

Agenda of Special Meeting of Council - Monday, 13 November 2023

commencing at 7pm

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



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 Islander Elders, past, present and emerging, who have resided in the area and have been an integral part of the region’s history.”

Diversity 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.

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, 20 November 2023

1 **MAYOR & DEPUTY MAYOR TERM**

Author: Krysten Forte - Manager Governance & Integrity, Executive

SUMMARY

1. The *Local Government Act 2020* (the Act) stipulates that Council must elect a Mayor.
2. The Act also allows for Council to elect a Deputy Mayor if they are so inclined.
3. Before a Mayor is elected, the Council must resolve whether the Mayor is to be elected for a one (1) or two (2) year term in accordance with section 26(3) of the Act.
4. The term of the Deputy Mayor is to be identical to the determined term of the Mayor as resolved by Council.
5. Being the fourth and final year of the four (4) year councillor term, only a one (1) year Mayoral term is available.
6. The purpose of this report is for Council to set the term of the Mayor in accordance with s 26(3) of the Act and the Deputy Mayor Term for the same period.

RECOMMENDATION

That Council:

1. Resolves to elect the Mayor and Deputy Mayor for a term of one (1) year in accordance with s 26(3) of the *Local Government Act 2020*.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide good governance, be accountable and make informed decisions based on sound evidence".

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 one (1) year or a two (2) year term.

MAYORAL TERM cont'd

- Being the fourth and final year of the four (4) year Councillor term, only a one(1) year Mayoral term is applicable.
- The term of the Deputy Mayor is to be identical to the term of the Mayor as resolved by Council.

Legislative Context

- The election of the Mayor and Deputy Mayor requirements are set out in the *Local Government Act 2020* and include:
 - A Mayor is to be elected no later than one (1) 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 one (1) year or a two (2) year term.

SUPPORTING REPORT DETAILS

Legal Consideration

- There are no direct legal implications arising from the recommendation contained in this report.

Human Rights Charter

- It is considered that the subject matter does not raise any human rights issues.

Gender Impact Assessment

- Section 9 of the Gender Equality Act 2020 states Council, as a defined entity, must conduct a Gender Impact Assessment for policies, strategies, plans, programs, and services that are new or up for review and have a direct and significant impact on the public.
- A Gender Impact Assessment was not required for this Report because the Report did not result in the creation or review of a project, strategy or plan that had a direct and significant impact on the public.

Financial Implications

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

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

Nil

2 MAYORAL ELECTION

Author: Krysten Forte - Manager Governance & Integrity, CEO Office

SUMMARY

1. The *Local Government Act 2020* (the Act) details the legislative obligations of the Mayor which are also enshrined in Councils Councillor Code of Conduct.
2. The Mayor is responsible for leading the Council and has a number of roles which are both legislative and functional.
3. Should the Mayor be elected on 13 November 2023 the Mayoral Term would commence on Monday 13 November 2023 and would end at 6:00am on 26 October 2024.
4. This would be in line with s 29 of the Act, as due to the upcoming 2024 Victorian General Election, the Office of the Mayor would become vacant at 6:00am 26 October 2024.
5. The Chief Executive Officer will conduct the Election of the Mayor in accordance with Chapter 2 Part B of the Banyule City Council Governance Rules.

RECOMMENDATION

That Council resolves that Councillor _____ be elected to the role of Mayor of Banyule City Council for the period 13 November 2023 up until 6:00am 26 October 2024.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide good governance, be accountable and make informed decisions based on sound evidence".

BACKGROUND

- The *Local Government Act 2020* requires the Councillors to elect a Councillor to be the Mayor of the Council. The meeting must be open to the public.
- 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 Chapter 2, Part B of Council's Governance Rules.
- The Chief Executive Officer must invite nominations for the Office of the Mayor. The nominations must be seconded by another Councillor and accepted by the Nominee. Once nominations for the Office of the Mayor have been received, the Chief Executive Officer shall confirm that no further nominations shall be accepted. At that that point, nominees become candidates for the election and

DEPUTY MAYOR ELECTION cont'd

their candidature can not be withdrawn. Page 10 onwards of the Governance Rules provide for the process the Chief Executive Officer must follow for a single nomination, multiple nominations and three or more nominations and will be followed at the Election.

