

Whitehorse City Council AGENDA

Council Meeting for the Election of Mayor and Deputy Mayor

on

Monday 18 November 2024 at 7.00pm

To be held in the Council Chamber Nunawading Civic Centre

Members: Cr Peter Allan

Cr Blair Barker Cr Prue Cutts

Cr Andrew Davenport
Cr Daniel Griffiths
Cr Jarrod Gunn
Cr Kirsten Langford
Cr Jason Martin
Cr Kieran Simpson
Cr Ben Stennett

Cr Hayley Weller

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AGENDA

1 Welcome and Apologies

2 Disclosure of Conflicts of Interest

Under section 129(g) of the *Local Government Act 2020* and the Local Government (Governance and Integrity) regulations 2020 the nomination of a Councillor for election to the office of Mayor or Deputy Mayor is prescribed to be exempt from conflict of interest requirements.

3 Council Reports

3.1 Oath or Affirmation of Office

Department

Governance and Integrity

Director Corporate Services

SUMMARY

Following the Whitehorse City Council General Election on 26 October 2024, the Victorian Electoral Commission officially announced the election results for Cootamundra, Eley, Elgar, Kingsley, Lake, Mahoneys, Simpson, Terrara, Walker, and Wattle Wards on 12 November 2024, and for Sparks Ward on Wednesday, 13 November 2024.

Before being capable of acting as a Councillor, all persons elected to be Councillors must take the Oath or Affirmation of Office. The declaration must be in writing and witnessed by the Chief Executive Officer.

Whitehorse City Councillors for Cootamundra, Eley, Elgar, Kingsley, Lake, Mahoneys, Simpson, Terrara, Walker and Wattle Wards took their Oath or Affirmation of office on Tuesday 12 November 2024 with the Councillor for Sparks Ward taking the Oath or Affirmation of office on Wednesday 13 November 2024, this must be recorded in the minutes of the Council.

RECOMMENDATION

That Council notes that the following Councillors took their Oath or Affirmation of Office on the respective dates, as administered and witnessed by the Chief Executive Officer:

- 1. Tuesday, 12 November 2024:
 - Cootamundra Ward Kieran Simpson
 - Eley Ward Daniel Griffiths
 - Elgar Ward Blair Barker
 - Kingsley Ward Kirsten Langford
 - Lake Ward Hayley Weller
 - Mahoneys Ward Jason Martin
 - Simpson Ward Prue Cutts
 - Terrara Ward Jarrod Gunn
 - Walker Ward Ben Stennett
 - Wattle Ward Andrew Davenport
- Wednesday, 13 November 2024:
 - Sparks Ward Peter Allan

3.1 (cont)

KEY MATTERS

The Whitehorse City Council General Election was held on 26 October 2024, with the Victorian Electoral Commission formally declaring the election results for Cootamundra, Eley, Elgar, Kingsley, Lake, Mahoneys, Simpson, Terrara, Walker, and Wattle Wards on 12 November 2024, and for Sparks Ward on Wednesday, 13 November 2024.

DISCUSSION, OPTIONS AND ANALYSIS

The Local Government Act 2020, Local Government (Governance and Integrity) Regulations 2020 and Oaths and Affirmations Act 2018 outline the requirements for Councillors for taking the oath or affirmation of office.

Under Section 30 of the *Local Government Act 2020 in relation to* oath or affirmation of office the following applies:

- "1) A person elected to be a Councillor is not capable of acting as a Councillor until the person has taken the oath or affirmation of office in the manner prescribed by the regulations.
- 2) The oath or affirmation of must be:
 - a) administered by the Chief Executive Officer; and
 - b) dated and signed before the Chief Executive Officer; and
 - c) recorded in the minutes of the Council, whether or not the oath or affirmation was taken at a Council meeting."

Under Regulation 5 of the *Local Government (Governance and Integrity)* Regulations 2020 in respect of oath or affirmation of office the following applies:

"For the purposes of section 30(1) of the Local Government Act 2020, the prescribed manner for taking the oath or affirmation of office is:

- a) in accordance with the requirements of Part 2 of the Oaths and Affirmations Act 2018; and
- b) in person or, with the approval of the Chief Executive Officer, by means of an audio-visual link; and
- c) in the following form:
 "I will undertake the duties of the office of Councillor in the best interests of the municipal community.

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

In accordance with Part 2, section 7 of the *Oath and Affirmations Act 2018*, a person required to take an oath may choose to take an oath or to make an affirmation.

3.1 (cont)

Should a Councillor not take the oath or affirmation office within three months after the day a person was declared elected, the office of the Councillor becomes vacant.

