

GLEN INNES SEVERN COUNCIL

BUSINESS PAPER



**FOR THE
EXTRAORDINARY COUNCIL
MEETING**

**TO BE HELD ON
TUESDAY,
20 DECEMBER 2022**

PUBLIC FORUMS

- 1 The council may hold a public forum prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council. The duration of public forums will be 15 minutes and they will commence at 8.45am on the day of a set Council meeting.
- 2 Public forums are to be chaired by the mayor or their nominee. Only the names of speakers, the organisation that they are representing and the topic that they are speaking on will be recorded in Council's Meeting minutes.
- 3 To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by 12 noon on the Tuesday before the meeting and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.
- 4 A person may apply to speak on no more than two (2) items of business on the agenda of the council meeting.
- 5 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.
- 6 The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 7 No more than three (3) speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the council meeting.
- 8 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to address the council on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the general manager or their delegate is to determine who will address the council at the public forum.
- 9 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may, in consultation with the mayor or the mayor's nominated chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.
- 10 Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no less than one (1) day before the public forum. The general manager or their delegate may refuse to allow such material to be presented.
- 11 The general manager or their delegate is to determine the order of speakers at the public forum.
- 12 Each speaker will be allowed a maximum of five (5) minutes to address the council. If there are more than three (3) speakers, the maximum time will be reduced to stay within the duration scheduled for the Public Forum. This time is to be strictly enforced by the chairperson.
- 13 Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.
- 14 A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.
- 15 Speakers are under no obligation to answer a question put under clause 4.14. Answers by the speaker, to each question are to be limited to two (2) minutes.

- 16 Speakers at public forums cannot ask questions of the council, councillors, or council staff.
- 17 The general manager or their nominee may, with the concurrence of the chairperson, address the council for up to three (3) minutes in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.
- 18 Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.
- 19 When addressing the council, speakers at public forums must comply with this code and all other relevant Council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- a) The Mayor or Chair will be guided by Section 10A(2)(a) – (i) of the *Local Government Act 1993*, in not allowing members of the public during community consultation sessions to deal with or discuss or disclose any information with regards to the matters mentioned in this section and subsections of the Act.
- b) The opinions expressed by community members are not reflective or representative of the views of Council and hence Council cannot be held responsible or liable for such views.

Note: Public forums should not be held as part of a Council meeting. Council meetings should be reserved for decision-making by the Council. Where a public forum is held as part of a Council meeting, it must be conducted in accordance with the other requirements of the Code of Meeting Practice relating to the conduct of Council meetings.

Local Government Act 1993

Section 10A(2) (a) – (i)

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors),
- (b) the personal hardship of any resident or ratepayer,
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
- (ii) confer a commercial advantage on a competitor of the council, or
- (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law,
- (f) matters affecting the security of the council, councillors, council staff or council property,
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
- (i) alleged contraventions of any code of conduct requirements applicable under section 440.



GLEN INNES SEVERN COUNCIL

Notice is herewith given of an **EXTRAORDINARY MEETING**

That will be held at the Town Hall
Committee Room, 265 Grey Street, Glen Innes on:
Tuesday, 20 December 2022 at

ORDER OF BUSINESS

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Dennis McIntyre
Interim General Manager

Council

Meeting Date: 4th Thursday of the month commencing at 9.00am.

Matters determined by Ordinary meetings will include all those non-delegable functions identified in Section 377 of the Local Government Act as follows:

- *the appointment of a general manager*
- *the making of a rate*
- *a determination under section 549 as to the levying of a rate*
- *the making of a charge*
- *the fixing of a fee*
- *the borrowing of money*
- *the voting of money for expenditure on its works, services or operations*
- *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)*
- *the acceptance of tenders which are required under this Act to be invited by the council*
- *the adoption of a management plan under section 406*
- *the adoption of a financial statement included in an annual financial report*
- *a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6*
- *the fixing of an amount or rate for the carrying out by the council of work on private land*
- *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*
- *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](#)*
- *the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194*
- *a decision under section 356 to contribute money or otherwise grant financial assistance to persons*
- *the making of an application, or the giving of a notice, to the Governor or Minister*
- *this power of delegation*
- *any function under this or any other Act that is expressly required to be exercised by resolution of the council."*

