

# Agenda

Meeting of Council  
Tuesday, 16 November 2021

To be held via  
Video Conference (Zoom)

Commencing at 6:00pm

**Council:**

Cr Libby Stapleton (Mayor)  
Cr Gary Allen  
Cr Paul Barker  
Cr Mike Bodsworth  
Cr Kate Gazzard  
Cr Rose Hodge  
Cr Liz Pattison  
Cr Adrian Schonfelder  
Cr Heather Wellington

---

AGENDA FOR THE MEETING OF SURF COAST SHIRE COUNCIL  
TO BE HELD VIA VIDEO CONFERENCE (ZOOM)  
ON TUESDAY 16 NOVEMBER 2021 AT 6:00PM

**PRESENT:**

**OPENING:**

The Surf Coast Shire local government area spans the traditional lands of the Wadawurrung People and the Eastern Maar People. The main Council office in Torquay where this meeting is held is on Wadawurrung Country. As this meeting is also live-streamed we wish to acknowledge the Traditional Owners of the lands on which each person is viewing the meeting and pay respect to Elders past and present. Council also acknowledges other Aboriginal people that may be attending or watching the meeting today.

**PLEDGE:**

As Councillors we carry out our responsibilities with diligence and integrity and make fair decisions of lasting value for the wellbeing of our community and environment.

**APOLOGIES:**

**CONFLICTS OF INTEREST:**

**Note to Councillors and Officers**

***Declaration of Interest***

*In accordance with Section 130 of the Local Government Act 2020 (the Act), there is an obligation to declare a conflict of interest in certain situations including matters being considered by Council.*

*A conflict of interest can be a general conflict of interest under section 127 of the Act, or a material conflict of interest under section 128 of the Act.*

*A Councillor, a non-Councillor member of a delegated committee or member of Council staff has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner contrary to their public duty.*

*A Councillor, a non-Councillor member of a delegated committee or member of Council staff has a material conflict of interest in respect of a matter if they or another affected person (as defined in section 128(3)) would gain a benefit or suffer a loss depending on the outcome of the matter.*

*Please note that some general exemptions apply and are set out in section 129 of the Act.*

***Disclosure of Interest***

*A Councillor must make full disclosure of a conflict of interest by either advising Council at the meeting immediately before the matter is considered at the meeting, or advising the Chief Executive Officer in writing prior to the meeting. While the matter is being considered or any vote taken, the Councillor with the conflict of interest must leave the room and notify the Chairperson that they are doing so. This notification must include the nature of the conflict and whether the interest is a general or material conflict of interest.*

*A Council officer must disclose the conflict of interest when providing information and before the information is considered.*

*Councillors and Council staff will also be required to complete a conflict of interest declaration form.*

**BUSINESS:**

<b>1. GOVERNANCE &amp; INFRASTRUCTURE .....</b>	<b>4</b>
1.1 <i>Term of Mayor and Deputy Mayor .....</i>	<i>4</i>
1.2 <i>Election of Mayor .....</i>	<i>7</i>
1.3 <i>Election of Deputy Mayor.....</i>	<i>10</i>
<b>2. CLOSED SECTION .....</b>	<b>13</b>

---

## 1. GOVERNANCE & INFRASTRUCTURE

### 1.1 Term of Mayor and Deputy Mayor

**Author's Title:** Coordinator Governance  
**Department:** Governance & Risk  
**Division:** Governance & Infrastructure  
**Appendix:**

**General Manager:** John Bertoldi  
**File No:** F18/218-3  
**Trim No:** IC21/1807

**Officer Direct or Indirect Conflict of Interest:**  
In accordance with Local Government Act 2020 –  
Section 130:

Yes

No

**Reason:** Nil

**Status:**  
Defined as confidential information in accordance  
with Local Government Act 2020, Section 3(1):

Yes

No

**Reason:** Nil

---

#### Purpose

The purpose of this report is for Council to determine by resolution if the Mayor and Deputy Mayor are to be elected for a term of one or two years.

#### Summary

In accordance with sections 26-27 of the *Local Government Act 2020* (the Act), Council must determine by resolution whether the Mayor will be elected for a period of one or two years. This matter must be resolved prior to the election of the Mayor.

Council has previously resolved at its 18 November 2020 meeting to establish an office of Deputy Mayor. Although this office is now established, to avoid any confusion this report will include a recommendation that this office continues to be maintained.

