

SOUTH GIPPSLAND SHIRE COUNCIL

Special (Statutory) Meeting

Determination of term of Mayor, Election of Mayor
and Deputy Mayor

21 November 2018

Council Chambers, Leongatha

Commencing at 12.30pm



agenda



*South Gippsland
Shire Council*

Come for the beauty, Stay for the lifestyle



MISSION

South Gippsland Shire will be a place where our quality of life and sense of community are balanced by sustainable and sensitive development, population and economic growth.

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.

Council undertakes audio recordings of Council Meetings as a contribution to good governance and accuracy of minutes. An audio recording of this meeting is being made for the purpose of verifying the accuracy of minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, and subpoena or by any other law such as the Freedom of Information Act 1982. It should be noted that other people present at the meeting may be recording the meeting and Council has limited power to regulate this. Council has developed a policy to regulate recordings, "Sound Recording of Council Meetings".

A copy of this policy is located on Council's website www.southgippsland.vic.gov.au.

SOUTH GIPPSLAND SHIRE COUNCIL

Notice is hereby given that the Special (Statutory) Meeting of Council
of the South Gippsland Shire Council which will be held on
21 November 2018 in the Council Chambers, Leongatha commencing at 12.30pm

TABLE OF CONTENTS

1. PRELIMINARY MATTERS	4
1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER.....	4
1.2. WELCOME	4
1.3. OPENING PRAYER.....	4
1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS	4
1.5. APOLOGIES	5
1.6. DECLARATION OF CONFLICT OF INTEREST FOR COUNCILLORS	5
1.7. DECLARATION OF CONFLICT OF INTEREST FOR STAFF.....	6
1.8. END OF TERM REMARKS – MAYOR AND DEPUTY MAYOR	6
2. COUNCIL REPORTS.....	7
2.1. DETERMINATION OF TERM OF MAYOR.....	7
2.2. ELECTION OF MAYOR	10
2.3. DETERMINATION IF A DEPUTY MAYOR IS TO BE ELECTED	13
2.4. ELECTION OF DEPUTY MAYOR	15
2.5. COUNCILLOR DECLARATION OF THE OATH OF OFFICE MINUTE	17
3. MEETING CLOSED.....	21



Tim Tamlin
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*.

To those present in the gallery today, by attending a public meeting of the Council you are consenting to your image, voice and comments being recorded and published.

Anyone who is invited to read out a question or a presentation will be recorded and their voice, image and comments will form part of the live stream and recording.

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.

Attendees are advised that they may be subject to legal action if their actions results in inappropriate and/or unacceptable behaviour and/or comments.

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

Thank you

1.2. WELCOME

Please ensure Mobile phones remain 'off' during the Council Meeting.

1.3. OPENING PRAYER

We pray to God to guide us so that the thoughts we have and the decisions made this day, are in the best interests of the people of the South Gippsland Shire.

Amen

1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

The South Gippsland Shire Council respectfully acknowledges the Traditional Custodians of this Land, Elders past and present, their Spirits and Ancestors.

1.5. APOLOGIES

1.6. DECLARATION OF CONFLICT OF INTEREST FOR COUNCILLORS

Any interest that a Councillor or staff member has deemed to be significant and has disclosed as either a direct or an indirect interest is now considered to be a conflict of interest. Conflict of interest legislation is in sections 77A, 77B, 78, 78A-D and 79 of the Local Government Act 1989 (the Act). This legislation can be obtained by contacting the Council's Corporate & Community Services Directorate (Council Business) or by accessing the Victorian Legislation and Parliamentary Documents website at www.legislation.vic.gov.au.

An interest may be by close association, financial, conflicting duties or receipt of gifts. If a Councillor or staff member discloses any interest in an item discussed at any Council Meeting (whether they attend or not) they must:

- Complete a disclosure of interest form prior to the Meeting (forms are available from Council Business Department at South Gippsland Shire Council).
- Advise the Chair of the interest immediately before the particular item is considered (if attending the Meeting).
- Leave the Council Chamber or Meeting room while the item is being discussed and during any vote taken (if attending the Meeting).

The Councillor or staff member will be advised to return to the Council Chamber or Meeting room immediately after the item has been considered and the vote is complete.

Councillors should check the Minutes of the Council Meeting to ensure their disclosure is recorded accurately. Councillors are not required to disclose conflict of interest in relation to matters only considered at Meetings they do not attend. Detailed information is available in *Conflict of Interest – A Guide for Councillors – October 2012*.

