



GLEN EIRA CITY COUNCIL

SPECIAL COUNCIL MEETING

*under s60 of the Local Government Act 2020 and
Rule 22 of the Glen Eira City Council Governance Rules*

MONDAY 9 NOVEMBER 2020

AGENDA

**Meeting to be streamed
live via Council's website
at 6.30pm**

*"The role of a Council is to provide good governance
in its municipal district for the benefit and
wellbeing of the municipal community."*

- S8(1) Local Government Act 2020

The Chief Executive Officer must call a Special Council Meeting to elect a Mayor no later than one month after the date of a general election in accordance with s26(1) of the Local Government Act 2020.

The Chief Executive Officer will open and Chair the Meeting (pro tem).

Chief Executive Officer: Rebecca McKenzie

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1. ACKNOWLEDGEMENT

Glen Eira City Council respectfully acknowledges that the Boon Wurrung people of the Kulin Nation are the traditional owners of the land now known as Glen Eira. We pay our respects to their Elders past, present and emerging and acknowledge and uphold their continuing relationship to and responsibility for this land.

2. APOLOGIES

3. OFFICER REPORTS (AS LISTED)**3.1 OATH OR AFFIRMATION OF OFFICE AND COUNCILLOR CODE OF CONDUCT**

Author: Janice Pouw, Coordinator Councillor Business

Trim No: 20/1282653

Attachments: 1. Oath or Affirmation [↓](#)
2. Councillors Code of Conduct adopted February 2017 [↓](#)

PURPOSE AND SUMMARY

Following the 2020 Local Government Election, the successful candidates now known as Councillors Elect are to take the Oath or Affirmation of Office before the Chief Executive Officer. They are unable to act in the capacity as a Councillor of Glen Eira City Council until they take the oath.

RECOMMENDATION

That following the declaration of results by the Victorian Electoral Commission from the 24 October 2020 Local Government election:

1. the nine Councillors Elect will at this Council meeting:
 - a) take the Oath or Affirmation of Office administered by the Chief Executive Officer:
 - i) in person or, with the approval of the Chief Executive Officer, by means of an audio-visual link;
 - ii) date and sign the Oath or Affirmation of Office before the Chief Executive Officer. The Oath and Affirmation includes to abide by the Councillor Code of Conduct and uphold the standards of conduct set out in the Councillor Code of Conduct; and
2. record in the meeting minutes the names of the Councillors and the Oath or Affirmation taken at this meeting.

BACKGROUND

On 19 August 2020 the Minister for Local Government announced that the elections would be undertaken as a postal vote with election day being 24 October 2020. The Victorian Electoral Commission (VEC) were appointed by Council in February 2020 as the service provider to undertake the election on behalf of Council.

At the close of nominations, there were 36 candidates who had nominated for the 9 Councillor positions.

At the conclusion of the counting of votes, the VEC make a formal declaration of the successful candidates who will then be referred to as Councillors Elect until they are sworn in by the Chief Executive Officer.

ISSUES AND DISCUSSION

Oath or Affirmation of Office

Councillors Elect must take the Oath or Affirmation of Office in the manner prescribed by the Local Government (Governance and Integrity) Regulations 2020 and in accordance with

section 30 of the *Local Government Act 2020 (LGA2020)* before they are allowed to act in the capacity as a Councillor. Should a Councillor Elect choose not to take the Oath or Affirmation of Office within three months after they were declared elected, failure to do so in accordance with section 31 of the LGA 2020 results in the position of Councillor becoming vacant.

Councillor Code of Conduct

On 14 February 2017 Council voted unanimously to approve the Councillor Code of Conduct following the 2016 Council election. The Councillor Code of Conduct is shown as Attachment 2 to this report.

Councillors must comply with the existing Councillor Code of Conduct in accordance with section 139(6) of the *Local Government Act 2020* until a new Code of Conduct is developed and adopted by Council. The review of the Councillor Code of Conduct is to be undertaken and adopted by at least two-thirds of the total number of Councillors elected to Council within 4 months of being sworn in.

The Oath and Affirmation to be taken by the successful candidates includes wording that the Councillor will abide by the existing Councillor Code of Conduct and uphold the standards of conduct set out in the Councillor Code of Conduct.

FINANCIAL, RESOURCE, RISK AND ASSET MANAGEMENT IMPLICATIONS

There are no financial, resource, risk or asset management implications associated with this report.

POLICY AND LEGISLATIVE IMPLICATIONS

The requirements for Councillors' Elect to act in the capacity of a Councillor must be adhered to in accordance with Sections 30, 31 and 139(6) of the *Local Government Act 2020*, *Local Government (Governance and Integrity) Regulations 2020* and Council's Governance Rules.

COMMUNICATION AND ENGAGEMENT

There was no communication and engagement required for this report.

LINK TO COUNCIL AND COMMUNITY PLAN

Theme Five: Informed and Engaged

A well governed Council that is committed to transparency and engages residents in decision-making.

OFFICER DECLARATION OF CONFLICT OF INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

CONCLUSION

That the Councillors Elect take the Oath or Affirmation of Office in accordance with the *Local Government Act 2020*.



O A T H

I swear by Almighty God
I will undertake the duties of the office of Councillor in
the best interests of the municipal community.

I will abide by the Councillor Code of Conduct and
uphold the standards of conduct set out in the
Councillor Code of Conduct.

I will faithfully and impartially carry out and exercise the
functions, powers, authorities and discretions vested in
me under the ***Local Government Act 2020*** and any
other Act to the best of my skill and judgment.

.....

Declared this 9th day of November 2020 before me.

.....

REBECCA MCKENZIE
CHIEF EXECUTIVE OFFICER



A F F I R M A T I O N

I, do
solemnly and sincerely declare and affirm I will
undertake the duties of the office of Councillor in the
best interests of the municipal community.

I will abide by the Councillor Code of Conduct and
uphold the standards of conduct set out in the
Councillor Code of Conduct.

I will faithfully and impartially carry out and exercise the
functions, powers, authorities and discretions vested in
me under the ***Local Government Act 2020*** and any
other Act to the best of my skill and judgment.to the
best of my skill and judgement.

.....

Declared this 9th day of November 2020 before me.

.....

REBECCA MCKENZIE
CHIEF EXECUTIVE OFFICER



COUNCILLOR

CODE OF CONDUCT

REVISED EDITION

February 2017

*Code of Conduct 2016***Table of Contents**

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*Code of Conduct 2016***Declaration by Councillor**

I, declare

that I have been given a copy of the Councillor Code of Conduct
of the Glen Eira City Council.

I have read the Code and agree to abide by it.

