



Meeting Notice and Agenda

for the

Special Meeting of the Council

to be held in the

Council Chambers, 118 Victoria Street, St George

on

Thursday 27th April 2023

Commencing at 11:30am

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ORDER OF PROCEEDINGS

1. Opening
2. Council Prayer
3. Attendance

Expected attendance of this meeting is as follows:

Councillors		Staff/Consultants	
Cr SC O'Toole (Mayor)	-Full Meeting	Mr Matthew Magin (Chief Executive Officer)	-Whole Meeting
Cr R Avery	-Full Meeting	Mrs Michelle Clarke (Director Finance & Corporate Services)	-Whole Meeting
Cr RG Fuhrmeister	-Full Meeting	Mr Chris Whitaker (Director Infrastructure Services)	-As required for IFS
Cr SS Scriven	-Full Meeting	Dr Digby Whyte (Director Community & Environmental Services)	-As required for ERS
Cr W Winks	-Full Meeting		
Cr AC Benn	-Full Meeting		

4. Leave of Absence
5. Reception and consideration of correspondence

N.B. COUNCILLORS ARE REQUESTED TO BRING THEIR PREVIOUSLY FORWARDED COPIES OF AGENDA ITEMS TO THE MEETING PLEASE, AS FURTHER COPIES WILL NOT BE AVAILABLE.

MEETING BUSINESS BY CORPORATE FUNCTION

(OCEO) OFFICE OF THE CEO

ITEM	TITLE	SUB HEADING	PAGE
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OFFICER REPORT

TO: Council

SUBJECT: Nomination for Councillor Vacancy

DATE: 02.04.23

AGENDA REF: OCE01

AUTHOR: Matthew Magin - Chief Executive Officer
Michelle Clarke - Director Finance & Corporate Services

Sub-Heading

Nomination of a councillor to fill vacancy.

Executive Summary

The purpose of this report is to confirm the process for filling the consequential vacancy in office of a councillor following the resignation of Cr Richard Lomman effective 1 April 2023.

Background

On 16 March 2023 Cr Richard Lomman submitted his resignation as councillor effective 1 April 2023, as allowed by s. 162.1.f of the Local Government Act 2009.

The Local Government Act 2009 contemplates vacancies arising in councillor positions at different times in the local government term. For resignations and subsequent vacancies that occur in the final 12 months of a term (following the third anniversary of the 2020 local government elections on 28 March 2023), Council must (s. 166.1.c of the Act) resolve to appoint a person to fill the vacancy.

The Electoral Commission Queensland plays no part in the appointment process; there is no option to stage a by-election, nor can the vacancy be left unfilled. Upon the office becoming vacant expressions of interest were called – opening Monday 3 April 2023 and closing at 5pm on Wednesday 12 April 2023 in accordance s166B of the Local Government Act 2009.

Link to Corporate Plan

Key Foundation Area	Key Program Area
<u>Governance</u>	High levels of transparency and compliance

Consultation (internal/external)

Applications were publicly invited and advertised widely to ensure any intending candidate has the opportunity to participate in the process.

Officers have conferred with the Electoral Commission of Queensland, Department of Local Government and counterparts at other councils in similar circumstances to ensure adherence to the statutory process for filling the vacancy.

Councillors have been involved closely in the design of the proposed process to fill the vacancy.

Legal Implications

Division 3, Chapter 6 of the Local Government Act 2009 governs "Vacancies in councillor's office". Councillors are obliged to appoint a suitable person to fill the vacancy created by the resignation of Cr Lomman.

Risk Implications

Reputation - Inadequate engagement and assessment of the impact of external and internal stakeholders on our community, viability and productive capacity.

Policy Implications

Not applicable

Financial and Resource Implications

The process has been managed in house and there are minimal financial costs.

Options or Alternatives

Amend the proposed dates and/or selection criteria.

Attachments

Nil

Recommendation/s

That Council resolves to:

Fill the vacant office of a councillor under Section 166(1)(c) of the Local Government Act 2009 to the person it has considered is qualified to be a councillor following the process followed under S166B of the Local Government Act 2009.

Matthew Magin
Chief Executive Officer

OFFICER REPORT

TO: Council

SUBJECT: Declaration of Office - Councillor

DATE: 02.04.23

AGENDA REF: OCE02

AUTHOR: Matthew Magin - Chief Executive Officer
Michelle Clarke - Director Finance & Corporate Services

Sub-Heading

Declaration of Office - Councillor

Executive Summary

The purpose of this report is for the new Councillor to make a declaration of office before acting in their office as an elected member of the Balonne Shire Council.

Background

Under section 169(2) of the Local Government Act 2009 a person resolved as a Councillor under S166 of the Local Government must not act in the office until the person makes the declaration of office.

The Declaration of Office is prescribed in S254 of the Local Government Regulations 2012 as follows:

I, Councillor _____
having been elected/appointed as a councillor of the Balonne Shire Council, declare that I will faithfully and impartially fulfil the duties of the office, in accordance with the local government principles and code of conduct under the Local Government Act 2009, to the best of my judgment and ability.

