



**WELLINGTON**  
SHIRE COUNCIL

*The Heart of Gippsland*

## **COUNCIL MEETING AGENDA ORDINARY MEETING**

**Meeting to be held at**

**Wellington Centre – Wellington Room**

**Foster Street, Sale and via MS Teams**

**Tuesday 2 August 2022, commencing at 3:00 PM**

**or join Wellington on the Web:  
[www.wellington.vic.gov.au](http://www.wellington.vic.gov.au)**

ORDINARY MEETING OF COUNCIL  
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## COUNCIL MEETING INFORMATION

*Members of the Public Gallery should note that the Council records and publishes Council meetings via YouTube to enhance the accessibility of Council meetings to the broader Wellington community. These recordings are also archived and may be published on Council's Website for viewing by the public or used for publicity or information purposes. At the appropriate times during the meeting, members of the gallery may address the Council at which time their image, comments or submissions will be recorded.*

*Members of the public who are not in attendance at the Council meeting but who wish to communicate with the Council via the online webform should lodge their questions or comments early in the meeting to ensure that their submissions can be dealt with at the end of the meeting.*

*Please could gallery visitors, Councillors and other invited online attendees ensure that mobile phones and other electronic devices are turned off or in silent mode for the duration of the meeting.*

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## ACKNOWLEDGEMENT OF COUNTRY

*"We acknowledge the traditional custodians of this land, the Gunaikurnai people, and pay respects to their Elders past and present"*

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## PRAYER

*"Almighty God, we ask your blessing upon the Wellington Shire Council, its Councillors, officers, staff and their families. We pray for your guidance in our decisions so that the true good of the Wellington Shire Council may result to the benefit of all residents and community groups."*

*Amen*

## 1. APOLOGIES

## 2. DECLARATION OF CONFLICT/S OF INTEREST

## 3. CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING/S

### 3.1. ADOPTION OF MINUTES OF PREVIOUS COUNCIL MEETING

**ACTION OFFICER: GENERAL MANAGER CORPORATE SERVICES**

**PURPOSE**

To adopt the minutes of the Ordinary Council Meeting of 19 July 2022.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY**

**RECOMMENDATION**

*That Council adopt the minutes and resolutions of the Ordinary Council Meeting of 19 July 2022.*

**CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a conflict of interest.

#### 4. BUSINESS ARISING FROM PREVIOUS MEETINGS

**ACTION OFFICER: CHIEF EXECUTIVE OFFICER**

ITEM	FROM MEETING	COMMENTS	ACTION BY
NIL			

#### 5. ACCEPTANCE OF LATE AND URGENT ITEMS

#### 6. NOTICE/S OF MOTION

#### 7. RECEIVING OF PETITION OR JOINT LETTERS

##### 7.1. OUTSTANDING PETITIONS

**ACTION OFFICER: CHIEF EXECUTIVE OFFICER**

ITEM	FROM MEETING	COMMENTS	ACTION BY
Improved Traffic and Pedestrian Safety in Maffra	19 July 2022	Currently under review by Council Officers and a response is being prepared	Manager Built Environment
Implementation of a Traffic Management Plan for Nightingale Street, Yarram	19 July 2022	Currently under review by Council Officers and a response is being prepared	Manager Built Environment

#### 8. INVITED ADDRESSES, PRESENTATIONS OR ACKNOWLEDGEMENTS

#### 9. QUESTION/S ON NOTICE

##### 9.1. OUTSTANDING QUESTION/S ON NOTICE

**ACTION OFFICER: CHIEF EXECUTIVE OFFICER**

ITEM	FROM MEETING	COMMENTS	ACTION BY
NIL			

## 10. DELEGATES REPORT

## 11. GENERAL MANAGER CORPORATE SERVICES

### 11.1. ASSEMBLY OF COUNCILLORS

#### ACTION OFFICER: GENERAL MANAGER CORPORATE SERVICES

#### OBJECTIVE

To report on all assembly of Councillor records received for the period 11 July 2022 to 24 July 2022.

#### PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY

#### RECOMMENDATION

*That Council note and receive the attached Assembly of Councillor records for the period 11 July 2022 to 24 July 2022.*

#### BACKGROUND

Section 80A of the *Local Government Act 1989* required a written record be kept of all assemblies of Councillors, stating the names of all Councillors and Council staff attending, matters considered and any conflict of interest disclosures made by a Councillor. These records were required to be reported at an ordinary meeting of the Council and recorded in the minutes. Under the new *Local Government Act 2020*, this requirement is no longer provided for however, under Council's good governance framework, Council will continue to provide records of assemblies of Councillors to ensure that the community are kept informed of Councillors' activity and participation.

Following is a summary of all Assembly of Councillor records received for the period 11 July 2022 to 24 July 2022.

#### ATTACHMENTS

1. Assembly of Councillors - 19 July 2022 - Council Day [11.1.1 - 2 pages]

#### OPTIONS

Council has the following options:

1. Note and receive the attached assembly of Councillor records; or
2. Not receive the attached assembly of Councillor records.

#### PROPOSAL

That Council note and receive the attached assembly of Councillor records during the period 11 July 2022 to 24 July 2022.

## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a conflict of interest.

## **FINANCIAL IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **COMMUNICATION IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **LEGISLATIVE IMPACT**

The reporting of written records of assemblies of Councillors to the Council in the prescribed format complied with Section 80A of the *Local Government Act 1989* however, without prescription under the *Local Government Act 2020*, Council will continue to provide these records as part of Council's good governance framework.

## **COUNCIL POLICY IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **COUNCIL PLAN IMPACT**

This impact has been assessed and while it does not meet a specific Council Plan strategic outcome, it does align with Council's good governance framework.

## **RESOURCES AND STAFF IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **COMMUNITY IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **ENVIRONMENTAL IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **ENGAGEMENT IMPACT**

This impact has been assessed and there is no effect to consider at this time.



## **RISK MANAGEMENT IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## ASSEMBLY OF COUNCILLORS – 19 JULY 2022

MEETING	COUNCILLORS AND OFFICERS IN ATTENDANCE (NAME AND POSITION)				CONFLICT/S OF INTEREST OR ACTION ITEMS
IT / Diary Meeting	Name	Attendance	Name	Attendance	
	Cr Bye	Yes	Cr Stephens <i>(via MS Teams)</i>	Yes	N/A
	Cr Crossley	Yes	Cr Tatterson	Yes	N/A
	Cr McKenzie <i>(via MS Teams)</i>	Yes	Cr Wood	Yes	N/A
	Cr Maher	Yes	David Morcom, CEO	Yes	N/A
	Cr Ripper	Yes	Viktoria Pope, Executive Assistant	Yes	N/A
	Cr Rossetti <i>(via MS Teams)</i>	Yes	Damian Norkus, ICT Operations Officer	Yes	N/A

MEETING	COUNCILLORS AND OFFICERS IN ATTENDANCE				CONFLICT/S OF INTEREST OR ACTION ITEMS
Workshops	Name	Attendance	Name	Attendance	
	Cr Bye	Yes	Cr Tatterson	Yes	N/A
	Cr Crossley	Yes	Cr Wood	Yes	N/A
	Cr McKenzie <i>(via MS Teams)</i>	Yes	David Morcom, CEO	Yes	N/A
	Cr Maher	Yes	Arthur Skipitaris, GM Corporate Services	Yes	N/A
	Cr Ripper	Yes	Brent McAlister, GM Development	Yes	N/A
	Cr Rossetti <i>(via MS Teams)</i>	Yes	Chris Hastie, GM Built & Natural Environment	Yes	N/A
	Cr Stephens <i>(via MS Teams)</i>	Yes	Clemence Gillings, GM Community & Culture	Yes	N/A

Workshops (cont.)	MATTERS/ITEMS CONSIDERED AT THE MEETING	OTHERS IN ATTENDANCE
	1. AGENDA REVIEW FOR CMT/COUNCILLOR OFFSITE SESSION – 22 JULY 2022	<ul style="list-style-type: none"> <li>Jane Leslie, Principal Consultant Business Coaching and Facilitation – Aerium (external)</li> <li>Jodie Willmer, Founder &amp; Director – Happy Changemakers (external)</li> </ul> <p><i>Conflict of Interest: Nil</i></p>
	2. DEVELOPMENT DIVISION UPDATE: PLANNING, MUNICIPAL SERVICES AND ECONOMIC DEVELOPMENT	<ul style="list-style-type: none"> <li>Brent McAlister, General Manager Development</li> <li>Joshua Clydesdale, Manager Land Use Planning</li> <li>Kate Foster, Manager Economic Development</li> <li>Vanessa Ebsworth, Manager Regulatory Services</li> </ul> <p><i>Conflict of Interest: Nil</i></p>
	3. COUNCIL SURPLUS LAND	<ul style="list-style-type: none"> <li>Kate Foster, Manager Economic Development</li> <li>Daniel Gall, Coordinator Commercial Property</li> </ul> <p><i>Conflict of Interest: Nil</i></p>
	4. COMMUNITY SATISFACTION SURVEY 2022	<ul style="list-style-type: none"> <li>Catherine Vassiliou, Coordinator Social Planning and Policy</li> </ul> <p><i>Conflict of Interest: Nil</i></p>
	5. DAWSON STREET, SALE - PUBLIC ACQUISITION OVERLAY	<ul style="list-style-type: none"> <li>Joshua Clydesdale, Manager Land Use Planning</li> </ul> <p><i>Conflict of Interest: Nil</i></p>
	6. TENDERS FOR NEW CROWN LAND CARAVAN PARK LEASES	<ul style="list-style-type: none"> <li>Matt Williams, Managing Director – Sustainable Park Solutions (external)</li> <li>Kate Foster, Manager Economic Development</li> <li>Daniel Gall, Coordinator Commercial Property</li> </ul> <p><i>Conflict of Interest: Nil</i></p>

## 11.2. ADOPTION OF REVISED GOVERNANCE RULES

### ACTION OFFICER: GENERAL MANAGER CORPORATE SERVICES

#### PURPOSE

That Council approve and adopt the revised Governance Rules, which incorporate new *Local Government Act 2020* provisions relating to virtual meetings.

#### PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY

#### RECOMMENDATION

***That Council approve and adopt the revised Governance Rules, which incorporate new Local Government Act 2020 provisions relating to virtual meetings.***

#### BACKGROUND

The COVID-19 pandemic has highlighted the need for a flexible and modern approach to conducting Council meetings. The *Ministerial Good Practice Guideline 1 (MGPG-1): Virtual Meetings* was developed early in the pandemic to provide guidance and support to councils to implement and conduct virtual meetings as a temporary measure. To further support the new guideline, the Victorian Government introduced the *COVID-19 Omnibus (Emergency Measures) Act 2020* which introduced mechanisms into the *Local Government Act 2020* to allow for virtual council meetings so that councils could continue to make decisions.

Throughout the course of the pandemic, this guidance was revised and extended a number of times to allow measures to continue:

- by the *COVID-19 Omnibus (Emergency Measures) and Other Acts Amendment Act 2020* until 26 April 2021, and
- by the *Justice Legislation Amendment (System Enhancements and Other Matters) Act 2021* until 26 April 2022, and
- by the *Regulatory Legislation Amendment (Reform) Act 2022* until 1 September 2022.

These temporary measures, and the associated MGPG-1, will now cease on 1 September 2022 and from 2 September 2022 onwards, councils will be permanently enabled to conduct virtual meetings in accordance with their revised Governance Rules.

Under section 60(4) of the *Local Government Act 2020*, part of the process for revising the Governance Rules is to release the reviewed document into the public arena for the community to provide feedback. Council undertook a 14-day community engagement period from 6 July 2022 to 20 July 2022 and received no submissions. As a result, the revised Governance Rules, as attached, are the final version for approval and adoption by Council.

#### ATTACHMENTS

1. Governance Rules Revision - September 2022\_FINAL [11.2.1 - 66 pages]
2. Governance Rules Revision - September 2022\_Community Engagement Mark Up [11.2.2 - 76 pages]

## OPTIONS

Council has the following options available:

1. Approve and adopt the revised Governance Rules, which incorporate new Local Government Act 2020 provisions relating to virtual meetings; or
2. Not approve and not adopt the revised Governance Rules, which incorporate new Local Government Act 2020 provisions relating to virtual meetings and seek further information.

## PROPOSAL

For Council to approve and adopt the revised Governance Rules, which incorporate new Local Government Act 2020 provisions relating to virtual meetings.

## CONFLICT OF INTEREST

No staff and/or contractors involved in the compilation of this report have declared a conflict of interest.

## FINANCIAL IMPACT

This impact has been assessed and there is no effect to consider at this time.

## COMMUNICATION IMPACT

This impact has been assessed and there is no effect to consider at this time.

## LEGISLATIVE IMPACT

The final body of work providing for the extension of virtual meeting measures established due to the pandemic, the *Regulatory Legislation Amendment (Reform) Act 2022*, received Royal Assent on 29 March 2022 and includes reforms relating to virtual council meetings. From 2 September 2022, Council will be able to conduct virtual meetings in accordance with its revised Governance Rules on a permanent basis.

From 2 September 2022, these amendments will supersede Part 12 of the *Local Government Act 2020* and require councils to revise their Governance Rules to provide the mechanism for governing these processes.

The process for revising Council's Governance Rules requires a period of community engagement. Under the *Local Government Act 2020*, s60(4) states that "*Subject to subsection (5), a Council must ensure that a process of community engagement is followed in developing or amending its Governance Rules*". Council undertook a 14-day community engagement period from 6 July 2022 to 20 July 2022 and received no submissions.

## **COUNCIL POLICY IMPACT**

Any policies directly referenced within the Governance Rules are subject to annual review and any changes to these policies may require an amendment of the Governance Rules and therefore a period of community engagement.

## **COUNCIL PLAN IMPACT**

This impact has been assessed and while it does not meet a specific Council Plan strategic outcome, it does align with Council's good governance framework.

## **RESOURCES AND STAFF IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **COMMUNITY IMPACT**

Any revision to the Governance Rules requires community engagement which provides the community with the opportunity to provide their views and suggestions in relation to the proposed revisions.

This review of the Governance Rules focuses on formalising processes relating to virtual meetings and also introduces the opportunity for the community to address Council via a virtual public gallery. This will provide even more access to the greater Wellington Shire community who presently may wish to physically address Council but are unable to and do not wish to utilise the Online Comments option available.

## **ENVIRONMENTAL IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **ENGAGEMENT IMPACT**

A key part of the Governance Rules is a focus on Council's engagement with the community and to ensure processes of public consultation to foster an environment of transparency. As such, any revision of the Governance Rules is subject to a period of community engagement to provide the community with an opportunity to review the proposed amendments and submit any feedback or comment for consideration.

## **RISK MANAGEMENT IMPACT**

This impact has been assessed and there is no effect to consider at this time.



WELLINGTON

SHIRE COUNCIL

*The Heart of Gippsland*

# Governance Rules

*Adopted 2 August 2022*

*Effective 2 September 2022*

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## 1. PRELIMINARY

### 1.1 Title

These Governance Rules are the Wellington Shire Council's processes of municipal government and provide for the Council to consider and make decisions on any matter fairly and on merit. It also provides for a person whose rights are directly affected by a decision to have their views heard and interests considered in the process.

### 1.2 Objectives of Governance Rules

A Council must develop, adopt and keep in force Governance Rules for or with respect to the following under the *Local Government Act 2020*:

- (a) the conduct of Council meetings;
- (b) the conduct of meetings of Delegated Committees;
- (c) the form and availability of meeting records;
- (d) the election of the Mayor and the Deputy Mayor, including the appointment of an Acting Mayor;
- (e) an election period policy in accordance with section 69;
- (f) the procedures for the disclosure of a conflict of interest by a Councillor or a Member of a Delegated Committee under section 130;
- (g) the procedure for the disclosure of a conflict of interest by a Councillor under section 131;
- (h) the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section 126(1);
- (i) any other matters prescribed by the regulations.