Signed:

Date:

Witnessed by the

Chief Executive Officer:

Date:

*Code of Conduct 2016***1. PURPOSE**

- 1.1 This Code of Conduct (the Code) has been adopted as required by the Local Government Act 1989 (the Act) and is binding on all Councillors. It mandates standards to ensure that the conduct of Councillors is legal, ethical and appropriate at all times.
- 1.2 In accordance with section 63 of the Act, a person elected to be a Councillor is not capable of acting as a Councillor until the person has taken the oath of office specified in the Act and read this Code and made a declaration stating that they will abide by the Code.

2 COUNCIL'S FRAMEWORK FOR GOOD GOVERNANCE**Council**

- 2.1 The primary objective of Council, as set by section 3C(1) of the Act, is to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions.
- 2.2 The role of Council, is set out in section 3D(2) of the Act.

Councillors

- 2.3 The City of Glen Eira is governed by nine Councillors who are democratically elected in accordance with the Act. Collectively, they constitute the Council.
- 2.4 Section 65(1) of the Act states that the role of a Councillor is:
 - 2.4.1. to participate in the decision-making of the Council;
 - 2.4.2. to represent the local community in that decision-making; and
 - 2.4.3. to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.
- 2.5 Section 65(2) of the Act states that in performing the role of a Councillor, a Councillor must—
 - 2.5.1. consider the diversity of interests and needs of the local community;
 - 2.5.2. observe principles of good governance and act with integrity; and
 - 2.5.3. provide civic leadership in relation to the exercise of the various functions and responsibilities of the Council under this Act and other Acts; and
 - 2.5.4. participate in the responsible allocation of the resources of Council through the annual budget; and
 - 2.5.5. facilitate effective communication between the Council and the community.

Mayor

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- 2.6 Section 73AA of the Act states that the functions of the Mayor of a Council include:
- 2.6.1. providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under section 65, and the observation of the Councillor conduct principles and the Code by Councillors under sections 76B, 76BA and 76C;
 - 2.6.2. acting as the principal spokesperson for the Council;
 - 2.6.3. supporting good working relations between Councillors; and
 - 2.6.4. carrying out the civic and ceremonial duties of the office of Mayor.

Governance and Administration

- 2.7 Key governance responsibilities of Council include:
- 2.7.1. developing and adopting a Council Plan which sets out the strategic objectives of Council and strategies for achieving them over at least the next four years, a requirement under section 125 of the Act;
 - 2.7.2. approving the annual Budget;
 - 2.7.3. developing and adopting policies covering key programs and services (including home and community care, maternal and child health, waste management, town planning);
 - 2.7.4. hosting and engaging in numerous community forums, activities and events; and
 - 2.7.5. making representations to the Federal and State governments, parliamentary inquiries, peak local government bodies etc in order to advocate for the interests of the Glen Eira community.
- 2.8 Councillors govern, and managers manage, within a framework which is made up of:
- 2.8.1. the Local Government Act;
 - 2.8.2. the Council's Local Laws;
 - 2.8.3. this Code; and
 - 2.8.4. other Policies adopted by Council.
- 2.9 The aim is for those who govern and those who manage to work together in order to produce the best outcomes for the community over the long term.

3 OATH OF OFFICE

At the commencement of each Ordinary or Special Meeting of Council, the Chair will remind the Councillors present that they remain bound by their Oath of Office to undertake the duties of the office of Councillor in the best interests of the people of the municipal district of Glen Eira and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in Councillors under the Local Government Act 1989 or any other Act, to the best of the Councillors' skill and judgement.

*Code of Conduct 2016***4 PRINCIPLES FOR COUNCILLOR CONDUCT****4.1 HONESTY**

Councillors have a duty to act honestly. This involves:-

- 4.1.1 making decisions solely in the public interest;
- 4.1.2 not acting in order to gain benefits for themselves, their family, friends, outside interests or business interests;
- 4.1.3 avoiding statements (whether oral or in writing) or actions that will or are likely to mislead or deceive; and
- 4.1.4 acting lawfully and in accordance with the trust placed in them as elected representatives.

4.2 INTEGRITY

Councillors must:-

- 4.2.1 act with integrity;
- 4.2.2 impartially exercise their responsibilities in the interests of the Glen Eira community;
- 4.2.3 not improperly seek to confer an advantage or disadvantage on any person;
- 4.2.4 not place themselves under any financial or other obligation to any individual, interest group or organisation that might reasonably be thought to influence them in the performance of their duties as Councillors;
- 4.2.5 avoid conflicts between their public duties as a Councillor and their personal interests and obligations;
- 4.2.6 declare any private interests or conflicts of interest as required by the Act relating to their public duties and take steps to resolve any conflicts arising in such a way that protects the public interest; and
- 4.2.7 endeavour to ensure that public resources are used prudently and solely in the public interest.

4.3 OBJECTIVITY

Councillors are accountable to the public for their decisions and actions. Decisions must be made solely on merit and in accordance with their statutory obligations when carrying out Council business. This includes awarding contracts, determining town planning applications, funding proposals and recommending individuals for rewards, recognition or benefits.

4.4 DILIGENCE

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Councillors must:-

- 4.4.1 exercise reasonable care and diligence. This includes reading and familiarising themselves with papers for consideration at Council Meetings and Assemblies of Councillors;
- 4.4.2 not purport to offer or communicate anything which could only be offered or communicated by a collective decision of Council or a decision of Council's delegate; and
- 4.4.3 submit themselves to the lawful scrutiny that is appropriate to the office of Councillor.

4.5 RESPECT

Councillors must:

- 4.5.1 treat each other and all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council officers and other persons; and
- 4.5.2 as a member of Council, respect the decision making processes of Council which are based on decisions of the majority of Councillors.

4.6 COMMUNITY ENGAGEMENT

As representatives of the community, Councillors must listen to community views, be responsive to them and adequately communicate the positions and decisions of Council. There may be times when a Councillor, as an individual, disagrees with a majority decision of Council and wants the community to know that. Although Councillors are entitled to present their own views, in doing so, each Councillor should nevertheless acknowledge that:

- 4.6.1 as a member of Council, they respect the decision making process of Council which is based on a decision by the majority of Councillors;
- 4.6.2 an overriding concern ought to be to achieve a balance in the matters that are communicated and to strive to achieve an outcome that presents the Council as effective and cohesive;
- 4.6.3 save where otherwise agreed, the Mayor or, in the absence of the Mayor, the Deputy Mayor and the Chief Executive Officer or nominee are the designated persons authorised to speak to the media and others on behalf of Council;
- 4.6.4 information of a confidential nature must not be communicated;
- 4.6.5 information relating to decisions of Council on approvals and permits ought only be communicated in an official capacity by a designated officer of Council; and
- 4.6.6 information concerning adopted policies, procedures and decisions of Council must be communicated accurately.