Link to Corporate Plan

Key Foundation Area	Key Program Area
<u>Governance</u>	High levels of transparency and compliance

Consultation (internal/external)

Not applicable

Legal Implications

Section 169 of the Local Government Act states the obligations of councillors before acting in office:

- (1) A councillor must not act in office until the councillor makes the declaration of office.
 - (2) The declaration of office is a declaration prescribed under a regulation.
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- (3) The chief executive officer is authorised to take the declaration of office.
- (4) The chief executive officer must keep a record of the taking of the declaration of office.
- (5) A person ceases to be a councillor if the person does not comply with subsection (1) within—
 - (a) 30 days after being appointed or elected; or
 - (b) a longer period allowed by the Minister.

Section 12 of the Local Government Act sets out the responsibilities of councillors:

- (1) A councillor must represent the current and future interests of the residents of the local government area.
- (2) All councillors of a local government have the same responsibilities, but the mayor has some extra responsibilities.
- (3) All councillors have the following responsibilities—
 - (a) ensuring the local government—
 - (i) discharges its responsibilities under this Act; and
 - (ii) achieves its corporate plan; and
 - (iii) complies with all laws that apply to local governments;
 - (b) providing high quality leadership to the local government and the community;
 - (c) participating in council meetings, policy development, and decision-making, for the benefit of the local government area;
 - (d) being accountable to the community for the local government's performance.
- (4) The mayor has the following extra responsibilities—
 - (a) leading and managing meetings of the local government at which the mayor is the chairperson, including managing the conduct of the participants at the meetings;
 - (b) leading, managing, and providing strategic direction to, the chief executive officer in order to achieve the high quality administration of the local government;
 - (c) directing the chief executive officer in accordance with a resolution, or a document adopted by resolution, of the local government;
 - (d) conducting a performance appraisal of the chief executive officer, at least annually, in the way that is decided by the local government (including as a member of a committee, for example);
 - (e) ensuring that the local government promptly provides the Minister with the information about the local government area, or the local government, that is requested by the Minister;
 - (f) being a member of each standing committee of the local government;
 - (g) representing the local government at ceremonial or civic functions.
- (5) A councillor who is not the mayor may perform the mayor's extra responsibilities only if the mayor delegates the responsibility to the councillor.
- (6) When performing a responsibility, a councillor must serve the overall public interest of the whole local government area.

Risk Implications

Reputation - Inadequate engagement and assessment of the impact of external and internal stakeholders on our community, viability and productive capacity.

Policy Implications

Councillor Code of Conduct

Financial and Resource Implications

Nil

Options or Alternatives

Not applicable

Attachments

Nil

Recommendation/s

Note the declaration of office.

Matthew Magin

Chief Executive Officer

OFFICER REPORT

TO: Council

SUBJECT: Appointment of Deputy Mayor

DATE: 02.04.23

AGENDA REF: OCE03

AUTHOR: Matthew Magin - Chief Executive Officer
Michelle Clarke - Director Finance & Corporate Services

Sub-Heading

Appointment of Deputy Mayor

Executive Summary

A local government must, by resolution, appoint a Deputy Mayor from its councillors (other than the mayor) at the next meeting of Council following a vacancy. The Deputy Mayor acts for the Mayor during the absence or temporary incapacity of the Mayor, or a vacancy in the office of Mayor.

Background

The Council must resolve to appoint a Deputy Mayor. This can be by moving a motion to appoint to be put to the vote. The Deputy Mayor acts for the Mayor during the absence or temporary incapacity of the Mayor, or a vacancy in the office of Mayor. Should both the Mayor and Deputy Mayor be absent or prevented from performing the role, Council may resolve to appoint an acting mayor from its councillors.

Link to Corporate Plan

Key Foundation Area	Key Program Area
<u>Governance</u>	High levels of transparency and compliance

Consultation (internal/external)

Council resolved at its meeting on 16 March 2023 to appoint Cr Fuhrmeister as its Acting Mayor effective 1 April 2023 following the resignation of the Deputy Mayor Richard Lomman.

Legal Implications

Local Government Act 2009 Section 175 (2)

The local government must, by resolution, appoint a deputy mayor from its councillors (other than the mayor) –
(a) at that meeting; and

(b) at the first meeting after the office of the councillor who is the deputy mayor becomes vacant.

Local Government Act 2009 Section 165 (1)

The deputy mayor acts for the mayor during –

(a) the absence or temporary incapacity of the mayor; or

(b) a vacancy in the office of mayor.

Risk Implications

Reputation - Inadequate engagement and assessment of the impact of external and internal stakeholders on our community, viability and productive capacity.

Policy Implications

Councillor Code of Conduct
Code of Meeting Practice

Financial and Resource Implications

Nil

Options or Alternatives

- a) As per the recommendation
- b) Add that a councillor be nominated as Acting Mayor in the absence or temporary incapacity of both the Mayor and Deputy Mayor.

Attachments

Nil

Recommendation/s

That Council resolves to:

- (a) appoint a Councillor as Deputy Mayor pursuant to Section 175(2) of the *Local Government Act 2009*; and
- (b) note that a Deputy Mayor will act for the Mayor during the absence or temporary incapacity of the Mayor; or a vacancy in the Office of Mayor.

Matthew Magin

Chief Executive Officer

CONFIDENTIAL ITEMS

GENERAL BUSINESS

COUNCILLOR REPORTS

That Council receive and note the Councillor reports on their activities during the preceding month.

INFORMATION REPORTS