



northern  
beaches  
council

# AGENDA

Notice is hereby given that an Extraordinary Meeting of Council will be held at the Civic Centre, Dee Why on

**Tuesday 16 May 2023**

Beginning at 6:00pm for the purpose of considering and determining matters included in this agenda.

A handwritten signature in black ink, appearing to read 'Louise Kerr'.

**Louise Kerr**  
**Interim Chief Executive Officer**

## OUR VISION

*Delivering the highest quality service valued and trusted by our community*

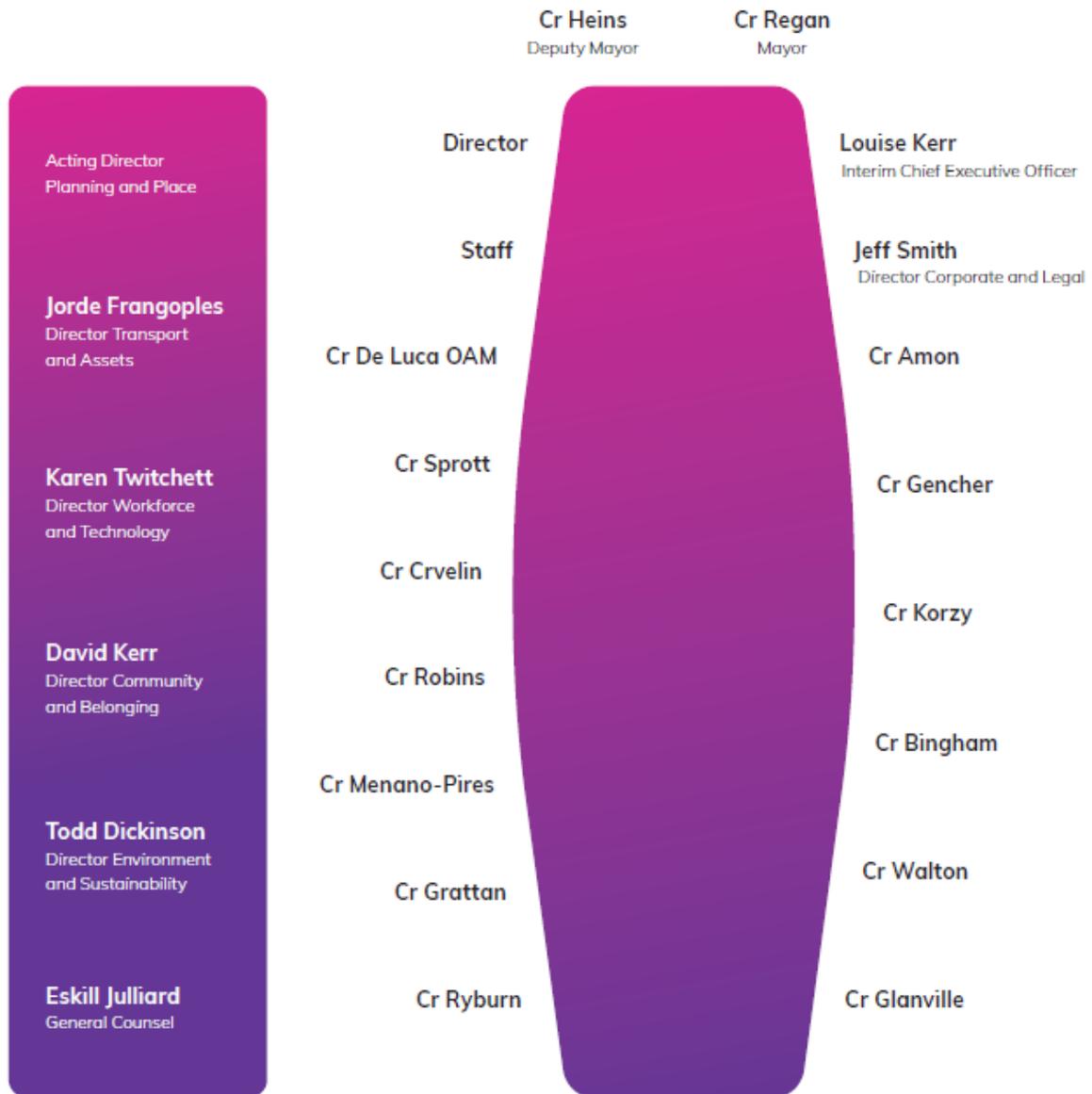
## OUR VALUES

*Trust Teamwork Respect Integrity Service Leadership*

## OUR OBLIGATIONS

*I swear/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 the Northern Beaches and the Northern Beaches 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 judgement.*

