



Extraordinary Meeting
14 October 2024 at 6.00pm



ORDER OF BUSINESS

Prayer by Rev'd Michael Armstrong

Attendance, Apologies

Declarations of Interests

Council Reports

Council in Committee of the Whole

HUNTER'S HILL COUNCIL
EXTRAORDINARY MEETING OF COUNCIL
14 October 2024

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ITEM NO	: 1.1
SUBJECT	: WELCOME TO COUNCILLORS - OATH/AFFIRMATION OF OFFICE
STRATEGIC OUTCOME	: THE COMMUNITY IS AWARE OF COUNCIL DECISIONS THROUGH A TRANSPARENT AND DEMOCRATIC ENGAGEMENT PROCESS
ACTION	: DELIVER A DIVERSE ENGAGEMENT PROGRAM TO ENHANCE COMMUNITY AWARENESS AND PARTICIPATION
REPORTING OFFICER	: MITCHELL MURPHY

Ref:727175

PURPOSE

The purpose is to report results of the Local Government Election held 14 September 2024 and to facilitate Councillors to take Oath/Affirmation of Office.

RECOMMENDATION

1. That the election results be noted.
2. That Councillors take the Oath/Affirmation of Office in the form contained in the report.

BACKGROUND

On 14 September 2024, Local Government elections were held for popularly elected Mayor and six Councillors in the North and South Wards.

Result of Election for Councillors

Cr Zac Miles was returned as the Mayor of Hunter's Hill Council and Councillors elected to the wards until the next ordinary election of the Council in 2028 were:

North Ward (alphabetical order)

Cr Carla Kassab
Cr Carol Tannous-Sleiman
Cr Ross Williams

South Ward (alphabetical order)

Cr Marc Lane
Cr Julia Prieston
Cr Tatyana Virgara

REPORT

Oath or Affirmation of Office

In 2016 the Local Government Act 1993 was amended to include a new section 233A which mandates the taking of an oath or affirmation and details the form of words to be used.

Local Government Act 1993

233A 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).*

Councillors will be required to take the Oath or Affirmation during the first meeting of Council.
(See **Attachment 1**)

CONCLUSION

The taking of the Oath/Affirmation is a requirement of the *Local Government Act 1993*.

FINANCIAL IMPACT ASSESSMENT

There is no direct financial impact on Council's adopted budget as a result of this report.

ENVIRONMENTAL IMPACT ASSESSMENT

There is no direct environmental impact on Council arising from Council consideration of this matter.

SOCIAL IMPACT ASSESSMENT

There is no direct social impact on Council arising from Council consideration of this matter.

RISK ASSESSMENT

There are no direct or indirect risks impacting on Council arising from consideration of this matter.

ATTACHMENTS

1. Oath/Affirmation of Office [↓](#)



OATH OF OFFICE

Local Government Act 1993 s233A(2)

I [*name of councillor*] swear that I will undertake the duties of the office of councillor in the best interests of the people of Hunters Hill and the Hunter's Hill 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.

Signed
Name of councillor
COUNCILLOR

Signed
Mitchell Murphy
GENERAL MANAGER



AFFIRMATION OF OFFICE

Local Government Act 1993 s233A(2)

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 Hunters Hill and the Hunter's Hill 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.

Signed
Name of councillor
COUNCILLOR

Signed
Mitchell Murphy
GENERAL MANAGER

ITEM NO	: 1.2
SUBJECT	: ELECTION OF DEPUTY MAYOR
STRATEGIC OUTCOME	: THE COMMUNITY IS AWARE OF COUNCIL DECISIONS THROUGH A TRANSPARENT AND DEMOCRATIC ENGAGEMENT PROCESS
ACTION	: DELIVER A DIVERSE ENGAGEMENT PROGRAM TO ENHANCE COMMUNITY AWARENESS AND PARTICIPATION
REPORTING OFFICER	: MITCHELL MURPHY

Ref:727037

PURPOSE

The purpose of this report is to elect a Deputy Mayor to fill the position for a period to be determined by the Council.

RECOMMENDATION

1. That Council determine the term of the Deputy Mayor.
2. That Council determine the method of voting for the election of Deputy Mayor, if more than one nomination is received.

BACKGROUND

When a Deputy Mayor is elected by the Council, it shall be done in accordance with the Local Government Act 1993 – S231 (**attachment 1**) and the Local Government (General) Regulation 2005 – Schedule 7 (**attachment 2 and 3**).