In accordance with section 20(a) of the Act, the office of the Mayor becomes vacant at the time of the next Mayoral election. The Chief Executive Officer will Chair the meeting until the election of the Mayor is completed but will not have any voting rights (section 25(3) of the Act).

#### Recommendation

That Council:

1. Continues to maintain the office of Deputy Mayor as previously resolved; and
2. Determines that the Mayor and Deputy Mayor be elected for a term of ..... year/s.

## 1.1 Term of Mayor and Deputy Mayor

### **Report**

#### **Officer Direct or Indirect Interest**

No officer involved in the preparation of this report has any conflicts of interest.

#### **Background**

At its meeting on 18 November 2020, the newly elected Council resolved that the Mayoral term would be for 1 year.

#### **Discussion**

Prior to each Mayoral election, Council must first determine the term of the Mayor (and Deputy Mayor). Council may select either a 1 year or a 2 year term. Once the term of the Mayor and Deputy Mayor has been determined, Council can proceed to electing the Mayor and Deputy Mayor.

In accordance with section 25(3) of the Act and Rule 5.3 of Council's Governance Rules, the Chief Executive Officer will Chair this part of the meeting as a new Mayor will not yet have been elected.

#### **Council Plan**

Theme 7 Accountable and Viable Council

Strategy 19 Improve Council's credibility as a trusted decision maker through meaningful engagement

#### **Reporting and Compliance Statements:**

*Local Government Act 2020 – LGA 2020*

<b>Implications</b>	<b>Applicable to this Report</b>
<b>Governance Principles</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
<b>Policy/Relevant Law</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
<b>Environmental/Sustainability Implications</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	No
<b>Community Engagement</b> (Consideration of Community Engagement Principles under s.56 LGA 2020)	No
<b>Public Transparency</b> (Consideration of Public Transparency Principles under s.58 of LGA 2020)	No
<b>Strategies and Plans</b> (Consideration of Strategic Planning Principles under s.89 of LGA 2020)	No
<b>Financial Management</b> (Consideration of Financial Management Principles under s.101 of LGA 2020)	No
<b>Service Performance</b> (Consideration of Service Performance Principles under s.106 of LGA 2020)	No
Risk Assessment	No
Communication	No
Human Rights Charter	No

#### **Governance Principles - Local Government Act 2020 (LGA 2020)**

The process of determining the term of the Mayor and Deputy Mayor must be undertaken before the election for these roles can take place. This process must be facilitated in accordance with the Act to enable the Council to serve the municipal community.

#### **Policy/Relevant Law**

The recommendation is made in accordance with sections 26-27 of the Act and is compliant with Chapter 2 of the Surf Coast Shire Governance Rules.

## 1.1 Term of Mayor and Deputy Mayor

### **Options**

Option 1 – to determine by resolution, prior to the election of the Mayor, that the Mayor and Deputy Mayor will be elected for a term of 1 year.

This option is available at Council's discretion.

Option 2 – to determine by resolution, prior to the election of the Mayor, that the Mayor and Deputy Mayor will be elected for a term of 2 years.

This option is available at Council's discretion.

Option 3 – not to determine by resolution an election term for the Mayor (and Deputy Mayor if Council resolves to elect a Deputy Mayor) prior to the election of the Mayor and Deputy Mayor.

This option is not recommended, as it would constitute a breach of sections 26-27 of the Act.

### **Conclusion**

To ensure compliance with sections 26-27 of the Act, Council must determine the term of the Mayor and Deputy Mayor prior to the election of the Mayor.

## 1.2 Election of Mayor

**Author's Title:** Coordinator Governance  
**Department:** Governance & Risk  
**Division:** Governance & Infrastructure

**General Manager:** John Bertoldi  
**File No:** F18/218-3  
**Trim No:** IC21/1809

**Appendix:**

**Officer Direct or Indirect Conflict of Interest:**

In accordance with Local Government Act 2020 –  
Section 130:

Yes

No

Reason: Nil

**Status:**

Defined as confidential information in accordance  
with Local Government Act 2020, Section 3(1):

Yes

No

Reason: Nil

---

### Purpose

The purpose of this report is to elect the Surf Coast Shire Council Mayor for the period resolved by Council.

### Summary

In accordance with section 26 of the *Local Government Act 2020* (the Act), this election must be undertaken during an open Council meeting and be conducted in accordance with section 25 of the Act. The procedures are set out in Rule 5 of Council's Governance Rules.