Until a Councillors takes the oath or affirmation of office, the Councillor's will not receive any papers, or be able to attend Council meetings or briefings until such time the oath or affirmation has been made.

Model Councillor Code of Conduct

Section 139 of the *Local Government Act 2020* mandates that Councillors must comply with the Model Councillor Code of Conduct.

The purpose of the Model Councillor Code of Conduct is to include the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions as Councillors, including prohibiting discrimination, harassment (including sexual harassment) and vilification.

The Model Code of Conduct replaced the previous statutory requirements for Councils to develop their own Councillor Code of Conduct and the previous Standards of Conduct.

All Councillors have received a copy of the Model Councillor Code of Conduct.

Overarching Governance Principles and Supporting Report Details

Strategic Alignment	Strategic Direction 1: An innovative Council that is well led and governed.
	This report reflects commitment to Strategic Direction 1, meeting the requirements set by Local Government Act 2020, Local Government (Governance and Integrity) Regulations 2020 and the Oath and Affirmations Act 2018.
	This is aligned with Whitehorse City Council Councillor Code of Conduct and Whitehorse City Council Governance Rules.
Financial and Resource Implications	There are no financial or resource implications arising from the recommendation contained in this report.
Legislative and Risk Implications	In accordance section 31 of the <i>Local Government</i> Act 2020 the office of a Councillor becomes vacant if a person elected to be a Councillor does not take the oath or affirmation of office within 3 months after the day on which the person was declared elected.

3.1 (cont)

Equity, Inclusion, and Human Rights Considerations	In developing this report to Council, the subject matter has been considered in accordance with the requirements of the <i>Charter of Human Rights and Responsibilities Act 2006</i> . It is considered that the subject matter does not raise any human rights issues.
Community Engagement	No community engagement was required for this report.
Innovation and Continuous Improvement	There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.
Collaboration	No collaboration was required for this report.
Conflict of Interest	The Local Government Act 2020 requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.
	Council officers involved in the preparation of this report have no conflict of interest in this matter.

3.2 Term of the Mayor and Deputy Mayor

Department

Governance and Integrity

Director Corporate Services

SUMMARY

The Local Government Act 2020 (the Act) states that at a Council meeting that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council.

Before the election of the Mayor takes place, Council must determine by resolution whether the Mayor is to be elected for a one year or a two-year term.

In accordance with Section 26(3) of the Act, Council is required to determine the Mayoral term. A resolution is required to set the term of the Mayor, the same term is applicable for the term of the Deputy Mayor.

Whitehorse has traditionally elected a Mayor and Deputy Mayor for a oneyear term.

RECOMMENDATION

That Council resolves to elect the Mayor and Deputy Mayor for a term of one year commencing 18 November 2024.

KEY MATTERS

In accordance with Section 26(3) and Section 27(2) of the Act, Council is required to resolve a resolution to set the term of the Mayor and Deputy Mayor. In accordance with Section 26(3) a Mayor and Deputy Mayor can be for a one-year or two-year term.

DISCUSSION, OPTIONS AND ANALYSIS

Options

There are several options to Council on the term of the office of the Mayor and Deputy.

Option 1	One year appointment, annually
Option 2	Two-year appointment, followed by a second two-year appointment
Option 3	Two-year appointment, followed by two annual appointments

3.2 (cont)

Should Council elect a two year term the next election of the Mayor must be held on a day to be determined by the Council that is as close to the end of the two year term as is reasonably practicable.

In previous Council terms Whitehorse has traditionally elected a Mayor and Deputy Mayor for a one-year term. In determining the term of Mayor and Deputy Mayor, Council can proceed to elect a Mayor and Deputy Mayor according to the provisions set out by the Act.

The role of the Mayor is as set out in Section 18 of the Act. The role of the Deputy Mayor is set out in Section 21 of the Act, which states that the Deputy Mayor must perform the role of the Mayor and may exercise any of the power 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.

The Mayor and the Deputy Mayor must also be elected by an absolute majority of the Councillors, and their office becomes vacant at the time and day of the election of the next Mayor and Deputy Mayor.

Overarching Governance Principles and Supporting Report Details

Strategic Alignment	Strategic Direction 1: An innovative Council that is well led and governed.
	This report reflects commitment to Strategic Direction 1, meeting the requirements set by Local Government Act 2020, Local Government (Governance and Integrity) Regulations 2020.
Financial and Resource Implications.	There are no financial or resource implications arising from the recommendation contained in this report.
Legislative and Risk Implications	There are no legal or risk implications arising from the recommendation contained in this report.
Equity, Inclusion, and Human Rights Considerations	In developing this report to Council, the subject matter has been considered in accordance with the requirements of the <i>Charter of Human Rights and Responsibilities Act 2006</i> .
	It is considered that the subject matter does not raise any human rights issues.