1.7. DECLARATION OF CONFLICT OF INTEREST FOR STAFF

Sections 80B and 80C of the Local Government Act 1989 require members of Council staff who have delegated functions and/or provide advice to Council or a Special Committee to disclose conflicts of interest. If Council staff have written, provided information/advice or approved a Council Report and have a conflict of interest, it is the responsibility of that staff member to disclose the interest.

Guidance to identifying and disclosing a conflict of interest is contained in the Victorian State Government, Department of Transport, Planning and Local Infrastructure – *Conflict of Interest – A Guide for Council Staff – October 2011*.

Nil

1.8. END OF TERM REMARKS – MAYOR AND DEPUTY MAYOR

2. COUNCIL REPORTS

2.1. DETERMINATION OF TERM OF MAYOR

Corporate and Community Services Directorate

EXECUTIVE SUMMARY

Section 71 of the *Local Government Act 1989* (Act), states that the Mayor is to be elected by Councillors at a meeting that is open to the public.

Section 71(2) of the Act requires that before a Mayor is elected, the Council may resolve to elect a Mayor for a term of two years. Council's Local Law No 3. 2010 clause 6(d) also states that if Council does not resolve to elect a Mayor for a term of two years the term of the Mayor remains at one year.

Whilst Councillors may resolve to elect the Mayor for a period of two years, it is recommended that Council continue with the precedent of electing the Mayor for a one year term.

The term of office of Mayor will commence on 21 November 2018 upon appointment by Council.

RECOMMENDATION

That Council elects the Mayor for a term of one year in accordance with section 71(2) of the Local Government Act 1989.

REPORT

Background

The Chief Executive Officer presides as Temporary Chair and Returning Officer at the Meeting until the Mayor is elected as provided for in Council's Local Law No. 3 2010 – clauses 6 and 7.

Section 71 of the Act requires the election of Mayor to take place after the fourth Saturday in October but no later than 30 November each year.

The role of the Mayor, as defined in s.73 of the Act, is to take precedence at all municipal proceedings within the municipal district and the Mayor must take the chair at all meetings of the Council at which he or she is present.

Council may, before electing a Mayor, resolve to elect a Mayor for two years.

Council's Local Law No 3. 2010 clause 6(d) also states that:

Council may resolve to elect the Mayor for a term of two years at the Special (Statutory) Meeting of Council prior to nominations being called for by the Temporary Chair. If no such resolution is passed, the term of the Mayor remains at one year.

The term of office of Mayor will commence 21 November 2018 upon appointment by Council and become vacant at 6.00am on the day of a Special (Statutory) Meeting to be scheduled following the completion of the term in accordance with ss.71 and 72 of the Act.

Options

Council may elect a Mayor for a one or two year term. Outlined below are some considerations for each option.

- **One year Mayoral term:** enables flexibility and provides an opportunity for the Mayoral workload to be distributed across Councillors during the four year Council term. It also allows for the personal development of Councillors appointed to this position.
- **Two year Mayoral term:** provides for stability of office for a longer period.

Council retains the right to appoint the Mayor for a further one year period if desired, if the one year Mayoral term option is selected now.

Proposal

That Council determines to elect a Mayor for a term of one year commencing 21 November 2018 upon appointment by Council and that the role becomes vacant at 6.00am on the day of a Special (Statutory) Meeting to be scheduled in November 2019.

CONSULTATION

Councillors have considered this report prior to this Special (Statutory) Meeting. Due consideration has been given to the responsibilities to be undertaken by the Mayor and its associated workload.

RESOURCES

The Mayor and Councillors are provided with an allowance to assist them in undertaking their civic duties. The Act sets out the requirements for setting 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 Special (Statutory) Meeting to elect a Mayor has been held to ensure Council meets its legislative requirements under ss.71 and 72 of the Act.

STAFF DISCLOSURE

Nil

REFERENCE DOCUMENTS

Legislative Provisions

Local Government Act 1989, ss.71, 71, 89 and 90

Local Law No. 3 2010 – Processes of Municipal Government (Meeting Procedures and Common Seal) – clauses 6 and 7

2.2. ELECTION OF MAYOR

Corporate and Community Services Directorate

EXECUTIVE SUMMARY

Section 71 of the Local Government Act (Act) 1989, stipulates that Councillors must elect a Mayor of the Council, at a meeting that is open to the public after the fourth Saturday in October, but not later than 30 November.

