



Business Papers 2024

MID-WESTERN REGIONAL COUNCIL

ORDINARY MEETING
WEDNESDAY 9 OCTOBER 2024

*A prosperous and progressive
community we proudly call home*





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2 October 2024

Dear Councillor,

MEETING NOTICE
Ordinary Meeting
9 OCTOBER 2024
Meeting Commences at 5.30pm

Notice is hereby given that the above meeting of Mid-Western Regional Council will be held in the Council Chambers, 86 Market Street, Mudgee at the time and date indicated above to deal with the business as listed on the Meeting Agenda.

The meeting will be live streamed on Council's website.

Yours faithfully

A handwritten signature in black ink, appearing to be "BRAD CAM", with a long horizontal flourish extending to the right.

BRAD CAM
GENERAL MANAGER

AGENDA

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Acknowledgement of Country

I would like to acknowledge the traditional owners of the lands on which we meet, the Wiradjuri people and pay our respects to elders past, present and emerging.

Item 1: Apologies

Item 2: Disclosure of Interest

Councillors are reminded of their oaths or affirmations of office taken and their obligations under Council's Code of Conduct to disclose conflicts of interest when and if they arise and ensure they are managed appropriately.

If an interest is declared, Councillors should leave the Chambers prior to the commencement of discussion of the item.

Item 3: Confirmation of Minutes

Nil

Item 4: Matters in Progress

Nil

Item 5: Mayoral Minute

Nil

Item 6: Notices of Motion or Rescission

Nil

Item 7: Office of the General Manager

Nil

Item 8: Development

Nil

Item 9: Corporate Services

Nil

Item 10: Operations

Nil

Item 11: Community

11.1 Delegations to the Mayor

REPORT BY THE GOVERNANCE CO-ORDINATOR
TO 09 OCTOBER 2024 ORDINARY MEETING
GOV400105, GOV400096

RECOMMENDATION

That Council:

1. **receive the report by the Governance Co-ordinator on the Delegations to the Mayor; and**
 2. **delegate the functions to the Mayor set out in the attached Instrument of Delegation under s266(o) of the *Local Government Act 1993***
-

Executive summary

Under the *Local Government Act 1993* (the Act), Council must review all delegations within 12 months of an election. Council may, by resolution, delegate to the General Manager or any other person or body (but not an employee of the Council other than the General Manager) any of the functions of the Council other than those referred to in section 377 of the Act.

This report is to determine the delegations to the Mayor for the period commencing October 2024 to September 2026 in accordance with section 226 of the Act.

Disclosure of Interest

Nil

Detailed report

Section 226 of the Act sets out the role of the mayor as

226 Role of mayor

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

Attached is the delegation for the Mayor recommended for adoption by Council under section 226(o) of the Act.

Community Plan implications

| | |
|--------------|---|
| Theme | Good Government |
| Goal | Strong civic leadership |
| Strategy | Provide accountable and transparent decision-making for the community |

Strategic implications

Council Policies

Delegations and Authorisations Policy

Legislation

Local Government Act 1993

Financial implications

Not applicable

ASHLEIGH MARSHALL
GOVERNANCE CO-ORDINATOR

RACHEL GILL
ACTING DIRECTOR COMMUNITY

1 July 2024

Attachments: 1. Draft - Instrument of Delegation to the Mayor.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



MID-WESTERN REGIONAL COUNCIL

INSTRUMENT OF DELEGATION TO MAYOR

Mid-Western Regional Council delegates the following functions to the Mayor in accordance with Section 377 of the *Local Government Act 1993*:

| Provision | Item Delegated | Conditions & Limitations |
|---|--|--|
| Powers and Duties under the Local Government Act 1993 | The Role of Mayor | In accordance with section 226 of the Local Government Act 1993 |
| Powers and Duties under Other Legislation | If, under any legislation other than the Local Government Act 1993, a function is conferred or imposed on the Mayor of Council, the function is taken to be conferred or imposed on the Council and the Mayor of the Council has delegated authority to exercise and/or perform on behalf of the Council the powers, authorities, duties and functions as prescribed under that legislation. | |
| Management of Council Meetings and Business | To preside at and chair all Council Meetings of the Council. To call Extraordinary Meetings of Council when required. | Subject to any applicable provisions of the Code of Meeting Practice. Subject to any applicable provisions of the Code of Meeting Practice. |