3.2 (cont)

Community Engagement	No community engagement was required for this report.
Innovation and Continuous Improvement	There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.
Collaboration	No collaboration was required for this report.
Conflict of Interest	The Local Government Act 2020 requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates. Council officers involved in the preparation of this report have no conflict of interest in this matter.

3.3 Election of the Mayor

Department

Governance and Integrity

Director Corporate Services

SUMMARY

In accordance with Section 26 of the *Local Government Act 2020* (the Act) a Mayor is to be elected no later than one month after the date of a general election. As the election was held on 26 October 2024 this requirement is being met.

The election of the Mayor takes place in accordance with Section 25 of the Act and the Whitehorse City Council Governance Rules which requires that:

The Mayor is responsible for leading the Council and has a number of roles which are both legislative and functional. The legislative requirements are outlined in Division 3 of the Act.

Section 18(1) of the Act states that

The role of the Mayor is to:

- a) chair Council meetings;
- b) be the principal spokesperson for the Council;
- c) lead engagement with the municipal community on the development of the Council Plan:
- d) report to the municipal community, at least once each year, on the implementation of the Council Plan;
- e) promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct;
- f) assist Councillors to understand their role;
- g) take a leadership role in ensuring the regular review of the performance of the Chief Executive Officer;
- h) provide advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings; and
- i) perform civic and ceremonial duties on behalf of the Council.

In addition to the role outlined above, the Mayor has the following specific powers under Section 19 of the Act:

- a) to appoint a Councillor to be the chair of a delegated committee;
- b) to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business; and

3.3 (cont)

c) to require the Chief Executive Officer to report to the Council on the implementation of a Council decision

The Mayor's role, however, extends well beyond officiating at Council Meetings or other municipal proceedings. Additional important roles are providing leadership, promoting positive relationships, and modelling good governance.

RECOMMENDATION

That Council:

- 1. Calls for nominations for the office of Mayor of Whitehorse City Council
- Elects the Mayor

KEY MATTERS

A Mayor is to be elected at a Council meeting that is open to the public and, 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 Section 25 of the Act and Council's Governance Rules

DISCUSSION, OPTIONS AND ANALYSIS

Role of Mayor

The Mayor is elected by Council to represent the views and directions of Council in performing various roles and duties.

The role of Mayor as Chair of Council and community leader is crucial to effective relationships with the administration and to good governance.

The Mayor should ensure good governance within Council, providing the basis for sound strategy for the City.

The Mayor of Whitehorse is a leader, a representative of the community and the custodian of Council's customs and traditions.

The Mayor as Civic Leader

The Mayor also acts as the principal spokesperson for Council and is seen in the community as representing the Council as a whole. The Mayor is often charged with speaking publicly on behalf of the Council both in the media and at public events.

In addition, the Mayor plays a key leadership role in engaging with community groups, businesses, and other stakeholders to promote the interests of the Council and the local community. In this capacity, the Mayor must reflect the views and policies of the Council, rather than personal opinions, ensuring that Council positions are communicated fairly and accurately.

The Mayor is also expected to undertake civic and ceremonial duties during their term of office; these duties are extensive and diverse and include the

3.3 (cont)

Mayor representing Council at important civic functions in the municipality in a respectful and dignified manner.

The Mayor as Chair

The Mayor plays an important civic and organisational role when presiding over formal meetings of Council.

For the Mayor to show good leadership and performance, they must display proper chairing of meeting skills and proper application of the Meeting Procedures.

It is expected that a high performing Mayor will have a positive impact on the performance and attitudes of Councillors in formal meetings.

The community's perception of Council is often formed from the performance of the Mayor in formal meetings. It is essential for the Mayor to be thoroughly prepared, ensuring a professional and effective presence. This includes reviewing the meeting agenda, understanding any special proceedings, and seeking governance advice when necessary.

Specific Powers of the Mayor

The Mayor has the following specific powers under Section 19(1) of the Act:

- a) appoint a Councillor to be the chair of a delegated committee;
- b) direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business;
- c) require the Chief Executive Officer to report to the Council on the implementation of a Council decision.

Election of the Mayor

The election of the Mayor must be held at a Council meeting that is open to the public and the Councillors must elect a Councillor to be the Mayor of the Council.