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

The term of office of Mayor will commence on 21 November 2018 upon appointment by Council and become vacant at 6.00am on the day of a Special (Statutory) Meeting to be scheduled following the completion of the term determined today in the 'Determination of Term of Mayor' report and in accordance with ss.71 and 72 of the Act.

RECOMMENDATION

That Council proceeds to elect a Mayor of the South Gippsland Shire Council, in accordance with s.71 of the Local Government Act 1989, for the duration resolved in the 'Determination of Term of Mayor' report.

REPORT

Background

The Chief Executive Officer presides as Temporary Chair and Returning Officer at the Meeting until the Mayor is elected, as provided for in Council's Local Law No. 3 2010 – clauses 6 and 7.

Section 71 of the Act requires the election of the Mayor to be held in a meeting that is open to members of the public. Section 89 and 90 require the voting method to be undertaken by a show of hands. With the exception of the voting method, the general provisions of Council's Local Law No 3. 2010 regarding the election of Mayor and counting of votes apply.

Section 71 of the Act requires the election of Mayor to take place after the fourth Saturday in October but no later than 30 November each year.

The role of the Mayor, as defined in s.73 of the Act, is to take precedence at all municipal proceedings within the municipal district and the Mayor must take the chair at all meetings of the Council at which he or she is present.

Mayoral functions under s.73AA of the Act also include:

- providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under s.65, and the

observation of the Councillor conduct principles and the Councillor Code of Conduct by Councillors under ss.76B, 76BA and 76C; and

- Acting as the principal spokesperson for the Council; and
- Supporting good working relations between Councillors; and
- Carrying the civic and ceremonial duties of the office of Mayor.

The term of office of Mayor will commence 21 November 2018 upon appointment by Council and become vacant at 6.00am on the day of a Special (Statutory) Meeting to be scheduled following the completion of the term resolved by Council in the 'Determination of Term of Mayor' report and in accordance with ss. 71(3) and 72 of the Act.

Proposal

That Council calls for nominations to elect a Mayor using the Election Details for Mayor in **Attachment [2.2.1]**.

CONSULTATION

Councillors have considered this report prior to this Special (Statutory) Meeting. Due consideration has been given to the responsibilities to be undertaken by the Mayor, the associated workload and the leadership traits required.

RESOURCES

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

Councils are divided into three categories based on the income and population of each Council. South Gippsland Shire Council falls into Category 2 and the allowances (excluding 9.5 per cent superannuation) are from 1 December 2018:

Mayoral allowance is \$79,612 per annum; and

Councillor allowance is \$25,730 each per annum.

The Minister for Local Government reviews the allowances annually and provides gazettal advice in late November/early December of any authorised increases. Ministerial advice for 2019 has been received and included in the allowance figures above.

In addition to the above salaries, Councillors are entitled to 9.5 per cent superannuation. This is added to the allowance shown above.

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. This Special (Statutory) Meeting to elect a Mayor has been held to ensure Council meets its legislative requirements under s.71 of the Act.

STAFF DISCLOSURE

Nil

ATTACHMENTS

Attachments are available on Council's website: www.southgippsland.vic.gov.au

1. Election Details for Mayor - Call for Nominations and Acceptance of Nominations **[2.2.1]**

REFERENCE DOCUMENTS

Legislative Provisions

Local Government Act 1989, ss.71, 72, 89 and 90

Local Law No. 3 2010 – Processes of Municipal Government (Meeting Procedures and Common Seal) – clause 6 and 7

2.3. DETERMINATION IF A DEPUTY MAYOR IS TO BE ELECTED

Corporate and Community Services Directorate

EXECUTIVE SUMMARY

Councillors are required to elect a Mayor of the Council as required under s.71 of the *Local Government Act 1989* (Act). However, Council's Local Law No 3. 2010 also provides for the election of a Deputy Mayor, if desired by Council.

Electing a Deputy Mayor for a one year term allows more Councillors to nominate for this role as both a development opportunity and to share the associated workload.

RECOMMENDATION

That Council resolves to elect a Deputy Mayor of the South Gippsland Shire Council for a one year term.

REPORT

Background

Council's Local Law No 3. 2010 provides for the election of a Deputy Mayor. This role deputises for the Mayor 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.

Council has traditionally elected a Deputy Mayor and for the past four years has elected a Deputy Mayor for a one year term.