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Additionally, negotiations should be through proper processes which are consistent with the other principles listed here and within section 5 of this Code. If information is to be made available to some parties to a matter, it should be made available to all parties to the matter. After considering all views, Councillors must decide matters in the best interests of the community as a whole.

4.7 TRANSPARENCY

Councillors have a duty to be as transparent as possible about their decisions and actions, giving reasons for their decisions (where permitted by the Act and Council's Local Law) and restricting information only when the wider public interest clearly demands.

4.8 TEAMWORK

4.8.1 There are nine members of Council. Most decisions of Council are collective decisions. Councillors should contribute towards the Councillor group working its way towards decisions.

4.8.2 Councillors' decisions are made in properly constituted Council Meetings. In discussions leading up to such decisions, for example, in Assemblies of Councillors not open to the public, Councillors may explore a range of positions and express a range of views. Those views must not be reported outside those meetings. To do so would discourage full discussion of developing issues and the ability for Councillors to firm up their views as questions are answered and information provided. Councillors' accountability is for their vote and statements in support of their vote at the time that the matter is decided in the properly constituted Council Meeting.

4.8.3 It is important that third parties feel they can deal with Council in good faith and that officers can advise Councillors in confidence. In order to achieve this, Councillors should not distribute or disclose the contents of correspondence to or from Council or internal Council working documents unless those documents have not been designated as confidential, it is for the benefit of Council or otherwise in the public interest and the Councillor group has first agreed.

4.9 LEADERSHIP

Councillors have a duty to promote and support these Councillor Conduct Principles by leadership and example and to act in a way that secures and preserves public confidence in the office of Councillor. To this end, Councillors must not by their actions or statements do anything that may bring the Council into disrepute.

5 GENERAL CONDUCT OBLIGATIONS**5.1 FAIRNESS AND EQUITY**

Councillors must consider issues consistently, promptly and fairly by taking into consideration all relevant facts known to them, or all relevant facts of which they should be reasonably aware. Councillors must have regard to the

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particular merits of each case and must not take irrelevant matters or circumstances into consideration when making decisions.

5.2 HARASSMENT AND DISCRIMINATION

Councillors must not harass, bully, vilify, or discriminate against colleagues, staff members or members of the public. They must discourage others if they do so. This includes harassment and discrimination on the grounds of sex, pregnancy, age, race (including their colour, nationality, descent, ethnic or religious background), political affiliation, marital status, impairment, sexual orientation, gender identity, parental status or status as a carer, breast feeding, physical features, industrial activity or personal association.

5.3 DEVELOPMENT DECISIONS

Councillors must ensure that decisions on town planning applications are properly made according to law and that parties involved in the development process are dealt with fairly. In considering and determining development applications, Councillors must follow established processes for dealing with the parties.

5.4 DEVELOPING POLICY

As elected representatives, one of the most important responsibilities of Councillors is to make decisions on priorities, directions and policy. These decisions often involve making choices between competing interests, many of which may be worthy. Councillors must make these decisions in accordance with the principles set out herein, in the best interests of the community as a whole.

5.5 GUIDE TO ETHICAL DECISION-MAKING

If Councillors are unsure about the ethical issues involving an action or decision, consideration should be given to the following:

- 5.5.1 Is the decision or conduct lawful?
- 5.5.2 Is the decision or conduct consistent with Council's policies, objectives and this Code of Conduct?
- 5.5.3 What will the outcome be for the community, Council, a Councillor(s) and any other parties?
- 5.5.4 Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?
- 5.5.5 Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

Should there be any uncertainty about the ethical nature of any action or decision, Councillors should seek advice from appropriate people which may include the Chief Executive Officer, the independent members of the Audit Committee, the Municipal Association of Victoria, the Victorian Local Governance Association or the Department of Transport, Planning and Local Infrastructure.

*Code of Conduct 2016***5.6 PUBLIC FUNDS**

Councillors must make decisions concerning public funds impartially, responsibly and prudently.

5.7 COUNCILLOR EXPENSES

Councillors must:

- 5.7.1 only claim for expenses that are reasonable bona fide Councillor out-of-pocket expenses incurred while performing duties as a Councillor or in a manner prescribed by Council;
- 5.7.2 apply in writing to Council for reimbursement of expenses;
- 5.7.3 use Council facilities and equipment economically and efficiently;
- 5.7.4 except in accordance with any policy of Council, not use Council facilities, equipment and resources for personal benefit or for the benefit of any other person or organisation; and
- 5.7.5 ensure that Council facilities and equipment are kept separate from similar resources that may be used in a Councillor's private business activities.

In making any claim for reimbursement of expenses, Councillors acknowledge that section 75(2) of the Act defines *duties as a Councillor* as duties performed by a Councillor that are necessary or appropriate for the purposes of achieving Council's objectives, having regard to any relevant Act, regulation, Ministerial guidelines or Council policies.

5.8 MISUSE OF POSITION OR INFORMATION

5.8.1. Councillors must not misuse their position:

- (a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person;
- (b) to cause, or attempt to cause detriment to the Council or another person;
- (c) by making improper use of information acquired as a Councillor;
- (d) by disclosing information that is confidential information within the meaning of section 77(2) of the Act;
- (e) by directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E of the Act;
- (f) by exercising or performing, or purporting to exercise or perform, a power, duty or function that they are not authorised to exercise or perform; or

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- (g) by using public funds or resources in a manner that is improper or unauthorised.

5.8.2. Personal dealings with Council

When Councillors deal with Council in their private capacity (e.g. as a ratepayer, recipient of a Council service or applicant for a permit) they must not expect nor will they request preferential treatment in relation to any such private matter. Councillors must avoid any action that could lead Council staff or members of the public to believe that they are seeking preferential treatment.

5.9 CONFIDENTIAL INFORMATION

5.9.1 Information is confidential as provided under section 77 of the Act, where the information:

- (a) was provided to Council or a Special Committee in relation to a matter considered in a meeting closed to members of the public in accordance with section 89(2) of the Act, and Council or the Special Committee has not passed a resolution that the information is not confidential; or
- (b) has been designated as confidential information by a resolution of Council or a Special Committee which specifies the relevant grounds applying under section 89(2) of the Act and Council or the Special Committee has not passed a resolution that the information is not confidential; or
- (c) has been designated in writing as confidential information by the Chief Executive Officer specifying the ground(s) applying under section 89(2) of the Act and Council has not passed a resolution that the information is not confidential.