### 1.3 Scope of Governance Rules

These Governance Rules apply to Council meetings and meetings of Delegated Committees and Community Asset Committees. They also apply to other Council meetings, such as Audit and Risk Committee meetings, as outlined in the relevant charters and/or terms of reference relevant to the committee.

### 1.4 Power to make Governance Rules

These Governance Rules replace Local Law No 1 Processes of Municipal Government except for the handling of Council's Common Seal and Infringements and Penalties which will continue in an amended Local Law No 1, operating alongside the Governance Rules. Council may amend its Governance Rules following a process of community engagement however, under section 60(5) of the *Local Government Act 2020*, a community engagement process is not required if Council is adopting a good practice guideline issued by the Minister for Local Government.

## 1.5 Operational Date of these Governance Rules

These Governance Rules commence on the day following the day on which these rules have been approved and adopted by Council. Where Local Law No 1 is also amended, it then comes into force on the day following the day on which a notice is published in the Victoria Government Gazette. Both documents will continue to operate throughout the municipal district until revoked.

## 1.6 Date the Governance Rules Cease Operation

These Governance Rules have no cessation date however, in line with Council's good governance framework, will be reviewed once every four year Council period or as required.

## 1.7 Definitions

### 1.7.1 In these Governance Rules:

*Act* means the *Local Government Act 2020*

*Advisory committee* means a committee established by the *Council*, that provides advice to —

- (a) the *Council*; or
- (b) a member of *Council* staff who has been delegated a power, duty or function of the *Council*;

that is not a Delegated Committee

*Agenda* means a document containing the date, time and place of a Meeting and a list of business to be transacted at the Meeting

*Agreement of Council* means indicative agreement of all of the Councillors present, without a vote being conducted. In the event there is any uncertainty about majority of Councillors agreeing, the matter may be put to a vote

*Audit and Risk Committee* means the Audit and Risk Committee established by a Council under s53

*Authorised Officer* has the same meaning as in the *Local Government Act 1989* or any other Act

*Chairperson* means the Chairperson of a Meeting and includes an acting, temporary and substitute Chairperson

*Chamber* means any room where the Council holds a Council Meeting

*Chief Executive Officer* means the person occupying the office of Chief Executive Officer of Council, and includes a person acting in that office

*Council* means Wellington Shire Council

*Councillor* means a Councillor of Council

*Code of Conduct* has the same meaning as in s139 of the Act

*Council Meeting* means a meeting of the Council convened in accordance with s61 of the Act and these Governance Rules and includes scheduled and unscheduled meetings (whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance

*Delegate* means a member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation

*Delegated Committee* has the same meaning as in s63 of the Act

*Delegated Committee Meeting* means a Meeting of a Delegated Committee (whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance

*Deputy Mayor* means the Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor

*General Manager* means a senior member of Council staff holding the position of General Manager or another position (however designated) which reports directly to the Chief Executive Officer

*Disorder* means any disorderly conduct of a member of the gallery or a Councillor and includes:

- interjecting when another person is speaking, except, in the case of where a Councillor is raising a Point of Order;
- making comments that are defamatory, malicious, abusive or offensive;
- refusing to leave the Meeting when requested, ordered or directed to do so by the Chairperson in accordance with the Act and the Governance Rules; and
- engaging in any other conduct which prevents the orderly conduct of the Meeting

*Foreshadowed Item* means a matter raised in the relevant section of the Council Meeting that a Councillor intends to submit a Notice of Motion for the next Council Meeting

*Hybrid* in the context of a Council Meeting or Delegated Committee Meeting refers to the method of attendance whereby attendance is a combination of both in person attendees and attendees attending via electronic means of communication.

*Late Item* means a matter that relates to or arises out of a matter which has arisen since distribution of the Agenda and cannot safely or conveniently be deferred until the next Meeting

*Majority of the Votes* means a majority of Councillors present at the time of a vote voting in favour of a matter

*Mayor* means the Mayor of Council and any person appointed by Council to be acting as Mayor

*Meeting* means a Council Meeting or a Delegated Committee Meeting

*Member* means a member of any committee to which these Governance Rules apply

*Minutes* means the official record of the proceedings and decisions of a Meeting

*Motion* means a proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted

*Notice of Motion* means a notice setting out the text of a Motion which a Councillor proposes to move at a Council Meeting

*Notice of Rescission* means a Notice of Motion to rescind a resolution made by Council

*On Notice* means held or deferred to enable preparation of a response

*Point of Order* means a procedural point (about how the Meeting is being conducted), not involving the substance of a matter before a Meeting

*Procedural Motion* means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure

*Resolution* means a decision of Council as defined in s59 of the Act

*Rule or Sub-rule* means a rule or sub-rule included in these Governance Rules

*Unscheduled Meeting* means a meeting of the Council convened for a particular purpose that cannot be effectively dealt with in the annual schedule of Council meetings set by Council

*Virtual Meeting* is a meeting of Council or a Delegated Committee whereby the method of attendance by all attendees is by fully electronic means of communication

*Virtual Public Gallery* is an online space for the community to pre-register to address Council during the Further Gallery and Online Comments section of the Council meeting if they are unable to attend the Council meeting in person

## **1.8 Virtual Council Meetings**

There may be times, as a result of a declared pandemic, declared natural disaster or declared emergency where it may be considered appropriate for Council meetings to be held as a fully virtual meeting. The Mayor and/or CEO reserves the right to identify such circumstances and where time allows, arrange for a resolution of Council to reflect this change to the adopted Council Meeting schedule. In these circumstances, the Governance Rules will continue to apply.

## **2. MEETING PROCEDURE**

### **2.1 Recording and Livestreaming of Council Meetings**

Council records and broadcasts all Council meetings via livestream to the public, including community questions and submissions. Recordings are also made available via Council's YouTube channel which can also be found on Council's website.

## 2.2 Purpose of Council Meetings

- (1) Council holds scheduled Meetings and, when required, Unscheduled Meetings to conduct the business of Council.
- (2) Council is committed to transparency in decision making and, in accordance with the Act, Council and Delegated Committee Meetings are open to the public and the community are able to attend.
- (3) Meetings will only be closed to members of the public, in accordance with section 6 of the Act, if:
  - (a) there are clear reasons for particular matters to remain confidential; or
  - (b) a meeting is required to be closed for security reasons; or
  - (c) it is necessary to enable the meeting to proceed in an orderly manner.
- (4) If a meeting is closed to the public for the reasons outlined in sub-rule 3(b) or 3(c), the meeting will continue to be livestreamed. In the event a livestream is not available the meeting may be adjourned, or a recording of the proceedings may be available on Council's website.

## 2.3 Meeting Roles

**Overview:** *In accordance with sections 61 and 63 of the Act, the Mayor must take the Chair at all Council Meetings at which the Mayor is present. If the Mayor is absent, the Deputy Mayor (if any) must take the Chair and if both are absent, Council must elect one of the Councillors as Chairperson of the meeting. The Act provides for the Mayor to appoint a Councillor as the Chair of a Delegated Committee and any such appointment prevails over any appointment made by Council. While there are no limitations on exercising that power, the Mayor must always act in a way that is consistent with the adopted Councillor Code of Conduct and transparency commitments of the Council. Additionally, each Member of the Meeting has an obligation to participate in good decision-making.*

*The way in which Council and Delegated Committee Meetings are conducted makes a significant contribution to good governance. The Chairperson plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors and members of Delegated Committees have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed appropriately, and statutory requirements are adhered to.*

*The Chairperson is an independent leader of meetings and generally does not participate in debate or move or second motions. Specific duties and discretions of the Chairperson are outlined throughout these Governance Rules.*

### 2.3.1 Chairperson and Members

- (1) The Chairperson, Councillors and Members of Delegated Committees will ensure good council decision-making by endeavouring to ensure:
  - (a) decision making is transparent to members and observers;
  - (b) meeting members have sufficient information to make good decisions;

- (c) every member is supported to contribute to decisions;
- (d) any person whose rights are affected has their interests considered;
- (e) debate and discussion are focussed on the issues at hand;
- (f) meetings are conducted in an orderly manner;
- (g) decisions should be made on the merits of the matter.

### **2.3.2 Mayor to Take the Chair**

- (1) The Mayor must take the Chair at all Council Meetings at which the Mayor is present under section 61(3)(a) of the Act.
- (2) If the Mayor is not in attendance at a Council Meeting, the Deputy Mayor (if one has been elected) must take the Chair under section 61(3)(b) of the Act.
- (3) If the Mayor and any Deputy Mayor are not in attendance at a Council Meeting, Council must appoint one of the Councillors as Chair of the meeting by resolution under section 61(3)(d) of the Act.

### **2.3.3 Delegated Committee Chairperson**

- (1) At the Meeting at which Council establishes a Delegated Committee it must also appoint a Chairperson under section 63(2) of the Act;
- (2) The Chair of a Delegated Committee must be a Councillor under section 63(2)(a) of the Act;
- (3) For the avoidance of doubt, Sub-Rule (1) does not intend to limit the powers of the Mayor provided in the Act.

### **2.3.4 The Chairperson's Duties and Discretions**

In addition to the specific duties and discretions provided in these Governance Rules, the Chairperson:

- (1) must not accept any Motion, question or statement which is:
  - (a) vague or ambiguous;
  - (b) defamatory, malicious, abusive or objectionable in language or substance;
  - (c) is not relevant to the current agenda item and has not been admitted as a Late Item;
  - (d) intended to be an amendment but is not; or
  - (e) outside the powers of Council;
- (2) must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise during the Meeting;



- (3) must call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council under section 19(1)(b) and section 318 of the Act;
- (4) may direct that a vote be recounted to be satisfied of the result; and
- (5) must decide on all points of order.

#### **2.3.5 Chief Executive Officer**

- (1) The Chief Executive Officer, or Delegate, may participate in the meeting to provide support to the Chairperson.
- (2) The Chief Executive Officer should:
  - (a) immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
  - (b) advise if there are operational, financial, legal or risk implications arising from a proposed resolution;
  - (c) help clarify the intent of any unclear resolution to facilitate implementation;
  - (d) on request, assist with procedural issues that may arise.

#### **2.3.6 Councillors and Members of Delegated Committees**

- (1) Councillors and Members of Delegated Committees contribute to good governance and decision making by:
  - (a) seeking views of community members and reading the agenda prior to the meeting;
  - (b) demonstrating due respect and consideration to community views and the professional/expert advice provided in the agenda papers;
  - (c) attending meetings and participating in debate and discussion;
  - (d) demonstrating respect for the role of the Chairperson and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making; and
  - (e) being courteous and orderly.

#### **2.3.7 Community**

- (1) Council Meetings are decision making forums and it is important that they are open to the community to attend and/or view proceedings.
- (2) Community members may only participate in Council meetings in accordance with Rule 7.
- (3) Community members are encouraged to participate in Council's engagement processes.

- (4) Community members may seek to inform individual Councillors of their views by contacting them directly in advance of Meetings.

## **2.4 Attendance**

The introduction of section 60(1) of the *Local Government Act 2020* requires that any attendees of Council Meetings and Delegated Committee Meetings that wish to attend via electronic means of communication must make a request and have it approved prior to attending electronically otherwise they may be considered absent. It is important to ensure that attendees clearly communicate attendance, apologies and absences with the Mayor or Chairperson in the approved formats to avoid unapproved absences which is regulated under section 35(1)(e) of the *Local Government Act 2020*.

### **2.4.1 Attendance by electronic means of communication**

- (1) At meetings conducted in person or as a hybrid meeting, individual attendees shall physically attend the meeting unless a request to participate by electronic means of communication has been granted by the Mayor or Chairperson in accordance with this section.
- (2) The request must be made to the Mayor or Chairperson to attend the meeting by electronic means and must not be unreasonably refused.
- (3) The request must be made at least two (2) hours prior to the commencement of a meeting, stating which meeting(s) will be attended via electronic means.
- (4) The request must consider any criteria that the Council has set for consideration of approval for a method of attendance.
- (5) The Mayor or Chairperson will provide a response to the request at least one (1) hour prior to the commencement of the meeting and notify the rest of the members of the meeting of this decision.
- (6) References to a Councillor being present at a meeting shall be a reference to a Councillor being able to both hear and see other members in attendance and be heard and be seen by other members in attendance.
- (7) At the commencement of the meeting, the Mayor or Chairperson will conduct a roll call of virtual attendees to ensure they are able to be seen and heard by the meeting and that they can see and hear the meeting.
- (8) Momentary absences (approximately five (5) minutes unless the Councillor is experiencing technical difficulties) shall not be recorded as absences for the purposes of the meeting minutes.
  - (a) Where a Councillor is unable to rejoin the meeting after the time period allocated to troubleshoot and resolve technical difficulties has passed, and they have not attempted to contact the CEO, Mayor or Chairperson either in writing or verbally, the Councillor will be considered absent for the remainder of the meeting.
  - (b) Where a Councillor is unable to rejoin the meeting after the time period allocated to troubleshoot and resolve technical difficulties has passed, and they have successfully contacted the CEO, Mayor or Chairperson either in writing or verbally to confirm that they are unable to resolve the technical

difficulties, the Councillor will be considered an apology for the remainder of the meeting.

- (9) It will remain the responsibility of the member attending electronically to ensure that they have the required access and environment suitable for electronic communications.
- (10) The Mayor or Chairperson may not grant a request to participate in a meeting by electronic means of communication at the first meeting of Councillors after a general election, or if the meeting will consider:
  - (a) the election of the Mayor under section 25 of the Act;
  - (b) the election of the Deputy Mayor under section 27 of the Act;

unless they are satisfied that extraordinary circumstances warrant it.

#### 2.4.2 Apologies and Absences

- (1) Councillors and Members of Delegated Committees who are unable to attend a Meeting are required to notify the Chairperson or CEO as to the reason for the absence so that the reason can be noted.
- (2) An apology submitted to a meeting will be recorded in the Minutes.
- (3) Council will not unreasonably withhold its approval of a leave of absence request.
- (4) A Councillor who has not submitted an apology or had a leave of absence approved who is not in attendance at a Council or Delegated Committee Meeting will be recorded as absent.

#### 2.5 Matters Not Provided For

- (1) Where a procedure or any situation has not been provided for or cannot be dealt with under the Governance Rules, the Council may have regard to the rules, forms and usages of the Victorian Parliament insofar as they are applicable to the proceedings of the Council.

### 3. NOTICE OF MEETINGS AND AVAILABILITY OF AGENDA

**Overview:** *Council Meetings are held regularly to conduct the ongoing business of the Council and Unscheduled Meetings may be held from time to time. It is important that the community is made aware of the times, dates, and locations of Council and Delegated Committee Meetings and the matters Council will consider. The timing of this notice should give the community adequate time to make arrangements to attend the Meeting, join via electronic means or watch via the livestream.*

*An agenda for each Council Meeting must be provided to Councillors in advance so that they can prepare adequately for the Council Meeting. The agenda contains the order of business and the professional advice of the organisation, with a recommendation for Council to consider. The agenda is made available to the public via Council's website and at Customer Service Centres upon request.*

#### 3.1 Date, Time and Place of Council Meetings

- (1) At or before the last Meeting each calendar year, Council must fix the date, time and place of all Council Meetings and any Delegated Committee Meetings for the following calendar year.
- (2) The Council may change the date, time and place of any Council meeting which has been fixed and must provide reasonable notice of the changes to the public.

### **3.2 Postponement**

- (1) In the case of an emergency, the Chief Executive Officer or Delegate or, in the absence of both, a Senior Officer, may postpone a Council Meeting, provided every reasonable attempt is made to notify every Councillor of the postponement.
- (2) The Chief Executive Officer, Delegate or Senior Officer must submit a full written report of the circumstances requiring his or her action in respect of the emergency postponement at the next Council Meeting that is not an Unscheduled Meeting.

