



**SNOWY VALLEYS EXTRAORDINARY  
COUNCIL MEETING  
BUSINESS PAPER  
11 JANUARY 2022**

THE MEETING WILL BE HELD AT 2.00PM  
IN THE COUNCIL CHAMBERS BRIDGE STREET TUMBARUMBA AND VIA VIDEO LINK

## **Disclosure of Pecuniary Interests at meetings (extract from the Code of Conduct – Section 4)**

**4.28** Councillor or a council committee member who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.

**4.29** The councillor or council committee member must not be present at, or in sight of, the meeting of the council or committee:

- (a) at any time during which the matter is being considered or discussed by the council or committee, or
- (b) at any time during which the council or committee is voting on any question in relation to the matter.

**4.30** In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.

**4.31** Disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.

## **Disclosure of Political Donations and Gifts**

The *Environmental Planning and Assessment Act 1979* places obligations on Councillors, staff, applicants and any person who makes a public submission, to disclose information relating to political donations and gifts during the environmental plan making or development assessment process.

The fact that political donations or gifts have been made by applicants / proponents of a planning application should not affect whether an application is approved or refused. Political donations or gifts should not be relevant in making a determination. The matter should be determined on its merits. Nor do they provide grounds for challenging the determination of any applications.

For further information, visit [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations)

Furthermore, for each planning decision made at a Council or Committee Meeting, the names of Councillors who supported the decision and those that oppose the decision must be recorded. (*Sec. 375A of the Local Government Act 1993*)

## **Use of mobile phones and the unauthorised recording of meetings (extract from the Code of Meeting Practice – Section 15)**

**15.21** Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.

**15.22** A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.

**15.23** Any person who contravenes or attempts to contravene clause 15.22, may be expelled from the meeting as provided for under section 10(2) of the Act.

**15.24** If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

### **Livestreaming of Meetings (extract from the Code of Meeting Practice – Section 5)**

This meeting is live streamed on Council's website to allow the community to follow Council debates and decisions without the need to attend meetings in person. Members of the public attending or speaking at a meeting agree to have their image, voice and personal information (including name and address) recorded and publicly broadcast. Snowy Valleys Council does not accept liability for any defamatory remarks or inappropriate comments that are made during the course of a meeting. Any part of the meeting that is held in closed session will not be streamed.

**5.19** All meetings of the council and committees of the council are to be webcast on the council's website.

### **Photography**

Flash photography is not permitted at a meeting of the Council or a Committee of the council without the consent of the Chief Executive Officer.

### **Public Forum (extract from the Code of Meeting Practice – Section 4)**

**4.1** The Council may hold a public forum prior to each Ordinary Council meeting for the purpose of hearing oral submissions on items of business to be considered at the meeting.

**4.2** Public forums are to be chaired by the mayor or their nominee.

Those attending must comply with the terms and conditions of the Code of Meeting Practice which can be viewed on Council's website;

<http://www.snowyvalleys.nsw.gov.au/Council/Governance/Policies>



**Tuesday 11 January 2022**  
**Snowy Valleys Council Chambers**  
**Bridge Street, Tumbarumba and via Video Link**  
**2.00pm**

## **EXTRAORDINARY AGENDA**

### **1. ACKNOWLEDGEMENT OF COUNTRY**

*We would like to acknowledge the traditional custodians of this land and pay respects to Elders past and present*

### **2. APOLOGIES AND LEAVE OF ABSENCE**

### **3. DECLARATIONS OF PECUNIARY INTEREST**

*Pursuant to Section 451 of the Local Government Act (1993), Councillors are required to declare any direct or indirect pecuniary interest in any matters being considered by Council.*

### **4. ADMISSION OF LATE REPORTS**

### **5. GOVERNANCE AND FINANCIAL REPORTS**

5.1	ELECTION OF MAYOR AND DEPUTY MAYOR FOR THE PERIOD ENDING SEPTEMBER 2023.....	2
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### **6. CONFIDENTIAL**

### **7. MEETING CLOSURE**

**5. GOVERNANCE AND FINANCIAL REPORTS****5.1 ELECTION OF MAYOR AND DEPUTY MAYOR FOR THE PERIOD ENDING SEPTEMBER 2023**

**REPORT AUTHOR:** GOVERNANCE OFFICER  
**RESPONSIBLE DIRECTOR:** EXECUTIVE CHIEF OF STAFF

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**EXECUTIVE SUMMARY:**

The purpose of this report is to outline the procedures for the election of the positions of mayor and deputy mayor for the period from 11 January 2022 up until September 2023.