5.9.2 A Councillor must not disclose information that they know, or should reasonably know, is confidential information, except in the circumstances permitted by section 77(1A) of the Act.

5.11 RELATIONS AND COMMUNICATION WITH COUNCIL STAFF

Councillors acknowledge and agree that:

- 5.11.1 section 65(3) of the Act states that the role of a Councillor does not include the performance of any functions that are specified as functions of the Chief Executive Officer under section 94A of the Act;
- 5.11.2 all staff members are accountable to the Chief Executive Officer and pursuant to section 94A of the Act, the Chief Executive Officer is responsible for appointing, directing, managing and dismissing all Council staff and for all other issues that relate to Council staff;
- 5.11.3 while Council may decide whether or not to accept the advice or written reports of Council officers, Councillors cannot direct officers to change their advice or reports and cannot set the priorities or work deadlines of staff except by Council resolution.

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- 5.11.4 where Councillors have concerns about the performance of any staff member or service unit, they will direct such concerns to the Chief Executive Officer.
- 5.11.5 Councillor requests for information and advice must be reasonable and accord with Council policies, legislation, resourcing, and Council resolutions.
- 5.11.6 outside Council meetings and briefings, Councillors agree that request for action, information or advice from Council staff will be limited to contact with the Executive Team, Councillor Secretariat, Managers where appropriate, and in response to contact from other officers. Additionally, the Executive Team may authorise communications with Managers or other senior staff where appropriate on the basis of knowledge, skills or expertise.

5.12 OBLIGATIONS DURING MEETINGS

Councillors must conduct themselves in accordance with Council's Local Law in relation to Meeting Procedures during Council and Committee Meetings.

During all properly constituted Council Meetings and Assemblies of Councillors (whether statutory or informal), Councillors must conduct themselves constructively in order to assist the Meeting or Assembly to deal with its agenda and transact its business in an orderly way and behave consistently with the principles set out herein. Councillors must respect the Chair, other Councillors, officers, third parties in attendance and any members of the public.

6 DISCLOSURE OF INTERESTS AND CONFLICTS OF INTERESTS

s. 79

- 6.1 For the purpose of this Code, "conflict of interest" has the meaning specified in the Act.
- 6.2 Councillors must comply with all the provisions of sections 77A-79B and 80A of the Act in regard to conflicts of interest, in particular:
 - 6.2.1 If a Councillor has a conflict of interest in a matter which is to be, or is likely to be, considered or discussed at a meeting of the Council or a Special Committee, the Councillor must if he or she intends to be present at the meeting, disclose the conflict of interest in accordance with section 79(2) of the Act, by either:
 - (a) advising Council or the Special Committee at the meeting of the details required under section 79(2)(b) and (c) of the Act immediately before the matter is considered at the meeting; or
 - (b) advising the Chief Executive Officer in writing of the details required under section 79(2)(d) of the Act.
 - 6.2.2 A Councillor who has a conflict of interest in a matter which is to be, or is likely to be, considered or discussed at a meeting of the Council or a Special Committee must:

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- (a) classify the type of interest that has given rise to the conflict as either—
 - (i) a direct interest; or
 - (ii) an indirect interest, specifying the particular kind of indirect interest under section 78, 78A, 78B, 78C, or 78D; and
 - (b) describe the nature of the interest.
- 6.2.3 If the Councillor advised the Chief Executive Officer in writing of their conflict of interest under section 79(2)(a)(ii) of the Act before the meeting, the Councillor must disclose the class of interest only to the meeting immediately before the matter is considered.
- 6.2.4 While the matter in respect of which a Councillor has disclosed a conflict of interest is being considered or voted on, the Councillor must leave the room and remain outside the room and any gallery or other area in view or hearing of the room.

7 INTERNAL DISPUTE RESOLUTION PROCEDURES

This conflict/dispute resolution process is intended to be used where Councillors have been unable to resolve a conflict or dispute between themselves or others or where the situation is unduly affecting the operation of Council. It is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion, debate and voting in meetings of Council and Special Committees.

7.1 DISPUTES BETWEEN COUNCILLORS – COUNCILLOR CONDUCT REFERENCE GROUP

- 7.1.1 Councillors are mindful that having and expressing differing and sometimes opposing views is a normal function of the process of democratic local government. Sharing and expressing these different views leads to informed and well considered debate. All Councillors have the right to influence the decisions made by Council through this debate.
- 7.1.2 While all Councillors will endeavour to foster and encourage positive and productive interactions at all times, conflict and/or disputes may emerge when the differences between Councillors become personal or the behaviour of Councillors towards each other is of a nature that threatens the effective operation of Council's decision-making process.
- 7.1.3 Before commencing any formal conflict/dispute resolution process, Councillors who are parties to any disagreement have an individual and collective responsibility to try every avenue possible to resolve such conflict or disputes in-house in a courteous and respectful manner, including escalating concerns to the Councillor Conduct Reference Group which may be convened and will operate in accordance with the Terms of Reference contained in Appendix B.

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- 7.1.4 A conflict or dispute may arise between two individual Councillors, between one Councillor and another Councillor or group of Councillors or between two or more different groups of Councillors. The following conflict/dispute resolution procedure will apply regardless of the dynamics and numbers involved.
- 7.1.5 Council's conflict resolution procedure comprises:
- (a) Referring matter to the Councillor Conduct Reference Group;
 - (b) Internal Mediation (Optional);
 - (c) External Mediation (Optional); and
 - (d) Internal Resolution Procedure by Independent Arbitrator (Mandatory).

7.2 INTERNAL MEDIATION (OPTIONAL)

- 7.2.1 If an informal resolution of a dispute between Councillors is unsuccessful or not implemented, a formal request for internal mediation must be made to the Mayor who will facilitate "formal" discussions between the parties in dispute as soon as practicably possible. The Mayor will advise the Chief Executive Officer of the situation.
- 7.2.2 The request must be made in writing, indicating the reason for the dispute, the names of those involved, provisions of this Code that may have been breached, any evidence to support the allegation and, if the request is being made by a group of Councillors, the name of the Councillor representative.
- 7.2.3 The Mayor will convene a meeting at the earliest available opportunity and will provide guidance during that meeting as to what is expected of a Councillor under the Act in relation to roles, responsibilities and conduct. The Mayor will document any outcomes and will provide copies to all parties.
- 7.2.4 In the event that one party does not comply with the agreed outcomes, the other party has the option for further action as described below.
- 7.2.5 In the event that a conflict or dispute involves the Mayor, the Deputy Mayor shall perform the role of the Mayor in facilitating discussion between the parties in dispute and liaise with the Chief Executive Officer.