### **3.3 Unscheduled Meetings**

- (1) Council may, by resolution, call an Unscheduled Meeting of Council.
- (2) The Mayor, or three Councillors, may by written notice call an Unscheduled Meeting of Council.
- (3) The Chief Executive Officer, following consultation with the Mayor, may call an Unscheduled Meeting.
- (4) A written notice to call an Unscheduled Meeting must:
  - (a) specify the business to be transacted;
  - (b) the date and time of the Unscheduled Meeting;
  - (c) be delivered to the Chief Executive Officer or Delegate in sufficient time to enable notice to be given in accordance with Rule 3.5.
  - (d) provide three days' notice of each Unscheduled Meeting to the public or such public notice as practicable given the circumstances.
- (5) The Chief Executive Officer must determine the time and date for the meeting, giving consideration to:
  - (a) the urgency of the business to be transacted;
  - (b) the availability of Councillors;
  - (c) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted.
- (6) The Chief Executive Officer must arrange for notice of the Unscheduled Meeting on Council's website.
- (7) Any resolution of Council to call an Unscheduled Meeting must specify the date and time of the Unscheduled Meeting and the business to be transacted.

- (8) The date and time of the Unscheduled Meeting must not be prior to 6:00pm on the day following the Council Meeting at which the resolution was made.
- (9) Only the business specified in the Council resolution, or written notice, may be considered at an Unscheduled Meeting, unless all Council, by unanimous resolution determine to admit another matter.

### **3.4 Fully Virtual Meetings**

- (1) Council may, by resolution, change the format of a scheduled Council meeting from in person or hybrid to a fully virtual meeting.
- (2) The Chief Executive Officer must arrange for a notice of the change of meeting format to be placed on Council's website to allow sufficient time for the community wishing to address the public gallery to make alternative arrangements to join the virtual meeting in accordance with Rule 7.
- (3) Should the Chief Executive Officer determine that extraordinary circumstances warrant it, they are authorised to determine that any meeting be conducted solely by electronic means of communication without Council resolution.
- (4) The Chief Executive Officer may take all relevant factors into account in making a determination that extraordinary circumstances warrant a meeting being conducted solely by electronic means of communication including, but not limited to:
  - (a) any risk to the health and safety of Councillors, staff and the community;
  - (b) whether all or part of the meeting is planned to be closed to members of the public under section 66(2) of the Act;
  - (c) the ability to provide public notice to members of the public who had registered to attend the meeting;
  - (d) whether the orderly conduct of a meeting may be affected by the choice of meeting format the availability of suitable meeting facilities.

### **3.5 Notice of Meetings**

#### **3.5.1 Council Meetings**

- (1) A notice of a Meeting, that is not an Unscheduled Meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be sent electronically to every Councillor for all Council Meetings, at least seven days before the Meeting. A period of less than seven days may be justified if exceptional circumstances exist.
- (2) An agenda for each Council Meeting, that is not an Unscheduled Meeting, will be made available on Council's website at least seven days before the Council Meeting.
- (3) A schedule of Council Meetings must be prepared and published that ensures it is available to a broad section of the community, including on Council's website at least once each year and with such greater frequency as the Chief Executive Officer determines.

### 3.5.2 Unscheduled Meetings

- (1) Notice of an Unscheduled Meeting must be published on Council's website as soon as practicable after the time and date of the meeting has been determined.
- (2) An agenda for an Unscheduled Meeting must be made available electronically to every Councillor at least three days before the meeting. A period of less than three days may be justified if exceptional circumstances exist.
- (3) An agenda for an Unscheduled Meeting will be made available on Council's website no less than three days before the Council Meeting.

### 3.5.3 Virtual Meetings

- (1) Notice of a virtual meeting must be published on Council's website as soon as practicable after a resolution has been passed by Council.
- (2) An agenda for a virtual meeting must be made available in accordance with Sub-Rule 3.5.1.

## 4. QUORUM

**Overview:** *No business can be transacted at a Council Meeting or a Delegated Committee Meeting unless a majority of the Councillors or Members of the Delegated Committee (as the case may be) is present thus forming a quorum. If there is no quorum at the commencement of a Meeting or if a quorum cannot be maintained during a Meeting, the Meeting is to be adjourned to another date and/or time. For a hybrid or virtual meeting, under section 61(6A) of the Local Government Act 2022, for the purposes of these meetings, attendees present by electronic means of communication are deemed present for the purposes of a quorum. Under section 61(7) of the Act, a quorum is an absolute majority meaning the number of Councillors which is greater than half the total number of the Councillors of Council.*

**Table 1: Calculation for Formation of a Quorum**

Number of Councillors/Committee Members	Number required for Quorum
11	6
10	6
9	5
8	5
7	4

- (1) Meetings must commence within one (1) hour of the scheduled starting time.
  - (a) The one (1) hour timeframe includes troubleshooting to resolve any technical issues experienced in the case of a hybrid or virtual meeting whereby a quorum of Councillors is still able to be achieved.
  - (b) Where the timeframe exceeds one (1) hour and technical issues are not able to be resolved and a quorum cannot be achieved, the Mayor or Chairperson must proceed in accordance with Sub-Rule 2 below.

- (2) If, after one (1) hour from the scheduled starting time of any Meeting or adjournment, a quorum cannot be obtained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Senior Officer, may adjourn the Meeting for a period not exceeding seven days from the date of the adjournment.
- (3) If, during any Meeting or any adjournment of the Meeting, a quorum cannot be maintained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Senior Officer, may adjourn the Meeting for a period not exceeding seven days from the date of the adjournment.
- (4) The Chairperson may defer an item of business in respect of which there is, or is likely to be, a disclosure of a conflict of interest by one or more Councillors that will cause a quorum to be lost and direct the Chief Executive Officer to include that item of business on an agenda for a future Council Meeting.
- (5) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, Council will:
  - (a) determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
  - (b) determine to make decisions on separate parts of the matter at a meeting where a quorum can be maintained, before making a decision on the whole matter at a meeting for which a quorum can be maintained.
- (6) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, and the matter cannot be separated into component parts or prior decisions made, Council will delegate the decision to be made:
  - (a) by the Chief Executive Officer; or
  - (b) by a Delegated Committee, established for the purpose of determining the matter, comprised of all the Councillors who have not disclosed a conflict of interest and any other person(s) the Council considers suitable.
- (7) A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council Meeting.
- (8) The Chief Executive Officer must provide written notice, including by electronic means, to each Councillor of any Council Meeting adjourned to another date or time due to an inability to achieve or maintain a quorum.
- (9) Where it is not practicable because time does not permit notice in accordance with Rule 4(8) to occur, then, provided every reasonable attempt is made to contact each Councillor either verbally, or by some other means, it will be sufficient.
- (10) Notice of an adjournment to another date or time must be published on Council's website as soon as practical.

## 5. ELECTION OF MAYOR

**Overview:** *The role and functions of the Mayor are provided for under sections 25 and 26 of the Act. The holder of this significant office is the Chairperson at Council Meetings, is the leader of the Councillors, acts as the principal spokesperson for Council and carries out civic and ceremonial duties. This section describes how the Mayor, a Deputy Mayor and Acting Mayor are to be elected.*

### 5.1 Chief Executive Officer to set time and date for election of Mayor

- (1) The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor.
- (2) The election of Mayor must be held no later than one month after the date of the general election (section 26(1)), except that the election of the Mayor must be held in accordance with any provisions contained in the Act.
- (3) The election of the Mayor must be held in accordance with section 25 of the Act and these Governance Rules.
- (4) Where the position of Mayor has become vacant, the Chief Executive Officer will set a date and time within one month of the vacancy.
- (5) Depending on the term of office decided in Rule 5.5, the next election of the Mayor will be held as close as possible to the end of the term.

### 5.2 Role of the Mayor

- (1) The Mayor will chair the Council meetings.
- (2) The Mayor will promote behaviour among Councillors that meets the standards established in the Councillor Code of Conduct.
- (3) The Mayor will lead engagement with the community.
- (4) The Mayor may direct a Councillor to leave a Council Meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

### 5.3 Role of the Deputy Mayor

- (1) At the Council Meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.
- (2) If the Mayor is not in attendance at a Council Meeting the Deputy Mayor must take the Chair.
- (3) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.
- (4) If the Council has not resolved to establish the position of Deputy Mayor, any provisions in these Governance Rules relating to the Deputy Mayor have no effect.

### 5.4 Method of Voting



The election of the Mayor must be carried out by a show of hands or following a resolution made in accordance with Rule 8.2(1), an electronic method that enables those observing (in attendance and those watching a livestream broadcast) to see who a Councillor has voted for at the time the vote is taken.

### **5.5 Determining the Election of Mayor / Deputy Mayor**

- (1) The Chief Executive Officer will preside during the election of the Mayor.
- (2) Prior to the election of the Mayor and Deputy Mayor Council must determine by resolution the term of office as one year or two years.
- (3) The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.
- (4) Where in an election for the Mayor:
  - (a) only one candidate has been nominated, that candidate must be declared elected;
  - (b) two candidates have been nominated, a vote must be taken and the candidate who receives the number of votes equal to or greater than half the Councillors of the Council must be declared elected;
  - (c) two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council, a second vote will be conducted.
  - (d) where, after a second vote, where two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6:00pm the following day;
  - (e) more than two candidates have been nominated and no candidate receives the number of votes equal to or greater than half the Councillors of the Council:
    - (i) the candidate with the fewest number of votes cast must be eliminated;
    - (ii) the names of the remaining candidates must be put to the vote again; and
    - (iii) the procedure in (i) and (ii) above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedure outlined in Sub-Rule (4)(b).
    - (iv) in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes), the Chief Executive Officer will conduct a vote for one candidate to be defeated.

- (f) where there is an equal division of votes between two candidates, the election will be determined by lot for exclusion and the candidate remaining undrawn will be declared successful.
- (g) If Council resolves to have the office of Deputy Mayor, the provisions of Sub-Rules (3) and (4) apply to the election of the Deputy Mayor with all necessary modifications and adaptations.

## **5.6 Ceremonial Mayoral Speech**

- (1) Upon being elected, the Mayor may make a ceremonial speech.
- (2) The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead based on the adopted Council Plan.

## **5.7 Election of Acting Mayor**

- (1) If Council resolves at any time to appoint an Acting Mayor in accordance with section 20B of the Act, the provisions of Rules 5.5(3) and (4) apply to the appointment of the Acting Mayor with all necessary modifications and adaptations.

## **6. BUSINESS OF MEETINGS**

***Overview:** The business to be transacted at a Council Meeting is contained in the Agenda provided to Councillors and available to the public on Council's website. The Chief Executive Officer oversees preparation of the Agenda and determines the content and order of business to facilitate open, efficient and effective processes of government. The role of the Mayor includes providing advice to the Chief Executive Officer when the Chief Executive Officer is setting the Agenda for Council meetings. Council can admit an item of urgent business if it has arisen after distribution of the Agenda and cannot be reasonably deferred to the next Meeting.*

*This section also provides time limits for Meetings. A Council Meeting must not continue after three hours unless a majority of Councillors agree, when up to two extensions of 30 minutes can be made.*

### **6.1 Business at Meetings**

- (1) The Chief Executive Officer may include any matter on the Agenda for a Council Meeting which he or she thinks should be considered at the Meeting to which the Agenda relates.
- (2) No business can be dealt with at a Meeting unless it is:
  - (a) Contained on the Agenda; or
  - (b) Accepted as a Late Item in accordance with Rule 6.4.

### **6.2 Order of Business for Council Meetings**

- (1) The order of business will be determined by the Chief Executive Officer to facilitate and maintain open, efficient and effective processes of government.
- (2) The order of business for Council meetings may proceed in the following manner:

- (a) Acknowledgement of Country and Prayer
- (b) Apologies
- (c) Declaration of Conflicts of Interest
- (d) Confirmation of Minutes of previous Council Meeting/s
- (e) Business arising from previous Council Meeting/s
- (f) Acceptance of Late or Urgent Items
- (g) Notices of Motion
- (h) Receiving of Petitions or Joint Letters
- (i) Invited Addresses, Presentations or Acknowledgements
- (j) Questions on Notice
- (k) Mayor and Councillors Report
- (l) Reports of Delegates
- (m) Officers' Reports
- (n) Further Gallery and Online Comments
- (o) In Closed Session

**6.3 Change to order of business**

- (1) Once an Agenda has been sent to Councillors, the order of business for that Meeting may be altered by a resolution of Council.

**6.4 Late or Urgent Items**

- (1) If the agenda for a Meeting makes provision for Late or Urgent Items, business cannot be admitted as a Late or Urgent Item other than by resolution of Council and only then if:
  - (a) it relates to or arises out of a matter which has arisen since distribution of the agenda; and
  - (b) deferring the item until the next Meeting will mean a decision on the item will not have any effect on the matter; or
  - (c) the item involves a matter of urgency as determined by the Chief Executive Officer; and
  - (d) it cannot be addressed through an operational service request process; and
  - (e) provided the matter does not:
    - (i) substantially affect the levels of Council service;

- (ii) commit Council to significant expenditure not included in the adopted budget;
  - (iii) establish or amend Council Policy; or
  - (iv) commit Council to any contractual arrangement.
- (2) A Councillor proposing a matter be admitted as a Late or Urgent Item must lodge it in writing to the Chief Executive Officer no later than 12:00pm on the day of the Meeting.
  - (3) The Chief Executive Officer will advise the Mayor of any matter he or she determines appropriate for Council to consider admitting as a Late or Urgent Item.

#### **6.5 Time Limits for Meetings**

- (1) A Meeting must not continue after three hours from the time it commences unless a majority of Councillors/Members present vote in favour of its extension in accordance with this Rule.
- (2) Extensions of a Meeting will be in block periods of 30 minutes.
- (3) After the initial 30 minute extension the Meeting must not continue unless a majority of Councillors present vote in favour of a further extension.
- (4) A Meeting may only be continued for a maximum of two 30 minute extensions.
- (5) In the absence of such extensions as provided for in Sub-Rules (1), (2) and (3), or in the event there is further business to be transacted at the completion of two extensions, the Meeting must stand adjourned to 6:00pm on the following day.
- (6) Notwithstanding Sub-Rule (5), the Chairperson may seek the agreement of Council not to adjourn the Meeting to the following day, if the Chairperson reasonably believes the remaining business will take less than 10 minutes to transact.

#### **6.6 Chairperson may temporarily adjourn a Meeting exceeding two hours**

- (1) The Chairperson may adjourn a Meeting for a 10 minute break at an appropriate point in proceedings after two hours has elapsed.
- (2) Notwithstanding Sub-Rule (1), the Chairperson may seek the agreement of Council not to adjourn the Meeting if the Chairperson reasonably believes the remaining business of the Meeting will take less than 30 minutes to transact.

### **7. PUBLIC QUESTIONS, COMMENTS AND SUBMISSIONS**

**Overview:** *As outlined in the purpose of these Governance Rules, Council Meetings are held for Council to make its decisions. Gallery comments are an opportunity for members of the public to raise any matter. This allows those in the physical or virtual gallery to speak directly to Councillors but is not a forum designed for open discussion or debate. Council will listen respectfully to what is said and makes the commitment that if required a written response will be provided to the individual that raised the matter and a copy of that response will be circulated to all Councillors.*

*Where the community do not have the opportunity to physically attend the Council Meeting but still wish to be heard, this can be done by:*

- *submitting a question or comment via Council's online Questions and Comments form prior to 1:00pm on the day of the Council Meeting;*
- *submitting a question or comment via Council's online chat room during the course of the Council Meeting; or*
- *registering to attend Council's online public gallery, per Sub-Rule 7.5.*

*Assistance will be available for any community member seeking or requiring support to write their question(s) where required.*

*Petitioning is a long-established process for members of the community to demonstrate community support for a request or views on a matter, and for that request or view to be presented directly to Council. Rule 7 sets out the procedures to be followed to submit a question, comment or petition, the circumstances under which a question, comment or petition may be disallowed and the process for addressing and responding to the question, comment or petition at or after the Meeting.*

*Council Meetings are recorded and broadcasted to the public via livestream and also made available for future viewing on Council's YouTube channel which can also be found on Council's website. This includes questions and submissions from members of the public.*

#### **7.1 Public Questions and Comments for Agenda Items**

- (1) The announcement of each agenda item as it occurs in the order of business is an opportunity for the general public to present to Council on a matter listed on the Agenda. This applies to Petitions, Notices of Motion and Officer Reports.

