



## BUSINESS PAPER

### ORDINARY MEETING OF COUNCIL

To be held on

Wednesday, 12 January 2022  
4pm

at

Armidale Council Chambers

#### **Members**

Councillor Sam Coupland  
Councillor Paul Gaddes  
Councillor Jon Galletly  
Councillor Susan McMichael  
Councillor Steven Mephram  
Councillor Debra O'Brien  
Councillor Margaret O'Connor  
Councillor Paul Packham  
Councillor Todd Redwood  
Councillor Dorothy Robinson  
Councillor Bradley Widders

AGENDA

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## **Ethical Decision Making and Conflicts of Interest**

### ***A guiding checklist for Councillors, officers and community committees***

#### **Oath or Affirmation of Office**

Councillors are reminded of the Oath or Affirmation taken of office, made under section 233A of the *Local Government Act 1993* when elected.

#### **Ethical decision making**

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

#### **Conflict of interest**

A conflict of interest is a clash between private interest and public duty. There are two types of conflict:

- ***Pecuniary*** – regulated by the *Local Government Act 1993* and Office of Local Government
- ***Non-pecuniary*** – regulated by Codes of Conduct and policy. ICAC, Ombudsman, Office of Local Government (advice only). If declaring a Non-Pecuniary Conflict of Interest, Councillors can choose to either disclose and vote, disclose and not vote or leave the Chamber.

#### **The test for conflict of interest**

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of 'corruption' – using public office for private gain.
- Important to consider public perceptions of whether you have a conflict of interest.

#### **Identifying problems**

**1st** Do I have private interests affected by a matter I am officially involved in?

**2nd** Is my official role one of influence or perceived influence over the matter?

**3rd** Do my private interests conflict with my official role?

#### **Local Government Act 1993 and Model Code of Conduct**

For more detailed definitions refer to the *Local Government Act 1993*, Chapter 14 Honesty and Disclosure of Interest and Model Code of Conduct.

#### **Disclosure of pecuniary interests / non-pecuniary interests**

Under the provisions of Section 440AAA(3) of the *Local Government Act 1993* (pecuniary interests) and the Model Code of Conduct it is necessary for you to disclose the nature of the

interest when making a disclosure of a pecuniary interest or a non-pecuniary conflict of interest at a meeting.

**A Declaration form should be completed and handed to the General Manager** as soon as practicable once the interest is identified. Declarations are made at Item 3 of the Agenda: Declarations - Pecuniary, Non-Pecuniary and Political Donation Disclosures, and prior to each Item being discussed: The Declaration Form can be downloaded at [Disclosures and Declarations of Interest at Meetings](#).

**Item:** 5.1 **Ref:** AINT/2021/37979

**Title:** Confirmation of the Minutes of the Ordinary Council Meeting held on 24 November 2021 **Container:** ARC16/0001-6

**Responsible Officer:** General Manager

**Author:** Melissa Hault, Executive Officer

**Attachments:** 1. Draft Minutes - 24 November 2021

**RECOMMENDATION:**

That the Minutes of the Ordinary Council meeting held on 24 November 2021 be taken as read and accepted as a true record of the Meeting.

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<b>Item:</b>	<b>8.1</b>	<b>Ref: AINT/2021/43131</b>
<b>Title:</b>	<b>Oath or Affirmation of Office by Councillors</b>	<b>Container: ARC21/4520</b>
<b>Responsible Officer</b>	<b>Chief Officer Corporate &amp; Strategy</b>	
<b>Author:</b>	<b>Stacey Drew, Executive Policy Advisor</b>	
<b>Attachments:</b>	1. Local Government Act 1993 Section 233A - Oath and Affirmation for councillors	

### **1. Purpose**

Oaths or affirmations of office must be taken by each councillor at or before the first meeting of the council after being elected.

### **2. OFFICERS' RECOMMENDATION:**

That all Councillors take an oath or affirmation of office, as required by section 233A of the *Local Government Act 1993*.

### **3. Background**

In accordance with section 233A of the *Local Government Act 1993*, Oaths or Affirmations of Office must be taken by each councillor at or before the first meeting of the council after being elected.

### **4. Discussion**

Councillors (including mayors) are required to take an oath or affirmation of office. The prescribed words of the oath and affirmation are contained in the attachment to this report.

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. The taking of the oath or affirmation by Councillors will be recorded in the minutes of this meeting.

### **5. Implications**

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 before 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 publically 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.

#### **5.1. Strategic and Policy Implications**

The oath or affirmation of office must be the first item of business, as required by section 233A of the *Local Government Act 1993*.

This report contributes to the delivery the Community strategic Plan 2017-2027: Leadership for the Region Community Outcome 3– being that Council demonstrates sound organisational health and has a culture which promotes action, accountability and transparency.

