



**4 DECEMBER 2014**

**LATE ITEMS**

**Ordinary Meeting of Council Meeting No. 20/14  
TUESDAY, 9 DECEMBER 2014**

**Council Chambers, Level 6, Civic Centre,  
1 Devlin Street, Ryde - 7.30pm**

**Meeting Date:** Tuesday 9 December 2014  
**Location:** Council Chambers, Level 6, Civic Centre, 1 Devlin Street, Ryde  
**Time:** 7.30pm

*Council Meetings will be recorded on audio tape for minute-taking purposes as authorised by the Local Government Act 1993. Council Meetings will also be webcast.*

**NOTICE OF BUSINESS**

**Item** **Page**

**LATE ITEMS**

- |    |   |   |
|----|---|---|
| 17 | AFFIXING THE SEAL OF COUNCIL - General Manager's Contract ..... | 1 |
| 18 | COUNCIL BY - ELECTION - RESIGNATION OF COUNCILLOR<br>PETCH..... | 3 |

## **LATE ITEMS**

### **17 AFFIXING THE SEAL OF COUNCIL - General Manager's Contract**

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**Report prepared by:** Manager - Human Resources

**File No.:** HRS/07/5/28 - BP14/1452

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#### **REPORT SUMMARY**

Council resolved at its meeting of 25 November 2014 to appoint Gail Connolly to the position of General Manager. Following this resolution a formal offer of employment and employment contract were forwarded to Ms Connolly on 26 November 2014, for her review and signature. Ms Connolly has formally accepted Council's offer of employment and will commence in the position of General Manager on 12 January 2015.

This report outlines the final steps required in this process to confirm and formalise this employment contract and satisfy the Office of Local Government (OLG) requirements with respect to this matter.

These requirements pertain namely to the signature of the employment contract by the nominated representatives of City of Ryde and also the affixing of the Council seal to the contract.

#### **RECOMMENDATION:**

- (a) That the two copies of the Contract of Employment signed by Gail Connolly in accepting Council's offer of employment be counter-signed by the Mayor and one other Councillor in executing the contract of employment.
- (b) That Council formalise the appointment of the General Manager by affixing the City of Ryde Council seal on both copies of the contract of employment which has been signed by Gail Connolly, as required by the Local Government (General) Regulation 2005.

#### **ATTACHMENTS**

There are no attachments for this report.

Report Prepared and Approved By:

**Melissa Attia**  
**Manager - Human Resources**

**ITEM 17 (continued)****Discussion**

The Office of Local Government (OLG) Standard Contract of Employment for General Managers of Local Councils in New South Wales requires that the Council seal be affixed to the contract of employment once it has been signed by both parties, in order to formalise the employment.

Clause 400 of the Local Government (General) Regulation 2005 states that:

- (2) The seal of a Council may be affixed to a document only in the presence of:
  - (a) the Mayor and the General Manager, or
  - (b) at least one Councillor (other than the Mayor) and the General Manager, or
  - (c) the Mayor and at least one other Councillor, or
  - (d) at least two Councillors other than the Mayor
- (3) The affixing of a Council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence.
- (4) The seal of a Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

In view of the above requirements, this report recommends that Council resolve to affix the seal of the City of Ryde to the employment contract of Gail Connolly in the presence of the Mayor and one other Councillor, as detailed in the Regulation above.

It is also recommended that in complying with the regulations listed above, that the contract is counter-signed by the same individuals present when affixing the Council seal.

**Financial Implications**

Adoption of the recommendation will have no financial impact.

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**18 COUNCIL BY - ELECTION - RESIGNATION OF COUNCILLOR PETCH**

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**Report prepared by:** Governance Support Coordinator**File No.:** CLR/07/8/2/1 - BP14/1473

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**REPORT SUMMARY**

This report is to advise Council, that Councillor Ivan Petch formally resigned as a Councillor on 1 December 2014 **ATTACHMENT 1**.