The Council meeting for the election of the Mayor will be chaired by the Chief Executive Officer who will have no voting rights. Once the Mayor has been elected they must take the Chair.

### Recommendation

That Council duly elects ..... to be the Mayor of the Surf Coast Shire Council for the agreed term.

## 1.2 Election of Mayor

### **Report**

#### ***Officer Direct or Indirect Interest***

No officer involved in the preparation of this report has any conflicts of interest.

### **Background**

At its 18 November 2020 meeting, Council resolved to appoint Councillor Libby Stapleton as Mayor for a period of 1 year. As this period is now complete, Council is required to conduct a new Mayoral election.

### **Discussion**

Section 25 of the Act outlines the requirements for the election of the Mayor of the Council:

- (1) At a Council meeting that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council.
- (2) Subject to section 167, any Councillor is eligible for election or re-election to the office of Mayor.
- (3) The election of the Mayor must—
  - (a) be chaired by the Chief Executive Officer; and
  - (b) subject to this section, be conducted in accordance with the Governance Rules.
- (4) Subject to subsections (5) and (6), the Mayor must be elected by an absolute majority of the Councillors.
- (5) If an absolute majority of the Councillors cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date.
- (6) If only one Councillor is a candidate for Mayor, the meeting must declare that Councillor to be duly elected as Mayor.
- (7) In this section, absolute majority means the number of Councillors which is greater than half the total number of the Councillors of a Council.

All Councillors are eligible for election to the office of Mayor unless they are disqualified on the basis of serious misconduct pursuant to section 167 of the Act. No current Councillors are excluded under this section.

The CEO, acting as Chair of this meeting, will be responsible for conducting the election in accordance with Rule 5 of Council's Governance Rules.

After the election of the Mayor is determined, the Mayor must take the Chair.

### **Council Plan**

Theme 7 Accountable and Viable Council

Strategy 19 Improve Council's credibility as a trusted decision maker through meaningful engagement

### **Reporting and Compliance Statements:**

*Local Government Act 2020 – LGA 2020*

<b>Implications</b>	<b>Applicable to this Report</b>
<b>Governance Principles</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
<b>Policy/Relevant Law</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
<b>Environmental/Sustainability Implications</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	No
<b>Community Engagement</b> (Consideration of Community Engagement Principles under s.56 LGA 2020)	No
<b>Public Transparency</b> (Consideration of Public Transparency Principles under s.58 of LGA 2020)	No
<b>Strategies and Plans</b> (Consideration of Strategic Planning Principles under s.89 of LGA 2020)	No
<b>Financial Management</b> (Consideration of Financial Management Principles under s.101 of LGA 2020)	No
<b>Service Performance</b> (Consideration of Service Performance Principles under s.106 of LGA 2020)	No



## 1.2 Election of Mayor

Risk Assessment	No
Communication	No
Human Rights Charter	No

### **Governance Principles - Local Government Act 2020 (LGA 2020)**

The process of electing the Mayor is a statutory requirement which is integral to the functions of Council. This process must be facilitated in accordance with the Act to enable the Council to serve the municipal community.

### **Policy/Relevant Law**

The recommendation is made in accordance with sections 25-26 of the Act and is compliant with Council's Governance Rules.

### **Options**

Option 1 – That Council duly elects an eligible Councillor to be the Mayor of the Surf Coast Shire for the agreed term.

This option is recommended by officers to ensure compliance with relevant legislation.

Option 2 – That Council does not elect a Mayor of the Surf Coast Shire for the agreed term.

This option is not recommended by officers as it would be in breach of legislation including section 25 of the *Local Government Act 2020*.

### **Conclusion**

Council should elect a Mayor for the agreed term and for the specified timeframe to ensure compliance with the Act. This process must be undertaken in accordance with Council's Governance Rules.

### 1.3 Election of Deputy Mayor

**Author's Title:** Coordinator Governance  
**Department:** Governance & Risk  
**Division:** Governance & Infrastructure  
**Appendix:**

**General Manager:** John Bertoldi  
**File No:** F18/218-3  
**Trim No:** IC21/1810

**Officer Direct or Indirect Conflict of Interest:**  
In accordance with Local Government Act 2020 –  
Section 130:

Yes                       No

**Reason:** Nil

**Status:**  
Defined as confidential information in accordance  
with Local Government Act 2020, Section 3(1):

Yes                       No

**Reason:** Nil

---

#### **Purpose**

The purpose of this report is for Council to elect a Deputy Mayor for the term determined by Council.

