

Business Paper

LATE REPORTS ORDINARY COUNCIL MEETING

**ALBY SCHULTZ MEETING CENTRE,
COOTAMUNDRA**

6:00PM, Tuesday 25th June, 2024

Administration Centres: 1300 459 689

LATE REPORTS

Order Of Business

8	General Manager’s Report.....	3
8.1	General Manager Office	3
8.1.1	14 September 2024 Elections	3

8 GENERAL MANAGER’S REPORT

8.1 GENERAL MANAGER OFFICE

8.1.1 14 SEPTEMBER 2024 ELECTIONS

DOCUMENT NUMBER	415237
REPORTING OFFICER	Steve McGrath, Interim General Manager
AUTHORISING OFFICER	Steve McGrath, Interim General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	4. Collaborative and progressive leadership 4.2 Proactive, practical Council leaders who are aligned with community needs and values
FINANCIAL IMPLICATIONS	Provision has been made in Council’s 2024/25 operational budget for elections to occur.
LEGISLATIVE IMPLICATIONS	There are Legislative implications associated with this report, which are set out in the body of the report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	1. Confidential Attachment - September 2024 Elections - Confidential (under separate cover)

RECOMMENDATION: THAT COUNCIL:

- 1. Note that in the absence of alternate direction from the NSW Minister for Local Government, an election for nine (9) councillors for Cootamundra-Gundagai Regional Council will be required to be held on 14 September 2024;**
- 2. Note that exceptional circumstances exist for Cootamundra-Gundagai Regional Council and the conduct of elections in September 2024, as a result of the then Minister for Local Government’s approval of a demerger in August 2022 and the subsequent further demerger pathway established by the new Minister for Local Government in October 2023;**
- 3. Resolve in accordance with s296(5) of the Local Government Act 1993, that Cootamundra-Gundagai Regional Council enter an election arrangement with the NSW Electoral Commission and contract the NSW Electoral Commission to conduct the election for Cootamundra-Gundagai Regional Council on 14 September 2024.**

Introduction

By email dated 31 May 2024 Council was advised by the NSW Electoral Commission (EC) of the need for Council to pass a resolution requesting the EC to conduct an election for CGRC in terms of section 296(5) of the *Local Government Act 1993*. This report sets out the requisite process and a suitable recommendation for Council’s consideration.

Discussion

The issue of elections for Cootamundra-Gundagai Regional Council, and/or the two new councils established post a demerger, has been raised in various meetings with representatives of the NSW Office of Local Government (OLG) since around February 2023. Initially, the discussions were around the then Minister for Local Government's approval of the demerger in August 2022 and the subsequent "roadmap" to demerger that was released in February 2023.

Post the election of a new State Government in March 2023 and the subsequent appointment of a new Minister for Local Government, Council was advised in October 2023 by Minister Hoenig of a new "pathway" for CGRC to achieve a demerger. Advice at that time by the Minister and since, suggested that subject to the pathway outcomes, elections for two new Councils would be held in September 2024.

In light of the uncertainty around the conduct of elections in September 2024, and whilst understandably not desired the possible deferral of the elections, ongoing discussions occurred with the representatives of OLG. CGRC was consistently advised that there were emergency provisions within the legislation which could be deployed to enable elections to occur under whatever scenario evolved, or possibly the deferral of elections.

The EC has stayed in communication with CGRC and the OLG seeking updates as to the status of the demerger pathway, as the EC needed to undertake planning for the conduct of elections across the State, including provision for what may occur in CGRC.

During the last week of May 2024, CGRC received a request from the EC as follows:

"Currently we don't have a formal arrangement in place to conduct CGRC's September election. To enable that to happen s296(5) comes into play:

- (5) An election arrangement for the Electoral Commissioner to administer an ordinary election of councillors can be entered into less than 15 months before the election if—*
 - (a) the council has resolved that an election arrangement for the election is to be entered into, and*
 - (b) the Electoral Commissioner is satisfied that there are exceptional circumstances that make it necessary or desirable for the election to be administered by the Electoral Commissioner.*

Hence Council has to pass a resolution requesting the Electoral Commission conduct its election.

You then need to write to the Commissioner requesting that he conducts the election based on "exceptional circumstances". Assuming that the Commissioner agrees that exceptional circumstances exist, we then enter into an agreement using a particular type of contract that acknowledges exceptional circumstances exist."

Additionally, earlier communications between the EC and OLG indicated that the NSW Electoral Commission "..... are no longer able to accommodate the election of the two separate councils at the September elections, the deadline to advise that scenario was April 2, 2024."

The current situation for CGRC, in the absence of alternate direction from the Minister for Local Government, is that an election for nine (9) councillors is scheduled to occur on Saturday 14 September 2024, and a suitable provider of an election process needs to be engaged. It is suggested that the NSW Electoral Commission is the most appropriate provider for this purpose and accordingly, a Council resolution referencing section 296(5) of the *Local Government Act 1993* is required.

It should also be noted that, once again in the absence of alternate direction from the Minister, the office of councillor becomes vacant on the day appointed for the next ordinary election of councillors.

Further information containing legal advice sought from a member of CGRC's legal panel is provided in the confidential attachment provided under separate cover to this report.

Financial

Provision has been made within Council's 2024/25 Operating Budget for an election/s to occur. It is anticipated that the cost of an election for CGRC will be in the vicinity of \$220,000. It should also be noted that should the Local Government Boundaries Commission review and the public inquiry result in recommending the demerger of CGRC to form two new Councils, and the Minister for Local Government ultimately approves the demerger, further elections (at cost) will be required for the two new councils.

OLG 23a Guideline consideration

There are no implications arising from the 23A Guidelines issued by the OLG.