| | | |
|--|---|--|
| <p>Public Statements and Media Releases</p> | <p>To advise the media and respond to enquiries from the media on matters relating to the affairs of the Council and the local government area generally</p> <p>To issue media releases and make statements to the media on behalf of the Council.</p> | <p>In accordance with Council's Media Policy</p> <p>In accordance with Council's Media Policy</p> |
| <p>Sign Correspondence and Execute Documents</p> | <p>To sign correspondence on any document requiring the Council Seal.</p> | <p>Execution of any documents under Council Seal must be carried out in compliance with Clause 400 of the <i>Local Government (General) Regulation 2021</i>.</p> |
| <p>Councillor Attendance at Seminars and Conferences</p> | <p>To approve the attendance of any Councillor at meetings or functions between Council meetings that the Mayor would normally attend on behalf of the Council.</p> <p>To approve professional development activities, including conference attendance</p> | <p>In accordance with Councillor Expenses and Facilities Policy.</p> <p>Within the budget limits of the professional development program</p> |
| <p>Expenditure</p> | <p>To authorise expenditure on works approved in the Operational Plan up to \$20,000.</p> <p>To authorise work, not approved in the Operational Plan, which in the Mayor's opinion is urgent, at a cost not exceeding \$20,000 except in the case of a bush fire emergency where the limit is \$50,000.</p> | <p>In accordance with the Sustainable Procurement and Contracts Policy.</p> |

| | | |
|------------------------|--|---|
| Performance Management | Monitor the General Manager in the exercise of the General Manager’s power, duties and functions To receive complaints about the General Manager and manage those complaints in accordance with the Code of Conduct and Procedures for the Administration of the Code of Conduct, and any other policy in effect. | Subject to any applicable provisions of the Guidelines for the Appointment and Oversight of General Managers prescribed under section 23A of the <i>Local Government Act 1993</i> |
|------------------------|--|---|

Acknowledgement of Delegation

The powers, authorities, duties and functions contained in this Instrument of Delegation:

- (a) have been delegated by Mid-Western Regional Council by resolution on 9 October 2024;
- (b) must be exercised in accordance with any applicable Act of Parliament;
- (c) must be exercised in accordance with any resolution or policy, procedure or budget adopted from time to time by the Council; and
- (d) have been received, read and accepted by:

Name of Mayor

Signature

Date: _____

11.2 Election of Mayor

REPORT BY THE GOVERNANCE CO-ORDINATOR
TO 09 OCTOBER 2024 ORDINARY MEETING
GOV400105, GOV400098

RECOMMENDATION

That Council:

1. receive the report by the Governance Co-ordinator on the Election of Mayor;
2. determine that the Ballot for the election of the Mayor be by Open Voting, Ordinary Ballot or Preferential Ballot; and
3. elect the Mayor for the term of 2 years.

Executive summary

This report provides the direction to elect the Mayor for the period October 2024 to September 2026. The Mayor is elected by the Councillors from among their number.

Disclosure of Interest

Nil

Detailed report

The Local Government Act 1993 provides that where the Mayor is elected by the Councillors, the election shall be held within 3 weeks of the ordinary election (Section 290 (1) (a)) and the Mayor shall hold office for two years (Section 230).

As provided by section 394 of the *Local Government (General) Regulation 2005*, the conduct of the election of the Mayor is governed by the provisions of Schedule 7 of the Regulation.

Local Government (General) Regulation 2005 Requirements

The Returning Officer for the election of the Mayor shall be the General Manager (or a person appointed by the General Manager). The General Manager has indicated that he will act as Returning Officer and that the Manager Customer Services and Governance will assist.

Nominations for the Mayor shall be made in writing, but may be without notice, by two (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.

The nomination is to be delivered or sent to the Returning Officer who is to announce the names of the nominees at the Council Meeting at which the election is to be held.

If only one candidate is nominated, that Councillor is elected. When more than one candidate is nominated, the Council may, by resolution, decide whether the election shall be carried out by:

- a) Ordinary Ballot - Involving the marking of Ballot Papers - subsequent exclusion of one candidate; further voting and exclusions; repeated until two candidates only remain, final vote between remaining two candidates.

- b) Open Voting - Procedure identical to Ordinary Ballot, however, the voting is by show of hands or similar means, not a Ballot Paper.
- c) Preferential Ballot - The complete numbering of Ballot Papers in consecutive order of preference for all candidates, commencing with "1" as first preference. 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 them are transferred to the candidates with second preference. This process is repeated until one candidate has received an absolute majority of votes.

