

Conduct of the 2024 Local Government Election

File No: X001937

Summary

Council is required by the Local Government Act 1993 (the Act) to resolve the conduct of local government elections. The next local government election will occur on 14 September 2024.

The Act requires that, at least 18 months before the next local government election, councils must resolve that either the Chief Executive Officer or the NSW Electoral Commissioner (the Commissioner) will administer the election. The 18-month cut-off for a council resolution for the 2024 local government election is 14 March 2023.

If a council resolves that the Commissioner will administer their election, it must enter into an arrangement to do this with the Commissioner at least 15 months before the election, in this case by 14 June 2023.

It is open to councils to engage the Commissioner to conduct elections only or elections, council polls and constitutional referenda. A council may take a poll of electors for information and guidance on any matter.

The Commissioner, via the NSW Electoral Commission, has considerable expertise and experience in conducting elections, and has successfully conducted previous elections for the City, including supporting the production of the City's non-resident rolls following changes to the City of Sydney Act 1988 in 2015.

This report recommends that Council resolve to engage the Commissioner to conduct the 2024 local government election, and any other elections, polls and constitutional referenda.

Council is also able to resolve that voting for elections will be exclusively by postal voting or by a combination of postal voting and attendance. If a resolution is not made by Council at least 18 months before the next local government election, then the next election will be conducted in the same way as the previous election. Voting in the City at the 2021 election was a combination of postal and attendance voting. The cut-off date for a resolution on this matter is 14 March 2023.

To enable electors to vote by their preferred method, it is recommended that a combination of postal and attendance voting is retained.

Recommendation

It is resolved that:

- (A) pursuant to s296(2) and (3) of the Local Government Act 1993, that an election arrangement be entered into by contract for the NSW Electoral Commissioner to administer all elections of Council;
- (B) pursuant to s296(2) and (3) of the Act, as applied and modified by s18, that a council poll arrangement be entered into by contract for the NSW Electoral Commissioner to administer all council polls of Council;
- (C) pursuant to s296(2) and (3) of the Act, as applied and modified by s18, that a constitutional referendum arrangement be entered into by contract for the NSW Electoral Commissioner to administer all constitutional referenda of Council;
- (D) authority be delegated to the Chief Executive Officer to negotiate and execute the contract with the NSW Electoral Commissioner; and
- (E) the means of voting at the 2021 election will be retained for the 2024 election (that is, a combination of attendance and postal voting).

Attachments

Nil.

Background

1. Section 296AA of the Local Government Act 1993 (the Act) requires that, at least 18 months before the next election, councils must resolve that either the Chief Executive Officer or the Commissioner will administer the election.
2. The next local government election is 14 September 2024, and the 18-month cut-off for Council's resolution is 14 March 2023.
3. The Commissioner, via the NSW Electoral Commission (NSWEC), has a great deal of expertise and experience in conducting elections and has successfully conducted the City's past elections, including supporting the development of the City's non-resident rolls.
4. It is open to councils to engage the Commissioner to conduct elections only or elections, council polls and constitutional referenda.
5. Because of the Commissioner's expertise it is recommended that Council resolve to enter into a contract for the Commissioner to conduct all elections, polls and constitutional referenda.
6. Any contract made will be automatically terminated 18 months before the 2028 local government election, or on reasonable notice by either the City or the Commissioner (section 296(6) and (7) of the Act).
7. The Act also enables Council to resolve that voting for the next election will be exclusively by postal voting or by a combination of postal or attendance voting (section 310B of the Act).
8. Voting in the City of Sydney at the 2021 election was a combination of postal and attendance voting.
9. Offering voters the opportunity to vote in person or by post will allow them to exercise their preferred voting method. As such, it is recommended that a combination of postal and attendance voting is retained.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

10. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This report is aligned with the following strategic directions and objectives:
 - (a) Direction 1 - Responsible governance and stewardship. It will enable compliance with legislative requirements for the election of the Lord Mayor and Councillors.

Social / Cultural / Community

11. Engaging the Commissioner to administer the City's election will assure the community of compliant and fair elections.
12. Offering postal and attendance voting will give community members greater choice about the way they vote than if elections were conducted exclusively by postal voting.

Financial Implications

13. The exact costs of engaging the Commissioner will not be known until after the election as the Commissioner is required to invoice on a cost recovery basis.
14. The cost for the Commissioner to conduct the City's 2021 election was \$1,182,985. Allowance for a similar amount, plus cost indexation, has been included in expenditure estimates for financial year 2024/25.
15. A detailed cost estimate is expected to be provided by the Commissioner by mid-2023. Future year expenditure estimates will be adjusted accordingly on receipt.

Relevant Legislation

16. Local Government Act 1993.
17. City of Sydney Act 1988.

Critical Dates / Time Frames

18. Cut-off dates to comply with the Act are:

Resolution of Council regarding who will administer the 2024 election required by	14 March 2023
Arrangement with the Commissioner to administer all elections must be entered into by	14 June 2023

Options

19. Administration of an ordinary election is highly complex, requiring transparent and fair processes to:
 - (a) produce all electoral materials;
 - (b) hire and staff the appropriate number of venues for early and election day voting;
 - (c) respond to early voting and postal voting requests;
 - (d) manage candidates and scrutineers;
 - (e) print ballot papers;
 - (f) process and count marked ballot papers (using the weighted inclusive Gregory method of preference allocation); and
 - (g) manage post-election storage of ballot papers to enable a possible recount or countback.

20. The option of the City administering its own elections, polls and referenda has not been considered because the City has no experience or capacity to administer elections. Further, the Commissioner is already required to undertake some tasks in relation to the City's non-residential roll under the City of Sydney Act 1988.
21. The option of having an electoral services provider, other than the Commissioner, administer elections, polls and referenda on the City's behalf has not been considered in detail because:
 - (a) Production of the non-residential rolls requires extensive collaboration with NSWEC, especially during an election period. Working with a second external organisation during this period would require additional effort and resources from the City as well as having the potential to confuse electors.
 - (b) Only a handful of councils have engaged non-NSWEC electoral services providers. The lack of information available on their performance does not allow for an informed comparison between them and the NSWEC.
 - (c) The NSWEC has a great deal of expertise and experience in conducting elections and has successfully conducted the City's past elections.
22. If Council does not resolve the conduct of its elections, polls and referenda by 14 March 2023, it will only be able to engage the Commissioner to administer its ordinary election if the Commissioner deems there are exceptional circumstances. Without exceptional circumstances, the City will be required to make its own arrangements for the 2024 election. As such, 'no action' has not been considered as an option.

Public Consultation

23. There has been no public consultation by the City on this matter.

KIRSTEN MORRIN

Director Legal and Governance

Sally Aves, Manager Council Elections