Therefore, as required under Section 292 of the Local Government Act 1993 (The Act), Council is required to hold the By-Election for the vacancy in East Ward, within a three (3) month period. Also, Section 294 of the Act, provides for Councils to apply to the Minister for Local Government for a vacancy not to be filled, where the vacancy is less than 18 months from the next ordinary election of Councillors. However, in this case, the vacancy is greater than 18 months ie approximately 21 months, and therefore, Council is required to hold this By-Election.

This report recommends, that due to the timeframe and their past performance, that Council engage the NSW Electoral Commission to administer this By-Election, at an estimated cost of \$135,000 (excluding GST), with the election proposed to be held on Saturday 21 February 2015. Section 55 (3)(p) of the Act provides Council with an exemption in calling formal tenders / quotations when a contract with the Electoral Commissioner to administer an election is proposed.

As required under Section 285(b) of the Local Government General Regulation, the Acting General Manager has advised the Electoral Commission, the Office of Local Government and Local Government NSW of this vacancy.

In addition to the costs associated with the engagement of the NSW Electoral Commission, it is proposed to allow an additional contingency amount for the holding of this election. Therefore, a budget allocation of \$150,000 funded from the Election Reserve is recommended.

**RECOMMENDATION:**

- (a) That Council note the resignation of Councillor Ivan Petch and endorse the By-Election for East Ward, to fill this vacancy to be held on Saturday, 21 February 2015.
- (b) That due to the urgent nature and short timeframe to arrange this election and the provisions of Section 55 (3)(p) of the Local Government Act, Council note that it is exempt from requiring to call formal tenders/quotations where a contract with the Electoral Commissioner to administer a Council election / by-election, is proposed.

**ITEM 18 (continued)**

- (c) That the City of Ryde, pursuant to Section 296(2) and 296(4) of the Local Government Act 1993 (NSW) endorse:
- i. an election arrangement be entered into for the Electoral Commissioner to administer the upcoming City of Ryde By-Election for East Ward, at an estimated cost of \$135,000 (excluding GST), to fill the casual vacancy as a result of the resignation of Councillor Ivan Petch, and
  - ii. such electoral arrangement be entered into by contract between the Electoral Commissioner and the Council.
- (d) That Council allocate a budget of \$150,000 funded from the Election Reserve, for the By-Election, to be held on Saturday, 21 February 2015.

**ATTACHMENTS**

- 1 Councillor Ivan Petch - Resignation 1 December 2014
- 2 Section 294, Local Government Act 1993 - Dispensing with By-Elections
- 3 Electoral Commission's Quotation - Ryde City Council By-Election 2015

Report Prepared By:

**Lorie Parkinson**  
**Governance Support Coordinator**

Report Approved By:

**Roy Newsome**  
**Group Manager - Corporate Services**

**ITEM 18 (continued)****Discussion**

On 1 December 2014, Councillor Ivan Petch resigned from his role as a Councillor for the East Ward of the City of Ryde, effective immediately, and as a result, created a Councillor vacancy, as defined by Section 234(1)(b) of the Local Government Act.

As required by Section 285(b) of the Local Government Regulation 2005, Council notified the Office of Local Government, the NSW Electoral Commission and Local Government NSW, of Councillor Petch's resignation and that this vacancy had occurred.

Council is now required to conduct a By-Election for East Ward, to fill the vacancy, as prescribed by Section 291 of the Local Government Act. Section 292 specifies when the By-Election is due to be held as follows:-

*292 When is a by-election to be held?*

*A by-election to fill a casual vacancy in the office of a councillor or a mayor elected by the electors of an area is to be held on a Saturday that:*

- (a) falls not later than 3 months after the vacancy occurs, and*
- (b) is fixed by the general manager (in relation to an election administered by the general manager) or the Electoral Commissioner (in relation to an election administered by the Electoral Commissioner).*

It is proposed that the By-Election date be Saturday, 21 February 2015.

Councillors are advised that Section 294 of the Local Government Act, **ATTACHMENT 2**, states that a By-Election must take place if the vacancy occurs more than 18 months before the date specified for the next ordinary election.

The next NSW Local Government elections will occur on Saturday, 10 September 2016, which is approximately in 21 months' time and therefore greater than the stated 18 months.