Choosing by lot

If necessary, a candidate will be chosen by lot. The names of candidates who have equal number of votes will be written on slips by the returning officer. The slips will be folded to prevent the names being seen, mixed and one will be drawn at random by the returning officer and the candidate whose name is on the drawn slip will be chosen.

The result of the mayoral election will be declared to the Councillors by the returning officer.

Community Plan implications

| Theme | Good Government |
|--------------|---|
| Goal | Strong civic leadership |
| Strategy | Provide strong representation for the community at Regional, State and Federal levels |

Strategic implications

Council Strategies

Not Applicable

Council Policies

Not Applicable

Legislation

Local Government Act 1993

Local Government (General) Regulation 2021

Financial implications

Not Applicable

ASHLEIGH MARSHALL
GOVERNANCE CO-ORDINATOR

RACHEL GILL
ACTING DIRECTOR COMMUNITY

28 June 2024

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

11.3 Election of Deputy Mayor

REPORT BY THE GOVERNANCE CO-ORDINATOR
TO 09 OCTOBER 2024 ORDINARY MEETING
GOV400105, A0110008

RECOMMENDATION

That Council:

1. receive the report by the Governance Co-ordinator on the Election of Deputy Mayor;
2. determine that the Ballot for the election of the Deputy Mayor be by Open Voting, Ordinary Ballot or Preferential Ballot; and
3. elect the Deputy Mayor for the term of 2 years.

Executive summary

This report provides the direction to elect the Deputy Mayor for the period October 2024 to September 2026. The Deputy Mayor is elected by the Councillors from among their number.

Disclosure of Interest

Nil

Detailed report

The Local Government Act 1993 provides that where the Deputy Mayor is elected by the Councillors, the election shall be held within 3 weeks of the ordinary election (Section 290 (1) (a)) and the Deputy Mayor shall hold office for two years (Section 230).

As provided by section 394 of the *Local Government (General) Regulation 2005*, the conduct of the election of the Deputy Mayor is governed by the provisions of Schedule 7 of the Regulation.

Local Government (General) Regulation 2005 Requirements

The Returning Officer for the election of the Deputy Mayor shall be the General Manager (or a person appointed by the General Manager). The General Manager has indicated that he will act as Returning Officer and that the Manager Customer Services and Governance will assist.

Nominations for the Deputy Mayor shall be made in writing, but may be without notice, by two (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.

The nomination is to be delivered or sent to the Returning Officer who is to announce the names of the nominees at the Council Meeting at which the election is to be held.

If only one candidate is nominated, that Councillor is elected.

When more than one candidate is nominated, the Council may, by resolution, decide whether the election shall be carried out by:

- a) Ordinary Ballot - Involving the marking of Ballot Papers - subsequent exclusion of one candidate; further voting and exclusions; repeated until two candidates only remain, final vote between remaining two candidates.
- b) Open Voting - Procedure identical to Ordinary Ballot, however, the voting is by show of hands or similar means, not a Ballot Paper.
- c) Preferential Ballot - The complete numbering of Ballot Papers in consecutive order of preference for all candidates, commencing with "1" as first preference. 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 them are transferred to the candidates with second preference. This process is repeated until one candidate has received an absolute majority of votes.

Choosing by lot

If necessary, a candidate will be chosen by lot. The names of candidates who have equal number of votes will be written on slips by the returning officer. The slips will be folded to prevent the names being seen, mixed and one will be drawn at random by the returning officer and the candidate whose name is on the drawn slip will be chosen.

The result of the deputy-mayoral election will be declared to the Councillors by the returning officer.

Community Plan implications

| Theme | Good Government |
|--------------|---|
| Goal | Strong civic leadership |
| Strategy | Provide strong representation for the community at Regional, State and Federal levels |

Strategic implications

Council Strategies

Not Applicable

Council Policies

Not Applicable

Legislation

Local Government Act 1993

Local Government (General) Regulation 2021

Financial implications

Not Applicable

ASHLEIGH MARSHALL
GOVERNANCE CO-ORDINATOR

RACHEL GILL
ACTING DIRECTOR COMMUNITY

1 July 2024

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

11.4 Recognition of Outgoing Councillors

REPORT BY THE GOVERNANCE CO-ORDINATOR
TO 09 OCTOBER 2024 ORDINARY MEETING
GOV400105, A0110038

RECOMMENDATION

That Council:

1. receive the report by the Governance Co-ordinator on the Recognition of Outgoing Councillors; and
2. recognise the service of outgoing Councillors Paine, Cavalier and Stoddart.

