

## **SPECIAL COUNCIL MEETING**

**Tuesday 8 November, 2022  
6.30pm**

**Council Chamber  
Braybrook Community Hub  
107-139 Churchill Avenue, Braybrook**

### **AGENDA**

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**Agenda Item 5.1**

**TERM OF THE MAYOR AND THE DEPUTY MAYOR**

**Director:** Lisa King  
Director Corporate Services

**Author:** Phil McQue  
Manager Governance and Commercial Services

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**PURPOSE**

This report seeks to confirm by resolution the term of the Mayor and Deputy Mayor, as required by the *Local Government Act 2020*.

**ISSUES SUMMARY**

- Division 3 of the *Local Government Act 2020 (the Act)* defines the role and powers of the Mayor and Deputy Mayor.
- Section 26(3) and Section 27(2) of the Act provides that before the election of the Mayor and Deputy Mayor, Council must determine by resolution whether the Mayor and Deputy Mayor are to be elected for a one year or a two year term.
- Maribyrnong Council has historically elected the Mayor and the Deputy Mayor for a one year term.
- It is recommended that Council elect the Mayor and the Deputy Mayor for a one year term.

**ATTACHMENTS**

Not applicable

**OFFICER RECOMMENDATION**

**That Council resolve the term of the Mayor and the Deputy Mayor is for one year.**

**Agenda Item 5.1****BACKGROUND**

Division 3 of the Act defines the role and powers of the Mayor and Deputy Mayor.

Section 26(3) and Section 27(2) of the Act provides that before the election of the Mayor and Deputy Mayor, Council must determine by resolution whether the Mayor and Deputy Mayor are to be elected for a one year or a two year term.

**DISCUSSION/KEY ISSUES****1. Key Issues**

Historically, Council has elected the Mayor and Deputy Mayor for a one year term. It is recommended that Council resolve to elect the Mayor and Deputy Mayor for a one year term.

**2. Council Policy/Legislation****Council Plan 2021-2025**

This report contributes to Council's strategic objectives contained in the Council Plan 2021-2025 by considering:

- Strategic Objectives
  - Council will proactively lead our changing City using strategic foresight, innovation, transparent decision making and well-planned and effective collaboration and community engagement to support community and economic growth during the ongoing challenges of the pandemic and beyond.

**Legislation**

- *Local Government Act 2020*
- Maribyrnong City Council Governance Rules

**Conflicts of Interest**

No officer responsible for, or contributing to, this report has declared a direct or indirect interest in relation to this report.

**Human Rights Consideration**

This report complies with the rights listed in the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

**3. Engagement**

Nil.

**4. Resources**

Nil.

**Agenda Item 5.1**

**5. Environment**

Nil.

**CONCLUSION**

It is recommended that Council resolve to elect the Mayor and the Deputy Mayor for a one year term.

**Agenda Item 5.2**

**ELECTION OF THE MAYOR**

**Director:** Lisa King  
Director Corporate Services

**Author:** Phil McQue  
Manager Governance and Commercial Services

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**PURPOSE**

This report considers the election of the Mayor.

**ISSUES SUMMARY**

- Section 18 and 19 of the *Local Government Act 2020 (the Act)* defines the role and powers of the Mayor.
- The election of the Mayor is required to be conducted by the Chief Executive Officer in accordance with section 25 of the Act and the procedures as set out in Part B of Council's Governance Rules.

**ATTACHMENTS**

Not applicable

**OFFICER RECOMMENDATION**

**That the Chief Executive Officer:**

1. **Conduct the election of the Mayor in accordance with the Local Government Act 2020 and Council's Governance Rules: and**
  2. **Following the election, declare a Councillor as the elected Mayor of Maribyrnong City Council.**
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**Agenda Item 5.2****BACKGROUND**

Section 25 of the Act provides that at a Council meeting that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council.

The election of the Mayor must be chaired by the Chief Executive Officer and conducted in accordance with Council's Governance Rules.

**DISCUSSION/KEY ISSUES****1. Key Issues**

Council's Governance Rules Part B prescribe the process for the election of the Mayor: as set out below:

**6. Determining the Election of the Mayor**

- 6.1 The Chief Executive Officer must open the meeting at which the Mayor is to be elected, and invite nominations for the office of Mayor.
- 6.2 There is no requirement for a nomination to be seconded by another Councillor.
- 6.3 Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor:

**Single Nomination**

- 6.4 If there is only one nomination, the candidate nominated must be declared to be duly elected.