The Mayor will hand the meeting over to the Returning Officer for the election of a Deputy Mayor.

REPORT

Council is required to determine the term of the Deputy Mayor. (See **Attachment 1** Local Government Act 1993 - S231). The term can be for the Mayoral Term (four years) or a shorter time.

Nominations for election must be in writing and require a proposer and a seconder (one of whom may be the nominee), and the consent of the nominee.

Nomination forms have been distributed with this business paper and are to be delivered to the General Manager as the Returning Officer for the election prior to the commencement of the Oath or Affirmation Meeting on 14 October 2024.

If more than one Councillor is nominated, the Council must resolve whether the election is to proceed by:

- Preferential Ballot
- Ordinary Ballot
- Open Voting

Ordinary and Preferential Ballots are secret ballots. Open Voting means voting by show of hands.

Should a ballot be required, it is to be conducted in accordance with the procedures contained in Schedule 7.

CONCLUSION

A nomination form for the position of Deputy Mayor is attached. The form must be completed and returned to the Acting General Manager as the Returning Officer prior to the election.

FINANCIAL IMPACT ASSESSMENT

There is no direct financial impact on Council's adopted budget as a result of this report.

ENVIRONMENTAL IMPACT ASSESSMENT

There is no direct environmental impact on Council arising from Council consideration of this matter.

SOCIAL IMPACT ASSESSMENT

There is no direct social impact on Council arising from Council consideration of this matter.

RISK ASSESSMENT

There are no direct or indirect risks impacting on Council arising from consideration of this matter.

ATTACHMENTS

1. Local Government Act 1993 SECT 231 Deputy Mayor [↓](#)
2. Local Government (General) Regulation 2005 Clause 394 - Election of Mayors or Deputy Mayors by Councillors [↓](#)
3. Schedule 7 Election of Deputy Mayors by Councillors [↓](#)
4. Nomination Form and Ballot Paper [↓](#)

Local Government Act 1993S231 *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.*
- (3) *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.*
- (4) *The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.*

LOCAL GOVERNMENT (GENERAL) REGULATION 2005

Clause 394 Election of Mayors of Deputy Mayor by Councillors

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 ELECTION OF DEPUTY MAYOR BY COUNCILLORS**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 of 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.

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 (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.

6 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.

7 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 in subclause (2) is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), 2 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 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.

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 deputy mayor) is:

- (1) To be declared to the councillors at the Ordinary / Extraordinary Council meeting at which the election is held by the returning officer, and
- (2) To be delivered or sent to the Director-General and to the Secretary of the LGNSW.

ITEM NO	: 1.3
SUBJECT	: DELEGATION OF POWERS TO MAYOR AND DEPUTY MAYOR
STRATEGIC OUTCOME	: THE COMMUNITY IS AWARE OF COUNCIL DECISIONS THROUGH A TRANSPARENT AND DEMOCRATIC ENGAGEMENT PROCESS
ACTION	: DELIVER A DIVERSE ENGAGEMENT PROGRAM TO ENHANCE COMMUNITY AWARENESS AND PARTICIPATION
REPORTING OFFICER	: MITCHELL MURPHY

Ref:727256

PURPOSE

The purpose of this report is to present to Council and confirm the delegation of Powers to Mayor and Deputy Mayor.

RECOMMENDATION

1. That the power and authorities contained in the Delegated Authority Instrument – Corp. S- Pol.10 Delegation of Powers to Mayor, be delegated pursuant to Section 377 of the Local Government Act, 1993 to the Mayor Cr Zac Miles for the ensuing term of Council.
2. That the power and authorities contained in the Delegated Authority Instrument – Corp. S- Pol.11 Delegation of Powers to Deputy Mayor, be delegated pursuant to Section 377 of the Local Government Act, 1993 to the Deputy Mayor for the ensuing term of Council.

BACKGROUND

It is necessary for any person holding delegated authority to be named in the resolution, it is therefore necessary that general authority of the Mayor and Deputy Mayor should be updated following their election to Office.

REPORT

Subject to the requirements of the Act and the Regulations, and any expressed policy or direction of the Council, it is proposed that the Council, pursuant to the provision of Section 377 of the Act and every other enabling statutory power, delegates to the person who occupies the position of Mayor, Councillor Zac Miles, to exercise or perform on behalf of the Council, powers, authorities, duties or functions as set out in **Attachment 1**.

