

**SUBJECT: 28/03/2017 - 2017 LOCAL GOVERNMENT ELECTION TO BE CONDUCTED BY THE NEW SOUTH WALES ELECTORAL COMMISSIONER**

**REPORT BY: INTERIM CHIEF EXECUTIVE OFFICE**  
**CONTACT: INTERIM CHIEF EXECUTIVE OFFICER / MANAGER LEGAL AND GOVERNANCE**

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## **PURPOSE**

The purpose of this report is to inform Council that the New South Wales Electoral Commissioner will be conducting the proposed local government elections for the Newcastle Local Government Area on Saturday, 9 September 2017, in accordance with Council's existing contract.

## **RECOMMENDATION**

- 1 The Council to receive the report.
- 2 The Council resolves to confirm that the New South Wales Electoral Commission (NSWEC) will administer and conduct the 2017 local government election to be held on Saturday, 9 September 2017, in respect of the Newcastle Local Government Area, as Council's electoral services provider, at an estimated cost of \$827,775 (ex GST) in accordance with the terms of the Contract for Administration of All Elections between Council and NSWEC (Contract No. 2015/455T) dated 5 June 2015 (Contract).
- 3 The Interim Chief Executive Officer, or his delegate, be authorised to execute all documentation required to undertake the terms of the Contract.
- 4 Council endorses a total budget of \$847,775 (excluding GST) which includes the amount of \$827,775 referenced in paragraph 1 above together with an additional amount of \$20,000 for the estimated costs associated with election information advertising and that the total amount be included in the 2017/18 operating budget.
- 5 The Interim Chief Executive Officer is to publish a copy of this resolution on the Council's website.

## **KEY ISSUES**

- 6 The reason that this matter is being brought to Council at this time is that, as a consequence of having received the letter from the Minister for Local Government dated 25 February 2017 (refer to **Attachment A**), it is now confirmed that Council will be required to undertake a local government election on Saturday, 9 September 2017. This election is required as Council did not undergo a local government election on 10 September 2016 due to then being the subject of a council merger proposal. The Minister's letter confirms that Council will remain a stand-alone council and will not merge with Port Stephens Council.

- 7 Council staff contacted the NSWEC to request confirmation that the Contract dated 5 June 2015 remains on foot and legally effective and that NSWEC will be conducting the local government elections for the Newcastle Local Government Area on Saturday, 9 September 2017. NSWEC has provided confirmation that this is the case.
- 8 Because of the passage of considerable time since the previous expected costing for the local government election was supplied by NSWEC, Council staff have requested an updated estimate. The revised estimated costing is \$827,775. .

### **FINANCIAL IMPLICATIONS**

- 9 NSWEC has informed Council that the conduct of the 2017 local government election will cost an estimated \$827,775. In addition, it is estimated that an additional \$20,000 is required for election information advertising. (As set out in the Regulations, a range of advertising is required to inform the public of the close of the electoral rolls, call for nominations, polling day, etc.). As the election is to be held during the 2017/18 financial year, the \$847,775 amount will be included in the budget for that financial year.

### **COMMUNITY STRATEGIC PLAN ALIGNMENT**

- 10 Nil.

### **RISK ASSESSMENT AND MITIGATION**

- 11 There is minimal risk expected as a consequence of NSWEC conducting the 2017 local government election on behalf of Council. Having the NSWEC confirm that key arrangements to facilitate the efficient and effective conduct of the 2017 local government election has helped mitigate any risk issues from arising and to provide the appropriate level of assurance for Council that all appropriate and necessary planning and preparation is currently underway. NSWEC has supplied contact details for members of the public to use to make general enquiries concerning the upcoming 2017 local government election. This information has been published on Council's website. In addition, prospective candidates can now access the NSWEC website for candidate information webinars. A Client Liaison Officer is expected to be appointed in late March 2017. The Officer will contact Council about locating a returning office, pre-poll venue(s), polling places, logistics, statutory advertisements and so on.