**5.2. Risk**

NIL

**5.3. Sustainability**

NIL

**5.4. Financial**

NIL

Budget Area:	NIL						
Funding Source:	NIL						
Budget Ref: (PN)	Description	Approved Budget	Actual	Committed	Proposed	Total Forecast Expenditure	Remaining Budget
NIL							

**6. Consultation and Communication**

The prescribed words of the oath and affirmation are provided.

**7. Conclusion**

A councillor who fails, without a reasonable excuse, to take the oath or affirmation of office, will not be entitled to attend council meetings until they do so and will be taken to be absent without leave.

If a councillor is absent without leave for three consecutive ordinary council meetings their office is automatically declared vacant and a by-election or countback must be held.

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<b>Item:</b>	<b>8.2</b>	<b>Ref: AINT/2021/43135</b>
<b>Title:</b>	<b>Election of the Mayor and Deputy Mayor</b>	<b>Container: ARC21/4520</b>
<b>Responsible Officer</b>	<b>General Manager</b>	
<b>Author:</b>	<b>Stacey Drew, Executive Policy Advisor</b>	
<b>Attachments:</b>	1. Office of Local Government Election of Mayor and Deputy Mayor Fact Sheet. 2. Nomination for the Position of Mayor 2022 3. Nomination for the Position of Deputy Mayor 2022	

### **1. Purpose**

The purpose of this report is to elect the Mayor and the Deputy Mayor which must be conducted in accordance with clause 394 and Schedule 7 of the Local Government (General) Regulation 2005 (the Regulation).

### **2. OFFICERS' RECOMMENDATION:**

That Council:

- a. Resolve the ballot be by open ballot voting.
- b. The General Manager, as Returning Officer, call for nominations for the election of Mayor for the period of 12 January 2022 to September 2023.
- c. The General Manager, as Returning Officer, call for nominations for the election of Deputy for the period of 12 January 2022 to September 2023.

### **3. Background**

An election for Mayor must be held within three weeks of the declaration of the ordinary election at a meeting of the council.

The returning officer is to be the General Manager or a person appointed by the General Manager.

Councillors must elect a Mayor from among their number every two years unless they have a popularly elected Mayor. The Deputy Mayor may be elected for the mayoral term or a shorter term.

### **4. Discussion**

At the start of the first meeting after an ordinary election, in the absence of a chairperson, the General Manager as Returning Officer assumes the chair and conducts the election of Mayor and Deputy Mayor.

If more than one candidate is nominated for Mayor or Deputy Mayor, the council must determine by resolution, the method of voting for the position of Mayor/Deputy Mayor, by way of one of the following methods:

- Open voting – ie. by show of hands.
- Ordinary ballot – ie. a secret ballot (place an X against the candidate of their choice).
- Preferential ballot – ie. place 1,2,3 etc. against each candidate.

This can be determined prior to or after the closing of nominations.

Open ballot is recommended for transparency however the decision is with open Council.

### **Election of the Mayor**

The process for the Election of Mayor will be in accordance with Local Government (General) Regulation – Schedule 7.

Nominations for Mayor must be in writing, signed by two (2) Councillors and the nominee must consent in writing. The nomination and acceptance can be made prior to the meeting.

### **Election of the Deputy Mayor**

The process for the Election of Deputy Mayor will be in accordance with Local Government (General) Regulation – Schedule 7, attached.

Nominations for Deputy Mayor must be in writing, signed by two (2) Councillors and the nominee must consent in writing. The nomination and acceptance can be made prior to the meeting.

## **5. Implications**

Mayors elected by councillors normally hold their office for two years (unless a casual vacancy occurs). Because of the postponement of the ordinary council elections to 4 December 2021, mayors elected by councillors during the next term will have a shorter term than the usual two years. Councils that elect their mayors are required under the Act to hold mid-term mayoral elections in the month of September. This means that the mid-term mayoral elections will be held in September 2023.

The mayor elected at the mid-term mayoral election will hold their office until the day of the council's next ordinary election in September 2024 when their civic office as a councillor and mayor will expire. Deputy Mayors hold their office for the term specified in the council's resolution.

### **5.1. Strategic and Policy Implications**

The election of the Mayor and the Deputy Mayor must be conducted in accordance with clause 394 and Schedule 7 of the *Local Government (General) Regulation 2005* (the Regulation).

This report contributes to the delivery of the Community Strategic Plan 2017-2027: Leadership for the Region Community Outcome 3– being that Council demonstrates sound organisational health and has a culture which promotes action, accountability and transparency.