**Multiple Nominations and Candidate Elected on First Vote**

- 6.5 If there is more than one nomination, the Councillors in attendance at the meeting must vote for one of the candidates;
- 6.6 Each nominee will be provided the opportunity to address the Council for a maximum of five minutes, in the order in which the nominations were received.
- 6.7 In the event of a candidate receiving the votes of an absolute majority of the Councillors, that candidate is declared to have been elected;

**Three or More Nominations and No Candidate Obtaining Absolute Majority On First Vote**

- 6.8 In the event that:
  - 6.8.1 there are three or more candidates;
  - 6.8.2 no candidate receives the votes of an absolute majority of the Councillors; and

**Agenda Item 5.2**

- 6.8.3 it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors in attendance at the meeting will then vote for one of the remaining candidates.
- 6.9 If one of the remaining candidates receives the votes of an absolute majority of the Councillors, that candidate is duly elected. If none of the remaining candidates receives the votes of an absolute majority of Councillors and it is not resolved to conduct a new election at a later date and time, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives the votes of an absolute majority of the Councillors. That candidate must then be declared to have been duly elected;
- 6.10 For the purposes of sub-rules 6.7 and 6.8, if no candidate can be determined to have the fewest number of votes due to two or more candidates having an equality of votes then the candidate who is to be declared a defeated candidate will be determined by lot.
- 6.11 If a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:
- 6.11.1 each candidate who has an equal number of votes with another candidate or candidates will draw one lot;
- 6.11.2 the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
- 6.11.3 as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates until one of those candidates receives the votes of an absolute majority of Councillors).

Two Nominations or Two Remaining Candidates and No Candidates Obtaining an Absolute Majority on First Vote

- 6.12 In the event of two candidates being nominated or remaining, and neither candidate receiving the votes of an absolute majority of Councillors, the Councillors in attendance at the meeting will consider whether to resolve to conduct a new election at a later date and time.



**Agenda Item 5.2****6.13 If:**

6.13.1 it is resolved to conduct a new election at a later date and time a new election will take place at on the date and at the time resolved upon. In that event the provisions of this Rule 6 will continue to govern the election of the Mayor, and ultimately any candidate whose nomination is the sole nomination or any candidate who receives the votes of an absolute majority of Councillors will be declared duly elected; and

6.13.2 it is not resolved to conduct a new election at a later date and time Councillors must continue to vote until one of the candidates receives the votes of an absolute majority of Councillors, at which point that candidate will be declared duly elected. If, after two or more further votes are taken neither candidate receives the votes of an absolute majority of Councillors, the provisions of sub-Rule 6.12 and this sub-Rule 6.13 must again be followed.

**2. Council Policy/Legislation****Council Plan 2021-2025**

This report contributes to Council's strategic objectives contained in the Council Plan 2021-2025 by considering:

- Strategic Objectives
  - Council will proactively lead our changing City using strategic foresight, innovation, transparent decision making and well-planned and effective collaboration and community engagement to support community and economic growth during the ongoing challenges of the pandemic and beyond.

**Legislation**

- *Local Government Act 2020*
- Maribyrnong City Council Governance Rules

**Conflicts of Interest**

No officer responsible for, or contributing to, this report has declared a direct or indirect interest in relation to this report.

**Human Rights Consideration**

This report complies with the rights listed in the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

**Agenda Item 5.2**

**3. Engagement**

Nil.

**4. Resources**

Nil.

**5. Environment**

Nil.

**CONCLUSION**

The election of a Mayor is conducted by the Chief Executive Officer in accordance with the Act and Council's Governance Rules.

**Agenda Item 5.3**

**ELECTION OF THE DEPUTY MAYOR**

**Director:** Lisa King  
Director Corporate Services

**Author:** Phil McQue  
Manager Governance and Commercial Services

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**PURPOSE**

This report considers the election of the Deputy Mayor.

**ISSUES SUMMARY**

- Section 20 of the Local Government Act 2020 (*the Act*) provides that Council may establish an office of Deputy Mayor.
- Section 21 of the Act defines the role and powers of the Deputy Mayor.
- Council's Governance Rules prescribes the process for the election of a Deputy Mayor, with the Mayor to conduct the election using the Mayoral election process.

**ATTACHMENTS**

Not applicable

**OFFICER RECOMMENDATION**

**That the Mayor:**

1. **Conduct the election of the Deputy Mayor in accordance with the *Local Government Act 2020* and Council's Governance Rules: and**
  2. **Following the election, declare the elected Councillor as the Deputy Mayor of Maribyrnong City Council.**
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**Agenda Item 5.3****BACKGROUND**

Section 20A of the *Act* provides that Council may establish an Office of Deputy Mayor.