Proposal

That Council resolves to elect a Deputy Mayor for a one year term to deputise for the Mayor when required.

CONSULTATION

Councillors have considered this report prior to this Special (Statutory) Meeting.

RESOURCES

Councillor allowances are currently funded in annual budgets. No additional allowance is paid to a Deputy Mayor beyond the Councillor allowance as per s.73B(4) of the Act.

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

Nil

REFERENCE DOCUMENTS

Local Government Act 1989, ss.71, 90

Local Law No. 3 2010 – Processes of Municipal Government (Meeting Procedures and Common Seal) – clauses 6 and 7

2.4. ELECTION OF DEPUTY MAYOR

Corporate and Community Services Directorate

EXECUTIVE SUMMARY

The purpose of this report is to facilitate the election of Deputy Mayor, if Council has resolved to elect a Deputy Mayor today.

The election of the Deputy Mayor will be chaired by the newly elected Mayor in accordance with Council's Local Law No. 3, 2010 clauses 6 and 7 and supervised by the Chief Executive Officer (CEO), Tim Tamlin as the Returning Officer.

A one year term is recommended to Council for the Deputy Mayor, even if a two year term is decided for the Mayor, to allow an increased opportunity for Councillors to nominate for this role as both a development opportunity and to share the associated workload.

RECOMMENDATION

That Council proceeds to elect a Deputy Mayor of the South Gippsland Shire Council for a one year term.

REPORT

Background

Council's Local Law No 3. 2010 provides for the election of a Deputy Mayor. 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 and briefings on occasions when the Mayor is unable to do so.

Council has traditionally elected a Deputy Mayor for a one year term.

Section 89 of the Act requires the election of the Mayor to be held in a meeting that is open to members of the public with the voting method for the election to be undertaken by a show of hands. With the exception of the voting method, the general provisions of Council's Local Law No 3. 2010 regarding the election of Mayor and counting of votes apply. Council will follow the same transparent procedure for the election of the Deputy Mayor and the counting of votes.

The term of Deputy Mayor will commence on 21 November 2018 upon appointment by Council and becomes vacant at 6am on the day of the Special (Statutory) Meeting to be scheduled following the completion of the term in accordance with ss.71 and 72 of the Act and the Council resolution made today for the 'Determination if a Deputy Mayor is to be Elected'.

Proposal

That Council elects a Deputy Mayor for the term adopted today in the 'Determination if a Deputy Mayor is to be Elected' report, using the Election Details for Deputy Mayor in **Attachment [2.4.1]**.

CONSULTATION

Councillors have considered this report prior to this Special (Statutory) Meeting.

RESOURCES

Councillor allowances are currently funded in annual budgets. No additional allowance is paid to a Deputy Mayor beyond the Councillor allowance as per s.73B(4) of the Act.

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

Nil

ATTACHMENTS

Attachments are available on Council's website: www.southgippsland.vic.gov.au

1. Election Details for Deputy Mayor - Call for Nominations and Acceptance of Nominations **[2.4.1]**

REFERENCE DOCUMENTS

Local Government Act 1989, ss.71, 89 and 90

Local Law No. 3 2010 – Processes of Municipal Government (Meeting Procedures and Common Seal) – clauses 6 and 7

2.5. COUNCILLOR DECLARATION OF THE OATH OF OFFICE MINUTE

Corporate and Community Services Directorate

EXECUTIVE SUMMARY

The purpose of this report is to minute that:

- Councillor Rosemary Cousin, elected to South Gippsland Shire Council at the Council election countback held on 22 October 2018 has taken the Oath of Office as an Affirmation and read, signed and dated her declaration to abide by the Councillor Code of Conduct, as required by s.63(1)(a) and (b) of the Local Government Act 1989 (the Act) at a ceremony conducted at 4.00pm on 31st October 2018 (refer **Attachment [2.5.1]**); and
- Councillor James Fawcett elected to South Gippsland Shire Council at the Council election countback held on 5 November 2018 has taken the Oath of Office and read, signed and dated his declaration to abide by the Councillor Code of Conduct as required by s.63(1)(a) and (b) of the Local Government Act 1989 (the Act) at a ceremony conducted at 11.00am on 13 November 2018 (refer **Attachment [2.5.2]**).

The oath, affirmation and declarations have been made with the Chief Executive Officer (CEO), Tim Tamlin, as their witness. A person elected to be a Councillor is not capable of acting as a Councillor until these two declarations are made and witnessed by the CEO.