### **5.2. Risk**

NIL

### **5.3. Sustainability**

NIL

### **5.4. Financial**

NIL

Budget Area:	NIL						
Funding Source:	NIL						
Budget	Description	Approved	Actual	Committed	Proposed	Total	Remaining

Ref: (PN)		Budget				Forecast Expenditure	Budget
NIL							

**6. Consultation and Communication**

NIL

**7. Conclusion**

The Office of Local Government has developed Election of Mayor and Deputy Mayor by Councillors Fact Sheet (attached) to be used when electing a Mayor and a Deputy Mayor. The method of election by Councillors is to be conducted in accordance with Schedule 7 of the Regulation.

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<b>Item:</b>	<b>8.3</b>	<b>Ref: AINT/2021/43967</b>
<b>Title:</b>	<b>Delegation of Authority to the General Manager ARC21/4520</b>	<b>Container:</b>
<b>Responsible Officer</b>	<b>Chief Officer Corporate &amp; Strategy</b>	
<b>Author:</b>	<b>Stacey Drew, Executive Policy Advisor</b>	
<b>Attachments:</b>	1. General Manager Instrument of Delegation	

### 1. Purpose

This report presents the Instrument of Delegation for the General Manager, James Roncon for consideration by Council.

### 2. OFFICERS' RECOMMENDATION:

That Council delegate the functions to the General Manager as described in the Instrument of Delegation attached to this Report, pursuant to Section 377 of the *Local Government Act 1993*.

### 3. Background

The attached Instrument of Delegation sets out proposed functions to be delegated to the General Manager, James Roncon.

### 4. Discussion

Council's general power to delegate its functions is contained within Section 377 of the Act. For the new Council's information, this section is reproduced hereunder:

#### **377 General power of the Council to delegate**

- (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.*

## **5. Implications**

### **5.1. Strategic and Policy Implications**

The Instrument of Delegation applies to the General Manager in the conduct of their duties. Under section 377 and 378 of the *Local Government Act 1993*, Council cannot delegate functions directly to an employee of Council. Rather, this must be done by first delegating to the General Manager who in turn sub-delegates to an employee. The General Manager therefore must be delegated the necessary functions to be able to sub-delegate those functions to an employee.

### **5.2. Risk**

Council's general power to delegate its functions is contained within Section 377 of the Act and must be a resolution of Council.

### **5.3. Sustainability**

The delegations of Council will remain in force until they are revoked or amended by a resolution of Council.

### **5.4. Financial**

Nil

Budget Area:	
Funding Source:	

Budget Ref: (PN)	Description	Approved Budget	Actual	Committed	Proposed	Total Forecast Expenditure	Remaining Budget

The administration and implementation of Council's delegations is the responsibility of the governance program utilising existing resources.

#### **6. Consultation and Communication**

Under the provisions of Section 380 of the *Local Government Act 1993*, Council is required to review its delegations of authority during the first 12 months of each term of office.

#### **7. Conclusion**

The Instrument of Delegation is presented to Council to be executed in accordance with the Council resolution.

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<b>Item:</b>	<b>8.4</b>	<b>Ref: AINT/2021/44765</b>
<b>Title:</b>	<b>Delegation of Authority to the Mayor</b>	<b>Container: ARC21/4520</b>
<b>Responsible Officer</b>	<b>Chief Officer Corporate &amp; Strategy</b>	
<b>Author:</b>	<b>Stacey Drew, Executive Policy Advisor</b>	
<b>Attachments:</b>	1. Delegation of Authority to the Office of the Mayor	

### **1. Purpose**

This report presents the Instrument of Delegation for the Mayor, for consideration by Council.

### **2. OFFICERS' RECOMMENDATION:**

That Council delegate the functions to the Mayor as described in the Instrument of Delegation attached to this Report.

### **3. Background**

Certain functions of the Local Government Act are delegated from the Armidale Regional Council to the Mayor.

These delegations include functions regarding the management of Council meetings and business, external relations and representations, organisational accountability and performance management, the mayoral and civic role, and the general authority of Council during recesses.

### **4. Discussion**

Due to the Armidale Regional Council Local Government Election held 4 December 2021 and this being the first meeting of the newly elected Council, it is necessary for Council to adopt the delegations of functions for the Mayor.

Council has certain functions and duties which it must perform, and certain powers which it may exercise, pursuant to *the Local Government Act 1993* as well as a range of other Acts. In most cases the relevant Acts grant those obligations and powers directly on the Council as a body. It is not practical or efficient for the Council as a body of elected members to perform the many functions or undertake the many duties and activities that are required in the day-to-day administration of the Council's roles and functions.

Delegations are the way in which the Council enables its Officers to undertake these duties on its behalf.

### **5. Implications**

#### **5.1. Strategic and Policy Implications**

The Instrument of Delegation applies to the Mayor in the conduct of their duties.

#### **5.2. Risk**

Council's general power to delegate its functions is contained within Section 377 of the Act and must be a resolution of Council.