- 3) The election of the Mayor must:
 - a) be chaired by the Chief Executive Officer
 - b) be conducted in accordance with the Governance Rules

The Chief Executive Officer calls for nominations for the position of Mayor noting:

- Councillors may self-nominate;
- nominations must be seconded by another Councillor;
- any Councillor nominated may refuse nominations.
- each candidate for Mayor is given up to three minutes to address Councillors.

The Chief Executive Officer conducts the election (if required), announces the appointment of the Mayor.

3.3 (cont)

The Mayor takes the Chair

The Mayor takes the Chair and chairs the remainder of the meeting and has the opportunity to address and express appreciation of being elected Mayor. Councillors may also officer expressions of congratulations by to the new Mayor.

Overarching Governance Principles and Supporting Report Details

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Strategic Alignment	Strategic Direction 1: An innovative Council that is well led and governed.
	This report reflects commitment to strategic direction 1, meeting the requirements set by Local Government Act 2020, Local Government (Governance and Integrity) Regulations 2020.
Financial and Resource Implications	There are no financial or resource implications arising from the recommendation contained in this report.
Legislative and Risk Implications	There are no legal or risk implications arising from the recommendation contained in this report.
Equity, Inclusion, and Human Rights Considerations	In developing this report to Council, the subject matter has been considered in accordance with the requirements of the <i>Charter of Human Rights and Responsibilities Act 2006</i> . It is considered that the subject matter does not
	raise any human rights issues.
Community Engagement	No community engagement was required for this report.
Innovation and Continuous Improvement	There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.
Collaboration	No collaboration was required for this report.
Conflict of Interest	The Local Government Act 2020 requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.
	Council officers involved in the preparation of this report have no conflict of interest in this matter.

3.4 Election of the Deputy Mayor

Department

Governance and Integrity

Director Corporate Services

SUMMARY

Section 20A of the *Local Government Act 2020* (the Act) outlines that Council may establish an office of Deputy Mayor and if an office of Deputy Mayor is established, the legislative requirements of the Deputy Mayor are provided in sections 21 and 27 of the Act.

Council resolved to establish an office of the Deputy Mayor on 18 November 2020.

The Act states that the Deputy Mayor must undertake the role of Mayor if:

- a) the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting;
- 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.

The term of a Deputy Mayor is the same as the term of the Mayor as resolved by Council.

RECOMMENDATION

That Council:

- Calls for nominations for the office of Deputy Mayor of Whitehorse City Council
- Elects the Deputy Mayor
- 3. Notes the term of Deputy Mayor is the same as the term of Mayor

Key Matters Traditionally Whitehorse City Council elects a Deputy Mayor. The Act states in 20A(1) 'A Council may establish an office of Deputy Mayor. (2) If the Council has established an office of Deputy Mayor, the provisions of this Act relating to the office of Deputy Mayor apply. (3) If a Council has not established an office of Deputy Mayor, section 20B applies.'

DISCUSSION, OPTIONS AND ANALYSIS

In previous Council terms Whitehorse has traditionally elected a Mayor and Deputy Mayor for a one-year term. In determining the term of Mayor and Deputy Mayor, Council can proceed to elect a Mayor and Deputy Mayor according to the provisions set out by the Act.

3.4 (cont)

The role of the Deputy Mayor is set out in section 21 of the Act, which states that the Deputy Mayor must perform the role of the Mayor and may exercise any of the power 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.

As per the Act, the election of the Deputy Mayor, is to be held at a Council meeting that is open to the public. Any Councillor is eligible for election to the office of the Deputy Mayor. However, the Mayor is not eligible to also be elected to the office of the Deputy Mayor.

The Deputy Mayor must be elected by an absolute majority of the Councillors, and their office becomes vacant at the time and day of the election of the next Mayor and Deputy Mayor.

If Council decide not to elect a Deputy Mayor section 20B Acting Mayor applies.

- 1) A Council may appoint a Councillor to be the Acting Mayor when—
 - a) the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or Authorised by the Chief Parliamentary Counsel 39 Local Government Act 2020 No. 9 of 2020 Part 2— Councils
 - 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.
- 2) An appointment under subsection (1) must be for a period specified by the Council.
- 3) If
 - a) an appointment has not been made under subsection (1) or has expired; and
 - any of the circumstances specified in subsection(1)(a), (b) or (c) apply— the Council must appoint a Councillor to be the Acting Mayor for a period specified by the Council.
- 4) An Acting Mayor
 - a) must perform the role of the Mayor; and
 - b) may exercise any of the powers of the Mayor— until the circumstances specified in subsection (1) no longer apply or the period of the appointment expires, whichever first occurs.