- The Mayor must be elected by an absolute majority vote. 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.
- An absolute majority means the number of Councillors which is greater than half the total number of the Councillors of a Council (5/9) Councillors of Banyule City Council.
- If the Mayor is elected for a one (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 one (1) year term as is reasonably practicable.
- The role of the Mayor is detailed in s 18 of the Local Government Act 2020.
- The Mayor, Deputy Mayor and Councillors are entitled to an Allowance pursuant to 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 is assigned category 3.
- The allowance rate is indexed by the Minister from time to time.
- As at the time of writing this report the allowances are as follows:
- The Mayor is entitled to receive an allowance of **\$126,958**
- The Deputy Mayor is entitled to receive an allowance of **\$63,480**
- All other Councillors are entitled to receive an allowance of **\$38,316**
- All Councillors are entitled to relevant entitlements and benefits as detailed in the Council Expenses Policy.

LEGISLATIVE REQUIREMENTS

- The election of the Mayor must be undertaken in accordance with the Local Government Act 2020 and Chapter 2, Part B of Council's Governance Rules.

SUPPORTING REPORT DETAILS

Legal Consideration

- There are no direct legal implications arising from the recommendation contained in this report.

Human Rights Charter

- It is considered that the subject matter does not raise any human rights issues.

Gender Impact Assessment

DEPUTY MAYOR ELECTION cont'd

- Section 9 of the Gender Equality Act 2020 states Council, as a defined entity, must conduct a Gender Impact Assessment for policies, strategies, plans, programs, and services that are new or up for review and have a direct and significant impact on the public.
- A Gender Impact Assessment was not required for this Report because the Report did not result in the creation or review of a project, strategy or plan that had a direct and significant impact on the public.

Financial Implications

- There are no financial implications to this report.

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.

Councillor Declaration of 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.

DEPUTY MAYOR ELECTION cont'd

3 DEPUTY MAYOR ELECTION

Author: Krysten Forte - Manager Governance & Integrity, CEO Office

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:
 - the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or
 - the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or 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. Should the Deputy Mayor be elected on 13 November 2023 the Deputy Mayor Term would commence on Monday 13 November 2023 and end at 6:00am on 26 October 2024.

RECOMMENDATION

That Council:

1. That Council resolves that Councillor _____ be elected to the role of Deputy Mayor of Banyule City Council the period 13 November 2023 up until 6:00 am 26 October 2024.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide good governance, be accountable and make informed decisions based on sound evidence".

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.

DEPUTY MAYOR ELECTION cont'd

- If the Council does not establish an Office of the Deputy 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.
- The Mayor, Deputy Mayor and Councillors are entitled to an Allowance pursuant to 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 is assigned category 3.
- The allowance rate is indexed by the Minister from time to time.
- As at the time of writing this report the allowances are as follows:
- The Mayor is entitled to receive an allowance of **\$126,958**
- The Deputy Mayor is entitled to receive an allowance of **\$63,480**
- All other Councillors are entitled to receive an allowance of **\$38,316**
- All Councillors are entitled to relevant entitlements and benefits as detailed in the Council Expenses Policy.

SUPPORTING REPORT DETAILS

Legal Consideration

- There are no direct legal implications arising out of this report.
- The election of the Deputy Mayor will be in accordance with Chapter 2, Part B of the Governance Rules & the *Local Government Act 2020*.

Human Rights Charter

- It is considered that the subject matter does not raise any human rights issues.

Gender Impact Assessment

- Section 9 of the Gender Equality Act 2020 states Council, as a defined entity, must conduct a Gender Impact Assessment for policies, strategies, plans, programs, and services that are new or up for review and have a direct and significant impact on the public.
- A Gender Impact Assessment was not required for this Report because the Report did not result in the creation or review of a project, strategy or plan that had a direct and significant impact on the public.