#### **7.2 Further Gallery and Online Comments to be Held**

- (1) The Council will provide an opportunity during the Further Gallery and Online Comments section of the Council Meeting to allow public submissions, questions of and comments to Council for a time period of three minutes.. Where appropriate, the Chairperson or Chief Executive Officer may elect to respond to the submission, question or comment in writing.
- (2) The announcement of each agenda item as it occurs in the order of business is another opportunity for the general public to present to Council on a matter listed on the Agenda.
- (3) The Council may decide to defer the discussion to a later date.
- (4) Council Meetings are recorded and broadcasted to the public via livestream and also made available for future viewing on Council's YouTube channel which can also be found on Council's website. This includes questions and submissions from members of the public.

#### **7.3 Further Gallery and Online Comments Guidelines**

- (1) Rules 7.2(2) will not apply during any period when the Council has resolved to close the meeting in respect of a matter under section 66(1) of the Act.

- (2) Further Gallery and Online Comments is not a forum for members of the public to lodge complaints against individuals, including councillors and staff, particularly as that individual gets no public right of reply to any matter raised. Any specific complaint against an individual must be put in writing and will be properly dealt with while ensuring fairness to all parties concerned.
- (3) Council Minutes will record all members of the public that have spoken to Council and the subject spoken to Council about but will not be a hansard recording.
- (4) Submissions as part of Further Gallery and Online Comments may be on any matter except if it:
  - (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
  - (b) relates to confidential information as defined under the Act;
  - (c) relates to the personal hardship of any resident or ratepayer; or
  - (d) relates to any other matter which the Council considers would prejudice the Council or any person.
- (5) No more than two questions will be accepted from any person at any one Meeting.
- (6) Where the Chief Executive Officer does not accept a question, the submitter is to be informed of the reason or reasons for which their question was not accepted.
- (7) The Chairperson reserves the right to cease a submission as part of Further Gallery and Online Comments if he or she deems the submission inappropriate.
- (8) Copies of all submissions, questions or comments submitted in writing by a member of the public allowed by the Chief Executive Officer will be provided to all Councillors.
- (9) A submission, question or comment submitted in writing by a member of the public, which has been disallowed by the Chief Executive Officer, will be provided to any Councillor but will not be read out by the Chief Executive Officer during the Further Gallery and Online Comments section.

#### **7.4 Further Gallery and Online Procedure**

- (1) Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chairperson whenever called on to do so.
- (2) The Chairperson will allocate a maximum of three minutes to each person who wishes to address Council.
- (3) The Chairperson or Chief Executive Officer will first invite any person who has given prior notice to present to Council.
- (4) The Chairperson or Chief Executive Officer will then invite members of the public gallery who would like to present to Council.

- (5) The Chairperson or Chief Executive Officer have the discretion to alter the order of persons to be heard.
- (6) The person, in addressing the Council:
  - (a) must confine their address to the three minute allocation of time;
  - (b) shall extend due courtesy and respect to the Council and the processes under which it operates;
  - (c) shall take direction from the Chairperson whenever called upon to do so.
  - (d) there will be no discussion or debate with the attendees in the public gallery however Councillors may ask questions of clarification of the attendee; and
  - (e) Standing Orders do not need to be suspended to allow discussion for the purposes of clarification.
- (7) A response to a submission, question or comment raised during the Further Gallery and Online Comments section of the Council Meeting may be provided immediately at the discretion of the Chairperson or Chief Executive Officer.
- (8) If the matter requires further investigation or comment, the submission, question or comment will be referred to the relevant Council Officer for investigation and response if required.
- (9) Where required, Council Officers will respond acknowledging the question and providing procedural advice and/or the response within 10 working days of the Council Meeting.

## **7.5 Virtual Public Gallery**

- (1) Anyone wishing to attend the virtual public gallery may do so by registering their interest via the Council Meetings webpage on Council's website in line with the procedures and guidelines outlined and in conjunction with the guidelines outlined in Rule 7.3.
  - (a) Failure to follow the pre-registration procedures and guidelines may result in attendance being postponed to the following Council Meeting.
- (2) Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chairperson whenever called on to do so.
- (3) The Chairperson will allocate a maximum of three minutes to each person who wishes to address Council.
- (4) The Chairperson or Chief Executive Officer will invite presenters in the order of registration.
  - (a) Where technical difficulties arise on the side of the presenter, the Chairperson will move to the next presenter registered and return to the previous presenter at the end of the list to provide sufficient time for resolution.

- (b) Where technical difficulties prevent the presenter from rejoining the meeting, they will have the opportunity to address the next Council Meeting.
- (5) The Chairperson or Chief Executive Officer have the discretion to alter the order of persons to be heard.
- (6) The person, in addressing the Council:
  - (a) must confine their address to the three minute allocation of time;
  - (b) shall extend due courtesy and respect to the Council and the processes under which it operates;
  - (c) shall take direction from the Chairperson whenever called upon to do so.
  - (d) there will be no discussion or debate with the attendees in the public gallery however Councillors may ask questions of clarification of the attendee; and
  - (e) Standing Orders do not need to be suspended to allow discussion for the purposes of clarification.
- (7) The person addressing Council must ensure that their background does not display any offensive, indecent, insulting or objectionable item, image or words.
  - (a) The Chairperson may order and cause the removal of any item, image or words that are deemed by the Chairperson to be objectionable, disrespectful or otherwise inappropriate.
  - (b) Failure to comply with an order may result in the Chairperson terminating the address.
- (8) A response to a submission, question or comment raised during the Further Gallery and Online Comments section of the Council Meeting may be provided immediately at the discretion of the Chairperson or Chief Executive Officer.
- (9) If the matter requires further investigation or comment, the submission, question or comment will be referred to the relevant Council Officer for investigation and response if required.
- (10) Where required, Council Officers will respond acknowledging the question and providing procedural advice and/or the response within 10 working days of the Council Meeting.

## **7.6 Petitions and Joint Letters**

- (1) A petition or joint letter presented to Council must be received within the appropriate timeframe for the publishing of the Council agenda. Failure to meet the deadline will result in the petition or joint letter being included in the next Council agenda.
  - (a) Where the petition or joint letter relates to a complex or serious matter, it may be presented at the Council meeting as a Late or Urgent Item for receipt.



- (2) A petition or joint letter presented to the Council must lay on the table for a period determined by the Council but not exceeding the next two Council Meetings. No motion, other than to receive the petition or joint letter may be accepted by the Chairperson, unless the Council unanimously agrees to deal with it earlier.
- (3) Every petition submitted to Council must:
  - (a) be in legible and in permanent writing;
  - (b) be clear and on each page the matter and action sought from council is stated;
  - (c) not be derogatory, defamatory or objectionable in language or nature;
  - (d) not relate to matters outside the powers of Council; and
  - (e) include the names, addresses and original signatures of 10 or more people and identify a head petitioner with whom Council will communicate any directions or acknowledgements.
- (4) Where a petition has been signed by less than 10 people, it will be treated as a joint letter and forwarded directly to the appropriate member of Council staff for action as an operational item.
- (5) Any Councillor presenting a petition is responsible for ensuring that:
  - (a) he or she is familiar with the contents and purpose of the petition; and
  - (b) the petition is not derogatory, defamatory or objectionable in language or nature.
- (6) Unless Sub-Rules (6) or (7) apply, the only Motions that may be considered by Council on any petition are:
  - (a) that the petition be received; and
  - (b) that the petition be referred to the Chief Executive Officer or relevant General Manager for consideration and response; or
  - (c) that the petition be referred to the Chief Executive Officer or relevant General Manager for a report to a future Council Meeting.
- (7) If a petition relates to an item listed on the Agenda for the Meeting at which it is submitted, the petition may be dealt with in conjunction with the item.
- (8) If a petition relates to a 'planning matter' or 'statutory matter' which is the subject of a public submissions process in accordance with the relevant legislation, the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).
- (9) The Chief Executive Officer may determine that an electronic or online petition will be submitted to a Council Meeting.

- (10) The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council meeting.
- (11) An online or electronic petition will not be presented to a Council meeting if it contains signatures that are false or misleading or fails to meet the minimum 10 signatures to constitute a petition.

#### **7.7 Display of Placards and Posters**

- (1) Subject to Sub-Rules (2) and (3), a person can display any placards or posters in the Council Chamber or in any building where a Meeting is being, or is about to be, held, including outside the entrance to the building.
- (2) A placard or poster must not:
  - (a) display any offensive, indecent, insulting or objectionable item or words;
  - (b) obstruct the entrance to the Council Chamber or a building where a Meeting is being, or is about to be, held; or
  - (c) obstruct the view of or physically impede any person.
- (3) The Chairperson may order and cause the removal of any placard or poster that is deemed by the Chairperson to be objectionable, disrespectful or otherwise inappropriate.

#### **7.8 Chairperson May Remove**

- (1) Members of the public present at a Council Meeting must not interject during the Council Meeting.
- (2) If a person, other than a Councillor, interjects or gesticulates offensively during the Council Meeting, the Mayor may direct:
  - (a) the person to stop interjecting or gesticulating offensively; and
  - (b) if the person continues to interject or gesticulate offensively, the removal of the person.
- (3) The Chairperson may cause the removal of any object or material that is deemed by the Chairperson to be objectionable or disrespectful.
- (4) In causing a person's removal under Sub-Rule (2)(b), or the removal of an object or material under Sub-Rule (3), the Chairperson may ask the Chief Executive Officer, an Authorised Officer of Council or a member of Victoria Police to remove the person, object and/or material.
- (5) Any person who has been called to order, including any Councillor, who fails to comply with the Chairperson's direction will be liable to be removed from the meeting.
- (6) The Chairperson has the discretion to cause the removal of any person, including a Councillor, who disrupts any meeting or fails to comply with a direction.

## 8. VOTING

**Overview:** *At the conclusion of debate on a matter before the Meeting, the Chairperson must put the question, Motion or amendment to the vote. Each Councillor is entitled to one vote and voting must be able to be seen by those participating in the Meeting and those observing the Meeting. In the case of a hybrid or virtual meeting, a Councillor may cast their vote by either raising their hand in view of the camera such that all present at the meeting are able to see or, at the Mayor or Chairperson's request, verbally stating their vote. The vote is determined by a majority of the Councillors present at the Meeting at the time the vote is taken voting in favour of the Motion. If a vote is tied, the Chairperson generally has a casting vote.*

*Sometimes a Councillor may want his or her vote recorded – this is provided for in this section, along with the procedure when a Councillor calls for a division on a vote which is when how each Councillor voted is recorded.*

*Provision is made for the introduction of an electronic voting system as long as Council has resolved to implement the system and all participants in the Meeting and those observing a Meeting are able to see which way a Councillor has voted on a matter at the time the vote is taken.*

### 8.1 How a matter is Determined

- (1) To determine a Motion at a Meeting, the Chairperson must first call for those in favour of the Motion and then those opposed to the Motion, and must then declare the result to the Meeting.
- (2) In the event of a tied vote, the Chairperson must, unless the Act provides otherwise, exercise the casting vote.

### 8.2 Voting must be Seen

- (1) Voting may be by any method resolved by Council that enables those in attendance and those watching a livestream broadcast to clearly see which way a Councillor has voted at the time a vote is taken.
- (2) In the absence of a Council resolving an alternative method, voting on any matter is by show of hands.
- (3) In the case of a hybrid or virtual meeting, a Councillor may cast their vote by either raising their hand in view of the camera such that all present at the meeting are able to see or, at the Mayor or Chairperson's request, verbally stating their vote.
  - (a) In the event of the absence of a Councillor during a vote due to an apparent technical failure, a Councillor or member of Council staff may bring this to the attention of the meeting Chair, who may briefly adjourn the meeting to enable the Councillor to re-join the meeting.
  - (b) Should the Councillor be unable to reconnect, the meeting shall resume in the Councillor's absence provided a quorum can still be maintained.

### 8.3 When a Division is Permitted

- (1) A division may be requested by any Councillor on any vote.

- (2) The request must be made to the Chairperson either immediately prior to, or immediately after, the vote has been taken, and may not be made after the Meeting has moved to the next item of business.
- (3) When a division is called, the Chairperson must:
  - (a) ask each Councillor wishing to vote in favour of the motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes;
  - (b) ask each Councillor wishing to vote against the motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes;
  - (c) ask each Councillor abstaining from voting to indicate that they are abstaining and the Chairperson must then state the names of those Councillors to be recorded in the Minutes; and
  - (d) declare the result of the division.
- (4) Where a division is requested after the original vote has been taken, the Motion is decided on the division and the fact that there may be a difference between the result obtained when the original vote was taken and the result obtained on the division must be disregarded.

#### **8.4 No Discussion once a Vote has been Declared**

- (1) Once a vote on a Motion has been declared carried or lost by the Chairperson, no further discussion relating to the Motion is allowed, unless the discussion:
  - (a) involves a Councillor requesting that his or her opposition to a resolution be recorded in the Minutes or calling for a division in accordance with Rule 8.3; or
  - (b) is a Councillor foreshadowing a notice of rescission where a resolution has just been made, or a positive Motion where a resolution has just been rescinded.

### **9. ADDRESSING THE MEETING**

**Overview:** *This section provides for how the Meeting is to be addressed by Councillors and Members of Council Staff. Members of the community may only address a Meeting in accordance with Rule 7 of these Governance Rules.*

#### **9.1 Councillor allowed to Speak Uninterrupted**

- (1) A Councillor who has the floor must not be interrupted unless:
  - (a) called to order by the Chairperson, when he or she must sit down and remain silent until the Councillor raising the Point of Order has been heard and the Point of Order dealt with; or
  - (b) given notice by the Chairperson his or her speaking time has elapsed or is about to elapse.

#### **9.2 Addressing the Meeting**

- (1) If the Chairperson so determines:
  - (a) any person addressing the Chairperson must refer to the Chairperson as:
    - (i) Mayor; or
    - (ii) Chairperson,as the case may be;
  - (b) all Councillors, other than the Mayor, must be addressed as Councillor (surname); and
  - (c) all Council staff must be addressed by their official title.
- (2) Except for the Chairperson, any Councillor or person who addresses the Council meeting must stand and direct all remarks through the Chairperson.
- (3) At all other meetings, persons may remain seated but must direct remarks through the Chairperson.
- (4) The Chairperson may permit any Councillor or person to remain seated whilst addressing the Chair, for reasons of sickness, infirmity or disability or for any other reason as determined by the Chairperson.

