



Colac Otway
SHIRE

COUNCIL MEETING

AGENDA

Wednesday 8 November 2023

at 4:00 PM

COPACC

95 - 97 Gellibrand Street, Colac

Next Council Meeting: 22 November 2023



COLAC OTWAY SHIRE COUNCIL MEETING

Wednesday 8 November 2023

TABLE OF CONTENTS

1 Declaration of Opening of Meeting	3
2 Present.....	3
3 Apologies and Leave of Absence	3
4 Welcome and Acknowledgement of Country.....	3
5 Question Time	4
6 Officer Reports.....	5
6.1 Election of the Mayor	5
6.2 Establishing the Office of the Deputy Mayor	8
6.3 Election of the Deputy Mayor	11
7 Close of meeting	14

COLAC OTWAY SHIRE COUNCIL MEETING

NOTICE is hereby given that the next **COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held at COPACC on Wednesday 8 November 2023 at 4:00 PM.

AGENDA

Under section 25(3)(a) of the *Local Government Act 2020* the election of the Mayor must be chaired by the Chief Executive Officer. The Chief Executive Officer will chair this meeting until the Mayor is elected.

1 DECLARATION OF OPENING OF MEETING

OPENING PRAYER

Almighty God, we seek your blessing and guidance in our deliberations on behalf of the people of the Colac Otway Shire. Enable this Council's decisions to be those that contribute to the true welfare and betterment of our community.

AMEN

2 PRESENT

3 APOLOGIES AND LEAVE OF ABSENCE

4 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past, present and emerging and welcomes any descendants here today.

RECORDING AND PUBLICATION OF MEETINGS

Please note: All Council meetings will be live streamed and recorded when the meeting is held either at COPACC or online. This includes the public participation sections of the meetings. When meetings are held in other locations, Council will endeavour to make an audio recording of the meeting for community access. Matters identified as confidential items in the Agenda will not be live streamed or recorded regardless of venue or mode.

By participating in open Council meetings, individuals consent to the use and disclosure of the information they share at the meeting (including any personal and/or sensitive information).

As soon as practicable following each open Council meeting, the live stream recording will be accessible on Council's website. Audio recordings are also taken to facilitate the preparation of the

minutes of open Council meetings and to ensure their accuracy. Recordings will be retained by Council for a period of four years.

As stated in the Governance Rules, other than an official Council recording, no video or audio recording of proceedings of Council Meetings will be permitted without specific approval by resolution of the relevant Council Meeting.

The purpose of this meeting is to elect the Mayor, establish an office of Deputy Mayor and elect the Deputy Mayor.

This meeting will be livestreamed to the public via Council's YouTube channel (search Colac Otway Shire Council at www.youtube.com).

5 QUESTION TIME

A maximum of 30 minutes is allowed for question time. Any person wishing to participate in public question time by videoconference will need to register their intention to do so by contacting the shire prior to 5pm on Monday 6 November 2024.

At its meeting held on 23 November 2022, Council scheduled the Council meeting on 8 November 2023 for the sole purpose of the term and election of the Mayor and Deputy Mayor, and determined that public question time would be restricted to questions relevant to the purpose of the meeting.

1. Questions received in writing prior to the meeting. Written questions must be received by 5pm on Monday 6 November 2024.
2. Questions via videoconference by prior arrangement.
3. Questions from the floor.

Item: 6.1

Election of the Mayor

OFFICER	Marlo Emmitt
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

1. PURPOSE

The purpose of this item is to elect the Mayor.

2. EXECUTIVE SUMMARY

Section 25(1) of the *Local Government Act 2020* (Act) provides that the Councillors must elect a Councillor to be Mayor of the Council at a Council meeting that is open to the public. Additionally, Section 25(3)(a) of the Act states that the election of the Mayor must be chaired by the Chief Executive Officer.

Councillor Chris Potter was elected Mayor of the Colac Otway Shire, for a one-year term, on 9 November 2022. Section 26(4) of the *Local Government Act 2020* states:

“If the Mayor is to be elected for a one-year term, the next election of the Mayor must be held on a day to be determined by the Council that is as close to the end of the one-year term as is reasonably practicable.”

While Council may resolve to elect a Mayor for a one or two-year term, there is only one year remaining of the current Council’s four-year term. Given the next general election for the Council will be held on the fourth Saturday of October, the term of the Mayor will expire at 6am on 26 October 2024.

Following the election of the Mayor, the Mayor shall assume the role of chair to deal with the remaining matters before the meeting.

3. ELECTION

The Chief Executive Officer will call for nominations.

4. KEY INFORMATION

Section 25 of the Act determines the method for the election of the Mayor.

“25 Election of the Mayor

- (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.”*

The Term of Office of a Councillor commences on the day that the Councillor takes the oath or affirmation of office and ends at 6am on the day of the next general election for the Council (Saturday 26 October 2024).

5. CONSIDERATIONS

Overarching Governance Principles (s(9)(2) LGA 2020)

The following Overarching Governance Principles apply to the contents of this report:

- Council decisions are to be made and actions taken in accordance with the relevant law.
- Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- The transparency of Council decisions, actions and information is to be ensured.

