



**SNOWY VALLEYS COUNCIL  
EXTRAORDINARY MEETING**

**AGENDA**

**Thursday, 10 October 2024**

THE MEETING WILL BE HELD AT 2:00 PM  
IN THE COUNCIL CHAMBERS 76 CAPPER STREET TUMUT AND  
VIA VIDEO LINK

## Statement of Ethical Obligations

Councillors are reminded of the oath or affirmation of office they made under section 233A of the Local Government Act 1993 and the obligation under Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

### 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 General Manager.

**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 Councils website;

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



**Thursday, 10 October 2024**

**In the Council Chambers 76 Capper Street Tumut and Via Video Link**

**2:00 PM**

## **AGENDA**

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## **1. ACKNOWLEDGEMENT OF COUNTRY**

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Snowy Valleys Council proudly acknowledges the traditional owners and custodians of this land and water and pay respects to their Elders past and present.

## **2. APOLOGIES, LEAVE OF ABSENCE AND REMOTE ATTENDANCE**

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

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*Pursuant to Section 4 of the Code of Conduct, Councillors are required to declare any direct or indirect pecuniary interest in any matters being considered by Council.*

## 4. GOVERNANCE AND FINANCIAL REPORTS

### 4.1. OATH OR AFFIRMATION OF OFFICE BY COUNCILLORS

**REPORT AUTHOR: GOVERNANCE OFFICER**

**RESPONSIBLE DIRECTOR: INTERIM GENERAL MANAGER**

#### **EXECUTIVE SUMMARY:**

This report serves to confirm that, in accordance with the *Local Government Act 1993*, Councillors are required to take an oath or affirmation before or at the first meeting of the elected council.

An oath or affirmation should be taken or made by each councillor as the first item of business for the first meeting.

#### **RECOMMENDATION:**

##### **THAT COUNCIL:**

- 1. Confirm that the Councillors took an oath or affirmation of office on 10 October 2024; and**
- 2. Request the Interim General Manager to record by name the taking of 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.

Councillors need to be physically present before the General Manager, a Legal Practitioner or a Justice of the Peace when taking their oath or making their affirmation of office.

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 and a by-election or countback must be held.

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

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

##### **Community Strategic Plan Theme**

Theme 5 - Our Civic Leadership

##### **Community Strategic Plan Strategic Objectives**

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community

**Delivery Program Principal Activities**

5.4 Maintain and deliver a governance framework that guides good decision making, accountability and legislative compliance

**FINANCIAL AND RESOURCES IMPLICATIONS:**

Nil

**POLICY, LEGAL AND STATUTORY IMPLICATIONS:**

The taking of the oath or affirmation of office is prescribed in Section 233A of the *Local Government Act 1993*.

**RISK MANAGEMENT / COST BENEFIT ANALYSIS:**

Nil

**OPTIONS:**

Nil

**COUNCIL SEAL REQUIRED:**

No

**COMMUNITY ENGAGEMENT AND COMMUNICATION:**

The taking of the oath or affirmation by councillors will be livestreamed on council's website for public viewing.

**ATTACHMENTS**

Nil.

## **4.2. ELECTION OF MAYOR AND DEPUTY MAYOR FOR THE PERIOD ENDING SEPTEMBER 2026**

**REPORT AUTHOR: GOVERNANCE OFFICER**

**RESPONSIBLE DIRECTOR: INTERIM GENERAL MANAGER**

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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 10 October 2024 up until September 2026.

The civic offices of Mayors and Deputy Mayors elected by councillors in September 2023 expired on election day being 14 September 2024.

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 and Invite nominations for the election of mayor and deputy mayor for the period ending September 2026;**
- 2. 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;**
- 3. Conduct the election for Mayor and Deputy Mayor in accordance with Schedule 7 of the Local Government (General) Regulation 2021;**
- 4. Elect a Mayor in accordance with Sections 225, 226, 227 and 230 of the *Local Government Act 1993* for a period ending September 2026;**
- 5. Elect a Deputy Mayor in accordance with Section 231 of the *Local Government Act 1993* for a period ending September 2026;**
- 6. 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;**
- 7. Task the Interim General Manager 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)).

Councils that elect their mayors are required under 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 on September



2026. The mayor elected at the mid-term mayoral elections will hold their office until the day of the council's next ordinary elections in September 2028 when their civic office as a councillor and Mayor will expire.

Deputy Mayors hold their office for the term specified in the council's resolution.

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

## **REPORT:**

Sections 225 to 231 of the *Local Government Act 1993* prescribe the role and method of election of the Mayor and Deputy Mayor.

### **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.

While 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 (the Interim General Manager) 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 are available to Councillors via the Councillor Portal or if requested can be distributed to Councillors by the Interim General Manager. Councillors were encouraged to complete nomination papers prior to the meeting and hand them to the Interim General Manager (the Returning Officer) no later than 30 minutes prior to the commencement of the Council meeting.

Nominations are 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.

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

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

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

#### **Community Strategic Plan Theme**

Theme 5 - Our Civic Leadership

#### **Community Strategic Plan Strategic Objectives**

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community

#### **Delivery Program Principal Activities**

5.4 Maintain and deliver a governance framework that guides good decision making, accountability and legislative compliance

## **FINANCIAL AND RESOURCES IMPLICATIONS:**

Provision has been made in the 2024/2025 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 s.249 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 *Local Government Act 1993* (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 / COST BENEFIT ANALYSIS:**

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 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:**

Nil

**ATTACHMENTS**

Nil.

### **4.3. COUNTBACK ELECTION TO FILL COUNCILLOR VACANCIES IN THE FIRST 18 MONTHS FOLLOWING THE 2024 LOCAL GOVERNMENT ELECTION**

**REPORT AUTHOR: GOVERNANCE OFFICER**

**RESPONSIBLE DIRECTOR: INTERIM GENERAL MANAGER**

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#### **EXECUTIVE SUMMARY:**

The purpose of this report is to 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 2024 local government election.

#### **RECOMMENDATION:**

##### **THAT COUNCIL:**

- 1. 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 14 September 2024 are to be filled by a countback of votes cast at that election for the office in accordance with section 291A of the Act; and**
- 2. Directs the Interim General Manager to notify the NSW Electoral Commissioner of the Council's decision within 7 days of this resolution being made.**

#### **BACKGROUND:**

Following the 2024 local government elections, councils 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 Interim General Manager 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.

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

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

##### **Community Strategic Plan Theme**

Theme 5 - Our Civic Leadership

**Community Strategic Plan Strategic Objectives**

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**Delivery Program Principal Activities**

5.4 Maintain and deliver a governance framework that guides good decision making, accountability and legislative compliance

**FINANCIAL AND RESOURCES IMPLICATIONS:**

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.

While Council is yet to receive the final costs associated with the 2024 Local Government Elections from the NSW Electoral Commission, the cost estimate for council received on 16 May 2023 is \$162,748 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 / COST BENEFIT ANALYSIS:**

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. MEETING CLOSURE**