## 10. MOTIONS AND DEBATE

**Overview:** *This section describes the procedure for introducing a Motion or amendment, the rules of debate, foreshadowing a Motion or amendment and the duty of the Chairperson in relation to accepting Motions and amendments. It also describes the process for a Councillor lodging a Notice of Motion for consideration and/or indicating they will raise a matter at the next Council Meeting (foreshadowing items).*

*A Councillor may move any Motion related to an item included in the Agenda. In the interest of transparency and informed decision making, Motions or amendments should not introduce new matters to a debate that have not been the subject of the report or background of the Motion being considered by Council. Motions are required to be submitted in writing so they can be displayed to the Meeting.*

*As a resolution must be able to be acted upon, a Motion must clearly state what is intended and what its effect will be if it becomes the decision. This provides clarity for the implementation of Council decisions.*

*This section also describes the circumstances and procedures under which a Council decision can be rescinded or altered. It also prescribes a procedure under which a Council policy can be altered or varied.*

### 10.1 Moving a Motion

The procedure for any motion is-

- (a) The mover must state the motion without speaking to it;
- (b) It must be seconded by a Councillor other than the mover;
- (c) If a motion is not seconded, the motion will lapse for want of a seconder;

- (d) If the motion is seconded, the Chairperson must ask: "Is the motion opposed?";
- (e) If the motion is not opposed the mover of the motion may address the Council on the motion.
- (f) If no Councillor indicates opposition, the motion must be declared to be carried without being voted on and will be treated as being passed unanimously;
- (g) If a Councillor indicates opposition, then the Chairperson must request-
  - (i) the mover to address the Council on the motion;
  - (ii) the seconder to address the Council on the motion;
  - (iii) any Councillor opposed to debate the motion;
  - (iv) any other Councillors for and against the motion to debate in turn; and
  - (v) that the debate continues until one side has been exhausted at which time the Chairperson may conclude the debate and will ask the mover for the right of reply.

#### **10.2 Chairperson's Duty**

The Chairperson must not accept any Motion which:

- (1) is defamatory; or
- (2) is objectionable in language or nature; or
- (3) is vague or unclear in its intention; or
- (4) is outside the powers of Council; or
- (5) is not relevant to an item of business on the agenda and has not been admitted as a Late Item; or
- (6) intends to be an amendment but is not.

#### **10.3 Right of Reply**

- (1) The mover of a Motion, which has not been amended, may, once debate has been exhausted, exercise a right of reply to matters raised during debate.
- (2) After the right of reply has been exercised, the Motion must immediately be put to the vote without any further discussion or debate.
- (3) No new matters may be raised in the right of reply.
- (4) If no Councillor has spoken against a Motion, there will be no right of reply.

#### **10.4 Moving an Amendment**

- (1) A motion having been moved and seconded (but before being opposed or carried) may be amended by leaving out, inserting or adding words which must

be relevant to the original motion and do not substantively alter the original intent of the motion.

- (2) An amendment may be proposed or seconded by any Councillor, except the mover and seconder of the original Motion.
- (3) If a Councillor proposes an amendment and the original mover and seconder of the Motion both indicate their agreement with the amendment, the amended Motion becomes the substantive Motion without debate or vote.
- (4) If a Councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:
  - (a) the amendment must be moved and seconded;
  - (b) a Councillor may speak on any amendment once, whether or not he or she has spoken to the Motion, but debate must be confined to the terms of the amendment;
  - (c) any number of amendments may be proposed to a Motion, but only one amendment may be accepted by the Chairperson at any one time. No second or subsequent amendment, whether to the Motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with and voted on;
  - (d) if the amendment is carried, the Motion as amended then becomes the Motion before the Meeting (known as the 'substantive Motion'); and
  - (e) the mover of an amendment does not have right of reply.

#### **10.5 Foreshadowing Motions**

- (1) At any time during debate a Councillor may foreshadow a Motion so as to inform Council of his or her intention to move a Motion at a later stage in the Meeting, but this does not extend any special right to the foreshadowed Motion.
- (2) A Motion foreshadowed may be prefaced with a statement that, in the event of a particular Motion before the Meeting being resolved in a certain way, a Councillor intends to move an alternative or additional Motion.
- (3) A Motion foreshadowed has no procedural standing and is merely a means to assist the flow of the Meeting.
- (4) The Minutes of the Meeting will not include foreshadowed Motions unless the foreshadowed Motion is subsequently formally moved as a Motion.

#### **10.6 Withdrawal of Motions**

- (1) Before any Motion is put to the vote, it may be withdrawn with the Agreement of Council.

#### **10.7 Separation of Motions**

- (1) Where a Motion contains more than one part, a Councillor may request the Chairperson to put the Motion to the vote in separate parts.

- (2) The Chairperson may decide to put any Motion to the vote in separate parts.

**10.8 Motions in Writing**

- (1) All Motions, except Procedural Motions, must be submitted in writing.
- (2) The Chairperson may adjourn a Meeting while a Motion is being written or may request Council to defer the matter until the Motion has been written, allowing the Meeting to proceed uninterrupted.

**10.9 Debate must be Relevant to the Motion**

- (1) Debate must always be relevant to the Motion before the Meeting, and, if not, the Chairperson must request the speaker to confine debate to the Motion.
- (2) If, after being requested by the Chairperson to confine debate to the Motion before the Meeting, the speaker continues to debate irrelevant matters, the Chairperson may direct the speaker to be seated and not speak further in respect of the Motion before the Chairperson. The speaker must immediately comply with any such direction.

**10.10 Adequate and Sufficient Debate**

- (1) Adequate debate is required where a matter is contentious in nature. In such a case, every Councillor should be given an opportunity to participate in the debate.
- (2) A Motion has been sufficiently debated if opposing views (where they exist) have been sufficiently put, not so much the number of those who have spoken but whether all minority opposing views have been put.
- (3) Once the views put are representative of the views of all Councillors the debate would be regarded as sufficient.



**10.11 Speaking times**

- (1) The Chairperson has the right to extend the speaking time where they determine that the current issue being spoken to is considered complex or serious and where the extension will add substantial value to understanding.
- (2) Unless an extension of speaking time has been approved, the maximum speaking times are:
  - (a) the mover of a Motion or amendment - three minutes;
  - (b) the mover of a Motion when exercising his or her right of reply - three minutes; and
  - (c) any other speaker - three minutes.

**10.12 Procedural Motions**

- (1) Unless otherwise prohibited, and subject to Sub-Rule (3), a procedural Motion may be moved at any time and must be dealt with immediately by the Chairperson.
- (2) Procedural Motions require a seconder.
- (3) The Chairperson may reject a procedural Motion if he or she believes the Motion on which it is proposed has not been adequately or sufficiently debated.
- (4) Regardless of any other provision in the Governance Rules, a procedural Motion must be dealt with in accordance with the table at Sub-Rule (8).
- (5) A Procedural Motion may not be moved or seconded by the Chairperson.
- (6) Unless otherwise provided, debate on a procedural Motion is not permitted and the mover does not have a right of reply.
- (7) Unless otherwise provided, a procedural Motion must not be amended.
- (8) Procedural Motions table:

<b><i>Motion</i></b>	<b><i>Recommended Form</i></b>	<b><i>Mover/Seconder</i></b>	<b><i>When Prohibited</i></b>	<b><i>Effect If Carried</i></b>	<b><i>Effect If Lost</i></b>	<b><i>Debate Permitted</i></b>
<b><i>Deferral of a matter (to a future meeting)</i></b>	'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral)'...	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of the Mayor/Deputy Mayor; (b) During the election of a Chairperson; or (c) When another Councillor is speaking	Consideration/debate on the Motion and/or amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future Meeting, where a fresh Motion may be put and debated	Debate continues unaffected	Yes
<b><i>Closure (of debate)</i></b>	'That the motion now be put'	Any Councillor who has not moved or seconded the original Motion or spoken for/against the original Motion	During nominations for a Chairperson	Motion or amendment is put to the vote immediately without further debate, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the Motion	Debate continues unaffected	No
<b><i>Laying a motion on the table (pausing debate)</i></b>	'That the motion be laid on the table'	A Councillor who has not spoken for/against the Motion	During the election of the Mayor/Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same Meeting	Debate continues unaffected	No
<b><i>Take a motion from the table (resume debate on a matter)</i></b>	'That the motion in relation to XX be taken from the table'	Any Councillor	When no Motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
<b><i>Alter the order of business</i></b>	'That the item listed at XX on the agenda be considered before/after the item listed as XY'	Any Councillor	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the Meeting	Items are considered in the order as listed in the Agenda	No

<b><i>Suspension of Standing Orders</i></b>	'That Standing Orders be suspended to ...' (reason must be provided)	Any Councillor		The rules of the Meeting are temporarily suspended for the specific reason given in the Motion  No debate or decision on any matter, other than a decision to resume Standing Orders, is permitted	The Meeting continues unaffected	No
<b><i>Resumption of Standing Orders</i></b>	'That Standing Orders be resumed'	Any Councillor	When Standing Orders have not been suspended	The temporary suspension of the rules of the Meeting is removed	The Meeting cannot continue	No
<b><i>Consideration of confidential matter(s)</i></b> <b><i>(close the meeting to members of the public)</i></b>	That, in accordance with section 66(2)(a) of the <i>Local Government Act 2020</i> the Meeting be closed to members of the public for the consideration of item XX is confidential as it relates to [insert reason]	Any Councillor	During the election of the Mayor/Deputy Mayor	The Meeting is closed to members of the public	The Meeting continues to be open to the public	Yes
<b><i>Reopen the meeting</i></b>	'That the meeting be reopened to members of the public'	Any Councillor		The Meeting is reopened to the public	The Meeting remains closed to the public	No

**10.13 Notices of Motion**

- (1) A notice of motion cannot be accepted by the Chairperson unless it has been listed on the agenda for the meeting at which it is proposed to be moved.
- (2) A Notice of Motion must be in writing, signed by the Councillor (including by electronic means), and be lodged with the Chief Executive Officer no later than close of business 10 days before the Meeting at which it is intended to be considered to ensure its inclusion in the Agenda.
- (3) The Chief Executive Officer must inform Councillors about the operational, legal, financial and other risks, including non-compliance with statutory obligations of any proposed notice of motion. The Chief Executive Officer may suggest revised wording to the draft notice of motion to facilitate compliance with the requirements for notices of motion under the Governance Rules.
- (4) A Notice of Motion must relate to the objectives, role and functions of Council as outlined in the Act.
- (5) A Notice of Motion must call for a Council report if the Notice of Motion proposes any action that:
  - (a) proposes to establish, amend or extend Council policy;
  - (b) proposes to impact the rights of any person who has not had the opportunity to contribute their views;
  - (c) commits Council to any contractual arrangement; or
  - (d) concerns any litigation in respect of which Council is a party.
- (6) The Chief Executive Officer must reject any Notice of Motion which:
  - (a) is too vague;
  - (b) is defamatory;
  - (c) may be prejudicial to any person or Council;
  - (d) is objectionable in language or nature;
  - (e) is outside the powers of Council
  - (f) is submitted during Election Period.
- (7) The Chief Executive Officer may reject a proposed Notice of Motion that:
  - (a) relates to a matter that can be addressed through the operational service request process; or
  - (b) relates to a matter that has been previously resolved by Council or is acted upon.
- (8) If rejecting a Notice of Motion, the Chief Executive Officer must inform the Councillor who lodged it of that rejection and the reasons for the rejection no

later than nine days before the Meeting at which it is intended to be considered. The Councillor may submit a revised Motion within 24 hours.

- (9) The Chief Executive Officer may advise the Chairperson to consider a notice of motion in a closed meeting of Council if the content/matter of the Notice of Motion is considered to be confidential as defined in section 3(1) of the Act.
- (10) The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the agenda and outline the policy, financial and resourcing implications if the Notice of Motion is passed.
- (11) The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the Notice of Motion being published in the agenda for the relevant Council Meeting.
- (12) The Chief Executive Officer must cause all Notices of Motion to be sequentially numbered, dated and entered in a register.
- (13) Unless the notice specifies a particular meeting date or Council resolves otherwise, the Chief Executive Officer will list the notice of motion and if more than one, in the order they were received, on the next appropriate meeting agenda.
- (14) The Motion moved must not be substantially different to the motion published in the Agenda, however, may be amended by resolution of the Council.
- (15) If a Councillor who has lodged a Notice of Motion is absent from the Meeting or fails to move the Motion when called upon by the Chairperson to do so, any other Councillor may move the Motion.
- (16) If a Notice of Motion to confirm a previous resolution of the Council cannot be carried in its original form, it will be lost.
- (17) If a Notice of Motion is lost, a similar Motion cannot again be put before the Council for at least three months from the date it was last lost, unless the Council resolves for the Motion to be re-listed at a future meeting.
- (18) If a Notice of Motion is not moved at the Council Meeting at which it is listed, it lapses.

#### **10.14 Notices of Rescission**

- (1) A Councillor may propose a Motion to rescind or alter a previous resolution of Council provided:
  - (a) the previous resolution has not been acted on; and
  - (b) a notice is delivered to the Chief Executive Officer or Delegate setting out:
    - (i) the relevant previous resolution to be rescinded or altered; and
    - (ii) the Meeting and date when the relevant previous resolution was carried.

- (2) A Notice of Rescission must be in writing, signed (including by electronic means) by a Councillor and be delivered to the Chief Executive Officer by close of business at least 10 days prior to the next Meeting.
- (3) The Chief Executive Officer, or a member of Council staff with responsibility for the subject matter of a resolution, may implement a resolution of Council at any time after the close of the Meeting at which it was made. A resolution of Council will be deemed to have been acted on if:
  - (a) its contents or substance has been formally communicated to a person whose interests are materially affected by it, including by publishing the proposed Minutes of a Council Meeting on Council's website; or
  - (b) a statutory process has been commenced so as to vest enforceable rights or obligations on Council or any other person.
- (4) Notwithstanding Sub-Rule (3), the Chief Executive Officer or member of Council staff must defer implementing a resolution which:
  - (a) has not been acted on; and
  - (b) is the subject of a Notice of Rescission which has been delivered to the Chief Executive Officer in accordance with Sub-Rule (4), unless deferring implementation of the resolution would have the effect of depriving the resolution of usefulness, giving rise to non-compliance with a legal obligation or placing the Council at operational, legal, financial or other risk.
- (5) If a Motion for rescission is lost, a similar Motion may not be put before Council for at least three months from the date it was last lost, unless Council resolves that the Notice of Rescission be re-listed at a future Meeting.
- (6) If a Motion for rescission is not moved at the Meeting for which it is listed, it lapses.
- (7) A Notice of Rescission listed on an Agenda may be moved by any Councillor present but be moved in the form it was listed and must not be amended.
- (8) The Chief Executive Officer must cause all rescissions to be sequentially numbered, dated and entered in a register.

#### **10.15 Change of Council Policy**

- (1) Council reviews its policies to ensure they are current and continue to reflect community expectations and the position held by Council.
- (2) It is good practice for Council to review significant policies at least once in each Council term (every four years) and such reviews may lead to change in policy position.
- (3) Subject to Sub-Rule (4), if Council wishes to change a Council policy, a formal notice of rescission is not required.
- (4) If a policy has been in force in its original or amended form for less than 12 months, any intention to change the policy which may result in a substantial

change to the policy's application or operation for members of the public should be communicated to those affected, and their comment sought, prior to the policy being changed.

#### 10.16 Foreshadowed Items

- (1) At the time designated in the Meeting Agenda, a Councillor may foreshadow a Notice of Motion to be submitted for consideration at the next Meeting by indicating, when called on to do so by the Chairperson, the subject matter of the foreshadowed Notice of Motion.
- (2) The subject matter, as indicated by the Councillor, of a Foreshadowed Item will be recorded in the Minutes.
- (3) No discussion or debate is allowed on a Foreshadowed Item.
- (4) A Foreshadowed Item will have no further formal status at that Council Meeting.
- (5) Foreshadowed Items are intended to be used to indicate to Council and the community matters of importance that will be raised at the next Council Meeting.
- (6) If a Councillor does not submit a Notice of Motion for the next Council Meeting, no further action on a Foreshadowed Item will occur.

### 11. POINTS OF ORDER

**Overview:** *A Point of Order is taken when a Councillor draws the attention of the Chairperson to an alleged irregularity in the proceedings. Valid Points of Order, the process for raising and ruling on a Point of Order, and the procedure if there is dissent on the Chairperson's ruling are described in this section.*

#### 11.1 Raising Points of Order

- (1) A Councillor raising a Point of Order must state:
  - (a) the Point of Order; and
  - (b) any section, Rule, paragraph or provision relevant to the Point of Order.
- (2) The Chairperson must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the Point of Order raised, without entering into any discussion or comment.
- (3) The Chairperson may adjourn the Meeting to consider a Point of Order; otherwise he or she must rule on it as soon as it is raised.
- (4) All other matters before Council are suspended until the Point of Order is decided.

