

SOUTH GIPPSLAND SHIRE COUNCIL

# Council Meeting Agenda

Election of Mayor and Determination  
and Election of Deputy Mayor

**Council Meeting No.489  
Council Chambers, Leongatha  
Commencing at 2:00pm**



# agenda



*South Gippsland  
Shire Council*

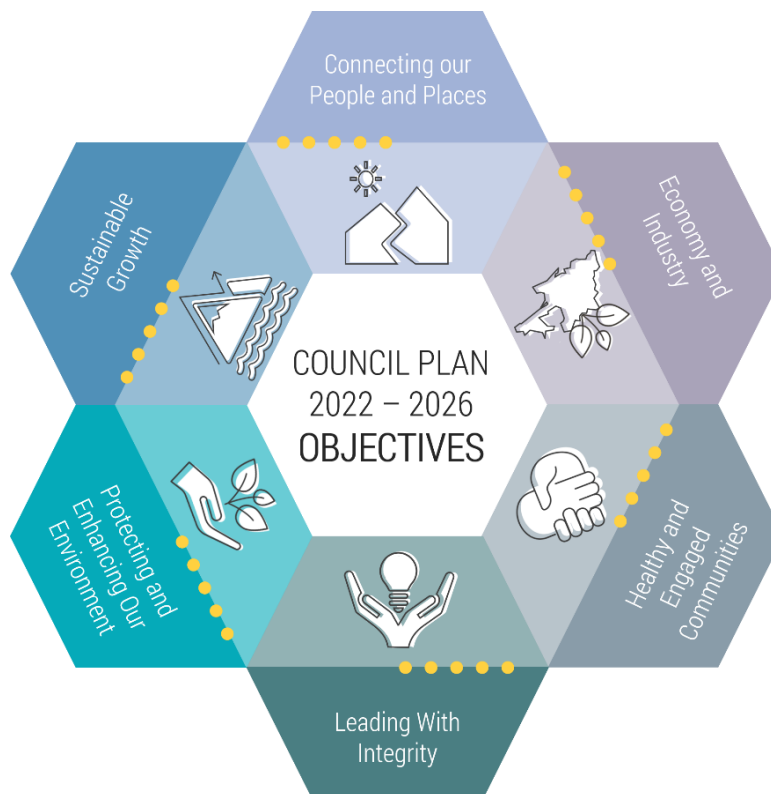
*Come for the beauty, Stay for the lifestyle*

## OUR COUNCIL VISION

***We care deeply about our people, the land and future of South Gippsland.***

***Our vision is to support the whole Shire in creating economic, environmental and social prosperity for this and future generations.***

The Council Agenda relates to the Strategic Objectives of the *Council Plan 2022-2026* indicated in this diagram:



### **Privacy**

Council is required to keep minutes of each Council meeting. The minutes contain details of proceedings which may include personal information about community members disclosed as part of presentations, submissions and questions. The minutes of Council meetings are a public record and can be inspected by members of the public.

The Council Meeting is streamed live, recorded and published in accordance with Council's *Live Streaming in Council Meetings Policy*.

Access to the live stream is available on Council's website – [Link](#).

A copy of the *Policy* is located on Council's website - [Link](#).

## **SOUTH GIPPSLAND SHIRE COUNCIL**

Notice is hereby given that Council Meeting No.489 of the South Gippsland Shire Council will be held on Wednesday 22 November 2023 in the Council Chambers, Leongatha commencing at 2:00pm

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**Kerryn Ellis**  
**Chief Executive Officer**

## **1. PRELIMINARY MATTERS**

### **1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER**

This Council Meeting is being streamed live, recorded and published in accordance with Council's Live Streaming in Council Meetings Policy.

Access to the live stream through Council's Internet is an option to view the 'open' component of a Council Meeting. Link to the Live Stream on Council's website: [Live Streaming | Live Streaming | South Gippsland Shire Council](#)

The Chair and/or the CEO have the discretion and authority at any time to direct the termination or interruption of live streaming. Such direction will only be given in exceptional circumstances where deemed relevant. Circumstances may include instances where the content of debate is considered misleading, defamatory or potentially inappropriate to be published.

Today's Meeting is being streamed live as well as recorded and published on Council's website.

Thank you

### **1.2. WELCOME TO THE COUNCIL MEETING**

### **1.3. OPENING PRAYER**

As we gather here from diverse backgrounds and beliefs, may we hold privilege with good care and trust. As we deliberate and discuss, may we be wise in our discernment, fair in our decisions and visionary in our planning. May we be guided by our common goal of a strong and united South Gippsland.

