

Agenda of Special Meeting of Council – Monday, 7 November 2022

commencing at 7:00pm

Nellie Ibbott Chambers, Ivanhoe Library and Cultural Hub, 275 Upper
Heidelberg Road, Ivanhoe 3079



FREEDOM OF INFORMATION STATUS EXEMPT (SECTION 38)

RELATING TO ITEMS IN RESPECT OF WHICH THE
MEETING MAY BE CLOSED TO MEMBERS OF THE PUBLIC

Acknowledgement of the Traditional Custodians

“Banyule City Council is proud to acknowledge the Wurundjeri Woi-wurrung people as traditional custodians of the land and we pay respect to all Aboriginal and Torres Strait Elders, past, present and emerging, who have resided in the area and have been an integral part of the region’s history.”

Inclusive Banyule Statement

“Our community is made up of diverse cultures, beliefs, abilities, bodies, sexualities, ages and genders. We are committed to access, equity, participation and rights for everyone: principles which empower, foster harmony and increase the wellbeing of an inclusive community.”

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Closure of Meeting

Live Streaming of Council Meeting

Please note that the Council Meeting will be livestreamed to ensure compliance with the Government’s COVID -19 restrictions.

The livestream will be available on Council’s Facebook and website www.banyule.vic.gov.au

The next Ordinary Meeting of Council will be held on Monday, .

1 **MAYORAL TERM**

Author: Krysten Forte - Governance Coordinator, Executive

SUMMARY

1. The *Local Government Act 2020* (the Act) stipulates that Council must elect a Mayor.
2. Before a Mayor is elected, the Council must resolve whether the Mayor is to be elected for a 1 year or 2 year term.
3. Banyule has traditionally elected a Mayor for a one-year term.
4. In accordance with section 26(3) of the Act, Council is required to determine the Mayoral term.
5. A resolution is required to set the term of the Mayor.

RECOMMENDATION

That Council resolves to elect the Mayor for a term of one (1) year.

BACKGROUND

- In accordance with Section 26(3) of the *Local Government Act 2020*; before the Election of the Mayor, Council must determine by resolution whether the Mayor is to be elected for a 1 year or a 2-year term.

Legislative Context

- The election of the Mayor requirements are set out in the *Local Government Act 2020* and include:
 - A Mayor is to be elected no later than one month after the date of a general election and;
 - Before the election of the Mayor, a Council must determine by resolution whether the Mayor is to be elected for a 1 year or a 2 year term.

OFFICER DECLARATION OF CONFLICT OF INTEREST

- The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.
- Council officers involved in the preparation of this report have no conflict of interest in this matter.

ATTACHMENTS

Nil

2 ELECTION OF MAYOR

Author: Krysten Forte - Governance Coordinator, Executive

EXECUTIVE SUMMARY

1. The Mayor is responsible for leading the Council and has a number of roles which are both legislative and functional. The legislative requirements are outlined in Division 3 of the *Local Government Act 2020* (the Act).

2. The Act (s18) outlines the role and specific powers of the Mayor to:
 - chair Council meetings; and
 - be the principal spokesperson for the Council; and
 - lead engagement with the municipal community on the development of the Council Plan; and
 - report to the municipal community, at least once each year, on the implementation of the Council Plan; and
 - promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct; and
 - assist Councillors to understand their role; and
 - take a leadership role in ensuring the regular review of the performance of the Chief Executive Officer; and
 - provide advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings; and
 - perform civic and ceremonial duties on behalf of the Council.

3. In addition to the role outlined above, specific powers of the Mayor (section 19 of the Act) include:
 - to appoint a Councillor to be the chair of a delegated committee;
 - to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business;
 - to require the Chief Executive Officer to report to the Council on the implementation of a Council decision.

4. The Mayor's role, however, extends well beyond officiating at Council Meetings or other municipal proceedings. Additional important roles are providing leadership, promoting positive relationships, and modelling good governance.

