



SPECIAL MEETING

AGENDA

15 JULY 2024

Your attendance is required at a Special meeting of Council to be held in the Council Chambers, 232 Bolsover Street, Rockhampton on 15 July 2024 commencing at 8:30am for transaction of the enclosed business.

A handwritten signature in black ink, appearing to be "C. P.", written in a cursive style.

CHIEF EXECUTIVE OFFICER
9 July 2024

Please note:

In accordance with the *Local Government Regulation 2012*, please be advised that all discussion held during the meeting is recorded for the purpose of verifying the minutes. This will include any discussion involving a Councillor, staff member or a member of the public.

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1 OPENING

1.1 Acknowledgement of Country

2 PRESENT

Members Present:

The Mayor, Councillor A P Williams (Chairperson)
Deputy Mayor, Councillor M D Wickerson
Councillor S Latcham
Councillor E W Oram
Councillor C R Rutherford
Councillor M A Taylor
Councillor G D Mathers

In Attendance:

Mr E Pardon – Chief Executive Officer

3 APOLOGIES AND LEAVE OF ABSENCE

4 DECLARATIONS OF INTEREST IN MATTERS ON THE AGENDA

5 OFFICERS' REPORTS

5.1 COUNCILLOR VACANCY

File No:	15990
Attachments:	Nil
Authorising Officer:	Evan Pardon - Chief Executive Officer
Author:	Evan Pardon - Chief Executive Officer

SUMMARY

With the recent passing of Division 2 Councillor, Neil Fisher the Local Government Act 2009 is prescriptive in how the vacancy is to be filled and the timeframe to do so. Council is now required to resolve the manner in which to proceed to fill the current vacancy.

OFFICER'S RECOMMENDATION

THAT pursuant to section 166(2) of the *Local Government Act 2009* Council fill the Division 2 vacancy by way of a by-election.

COMMENTARY

With the recent passing of Division 2 Councillor, Neil Fisher there is now a vacancy in the office of Councillor for that Division pursuant to section 162(1)(g) of the *Local Government Act 2009*. The *Local Government Act 2009* is prescriptive in how that vacancy is to be filled and is dependent on 'whether the office becomes vacant during the beginning, middle or final part of the local government's term'.

As this point in time is within 12 months of the holding of the last quadrennial election, Council is in the beginning of the local government's term, and Council must choose to fill the vacancy by way of either a by-election or by following a procedure (under s166A LGA) to appoint the runner-up.

There was a runner-up at the most recent quadrennial election. Council can choose to fill this vacancy by appointing this candidate (via a process). No contact has been made with the candidate to ascertain their interest as there is a process prescribed by the LGA. In summary, if Council chooses this option the Electoral Commission of Queensland will make formal contact to seek the candidate's consent to be appointed.

On balance, the conduct of a by-election allows the community to have its say in whom they want to represent them at Council. It is quite feasible that potential candidates may not have wanted to contest this Division at the most recent quadrennial election against the former Councillor for various reasons.

While Council has had two (2) by-elections in the previous term of Council, circumstances did not afford it the choice to do anything different. With the short period of time that has passed since the most recent quadrennial election there may be an element of community expectation that the current vacancy be filled by way of a by-election.

BACKGROUND

Council most recently had a vacancy in the beginning of the term in late 2020 when the Mayor at the time resigned. At that point in time the legislation mandated the runner up be offered the position. During this period, legislation was changed for Mayoral vacancies requiring a by-election except for the final part of the term (last 12 months). Consequently, a by-election was conducted.

As a consequence, when Councillor Williams was appointed to Mayor, the vacant Division 3 Councillor office was contested by a by-election. As there were no other candidates at the 2020 quadrennial election, Council had no choice to make.

BUDGET IMPLICATIONS

The 2021 Division 3 by-election was conducted at a cost of \$57,845. A budget allowance of \$75,000 has been made for this potential divisional by-election. If Council chooses to fill the vacancy by way of following the procedure under s166A of the *Local Government Act 2009* to appoint the runner-up there will be no budgetary impact.

LEGISLATIVE CONTEXT

Division 3 of the Local Government Act 2009 prescribes the required actions for vacancies in councillor's office.

LEGAL IMPLICATIONS

Nil

STAFFING IMPLICATIONS

Nil

RISK ASSESSMENT

Nil

CORPORATE/OPERATIONAL PLAN

N/A

CONCLUSION

In conclusion, the decision to fill the vacant Division 2 Councillor office must be made by Council. As per the *Local Government Act 2009* it must choose a by-election or to go through a process to appoint the runner up from the most recent quadrennial election. As presented in this report it is recommended that Council fill the vacancy by way of a by-election.

6 CLOSURE OF MEETING