Executive summary

The service to the community by the outgoing Councillors is deserving of appropriate recognition by Council.

Disclosure of Interest

Nil

Detailed report

The recognition of service of the following outgoing Councillors is being appropriately recorded in the minutes of the Council meeting:

Paul Cavalier – first elected 2012-2024
Sam Paine – first elected 2016-2024
Phil Stoddart – first elected 2021-2024

Community Plan implications

| Theme | Good Government |
|----------|---|
| Goal | Strong civic leadership |
| Strategy | Provide strong representation for the community at Regional, State and Federal levels |

Strategic implications

Council Strategies
Not Applicable

Council Policies
Not Applicable

Legislation

Not Applicable

Financial implications

Not Applicable

Associated Risks

Not Applicable

ASHLEIGH MARSHALL
GOVERNANCE CO-ORDINATOR

RACHEL GILL
ACTING DIRECTOR COMMUNITY

13 September 2024

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

11.5 Casual Vacancies Within 18 Months of Election

REPORT BY THE GOVERNANCE CO-ORDINATOR

TO 09 OCTOBER 2024 ORDINARY MEETING
GOV400105, GOV400015

RECOMMENDATION

That Council:

- 1. receive the report by the Governance Co-ordinator on the Casual Vacancies Within 18 Months of Election; and**
- 2. write to the Office of Local Government informing them that we have a casual vacancy due to the resignation of a Councillor.**

Executive summary

If a casual vacancy occurs in a civic office, the office is to be filled by a by-election. Section 291A of *The Local Government Act 1993* allows for a countback of votes if a casual vacancy occurs within 18 months of the last ordinary election instead of a by-election provided that Council resolves to do so at its first meeting following the election.

Disclosure of Interest

Nil

Detailed report

In accordance with *The Local Government (General) Regulation 2021*, the General Manager must give notice of the vacancy to the NSW Electoral Commission (NEC) within 7 days. The returning officer will be notified or appointed to conduct the countback election within 14 days of the NEC being notified of the casual vacancy.

The returning officer must arrange for publication of a notice of the casual vacancy on both Council's and the NEC website and give notification to each person who, in the opinion of the returning officer, may be entitled to make an application in relation to the vacancy.

The countback election must occur at the earliest practicable date 14 days after the publication of the notice on Council's website and must be finalised no more than 49 days after the casual vacancy occurs.

The countback election is conducted by a recount of the votes on the ballot papers used in the counting of votes at the original election.

Alternatively, should Council decide that a casual vacancy be filled by way of a by-election, the election must be held on a Saturday within 3 months of the vacancy occurring.

Community Plan implications

| | |
|--------------|---|
| Theme | Good Government |
| Goal | Strong civic leadership |
| Strategy | Provide strong representation for the community at Regional, State and Federal levels |

Strategic implications

Council Strategies

Not Applicable

Council Policies

Not Applicable

Legislation

Local Government Act 1993

Local Government (General) Regulation 2021

Financial implications

Council pay for the direct cost of elections to the NEC, which include polling place staff, venues and ballot paper printing. The cost of a by-election is estimated as being in excess of \$225K.

Associated Risks

A low public reputational risk exists when making this decision.

ASHLEIGH MARSHALL
GOVERNANCE CO-ORDINATOR

RACHEL GILL
ACTING DIRECTOR COMMUNITY

19 July 2024

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

11.6 Review of Delegations to the General Manager

REPORT BY THE GOVERNANCE CO-ORDINATOR

TO 09 OCTOBER 2024 ORDINARY MEETING

GOV400105, GOV400002

RECOMMENDATION

That Council:

- 1. receive the report by the Governance Co-ordinator on the Review of Delegations to the General Manager;**
- 2. continue to grant the General Manager, or the person who acts in that position from time to time, all of the functions, powers, duties and authorities of Council that may lawfully be delegated under the Local Government Act 1993, any other Act, regulation, or the like (including any functions, powers, duties and authorities delegated to Council by any authority, body, person or the like).**

Executive summary

Under the *Local Government Act 1993* (the Act), Council must review all delegations within 12 months of an election. Council may, by resolution, delegate to the General Manager or any other person or body (but not an employee of the Council other than the General Manager) any of the functions of the Council other than those referred to in section 377 of the Act.