In accordance with Section 21, 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.

**DISCUSSION/KEY ISSUES****1. Key Issues**

Council's Governance Rules provides that the Mayor will conduct the election process for the Deputy Mayor. The election for the position of Deputy Mayor will follow the same process as the election of the Mayor prescribed in Council's Governance Rules.

**2. Council Policy/Legislation****Council Plan 2021-2025**

This report contributes to Council's strategic objectives contained in the Council Plan 2021-2025 by considering:

- Strategic Objectives
  - Council will proactively lead our changing City using strategic foresight, innovation, transparent decision making and well-planned and effective collaboration and community engagement to support community and economic growth during the ongoing challenges of the pandemic and beyond.

**Legislation**

- *Local Government Act 2020*
- Maribyrnong City Council Governance Rules

**Conflicts of Interest**

No officer responsible for, or contributing to, this report has declared a direct or indirect interest in relation to this report.

**Human Rights Consideration**

This report complies with the rights listed in the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

**Agenda Item 5.3**

**3. Engagement**

Nil.

**4. Resources**

Nil.

**5. Environment**

Nil.

**CONCLUSION**

The Mayor will conduct the election of a Deputy Mayor in accordance with the Act and Council's Governance Rules.

**Agenda Item 5.4****COUNCILLOR COMMITTEE APPOINTMENTS - 2022/23**

**Director:** Lisa King  
Director Corporate Services

**Author:** Phil McQue  
Manager Governance and Commercial Services

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**PURPOSE**

This report considers the appointment of a Chairperson for Council's City Development Delegated Committee, and Councillor appointments and Councillor delegate appointments to Council's Audit and Risk Committee, Enterprise Maribyrnong Delegated Committee, and the LeadWest Joint Delegated Committee.

**ISSUES SUMMARY**

- Council has two Delegated Committees established under section 63 of *the Local Government Act 2020 (the Act)*, being the City Development Delegated Committee and the Enterprise Maribyrnong Delegated Committee.
- Council has an Audit and Risk Committee, established under section 53 of the Act;
- Council is also a member of the LeadWest Joint Delegated Committee, together with the Cities of Brimbank, Hobsons Bay, Melton, Moonee Valley and Wyndham, established under section 64 of the Act.
- This report considers Chairperson appointments and Councillor and Councillor delegate appointments to the abovementioned Committees.

**ATTACHMENTS**

Not applicable

**OFFICER RECOMMENDATION**

**That Council:**

1. **Appoints Councillor \_\_\_\_\_ as the Chairperson of the City Development Delegated Committee for a one year term, to coincide with the Mayoral term;**
2. **Appoints the Mayor (ex-officio) and Councillors \_\_\_\_\_ and \_\_\_\_\_ as members of the Enterprise Maribyrnong Delegated Committee for a one year term, to coincide with the Mayoral term;**

**Agenda Item 5.4**

3. **Appoints Councillors \_\_\_\_\_ and \_\_\_\_\_ as representatives to the Audit and Risk Committee, and notes the appointment of the Mayor as a substitute representative; and**
  4. **Appoints Councillor \_\_\_\_\_ as the Councillor delegate and Councillor \_\_\_\_\_ as the proxy Councillor delegate to the LeadWest Joint Delegated Committee.**
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**Agenda Item 5.4****BACKGROUND**

Council has established the City Development Delegated Committee and the Enterprise Maribyrnong Delegated Committee in accordance with section 63 of the Act.

Council is also a member of the LeadWest Joint Delegated Committee, together with the Cities of Brimbank, Hobsons Bay, Melton, Moonee Valley and Wyndham, established under section 64 of the Act.

The Audit and Risk Committee is established under section 53 of the Act, and reports directly to Council on matters concerning financial management, good governance, internal controls, risk management and matters of integrity.

**1. Key Issues**City Development Delegated Committee

The City Development Delegated Committee is established to exercise Council's functions and powers in relation to:

- Statutory Planning and Building Controls;
- Heritage;
- Strategic Planning - including Land Use, Development Contributions and Transport Planning;
- Planning Scheme Amendments;
- Urban Design;
- Public Space;
- Economic Development; and
- Any other matters deemed appropriate.

Council resolved in August 2020 to appoint all Councillors to this Committee, with a Chairperson to be appointed by Council each November.