### **1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS**

We acknowledge the Bunurong and Gunaikurnai people as the Traditional Custodians of South Gippsland and pay respect to their Elders, past, present, and future, for they hold the memories, traditions, culture, and hopes of Aboriginal and Torres Strait Islander people of Australia.

### **1.5. APOLOGIES**

## 1.6. DECLARATION OF CONFLICTS OF INTEREST FOR COUNCILLORS

The *Local Government Act 2020* (the Act), Division 2 sets out the requirements relating to Conflict of Interest. Disclosure of a conflict of interest in respect of a matter to be considered at a Council Meeting is required under section 130(1)(a) and specifically applies to a relevant person being a Councillor, member of a delegated committee who is not a Councillor and a member of Council staff.

Council's *Governance Rules (C82)* (the Rules), clause 3.0 Disclosure of a Conflict of Interest at a Council Meeting sets out the prescribed manner required to disclose a conflict of interest at South Gippsland Shire Council.

The Rules require a Councillor and/ or staff member who has a conflict of interest in a matter being considered at a Council Meeting to announce before the matter is considered and disclose this in a written notice to the Chief Executive Officer. The details included in the disclosure, explain the nature conflict of interest, whether it is classified as general or material (s.127 and s.128), the name of the relevant person(s) and their relationship to them.

Failure to comply with disclosures of conflict of interest (s.130) may be subject to penalty points and/ or other disciplinary measures depending on the nature of the conflict.

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au).

Council's *Governance Rules (C82)* can be accessed from [Council's Policies](#) webpage.

## 1.7. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF

The *Local Government Act 2020* (the Act), Division 2 sets out the requirements relating to Conflict of Interest. Disclosure of a conflict of interest in respect of a matter to be considered at a Council Meeting is required under section 130(1)(a) and specifically applies to a relevant person being a Councillor, member of a delegated committee who is not a Councillor and a member of Council staff.

Council's *Governance Rules (C82) (the Rules)*, Chapter 5, clause 7, 8 and 9 sets the prescribed manner required for staff to disclose a conflict of interest when:

- Preparing Reports for Meetings
- Exercise of Delegated Power
- Exercise of a Statutory Function

Council staff must immediately upon becoming aware of a conflict of interest provide a written notice to the Chief Executive Officer disclosing the conflict of interest, explain the nature of the conflict and how it will be managed. Upon becoming aware and declaring a conflict of interest, a staff member may not exercise a power or perform a function in the matter. All prepared reports will record that staff member(s) have considered a conflict of interest and include if any, the details of a disclosure.

Failure to comply with disclosures of conflict of interest (s.130) may be subject to penalty points and/ or other disciplinary measures depending on the nature of the conflict.

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au).

Council's *Governance Rules (C82)* can be accessed from Council's Policies webpage.

## 2. OBJECTIVE - LEADING WITH INTEGRITY

### 2.1. ELECTION OF MAYOR

Directorate:	Performance and Innovation
Department:	Governance

#### Council Plan

*Objective - Leading with Integrity*

*Council is required to abide by the Local Government Act 2020 and Council's Governance Rules (C82) 2022 in the proceedings of appointing a Mayor and Deputy Mayor.*

#### EXECUTIVE SUMMARY

The purpose of this report is to facilitate the election of the Mayor.

Section 25 of the *Local Government Act 2020* (the Act), stipulates that Councillors must elect a Mayor of the Council, at a meeting that is open to the public. Section 26 requires that the election of the Mayor (and Deputy Mayor) is to be held as close to the end of one-year term as is reasonably practicable.

The election of the Mayor must be chaired by the Chief Executive Officer (CEO) until the Mayor is elected and subject to s.25, be conducted in accordance with the Council's *Governance Rules (C82)* (Governance Rules). Once the Mayor has been elected, they will assume the position of the Chair.

#### RECOMMENDATION

**That Council:**

- 1. Proceeds to elect a Mayor of the South Gippsland Shire Council, in accordance with ss.25 and 26 of the *Local Government Act 2020*, for the duration of 1 Year; and**
- 2. Acknowledges that the term will conclude at 6am on day of the Council elections currently set for 26 October 2024, unless the Office of Mayor becomes vacant earlier under ss.20, 22, 23 or 35 of the *Local Government Act 2020*.**

## REPORT

### Background

Section 25(3)(a)(b) of the Act states that the CEO presides as Temporary Chair at the Meeting until the Mayor is elected. This is also in accordance with Council's *Governance Rules*, Part B Clause 5.3.