The civic offices of mayors and deputy mayors elected by councillors in September 2021 expired on election day being 4 December 2021.

Mayoral elections are conducted in accordance with the Schedule 7 of the *Local Government (General) Regulation 2021 (the Regulation)*. Schedule 7 of the Regulation prescribes three methods of election of mayors (and deputy mayors) being an open ballot (e.g. a show of hands), an ordinary ballot, or a preferential ballot.

Open ballots can be undertaken remotely where a council is conducting its meetings by audio visual link. Ordinary and preferential ballots are secret ballots and councillors will need to attend the meeting in person if the election is to be held by way of an ordinary or preferential ballot.

**RECOMMENDATION:****THAT COUNCIL:**

- 1. Receive the report on the election of mayor and deputy mayor for the period ending September 2023**
- 2. Receive and Invite nominations for the election of mayor and deputy mayor.**
- 3. Proceed with the election of the mayor and deputy mayor, in the event of there being more than one candidate, by using one of the three voting methods:**
  - a. Ordinary ballot, or**
  - b. Preferential ballot, or**
  - c. Open ballot by way of show of hands, noting that an open ballot is required should Council choose to meet virtually and not in person.**
- 4. Conduct the election for mayor and deputy mayor in accordance with Schedule 7 of the Local Government (General) Regulation 2021**
- 5. Elect a mayor in accordance with Sections 225, 226, 227 and 230 of the Local Government Act 1993 for a period ending September 2023.**
- 6. Elect a deputy mayor in accordance with Section 231 of the Local Government Act 1993 for a period ending September 2023.**
- 7. Confirm the successful candidates by resolution.**
- 8. Following the election, approve for all nomination documents (and ballot papers if used) used in connection with the election of the mayor and deputy mayor to be destroyed.**

## 9. Task the Chief Executive Officer to advise the NSW Office of Local Government and Local Government NSW of the result of the election.

### BACKGROUND:

Under the *Local Government Act 1993* (the Act) the term of office for a mayor elected by Councillors is normally for a two year period (unless a casual vacancy occurs-s230(1)). Because of the postponement of the ordinary council elections to 4 December 2021, mayors elected by councillors will have a shorter term than the usual two years.

*“Councils that elect their mayors are required under the s290(1)(b) of the Act to hold mid-term mayoral elections in the month of September. This means that the mid-term mayoral elections will need to be held in September 2023. The mayor elected at the mid-term mayoral election will hold their office until the day of the council’s next ordinary election in September 2024 when their civic office as a councillor and mayor will expire”. (extract – NSW Office of Local Government Post Election Guide for Councils 2021).*

Nominations for both mayor and deputy mayor can be made prior to the meeting or from the floor on the day.

### REPORT:

#### Role of Mayor

Section 226 of the Act prescribes the Role of the Mayor:

##### 226 Role of mayor

The role of the mayor is as follows—

- (a) to be the leader of the council and a leader in the local community,
- (b) to advance community cohesion and promote civic awareness,
- (c) to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities,
- (d) to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council,
- (e) to preside at meetings of the council,
- (f) to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act,
- (g) to ensure the timely development and adoption of the strategic plans, programs and policies of the council,
- (h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the council,
- (i) to promote partnerships between the council and key stakeholders,
- (j) to advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council,
- (k) in conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community,
- (l) to carry out the civic and ceremonial functions of the mayoral office,
- (m) to represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level,
- (n) in consultation with the councillors, to lead performance appraisals of the general manager,
- (o) to exercise any other functions of the council that the council determines.

#### Term of the Mayor

Sections 230(1) and 290(1)(b) of the Act prescribe the term for which a Mayor is elected and when this election is to be held.