Other matters and functions determined by Ordinary Council Meetings will include:

- *Notices of Motion*
- *Notices of Motion of Rescission*
- *Council Elections, Polls, Constitutional Referendums and Public Hearings/Inquiries*
- *Ministerial Committees and Inquiries*
- *Mayor and Councillors Annual Fees*
- *Payment of Expenses and Provision of Facilities to Mayor and Councillors*
- *Local Government Remuneration Tribunal*
- *Local Government Boundaries*
- *NSW Ombudsman*
- *Administrative Decisions Tribunal*
- *Delegation of Functions by the Minister*
- *Delegation of Functions to General Manager and Committees*
- *Organisation Structure*
- *Code of Conduct*
- *Code of Meeting Practice*
- *Honesty and Disclosure of Interests*
- *Access to Information*
- *Protection of Privacy*
- *Enforcement Functions (statutory breaches/prosecutions/recovery of rates)*
- *Dispute Resolution*
- *Council Land and Property Development*
- *Annual Financial Reports, Auditors Reports, Annual Reports and Statement of the Environment Reports*
- *Performance of the General Manager*
- *Equal Employment Opportunity*
- *Powers of Entry*
- *Liability and Insurance*
- *Membership of Organisations*
- *Any matter or function not within the delegable function of Committees*
- *Matters referred from Committees for determination*

Membership: Full Council - 7 Councillors.

Quorum: 4 members

Chairperson: The Mayor

Deputy Chairperson: The Deputy Mayor

The Mayor will read the following statement:

“This Council Meeting is not being live streamed due to the unavailability of the William Gardner Conference Room. No other persons are permitted to record the Meeting, unless specifically authorised by Council to do so.”

Thank you.”

The Mayor will read the following statement of ethical obligations:

“Councillors are reminded that they remain bound by the Oath/Affirmation of Office made at the start of the Council term to undertake their civic duties in the best interests of the people of the Glen Innes Severn Local Government Area and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act or any other Act, to the best of their skill and judgement.

Councillors are also reminded of the requirement for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with the Code of Conduct and Code of Meeting Practice.”

1 ACKNOWLEDGEMENT TO COUNTRY

“I acknowledge the Ngoorabul people as the traditional custodians of this land and pay my respect to the Elders past, present and emerging. I also extend that respect to Aboriginal and Torres Strait Islander people here today.”

2 APOLOGIES

3 DISCLOSURE OF CONFLICT OF INTERESTS / PECUNIARY AND NON-PECUNIARY INTERESTS

4 REPORTS TO COUNCIL

REPORT TITLE: 4.1 **AFFIXING OF THE SEAL OF COUNCIL TO THE STANDARD CONTRACT OF EMPLOYMENT FOR THE GENERAL MANAGER**

ECM INDEXES:

Subject Index: **GOVERNANCE: Authorisation**
PERSONNEL: Contracts

Customer Index: **NIL**

Property Index: **NIL**

AUTHOR: **Dennis McIntyre - Interim General Manager**

APPROVER/S: **Dennis McIntyre - Interim General Manager**

PURPOSE

The purpose of this report is for Council to authorise the affixing of the Seal of Council to the Standard Contract of Employment for the General Manager.

RECOMMENDATION

That Council authorises for the Common Seal of the Glen Innes Severn Council to be affixed to the Standard Contract of Employment for General Managers between the Glen Innes Severn Council and the preferred candidate.

REPORT

(a) **Background**

Under section 338 of the *Local Government Act 1993*, general managers must be employed under an employment contracted based on a standard contract approved by the “departmental chief executive” of the **Office of Local Government (OLG)**.

The standard contracts aim to ensure consistency and certainty in employment relationships at the executive level in local government.

General Managers must be employed under contracts with terms of between 12 months and five (5) years.

(b) Discussion

Council recently advertised for a new General Manager. The Standard Contract of Employment for General Managers was prepared and forwarded to the preferred candidate.