#### **5.3. Sustainability**

The delegations of Council will remain in force until they are revoked or amended by a resolution of Council.

#### 5.4. Financial

Budget Area:	N/A						
Funding Source:							
Budget Ref: (PN)	Description	Approved Budget	Actual	Committed	Proposed	Total Forecast Expenditure	Remaining Budget

#### 6. Consultation and Communication

The elected Mayor will be required to sign the attached instrument of delegation.

#### 7. Conclusion

The Instrument of Delegation is presented to Council to be executed in accordance with the Council resolution.

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<b>Item:</b>	<b>8.5</b>	<b>Ref: AINT/2021/43640</b>
<b>Title:</b>	<b>Casual Vacancy in the Office of Councillor</b>	<b>Container: ARC21/4520</b>
<b>Responsible Officer</b>	<b>Chief Officer Corporate &amp; Strategy</b>	
<b>Author:</b>	<b>Stacey Drew, Executive Policy Advisor</b>	
<b>Attachments:</b>	<b>Nil</b>	

### 1. Purpose

To exercise the option of using a countback to fill casual vacancies occurring in the first 18 months following the Armidale Regional Council Local Government election, Council must resolve at the first meeting after the election, to use a countback to fill casual vacancies.

### 2. OFFICERS' RECOMMENDATION:

That Council pursuant to section 291A(1)(b) of the *Local Government Act 1993* (the Act) Armidale 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 the election manager of the Council's decision within 7 days of the decision.

### 3. Background

At the first meeting of the newly elected Council, Council must resolve if they wish any casual vacancies occurring in the office of a Councillor within 18 months of the date of the last election (held 4 December 2021) are to be filled by a countback of votes cast at the 4 December 2021 Armidale Regional Council Local Government election.

Councils that do not resolve to fill vacancies using a countback at their first meeting after the election will be required to fill vacancies by the conduct of a By-election.

### 4. Discussion

From time-to-time councils may be required to fill casual vacancies in civic office that occur for various reasons. *Section 234 of the Local Government Act 1993* outlines the various circumstances that constitute a vacancy in civic office:

#### **234 When does a vacancy occur in civic office?**

- 1) *A civic office becomes vacant if the holder –*
  - a) *Dies, or*
  - b) *Resigns the office by writing addressed to the General Manager, or*
  - c) *Is disqualified from holding civic office, or*
  - d) *Is absent from 3 consecutive ordinary meetings of the Council (unless the holder is absent because he or she has been suspended from office under this Act or because the council has been suspended under this Act or as a consequence of a compliance order under section 438HA) without –*

- (i) Prior leave of the council, or*
    - (ii) Leave granted by the council at any of the meetings concerned, or*
  - e) Becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or*
  - f) Becomes a mentally incapacitated person, or*
  - g) Is dismissed from civic office, or*
    - g1) In the case of the office of a councillor, is elected as mayor by the electors, or*
- Ceases to hold the office for any other reason.*
- Note: see section 275 for the circumstances in which a person is disqualified from holding civic office.*
- 2) For the purposes of subsection (1)(d), a councillor applying for a leave of absence from a meeting of a council does not need to make the application in person and the council may grant such leave in the absence of that councillor.*
  - 3) If the holder of a civic office attends a council meeting (whether or not an ordinary meeting) despite having been granted leave of absence, the leave of absence is taken to have been rescinded as regards any future council meeting.*
  - 4) Subsection (3) does not prevent the council from granting further leave of absence in respect of any future council meeting.*
  - 5) The office of a mayor elected by councillors becomes vacant if the mayor ceases to hold office as a councillor.*

Casual vacancies in civic office can be filled by either holding a By-election or by the process of a countback of votes cast at the last election for that office.

Section 291A of the *Local Government Act 1993* outlines the process for holding a countback of votes instead of a By-election, section 291A states:

**291A Countback to be held instead of by-election in certain circumstances**

- 1) This section applies to a casual vacancy in the office of a councillor if -*
  - a) The casual vacancy occurs within 18 months after the date of the last ordinary election of the councillors for the area, and*
  - b) The council has at its first meeting following that ordinary election of councillors, by resolution, declared that any such casual vacancy is to be filled*