The election of the Mayor will be supervised by Kerry Ellis, the Chief Executive Officer who will be the Returning Officer for this Mayoral election.

Section 26(4) of the Act requires that the election of the Mayor (and Deputy Mayor) is to be held as close to the end of one-year term as is reasonably practicable.

As defined in s.18 of the Act:

1. *The role of the Mayor is to –*
  - a. *chair Council meetings; and*
  - b. *be the principal spokesperson for the Council; and*
  - c. *lead engagement with the municipal community on the development of the Council Plan; and*
  - d. *report to the municipal community, at least once each year, on the implementation of the Council Plan; and*
  - e. *promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct; and*
  - f. *assist Councillors to understand their role; and*
  - g. *take a leadership role in ensuring the regular review of the performance of the Chief Executive Officer; and*
  - h. *provide advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings; and*
  - i. *perform civic and ceremonial duties on behalf of the Council.*
2. *The Mayor is not eligible to be elected to the office of Deputy Mayor.*

As defined in s.19 of the Act:

1. *The Mayor has the following specific powers –*



- a. *to appoint a Councillor to be the chair of a delegated committee;*
  - b. *to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business;*
  - c. *to require the Chief Executive Officer to report to the Council on the implementation of a Council decision.*
2. *An appointment under subsection (1)(a) prevails over any appointment of a chair of a delegated committee by the Council.*

As per the *Governance Rules* Part B clause 7.3, all nominations for the office of Mayor can be made by any Councillor and are to be submitted in writing to the CEO prior to the meeting. The nomination form must be seconded by another Councillor prior to it being submitted.

All nominees will indicate their acceptance of the nomination during the meeting. Any nominees not present at the meeting held to elect the Mayor, must have provided their acceptance in writing to the CEO, prior to the meeting.

Once nominations have been accepted, all Councillors contesting the election of the Mayor shall be known as candidates. The CEO will declare nominations closed before the meeting begins. If no nominations are received prior, the CEO will call for nominations at the meeting.

If there is only one nomination, the candidate nominated must be declared to be duly elected. If there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates.

Section 61 of the Act requires that voting is to be carried out by a show of hands by each Councillor and is determined by the *absolute majority* which is greater than half the total number of the Councillors present at the meeting. With the exception of the voting method, the general provisions of Council's *Governance Rules* apply in regard to the election of Mayor and counting of votes.

Candidates may address Council for up to three minutes prior to the vote for the election of Mayor being conducted.

The term of office for Mayor will commence on 22 November 2023 upon appointment by Council and will conclude at 6am on day of the Council elections current set for 26 October 2024.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

Nil

## **RESOURCES / FINANCIAL VIABILITY**

The Mayor and Councillors are provided with an allowance to assist them in undertaking their civic duties. Section 39 of the Act sets out the requirements for Councillor allowances.

The Mayoral allowance is higher than the Councillors' allowance to reflect the increased workload and responsibilities required of the Mayor.

These allowances are funded in the annual budget for each four-year term.

## **RISKS**

Council is required by law to elect a Mayor. Failing to appoint a Mayor would result in a breach of the Act. The Additional Council Meeting to elect a Mayor has been held to ensure Council meets its legislative requirements under ss.25 and 26 of the Act.

## **STAFF DISCLOSURE**

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

## **ATTACHMENTS**

Nil

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

### **Council Policy / Strategy / Plans**

*Documents are available on Council's website at the following [LINK](#).*

Governance Rules (C82)

### **Legislative Provisions**

Local Government Act 2020

## 2.2. DETERMINATION OF DEPUTY MAYOR

Directorate:	Performance and Innovation
Department:	Governance

### Council Plan

*Objective - Leading with Integrity*

*Council is required to abide by the Local Government Act 2020 and Council's Governance Rules (C82) 2022 in the proceedings of appointing a Deputy Mayor.*

### EXECUTIVE SUMMARY

The purpose of this report is to determine if a Deputy Mayor is to be appointed by Council. The Council may also resolve to elect a Deputy Mayor for a term of one or two years. Establishing a Deputy Mayor's role is to assist and reduce the workload pressures of the Mayor.