## Council Chambers Seating Plan



Public Gallery

**Agenda for an Extraordinary Meeting of Council  
to be held on Tuesday 16 May 2023  
at the Civic Centre, Dee Why  
Commencing at 6:00pm**

|            |  |          |
|------------|--|----------|
| <b>1.0</b> | <b>ACKNOWLEDGEMENT OF COUNTRY</b>  |          |
| <b>2.0</b> | <b>APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE</b>   |          |
| <b>3.0</b> | <b>DISCLOSURES OF INTEREST</b>   |          |
| <b>6.0</b> | <b>MAYORAL MINUTES</b>   |          |
| 6.1        | Mayoral Minute No 3/2023<br><i>(Report not available at the time of publishing and will be circulated as a<br/>Supplementary Agenda)</i> |          |
| <b>7.0</b> | <b>CHIEF EXECUTIVE OFFICER'S DIVISION REPORTS .....</b>  | <b>6</b> |
| 7.1        | Election of Mayor.....   | 6        |

## **1.0 ACKNOWLEDGEMENT OF COUNTRY**

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As a sign of respect, Northern Beaches Council acknowledges the traditional custodians of these lands on which we gather and pays respect to Elders past and present.

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## **2.0 APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE**

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In accordance with Part 6 of the Code of Meeting Practice, apologies must be received and accepted from absent Councillors and a leave of absence from the Council meeting may be granted.

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## **3.0 DISCLOSURES OF INTEREST**

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In accordance with Part 17 of the Code of Meeting Practice, all Councillors must disclose and manage any conflicts of interest they may have in matters being considered at the meeting.

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## 7.0 CHIEF EXECUTIVE OFFICER'S DIVISION REPORTS

|                   |   |
|-------------------|---|
| ITEM 7.1          | ELECTION OF MAYOR                           |
| REPORTING MANAGER | DIRECTOR CORPORATE & LEGAL                  |
| TRIM FILE REF     | 2023/278682                                 |
| ATTACHMENTS       | 1 <a href="#">↓</a> Nomination Form - Mayor |

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### BRIEF REPORT

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#### PURPOSE

To consider the election of a Mayor, and the method by which the election will be conducted, to fill the foreshadowed casual vacancy in the office of Mayor for the balance of the current Mayoral term which ends in September 2023.

#### REPORT

Section 225 of the *Local Government Act 1993* (the Act) requires a council to have a Mayor and the Northern Beaches Council must elect its Mayor in accordance with section 227(a) and 282(2) of the Act. That is, the Council itself is to elect one of its members to the office of Mayor.

Section 230(1) of the Act provides that a Mayor elected by the councillors holds the office of Mayor for 2 years, subject to the Act. Section 290(1)(b) of the Act provides that the election of the Mayor by the councillors is to be held - if it is not the first election or an election to fill a casual vacancy - during the month of September. Accordingly, because the last ordinary local government election was held in December 2021, the term of the Mayor elected by councillors on 29 December 2021 is shorter than the usual two years provided for under the Act and the mid-term Mayoral election will need to be held in September 2023. The Mayor elected at that mid-term election will then hold office for 1 year until the next ordinary local government election is held in September 2024.

In the event of a casual vacancy in the office of Mayor, section 295(1) of the Act requires that the vacancy is to be filled at a meeting of the council to be held within 14 days after the occurrence of the vacancy.

On 3 May 2023, Mayor Regan foreshadowed his intention to resign from the Office of Mayor. The resignation of Mayor Regan will result in a casual vacancy in the office of Mayor. Accordingly, under section 4.2 of Council's Code of Meeting Practice, an extraordinary meeting of the Council was called to deal with the foreshadowed resignation of Mayor Regan and the subsequent election of a Mayor. The Mayor has foreshadowed that he will resign at this meeting.