*by a countback of votes cast at the last election for that office.*

- 2) *This section does not apply to a casual vacancy in the office of a councillor if the councillor who vacated office was elected –*
  - a) *In an election using the optional preferential voting system (including the election of a mayor elected by the electors of an area), or  
Note – see section 285 (Voting system for elections)*
  - b) *In an election without a poll being required to be held.  
Note – see section 311 (uncontested elections)*
- 3) *A casual vacancy to which this section applies is to be filled by a countback election conducted in accordance with the Regulations.*
- 4) *A countback election to fill a casual vacancy to which this section applies must be conducted –*
  - a) *If the election at which the person whose departure created the casual vacancy was elected was administered by the Electoral Commissioner – by a returning officer appointed by the Electoral Commissioner, or*
  - b) *If the election at which the person whose departure created the casual vacancy was elected was administered by a returning officer appointed by an electoral services provider engaged by the council - by a returning officer appointed by the electoral services provider.*
  - c) *(Repealed)*
- 5) *If a countback election fails or the returning officer is otherwise unable to fill the casual vacancy by a countback election –*
  - a) *The returning officer must notify the general manager of the council concerned, and*
  - b) *A by-election in accordance with this Part must be held to fill the casual vacancy.*
- 5A) *If an electoral services provider engaged by the council is unable to appoint a returning officer for the purposes of subsection (4)(b), a by-election in accordance with this Part must be held to fill the casual vacancy.*
- 6) *This section does not apply to a casual vacancy in the office of a councillor if the vacancy occurs before the day prescribed for the purposes of this section by the regulations.*

A person elected to fill a casual vacancy in the office of Councillor will hold the office for the balance of the predecessor's term (Section 233(3) of the *Local Government Act 1993* refers).

To avoid the considerable financial and resourcing costs associated with the conduct of a By-election, it would be prudent of Council to resolve that should a casual vacancy occur within 18 months of the 4 December 2021 local government elections, the process of a countback of votes cast at the 4 December 2021 local government elections be undertaken to fill the vacancy. This resolution must be made at this meeting being the first Council Meeting held of the newly elected Council.

Should Council resolve this way, Council must advise the Election Manager of the ordinary election within seven (7) days of Council's resolution as per *Section 393C of the Local Government (General) Regulation 2021* which states:

**393C Countback elections**

- 1) *A countback election referred to in section 291A of the Act is to be carried out in accordance with Schedule 9A.*
- 2) *For the purpose of section 291A of the Act, the prescribed day is 12 September 2020.*
- 3) *If a Council resolves, at its first meeting following an ordinary election of councillors for the area, that a countback election is to be held to fill any casual vacancy that occurs within 18 months after the date of that ordinary election, the general manager is to notify the election manager of the ordinary election within 7 days of the resolution.*

**5. Implications**

If council does not resolve to use a countback at the first meeting after the election, they will be required to fill casual vacancies through a by-election.

**5.1. Strategic and Policy Implications**

Relevant legislation:

*Chapter 10, Part 5 of the Local Government Act 1993*

*Division 11, Section 393C, Schedule 9A of the Local Government (General) Regulation 2021.*

This report contributes to the delivery the Community strategic Plan 2017-2027: Leadership for the Region Community Outcome 3– being that Council demonstrates sound organisational health and has a culture which promotes action, accountability and transparency.

**5.2. Risk**

Nil

**5.3. Sustainability**

Nil

**5.4. Financial**

Nil

Budget Area:	
Funding	

Source:							
Budget Ref: (PN)	Description	Approved Budget	Actual	Committed	Proposed	Total Forecast Expenditure	Remaining Budget

Resolving to use countbacks to fill vacancies will allow council to fill vacancies at a lower cost than the cost of holding a by-election.

#### **6. Consultation and Communication**

If council resolves 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 20053 (the Regulation) to notify the election manager of the Council's resolution within 7 days of the resolution.

#### **7. Conclusion**

Resolving to use countbacks to fill vacancies will allow council to fill vacancies at a lower cost than the cost of holding a by-election.

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<b>Item:</b>	<b>8.6</b>	<b>Ref: AINT/2021/44649</b>
<b>Title:</b>	<b>Armidale Regional Council Code of Conduct</b>	<b>Container: ARC21/4520</b>
<b>Responsible Officer</b>	<b>Chief Officer Corporate &amp; Strategy</b>	
<b>Author:</b>	<b>Stacey Drew, Executive Policy Advisor</b>	
<b>Attachments:</b>	1. Model Code of Conduct Adopted October 2020	

### **1. Purpose**

The purpose for this report is for Council acknowledge the current adopted Code of Conduct (attached) prescribed by regulation which sets the standards of conduct for Council officials.

### **2. OFFICERS' RECOMMENDATION:**

That Council acknowledge the Armidale Regional Council Code of Conduct, and note a review will be completed within 12 months of the Local Government elections.

### **3. Background**

The Minister for Local Government has announced a review of the regulatory framework for dealing with councillor misconduct. Council may wish to consider deferring the review of the code of conduct until the review has been completed and any outcomes of the review are implemented, provided this occurs within 12 months of the elections.

### **4. Discussion**

Under the *Local Government Act 1993* Council must adopt a code of conduct that incorporates the provisions of the Model Code of Conduct prescribed by the Regulation within 12 months of elections.