### **RELATED PREVIOUS DECISIONS**

- 12 Council resolved at the Ordinary Council Meeting held on 24 February 2015 as follows:
  - "1 Council to receive the report.
  - 2 Pursuant to sections 296(2) and (3) and 296AA of the Local Government Act 1993 (NSW) that an election arrangement be entered into by contract for the

*NSW Electoral Commissioner to administer the 2016 general council election for Council.*

- 3 *The General Manager, or his delegate, be authorised to execute all documentation required to effect the engagement of the New South Wales Electoral Commissioner to administer the 2016 ordinary council election for Council.*
- 4 *Council endorses a total budget of \$765,000 (excluding GST and including additional Council costs such as advertising) be allocated to the conduct of the 2016 ordinary council election as part of the 2016/17 Budget Plan, noting that this may require reduction in other operational budgets.*
- 5 *This confidential report relating to the matters specified in s. 10A of the Act be treated as confidential and remain confidential.*
- 6 *Council notes that the approval of the entering into of an election arrangement and contract with the NSWEC to conduct Council's 2016 ordinary council election qualifies for an exemption under s. 55(3)(p) of the Act from the need to invite tenders."*

- 13 On 9 December 2014, Council resolved (in part):

*The City of Newcastle Council resolves pursuant to s.296(2) and (4) of the Local Government Act 1993 (NSW) (Act) that an election arrangement be entered with the New South Wales Electoral Commissioner (NSWEC) to administer the Ward 3 by-election at an estimated cost of \$159,381 (ex GST).*

- 14 On 26 August 2014, Council resolved (in part):

*The City of Newcastle Council resolves pursuant to s.296(2) and (4) of the Local Government Act 1993 (NSW) (Act) that an election arrangement be entered with the New South Wales Electoral Commissioner (NSWEC) to administer the Lord Mayor by-election at an estimated cost of \$425,000.*

- 15 On 29 November 2011, Council resolved (in part):

*Council award contract number 2012/239T for the provision of local government election services to RMK Investments Pty Ltd (trading as Australian Election Company).*

## **CONSULTATION**

- 16 Council staff has consulted with NSWEC management.

## **OPTIONS**

### **Option 1**

- 17 The recommendation as at Paragraphs 1 – 5. This is the recommended option.

### **Option 2**

- 18 Council resolves to terminate the Contract with NSWEC. This is not the recommended option.

## **BACKGROUND**

- 19 Section 296(3) of the Act requires Council to resolve to enter into an arrangement for either the NSWEC or the General Manager to administer the 2017 general council election at least 18 months before the polling date. This legislative requirement was satisfied in February 2015 and resulted in the Contract dated 5 June 2015. The Contract remains on foot and legally effective to ensure that NSWEC conducts the 2017 local government election for Council.
- 20 The Act was amended in 2011 to remove the monopoly of the NSWEC in conducting local government elections. Under s.296 of the Act, the general manager is required to administer elections required under the Act unless an election arrangement is resolved by Council for the NSWEC to conduct the election.
- 21 At the Council meeting held on 29 November 2011, Council resolved to outsource the 2012 local government election to a private contractor, RMK Investments Pty Ltd (as trustee for Kidd Family Trust) trading as Australian Election Company (AEC).
- 22 AEC was chosen through a tender process run by the Hunter Councils Inc., trading as Regional Procurement. The subsequent contract with AEC included options to conduct the 2016 general council election and any by-election in the interim.

## **REFERENCES**

Nil.

## **ATTACHMENTS**

- Attachment A:** Letter by the Minister for Local Government dated 25 February 2017

**Attachment A:** Letter by the Minister for Local Government dated 25 February 2017



**The Hon. Gabrielle Upton MP**  
Minister for the Environment  
Minister for Local Government  
Minister for Heritage

Clr Nuatali Nelmes  
Lord Mayor  
Newcastle City Council  
PO Box 489  
NEWCASTLE NSW 2300

[mail@ncc.nsw.gov.au](mailto:mail@ncc.nsw.gov.au)

Dear Clr Nelmes

**Decision not to proceed with proposed merger**

As you will no doubt be aware, the Premier, Deputy Premier and I announced on 14 February 2017 that the NSW Government will proceed with merger proposals in the Sydney metropolitan area only, and also that the Government will not proceed with mergers in regional NSW.

I hereby formally advise you that I have made a decision not to recommend to the Governor of NSW that the proposal to merge Newcastle City and Port Stephens councils be implemented.

This means your council will continue to stand alone. Local Government elections for your council will take place on 9 September 2017.

Looking ahead, I look forward to receiving advice from your council regarding how it will strive to provide the best possible services, infrastructure and value for money to its residents and ratepayers.

Yours sincerely

  
**Gabrielle Upton MP**  
Minister for the Environment  
Minister for Local Government  
Minister for Heritage

25.2.17