5. The Mayoral term commences from this meeting and becomes vacant at the time and on the day of the election of the next Mayor.

ELECTION OF MAYOR cont'd

RECOMMENDATION

That nominations be called and the Mayor of Banyule City Council be elected for the period as determined by Council.

BACKGROUND

- The *Local Government Act 2020* requires the Councillors to elect a Councillor to be the Mayor of the Council. The election of the Mayor must be conducted at a meeting open to the public and if the Mayor is elected for a 1 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 1 year term as is reasonably practicable. Any Councillor is eligible for election to the Office of Mayor.
- The election of the Mayor must be chaired by the Chief Executive Officer and conducted in accordance with section 25 of the Act and Council's Governance Rules. The Mayor must be elected by an absolute majority vote.
- The Mayoral position is responsible for leading the Council. The Mayor has responsibilities towards, and is accountable to, all Councillors and the Mayor's leadership style should reflect this.

Role of the Mayor

- **Chair and spokesperson of the Council** – the Mayor must take the Chair at all Council meetings at which he or she is present. As Chairperson, the Mayor should preside without fear or favour and encourage Councillors to participate effectively in all aspects of the Council's decision making. The way in which the Mayor chairs Council Meetings makes a significant contribution to good governance. A well-run meeting that is inclusive and has high standards of governance relies on the Mayor's approach to being Chair. Mayors should have a good knowledge of meeting procedures and the Governance Rules.
- **Community leadership** – the Mayor is the principal Council spokesperson. The Mayor takes a leadership role in the community in promoting the Council and its achievements and leading engagement with the community;
- **Promoting good and relationships** - Good relationships are critical for good governance. Councillors particularly rely on the cooperation and support of colleagues and the administration to achieve goals. This cooperation is based on an understanding and acceptance of each role.
- **Managing and modelling good conduct** - The Mayor also has considerable influence in establishing standards of good governance behaviour and ethics. The Act states the role of the Mayor is to promote behaviour among Councillors that meets standards set in the Councillor Code of Conduct.
- The Mayor has an important formal role to play in promoting good conduct and managing poor conduct. The Mayor is central to dispute resolution with a particular focus on procedural fairness and natural justice.

ELECTION OF MAYOR cont'd

- **Civic role** – the Mayor performs an important social role and is called upon by community groups to officially open events, etc.

Process: Election of the Mayor and Deputy Mayor – 7 November 2022

- The Election of the Mayor and Deputy will occur in line with Chapter 2, Part B of the Governance Rules (current version August 2020 and as attached to this report) and the *Local Government Act 2020*.
- At a Council meeting that is open to the public, the Councillors must elect a Councillor to be the Mayor of Banyule City Council.
- Section 26 (3) of the *Local Government Act 2020* states that before the election of the Mayor, a Council, other than the Greater Geelong City Council, must determine by resolution whether the Mayor is to be elected for a 1 year or a 2-year term.
- Any Councillor is eligible for election or re-election from the current Banyule City Councillors.
- The Election of the Mayor will be presided by the Chief Executive Officer and be undertaken in accordance with the Governance Rules as per above.
- The Chief Executive Officer must invite nominations for the Office of the Mayor and confirm acceptance of the nomination with the nominee Councillor.
- Councillors are able to nominate themselves or nominate another Councillor.
- A Councillor can only nominate one Councillor, and all nominations must be seconded.
- Any Councillor can refuse and not accept a nomination made of them.
- The election of the Mayor must be carried out by a show of hands. All Councillors must vote, and if a Councillor does not vote then it is counted in the negative.
- Councillor candidates will be voted for in the order that they are received, and a Councillor may request a division on any vote for the Election of the Mayor.
- The Mayor must be elected by an absolute majority. Absolute majority in this context means the number of Councillors which is greater than half the total number of Councillors of Councillor (5/9).
- 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.
- The following process is a guide for where there may be one or two or more nominations or where no absolute majority is received:
 - One Nomination: Where only one nomination for Mayor is received, that nominee shall be declared elected.
 - Two or more nominees the Councillor with an absolute majority of votes cast will be declared elected.
 - No absolute Majority if no candidate receives the number of votes equal to half the Councillors of the Council, a second vote will be conducted.
 - Where, after a second vote, two candidates have been nominated and no candidate receives absolute majority the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6pm the following day.