#### 11.2 Dissent in Chairperson's Ruling

- (1) A Motion of dissent in the Chairperson's ruling must, if seconded, be given priority to all other items of business and a substitute Chairperson must be elected to preside while the Motion is being considered.

- (2) The substitute Chairperson must put questions relative to the ruling to the Chairperson first, and then to the mover of the Motion.
- (3) The substitute Chairperson must conduct a debate on the Chairperson's ruling, and the matter must be decided by a majority vote.
- (4) The Chairperson must then resume the Chair for the remainder of the Meeting.

### **11.3 Valid Points of Order**

- (1) A Point of Order may be raised in relation to:
  - (a) a Motion which has not been accepted by the Chairperson;
  - (b) a procedural matter;
  - (c) a Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
  - (d) debate that is irrelevant to the matter under consideration;
  - (e) a matter that is outside the powers of Council; or
  - (f) any act of disorder.

### **11.4 Contradiction or Opinion**

- (1) Rising to express a mere difference of opinion or to contradict a speaker is not a Point of Order.

### **11.5 Disorderly Conduct**

- (1) The conduct of Councillors at meetings is governed by the Act, these Rules and the Councillor Code of Conduct.

### **11.6 Chairperson May Adjourn Disorderly Meeting**

- (1) The Chairperson may call a break in a Meeting for either a short time, or to resume another day if:
  - (a) the behaviour by Councillors or in the gallery is significantly disrupting the Meeting; or
  - (b) when a Meeting has been in progress for longer than two hours.
- (2) The break referred to in Sub-Rule (1) is an adjournment.
- (3) Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the Meeting, and prevents the conduct of Council business:
  - (a) Council may, by resolution, suspend that Councillor from a portion of the Meeting or from the balance of the Meeting where the Chairperson has warned the Councillor to cease that behaviour; or



- (b) The Mayor, under section 19 of the Act, at a Council meeting, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the meeting for a period of time or the balance of the Meeting.
- (4) Where Council suspends a Councillor under Sub-rule (3)(a), or the Mayor directs a Councillor to leave the meeting under Sub-rule (3)(b) the Councillor will take no active part in the portion of the Meeting from which he or she has been suspended.
- (5) If a Councillor has been suspended from a meeting or directed to leave in accordance with Sub-rule (3) the Chairperson may ask the Chief Executive Officer, an Authorised Officer of Council or a member of Victoria Police to remove the Councillor from the Chamber or if attendance is by electronic means of communication, the Chairperson may direct the Chief Executive Officer or an Authorised Officer to remove the Councillor from the meeting by terminating the connection.

### 11.7 Final Ruling on a Point of Order

- (1) The decision of the Chairperson in respect to a point of order raised will not be open for discussion and will be final and conclusive.

## 12. MINUTES

**Overview:** *The Minutes of a Meeting must contain details of the proceedings and resolutions made, be clearly expressed, be self-explanatory and incorporate relevant reports or a summary of the relevant reports considered in the decision-making process. The Minutes of a Council Meeting must be submitted to the next appropriate Council Meeting for confirmation.*

### 12.1 Keeping of Minutes

- (1) The Chief Executive Officer or Delegate is responsible for the keeping of Minutes on behalf of Council. Those Minutes must record:
  - (a) the date, place, time and nature of the Council Meeting;
  - (b) the names of Councillors and whether they are present, an apology, on leave of absence, etc.;
  - (c) the titles of the members of Council staff present who are not part of the gallery;
  - (d) the disclosure of a conflict of interest made by a Councillor in accordance with the Act;
  - (e) the arrivals and departures of Councillors, during the course of the Meeting (including any temporary departures or arrivals);
  - (f) every Motion and amendment moved (including procedural Motions),
  - (g) the outcome of every Motion moved;

- (h) where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
- (i) when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any Motion, noting that under section 61(5) of the Act that a Councillor present at the meeting who does not vote is taken to have voted against the question;
- (j) details of any failure to achieve or maintain a quorum;
- (k) a summary of any question asked and the response provided as part of Further Gallery and Online Comments time;
- (l) details of any petitions made to Council;
- (m) the time and reason for any adjournment of the Meeting or suspension of standing orders;
- (n) any other matter, which the Chief Executive Officer thinks should be recorded to clarify the intention of the Meeting or assist in the reading of the Minutes; and
- (o) the time the Council Meeting was opened and closed, including any part of the Council Meeting that was closed to members of the public.

## **12.2 Confirmation of Minutes**

- (1) The Minutes as recorded by the Chief Executive Officer, or Delegate, will be made available as the proposed Minutes to:
  - (a) Councillors, within seven days;
  - (b) members of the public, by publishing them on Council's website within seven days;
 of the Council Meeting they relate to.
- (2) At every Council Meeting, the Minutes of the preceding Council Meeting(s) must be dealt with as follows:
  - (a) a Motion will be moved to confirm the Minutes in the following terms: 'That Council adopt the Minutes and resolutions of the Ordinary Council Meeting of .....(day).....(month).....';
  - (b) if a Councillor indicates opposition to the Minutes, the Councillor must specify the particular item or items in the Minutes and, after asking any questions to clarify the matter, can only move a Motion to rectify the alleged error(s) in the Minutes by adding the following words to the Motion in Sub-Rule (2)(a) '...subject to the following alteration(s).....';
  - (c) no debate or discussion is permitted on the confirmation of Minutes except as to their accuracy as a record of the proceedings of the Council Meeting to which they relate;

- (d) once the Minutes are confirmed in their original or amended form, the Minutes must, if practicable, be signed by the Chairperson of the Meeting at which they have been confirmed; and

### 12.3 Recording of Proceedings

- (1) A person in the gallery must not operate film, photographic, tape-recording or other equipment to reproduce sound and/or images at any Meeting without first obtaining the consent of the Chairperson.
- (2) The consent of the Chairperson may be revoked at any time during the course of a Meeting by the Chairperson stating that consent has been revoked and ordering that the recording cease.

## 13. SUSPENSION OF STANDING ORDERS

**Overview:** *Standing Orders are the rules made to govern the procedure at Council Meetings contained in these Governance Rules. Standing Orders cover a range of matters including the order of business, rules of debate, procedural motions and election procedures. Standing Orders can be suspended to facilitate the business of a meeting.*

- (1) To temporarily remove the constraints of formal meeting procedure and allow full discussion or clarification of an issue, Council may, by resolution, suspend standing orders in accordance with the procedural motion table at Rule 10.12.
- (2) No Motion can be accepted by the Chairperson or lawfully be dealt with during any suspension of standing orders, except a Motion to resume standing orders.
- (3) No Motion to suspend standing orders can be accepted by the Chairperson during a second extension of time for a Meeting.

## 14. DELEGATED COMMITTEES

**Overview:** *Council may establish Delegated Committees as part of its good governance framework. Delegated Committees can comprise of Councillors, members of Council staff and others and must be chaired by a Councillor. As Council may delegate specific powers, duties and functions to Committees, their meeting procedures need to be formal.*

- (1) If Council establishes a Delegated Committee, these Rules will apply to the Delegated Committee Meetings with any necessary modifications.
- (2) For the purpose of Sub-Rule(1):
  - (a) a Council Meeting is to be read as a reference to a Delegated Committee Meeting;
  - (b) a Councillor is to be read as a reference to a Member of the Delegated Committee; and
  - (c) a reference to the Mayor is to be read as a reference to the Chairperson of the Delegated Committee.

- (3) If Council establishes a Delegated Committee, Council may resolve that a provision of these Governance Rules do not apply to that Committee.

## 15. COMMUNITY ASSET COMMITTEES

**Overview:** *Section 65 of the Act provides for Council to establish a Community Asset Committee for the management of a community asset such as a hall or recreation reserve. Council may appoint members of the community to the committee and delegate to it powers, duties or functions. The powers delegated to a Community Asset Committee must be limited in the amount and purpose of any financial delegation.*

- (1) The Governance Rules may apply to any Community Asset Committee established by Council.
- (2) Council may resolve, in establishing a Community Asset Committee which sections of the Governance Rules apply.
- (3) A Community Asset Committee must act in accordance with its adopted Charter, Instrument of Delegation and any Terms of Reference adopted by Council.

## 16. AUDIT AND RISK COMMITTEE

**Overview:** *The Act provides for Council to establish an Audit and Risk Committee to provide oversight.*

- (1) The Governance Rules will apply to the Audit and Risk Committee established by Council unless otherwise provided in the Audit and Risk Charter and Terms of Reference.
- (2) Council may resolve, in establishing an Audit and Risk Committee, that the meeting procedure Rules of these Governance Rules do not apply.
- (3) An Audit and Risk Committee must report the Minutes of all Committee meetings to the next practicable Council meeting.
- (4) An Audit and Risk Committee must act in accordance with its adopted Charter and Terms of Reference adopted by Council.

## 17. ELECTION PERIOD POLICY

- (1) Council will have in place an Election Period Policy that:
  - (a) governs decision making during a local government election period, including what may be considered at a Council meeting;
  - (b) prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
  - (c) sets out the conditions for any community engagement required to be undertaken during an election period, including consultations and civic events;
  - (d) sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns;

- (e) defines roles and responsibilities in relation to who is the spokesperson for Council during an election period; and
  - (f) sets out the requirements for a Councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.
- (2) At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its Election Period Policy.
  - (3) The Election Period Policy forms part of these Governance Rules at Appendix 1.
  - (4) Any outstanding Delegate's Reports may still be reported to a Meeting of Council during this period.
  - (5) Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

## 18. CONFLICT OF INTEREST

**Overview:** *Part 6 Division 2 of the Act provides that Council must include in its Governance Rules procedures for disclosures of Conflicts of Interest, including at meetings conducted under the auspices of Council that are not Council meetings. Meetings conducted under the auspices of Council include those meetings arranged or hosted by Council.*

*These Rules provide the procedures for disclosures of conflicts of interest.*

### 18.1 Definitions

Sections 127, 128 and 129 of the Act defines general and material conflicts of interest and provides exemptions for remoteness and interests in common with a substantial proportion of ratepayers along with other specific circumstances as set out in the following table:

Conflict Type	Definitions
<p><b>GENERAL CONFLICT OF INTEREST</b> (Section 127)</p> <p>(1) Subject to section 129, a relevant person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's <b>private interests</b> could result in that person acting in a manner that is contrary to their <b>public duty</b>.</p>	<p><b>Private Interests</b> (section 127(2))</p> <p>Any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief.</p> <p><b>Public Duty</b> (section 127(2))</p> <p>The responsibilities and obligations that a relevant person has to members of the public in their role as a relevant person</p>
<p><b>MATERIAL CONFLICT OF INTEREST</b> (Section 128)</p> <p>(1) Subject to section 129, a relevant person has a material conflict of interest in respect of a matter if an <b>affected person</b> would gain a benefit or suffer a loss depending on the outcome of the matter.</p> <p>(2) The benefit may arise or the loss incurred -</p> <ul style="list-style-type: none"> <li>(a) directly or indirectly; or</li> <li>(b) in a pecuniary or non-pecuniary form.</li> </ul>	<p><b>Affected Person</b> (section 128(3))</p> <p>For the purposes of section 128(3), any of the following is an <b>affected person</b>—</p> <ul style="list-style-type: none"> <li>(a) the relevant person;</li> <li>(b) a family member of the relevant person;</li> <li>(c) a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body;</li> <li>(d) an employer of the relevant person, unless the employer is a public body;</li> <li>(e) a business partner of the relevant person;</li> <li>(f) a person for whom the relevant person is a consultant, contractor or agent;</li> <li>(g) a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee;</li> <li>(h) a person from whom the relevant person has received a <b>disclosable gift</b>.</li> </ul> <p><b>Disclosable Gift</b> (section 128(4))</p> <p>means one or more gifts with a total value of, or more than, \$500 or if an amount is prescribed for the purposes of section 128(4), the prescribed amount, received from a person in the 5 years preceding the decision on the matter -</p>

	<p>(a) if the relevant person held the office of Councillor, was a member of Council staff or was a member of a delegated committee at the time the gift was received; or</p> <p>(b) if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation -</p> <p>but does not include the value of any reasonable hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a Councillor, member of Council staff or member of a delegated committee.</p>
<p><b><i>Exemptions (section 129)</i></b></p> <p>A conflict of interest does not arise if any of the following applies—</p> <ul style="list-style-type: none"> <li>(a) the conflict of interest is so remote or insignificant that it could not be reasonably regarded as capable of influencing the actions or decisions of the relevant person in relation to the matter;</li> <li>(b) the interest that would give rise to a conflict of interest is held in common with a substantial proportion of the residents, ratepayers or electors of the municipal district and does not exceed the interest held by the other residents, ratepayers or electors;</li> <li>(c) the relevant person does not know the circumstances that give rise to the conflict of interest, and could not be reasonably expected to know those circumstances;</li> <li>(d) the interest only arises because the relevant person is the representative of the Council on a not-for-profit organisation that has an interest in the matter and the relevant person receives no personal advantage from the not-for-profit organisation;</li> <li>(e) the interest only arises because a family member of the relevant person is a member but not an office-holder of a not-for-profit organisation;</li> <li>(f) the interest only arises because the relevant person is a member of a not-for-profit organisation that has expressed an opinion or advocated for an outcome in regard to the matter;</li> <li>(g) the interest arises in relation to a decision by a Councillor on a matter or in a circumstance that is prescribed to be exempt by the regulations.</li> </ul>	

**18.2 Obligations with regard to Conflict of Interest:**

- (1) Councillors, Members of Delegated Committees and Council staff are required to:
  - (a) avoid all situations which may give rise to conflicts of interest;
  - (b) identify any conflicts of interest; and
  - (c) disclose or declare all conflicts of interest.

**18.3 Councillors and Members of Delegated Committees**

- (1) May not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- (2) When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.
- (3) All disclosures of conflicts of interest will be recorded in the Minutes of a Council or Delegated Committee Meeting.
- (4) Council will maintain a Conflict of Interest Register which will be made available upon request.

**18.4 Procedure at a Council or Delegated Committee Meeting**

- (1) At the commencement of the Council meeting, the Chairperson will call for a declaration of all conflicts of interest to be declared throughout the course of the Council meeting, and any Councillor with a conflict of interest must clearly state:
  - (a) the item for which they have a conflict of interest;
  - (b) whether their conflict of interest is general or material; and
  - (c) the circumstances that give rise to the conflict of interest.
- (2) At the time indicated in the Agenda, a Councillor with a conflict of interest in an item on the Agenda must indicate they have a conflict of interest by clearly stating:
  - (a) the item for which they have a conflict of interest;
  - (b) whether their conflict of interest is general or material; and
  - (c) the circumstances that give rise to the conflict of interest.
- (3) Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor or Member of a Delegated Committee must indicate to the Meeting the existence of the conflict of interest and leave the Meeting.
  - (a) Where the meeting takes the form of a hybrid or virtual meeting, a Councillor or Member of a Delegated Committee required to leave the Meeting due to a conflict of interest must:
    - (i) deactivate their microphone and camera; or



- (ii) disconnect completely from the online meeting platform.
  - (b) The Chairperson or Chief Executive Officer will contact the Councillor or Member of a Delegated Committee by other means to notify them to rejoin the meeting.
- (4) A Councillor who is not present at the designated time in the Agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the manner required for the declarations of conflicts of interest at Sub-rule (2) prior to leaving the Meeting.
- (a) Where the meeting takes the form of a hybrid or virtual meeting, a Councillor or Member of a Delegated Committee required to leave the Meeting due to a conflict of interest must:
    - (i) deactivate their microphone and camera; or
    - (ii) disconnect completely from the online meeting platform.
  - (b) The Chairperson or Chief Executive Officer will contact the Councillor or Member of a Delegated Committee by other means to notify them to rejoin the meeting.
- (5) A Councillor or Member of a Delegated Committee who discloses a conflict of interest and leaves a Meeting must not communicate with any participants in the Meeting while the decision is being made.

