor:**

.....

for the position of Deputy Chairperson of Rous County Council.

...../...../2022  
(name / signature)

...../...../2022  
(name / signature)

**I consent to the nomination:**

...../...../2022  
*Signature*