Council's adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct, therefore council can strengthen but cannot dilute the provisions of the Model Code of Conduct in their adopted codes of conduct.

To enhance the Model Code of Conduct the following clauses are included in the current adopted Armidale Regional Council Code of Conduct.

- Child Protection Clause: This section is recommended to address the requirements out of the Royal Commission into Institutional Responses to Child Sexual Abuse. Council is committed to the safety and wellbeing of children and young people. This Code of Conduct clause aims to protect children and reduce any opportunities for child abuse or harm to occur. It is intended to complement child protection legislation, the Child Protection Policy, procedures and professional standards as these apply to Council staff and Councillors.
- Social Media Clause: The Social Media clause provides specific guidance on best practice behaviour when working and operating within social media and in online communities. It is important that employees & Councillors understand the difference between making representations on social media platforms on behalf of Council and the personal use of social media.

- **Fraud and Corruption Clause:** The Council recognises that fraud and corruption in Public Administration have the potential to cause significant financial and non-financial harm and therefore, the prevention and control of fraud and corruption should feature predominantly within the systems and procedures of a responsible Council. This section gives strength to the General Fraud and Corruption Prevention Policy and complies with the requirements of the *Independent Commissioner Against Corruption Act 2012* (ICAC Act).

## 5. Implications

### 5.1. Strategic and Policy Implications

Council's consideration of this report ensures good governance, continuous improvement and risk minimisation.

This report contributes to the delivery the Community strategic Plan 2017-2027: Leadership for the Region Community Outcome 3– being that Council demonstrates sound organisational health and has a culture which promotes action, accountability and transparency.

### 5.2. Risk

The Model Code of Conduct sets the minimum standards of conduct for council officials. It is prescribed by regulation to assist council officials to:

- understand and comply with the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in local government.

### 5.3. Sustainability

### 5.4. Financial

Budget Area:							
Funding Source:							
Budget Ref: (PN)	Description	Approved Budget	Actual	Committed	Proposed	Total Forecast Expenditure	Remaining Budget

## 6. Consultation and Communication

Council officials play a vital role in serving local communities. To do this effectively, council aims to uphold the highest standards of behaviour to ensure communities have trust and confidence in local government.

## 7. Conclusion

Continuous review and enhancements of Code of Conduct gently shapes Council into the kind of place that is not only compliant but that is close to its roots, the community, and the people it serves. The Code of Conduct clearly states Council's core values, guidelines, and expectations.

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<b>Item:</b>	<b>8.7</b>	<b>Ref: AINT/2021/43838</b>
<b>Title:</b>	<b>Revised Code of Meeting Practice</b>	<b>Container: ARC21/4520</b>
<b>Responsible Officer</b>	<b>Chief Officer Corporate &amp; Strategy</b>	
<b>Author:</b>	<b>Stacey Drew, Executive Policy Advisor</b>	
<b>Attachments:</b>	1. Draft Code of Meeting Practice	

### 1. Purpose

The purpose of this report is to provide to Council the draft Code of Meeting Practice for consideration and adoption and subsequently place the draft on public exhibition for a period of 28 days.

### 2. OFFICERS' RECOMMENDATION:

That Council:

- a. Endorse the draft Code of Meeting Practice be placed on public exhibition for a period of 28 days, commencing on 17 January 2022 and concluding on the 15 February 2022 with a report provided to council following the consultation period.
- b. Resolve to utilise either clause 15.14 or 15.15 under "Expulsion from Meetings" (highlighted in the attachment).

### 3. Background

This Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is prescribed under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2021* (the Regulation). The Model Code of Meeting Practice provides a uniform set of meeting rules for councils across the State to help ensure more accessible, orderly, effective and efficient meetings.

Council is required to review its Code of Meeting Practice at least once within each Council term. With the recent changes to the Model Code of Meeting Practice for Local Councils in NSW (Model Meeting Code) published in October 2021, it is timely to adopt the new provisions.

The new Model Meeting Code contains new provisions that allow councils to permit individual councillors to attend meetings by audio-visual link and to hold meetings by audio-visual link in the event of natural disasters or public health emergencies. The provisions governing attendance at meetings by audio-visual link are non-mandatory. Councils can choose not to adopt them or to adapt them to meet their own needs.

Amendments have also been made to the provisions governing the webcasting of meetings and disorder at meetings to reflect amendments to the Regulation since the previous iteration of the Model Meeting Code was prescribed.

An amendment has also been made to the Model Meeting Code implementing recommendation 6 in ICAC's report in relation to its investigation of the former Canterbury City Council (Operation Dasha). ICAC recommended that the Model Meeting Code be amended to require that council business papers include a reminder to councillors of their oath or affirmation of office, and their conflict of interest disclosure obligations.