This report is to review the delegations to the General Manager in accordance with section 377 of the Act.

Disclosure of Interest

Nil

Detailed report

Section 377 of the Act provides:

(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.

For Council to operate efficiently, it is recommended that the General Manager continue to be given all allowable delegations. It is suggested that the General Manager, or the person occupying the position from time to time, be granted all functions, powers and authorities that Council can legally delegate under the Act or any other Act, regulation or the like.

It should be noted that the General Manager may sub-delegate a function delegated to the General Manager by Council to any person or body.

Limitations

The following limitations are recommended to be applied to the General Managers delegation:

- To authorise any work at a cost not exceeding \$250,000, which in the General Manager's opinion is necessary to respond to an emergency, community safety issue or potential public liability issue. Any such expenditure must be reported immediately to the Mayor and to the next ordinary meeting of the Council.
- To authorise any work at a cost not exceeding \$250,000, which in the General Manager's opinion is necessary to respond to a S44 fire event or a declared natural disaster. Any such expenditure must be reported immediately to the Mayor and to the next ordinary meeting of the Council.

- To accept Council tenders with a contract value of up to \$3,000,000 or a contract entered into through a prescribed entity tender, where all other tender requirements of section 55 of the Local Government Act 1993 and Part 7 of the Local Government Regulation 2005 are met
- To determine and write-off rates, fees, charges and other debts up to and including \$2,500.00 per annum per debt

Exclusions

The following exclusions are recommended to be applied to the General Managers delegation:

- Determination of applications under the Environmental Planning and Assessment Act 1979, and other relevant Acts, which include:
 - a) The determination of a development application where a Senior Staff1 member of Council or Councillor is the owner or applicant of the subject land (excluding Council owned or managed land).
 - b) The determination of a development application where Council is the owner or manager of the land if the development exceeds a construction value of \$1,000,000.
 - c) The determination of a development application for a subdivision creating more than 20 allotments
 - d) The determination of a development application for the erection, alteration and/or additions to buildings exceeding a construction value of \$3,000,000
 - e) To grant consent to a development application requiring a variation of more than 10% to a condition or standard specified in a Council policy, Development Control Plan (DCP) or Local Environment Plan (LEP), without providing 5 working days notification to Council, during which two Councillors request the application to be reported to Council for consideration.
 - f) To grant consent to a development which receives 7 or more objections during assessment
 - g) To grant consent to a development application which receives 1-6 objections during assessment; without providing 5 working days notification to Council, during which two Councillors request that the application be reported to Council for consideration.
 - h) The determination of a development application which upon the written request of two Councillors is to be reported to Council for consideration

Attached is the delegation for the General Manager recommended for adoption.

Community Plan implications

| Theme | Good Government |
|----------|---|
| Goal | Strong civic leadership |
| Strategy | Provide accountable and transparent decision-making for the community |

Strategic implications

Council Strategies

Community Strategic Plan

Council Policies

Delegations and Authorisations Policy

Legislation

Local Government Act 1993

Financial implications

The recommended delegation establishes financial limitations of the General Manager

Associated Risks

Not Applicable

ASHLEIGH MARSHALL
GOVERNANCE CO-ORDINATOR

RACHEL GILL
ACTING DIRECTOR COMMUNITY

13 September 2024

Attachments: 1. Draft - General Manager Delegation and Sub-Delegation.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



MID-WESTERN REGIONAL COUNCIL

INSTRUMENT OF DELEGATIONS & SUB-DELEGATIONS TO GENERAL MANAGER

Section 377 of the *Local Government Act 1993* empowers a Council, by resolution, to delegate to the General Manager any of the functions of the Council (excluding those functions specified in clauses (a) to (u) of the section 377(1) of the *Local Government Act 1993*).

Mid-Western Regional Council resolves to delegate to the General Manager all of the delegable functions, powers, duties and authorities of the Council subject to the following limitations:

1. Specific limitations

- 1.1. a) To authorise any work at a cost not exceeding \$250,000, which in the General Manager's opinion is necessary to respond to an emergency, community safety issue or potential public liability issue. Any such expenditure must be reported immediately to the Mayor and to the next ordinary meeting of the Council.
- 1.1. b) To authorise any work at a cost not exceeding \$250,000, which in the General Manager's opinion is necessary to respond to a S44 fire event or a declared natural disaster. Any such expenditure must be reported immediately to the Mayor and to the next ordinary meeting of the Council.
- 1.2. To accept Council tenders with a contract value of up to \$3,000,000 or a contract entered into through a prescribed entity tender, where all other tender requirements of section 55 of the *Local Government Act 1993* and Part 7 of the *Local Government Regulation 2021* are met.
- 1.3. To determine and write-off rates, fees, charges and other debts up to and including \$2,500.00 per annum per debt.