Section 394 of the Local Government (General) Regulation 2021 (Regulation) provides that 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 of the Regulation.

#### **Conducting the Election of the Mayor**

A nomination for the office of Mayor (Attachment 1) is to be made in writing by two 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.

The Returning Officer is to announce the names of the nominees at the Council meeting at which the election is to be held.

If only one councillor is nominated, that councillor is elected. If more than one councillor is nominated, the Council is to resolve whether the election is to proceed by:

- (a) open voting
- (b) ordinary ballot
- (c) preferential ballot.

The election is to be held at the Council meeting at which the Council resolves on the method of voting. The Returning Officer is to conduct the ballot.

If the method is open vote this is to be conducted by a show of hands or similar means. If the method is by preferential or ordinary ballot, this will be conducted by a secret vote.

Secret votes are not able to be conducted by remote audio-visual methods, therefore in the event some councillors are granted approval by the Council to participate in the Council meeting by remote audio-visual link, the most practicable method will be to conduct the election by open voting.

The below procedures are in accordance with the Act and the Office of Local Government's [Fact Sheet Election of Mayor and Deputy Mayor by Councillors](#).

### **Summary of Election Procedure**

- Nomination papers are distributed to Councillors prior to the meeting (Attachment 1).
- Councillors will be called upon by the Returning Officer to submit their nomination papers.
- Nominations received will be read to the Council meeting by the Returning Officer who will ask if any of the candidates nominated wish to decline the nomination.
- If there are more candidates than one, an election will be carried out in accordance with the provisions of Schedule 7 of the Regulation.
- Councillors will resolve whether the election is to proceed by open voting, by ordinary ballot or by preferential ballot.
- If an ordinary ballot or preferential ballot is required:
  - Ballot papers will be prepared and distributed to councillors for marking
  - Upon completion of marking of the ballot papers by councillors, the ballot papers will be collected on behalf of the Returning Officer and the votes will be counted
  - When the ballot or ballots, as required pursuant to the provisions of Schedule 7, have been completed and a result obtained, the Returning Officer will declare the result at the meeting. The result will then be given to the Secretary of the Department of Planning and Environment (formerly Department of Planning, Industry and Environment) and the Chief Executive Officer of Local Government NSW.

### **Detailed Procedures for Election Methods**

#### **Open Voting**

An open vote will be conducted by a show of hands.

If there are only two candidates, the candidate with the higher number of votes is elected. If there are only two candidates and they are tied, the one elected is to be chosen by lot.

If there are 3 or more candidates, separate and continuing ballots are taken to exclude the candidate with the lowest number of votes, until only two candidates remain. Where only two

candidates remain, the candidate with the higher number of votes is elected. If tied, the one elected is to be chosen by lot.

### **Ordinary Ballot**

If the election proceeds by ordinary ballot, the Returning Officer is to determine the manner in which votes are to be marked on the ballot papers.

The formality of a ballot paper must be determined in accordance with section 345 of the Regulation.

An informal ballot paper must be rejected at the count.

If there are only two candidates, the candidate with the higher number of votes is elected. If there are only two candidates and they are tied, the one elected is to be chosen by lot.

If there are 3 or more candidates, separate and continuing ballots are taken to exclude the candidate with the lowest number of votes, until only two candidates remain. Where only two candidates remain, the candidate with the higher number of votes is elected. If tied, the one elected is to be chosen by lot.

### **Preferential Ballot**

The steps to conduct a preferential ballot are as follows:

The ballot papers are to contain the names of all the candidates. The Returning Officer is to determine the order in which the candidates are listed on the ballot papers.

Councillors are to mark their votes by placing the number '1' '2' and so on, against the listed candidates' names so as to indicate the order of their preference for all candidates.

An informal ballot-paper must be rejected at the count. The formality of a ballot paper is to be determined in accordance with section 345 of the Regulation.

If a candidate has an absolute majority of first preference votes, that candidate is elected.

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.