Following the election of the Deputy Mayor it is proposed that Council delegates to the Deputy Mayor those powers and authorities as set out in **Attachment 2**.

FINANCIAL IMPACT ASSESSMENT

There is no direct financial impact on Council's adopted budget as a result of this report.

ENVIRONMENTAL IMPACT ASSESSMENT

There is no direct environmental impact on Council arising from Council consideration of this matter.

SOCIAL IMPACT ASSESSMENT

There is no direct social impact on Council arising from Council consideration of this matter.

RISK ASSESSMENT

There are no direct or indirect risks impacting on Council arising from consideration of this matter.

ATTACHMENTS

1. Delegation of Powers to Mayor [↓](#)
2. Delegation of Powers to Deputy Mayor [↓](#)

ITEM NO	: 1.4
SUBJECT	: INTRODUCTION OF THE COUNTBACK METHOD
STRATEGIC OUTCOME	: THE COMMUNITY IS AWARE OF COUNCIL DECISIONS THROUGH A TRANSPARENT AND DEMOCRATIC ENGAGEMENT PROCESS
ACTION	: DELIVER A DIVERSE ENGAGEMENT PROGRAM TO ENHANCE COMMUNITY AWARENESS AND PARTICIPATION
REPORTING OFFICER	: MITCHELL MURPHY

Ref:726791

PURPOSE

The purpose of this report is to seek Council's approval to implement the countback method in the event that there is a need for the filling of a vacancy rather than relying on a by-election.

RECOMMENDATION

1. That the report be received and noted.
2. That Council advise whether it wishes to implement the countback method in the event that there is a need to fill a vacancy.

BACKGROUND

Steve Robb, Director Customer Service & Relationship Management from NSW Electoral Commission advised Council of the implementation of countbacks, which is attached to this report.

Note: Council voted unanimously (10 January, 2022) not to implement the countback method post the previous Local Government election.

REPORT

At the first meeting after the ordinary election, councils are required to resolve to fill casual vacancies occurring in the first 18 months after the election using a countback if they want to fill casual vacancies by these means.

If councils do not resolve to fill casual vacancies using a countback at their first meeting after the election, by-elections will need to be held to fill vacancies.

FINANCIAL IMPACT ASSESSMENT

There is no direct financial impact on Council's adopted budget as a result of this report.

ENVIRONMENTAL IMPACT ASSESSMENT

There is no direct environmental impact on Council arising from Council consideration of this matter.

SOCIAL IMPACT ASSESSMENT

There is no direct social impact on Council arising from Council consideration of this matter.

RISK ASSESSMENT

There are no direct or indirect risks impacting on Council arising from consideration of this matter.

ATTACHMENTS

1. Email from NSW Electoral Commission [↓](#)

ITEM NO	: 1.5
SUBJECT	: ANNUAL FINANCIAL STATEMENTS FOR 30 JUNE, 2024
STRATEGIC OUTCOME	: A VISION OF CONTINUOUS IMPROVEMENT IS SHARED BY COUNCILLORS AND COUNCIL STAFF.
ACTION	: IMPLEMENT THE ACTIONS FROM THE AUDIT, RISK AND IMPROVEMENT COMMITTEE (ARIC)
REPORTING OFFICER	: MARIA KENNY

Ref:727224

PURPOSE

The purpose of this report is to present the draft financial statements for the year ending 30 June, 2024.

RECOMMENDATION

1. That the report be received and noted.
2. That the draft 2023-24 General Purpose Financial Statements be referred for external audit, and to the Audit Risk and Improvement Committee, for its review of the Statements and the External Auditor's report.

BACKGROUND

Section 416(1) of the Local Government Act 1993 (the Act) requires financial statements to be prepared and audited within four months at the end of the financial year.

External Auditors appointed by NSW Audit Office, will conduct an external audit review of these statements, with the audited final Statements to be tabled for adoption by the elected governing body at the Ordinary Meeting of 28 October, 2024.

In accordance with the requirements of Section 418 of the Act, public notice will also be provided to inform the community that the audited statements will be reported at this meeting. Council's external auditors will be in attendance to provide an overview of their findings and to answer any Councillor questions.

The draft financial statements and external audit report will be reviewed by the Audit, Risk and Improvement Committee at its meeting on 17 October, 2024.