2 Specific exclusions

Determination of applications under the *Environmental Planning and Assessment Act 1979*, and other relevant Acts, which include:

- 2.1 The determination of a development application where a Senior Staff¹ member of Council or Councillor is the owner or applicant of the subject land (excluding Council owned or managed land).
- 2.2 The determination of a development application where Council is the owner or manager of the land if the development exceeds a construction value of \$1,000,000.

- 2.3 The determination of a development application for a subdivision creating more than 20 allotments.
- 2.4 The determination of a development application for the erection, alteration and/or additions to buildings exceeding a construction value of \$3,000,000.
- 2.5 To grant consent to a development application requiring a variation of more than 10% to a condition or standard specified in a Council policy, Development Control Plan (DCP) or Local Environment Plan (LEP), without providing 5 working days notification to Council, during which two Councillors request the application to be reported to Council for consideration.
- 2.6 To grant consent to a development which receives 7 or more objections during assessment.
- 2.7 To grant consent to a development application which receives 1-6 objections during assessment; without providing 5 working days notification to Council, during which two Councillors request that the application be reported to Council for consideration.
- 2.8 The determination of a development application which upon the written request of two Councillors is to be reported to Council for consideration.

¹ Senior Staff s332 Local Government Act 1993

General Manager’s Delegations, Sub-Delegations and Authorisations

Section 378 of the *Local Government Act 1993* empowers the General Manager to delegate any functions of the General Manager and sub-delegate the functions of Council which Council has delegated to the General Manager, to any person or body (including another employee of Council).

In accordance with Section 378 of the *Local Government Act 1993*, I, General Manager of Mid-Western Regional Council hereby:

- 1. Delegate and sub-delegate (as the case may be) the functions identified in the **Register of Sub-Delegations** to the corresponding Council employment positions specified in the third column marked “Delegated/Sub-delegated to”;
- 2. Authorise and appoint (as the case may be) the Council employee to the corresponding appointment and authorisation identified in the **Register of Authorised People**.

Any variation to the **Register of Sub-Delegations** or **Register of Authorised People** may only be authorised by the General Manager and only takes effect when the General Manager signs an instrument of sub-delegation or appointment.

Where a position title is referred to in the **Register of Sub-Delegations** and the position title changes during the applicable period of the Register, then any reference to the former position title shall be read as a reference to the new position title.

General Manager

Signature

Date: _____

11.7 Appointment of a Councillor to the Audit Risk and Improvement Committee

REPORT BY THE ACTING DIRECTOR COMMUNITY
TO 09 OCTOBER 2024 ORDINARY MEETING
GOV400105, COR400236

RECOMMENDATION

That Council:

1. **receive the report by the Acting Director Community on the Appointment of a Councillor to the Audit Risk and Improvement Committee; and**
2. **appoint a Councillor to the Audit Risk and Improvement Committee for the new Council Term.**

Executive summary

In accordance with Section 428A of the Local Government Act, a council must have appointed an Audit, Risk and Improvement Committee (ARIC) by June 2022. Council's current ARIC Terms of Reference requires that the Councillors and independent members will be appointed for the term of the Council and independent members will be eligible for re-appointment.

Disclosure of Interest

Nil

Detailed report

In accordance with Section 428A of the Local Government Act, a council must have appointed an Audit Risk and Improvement Committee (ARIC) by June 2022.

The Committee must keep under review the following aspects of the council's operations –

- a) compliance,
- b) risk management,
- c) fraud control,
- d) financial management,
- e) governance,
- f) implementation of the strategic plan, delivery program and strategies,
- g) service reviews,
- h) collection of performance measurement data by the council,
- i) any other matters prescribed by the regulations.

The Committee is also to provide information to the council for the purpose of improving the council's performance of its functions.

