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Responsible Officer(s):	CEO
Council File Reference:	Council Policies (P)
Applicable Legislation:	The appointment of Deputy Mayor is pursuant to Section 51 of the Local Government Act, 1999 The appointment of Chairperson/s is pursuant to Section 41 of the Local Government Act, 1999.
Relevant Policies:	This policy is not subject to Public Consultation
Related Procedures:	Elected Members - Internal Procedure
Delegations:	Nil

1. Purpose

Periodical Council Elections are held once every four years, currently in November with the next Election to be held in 2018.

At the first meeting following the election, Council may resolve to choose, from amongst their own number, a Deputy Mayor. The option to appoint a Deputy Mayor is historically a choice of the Berri Barmera Council. The processes described below are applied for choosing a Deputy Mayor.

Council is obliged to appoint a Chairperson for Standing Committees of Council, whether that member be the Mayor or a specifically appointed “Chairperson”. Berri Barmera Council has chosen to appoint specific Chairperson/s for Committees formed pursuant to Section 41 of the Local Government Act, 1999. The processes below also address the processes and options for choosing a Chairperson of a Council committee.

2. Principles

At the time of establishing a committee the Council must appoint a person as the Chairperson of the committee, or make provision, in the terms of reference of the committee, for the appointment of a Chairperson S41(4)

The aim of this Policy is to provide a guideline as to the appointment of a Deputy Mayor and/or Chairperson, pursuant to Sections 51 and 41 respectively, of the Local Government Act 1999.

3. Deputy Mayor of Council

3.1 Methods of choosing a Deputy Mayor:

The methods for choosing a Deputy Mayor are either by:

- Resolution of the Council; or
- An election process (and resolution) determined by the Council.

Whichever method Council chooses, it must first decide the term of office for the position of Chairperson.

Irrespective of the method for choosing a Chairperson and the term of office determined by the Council, all Members need to clearly understand the process that is to be used *before* selection proceedings commence.

3.1.1 By resolution of the Council

This method enables an appointment of a Deputy Mayor by resolution of the Council which can be revoked by subsequent resolution. For example, if the Deputy Mayor should not continue to have the support of the Council, the appointment can be revoked by resolution of the Council. It should be noted that the meeting procedure rules for the revoking of resolutions (motion on notice) will need to be followed.

In light of the ability of a Council to revoke a resolution appointing a Deputy Mayor, a Council may prefer to appoint a Deputy Mayor by resolution for a longer term (not exceeding their term of office).

If there is more than one nomination for appointment, each nomination would need to be considered by way of a motion and addressed independently as a resolution of the Council, seeking those 'for' and those 'against'. After the first nomination is dealt with by the Council further nominations may only be considered if the first motion is lost, or if not lost pursuant to the meeting procedure requirements regarding revoking resolutions of Council.

An alternative process which may be considered under this option is that of taking a ballot amongst the Members (in an agreed manner) to determine the preferred Member. The ballot is then confirmed by resolution. For example: "Cr (.....) be appointed Deputy Mayor of the Berri Barmera Council". While this process is based on the principles of election, it stops short of an actual election and the Council must still determine the matter by resolution. This provides the Council at any time during the term of appointment with the ability to revoke the resolution in accordance with the meeting procedure rules and requirements.

3.1.2 By an election process determined by the Council

Council may choose a Deputy Mayor by simple resolution (as above), by an election process confirmed by resolution, or by an election process alone. This last option however, does not stand up to scrutiny in terms of good governance and is not recommended.

Where an election is held, the resolution should be made to hold an election at the beginning of the process and include all the steps of the process. This means that the initial resolution would resolve

- to hold an election
- the process that the election will follow
- the appointment of a returning officer and, importantly;
- that the returning officer is authorised to declare the successful candidate elected at the outcome of the election. This process eliminates the need for a second resolution to confirm the outcome of the election.

From this point of the meeting the CEO hands the conduct of the balance of the meeting and all future meetings to the new Chairperson.

This process eliminates the need for a second resolution to confirm the outcome of the election.