**18.5 Procedure at other meetings organised, hosted or supported by Council**

- (1) A Councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.
- (2) At the time indicated on the Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.
- (3) If there is no Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest as soon the matter arises.
- (4) At the time for discussion of that item, the Councillor will leave the Meeting (per Rule 18.4(3) or (4)) and not communicate with any members of the meeting for the duration of the discussion.
- (5) The existence of a conflict of interest will be recorded in the Minutes of the meeting.
- (6) If there are no Minutes kept of the meeting, the conflict of interest will be recorded in a meeting record and provided to Council's Governance team for recording in the register of Conflicts of Interest.
- (7) The meeting Minutes or record will also record the times when the Councillor left the Meeting and returned to the meeting.

- (8) Meeting records and reports will be presented to Council for noting and inclusion on the public record.

#### **18.6 Council Staff**

- (1) Must act in accordance with the Employee Code of Conduct.
- (2) Must not exercise a delegation or make a decision on any matter where they have a conflict of interest.
- (3) May be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at Rule 18.7 and the Employee Code of Conduct.

#### **18.7 Procedure for Disclosures of Conflicts of Interest by Council Staff**

- (1) Council staff must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.
- (2) All conflicts of interest disclosed by Council staff will be provided to the Governance team for recording in the register of Conflicts of Interest.
- (3) A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:
  - (a) The number and qualifications of other people providing advice regarding the same matter is equal or greater; or
  - (b) The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
  - (c) The staff member's General Manager determines that the conflict of interest has not influenced the advice provided; and
  - (d) The existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.

### **19. JOINT COUNCIL MEETINGS**

**Overview:** *Regional collaboration provides benefits through collective procurement, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it is possible for the participating Councils to make their own decisions and determinations, in some circumstances, it may be beneficial to hold Joint Council Meetings as are provided for at section 62 of the Act.*

- (1) Council may resolve to participate in a Joint Council meeting to consider:
  - (a) collaborative projects;
  - (b) collaborative procurement; or
  - (c) emergency response.

- (2) If Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer (or Delegate) will agree on governance rules with the participating Council(s).
- (3) Where Wellington Shire Council is the lead Council on a matter to be brought for consideration at a Joint Council meeting, the Mayor will be nominated to Chair the Joint Council meeting.
- (4) A majority of Councillors will be appointed to represent Council at a Joint Council meeting.
- (5) Consistent information will be provided to Councillors prior to any Joint Meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.
- (6) A joint briefing arranged in accordance with Sub-rule (5) may be held electronically.

#### REVISION HISTORY AND REVIEW

VERSION	TYPE OF CHANGE	EFFECTIVE DATE	APPROVED BY	SUMMARY OF CHANGES
1	New policy	1 September 2020	Council	Creation of new policy as required by introduction of <i>Local Government Act 2020</i> . Encapsulates majority of Local Law 1.
2	Major Review	2 September 2022	Council	Formal incorporation of virtual meeting procedures due to <i>Local Government Act 2020</i> update.

APPENDIX 1 – ELECTION PERIOD POLICY



WELLINGTON  
SHIRE COUNCIL  
*The Heart of Gippsland*

# Election Period Policy

*Adopted 1 September 2020*

## ELECTION PERIOD POLICY

### OVERVIEW

The purpose of this policy is to outline the conduct of Council during the Election Period for municipal General Elections. The policy aims to ensure that general elections are conducted in a manner that is ethical, fair and equitable, are publicly perceived as such and support the conduct of good governance for Council and the organisation during the Election Period for municipal General Elections. The policy will also facilitate the continuation of the ordinary business of local government throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established "Election Period" conventions.

This policy also commits Council during the Election Period to:

- avoid making significant new policies or decisions that could unreasonably bind a future Council; and
- ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.

### THE POLICY

#### 1. Background

- 1.1 In the lead up to an election the local government sector adopts an Election Period Policy to avoid actions and decisions that may be interpreted as influencing voters or binding an incoming Council. Specific provisions have been incorporated in the *Local Government Act 2020* (the Act), that prohibit Council from making major policy decisions or publishing or distributing electoral matter in an Election Period.
- 1.2 Section 69 of the Act prescribes the conduct of a Council during the Election Period. This policy is seen as a way to ensure that Council complies with the Act and the municipal elections for Wellington Shire Council are conducted in a manner that is fair, equitable, upholds the highest standards of democratic governance and is publicly perceived as such.

#### 2. Definitions

- 2.1 It should be noted that where terms used in this policy are defined in the Act, their use in this policy is consistent with the definitions in the Act. Definitions used in this policy are detailed in Appendix 2.

#### 3. Election Period

- 3.1 Starts at midnight on the last day on which nominations for the election can be received; and
- 3.2 Ends at 6:00pm on election day.

This translates to a commencement date of 32 days prior to the General Election and it starts at midnight on the last day on which nominations for that election can be received.

The Chief Executive Officer will ensure that all employees are informed of the requirements of this policy in advance of the Election Period commencing.

#### 4. Decision Making

- 4.1 Careful consideration will be given to what decisions at council or special committee meetings should be made in the 32 days leading up to the general election, so that the incoming Councillors are not unreasonably compromised.
- 4.2 It is an established democratic principle that elected bodies should not unnecessarily bind government during an election period. The Council therefore commits to the principle that it will make every endeavour to avoid making decisions that bind the incoming Council.
- 4.3 This includes a commitment to not only comply with the requirements of Section 93A of the Act, pertaining to major policy decisions, but as well relating to significant decisions as specified within this policy.
- 4.4 Examples of the types of actions that should be avoided are:
  - allocation of community grants or other direct funding to community organisations;
  - major planning scheme amendments;
  - awarding of contracts both civil and service;
  - changes to strategic objective;
  - changes to strategies in the Council Plan;
  - asking Questions on Notice;
  - submitting Notices of Motion;
  - introduction of Late Items;
  - decisions relating to the employment or remuneration of a Chief Executive Officer, other than a decision to appoint an acting Chief Executive Officer (section 69(2)(a) of the Act); or
  - to terminate the appointment of a Chief Executive Officer.
- 4.5 Ordinary Council and Delegated Committee Meeting agendas and Unscheduled Council Meeting agendas and/or minutes are to be carefully vetted by the Chief Executive Officer and/or Corporate Management Team to ensure that no agenda item is included in any council agenda during the election period that could potentially influence voters' intentions or encourage candidates to use as part of electioneering under section 69(2) of the Act.
- 4.6 During the Election Period, the Chief Executive Officer will ensure that a "Election Period Statement" is included in every report submitted to an Ordinary Council Meeting and/or Unscheduled Meeting for a decision.
- 4.7 The "Election Period Statement" will specify one of the following:
  - a) The recommended decision is not a Major Policy Decision or a Significant Decision as defined by Council's Election Period Policy.

- b) The recommended decision is not a Major Policy Decision but **is** a Significant Decision as defined by Council's Election Period Policy however an exception should be made for the following reason/s: *[insert reasons for making an exemption]*.
- c) The recommended decision is to seek an exemption from the Minister because the matter requires a Major Policy Decision as defined by Council's Election Period Policy .
- d) The recommended decision is a Major Policy Decision, as defined by Council's Election Period Policy, however an extraordinary circumstances exemption was granted by the Minister for Local Government on *[insert date]*.

## **5. Major Policy Decisions**

- 5.1 Section 69 of the Act prohibits a Council, Committee or a person acting under a delegation given by the Council from making a major policy decision during the Election Period for a General Election. If Council considers that there are extraordinary circumstances which require the making of a major policy decision during the election period, the Council may apply in writing to the Minister for an exemption. Rates and charges levied continue to apply under the relevant sections of the *Local Government Act 1989*.

## **6. Significant Decisions**

- 6.1 Council will avoid making other decisions during the Election period that are of a significant nature and would unreasonably bind the incoming Council. Significant decisions include:
  - a) irrevocable decisions that commit the Council to substantial expenditure or major actions; and
  - b) irrevocable decisions that will have a major impact on the municipality or the community.

## **7. Public Consultation**

### **7.1 Definition**

Public consultation means a process which involves an invitation or invitations to individuals, groups, organisations or the community generally to comment on an issue or proposed action, proposed policy, and includes discussion of that matter with the public.

### **7.2 Right to Postpone**

Public consultation may be undertaken during the Election Period to facilitate the day to day business of Council, to ensure matters continue to be proactively managed. Consultation will avoid express or implicit links to the election. In view of the potential for a matter or issue to become contentious or politically sensitive in the course of an Election period, Council reserves the right to postpone a matter if the issue is likely to affect voting.

### **7.3 Statutory Requirements**

The requirements of 7.2 do not apply to public consultation required under the *Planning and Environment Act 1987* .

## 8. Council Resources

- 8.1 It is an established democratic principle that public resources must not be used in a manner that would influence the way people vote in elections. Council therefore commits to this principle in that it will ensure Council resources are not used inappropriately during a Council election. This includes a commitment to comply with the following procedures.
- 8.2 Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in that regard. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, the matter must be referred to the Chief Executive Officer or his or her delegate.
- 8.3 Council resources, including offices, support staff, hospitality services, equipment such as mobile phones, laptops, tablets and printers, and stationery will be used exclusively for normal Council business during the Election Period, and shall not be used in connection with any electioneering activity.
- 8.4 Reimbursements of Councillor's out-of-pocket expenses during the Election Period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.
- 8.5 No Council logos, letterheads or other corporate branding will be used for, or linked in any way to, a candidate's election campaign.
- 8.6 Photos or images taken or provided by Council are not to be used by Councillors for the purposes of electioneering or in support of their election campaign. This applies equally to images on Council's website that may be copied.
- 8.7 No election material or active campaigning is to be conducted at Council sponsored events or be displayed in any Council building.
- 8.8 In applying these principles, the Council understands that the following will be normal practice during the Election Period:
  - 8.8.1 Public events will only be organised and run if it is totally unavoidable to conduct such events during the Election period and then only with the express permission of the Chief Executive Officer;
  - 8.8.2 Speeches for Councillors will only be prepared by Media & Communications business unit in relation to events that are part of normal services or operation of the Council and such speeches will not be circulated or available for publication;
  - 8.8.3 Media services, including media releases, will not be provided to Councillors during the Election Period;
  - 8.8.4 Media releases will not mention or quote any Councillor(s) during the Election Period;
  - 8.8.5 All Council newsletters will not be printed during the Election Period; and
  - 8.8.6 Neither the Council logo nor Council stationery will be used by Councillors in any way that relates to the election.



**9. Equipment and facilities provided to Councillors for the purpose of conducting normal Council business will not be used for campaigning purposes**

- 9.1 Where Councillors have Council funded services, such as mobile phones, land lines and internet connections, and where it is impractical for Councillors to discontinue their use of these during the Election Period, Councillors will reimburse the Council for usage of those services during the Election Period that exceeds normal usage levels. Councillors may wish to consider the specific ways to administer this procedure. For instance, Councillors may decide to use a private phone for all election enquiries and publicise such number on election material.
- 9.2 Councillors standing for re-election must not use Council equipment as a resource to assist with election campaigns. This includes photos or images provided by Council for past Council specific activities

**10. Information**

**10.1 Candidates' Access to Information**

All election candidates have equal rights to information relevant to their election campaigns from the Council administration. Whilst it is important that sitting Councillors continue to receive information that is necessary to fulfill their existing elected roles, neither Councillors nor candidates will receive information or advice from Council officers that may improperly advantage candidates in the elections.

There will be complete transparency in the provision of all information and advice during the Election Period.

**10.2 Information Request Register**

An Information Request Register will be maintained by the Corporate Services business unit during the Election Period. This register will be a public document that records all requests relating to electoral matters and non-routine requests for information by Councillors and candidates, and the responses given to those requests.

Responses to Councillors and candidate requests, as per clause 9.1, will be provided by the Chief Executive Officer or General Managers. Managers will be required to discuss the request and the proposed response with their General Manager prior to the response being provided.

Only Information that can reasonably be accessed will be released.

**11. Misuse and Improper Direction of Position**

- 11.1 Section 123 of the Act prescribes serious penalties for any Councillor who inappropriately makes use of their position or information obtained in the role of a Councillor, to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person or to cause, or attempt to cause, detriment to the Council or another person.

**12. Assistance to Candidates**

- 12.1 The Council affirms that all candidates for the Council election will be treated equally.
- 12.2 All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Election Manager or, where the matter is outside the responsibility of the Election Manager (such as the CEO list), to the Chief Executive Officer or a designated

member of Council staff.

12.3 Candidates will be informed of their obligation to complete a Nomination Form which will be available from the Election Manager and electronically via the Victorian Electoral Commission's website, accompanied by the nomination fee.

12.4 Candidates will also be informed of the requirements to complete and submit an "Election Campaign Donation Return Form" to the Chief Executive Officer within 40 days after the Election Day.

An election campaign donation form must:

- (a) Be in the prescribed form; and
- (b) Contain the prescribed detail in respect of any gifts received during the donation period, by the candidate or on behalf of the candidate, to be used for or in connection with the election campaign.

***Donation period*** means the period—

- (a) commencing on whichever is the later of—
  - (i) 30 days after the last general election for the Council; or
  - (ii) 30 days after the last election for the Council at which the person required to give the election campaign donation return was a candidate; and
- (b) ending 30 days after election day in the current election for the Council;

### **13. Communication**

13.1 Council communication will not be used in any way that might influence the outcome of a Council election.

13.2 During the Election Period, no employee will initiate any public statement that relates to an election issue. Public statements are not only formal press releases but also verbal comments at meetings, functions and events where attending as part of their Council role.

13.3 Any requests from Councillors for media advice or assistance during the Election Period will be channelled through the Chief Executive Officer.

13.4 In response to media enquiries, the Chief Executive Officer, General Managers or the Media and Public Relations team will only provide a response and such information should relate to current services and operations.

13.5 In the Election Period, no media releases will be issued quoting or featuring any Councillor.

13.6 During the Election Period, Council initiated communications shall be restricted to communication of normal Council activities.

13.7 No media advice or assistance will be provided to Councillors in relation to election campaign matters.

13.8 No publicity will be provided that involves specific Councillors.

- 13.9 Councillors should not use their position as an elected representative or their access to Council staff and other Council resources or information in support of an election campaign. This includes photos or images provided by Council for past Council activities.
- 13.10 Contact with the local media will be restricted to the communication of normal Council activities and responding to questions not involving the election or possible election outcomes.
- 13.11 Publicity of Council events (if any during the Election Period) will be restricted to the communication of factual material and will not mention or quote any Councillor.
- 13.12 Councillor participation at Council sponsored events (if any during the Election Period) should not be used to gain attention in support of an election campaign. Council sponsored events includes launches, events, and any other public forum outside of the normal Council meeting cycle – the easiest way to deal with these is to simply not have them during the Election Period.

#### 14. Council Publications

- 14.1 Council must refrain from printing, publishing or distributing or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer.

This is to ensure that Council does not utilise public funds that may influence or be seen to influence people's voting intentions.