In September 2018 Council adopted an Audit, Risk and Improvement Committee Charter and consequently appointed Council representatives to the Committee. Following an Expression of Interest in October 2018, Council appointed two independent members to the Committee - John Bentley and John Stuart, who met the selection criteria and have a broad range of skills and management experience relevant to the Committee, as well as a strong local knowledge of the region and Council's operations and services.

In February 2022 a Council representative (Councillor Dicker) was elected to the committee.

The two independent members were reappointed by Council in July 2024 until November 2026 to bring them up to their maximum 8-year continuous membership on the committee.

In December 2023 the Local Government (General) Amendment (Audit, Risk, and Improvement Committees) Regulation 2023 supporting the new Guidelines for risk management and internal audit for local governments in NSW were released by the OLG. The regulation commenced on 1 July 2024.

One of the key issues that arose from the amendments to the regulation was the need for at least two other independent members in addition to the independent chairperson. In order to meet this requirement, Expression of Interests were sort and applications were received and reviewed by the General Manager, Director of Community, and Chairperson. In May 2024, Council appointed Emma Thomas as an independent Committee member for a four-year term from 1 July 2024 to 30 June 2028.

Council have the option of appointing one non-voting councillor member to the Committee who meets the eligibility criteria for councillor members of committees (the mayor cannot be appointed as a councillor member). After the recent NSW Local Government elections Council can now appoint a Councillor to the Audit Risk and Improvement Committee.

In relation to the term of office of Committee members, the ARIC Terms of Reference states:

- Councillors and independent members will be appointed for the term of the Council (usually 4 years).
- Independent members will be eligible for re-appointment.

Community Plan implications

| Theme | Good Government |
|--------------|---|
| Goal | An effective and efficient organisation |
| Strategy | Prudently manage risks associated with all Council activities |

Strategic implications

Council Strategies

Community Plan

Council Policies

Internal Audit Policy

Internal Audit Charter

Audit, Risk and Improvement Committee Terms of Reference

Enterprise Risk Management Policy

Legislation

Local Government Act 1993

Financial implications

Council has approved budget in the Operational Plan to fund the activities of the Audit, Risk and Improvement Committee.

Associated Risks

If Council operates without an Audit, Risk and Improvement Committee then it will be in breach of the Local Government Act and there is a greater chance that Council will not have an appropriate level of assurance that internal controls are working effectively to mitigate fraud and other risks throughout the organisation.

RACHEL GILL
ACTING DIRECTOR COMMUNITY

13 September 2024

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Item 12: Reports from Committees

Nil

Item 13: Urgent Business Without Notice

URGENT BUSINESS WITHOUT NOTICE

As provided by Clauses 19 & 20 of Council's Code of Meeting Practice (Clause 14 LGMR).

GIVING NOTICE OF BUSINESS

19. (1) The Council must not transact business at a meeting of the Council:
- (a) unless a Councillor has given notice of the business in writing at least two (2) days prior to the day on which the agenda and business paper is prepared and delivered to Councillors; and
 - (b) unless notice of the business has been sent to the Councillors in accordance with Clause 6 of this Code. (see Section 367 LGA & Clause 14(1) LGMR)
- (2) Subclause (1) does not apply to the consideration of business at a meeting if the business:
- (a) is already before, or directly relates to a matter that is already before the Council (see Clause 14(2)(a) LGMR); or
 - (b) is the election of a chairperson to preside at the meeting as provided by Clause 12(1) (see Clause 14(2)(b) LGMR); or
 - (c) is a matter or topic put to the meeting by the chairperson in accordance with Clause 21 (see Clause 14(2)(c) LGMR); or
 - (d) is a motion for the adoption of recommendations of a committee of the Council; (see Clause 14(2)(d) LGMR); or
 - (e) relates to reports from officers, which in the opinion of the Chairperson or the General Manager are urgent;
 - (f) relates to reports from officers placed on the business paper pursuant to a decision of a committee that additional information be provided to the Council in relation to a matter before the Committee; and
 - (g) relates to urgent administrative or procedural matters that are raised by the Mayor or General Manager.

BUSINESS WITHOUT NOTICE

20. (1) Despite Clause 19 of this Code, business may be transacted at a meeting of the Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
- (a) a motion is passed to have the business transacted at the meeting; and
 - (b) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency. Such a motion can be moved without notice. (see Clause 14(3) LGMR)
- (2) Despite Clause 30 of this Code, only the mover of a motion referred to in subclause (1) can speak to the motion before it is put. (see Clause 14(4) LGMR)

Item 14: Confidential Session

Nil