A signed copy has been returned to the Mayor and now requires the Seal of Council to be affixed.

(c) Options

Nil.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

The Standard Contract details the remuneration package for the General Manager.

(b) Governance/Policy

Subclause 7.1 of the Standard Contract provides:

7.1 *Within 3 months after the commencement date, the employee and Council will sign a performance agreement setting out agreed performance criteria.*

The **Guidelines for the Appointment and Oversight of General Managers 2022 (the Guidelines)**, provided by the OLG provides the following guidance:

Establishing a Performance Review Panel

The governing body must establish a performance review panel led by the mayor, and delegate the task of undertaking the general manager's performance reviews to the panel. The extent of the delegation should be clear.

It is recommended that full responsibility for performance management be delegated to the performance review panel, including discussions about performance, any actions that should be taken and the determination of the new performance agreement.

Performance review panels should comprise of the mayor, the deputy mayor, another councillor nominated by council and a councillor nominated by the general manager. The council's governing body may also consider including an independent observer on the panel. Panel members should be trained in the performance management of general managers.

The role of the review panel includes:

- conducting performance reviews;
- reporting the findings and recommendations of reviews to the council; and
- development of the performance agreement.

Establishing a Performance Agreement

The performance agreement is the most important component of successful performance management. The performance agreement should include clearly defined and measurable performance indicators against which the general manager's performance can be measured.

As one of the general manager's key responsibilities is to oversee the implementation of the council's strategic direction, it is important to align the general manager's performance criteria to the goals contained in the community strategic plan, and the council's delivery program and operational plans.

The performance agreement should also include indicators relevant to the general manager's personal contribution to the council's key achievements and their core capabilities, including leadership qualities. The performance agreement should also include indicators related to promoting and maintaining an ethical culture within the council. These could include the conduct and measurement of the outcomes from staff surveys and the promotion of whistleblowing procedures under the Public Interest Disclosures Act 1994 and the reporting of suspected wrongdoing to appropriate oversight agencies including the Independent Commission Against Corruption and the Office of Local Government.

The performance agreement should contain but not be limited to key indicators that measure how well the general manager has met the council's expectations with respect to:

- service delivery targets in the council's delivery program and operational plans
- budget compliance;
- organisational capability;
- timeliness and accuracy of information and advice to councillors;
- timely implementation of council resolutions;
- management of organisational risks;
- promotion of an ethical culture;
- ensuring a safe workplace and facilitating compliance with the Work Health and Safety Act 2011; and
- leadership and providing a consultative and supportive working environment for staff etc.

(c) Legislative/Statutory

Section 338 of the *Local Government Act 1993*, states that general managers must be employed under an employment contracted based on a standard contract approved by the "departmental chief executive" of the Office of Local Government with terms of between 12 months and five (5) years.

Section 400 of the *Local Government (General) Regulation 2021* sets out the requirements for the use of Council’s Seal. It states the following:

400 Council Seal

- (1) The seal of a council must be kept by the mayor or the general manager, as the council determines.
- (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 2 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.**
- (5) For the purposes of subclause (4), a document in the nature of a reference or certificate of service for an employee of the council does not relate to the business of the council.

(d) Risk

The Standard Contract is prescriptive and does not allow Councils to determine the terms of contract for hiring a general manager. The standard contract has rather onerous termination clauses favouring general managers; therefore, to mitigate such risks Council must have rigorous recruitment processes and very clear performance agreement and performance review processes.

(e) Social

Nil.

(f) Environmental

Nil.

(g) Economic

Nil.

(h) Asset Management

Nil.

CONSULTATION

(a) External

Leading Roles Recruitment.

The Office of Local Government.

(b) Internal

All Councillors were a part of the recruitment process regarding the appointment of the new General Manager.

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

This report has no relevance to the Integrated Planning and Reporting Framework.

CONCLUSION

A new General Manager has been appointed and Council is required to authorise the affixing of the Seal of Council to the Standard Contract of Employment for the General Manager.

ATTACHMENTS

Annexure A Contract of Employment - General Manager (*Confidential*)