Enterprise Maribyrnong Delegated Committee

The Enterprise Maribyrnong Delegated Committee is established to exercise Council's functions and powers in relation to:

- determining the allocation of business grants for proposals to improve enterprise in the City's business districts in line with Council Plan priorities;
- advising Council on economic development issues which have an impact on Maribyrnong City Council where appropriate or requested; and
- those purposes to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties or powers.

The Committee is independently Chaired and is comprised of three Councillors (Mayor ex-officio and two other Councillors), and members from the industries of Transport and Logistics, Local Retail, Manufacturing, Regional Retail, Education and University Town and Creative Industries.



**Agenda Item 5.4**

It is noted that the Enterprise Maribyrnong Delegated Committee's purpose, objective and functionality is being reviewed with a further report to be presented to Council for consideration in early late 2022 / early 2023.

**Audit and Risk Committee**

The Audit and Risk Committee is established under section 53 of the Act to assist Council discharge its responsibilities under the Act to:

- monitor the compliance of Council policies and procedures;
- monitor Council financial and performance reporting;
- monitor and provide advice on risk management;
- monitor the effectiveness of Council's internal controls, inclusive of the fraud and corruption framework;
- oversee external audit functions.

The objective of the Committee is to oversee:

- the integrity of financial management and reporting, including accounting policies;
- the scope of work, objectivity, performance and independence of the external and internal auditors;
- the establishment, effectiveness and maintenance of controls and systems to safeguard financial and physical resources;
- the systems or procedures that are designed to ensure compliance with relevant statutory and regulatory requirements;
- the process for recognising risks arising from operations and strategies, and consider the adequacy of measures taken to manage those risks; and
- the process and systems which protect against fraud and improper activities including the Public Interest Disclosures Act 2012 procedures.

The Audit and Risk Committee consists of five Members, being three Independents and two Councillors and the Mayor as a substitute for the appointed Councillors.

**LeadWest Joint Delegated Committee**

Council formed the LeadWest Joint Delegated Committee in July 2021, along with the neighbouring Councils of Brimbank, Hobsons Bay, Melton, Moonee Valley and Wyndham.

The Committee oversees the preparation and implementation of the LeadWest Strategic Plan together with projects and actions that support sustainable growth and development in the Western Region of Greater Melbourne.

**Agenda Item 5.4**

The LeadWest Delegated Committee is authorised to:

- to enter into contracts, and to incur expenditure;
- develop a strategic ten year plan to foster and undertake actions that will support sustainable growth and development of the Western Region of Melbourne, including the local government areas of Wyndham, Brimbank, Hobsons Bay, Maribyrnong and Melton;
- develop and prioritise a rolling Four Year Implementation Program of the actions in the LeadWest Strategic Plan to be updated and approved annually;
- oversee implementation of LeadWest Strategic Plan in accordance with the agreed Four Year Implementation Program;
- make recommendations to Council and other LeadWest member Councils on budget allocations;
- to effect the implementation of the LeadWest Strategic Plan;
- progress individual initiatives in accordance with the annualised Four Year Implementation Program;
- Review and recommend adjustments to the Four Year Implementation Program as required;
- monitor and report annually to LeadWest member Councils on the progress of the implementation of the LeadWest Strategic Plan; and
- perform all other functions that are set out in the Terms of Reference (attached) that are not otherwise listed above.

Each Member Council has a Councillor (and their proxy) and Chief Executive Officer (or such proxy as nominated by the CEO) as voting members.

**2. Council Policy/Legislation****Council Plan 2021-2025**

This report contributes to Council's strategic objectives contained in the Council Plan 2021-2025 by considering:

- Strategic Objectives
  - Council will proactively lead our changing City using strategic foresight, innovation, transparent decision making and well-planned and effective collaboration and community engagement to support community and economic growth during the ongoing challenges of the pandemic and beyond.

**Legislation**

- *Local Government Act 2020*

**Conflicts of Interest**

No officer responsible for, or contributing to, this report has declared a direct or indirect interest in relation to this report.

## **Agenda Item 5.4**

### **Human Rights Consideration**

This report complies with the rights listed in the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

#### **3. Engagement**

Nil.

#### **4. Resources**

Nil.

#### **5. Environment**

Nil.

### **CONCLUSION**

It is recommended that Council considers the appointment of a Chairperson for Council's City Development Delegated Committee, and Councillor appointments and Councillor delegate appointments to Council's Audit and Risk Committee, Enterprise Maribyrnong Delegated Committee, and the LeadWest Joint Delegated Committee.