DEPUTY MAYOR ELECTION cont'd

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 is assigned category 3.
- The Deputy Mayor is entitled to receive an allowance of **\$63,480**. This is allocated in Councils operating budget. All Councillors are entitled to relevant entitlements and benefits as detailed in the Council Expenses Policy.

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

Nil

4 APPOINTMENT OF COUNCILLOR DELEGATES TO COMMITTEES

Author: Krysten Forte - Manager Governance & Integrity, CEO Office

Previous Items

Council on 7 August 2023 (Item 4.4 - Extension of Advisory and Population Committee Terms)

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 2022/2023 Councillor appointment/ delegates.
3. The nomination and adoption of Councillor delegates to relevant committees occurs annually after the election of the Mayor and 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. The Audit and Risk Committee operates to an Audit and Risk Committee Charter and workplan as required under the *Local Government Act 2020*. The Committees membership includes three (3) independent committee members.
6. Council has also established a CEO Employment Matters Committee which is responsible for managing the Chief Executive Officer employment life cycle including performance, remuneration, contract reviews. The Committee is also responsible for making recommendations to Council on the recruitment and reappointment process of a Chief Executive Officer.
7. The CEO Employment Matters Committee operate to an adopted Terms of Reference and a CEO Employment and Remuneration Policy.
8. The CEO Employment Matters Committee is made up of all 9 Councillors and is chaired by an Independent Committee Member endorsed by Council.
9. Advisory Committees as defined by Banyule Council as committees that meet and work to an adopted Terms of Reference or similar and provide advice in the form of recommendations to Council on key matters or issues affecting the municipality.
10. Membership is determined in each respective Terms of Reference.
11. The established Banyule Advisory & Population Committees are detailed below:

APPOINTMENT OF COUNCILLOR DELEGATES TO COMMITTEES cont'd

- 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, Queer and Asexual (LGBTIQA+) Committee
 - Age-friendly City Committee.

12. At the Ordinary Meeting of Council on 7 August 2023 Council resolved to extend the eight (8) established population and advisory committee's membership terms from 30 June 2023 to 20 September 2024, a period of fifteen months. Resolution (CO2023/141).

13. Attached to this Report is a document detailing the current Committees, current Councillor Delegates, a column to make notations on delegates for 2023-2024 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 annexed to the meeting minutes.
2. Ensure that each Committee is notified of the newly determined Councillor delegates accordingly.
3. Ensure any paid membership agreements with advisory committee representatives remains, unless otherwise resolved by Council.
4. Note that Council's Advisory & Population Committees terms remain as per Council's previous Council resolution from 7 August 2023 from 30 June 2023 to 20 September 2024, a period of fifteen months.

COUNCIL PLAN

- This report is in line with Banyule's Council Plan strategy to "Provide good governance, be accountable and make informed decisions based on sound evidence".

APPOINTMENT OF COUNCILLOR DELEGATES TO COMMITTEES cont'd

- This report is in line with Banyule's Council Plan strategy to "Provide good governance, be accountable and make informed decisions based on sound evidence".

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.

SUPPORTING REPORT DETAILS

Legal Consideration

- There are no direct legal implications arising from the recommendation contained in this report.

Human Rights Charter

- It is considered that the subject matter does not raise any human rights issues.

Gender Impact Assessment

- Section 9 of the Gender Equality Act 2020 states Council, as a defined entity, must conduct a Gender Impact Assessment for policies, strategies, plans, programs, and services that are new or up for review and have a direct and significant impact on the public.
- A Gender Impact Assessment was not required for this Report because the Report did not result in the creation or review of a project, strategy or plan that had a direct and significant impact on the public.

Financial Implications

- There are no financial implication arising from the recommendation contained in this report.
- Any honorarium or remuneration agreements established by Council are already included in Councils adopted operating budget.

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.

APPOINTMENT OF COUNCILLOR DELEGATES TO COMMITTEES cont'd

- 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	