The repeal date for section 237 of the Regulation which exempts councils from the requirement under clause 5.2 of the previous iteration of the Model Meeting Code for councillors to be

personally present at meetings in order to participate in them has been extended to 30 June 2022. This is to allow councils additional time to exhibit and adopt new codes of meeting practice containing provisions allowing attendance by audio-visual link at meetings. If councils have not adopted a new meeting code that allows councillors to attend meetings by audio-visual link, they will not be permitted to do so after that date.

The revision the draft Code of Meeting Practice is presented to Council for adoption in draft form to be placed on public exhibition for a period of 28 days in accordance with s360-363 of the Act.

#### **4. Discussion**

The Model Meeting Code applies to all meetings of councils and committees of councils of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code (black font).

A council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, a code of meeting practice adopted by a council must not contain provisions that are inconsistent with the mandatory provisions of this Model Meeting Code.

The provisions of the Model Meeting Code that are not mandatory are indicated in red font.

A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by the council.

The proposed draft Code of Meeting Practice is based from the Model Code of Meeting Practice for Local Councils in NSW 2021 with minor changes to the order of business for ordinary council meetings (7) in alignment with the executive's preference, as is permitted under the model code. Other small amendments made to the non-mandatory provisions are to ensure the efficient administration and production of business papers and meeting functions.

Where there are multiple optional provisions, the option council is not recommending has been retained with the text in strike through. This is to ensure numbering remains consistent with the Model Code of Meeting Practice.

#### **5. Implications**

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code within 12 months of the local government elections. A council's adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions.

##### **5.1. Strategic and Policy Implications**

This report contributes to the delivery the Community strategic Plan 2017-2027: Leadership for the Region Community Outcome 3– being that Council demonstrates sound organisational health and has a culture which promotes action, accountability and transparency.

##### **5.2. Risk**

Nil

##### **5.3. Sustainability**

Nil

#### 5.4. Financial

Nil

Budget Area:	NIL						
Funding Source:							
Budget Ref: (PN)	Description	Approved Budget	Actual	Committed	Proposed	Total Forecast Expenditure	Remaining Budget

#### 6. Consultation and Communication

Under section 361 of the *Local Government Act 1993*, before adopting a new code of meeting practice, councils must first exhibit a draft of the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the draft code.

#### 7. Conclusion

The council is required to function under the current adopted code of meeting practice until the adoption of the draft code of meeting practice following the exhibition period.

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<b>Item:</b>	<b>8.8</b>	<b>Ref: AINT/2021/44383</b>
<b>Title:</b>	<b>Councillor and Staff Interaction Policy</b>	<b>Container: ARC21/4520</b>
<b>Responsible Officer</b>	<b>Chief Officer Corporate &amp; Strategy</b>	
<b>Author:</b>	<b>Stacey Drew, Executive Policy Advisor</b>	
<b>Attachments:</b>	1. Councillor and Staff Interaction Policy	

### **1. Purpose**

This purpose of this policy is to provide guidance and support for Councillors and council staff in the performance of their duties. It complements the Armidale Regional Council Model Code of Conduct and supports compliance with the 'Conduct and Interests' provisions in Part 4 of the Act.

#### **OFFICERS' RECOMMENDATION:**

That Council:

- a. Endorse the Councillor and Staff Interaction Policy for public exhibition commencing 17 January 2022 for a period of 28 days concluding 14 February 2022, noting no amendments have been recommended to the current policy.

### **2. Background**

This updated Councillor and Staff Interaction Policy intends to govern a respectful, transparent and constructive relationship between Councillors and Council Staff, by articulating their different but complementary roles, defining reasonable expectations, and establishing clear and effective communication protocols that facilitate good governance and Council's optimum performance.

The creation and utilisation of the Councillor Request Register was an order contained in the Performance Improvement Order (PIO) issued by the Minister for Local Government in December 2020, which has proven to have contributed to effective and transparent communication between Councillors and staff.

### **3. Discussion**

Under the *Local Government Act 1993* it is the responsibility of the Council to appoint the General Manager. The General Manager is then responsible for employing staff for the successful operation of the organisation. As Council does not employ the staff Council, or individual Councillors, cannot direct or manage staff and are responsible only for the performance of the General Manager.

Further to this, Councillors are prohibited under Section 76E of the Act from improperly directing or influencing Council Staff. A Councillor must not direct, or seek to direct, a member of Council staff:

- a. in the exercise of a delegated power, or the performance of a delegated duty or function of the Council; or
- b. in the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under legislation; or Implications
- c. in the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under legislation; or

- d. in relation to advice provided to the Council or a special committee, including advice in a report to the Council or special committee.