ELECTION OF MAYOR cont'd

- Where more than two candidates have been nominated and there is no candidate with a majority of votes, the candidate with the least number of votes is eliminated and votes are cast again between the remaining candidates. If there is more than one candidate with the least number of votes (i.e.. two candidates on one vote each), then which of these nominees is eliminated must be determined by lot. This process must be continued until there remain only two candidates, at which point the candidate to be declared elected.
- Two or more nominations with equal votes: in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes); The Chief Executive Officer will conduct a vote for one candidate to be defeated.
- Where there is no seconder to a nomination the Chairperson will declare the nomination lapsed. Whilst it is not normal practice for the person chairing the meeting to move a motion, the Temporary Chair may nominate themselves or another Councillor from the chair. If the Chairperson's nomination is not seconded, then they must declare that the nomination has lapsed.
- Once the Mayor has been appointed, and the Council have resolved to have an Office of the Deputy Mayor, then the same process is followed for the election of the Deputy Mayor.
- The Mayor then presides the election of the Deputy Mayor and the rest of the meeting.
- Once elected the Mayor can make a ceremonial speech and provided the opportunity to outline the priorities for the year ahead. The Deputy Mayor is also provided this same opportunity.

Role of the Mayor – s 18 of the 2020 Act

- The role of the Mayor is to:
 - chair Council meetings; and
 - be the principal spokesperson for the Council; and
 - lead engagement with the municipal community on the development of the Council Plan; and
 - report to the municipal community, at least once each year, on the implementation of the Council Plan; and
 - promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct; and
 - assist Councillors to understand their role; and
 - take a leadership role in ensuring the regular review of the performance of the Chief Executive Officer; and
 - provide advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings; and
 - perform civic and ceremonial duties on behalf of the Council.
- The Mayor is not eligible to be elected to the office of Deputy Mayor.

ELECTION OF MAYOR cont'd

- The Mayor has specific powers such as:
 - The power to appoint a Councillor to be the chair of a delegated committee, which prevails over any appointment that Council has resolved on relating to this matter.
 - The ability to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.
 - The ability to require the Chief Executive Officer to report to the Council on the implementation of a Council decision.

Allowances – Mayor and Deputy Mayor

- Pursuant to section 39 of the *Local Government Act 2020* (2020 Act), allowances for the Mayor, Deputy Mayor and Councillors are provided in accordance with a Determination of the Victorian Independent Remuneration Tribunal under the *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019*.
- The Tribunal has assigned each council in Victoria to one of four council allowance categories and Banyule City Council falls in category 3.
- The Mayor is entitled to receive an allowance of **\$119,316**
- The Deputy Mayor is entitled to receive an allowance of **\$59,659**
- All other Councillors are entitled to receive an allowance of **\$35,972**
- All Councillors are entitled to relevant entitlements and benefits as detailed in the Council Expenses Policy.

Exemptions - Conflict of Interest:

- The *Local Government Act 2020* s 126 –131 and the *Local Government (Governance and Integrity) Regulations 2020* (reg 7) provide for guidance around the provisions and exemptions relating to conflicts of interest.
- Regulation 7 states that for the purposes of section 129(g) of the Act, the following matters are prescribed to be exempt (including but not limited to)
 - the nomination or appointment by the Council of a Councillor to a position for which the Councillor will not be remunerated.
 - the nomination or appointment by the Council of a Councillor to a position in the Municipal Association of Victoria or in another body that has the purpose of representing the interests of Council.
 - the nomination of a Councillor for election to the office of Mayor or Deputy Mayor.
 - the election of a Councillor to the office of Mayor or Deputy Mayor under section 25 or 27 of the Act.
 - the appointment of a Councillor to the office of Acting Mayor under section 20B of the Act.
- Councillors therefore do not need to declare any conflicts of interest for these matters at the meeting.