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- 3.4 (cont)
- 5) If an Acting Mayor has been appointed, unless inconsistent with the context or subject matter, a reference in this Act (except in sections 20 and 23, Division 4 of this Part and sections 61(6) and 236(4)) to the Mayor includes a reference to the Acting Mayor.

Overarching Governance Principles and Supporting Report Details

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Strategic Alignment	Strategic Direction 1: An innovative Council that is well led and governed. This report reflects commitment to strategic direction 1, meeting the requirements set by Local Government Act 2020, Local Government (Governance and Integrity) Regulations 2020.
Financial and Resource Implications	There are no financial or resource implications arising from the recommendation contained in this report.
Legislative and Risk Implications	In presenting this report, Council is fulfilling section 20A(1) of the <i>Local Government Act 2020</i> in determining that Councillors may elect a Councillor to be the Deputy Mayor.
Equity, Inclusion, and Human Rights Considerations	In developing this report to Council, the subject matter has been considered in accordance with the requirements of the <i>Charter of Human Rights and Responsibilities Act 2006</i> . It is considered that the subject matter does not raise any human rights issues.
Community Engagement	No community engagement was required for this report.
Innovation and Continuous Improvement	There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.
Collaboration	No collaboration was required for this report.
Conflict of Interest	The Local Government Act 2020 requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates. Council officers involved in the preparation of this
	report have no conflict of interest in this matter.

3.5 Acknowledgement of Former Councillors

Department

Governance and Integrity

Manager Governance and Integrity

To provide an opportunity for Council to express its appreciation to outgoing Councillors Raylene Carr, Denise Massoud, Mark Lane, Tina Liu, Amanda McNeill, Andrew Munroe and Trudy Skilbeck.

Former Councillor Raylene Carr was first elected to the Whitehorse City Council on 29 November 2008, representing the Morack Ward for a four-year term. This was followed by two further four year terms on 27 October 2012 and 22 October 2016. In the General Election held on 24 October 2020, Raylene was re-elected representing the new single member Terrara Ward for a four year term. Raylene held the position of Deputy Mayor for the 2020/2021 Mayoral term.

Former Councillor Denise Massoud was first elected to the Whitehorse City Council on 27 October 2012, representing the Central Ward for a four year term. A second four year term followed with re-election on 22 October 2016. In the General Election held 24 October 2020 Denise was re-elected this time representing the new single member Lake Ward. Denise held the position of Mayor on two occasions in 2016/2017 and 2023/2024 Mayoral terms and the position of Deputy Mayor in the 2021/2022 Mayoral term.

Former Councillor Mark Lane was first elected on 29 November 2008, representing the Morack Ward and served until October 2012. Mark was reelected in the new single member Mahoneys Ward at the General Election held on 24 October 2020. Mark held the position of Mayor on two occasions in the 2011/2012 and 2022/2023 Mayoral terms.

Former Councillor Tina Liu was first elected to Whitehorse City Council on 22 October 2016 representing Elgar Ward for a four year term and was reelected for a second four year term in the General Election held on 24 October 2020 representing the new single member Sparks Ward. Tina held the position of Mayor for the 2021/2022 Mayoral term.

Former Councillor Amanda McNeill was elected on 24 October 2020 for a four year term representing the new single member Kingsley Ward.

Former Councillor Andrew Munroe was first elected on 29 November 2008 for a four year term representing the Central Ward. This was followed by two further four year terms on 27 October 2012 and 22 October 2016 respectively. Andrew was re-elected in the General Election held on 24 October 2020 in new single member Cootamundra Ward. Andrew held the position of Mayor three times in the 2012/2013, 2014/2015 and 2020/2021 Mayoral terms.

Former Councillor Trudy Skilbeck was elected on 24 October 2020 for a four year term representing the new single member Eley Ward.

3.5 (cont)

Congratulations and Best Wishes

Raylene Carr, Denise Massoud, Mark Lane, Tina Liu, Amanda McNeill, Andrew Munroe and Trudy Skilbeck were active Councillors who served the Whitehorse community with dedication and enthusiasm. All were appointed Councillor Representatives on various community groups and external organisations and bodies during their Councillor terms.

Sincere congratulations to Raylene Carr, Denise Massoud, Mark Lane, Tina Liu, Amanda McNeill, Andrew Munroe and Trudy Skilbeck for their significant contribution to Whitehorse City Council and the community of Whitehorse. From their former Whitehorse City Council colleagues, the Executive Leadership Team and staff of Whitehorse, we wish them all the very best and every success for their future endeavours and contribution to the community of Whitehorse.

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4 Close Meeting