7.3 EXTERNAL MEDIATION (OPTIONAL)

- 7.3.1 In the event that reconciliation of the dispute is not possible after internal mediation, or the internal mediation is not conducted, a Councillor or group of Councillors may apply to Council's Principal Conduct Officer for a dispute to be referred for external mediation.

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- 7.3.2 This request must be made in writing, indicating the reason for the dispute, the names of those involved, provisions of this Code that may have been breached, any evidence to support the allegation and, if the request is being made by a group of Councillors, the name of the Councillor representative. The applicant must also notify the other party of the request and provide them with a copy of the application at the same time the application is made to the Principal Conduct Officer.
- 7.3.3 The Principal Conduct Officer will ascertain whether or not the other party will attend external mediation and, if they decline, they must provide reasons for doing so to the Principal Conduct Officer. These reasons may be taken into account if the matter is the subject of an application for a Councillor Conduct Panel at a later stage. Declining to attend external mediation does not constitute a breach of this Code.
- 7.3.4 If the other party agrees to participate in external mediation, the Principal Conduct Officer will advise the applicant, the Mayor and the Chief Executive Officer accordingly. The Chief Executive Officer will engage the services of an external and independent mediator to conduct the mediation at the earliest available opportunity. Mediators and conciliators can be selected from a listed panel of practitioners maintained by Council's Corporate Counsel.
- 7.3.5 The mediator will document any agreement or outcomes reached at the meeting and copies will be provided to both parties. In the event that one party has not agreed to mediation, one party does not comply with the agreed outcomes or mediation does not reach a satisfactory outcome, either party has the option for further action as described below.
- 7.3.6 If the dispute remains unresolved, the mediator or conciliator will be required to provide a written report for Councillors and the parties involved in the dispute as to why the process did not result in a resolution.
- 7.4 INTERNAL RESOLUTION PROCEDURE BY INDEPENDENT ARBITER**
- 7.4.1 If a conflict or dispute arises from an alleged contravention or breach of this Code and has not been resolved through any of the previous processes, then a Councillor or group of Councillors (applicant) may apply to Council's Principal Conduct Officer for internal resolution by an independent arbiter alleging that a Councillor (or Councillors) (respondent) has contravened this Code.
- 7.4.2 This application must be made in writing, specify the name of the Councillor alleged to have contravened this Code, specify the provisions of this Code that may have been contravened, any evidence to support the allegation and, if the request is being made by a group of Councillors, the name of the Councillor representative.
- 7.4.3 An application for an internal resolution procedure cannot be made during a Council Election Period and any procedure in progress will be suspended for the duration of an Election Period.

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7.4.4 On receiving an application, the Principal Conduct Officer will:

- (a) advise the Mayor and Chief Executive Officer of the application without undue delay;
- (b) provide a copy of the application to the Councillor who is the subject of the allegation at the earliest practical opportunity but not later than two working days from receipt of the application;
- (c) ask the CEO to appoint an arbiter in accordance with clause 7.4.5;
- (d) obtain from the proposed arbiter written advice that they have no conflict of interest in relation to the Councillors involved;
- (e) notify the parties of the name of the proposed arbiter and provide them with the opportunity (two working days) to object to the person proposed to be the arbiter;
- (f) consider the grounds of any objection and appoint the proposed arbiter or request the CEO to appoint another arbiter;
- (g) provide a copy of the application to the arbiter as soon as practicable after the opportunity for the parties to object to an arbiter has expired;
- (h) after consultation with the arbiter, advise the applicant and the respondent of the time and place for the hearing; and
- (i) attend the hearing(s) and assist the arbiter in the administration of the process

7.4.5 The Principal Conduct Officer will request the CEO to appoint an arbiter who is suitably independent and able to carry out the role of arbiter fairly.

7.4.6 The role of the arbiter is to:

- (a) consider applications alleging a contravention of this Code by a Councillor;
- (b) make findings in relation to any application alleging a contravention of this Code which the arbiter must give to Council;
- (c) give a written statement of reasons supporting the findings to Council; and
- (d) recommend an appropriate sanction or sanctions where the arbiter has found that a Councillor has contravened this Code.

7.4.7 In considering an application alleging a contravention of this Code, an arbiter will:

- (a) in consultation with the Principal Conduct Officer, fix a time and place to hear the application;
- (b) authorise the Principal Conduct Officer to formally notify the applicant and the respondent of the time and place of the hearing;
- (c) hold as many meetings as he or she considers necessary to properly consider the application. The arbiter may hold a directions hearing;
- (d) have discretion to conduct the hearing(s) as he or she deems fit while ensuring that the hearing(s) are conducted with as little formality and technicality as due and proper consideration of the application allows;

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- (e) ensure that the parties to and affected by an application are given an opportunity to be heard by the arbiter;
 - (f) consider an application by a respondent to have legal representation at the hearing to ensure that the hearing is conducted fairly and may, in his or her absolute discretion, grant the application or deny the application;
 - (g) ensure that the rules of natural justice are observed and applied in the hearing of the application; and
 - (h) ensure that the hearing(s) are closed to the public.
- 7.4.8 Where an application to have legal representation is granted by an arbiter, the costs of the Councillor's legal representation are to be borne in their entirety by the Councillor.
- 7.4.9 An arbiter:
- (a) may find that a Councillor who is a respondent to an internal resolution procedure application has not contravened this Code; or
 - (b) may find that a Councillor who is a respondent to an internal resolution procedure has contravened this Code; and
 - (c) will suspend consideration of an internal resolution procedure during the Election Period for a general election.
- 7.4.10 The arbiter is to give a copy of his or her findings and statement of reasons to Council, the applicant and the respondent. At the same time that the arbiter provides the findings and statement of reasons, he or she shall, where a Councillor has been found to have contravened this Code, recommend an appropriate sanction or sanctions for the contravention for consideration by Council.
- 7.4.11 A copy of the arbiter's findings, statement of reasons and any recommended sanctions is to be submitted to the next Ordinary Meeting of Council for its consideration. If an arbiter has found that a contravention of this Code has occurred, Council may, after considering the arbiter's findings, statement of reasons and recommendation on sanctions, give any or all of the following written directions to the Councillor:
- (a) direct the Councillor to make an apology in a form or manner specified by Council;
 - (b) direct the Councillor to not attend up to, but not exceeding, two meetings of Council (in respect of the next scheduled meetings of Council);
 - (c) direct that, for a period of up to, but not exceeding, two months on a date specified by Council, the Councillor:
 - (i) be removed from any position where the Councillor represents Council; and
 - (ii) to not chair or attend any Advisory Committee or Special Committee meeting or an Assembly of Councillors or any other meeting specified in the direction.
- 7.4.12 A Councillor who does not participate in the internal resolution procedure may be guilty of misconduct.