It is also possible to delay a By-Election if the Minister for Local Government is of the opinion that it would be impractical or inconvenient, as stated in Section 293 of the Act. In such cases, the By-Election must still occur within 28 days of the date the election was due to be held.

Council officers have liaised with the NSW Electoral Commission (NSWEC) regarding their administration of this By-Election. The NSWEC has proposed Saturday, 21 February 2015 as a suitable date, and has submitted a detailed estimated fee of \$134,854 (excluding GST) and is **ATTACHMENT 3**. The Commission has suggested that Saturday, 21 February 2015 is their preferred date, due to two other Local Government Authorities holding By-Elections on that day.

**ITEM 18 (continued)**

It should be noted that the cost of Council's election in 2012, which was administered by the Electoral Commissioner, was \$443,975 (excluding GST).

Due to the short timeframe and Council's past experience with the NSWEC in administering elections, it is recommended that the NSWEC be engaged to manage this By-Election for the City of Ryde. Under Section 55 (3)(p) of the Local Government Act, Councils are exempt from being required to call public tenders/quotations where it is proposed to engage the Electoral Commissioner to administer an election.

**Financial Implications**

The NSWEC have estimated their costs of administering the By-Election on Saturday, 21 February 2015, to be \$134,854 (excluding GST). It is proposed that Council make an allocation of \$150,000 for the By-Election, that will also include any other associated costs related to this Election. These funds will be allocated from Council's Election Reserve, which has a current balance of \$585,000.



**ITEM 18 (continued)**

**ATTACHMENT 1**

*Ivan Petch  
3 Jetty Road  
Putney Point 2112  
Tel: 02 9809 1847*

1 December 2014

The Acting General Manager  
Ryde City Council  
Civic Centre  
RYDE NSW 2112

Dear Sir,

**Resignation from Office**

I hereby tender my resignation as a Councillor of the City of Ryde effective immediately. And please be advised that I will not seek to hold civic office (within the meaning of the Local Government Act) for a period of 5 years.

Yours sincerely,



Clr. Ivan Petch

**ITEM 18 (continued)**

**ATTACHMENT 2**

LOCAL GOVERNMENT ACT 1993

**294 Dispensing with by-elections**

- (1) This section applies if a casual vacancy occurs in the office of a councillor, including a mayor elected by the electors of an area, within 18 months before the date specified for the next ordinary election of the councillors for the area.
- (2) If such a casual vacancy occurs in the office of a councillor (but not the office of a mayor elected by the electors), the Minister may, on the application of the council:
  - (a) order that the vacancy not be filled, or
  - (b) order the holding on a stated day of a by-election to fill the vacancy and revoke any earlier order made under paragraph (a).
- (3) If such a casual vacancy occurs in the office of a mayor elected by the electors, the casual vacancy is to be filled by the Governor appointing to the vacant office a councillor nominated by the council.
- (4) If the council does not nominate a councillor for the purposes of subsection (3), the Governor may appoint one of the councillors to the vacant office.

**ITEM 18 (continued)**

**ATTACHMENT 3**

**Ryde City Council**  
**2015 East Ward by-election estimate**

Projects / Deliverables	Total
<i>1 - Enrolment</i>	1,055
<i>2 - Election Staffing</i>	75,188
<i>3 - Financial Services</i>	1,665
<i>4 - Venue Procurement</i>	21,600
<i>5 - Counting and Results</i>	250
<i>6 - Logistics</i>	6,630
<i>7 - Media, Communications &amp; Advertising</i>	200
<i>8 - IT Infrastructure &amp; Application Support</i>	6,794
<i>9 - Call Centres</i>	3,000
<i>10 - Ballot Paper Production, Allocation &amp; Distribution</i>	2,500
<i>11 - External Reporting &amp; Evaluation</i>	1,000
<i>Election Management Fee @ 65 cents per elector</i>	14,972
<b>TOTAL (excluding GST)</b>	<b>134,854</b>
GST	13,485
<b>TOTAL (including GST)</b>	<b>148,339</b>
Estimated Number of Electors	23,034

Note: The above assumes a contested election