

Agenda

Meeting of Council

Wednesday, 18 November 2020

To be held
via videoconference
(Zoom)

Commencing at 6:00pm

Council:

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

AGENDA FOR THE UNSCHEDULED COUNCIL MEETING OF SURF COAST SHIRE COUNCIL
TO BE HELD VIA VIDEOCONFERENCE (ZOOM)
ON WEDNESDAY 18 NOVEMBER 2020 AT 6:00PM

PRESENT:

OPENING:

Council acknowledges the traditional owners of the land where we meet today and pays respect to their elders past and present and acknowledges the citizens of the Surf Coast Shire.

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.

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1. GOVERNANCE & INFRASTRUCTURE

1.1 Term of Mayor (and Deputy Mayor)

Author's Title: Governance Officer

General Manager: John Bertoldi

Department: Governance & Risk

File No: F18/218-2

Division: Governance & Infrastructure

Trim No: IC20/1482

Appendix:

Nil

Officer Conflict of Interest:

Status:

In accordance with Local Government Act 2020 –
Section 130:

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

Yes

No

Yes

No

Reason: Nil

Reason: Nil

Purpose

The purpose of this report is for Council to determine by resolution if the Mayor is to be elected for a term of one or two years. If Council resolves to elect a Deputy Mayor, this term would also apply to the Deputy Mayor.

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.

If Council resolves later in the meeting to elect a Deputy Mayor, the term would also apply to the Deputy Mayor.

The Chief Executive Officer will Chair the meeting until the election of the Mayor is completed but will not have any voting rights.

Recommendation

That Council resolves that the Mayor (and Deputy Mayor if Council resolves to elect a Deputy Mayor) be elected for a term of year/s.

1.1 Term of Mayor

Report

Officer Conflict of Interest

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

Background

In accordance with the Act, the newly elected Council must choose if the Mayor (and Deputy Mayor if Council resolves to appoint a Deputy Mayor) will be elected for a term of one or two years.

Discussion

Section 26 of the Act provides that:

- (1) A Mayor is to be elected no later than one month after the date of a general election.
- (3) 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.
- (4) 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.
- (5) 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.

Section 27 of the Act provides:

- (1) 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.
- (2) 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 section 25(3) of the Act and Chapter 2, Section 1, Part 1 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 5 High Performing Council
Objective Nil
Strategy Nil

Reporting and Compliance Statements:

Local Government Act 2020 – LGA 2020

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

1.1 Term of Mayor

Governance Principles - Local Government Act 2020 (LGA 2020)

The process of determining the term of the Mayor (and Deputy Mayor if applicable) 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.

Options

Option 1 – to determine by resolution, prior to the election of the Mayor, that the Mayor (and Deputy Mayor if Council resolves to elect a 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 if Council resolves to elect a 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 within 30 days of the election date, prior to the election of the Mayor. If Council subsequently resolves to elect a Deputy Mayor, this term would also apply to the Deputy Mayor.

1.2 Election of Mayor

Author's Title: Governance Officer

General Manager: John Bertoldi

Department: Governance & Risk

File No: F18/218-2

Division: Governance & Infrastructure

Trim No: IC20/1483

Appendix:

Nil

Officer Conflict of Interest:

Status:

In accordance with Local Government Act 2020 –
Section 130:

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

Yes

No

Yes

No

Reason: Nil

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), the Mayor must be elected within one month of the Local Government election day. 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 Council's Governance Rules, Chapter 2, Part 1, Section 1.

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 Conflict of Interest

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

Background

The term of the former Mayor ceased upon the completion of the caretaker period on 24 October 2020. Council is required to elect a new Mayor in accordance with the Act and associated regulations, rules and Council policies.

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 Chapter 2, Part 1, Section 1 of Council's Governance Rules.

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

Council Plan

Theme 5 High Performing Council
Objective Nil
Strategy Nil

Reporting and Compliance Statements:

Local Government Act 2020 – LGA 2020

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

1.2 Election of Mayor

Service Performance (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 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 Chapter 2 of 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: Governance Officer

General Manager: John Bertoldi

Department: Governance & Risk

File No: F18/218-2

Division: Governance & Infrastructure

Trim No: IC20/1506

Appendix:

Nil

Officer Conflict of Interest:

Status:

In accordance with Local Government Act 2020 –
Section 130:

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

Yes

No

Yes

No

Reason: Nil

Reason: Nil

Purpose

The purpose of this report is for Council to resolve whether to establish an office of Deputy Mayor and, if so resolved, to elect a Deputy Mayor for the term previously determined by Council.

Summary

Section 20A of the *Local Government Act 2020* (the Act) provides Council with the option to elect a Deputy Mayor. If Council resolves to elect a Deputy Mayor, the election will take place at this meeting.

In accordance with Section 27 of the Act, where the office of Deputy Mayor is established, the Deputy Mayor must be elected within one month of the Local Government election day. This election 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.

Recommendation

That Council:

1. Establishes an office of Deputy Mayor for the Surf Coast Shire Council.
2. 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 Conflict of Interest

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

Background

The term of the former Deputy Mayor ceased upon the completion of the caretaker period on 24 October 2020. Council is able to elect a new Deputy Mayor in accordance with the Act and associated regulations and rules.

Discussion

In the previous *Local Government Act* (1989) the role of Deputy Mayor was not formally recognised, whilst 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.

If Council resolves not to elect a Deputy Mayor, Council must appoint an Acting Mayor in accordance with section 20B of the Act in instances where the Mayor is absent.

The Chair can ask Council to resolve on whether to establish an office of Deputy Mayor, and if so resolved will call for nominations for Deputy Mayor. 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 Chapter 2, Part 1, Section 2 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 5 High Performing Council
Objective Nil
Strategy Nil

Reporting and Compliance Statements:

Local Government Act 2020 – LGA 2020

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

1.3 Election of Deputy Mayor

Service Performance (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)

If Council resolves to elect a Deputy Mayor, the 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 Chapter 2 of the Surf Coast Shire 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

Council must determine by resolution if a Deputy Mayor will be elected. If Council resolves to elect a Deputy Mayor, this process must be undertaken in accordance with Council's Governance Rules.