*Code of Conduct 2016***7.5 COUNCILLOR MISCONDUCT**

- 7.5.1 Councillor misconduct is defined in section 3 of the Act (see misconduct, serious misconduct and gross misconduct). Allegations of misconduct are heard on application by a Councillor Conduct Panel as outlined in section 81B of the Act and Councillor Conduct Panels are established under, and regulated by, Division 1D of the Act.
- 7.5.2 Applications for a Councillor Conduct Panel to make a finding of misconduct against a Councillor may be made by Council (following resolution of Council), a Councillor or a group of Councillors.
- 7.5.3 Applications for a Councillor Conduct Panel to make a finding of serious misconduct against a Councillor may be made by Council (following resolution of Council), a Councillor, a group of Councillors or the Chief Municipal Inspector.
- 7.5.4 Applications for a Councillor Conduct Panel must be made directly to the state-appointed Principal Councillor Conduct Registrar.
- 7.5.5 Depending on the allegation and outcome, a Councillor Conduct Panel may:
- (a) discipline a Councillor by reprimand, direct an apology or require the Councillor to take up to two months leave of absence;
 - (b) direct that the Councillor is ineligible to take up the position of Mayor for a period specified by the Panel;
 - (c) require remedial action, including mediation, training or counselling;
 - (d) suspend the Councillor from office for a period not exceeding six months; or
 - (e) refer a matter to VCAT if the Panel considers gross misconduct has been conducted by a Councillor.

8 CARETAKER PERIOD

- 8.1 The Act prescribes an 'election period' in the lead up to Council elections being the period that starts on the last day on which nominations for that election can be received and ends at 6pm on election day.
- 8.2 Councillors must comply with the provisions of sections 55D and 93A of the Act and Council's Election Period Policy (Appendix C).

*Code of Conduct 2016***Appendix A – Section 76B, 76BA & 76D(1)– Rules of Conduct****s. 76B 76B Primary principle of Councillor conduct**

It is a primary principle of Councillor conduct that, in performing the role of a Councillor, a Councillor must:

- (a) act with integrity; and
- (b) impartially exercise his or her responsibilities in the interests of the local community; and
- (c) not improperly seek to confer an advantage or disadvantage on any person.

76BA General Councillor conduct principles

In addition to acting in accordance with the primary principle of Councillor conduct specified in section 76B, in performing the role of a Councillor, a Councillor must:

- (a) avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- (b) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- (c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other persons;
- (d) exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- (e) endeavour to ensure that public resources are used prudently and solely in the public interest;
- (f) act lawfully and in accordance with the trust placed in him or her as an elected representative;
- (g) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

76D Misuse of position

- (1) A person who is, or has been, a Councillor or member of a special committee must not misuse his or her position—
 - (a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
 - (b) to cause, or attempt to cause, detriment to the Council or another person.
- Penalty: 100 penalty units.

*Code of Conduct 2016***Appendix B**

Councillor Conduct Reference Group Terms of Reference

**GLEN EIRA CITY COUNCIL
CONDUCT REFERENCE GROUP
TERMS OF REFERENCE AND OPERATING GUIDELINES**

PREAMBLE

To ensure best outcomes for the City of Glen Eira and its operation, a Councillor Conduct Reference Group (CRG) has been established. The CRG is established to provide all Councillors with an avenue to escalate concerns about Councillor conduct. The Terms of Reference and Operating Guidelines are subject to the requirements of the Local Government Act 1989 (as amended from time to time) and other applicable legislation.

1. Role and functions of the Councillor Reference Group

- A. The CRG provides an avenue to manage concerns regarding Councillor conduct. The CRG is a process which is available under clause 7.1.3 of the Councillor Code of Conduct. It is not a compulsory process and no Councillor can be forced to participate in the CRG process. However, failure to participate will not preclude the CRG from meeting and deliberating in accordance with these Terms of Reference and Operating Guidelines.
- B. The CRG provides an informal process for conflict resolution and is available to deal with matters within its terms of reference prior to the commencement of any internal mediation under clause 7.2 of the Councillor Code of Conduct. Once clause 7.2 is invoked, the CRG cannot be convened.
- C. Matters which may be the subject of a CRG process include:
- disputes between Councillors
 - conduct by a Councillor which may have breached the General Conduct Obligations in clause 5 of the Councillor Code of Conduct
 - behaviour by a Councillor which impedes the process of good governance.
- D. Where a matter or dispute involves a number of Councillors or involves a contentious or political matter, it may be considered that the CRG cannot be successfully used and is unavailable in the circumstances. The decision on this will reside with the CRG. The CRG will not be convened during the caretaker period.
- E. The CRG may be convened by resolution of the Council, at the request of the Mayor, or at the request of one or more Councillors. The CRG acts collectively, and none of its members may undertake any of the functions as an individual without the authorisation of the group.
- F. The CRG must act within the guidelines and use natural justice principles to examine Councillor conduct.

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G. The CRG will perform the following functions:

- hear, investigate and consider concerns raised by Councillor/s about the conduct of one or more Councillors;
- provide the Mayor and/or the Council with a report about that conduct including, where required, a recommendation on how to manage that conduct;
- issue a written warning to Councillor/s when behaviour is perceived to be inconsistent with the Councillor Code of Conduct, the Local Government Act 1989 or any other relevant legislation including without limitation the Occupational Health and Safety Act 2004 and the Equal Opportunity Act 2010;
- provide the Mayor with advice to assist in the oversight and promotion of good relationships;
- mentor or provide counsel to a Councillor following an investigation, report and recommendation;
- assist the Mayor and the Council in determining, subject to relevant legislation, the need to take further action concerning the conduct of Councillor/s including a referral of conduct to a Councillor Conduct Panel within the requirements of the Local Government Act 1989; and
- undertake any other activity related to the above within the limitation of the terms of reference and operating guidelines.

2. **Natural Justice Principles of Decision Making**

A. The CRG must operate in accordance with the following fundamental principles of natural justice:

- any person the subject of an investigation must be advised of the nature and substance of the allegations against them;
- all parties should be given a fair opportunity to be heard before a conclusion or recommendation is made; and
- the CRG members must not have predetermined the matter or be reasonably perceived as having predetermined the matter.

B. The CRG members must ensure that they have considered all the available evidence and information before coming to any final conclusions or recommendations.