#### **Summary**

Section 20A of the *Local Government Act 2020* (the Act) provides Council with the option to elect a Deputy Mayor. At its meeting on 18 November 2020, Council resolved to establish the office of Deputy Mayor. Unless Council resolves to abolish this office earlier in the meeting, Council will need to elect a Deputy Mayor.

The election of the Deputy Mayor must be undertaken during an open Council meeting which must be conducted in accordance with sections 25-27 of the Act. The election processes and procedures are set out in Council's Governance Rules.

Unlike earlier items at this meeting, as the Mayor has now been elected, the newly elected Mayor shall Chair the remainder of this meeting.

#### **Recommendation**

That Council duly elects ..... to be the Deputy Mayor of the Surf Coast Shire Council for the agreed term.

### 1.3 Election of Deputy Mayor

#### **Report**

##### ***Officer Direct or Indirect Interest***

No officer involved in the preparation of this report has any conflicts of interest.

#### **Background**

Council previously resolved to elect Councillor Liz Pattison as Deputy Mayor for a term of 1 year. As this term completed, Council will need to conduct an election to appoint a Deputy Mayor for the term agreed earlier in this meeting.

#### **Discussion**

In the previous Local Government Act (1989) the role of Deputy Mayor was not formally recognised. The new Act provides for Councils to establish an office of Deputy Mayor and includes guidance on the role powers of the Deputy Mayor.

Section 20A of the Act states that:

- (1) A Council may establish an office of Deputy Mayor.
- (2) If the Council has established an office of Deputy Mayor, the provisions of this Act relating to the office of Deputy Mayor apply.
- (3) If a Council has not established an office of Deputy Mayor, section 20B applies.

Section 27 of the Act outlines the requirements of the election of the Deputy Mayor:

- (4) Section 25, other than subsection (3)(a), applies to the election of a Deputy Mayor by the Councillors as if any reference in that section to the Mayor was a reference to the Deputy Mayor.
- (5) Section 26 applies to the election of a Deputy Mayor as if any reference in that section to the Mayor was a reference to the Deputy Mayor.

In accordance with Rule 6 of Council's Governance Rules, the procedure for the appointment of Deputy Mayor will be the same as the procedure for the appointment of Mayor, with the exception that the Mayor shall preside over the election rather than the CEO.

#### **Council Plan**

Theme 7 Accountable and Viable Council

Strategy 19 Improve Council's credibility as a trusted decision maker through meaningful engagement

#### **Reporting and Compliance Statements:**

*Local Government Act 2020 – LGA 2020*

<b>Implications</b>	<b>Applicable to this Report</b>
<b>Governance Principles</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
<b>Policy/Relevant Law</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
<b>Environmental/Sustainability Implications</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	No
<b>Community Engagement</b> (Consideration of Community Engagement Principles under s.56 LGA 2020)	No
<b>Public Transparency</b> (Consideration of Public Transparency Principles under s.58 of LGA 2020)	No
<b>Strategies and Plans</b> (Consideration of Strategic Planning Principles under s.89 of LGA 2020)	No
<b>Financial Management</b> (Consideration of Financial Management Principles under s.101 of LGA 2020)	No
<b>Service Performance</b> (Consideration of Service Performance Principles under s.106 of LGA 2020)	No
Risk Assessment	No
Communication	No

### 1.3 Election of Deputy Mayor

Human Rights Charter	No
----------------------	----

#### ***Governance Principles - Local Government Act 2020 (LGA 2020)***

As Council has previously resolved to establish the office of Deputy Mayor, this election is a statutory requirement which is integral to the functions of Council. This process must be facilitated in accordance with the Act to enable the commencing Council to serve the municipal community.

#### ***Policy/Relevant Law***

The recommendation is made in accordance with sections 20A and 25-27 of the Act and is compliant with Council's Governance Rules.

#### ***Options***

Option 1 – That Council establishes the office of Deputy Mayor and duly elects an eligible Councillor to be the Deputy Mayor of the Surf Coast Shire for the agreed term.

This option is available at Council's discretion.

Option 2 – That Council resolves not to elect a Deputy Mayor of the Surf Coast Shire.

This option is available at Council's discretion.

#### ***Conclusion***

As the term of the Deputy Mayor has now expired, Council must now conduct an election to appoint a Deputy Mayor for the agreed term. This process must be undertaken in accordance with the Act and Council's Governance Rules.

**2. CLOSED SECTION**

Nil