A candidate who then has an absolute majority of votes is elected. If no candidate has the absolute majority of votes, the candidate with the lowest number of votes is excluded. The preferences from the excluded candidate are distributed. The process continues until one candidate has received an absolute majority of votes.

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

The steps for a tied vote in a preferential ballot are as follows:

If on any count of votes there are two candidates in, or remaining in the election and the numbers of votes cast for the two 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.

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 two 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.

### **Explanation of choosing by lots**

If a process is to be determined by lot then this refers to the selection of a candidate by the Returning Officer where the names of candidates who have equal numbers of votes are to be written on similar slips of paper, folded and mixed and selected randomly from a barrel. The candidate whose name is on the drawn slip is chosen.

### **TIMING**

A Mayor elected by the Councillors normally holds the office of Mayor for two years. Due to the postponement of the ordinary council elections in December 2021, the current Mayoral term was shorter than usual (around 21 months).

Council is required under the Act to hold a mid-term Mayoral election in September 2023.

This election will be to fill the foreshadowed casual vacancy in the office of Mayor for the remainder of the current Mayoral term which ends in September 2023.

### **LINK TO COUNCIL STRATEGY**

This report relates to the Community Strategic Plan Outcome of Good Governance - Goal 19: Our Council is transparent and trusted to make decisions that reflect the values of the community.

### **FINANCIAL CONSIDERATIONS**

The provision for an office of the Mayor is included within Council's existing operational budget.

### **ENVIRONMENTAL CONSIDERATIONS**

The election of the Mayor does not have an environmental impact.

### **SOCIAL CONSIDERATIONS**

The civic responsibilities and community leadership role of the Mayor are outlined under section 226 of the Act.

Section 226 of the Act states that the role of the Mayor is as follows:

- (a) to be the leader of the council and a leader in the local community*
- (b) to advance community cohesion and promote civic awareness*
- (c) to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities*
- (d) to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council*
- (e) to preside at meetings of the council*
- (f) to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act*
- (g) to ensure the timely development and adoption of the strategic plans, programs and policies of the council*
- (h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the council*
- (i) to promote partnerships between the council and key stakeholders*
- (j) to advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council*

*(k) in conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community*

*(l) to carry out the civic and ceremonial functions of the mayoral office*

*(m) to represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level*

*(n) in consultation with the councillors, to lead performance appraisals of the general manager*

*(o) to exercise any other functions of the council that the council determines.*

## **GOVERNANCE AND RISK CONSIDERATIONS**

The election of the Mayor is in line with the Act.

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## **RECOMMENDATION OF INTERIM CHIEF EXECUTIVE OFFICER**

That:

1. Council determine the method of voting for the election of the Mayor for the balance of the current Mayoral term which ends in September 2023 to be conducted by one of the following methods:
    - A. Open voting
    - B. Ordinary ballot
    - C. Preferential ballot.
  2. Nominations be called for candidates for the Office of Mayor for the balance of the current Mayoral term which ends in September 2023.
  3. The election of the Mayor for the balance of the current Mayoral term which ends in September 2023 be held in accordance with the provisions of the Local Government (General) Regulation 2021.
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## Nomination Form

### Office of Mayor

In accordance with Section 394 and Schedule 7 of the *Local Government (General) Regulation 2021*,

Councillor ..... is hereby nominated for

(name of nominee)

the office of **MAYOR** of the Northern Beaches local government area for a term as determined by Council.

#### Nominators

1. Councillor .....  
(name) (signature)

2. Councillor .....  
(name) (signature)

#### Nominee

I, Councillor ....., consent to this nomination.

(name)

.....

(Signature)

.....

(date)

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The Returning Officer is: **Interim CEO Louise Kerr**. Nominations may be provided to the Returning Officer via email at: [Louise.Kerr@northernbeaches.nsw.gov.au](mailto:Louise.Kerr@northernbeaches.nsw.gov.au).

Clause 394 and Schedule 7 of the *Local Government (General) Regulation 2021* outline the statutory provisions for the nomination of candidates for election of **Mayor** by Councillors as follows:

#### **Nomination**

- (1) A councillor may be nominated without notice for election as mayor or deputy mayor
- (2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The nomination is to be delivered or sent to the returning officer.
- (4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.