The Special (Statutory) Meeting of Council 21 November 2018 will include the signed Oath, Affirmation and Declarations made by Councillor Cousin and Councillor Fawcett for inclusion in the Minutes, as required by s.63(2)(c) of the Act.

RECOMMENDATION

That Council:

1. **Notes Councillor Cousin elected at the election countback held on 22 October 2018 Council for South Gippsland Shire Council has taken, signed and dated the Oath of Office as an Affirmation and the declaration to abide by the Councillor Code of Conduct, Attachment [2.5.1], at a ceremony held at 4.00pm on 31 October 2018;**
2. **Councillor Fawcett elected at the election countback held on 5 November 2018 Council for South Gippsland Shire Council has taken, signed and dated the Oath of Office and the declaration to abide by the Councillor Code of Conduct, Attachment [2.5.2], at a ceremony held at 11.00am on 13 November 2018; and**

- 3. The signed and dated Oath, Affirmation and Councillor Code of Conduct declarations, will be recorded and included in the minutes of the Special Statutory Meeting of Council held on 21 November 2018.**

REPORT

Background

Section 63(1)(a) of the Act stipulates that a person elected to be a Councillor is not capable of acting as a Councillor unless he or she has taken an oath of office and has declared they will abide by the Councillor Code of Conduct under s.63(1)(b). A Councillor has the option to make an affirmation in place of the oath should they wish.

Section 63(2) of the Act requires the oath (or affirmation) of office to be:

- a. Made before the Chief Executive Officer; and
- b. Dated and signed before the Chief Executive Officer; and
- c. Recorded in the minutes of the Council meeting.

Section 63(3) of the Act requires the Councillors' declaration to abide by the Code to be:

- a. In writing; and
- b. Witnessed by the Chief Executive Officer.

Under s.64 the office of Councillor becomes vacant if a person elected to be a Councillor does not, within three months after the day on which the person was declared elected:

- a. Take the oath of office; or
- b. Make the declaration specified in s.63(1)(b).

Proposal

That Council notes Councillor Cousin elected in the election countback held on 22 October 2018 and Councillor Fawcett elected in the election countback held on 5 November 2018 for the South Gippsland Shire Council have taken the Oath or Affirmation of Office and declared in writing they will abide by the Councillor Code of Conduct as required by s.63 of the Act.

CONSULTATION

The Councillors have been provided with information on the requirements to take up the office of Councillor at a session held prior to the declaration ceremonies.

RESOURCES

The two election countbacks have been conducted by the Victorian Electoral Commission at a cost of \$5,829.64 excluding GST. This is an unbudgeted expenditure. This cost does not include officer administration time in preparing the election countback and induction program for the new Councillors.

RISKS

Council is required by law to ensure all newly elected Councillors take, sign and date the Oath or Affirmation of Office and read, sign and date the Councillor Code of Conduct before they can take up the office of Councillor.

The following actions have all contributed to ensuring the Councillor has been elected in accordance with the legislative requirements of s.63 of the Act:

1. The pre-declaration information sessions held with Councillor Cousin on Tuesday 23 and Monday 29 October 2018;
2. The declaration ceremony for Councillor Cousin held on 31 October 2018;
3. The pre-declaration information session held with Councillor Fawcett on Monday 5 November and Thursday 8 November 2018;
4. The declaration ceremony for Councillor Fawcett held on 13 November 2018; and
5. The Minutes of both ceremonies being captured in the 21 November Special Meeting of Council.

STAFF DISCLOSURE

Nil

ATTACHMENTS

Attachments are available on Council's website: www.southgippsland.vic.gov.au

1. CCS Attachment - Special Statutory Meeting - Cr Cousin - Signed Oath of Office and Code of Conduct - **[2.5.1]**
2. CCS Attachment - Special Statutory Meeting - Cr Fawcett Signed Oath of Office and Code of Conduct D **[2.5.2]**

REFERENCE DOCUMENTS

Council Policy

Documents are available on Council's website: www.southgippsland.vic.gov.au

Councillor Code of Conduct Policy

Local Law No. 3 2010, Processes of Municipal Government (Meeting Procedures and Common Seal)

Legislative Provisions

Local Government Act 1989

3. MEETING CLOSED

NEXT MEETING

The next Ordinary Meeting of Council open to the public will be held on Wednesday, 28 November 2018 commencing at 2pm in the Council Chambers, Leongatha.