The reason for making a resolution at the beginning of the process, incorporating all the steps, is to avoid a situation in which a tight election outcome may be affected by the loss the Mayor's vote in the final resolution, or by an amendment moved after the outcome of the election is known. However, it is open to Council to carry out a two-step process, by a resolution to hold an election and then a resolution to confirm the outcome of the election.

A Deputy Mayor may be removed by a rescission procedure to revoke that resolution. However, if a Member is elected to the position of Deputy Mayor without a resolution, either at the beginning or the end of the election process, the Council is unable to utilise the rescission procedure to remove that person from office. The only option that would appear to be available to a Council in that instance would be to pass a resolution to carry out a further election to elect a new Deputy Mayor.

This is not the recommended process for the reason that it does not foster or demonstrate the traits of good governance. It provides less flexibility and does not accord with the way in which a Council, as an elected body, makes decisions. Therefore the preferred option where there is more than one interested/possible candidate is to have a ballot that is confirmed by a resolution of the Council.

In the Council Chambers, the Deputy Mayor shall assume no precedence (other than as a Councillor) except during any absence of the Mayor, when the Deputy Mayor shall act in the place of the Mayor. Outside the Council Chambers, the Deputy Mayor shall be given precedence immediately following the Mayor.

3.2. Qualities to consider when choosing a Deputy Mayor

The Deputy Mayor is in a position to facilitate good decision making through skilful chairing of the Council meeting and through facilitating and encouraging all points of view to be expressed and respected. The role of Deputy Mayor should go to a Council Member with the necessary skills to facilitate participation and inclusion of all Members.

The Deputy Mayor should be provided with the opportunity and encouraged to undertake training to equip them with the skills, or update their existing skills, to properly chair Council meetings. In addition, the meeting procedures rules and requirements under the Act and the Local Government (Procedures at Meetings) Regulations 2013 specific to the role of the Deputy Mayor need to be understood and followed. Accordingly, training and re-training in this area should be an integral part of every Deputy Mayor's 'induction' and the Council's training and development plan.

Members may wish to consider various factors prior to the selection taking place.

Factors could include a person's:

- Expertise in chairing meetings of Council (if past experience exists), committee, and other organisations, public and private;
- Understanding of the prescribed meeting procedures as they relate to Councils;
- Ability to preside efficiently, firmly and fairly over Council meetings;
- Ability to manage conflict and differing opinions;
- General understanding or an ability to quickly gain an understanding of relevant legislation, strategic and operational plans and business that Council deals with;
- Ability and availability to represent and have an affinity with the community as a whole;
- Ability and availability to represent the Council in the presence of members of Parliament, dignitaries and peers;
- Interest and availability in attending functions, activities and seminars to assist in the social and economic promotion and growth of the community;
- Leadership, social and communication skills;
- Ability to be impartial and fair to all speakers when chairing meetings; and

- Relationship with the CEO, directors/departmental managers and staff of the Council. While the roles of each are quite separate, good communication between the parties assists in the smooth running of Council.

4. Conflict of Interest Issues

The identification of a preferred member for the position of Chairperson (or a Deputy Mayor/Chairperson or a presiding member of a council 'prescribed committee')* through the taking of an indicative vote or an election process does not attract the application of the conflict of interest provisions. In other words, all persons nominated for such a position are able to participate in the indicative ballot or election process.

However, an appointment by motion and resolution or the confirmation of the outcome of an indicative ballot by motion and resolution will result in the nominated person receiving payment of an allowance greater than that set for council members of the council. This means that the council member whom it is proposed to appoint will receive a direct financial benefit by way of an increased allowance payment. In these circumstances, the conflict of interest provisions operate to require the council member who is to be nominated by the motion to declare a 'material conflict of interest' and to remove themselves from the decision making process as required by section 74(1) of the Act.

For appointment to a position on a committee that is not a prescribed committee, a nominee has the option of declaring an 'actual or perceived conflict of interest' and deal with the matter in accordance with section 75A of the Act.