3. **Operating process of the CRG**

A. The CRG will be convened as set out in 1E above.

B. The CRG may develop its own procedures for managing an investigation.

C. The CRG may request the provision of all relevant information and documentation.

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- D. Councillors who are requested to provide information and documents should use their best endeavours to provide them within the requested timeframes.
- E. Meetings between the CRG and a Councillor the subject of the meeting will be conducted in an informal manner with a commitment to honest and open discussions.
- F. All Councillors involved in the process as members of the group or the subject of conduct matter will participate in good faith in the process.
- G. The CRG will provide their report within a reasonable time period of meeting and deliberating.
- H. The CRG recommendations should be respected and acknowledged in the spirit of the good governance principles in the Councillor Code of Conduct.
- I. The CRG recommendations are not binding or enforceable but may form the basis of a Council resolution.

4. Membership of the CRG

- A. The CRG will comprise three (3) members appointed from the Councillor group, but excluding the Mayor.
- B. Membership of the CRG will be determined by the Council at twelve monthly intervals .
- C. The Mayor of the day will act as an alternate member if there is a conflict of interest in the membership of the CRG, including where a member of the CRG is a party to the matter being considered.

5. Review

The terms of reference and operating guidelines, functions and effectiveness of the CRG will be reviewed annually by the Councillor group.

Established by Council resolution on 30 August 2016

3.2 TERM OF OFFICE FOR THE MAYOR AND DEPUTY MAYOR

Author: Janice Pouw, Coordinator Councillor Business

Trim No: 20/116129

Attachments: Nil

PURPOSE AND SUMMARY

For Council to determine the term of office for the Mayor and Deputy Mayor in accordance with the *Local Government Act 2020*.

RECOMMENDATION

That Council determines the Office of Mayor and Deputy Mayor to be a 1 year or 2 year term.

BACKGROUND

Prior to the election of a Mayor, Council must determine via resolution whether the Mayoral term is to be set for either one or two years in accordance with s26(3) of the *Local Government Act 2020* (LGA 2020). The term of office set by resolution for the Mayor will also apply to the term of office for the Deputy Mayor as described in s27 of the LGA 2020.

- s27(2) LGA 2020 - 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.

It has been the practice of Glen Eira Councillors to elect the Mayor for a 1 year term with the following Mayoral election to be held as close to the end of that 1 year term as possible.

ISSUES AND DISCUSSION

It is at the discretion of the Council whether to elect a Mayor for a 1 or 2 year term. At the conclusion of that term, Council may re-elect the incumbent Mayor for another term determined at that time or elect another Councillor to be Mayor.

FINANCIAL, RESOURCE, RISK AND ASSET MANAGEMENT IMPLICATIONS

There are no resource, risk or asset management implications associated with this report.

POLICY AND LEGISLATIVE IMPLICATIONS

This report is in accordance with Section 26(3) of the *Local Government Act 2020* where the term of the Mayor must be determined for a 1 year or 2 year term prior to the election of the Mayor.

COMMUNICATION AND ENGAGEMENT

There was no communication and engagement required for this item.

LINK TO COUNCIL AND COMMUNITY PLAN

Theme Five: Informed and Engaged

A well governed Council that is committed to transparency and engages residents in decision-making.

OFFICER DECLARATION OF CONFLICT OF INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

CONCLUSION

That Council determines the term of office for the Mayor to be a 1 year or 2 year term.

3.3 ELECTION OF THE MAYOR

Author: Janice Pouw, Coordinator Councillor Business

Trim No: 20/1274991

Attachments: Nil

PURPOSE AND SUMMARY

For the Councillors to elect a Mayor of Glen Eira City Council in accordance with section 25 of the *Local Government Act 2020* and the *Glen Eira City Council Governance Rules*.

RECOMMENDATION

That Council elects a Mayor for Glen Eira City Council for the term of office decided and resolved by Council at item 3.2 of this meeting.

BACKGROUND

On 24 October 2020 the Victorian Electoral Commission undertook the Local Government Elections on behalf of Council. The Council elections are held every four years.

The *Local Government Act 2020* stipulates that a Mayor is to be elected no later than one month after the date of a general election. Prior to the election of the Mayor, Council must resolve on the term of office for the Mayor, which will have been determined by Council at the previous item on this agenda.

ISSUES AND DISCUSSION

Section 25(3)(a) of the *Local Government Act 2020* provides that the Chief Executive Officer (CEO) will act as Chairperson for the election of the Mayor which will be held in accordance with the *Local Government Act 2020* and the *Glen Eira City Council Governance Rules*.

Rule 9 – Election of the Mayor – Glen Eira City Council Governance Rules

- (1) The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor, provided the election of the Mayor is held in accordance with the provisions of the 2020 Act.
- (2) The Chief Executive Officer must call for nominations for the office of Mayor from those Councillors present.
- (3) Nominations for the office of Mayor do not require a seconder.
- (4) A Councillor may decline their nomination as a candidate and, if they do, the nomination will be rejected by the Chief Executive Officer.

Section 25(6) of the 2020 Act provides that if only one Councillor is a candidate for Mayor, the Meeting must declare that Councillor to be duly elected as Mayor.

- (5) Where more than one candidate has been nominated, the Chief Executive Officer must conduct a poll with voting to take place for each candidate in turn in the order in which their nomination was received.

- (6) The election of the Mayor must be carried out by a show of hands or such other method approved by the person presiding during the election, provided that voting must not be in secret.
- (7) The Chief Executive Officer must declare elected as Mayor the candidate who receives an Absolute Majority of votes.
- (8) If no candidate receives an Absolute Majority of votes, the candidate with the least number of votes must be eliminated and a further poll conducted in accordance with Sub-Rule 9(5). If there are several candidates, this procedure must be continued until a candidate receives an Absolute Majority of votes.
- (9) For the purpose of eliminating the candidate with the least number of votes, if two or more candidates have the same least number of votes, the candidate to be eliminated must be determined by lot by the Chief Executive Officer.
- (10) If two candidates remain and the vote is tied such that neither candidate receives an Absolute Majority of votes, the following process applies.
 - (a) The Chief Executive Officer must conduct a further poll to attempt to break the deadlock; and
 - (b) If the second vote is also tied, such that neither candidate receives an Absolute Majority of votes, Council may resolve:
 - i. that the candidate to be declared as Mayor shall be determined by lot by the Chief Executive Officer; or
 - ii. for a new election to be conducted, in which case the resolution must also include the date and time for the new election.
 - (c) If the vote for a Motion to determine the matter as described in Sub-Rule 9(10)(b) is also tied, then the election of the Mayor will be deferred to the next Meeting.
 - (d) If, as a result of this Sub-Rule 9(10), the election of the Mayor has been deferred to the next Meeting, and the vote at that next Meeting remains tied such that neither candidate receives an Absolute Majority of votes, then the candidate to be declared as Mayor shall be determined by lot by the Chief Executive Officer.