## Role of Deputy Mayor

Section 231(3)(4) of the Act prescribes the Role of the Deputy Mayor:

### 231 Deputy mayor

- (1) The councillors may elect a person from among their number to be the deputy mayor.
- (2) The person may be elected for the mayoral term or a shorter term.
- (3) The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.
- (4) The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.

## Term of Deputy Mayor

Section 231(1)(2) of the Act states that Councillors may elect a person to be the deputy mayor, and this may be for the mayoral term or for a shorter term. This report recommends the term of the deputy mayor to be consistent with that of the mayor, however Council may resolve at its discretion a shorter term of one year.

Whilst the deputy mayor has no statutory authority other than that conferred by the mayor, Council has always elected a deputy mayor to undertake civic duties when the mayor is absent and/or to chair various meetings should the mayor not be present at such meetings.

## Election of Mayor and Deputy Mayor by Councillors

Both the election of the mayor and deputy mayor is covered by the provisions of Schedule 7 of the Regulation.

If only one nomination for the office of mayor or deputy mayor is received, the Returning Officer (Chief Executive Officer) will declare the name of the Councillor elected to the office of mayor or deputy mayor for the period determined by Resolution. The declaration will be recorded in the minutes.

If two or more nominations are received, an election is required. The Council must resolve the method to be used for the election.

Nomination forms have been prepared for the election of mayor and deputy mayor. These have been distributed to Councillors by the Chief Executive Officer. Councillors were requested to complete nomination papers prior to the meeting and hand them to the Chief Executive Officer (Returning Officer) no later than 30 minutes prior to the commencement of the Council meeting.

Nominations were made in writing by two or more councillors, (one of whom is the nominee), and is not valid unless the nominee has indicated consent to the nomination in writing (emailing is considered sufficient).

Schedule 7 of the Regulation prescribes three methods of voting:

- open ballot (i.e. a show of hands)
- ordinary ballot, or
- preferential ballot.

Open ballots can be undertaken remotely where a council is conducting its meetings by audio visual link.

Ordinary and preferential ballots are secret ballots and councillors will need to attend the meeting in person if the election is to be by way of an ordinary or preferential ballot.

If more than one Councillor is nominated, Council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot, or by open voting. Traditionally Council has resolved to vote by ordinary ballot, which is a secret ballot.

In the event that Council resolves to proceed with an ordinary ballot, then the only disclosure to be made by the Returning Officer will be the name of the elected candidate. If Council wishes individual votes to be known then it should resolve to vote by open voting.

On completion of voting the Returning Officer will declare the result which will be recorded in the Minutes. At this point the recommendation authorising the destruction of nomination papers and any ballot papers should be considered for resolution by council.

The Regulation provides for the Office of Local Government and Local Government NSW to be informed of the results of the election.

## **LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**

### **Integrated Planning and Reporting Framework:**

#### **CSP Outcome 2028**

Theme 4: Communication & Engagement

#### **Delivery Outcomes**

4.3 Council has sound organisational health and has a culture which promotes action, innovation, accountability and transparency

## **SUSTAINABILITY ASSESSMENT:**

### **Financial and Resources Implications**

Provision has been made in the 2021-2022 budget for the mayoral allowance, and any amount payable to the deputy mayor will be deducted from the budget amount for mayor. There is no additional allowance paid to the position of deputy mayor and any arrangements to remunerate the deputy mayor for periods of carrying out acting mayoral duties must be by arrangement between the mayor and deputy mayor.

The fees to be paid to the mayor and deputy mayor are prescribed by s249 of the *Local Government Act 1993*, which is reproduced below:

#### **249 Fixing and payment of annual fees for the mayor**

- (1) *A council must pay the mayor an annual fee.*
- (2) *The annual fee must be paid in addition to the fee paid to the mayor as a councillor.*
- (3) *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (4) *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*
- (5) *A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.*

### **Policy, Legal and Statutory Implications:**

Section 230 of the Act, prescribes the period for which a mayor is elected. Section 290 of the Act prescribes when an election of a mayor by councillors is held.

In accordance with Section 231 of the Act, councillors may elect a person to be the deputy mayor, and this may be for the mayoral term or for a shorter term.