Section 20A of the *Local Government Act 2020* (the Act) allows for Council to establish an office of Deputy Mayor by resolution of Council. Council's *Governance Rules (C82)* (Governance Rules), also provides for the election of a Deputy Mayor, if desired by Council under Part B clause 5.4(c).

Section 27 of the Act, indicates that ss.25 and 26 applies to the election of a Deputy Mayor as if any reference in those sections to the Mayor was a reference to the Deputy Mayor.

### RECOMMENDATION

**That Council:**

- 1. Resolves to elect a Deputy Mayor of the South Gippsland Shire Council; and**
- 2. Resolves to elect a Deputy Mayor for a term of one year in accordance with ss.25, 26 and 27 of the *Local Government Act 2020*, which will conclude at 6am on day of the Council elections currently set for 26 October 2024.**

### REPORT

Section 26(4) of the Act requires that the election of the Deputy Mayor is to be held as close to the end of one-year term as is reasonably practicable. The election and appointment of the previous Deputy Mayor meeting took place on 23 November 2022.

Council's *Governance Rules* provides for the election of a Deputy Mayor if determined by Council. This role is to deputise for the Mayor in providing a leadership and formal representational presence at civic, ceremonial and public engagements; and chairs Council Meetings on occasions when the Mayor is unable to do so.

As defined in s.21 of the Act:

1. *The Deputy Mayor must perform the role of the Mayor and may exercise any of the powers of the Mayor if–*
  - a. *the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or*
  - b. *the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or*
  - c. *the office of Mayor is vacant.*

#### **CONSULTATION / COMMUNITY ENGAGEMENT**

Nil

#### **RESOURCES / FINANCIAL VIABILITY**

The Deputy Mayor and Councillors are provided with an allowance to assist them in undertaking their civic duties. Section 39 of the Act sets out the requirements for Councillor allowances.

The Deputy Mayor allowance is higher than the Councillors' allowance to reflect the increased workload and responsibilities required to assist the Mayor.

These allowances are funded in the annual budget for each four-year term.

#### **RISKS**

Establishing a Deputy Mayor's role reduces the workload pressures on the Mayor, and aims to mitigate a potential occupational health and safety concern for the Mayor.

#### **STAFF DISCLOSURE**

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

#### **ATTACHMENTS**

Nil

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

### **Council Policy / Strategy / Plans**

*Documents are available on Council's website at the following [LINK](#).*

Governance Rules (C82)

### **Legislative Provisions**

Local Government Act 2020

## 2.3. ELECTION OF DEPUTY MAYOR

Directorate:	Performance and Innovation
Department:	Governance

### Council Plan

*Objective - Leading with Integrity*

*Council is required to abide by the Local Government Act 2020 in the proceedings of appointing a Deputy Mayor.*

### EXECUTIVE SUMMARY

The purpose of this report is to facilitate the election of the Deputy Mayor, if Council has resolved to elect a Deputy Mayor today. Establishing a Deputy Mayor's role is to assist and reduce the workload pressures of the Mayor.

Section 20A of the *Local Government Act 2020* (the Act) allows for Council to establish an office of Deputy Mayor by resolution of Council. Council's *Governance Rules (C82)* (Governance Rules), also provides for the election of a Deputy Mayor, if desired by Council under Part B clause 5.4.

Section 27 of the Act, indicates that ss.25 and 26 applies to the election of a Deputy Mayor as if any reference in those sections to the Mayor was a reference to the Deputy Mayor.

The election of the Deputy Mayor will be chaired by the newly elected Mayor in accordance with Council's *Governance Rules*.

The term of office for the Deputy Mayor will commence on 22 November 2023 upon appointment by Council and become vacant at the time and on the day of the election of the next Deputy Mayor, unless circumstances arise under ss.20, 22, 23 and 35 of the Act which leads to the position of Deputy Mayor becoming vacant prior.

### RECOMMENDATION

**That Council:**

- 1. Proceeds to elect a Deputy Mayor of the South Gippsland Shire Council, in accordance with ss.25, 26 and 27 of the *Local Government Act 2020*, for the duration resolved in the 'Determination and Election of Deputy Mayor' report; and**

2. **Determines that the term will conclude at 6am on day of the Council elections currently set for 26 October 2024, unless the Office of Deputy Mayor becomes vacant earlier under ss.20, 22, 23 or 35 of the *Local Government Act 2020*.**

## REPORT

Council's *Governance Rules* provides for the election of a Deputy Mayor if determined by Council. This role is to deputise for the Mayor in providing a leadership and formal representational presence at civic, ceremonial and public engagements; and chairs Council Meetings on occasions when the Mayor is unable to do so.