ELECTION OF MAYOR cont'd

LEGISLATIVE REQUIREMENTS

- The election of the Mayor must be undertaken in accordance with the Act and Governance Rules. Some of the specific requirements include how the election must be undertaken and the timing of the mayoral election. The Act also specifies that the election of the Mayor must be chaired by the CEO.

25 Election of 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.

Section 26 Mayoral Election timeframe (1) If the Mayor is elected for a 1 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 1 year term as is reasonably practicable.

- (2) If the Mayor is to be elected for a 2 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 2 year term as is reasonably practicable.

OFFICER DECLARATION OF CONFLICT OF INTEREST

- The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract that provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.
- Council officers involved in the preparation of this report have no conflict of interest in this matter.

ATTACHMENTS

Nil

3 ***ELECTION OF DEPUTY MAYOR***

Author: Krysten Forte - Governance Coordinator, Executive

EXECUTIVE SUMMARY

1. The *Local Government Act 2020* (the Act) outlines that Council may establish an office of Deputy Mayor (s20A) and if an office of Deputy Mayor is established, the legislative requirements of the Deputy Mayor are provided in Sections 21 and 27 of the Act.
2. Should the Office of the Deputy Mayor be established, the Act states the Deputy Mayor must undertake the role 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.
3. Should Council not elect a Deputy Mayor, it must appoint an Acting Mayor in the above circumstances.
4. The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.
5. Council is required to determine whether to establish an office of the Deputy Mayor and then call for nominations for a Deputy Mayor for the 2022/2023 Mayoral term should the office be established.

RECOMMENDATION

That

1. Council establish an office of Deputy Mayor for the period as determined by Council.
2. Nominations be called and the Deputy Mayor of Banyule City Council be elected.

BACKGROUND

- It is important to note that under the *Local Government Act 2020*, it is not a requirement for Council to elect a Deputy Mayor, and Council *may* establish an Office of the Deputy Mayor.

ELECTION OF DEPUTY MAYOR cont'd

- If the Council does not establish an Office of the Mayor, s 20B relating to the role of an Acting Mayor apply.
- The Deputy Mayor must perform the role of the Mayor and exercise any of the powers of the Mayor if:
 - The Mayor is unable to attend for any reason a Council meeting or part of a Council meeting.
 - The Mayor is incapable of performing the duties of the Office of the Mayor for any reason, including illness, or
 - The Office of the Mayor is vacant.

FINANCIAL IMPLICATIONS

- Pursuant to section 39 of the *Local Government Act 2020*, allowances for the Mayor, Deputy Mayor and Councillors are provided in accordance with a Determination of the Victorian Independent Remuneration Tribunal under the *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019*.
- The Tribunal has assigned each council in Victoria to one of four council allowance categories and Banyule City Council falls in category 3.
- The Deputy Mayor is entitled to receive an allowance of **\$59,659**. This is allocated in Councils operating budget.
- All Councillors are entitled to relevant entitlements and benefits as detailed in the Council Expenses Policy.

LEGAL CONSIDERATION

- The 2 allows for Councillors to elect a Deputy Mayor of the Council.
- The election of the Deputy Mayor must be conducted at a meeting open to the public and within one month of the general election date. Any Councillor is eligible for election to the Office of Deputy Mayor. The Deputy Mayor must be elected by an absolute majority vote.
- Section 21 of the Act states 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.
- The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.

ELECTION OF DEPUTY MAYOR cont'd

OFFICER DECLARATION OF CONFLICT OF INTEREST

- The *Local Government Act 2020* (Act) requires members of Council staff, and persons engaged under contract who provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.
- Council officers involved in the preparation of this report have no conflict of interest in this matter.