Policies and Relevant Law (s(9)(2)(a) LGA 2020)

Local Government Act 2020.

Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)

There are no environmental or sustainability implications arising from the content of this report.

Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)

Not applicable.

Public Transparency (s58 LGA 2020)

The election of the Mayor must be held at a Council meeting that is open to the public.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement.

Financial Management (s101 Local Government Act 2020)

There are no financial implications arising from the recommendation contained in this report.

Service Performance (s106 Local Government Act 2020)

Not applicable.

Risk Assessment

The election will be held in accordance with the provisions of the *Local Government Act 2020*.

Communication/Implementation

A media release will be issued following the election of the Mayor.

Human Rights Charter

No impact.

Officer General or Material Interest

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

Item: 6.2

Establishing the Office of the Deputy Mayor

OFFICER	Marlo Emmitt
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

1. PURPOSE

To establish an office of Deputy Mayor.

2. EXECUTIVE SUMMARY

Section 20A of *the Local Government Act 2020* (Act) provides Council with the option to establish an office of Deputy Mayor and to elect a Deputy Mayor.

If Council resolves to elect a Deputy Mayor, the term will be for one year, given there is only one year remaining of this Council's term.

3. RECOMMENDATION

That Council establishes the office of Deputy Mayor.

4. KEY INFORMATION

Section 20A of *the Local Government Act 2020* (Act) provides Council with the option to establish an office of Deputy Mayor and to elect a Deputy Mayor.

If the Council has established an office of Deputy Mayor, the provisions of the Act relating to the office of Deputy Mayor apply.

The role and powers of the Deputy Mayor are set out in section 21 of the Act, and state the Deputy Mayor must perform the role of the Mayor and may exercise any of the powers of the Mayor if:

- a) the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or
- b) the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or
- c) the office of Mayor is vacant.

5. CONSIDERATIONS

Overarching Governance Principles (s(9)(2) LGA 2020)

The overarching Governance Principles that are related to this report are:

- Council decisions are to be made and actions taken in accordance with the relevant law.
- the transparency of Council decisions, actions and information is to be ensured.

Policies and Relevant Law (s(9)(2)(a) LGA 2020)

Local Government Act 2020

Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)

Not applicable.

Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)

Not applicable.

Public Transparency (s58 LGA 2020)

The election of the Deputy Mayor must be held at a Council meeting that is open to the public.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement.

Financial Management (s101 Local Government Act 2020)

There are no financial implications arising from the recommendation contained in this report.

Service Performance (s106 Local Government Act 2020)

Not applicable.

Risk Assessment

The establishment of office and term of the Deputy Mayor will be considered in accordance with the provisions of the *Local Government Act 2020*.

Communication/Implementation

A media release will be issued following the election of the Deputy Mayor.

Human Rights Charter

No impact.

Officer General or Material Interest

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

Item: 6.3

Election of the Deputy Mayor

OFFICER	Marlo Emmitt
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

1. PURPOSE

The purpose of this item is to elect the Deputy Mayor.

2. EXECUTIVE SUMMARY

If Council has established an office of Deputy Mayor pursuant to section 20A of the *Local Government Act 2020* (Act), a Council may resolve to elect a Deputy Mayor for a one or two-year term.

Given there is only one year remaining of the current Council's four-year term, the term of the Deputy Mayor will expire at 6am on 26 October 2024 (next general election for the Council).

The process for the election of the Deputy Mayor is the same as the election of the Mayor, except the Mayor chairs the meeting (instead of the Chief Executive Officer).

3. ELECTION

The Mayor will call for nominations.

4. KEY INFORMATION

Section 25 of the Act, 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.

“25 Election of the Mayor

- (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.”*

The Term of Office of a Councillor commences on the day that the Councillor takes the oath or affirmation of office and ends at 6am on the day of the next general election for the Council (Saturday 26 October 2024).

5. CONSIDERATIONS

Overarching Governance Principles (s(9)(2) LGA 2020)

The following Overarching Governance Principles apply to the contents of this report:

- Council decisions are to be made and actions taken in accordance with the relevant law.
- Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- The transparency of Council decisions, actions and information is to be ensured.

Policies and Relevant Law (s(9)(2)(a) LGA 2020)

Local Government Act 2020.

Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)

There are no environmental or sustainability implications arising from the content of this report.

Community Engagement (s56 LGA 2020 and Council’s Community Engagement Policy)

Not applicable.

Public Transparency (s58 LGA 2020)

The election of the Deputy Mayor must be held at a Council meeting that is open to the public.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement.

Financial Management (s101 Local Government Act 2020)

There are no financial implications arising from the recommendation contained in this report.

Service Performance (s106 Local Government Act 2020)

Not applicable.

Risk Assessment

The election will be held in accordance with the provisions of the *Local Government Act 2020*.

Communication/Implementation

A media release will be issued following the election of the Deputy Mayor.

Human Rights Charter

No impact.

Officer General or Material Interest

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