Improper or undue influence can include:

- Disrespecting the professional opinion, skills or expertise of staff through intimidatory, bullying, harassing or disrespectful behaviour;
- Using rank or position to seek information outside the processes outlined in this Policy;
- Pressuring staff to make a decision outside the formal Council decision making processes;
- Pressuring staff to provide information, services or assistance to one person, group or part of the community over another, outside a formal decision of Council;
- Pressuring staff to make a decision to take action outside normal business process timeframes;
- Pressuring staff to change a recommendation in a Council Report.

Council current adopted Councillor and Staff Interaction policy support Councillors in the conduct of their civic duties, and in conjunction with the Councillor Request Procedure assists with the management of effective timely communication and request tracking.

#### 4. Implications

The NSW *Local Government Act 1993* (the Act) defines the roles and responsibilities of the Mayor and Councillors, and specifies that the General Manager is to direct staff in the performance of their duties. Interactions between Councillors and staff are necessary to facilitate well-informed decisions and the provision of Council services.

##### 4.1. Strategic and Policy Implications

This report contributes to the delivery the Community strategic Plan 2017-2027: Leadership for the Region Community Outcome 3– being that Council demonstrates sound organisational health and has a culture which promotes action, accountability and transparency.

Other relevant polices are the Code of Conduct and the Business Ethics Policy.

##### 4.2. Risk

Continuous review and enhancements of policies gently shapes Council into the kind of place that is not only compliant but that is close to its roots, the community, and the people it serves.

##### 4.3. Sustainability

Nil

##### 4.4. Financial

Nil

Budget Area:	Nil						
Funding Source:	Nil						
Budget Ref: (PN)	Description	Approved Budget	Actual	Committed	Proposed	Total Forecast Expenditure	Remaining Budget

**5. Consultation and Communication**

It is timely that the Councillor and Staff Interaction Policy be reviewed and adopted by the new Council to ensure clarity and understanding of the policy.

**6. Conclusion**

No amendments have been made to this policy.

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<b>Item:</b>	<b>8.9</b>	<b>Ref: AINT/2021/40108</b>
<b>Title:</b>	<b>Ordinary Council Meeting Cycle for 2022</b>	<b>Container: ARC16/0001-6</b>
<b>Responsible Officer</b>	<b>Chief Officer Corporate &amp; Strategy</b>	
<b>Author:</b>	<b>Jessica Bower, Executive Officer</b>	
<b>Attachments:</b>	Nil	

### **1. Purpose**

The purpose of this report is to present to Council for adoption the schedule for Ordinary Council meetings for the remainder of the 2021-22 financial year.

### **2. OFFICERS' RECOMMENDATION:**

- a. That the Ordinary Council Meeting cycle for the remainder of the 2021-2022 financial year be scheduled for the fourth Wednesday of each month as follows:
  - Wednesday 23 February 2022, in Guyra
  - Wednesday 23 March 2022, in Armidale
  - Wednesday 27 April 2022 in Armidale
  - Wednesday 25 May 2022 in Guyra
  - Wednesday 22 June 2022 in Armidale.
- b. That the time for the Ordinary Council meetings to commence is 4pm.

### **3. Background**

Council's Code of Meeting Practice requires Council, by resolution, to set the frequency, time, date and place of its Ordinary Meetings.

Under section 365 of the *Local Government Act 1993*, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A.

The current practice is for Council meetings to be conducted on the fourth (4th) Wednesday of each month, except for December and/or January. The meetings cycle includes a rotation between Armidale and Guyra. This has been retained in the proposed meeting cycle and it is up to the new elected Council to determine if this should continue.

### **4. Discussion**

When setting the time and date, Council should give consideration to the needs of the public, the most effective use of Councillor time and the safety and wellbeing of Councillors and staff. The time and day of the meetings is to be determined according to Councillor availability and preferences. Council may also wish to consider the start time of the monthly ordinary meeting and determine whether it is right for them as a group.

## **5. Implications**

### **5.1. Strategic and Policy Implications**

There are no significant implications as the proposed meeting cycle is unchanged from the previously adopted cycle. The schedule aligns with the Revised Code of Meeting Practice, which is included in a separate report to this meeting for consideration.

### **5.2. Risk**

There are no risk implications.

### **5.3. Sustainability**

There are no sustainability implications.

### **5.4. Financial**

There are no financial implications.

Budget Area:	Nil						
Funding Source:	Nil						
Budget Ref: (PN)	Description	Approved Budget	Actual	Committed	Proposed	Total Forecast Expenditure	Remaining Budget
Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil

## **6. Consultation and Communication**

The dates will be publicly advertised and the information will be available on the website.

## **7. Conclusion**

This report recommends that dates be set for the remainder of the 2021-22 financial year, as required in the Code of Meeting Practice. The next steps will be to implement the Ordinary Council meeting cycle as determined by Council.