ATTACHMENTS

Nil

4 APPOINTMENT OF COUNCILLORS ON COMMITTEES

Author: Krysten Forte - Governance Coordinator, Executive

SUMMARY

1. Annually Council appoints Councillor delegates to the Council Advisory Committees, Population and other external committees.
2. Attached to this Report is a summary of the current Councillor Committees – advisory, population, and external committees; and the 2022 councillor appointment/ delegates.
3. The nomination and adoption of Councillor delegates to relevant committees occurs annually after the election of the Deputy Mayor.
4. The *Local Government Act 2020* does not reference advisory committees, and it is up to each council to determine the type of committee it wishes to establish (aside from the Audit and Risk Committee which is a legislative requirement under s 66 of the Act 2020).
5. Advisory Committees as defined by Council are committees that meet and work to a term of reference or similar and provide advice in the form of recommendations to Council on key matters or issues affecting the municipality. Membership is determined in each respective terms of reference.
6. At the Mayoral Election in 2020, Council resolved to appoint Councillors to the Audit & Risk Committee and the CEO Employment Committee as well as external Committees for a term until the 2021 Mayoral Election.
7. A review of those remaining Advisory Committees was undertaken which resulted in the establishment of Advisory Committees being formed and appointments made at the meeting were for a period of May 2021 to 30 June 2023 for the following Committees:
 - Reconciliation Action Plan (RAP) Advisory Committee
 - Inclusive Banyule Advisory Committee
 - Arts and Culture Advisory Committee
 - Banyule Environment & Climate Action Advisory Committee (BECAAC); and established the following committees that support the Inclusive Banyule Advisory Committee being:
 - Disability and Inclusion Committee
 - Multicultural Committee
 - Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ+) Committee
 - Age-friendly City Committee, creating two term durations for the appointments of different Advisory Committees.

APPOINTMENT OF COUNCILLORS ON COMMITTEES cont'd

8. At the first Reconciliation Action Plan (RAP) Advisory Committee on 8 September 2021, the Committee made a recommendation to allocate additional remuneration to acknowledge the work and responsibilities of the Co-Chair.
9. At the Statutory meeting on the 8 November 2021 the Council approved a \$120 sitting fee per meeting be paid to the Co-Chair of the Reconciliation Action Plan (RAP) Advisory Committee, which is double the usual sitting fee of \$60 paid to the other Aboriginal and Torres Strait Islander community members on the Committee, in recognition of the extra work and responsibility of the Co-Chair role.
10. Attached to this Report is a document detailing the current Committees, current Councillor Delegates, a column to make notations on delegates for 2022-2023 and the responsible oversight officer and title of terms of reference or similar.

RECOMMENDATION

That Council:

1. Resolves to determine Councillor delegates to each respective Committees as detailed in **Attachment 1** to this report and as annex to the meeting minutes;
2. Ensure that the Committee is notified of the newly determined Councillor delegates accordingly; and
3. Ensure any paid membership agreements with advisory committee representatives remains, unless otherwise resolved by Council.

BACKGROUND

- Annually Council reviews and appoints committee representation at the same meeting of the Election of the Mayor and Deputy Mayor.
- **Attachment 1** to this Report provides a summary of the current Committees Councillor delegates are appointed to and information regarding each Committee.
- Advisory and Population Committees may be appointed one or two Councillor delegates, and where necessary a substitute delegate.
- Advisory and Population Committees do not have decision making capacity and are advisory in nature and provide recommendations to Council to consider.
- There are a range of external Committees that Councillor provide representation on within the local government sector, and as such appointments will be made.
- Advisory and Population Committees have a charter, code of conduct or a term of reference that provide guidance on membership, quorum, roles and responsibilities and Committee purpose.

APPOINTMENT OF COUNCILLORS ON COMMITTEES cont'd

OFFICER DECLARATION OF CONFLICT OF INTEREST

- The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract who provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.
- Council officers involved in the preparation of this report have no conflict of interest in this matter.

ATTACHMENTS

No.	Title	Page
1	Advisory, Population and External Committee information	