As defined in s.21 of the Act:

1. *The Deputy Mayor must perform the role of the Mayor and may exercise any of the powers of the Mayor if—*
  - a. *the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or*
  - b. *the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or*
  - c. *the office of Mayor is vacant.*

As per the *Governance Rules*, all nominations for the office of Deputy Mayor can be made by any Councillor and are to be submitted in writing to the CEO prior to the meeting. The nomination form must be seconded by another Councillor prior to it being submitted.

All nominees will indicate their acceptance of the nomination during the meeting. Any nominees not present at the meeting held to elect the Deputy Mayor, must have provided their acceptance in writing to the CEO, prior to the meeting.

Once nominations have been accepted, all Councillors contesting the election of the Deputy Mayor shall be known as candidates. The CEO will declare nominations closed before the meeting begins. If no nominations are received prior, the CEO will call for nominations at the meeting.

If there is only one nomination, the candidate nominated must be declared to be duly elected as Deputy Mayor. If there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates.

Section 61 of the Act requires that voting is to be carried out by a show of hands by each Councillor and is determined by the *absolute majority* which is greater than half the total number of the Councillors present at the meeting. With the exception of the voting method, the general provisions of Council's *Governance Rules* regarding the election of Deputy Mayor and counting of votes apply.

Candidates may address Council for up to three minutes prior to the vote for the election of the Deputy Mayor being conducted.

The term of office for Deputy Mayor will commence on 22 November 2023 upon appointment by Council and will end following the completion of the term resolved by Council in the 'Determination and Election of Deputy Mayor' report and in accordance with s.25 and 26 of the Act.

If a Deputy Mayor is not elected then Council will be required to make a Council resolution each time the Mayor is unable to fulfil their role. This may cause problems for the Council if faced with a situation where an Acting Mayor is required at short notice and a resolution cannot be made at a Council Meeting in time.

#### **CONSULTATION / COMMUNITY ENGAGEMENT**

Nil

#### **RESOURCES / FINANCIAL VIABILITY**

The Deputy Mayor and Councillors are provided with an allowance to assist them in undertaking their civic duties. Section 39 of the Act sets out the requirements for Councillor allowances.

The Deputy Mayor allowance is higher than the Councillors' allowance to reflect the increased workload and responsibilities required to assist the Mayor.

These allowances are funded in the annual budget for each four-year term.

#### **RISKS**

Establishing a Deputy Mayor's role reduces the workload pressures on the Mayor, and aims to mitigate a potential occupational health and safety concern for the Mayor.

#### **STAFF DISCLOSURE**

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.



## **ATTACHMENTS**

Nil

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

### **Council Policy / Strategy / Plans**

*Documents are available on Council's website at the following [LINK](#).*

Governance Rules (C82)

### **Legislative Provisions**

Local Government Act 2020

### 3. CLOSED SESSION

The *Local Government Act 2020* (the Act), section 66 provides that if a council or delegated committee determines that a meeting is to be closed to the public to consider confidential information, the Council or delegated committee must record in the minutes of the meeting that are available for public inspection –

- a) the ground or grounds for determining to close the meeting to the public by reference to the grounds specified in the definition of ***confidential information*** in section 3(1); and
- b) an explanation of why the specified ground or grounds applied.

The Act defines ***confidential information*** in s.3(1)(a)-(l), and includes information that may prejudice or impact; commercial negotiations, the security of Council, land use planning, law enforcement, legal privilege, personal information, private commercial information, confidential meeting information, internal arbitration, Councillor conduct panel information and information specified under s.77 of the previous *Local Government Act 1989*.

Once confidential information has been considered and decided in a closed session of a Council Meeting, a further resolution to resume open Council is required.

### RECOMMENDATION

**That Council pursuant to section 66(5)(a) and (b) of the Local Government Act 2020 close the Council Meeting to the public to consider the following confidential information:**

3. **Per s.3(1)(f) Agenda items 5.1 – Audit & Risk Committee Membership designated as personal information,**
  - a. **being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.**
  - b. **The grounds for designation have been made to protect the privacy of an individual's personal information.**

## **4. MEETING CLOSED**

### **NEXT MEETING**

The next Council Meeting open to the public will be held on Wednesday, 13 December 2023 commencing at 2pm in the Council Chambers, Leongatha.