On completion of the election process the Chief Executive Officer will declare the Councillor elected as Mayor of Glen Eira City Council.

FINANCIAL, RESOURCE, RISK AND ASSET MANAGEMENT IMPLICATIONS

There are no financial, resource, risk or asset management implications associated with this report.

POLICY AND LEGISLATIVE IMPLICATIONS

The election of the Mayor is held in accordance with Sections 25 and 26 of the *Local Government Act 2020* and Rule 9 of the Glen Eira City Council Governance Rules.

COMMUNICATION AND ENGAGEMENT

There was no communication and engagement associated with this report.

LINK TO COUNCIL AND COMMUNITY PLAN

Theme Five: Informed and Engaged

A well governed Council that is committed to transparency and engages residents in decision-making.

OFFICER DECLARATION OF CONFLICT OF INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

CONCLUSION

That Council elects a Mayor for Glen Eira City Council for the term of office decided and resolved by Council at item 3.2 of this meeting.

3.4 ELECTION OF THE DEPUTY MAYOR

Author: Janice Pouw, Coordinator Councillor Business

Trim No: 20/1274992

Attachments: Nil

PURPOSE AND SUMMARY

For Councillors to elect a Deputy Mayor of Glen Eira City Council for the same term of office as determined for the Mayor in item 3.2 of this agenda.

RECOMMENDATION

That Council elects a Deputy Mayor for the same term of office determined and decided as for the Mayor in item 3.2 of this agenda.

BACKGROUND

Glen Eira City Council elect a Deputy Mayor, whose role is to support the Mayor and fill in for them in the event the Mayor is unable to fulfil their duties for any reason. Section 60(1)(d) of the *Local Government Act 2020* (LGA 2020) provides the election of a Deputy Mayor must be included in the Council's Governance Rules.

Section 21 of the *(LGA 2020)* and Rule 10 of the *Glen Eira City Council Governance Rules* states that the Deputy Mayor may exercise any of the powers of the Mayor if the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness.

ISSUES AND DISCUSSION

The Chief Executive Officer will act as Chairperson for the election of the Deputy Mayor as described in Rule 10 of the Governance Rules which is shown below).

10. Role and election of the Deputy Mayor

Section 21 of the 2020 Act provides 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

- (1) After the election of a Mayor, Councillors may elect a Deputy Mayor at a Council Meeting that is open to the public.
- (2) Any election for the office of Deputy Mayor will be regulated in the same way as the election for the office of Mayor as set out in these Governance Rules and in accordance with the Act, subject to the Mayor being ineligible for election to the office of Deputy Mayor.

As stated in Rule 10, the election of the Deputy Mayor will follow the same process as Rule 9, the Election of the Mayor. This process is included below including (Deputy) where required to provide the process for the election.

Rule 9 – Election of the (Deputy) Mayor – Glen Eira City Council Governance Rules

- (1) The Chief Executive Officer must determine the most appropriate time and date for the election of the (Deputy) Mayor, provided the election of the (Deputy) Mayor is held in accordance with the provisions of the 2020 Act.
- (2) The Chief Executive Officer must call for nominations for the office of (Deputy) Mayor from those Councillors present.
- (3) Nominations for the office of (Deputy) Mayor do not require a seconder.
- (4) A Councillor may decline their nomination as a candidate and, if they do, the nomination will be rejected by the Chief Executive Officer.

Section 25(6) of the 2020 Act provides that if only one Councillor is a candidate for Mayor, the Meeting must declare that Councillor to be duly elected as (Deputy) Mayor.

- (5) Where more than one candidate has been nominated, the Chief Executive Officer must conduct a poll with voting to take place for each candidate in turn in the order in which their nomination was received.
- (6) The election of the (Deputy) Mayor must be carried out by a show of hands or such other method approved by the person presiding during the election, provided that voting must not be in secret.
- (7) The Chief Executive Officer must declare elected as (Deputy) Mayor the candidate who receives an Absolute Majority of votes.
- (8) If no candidate receives an Absolute Majority of votes, the candidate with the least number of votes must be eliminated and a further poll conducted in accordance with Sub-Rule 9(5). If there are several candidates, this procedure must be continued until a candidate receives an Absolute Majority of votes.
- (9) For the purpose of eliminating the candidate with the least number of votes, if two or more candidates have the same least number of votes, the candidate to be eliminated must be determined by lot by the Chief Executive Officer.
- (10) If two candidates remain and the vote is tied such that neither candidate receives an Absolute Majority of votes, the following process applies.
 - (a) The Chief Executive Officer must conduct a further poll to attempt to break the deadlock; and
 - (b) If the second vote is also tied, such that neither candidate receives an Absolute Majority of votes, Council may resolve:
 - i. that the candidate to be declared as (Deputy) Mayor shall be determined by lot by the Chief Executive Officer; or
 - ii. for a new election to be conducted, in which case the resolution must also include the date and time for the new election.

- (c) If the vote for a Motion to determine the matter as described in Sub-Rule 9(10)(b) is also tied, then the election of the Deputy Mayor will be deferred to the next Meeting.
- (d) If, as a result of this Sub-Rule 9(10), the election of the (Deputy) Mayor has been deferred to the next Meeting, and the vote at that next Meeting remains tied such that neither candidate receives an Absolute Majority of votes, then the candidate to be declared as (Deputy) Mayor shall be determined by lot by the Chief Executive Officer.

Upon completion of the election process The Chief Executive Officer will declare the Councillor elected as Deputy Mayor of Glen Eira City Council.

FINANCIAL, RESOURCE, RISK AND ASSET MANAGEMENT IMPLICATIONS

There are no financial, resource, risk or asset management implications associated with this report.

POLICY AND LEGISLATIVE IMPLICATIONS

The election of the Deputy Mayor is undertaken in accordance with sections 25, 26 and 27 of the *Local Government Act 2020* and Rule 10 of the *Glen Eira City Council Governance Rules*.

COMMUNICATION AND ENGAGEMENT

There was no communication and engagement associated with this report.

LINK TO COUNCIL AND COMMUNITY PLAN

Theme Five: Informed and Engaged

A well governed Council that is committed to transparency and engages residents in decision-making.

OFFICER DECLARATION OF CONFLICT OF INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

CONCLUSION

That Council elects a Deputy Mayor for the same term of office as determined and decided for the Mayor in item 3.2 of this agenda.

4. CLOSURE OF MEETING