REPORT

Council's original budget for FY2023-24 provided for an operational surplus of \$7.718m and a net operating deficit result before capital items of (\$2.605m). The original operational budgeted surplus was inclusive of grant income that was to be recognised for the substantial completion of the Upgrade of Gladesville Reserve, Figtree Park, Bedlam Bay Swim Site and the Boronia Park Sporting and Community Facility.

Whilst most projects were completed as at 30 June 2024, as required by the applicable accounting standard, any unspent grant funds have instead been recorded as a grant liability in the Balance Sheet (instead of Capital income for grant & contributions).

The Net Operating Result for the year ending 30 June, 2024 was surplus of \$6.435m (or a net operating result before capital of \$1.443m in deficit).

The draft Financial Statements are at **Attachment 1**. The results of significant items include:

Item	2023-24 Actual	2022-23 Last year	2023-24 Budget	Variance to last year	Variance to budget
Income statement \$'000 - Surplus/(Deficit)					
Rates and annual charges	14,778	14,192	14,992		
User charges and fees	1,522	1,859	1,303		
Other revenues	1,469	1,497	1,130		
Grants and contributions – operating	1,418	1,133	1,371		
Grants and contributions – capital	7,878	2,466	10,323		
Income and investment income	1,110	775	739		
Other income	151	147			
Net gain from the disposal of assets	-	-	130		
Total Income	28,326	22,069	29,988	28.4%	-5.6%
Employee benefits and on-costs	6,409	6,050	7,033		
Materials and services	10,027	9,208	9,575		
Depreciation	3,867	4,174	4,029		
Other Expenses	1,087	963	1,476		
Net loss from asset disposals	501	305	157		
Total Expenses	21,891	20,700	22,270	5.8%	-1.7%
Net operating result	6,435	1,369	7,718		
Net operating result before capital	(1,443)	(1,097)	(2,605)		

Balance sheet	2023-24 Actual	2022-23 Last year			
Net assets (Total assets – Liabilities)	316,314	274,356			
Capital expenditure*	13,359	4,205			
Cash flow statements					
Cash at year end	19,966	28,557			
Unrestricted cash	1,942	10,177			
* Note C1-6 - Infrastructure, property, plant and equipment (new and asset renewals for FY2023-24).					

Council recorded a 28.4% increase in income overall from last year's result. There were increases across all income categories, except for User charges and fees and Other revenue. Last year's results for user charges and other revenue was primarily driven by rebounded economic conditions recovering to pre-pandemic levels, this was reflected in increased income to forecast budget for DA, Road Restorations, Work Zone Fees and Fines income.

Council recorded a 5.8% increase in expenses overall from last year's result. There were increases across all expense categories, except for Depreciation.

The material variations to budget and last year results i.e. differences of greater than 10%, are summarised below:

User charges and fees and Other revenues

- DA fees, Notices and Orders, Building Information Certificates, Food Inspection Fees, Stand Plant and Driveway Applications, Parking Fines and Unauthorised Development fines all exceeded budget.

Capital grants and contributions

- The material difference between budget and actual capital grant income being recognised, is due to staging of capital projects being bought forward to the next financial year. Key projects include Bedlam Bay swimming enclosure, funded from the NSW Places to Swim program and Figtree Park Amenities, funded through the NSW Public Spaces Legacy Program.
- Continued property turnover in the area has also resulted in s7.12 Developer Contributions being over-budget. However, in comparison to last financial year, this income category has decreased.

Interest and investment Revenue

- During FY2023-24, Council continued to implement a pro-active Investment Strategy. Material income increases were derived from high-interest yielding term deposits, along with Bond and Floating Rate Note income.

Other expenses

- The material difference for Other expenses included payment to Lane Cove Council for Shared Library Services being under the original allocated budget.

FINANCIAL IMPACT ASSESSMENT

In the March 2024 Quarterly Budget Review Statement, Council's result was projected to be an operational deficit of \$7,714m (or a net operating result before capital of \$2.910m in deficit).

ENVIRONMENTAL IMPACT ASSESSMENT

There is no direct environmental impact on Council arising from Council consideration of this matter.

SOCIAL IMPACT ASSESSMENT

There is no direct social impact on Council arising from Council consideration of this matter.

RISK ASSESSMENT

There are no direct or indirect risks impacting on Council arising from consideration of this matter.

ATTACHMENTS

1. Unaudited Financial Statements 30 June 2024 [↓](#)