Elections of Mayor by Councillors must be conducted in accordance with Division 12 Clause 394 and Schedule 7 of the Regulations.



**RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:**

Should Council choose to undertake the voting for the election of mayor and deputy mayor by ordinary or preferential ballot, Council will need to meet in person for the purpose of the election.

In deciding which voting method to use for the mayoral election, councils should consider the personal circumstances of councillors to ensure that all councillors can participate in the mayoral election.

**OPTIONS:**

The decision to elect a deputy mayor is optional. Council could opt to not have a deputy mayor for the remainder of the mayoral term.

The term of appointment for the deputy mayor is determined by Council by resolution. Council may determine a shorter term for the deputy mayor of one year.

Council can choose the method of voting for the election.

**COUNCIL SEAL REQUIRED:**

No

**COMMUNITY ENGAGEMENT AND COMMUNICATION:**

Legal advice was obtained from LGNSW in 2020 to confirm the voting requirements and whether a 'polling' function could be utilised if Council chose to meet virtually to undertake the election process.

The *Local Government Act 1993*, *Local Government Regulation 2021* and Office of Local Government websites were accessed for additional information.

**ATTACHMENTS**

- 1 OLG Election of Mayor and Deputy Mayor by Councillors Fact Sheet (under separate cover)

**5. GOVERNANCE AND FINANCIAL REPORTS****5.2 COUNTBACK ELECTION TO FILL COUNCILLOR VACANCIES IN FIRST 18 MONTHS FOLLOWING THE 2021 LOCAL GOVERNMENT ELECTION**

**REPORT AUTHOR:** GOVERNANCE OFFICER  
**RESPONSIBLE DIRECTOR:** EXECUTIVE CHIEF OF STAFF

**EXECUTIVE SUMMARY:**

The purpose of this report is present to the Council the option of using a countback election to elect a Councillor to fill casual vacancies occurring in the office of the Councillors in the first 18 months following the 2021 local government election.

**RECOMMENDATION:****THAT COUNCIL:**

- 1. Receive the report on Countback Election to fill Councillor Vacancies in First 18 Months following the 2021 Local Government Elections.**
- 2. Pursuant to section 291A(1)(b) of the Local Government Act 1993 (the Act), Snowy Valleys Council declares that casual vacancies occurring in the office of a councillor within 18 months after the last ordinary election of councillors for the Council on 4 December 2021 are to be filled by a countback of votes cast at that election for the office in accordance with section 291A of the Act.**
- 3. Directs the Chief Executive Officer to notify the NSW Electoral Commissioner of the Council's decision within 7 days of this resolution being made.**

**BACKGROUND:**

Following the 2021 local government elections, councils will, for the first time, have the option of using a countback of votes cast at the last ordinary election to fill casual vacancies occurring in the offices of councillors in the first 18 months after the election.

To exercise the option of using a countback to fill casual vacancies occurring in the first 18 months following the election, councils must resolve, at their first meeting after the election, to use a countback to fill casual vacancies. If councils do not resolve this at the first meeting after the election, they will be required to fill casual vacancies through a by-election.

By utilising a countback, vacancies that occur in the office of a councillor can be filled at a lower cost to council than the cost of holding a by-election.

**REPORT:**

Where councils resolve to fill casual vacancies using a countback in the first 18 months of their terms, the Chief Executive Officer is required under the Local Government (General) Regulation 2021 (the Regulation) to notify the election manager of the council's ordinary election of the council's resolution within 7 days of the resolution.

For Snowy Valleys Council, the election manager is the NSW Electoral Commissioner.

**LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:****Integrated Planning and Reporting Framework:****CSP Outcome 2028**

Theme 4: Communication &amp; Engagement

**Delivery Outcomes**

4.5 Council demonstrates strong leadership through a governance framework which drives progress towards achieving the community vision

**Operational Actions**

4.5.6 Prepare and coordinate requirements for 2021 council elections

**SUSTAINABILITY ASSESSMENT:****Costs and Benefits:**

The utilisation of a countback provision to fill casual vacancies within the first 18 months of a council being elected is more cost effective than holding a by-election through the NSW Electoral Commission.