* A 'prescribed committee' is defined in the determination of the Remuneration Tribunal as:

A committee that endures, irrespective of whether the council has assigned any particular work to the committee to perform and assists the council or provides advice to the council in any of the following areas or any combination thereof:

- Audit
- Chief Executive Officer performance review
- Corporate Services
- Finance
- Governance
- Infrastructure and works
- Risk management
- Strategic planning and development
- Community Services

5. Chairperson of Council Committees:

Section 41 of the Act enables Council to establish committees. Council will determine the membership of a committee including the term of office of committee members, which may include or consist of, persons who are not Members of the Council.

The Mayor may be appointed by the Council as an ex officio member of a committee.

Section 41(4) of the Act requires Council to appoint a person as the presiding member of the committee or make provision for the appointment of a presiding member. Where Council does not itself appoint a person as the presiding member, the committee itself must appoint a person from amongst its members as the presiding member. The term of office of a presiding member of a committee is at the discretion of Council, or if Council determines at the discretion of the committee.

Where Council leaves the appointment of a presiding member of a committee up to the committee itself it should do so at the first meeting of the committee. However, Council may still provide for conditions of appointment and the committee must comply with those conditions, such as:

- the manner in which the appointment is to be made ie. the appointment process;
- term of office of the presiding member;
- the members eligible to be the presiding member (eg. holding certain qualifications, a member not being an Council Member); or
- such other matters as the Council determines.

The appointment can be revoked by subsequent resolution in compliance with the rules relating to revoking resolutions.

5.1 The role and responsibilities of a Council Committee Chairperson:

The role of the Council Committee Chairperson is to ensure that-

- The provisions of the Act and Regulations in relation to Council Committee Meetings are adhered to;
- The business of the meeting is conducted in a proper and orderly manner;
- The guiding principles are observed and the process of decision making is in accordance with the provisions of the Act and Regulations.

The Chairperson must be impartial and keep order according to the provisions of the Act and Regulations. The Chairperson should provide leadership, make sure that the business of the meeting is conducted in a fair and orderly manner and the opinion of the meeting properly resolved. In order to do this the presiding member must understand his or her authority, know the rules and give clear directions to the meeting. The Chairperson must know and understand the application of the provisions of the Act, the Regulations and any Council meeting procedure code of practice.

The Chairperson may also need to:

- encourage new or inexperienced members to contribute their views to the debate
- discourage any members from monopolising or dominating discussions
- assist members to express their intentions clearly
- make sure that the discussions are centred on issues and not personalities
- stop any aside discussions or interruptions while a member is speaking
- refer to the Act or Regulations or take advice from the CEO in relation to the correct meeting procedure.

6. Presiding Member of Board of Management of Council Subsidiaries

All subsidiaries, whether single council subsidiaries or regional subsidiaries, are administered by a board of management whose membership is determined by the councils and may consist of, or include, persons who are not members of the councils.

Clause 4(4) of Schedule 2 to the Act provides that a board member must be appointed to chair meetings of the board of management and that board members will preside at meetings of the board of management at which she/he is present.

The council may, when establishing a subsidiary and determining the membership of the board of management of the subsidiary, appoint a member as the presiding member. This may be specifically set out in the subsidiary's Charter. Alternatively, the council may leave the appointment of the presiding member to the board of management and similarly make provision for this in the subsidiary's Charter. In such circumstances the members of the board of management should appoint one of its members to preside at the first meeting until a presiding member has been appointed, subject to any provisions in the subsidiary's Charter.

7. Presiding Member of Council Development Assessment Panel

Section 56A(1) of the Development Act 1993 requires a council to establish a council Development Assessment Panel (CDAP). In addition section 56A(3)(b) requires a council to appoint a presiding member of a CDAP taking into account the following requirements:

- “(i) the presiding member must not be a member or officer of the council;
 - (ii) the presiding member must be a fit and proper person to be a member of a development assessment panel;
 - (iii) subject to any provision made by the Regulations, the presiding member must be a person who is determined by the council to have a reasonable knowledge of the operation and requirements of this Act, and appropriate qualifications or experience in a field that is relevant to the activities of the panel.”
- Accordingly, the presiding member must be appointed by the council itself and cannot be appointed by the CDAP. However a deputy presiding member of a CDAP will be appointed by the members of the CDAP.

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