

# Minutes

Meeting of Council

Wednesday, 18 November 2020

Held via video conference

(Zoom)

Commenced 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

MINUTES FOR THE COUNCIL MEETING OF SURF COAST SHIRE COUNCIL  
HELD VIA VIDEO CONFERENCE (ZOOM)  
ON WEDNESDAY 18 NOVEMBER 2020 AT 6:00PM

**PRESENT:**

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

**OPENING:**

**Acting Chief Executive Officer Anne Howard opened the meeting.**

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:**

**Cr Gary Allen recited the pledge on behalf of all Councillors.**

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:**

Nil

**BUSINESS:**

<b>1.</b>	<b>GOVERNANCE &amp; INFRASTRUCTURE .....</b>	<b>4</b>
1.1	<i>Term of Mayor.....</i>	<i>4</i>
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1.3	<i>Election of Deputy Mayor.....</i>	<i>10</i>

## 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 be elected for a term of one or two years. If Council includes a Deputy Mayor in this resolution this term would also apply to the Deputy Mayor.

#### **Council Resolution**

**MOVED Cr Adrian Schonfelder, Seconded Cr Rose Hodge**

Council resolves that the term of the Mayor and Deputy Mayor be for one year.

CARRIED 9:0

## 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*

<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

## 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.

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## 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:**

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

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### 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.

Acting Chief Executive Officer, Anne Howard, called for nominations for the office of Mayor.

Cr Heather Wellington nominated herself for the Office of Mayor and Cr Kate Gazzard seconded the nomination.

Cr Kate Gazzard nominated Cr Libby Stapleton for the Office of Mayor and Cr Liz Pattison seconded the nomination.

The Acting Chief Executive Officer called for votes for the first nominee, Cr Heather Wellington, and two votes were received.

The Acting Chief Executive Officer called for votes for the second nominee, Cr Libby Stapleton, and seven votes were received.

Councillor Libby Stapleton received the majority of votes (7) and was declared Mayor of the Surf Coast Shire Council for the agreed term.

Following the Mayoral election, Mayor Stapleton assumed the Chair and addressed the meeting.

## 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*

<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



## 1.2 Election of Mayor

<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 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.

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### 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:**

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

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#### 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. Duly elects ..... to be the Deputy Mayor of the Surf Coast Shire Council for the agreed term.

Mayor Libby Stapleton called for nominations for the Office of Deputy Mayor.

Cr Adrian Schonfelder nominated Cr Liz Pattison for the Office of Deputy Mayor and Cr Gary Allen seconded the nomination.

As there was only one nominee, Cr Liz Pattison was declared the Deputy Mayor of the Surf Coast Shire Council for the agreed term.

Deputy Mayor Pattison addressed the meeting.

### 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 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*

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

### 1.3 Election of Deputy Mayor

<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)**

If Council resolves to elect a 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 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.

**Close:** There being no further items of business the meeting closed at 6:19pm.