Whilst Council is yet to receive the final costs associated with the 2021 Local Government Elections from the NSW Electoral Commission, the cost estimate for council received on 19 July 2021 is \$157,153 excluding GST.

**Policy, Legal and Statutory Implications:**

Section 291A of the Local Government Act 1993 permits councils to fill casual vacancies in the office of a councillor within 18 months following the last ordinary election of councillors by countback of votes cast in that election.

**RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:**

Nil

**OPTIONS:**

If councils do not resolve to utilise the countback provision at the first meeting after the election, they will be required to fill casual vacancies through a by-election.

**COUNCIL SEAL REQUIRED:**

No

**COMMUNITY ENGAGEMENT AND COMMUNICATION:**

Not required.

**ATTACHMENTS**

Nil

**5. GOVERNANCE AND FINANCIAL REPORTS****5.3 CONFIRMATION OF OATH OR AFFIRMATION OF OFFICE BY COUNCILLORS**

**REPORT AUTHOR:** EXECUTIVE CHIEF OF STAFF  
**RESPONSIBLE DIRECTOR:** CHIEF EXECUTIVE OFFICER

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**EXECUTIVE SUMMARY:**

This report serves to confirm that in accordance with the Local Government Act 1993, Councillors took an oath or affirmation on 5 January 2022 as required before the first meeting of the elected council.

**RECOMMENDATION:****THAT COUNCIL:**

1. **Receive the report on Confirmation of Oath or Affirmation of Office by Councillors.**
2. **Confirms that the following councillors took an oath or affirmation of office on 5 January 2022:**
  - a. **Cr Johanna (Hansie) Armour**
  - b. **Cr Ian Chaffey**
  - c. **Cr Julia Ham**
  - d. **Cr James Hayes**
  - e. **Cr Sam Hughes**
  - f. **Cr Michael Ivill**
  - g. **Cr John Larter**
  - h. **Cr Brent Livermore**
  - i. **Cr Trina Thomson**
3. **Requests the Chief Executive Officer to record the taking of the oath or affirmation by each councillor in the minutes of this meeting.**

**BACKGROUND:**

The Local Government Act 1993 (the Act) requires councillors to take an oath or affirmation of office. In accordance with Section 233A of the Act, oaths or affirmations of office must be taken at or before the first meeting of the elected Council.

**REPORT:**

Councillors are required to swear or affirm to the people in the Snowy Valleys local government area that he or she will undertake the duties of the office of councillor in the best interests of the community and council.

It is important to note that a councillor who fails, without a reasonable excuse, to take the oath or affirmation of office, will not be entitled to attend council meetings until they do so and will be taken to be absent without leave. If a councillor is absent without leave for three (3) consecutive ordinary council meetings, their office is automatically declared vacant.

The oath or affirmation was taken by the following Councillors at a ceremony held at the Council Chambers in Tumberumba on 5 January 2022, which was livestreamed to the public and a recording of which is available on council's website:

Cr Johanna (Hansie) Armour, Cr Ian Chaffey, Cr Julia Ham, Cr James Hayes, Cr Sam Hughes, Cr Michael Ivill, Cr John Larter, Cr Brent Livermore, Cr Trina Thomson.

The taking of the oath or affirmation can be viewed on council's website.

**LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**

**Integrated Planning and Reporting Framework:**

**CSP Outcome 2028**

Theme 4: Communication & Engagement

**Delivery Outcomes**

4.5 Council demonstrates strong leadership through a governance framework which drives progress towards achieving the community vision

**SUSTAINABILITY ASSESSMENT:**

Nil

**Policy, Legal and Statutory Implications:**

The taking of the oath or affirmation of office is prescribed in Section 233A of the Act.

**RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:**

Nil

**OPTIONS:**

Nil

**COUNCIL SEAL REQUIRED:**

No

**COMMUNITY ENGAGEMENT AND COMMUNICATION:**

The taking of the oath or affirmation by councillors was livestreamed on 05 January 2021 and is available as a recording on council's website for public viewing.

**ATTACHMENTS**

Nil