- 14.2 The Chief Executive Officer must not intentionally or recklessly certify an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process. – it is an offence for the Chief Executive Officer to contravene this requirement.
- 14.3 Electoral matter is any matter that is intended or likely to affect voting in an election.
- 14.4 Certification by the Chief Executive Officer must be in writing and cannot be delegated. Certification wording – over the Chief Executive Officers signature – should be as follows:
- “Certified by the Chief Executive Officer that this document does not contain electioneering material in accordance with the Local Government Act 2020.”***
- 14.5 A Councillor or member of Council staff must not intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period on behalf of, or in the name of, the Council or on behalf of, or in the name of, a Councillor using Council resources if the electoral advertisement, handbill, pamphlet or notice has not been certified by the Chief Executive Officer.
- 14.6 Electoral material has been interpreted to refer to documents produced for the purpose of communicating with the community, including:
- Council newsletters;
  - Advertisements and notices, for example job advertisements and public notices of contracts;

- Media releases;
- Leaflets and brochures;
- Mailouts to multiple addresses.

**All the above publications will require certification by the Chief Executive Officer.**

Material is definitely electoral matter if it consists of any of the following:

- publicises the strength or weakness of a candidate;
- advocates the policies of the Council or of a candidate;
- responds to claims made by a candidate;
- publicises the achievements of the elected Council;
- publicises matters that have already been the subject of public debate;
- about matters that are known to be contentious in the community and likely to be the subject of election debate;
- dealing with Election Candidates' statements;
- referring to Councillors or candidates by name or by implicit reference.

14.7 The publication of material specified above applies to all of Council's websites under the auspice of Council. ***Any new pages on the website or new material will require certification by the Chief Executive Officer during the Election Period.***

14.8 The recommended practice, in line with State and Federal Governments, is where possible; avoid all publication activity during the Election Period except where it is essential for the conduct of Council operations.

14.9 A number of Council publications with reference to either current Councillors or candidates, both on the website and public display will be withdrawn from display during the Election Period.

14.10 During the Election Period, Council's website will not contain material which is precluded by this policy or the statutory requirements relating to publications. Any references to the election will only relate to the election process.

14.11 Profiles of the current Mayor and Councillors will be removed from Council's website during the Election Period but retain their contact details for their day-to-day role as a Councillor i.e. names, photos and mobile phone numbers.

14.12 Any new material published on Council's website during the Election Period that may be considered to be an advertisement, handbill, pamphlet or notice must also be subject to the certification process via the Chief Executive Officer.

14.13 Council is required by the Act to produce an annual report, and the annual report may be published during the Election Period. The annual report will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors but will fulfill its statutory obligations on reporting matters. In accordance with the requirements of section 100 of the Act, Council may

be required to consider the annual report at a meeting of Council held during the Election Period.

- 14.14 Social media – any publication on social media sites such as Facebook, Twitter or Council blogs that are under the auspice of Council will also require certification by the Chief Executive Officer.

**APPENDIX 1 RELEVANT ACT REFERENCE*****Local Government Act 2020******69 Governance Rules to include election period policy***

- (1) *A Council must include an election period policy in its Governance Rules.*
- (2) *An election period policy must prohibit any Council decision during the election period for a general election that—*
  - (a) *relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or*
  - (b) *commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or*
  - (c) *the Council considers could be reasonably deferred until the next Council is in place; or*
  - (d) *the Council considers should not be made during an election period.*
- (3) *An election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.*
- (4) *A Council decision made in contravention of subsection (2)(a) or (b) is invalid.*
- (5) *Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of subsection (4) is entitled to compensation from the Council for that loss or damage.*

## APPENDIX 2 DEFINITIONS

It should be noted that some of the terms used in this policy are defined in the *Local Government Act 2020* (the Act) and their use in this policy is consistent with the Act.

**Community engagement principles** means the principles specified in section 56 of the Act as follows:

### **56 The community engagement principles**

*The following are the community engagement principles—*

- (a) *a community engagement process must have a clearly defined objective and scope;*
- (b) *participants in community engagement must have access to objective, relevant and timely information to inform their participation;*
- (c) *participants in community engagement must be representative of the persons and groups affected by the matter that is the subject of the community engagement;*
- (d) *participants in community engagement are entitled to reasonable support to enable meaningful and informed engagement;*
- (e) *participants in community engagement are informed of the ways in which the community engagement process will influence Council decision making.*

**Donation period** means the period—

- (a) commencing on whichever is the later of—
  - (i) 30 days after the last general election for the Council; or
  - (ii) 30 days after the last election for the Council at which the person required to give the election campaign donation return was a candidate; and
- (b) ending 30 days after election day in the current election for the Council;

**Election period** means the period that—

- (a) starts at the time that nominations close on nomination day; and
- (b) ends at 6 p.m. on election day;

**Electoral material** means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting.

**Electoral matter** is not defined in the Act but has the same meaning as matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the Election Manager for the purposes of conducting an election.

**Major Policy Decision** is not defined under the Act but has the same meaning as any decision:

- (a) the remuneration, appointment or dismissal of a Chief Executive Officer;

- (b) entering into any contracts worth more than 1% of the Council's revenue from rates and charges levied under section 158 of the *Local Government Act 1989* (the 1989 Act) in the previous financial year; and
- (c) the exercise of any entrepreneurial power under section 193 of the 1989 Act if the amount assessed under section 193(5A) of the 1989 Act in respect of the proposal exceeds whichever is greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 of the 1989 Act in the previous financial year.

**Public Consultation** is not defined in the Act but means a process which involves an invitation or invitations to individuals, groups, organisations or the community generally to comment on an issue or proposed action, proposed policy, and includes discussion of that matter with the public.

**Publish** means publish by any means including by publication on the Internet;

**Significant Decision** is not defined in the Act, but in this context means an irrevocable decision that significantly affects the municipality.

## HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

## RELATED DOCUMENTS

Type:	Details:
General	Gifts, Benefits and Hospitality Register Employee Code of Conduct Councillor Code of Conduct Human Rights Charter

## REVISION HISTORY AND REVIEW

VERSION	TYPE OF CHANGE	EFFECTIVE DATE	APPROVED BY	SUMMARY OF CHANGES
1	New policy	15 March 2016	Council	Creation of new policy as required by updated legislation
2	Minor Review	17 December 2019	Council	Minor formatting
3	Major Review	1 September 2020	Council	Changes to section references and definitions in line with introduction of <i>Local Government Act 2020</i>





WELLINGTON  
SHIRE COUNCIL

*The Heart of Gippsland*

# Governance Rules

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Adopted ~~1-September~~16 August 2022

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## 1. PRELIMINARY

### 1.1 Title

These Governance Rules are the Wellington Shire Council's processes of municipal government and provide for the Council to consider and make decisions on any matter fairly and on merit. It also provides for a person whose rights are directly affected by a decision to have their views heard and interests considered in the process.

### 1.2 Objectives of Governance Rules

A Council must develop, adopt and keep in force Governance Rules for or with respect to the following under the *Local Government Act 2020*:

- (a) the conduct of Council meetings;
- (b) the conduct of meetings of Delegated Committees;
- (c) the form and availability of meeting records;
- (d) the election of the Mayor and the Deputy Mayor, including the appointment of an Acting Mayor;
- (e) an election period policy in accordance with section 69;
- (f) the procedures for the disclosure of a conflict of interest by a Councillor or a Member of a Delegated Committee under section 130;
- (g) the procedure for the disclosure of a conflict of interest by a Councillor under section 131;
- (h) the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section 126(1);
- (i) any other matters prescribed by the regulations.

### 1.3 Scope of Governance Rules

These Governance Rules apply to Council meetings and meetings of Delegated Committees and Community Asset Committees. They also apply to other Council meetings, such as Audit and Risk Committee meetings, as outlined in the relevant charters and/or terms of reference relevant to the committee.

### 1.4 Power to make Governance Rules

These Governance Rules replace Local Law No 1 Processes of Municipal Government except for the handling of Council's Common Seal and Infringements and Penalties which will continue in an amended Local Law No 1, operating alongside the Governance Rules. Council may amend its Governance Rules following a process of community engagement however, under section 60(5) of the *Local Government Act 2020*, a community engagement process is not required if Council is adopting a good practice guideline issued by the Minister for Local Government.

**1.5 Operational Date of these Governance Rules**

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These Governance Rules commence on the day following the day on which these rules have been approved and adopted by Council. Where Local Law No 1 is also amended, it then comes into force on the day following the day on which a notice is published in the Victoria Government Gazette. Both documents will continue to operate throughout the municipal district until revoked.

These Governance Rules commence on the day following the day on which notice of the making of these rules, including the amended Local Law No 1, are published in the Victoria Government Gazette, and operate throughout the municipal district.

**1.6 Date the Governance Rules Cease Operation**

These Governance Rules have no cessation date however, in line with Council's good governance framework, will be reviewed once every four year Council period or as required.

**1.7 Definitions****1.7.1 In these Governance Rules:**

*Act* means the *Local Government Act 2020*

*Advisory committee* means a committee established by the *Council*, that provides advice to —

- (a) the *Council*; or
- (b) a member of *Council* staff who has been delegated a power, duty or function of the *Council*;

that is not a Delegated Committee

*Agenda* means a document containing the date, time and place of a Meeting and a list of business to be transacted at the Meeting

*Agreement of Council* means indicative agreement of all of the Councillors present, without a vote being conducted. In the event there is any uncertainty about majority of Councillors agreeing, the matter may be put to a vote

*Audit and Risk Committee* means the Audit and Risk Committee established by a Council under s53

*Authorised Officer* has the same meaning as in the *Local Government Act 1989* or any other Act

*Chairperson* means the Chairperson of a Meeting and includes an acting, temporary and substitute Chairperson

*Chamber* means any room where the Council holds a Council Meeting

*Chief Executive Officer* means the person occupying the office of Chief Executive Officer of Council, and includes a person acting in that office

*Council* means Wellington Shire Council

*Councillor* means a Councillor of Council

*Code of Conduct* has the same meaning as in s139 of the Act

*Council Meeting* means a meeting of the Council convened in accordance with s61 of the Act and these Governance Rules and includes scheduled and unscheduled meetings whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance

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*Delegate* means a member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation

*Delegated Committee* has the same meaning as in s63 of the Act

*Delegated Committee Meeting* means a Meeting of a Delegated Committee whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance

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*Deputy Mayor* means the Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor

*General Manager* means a senior member of Council staff holding the position of General Manager or another position (however designated) which reports directly to the Chief Executive Officer

*Disorder* means any disorderly conduct of a member of the gallery or a Councillor and includes:

- interjecting when another person is speaking, except, in the case of where a Councillor is raising a Point of Order;
- making comments that are defamatory, malicious, abusive or offensive;
- refusing to leave the Meeting when requested, ordered or directed to do so by the Chairperson in accordance with the Act and the Governance Rules; and
- engaging in any other conduct which prevents the orderly conduct of the Meeting

*Foreshadowed Item* means a matter raised in the relevant section of the Council Meeting that a Councillor intends to submit a Notice of Motion for the next Council Meeting

Hybrid in the context of a Council Meeting or Delegated Committee Meeting refers to the method of attendance whereby attendance is a combination of both in person attendees and attendees attending via electronic means of communication.

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*Late Item* means a matter that relates to or arises out of a matter which has arisen since distribution of the Agenda and cannot safely or conveniently be deferred until the next Meeting

*Majority of the Votes* means a majority of Councillors present at the time of a vote voting in favour of a matter

*Mayor* means the Mayor of Council and any person appointed by Council to be acting as Mayor

*Meeting* means a Council Meeting or a Delegated Committee Meeting

*Member* means a member of any committee to which these Governance Rules apply

*Minutes* means the official record of the proceedings and decisions of a Meeting

*Motion* means a proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted

*Notice of Motion* means a notice setting out the text of a Motion which a Councillor proposes to move at a Council Meeting

*Notice of Rescission* means a Notice of Motion to rescind a resolution made by Council

*On Notice* means held or deferred to enable preparation of a response

*Point of Order* means a procedural point (about how the Meeting is being conducted), not involving the substance of a matter before a Meeting

*Procedural Motion* means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure

*Resolution* means a decision of Council as defined in s59 of the Act

*Rule or Sub-rule* means a rule or sub-rule included in these Governance Rules

*Unscheduled Meeting* means a meeting of the Council convened for a particular purpose that cannot be effectively dealt with in the annual schedule of Council meetings set by Council

*Virtual Meeting* is a meeting of Council or a Delegated Committee whereby the method of attendance by all attendees is by fully electronic means of communication

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*Virtual Public Gallery* is an online space for the community to pre-register to address Council during the Further Gallery and Online Comments section of the Council meeting if they are unable to attend the Council meeting in person

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## 1.8 Virtual Council Meetings

There may be times, as a result of a declared pandemic, declared natural disaster or declared emergency, or geographical requirements, where it may be considered appropriate for Council meetings to be held as a fully virtual meeting. The Mayor and/or CEO reserves the right to identify such circumstances and where time allows, arrange for a resolution of Council to reflect this change to the adopted Council Meeting schedule, nominate the Council Meeting process to be adopted for a nominated period of time. In these circumstances, the Governance Rules will continue to apply.

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## 2. MEETING PROCEDURE

### 2.1 Recording and Livestreaming of Council Meetings

Council records and broadcasts all Council meetings via livestream to the public, including community questions and submissions. Recordings are also made available via Council's YouTube channel which can also be found on Council's website.

### 2.2 Purpose of Council Meetings

- (1) Council holds scheduled Meetings and, when required, Unscheduled Meetings to conduct the business of Council.
- (2) Council is committed to transparency in decision making and, in accordance with the Act, Council and Delegated Committee Meetings are open to the public and the community are able to attend.
- (3) Meetings will only be closed to members of the public, in accordance with section 6 of the Act, if:
  - (a) there are clear reasons for particular matters to remain confidential; or
  - (b) a meeting is required to be closed for security reasons; or
  - (c) it is necessary to enable the meeting to proceed in an orderly manner.
- (4) If a meeting is closed to the public for the reasons outlined in sub-rule 3(b) or 3(c), the meeting will continue to be livestreamed. In the event a livestream is not available the meeting may be adjourned, or a recording of the proceedings may be available on Council's website.

### 2.3 Meeting Roles

**Overview:** *In accordance with sections 61 and 63 of the Act, the Mayor must take the Chair at all Council Meetings at which the Mayor is present. If the Mayor is absent, the Deputy Mayor (if any) must take the Chair and if both are absent, Council must elect one of the Councillors as Chairperson of the meeting. The Act provides for the Mayor to appoint a Councillor as the Chair of a Delegated Committee and any such appointment prevails over any appointment made by Council. While there are no limitations on exercising that power, the Mayor must always act in a way that is consistent with the adopted Councillor Code of Conduct and transparency commitments of the Council. Additionally, each Member of the Meeting has an obligation to participate in good decision-making.*

*The way in which Council and Delegated Committee Meetings are conducted makes a significant contribution to good governance. The Chairperson plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors and members of Delegated Committees have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed appropriately, and statutory requirements are adhered to.*

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*The Chairperson is an independent leader of meetings and generally does not participate in debate or move or second motions. Specific duties and discretions of the Chairperson are outlined throughout these Governance Rules.*

### **2.3.1 Chairperson and Members**

- (1) The Chairperson, Councillors and Members of Delegated Committees will ensure good council decision-making by endeavouring to ensure:
  - (a) decision making is transparent to members and observers;
  - (b) meeting members have sufficient information to make good decisions;
  - (c) every member is supported to contribute to decisions;
  - (d) any person whose rights are affected has their interests considered;
  - (e) debate and discussion are focussed on the issues at hand;
  - (f) meetings are conducted in an orderly manner;
  - (g) decisions should be made on the merits of the matter.

### **2.3.2 Mayor to Take the Chair**

- (1) The Mayor must take the Chair at all Council Meetings at which the Mayor is present under section 61(3)(a) of the Act.
- (2) If the Mayor is not in attendance at a Council Meeting, the Deputy Mayor (if one has been elected) must take the Chair under section 61(3)(b) of the Act.
- (3) If the Mayor and any Deputy Mayor are not in attendance at a Council Meeting, Council must appoint one of the Councillors as Chair of the meeting by resolution under section 61(3)(d) of the Act.

### **2.3.3 Delegated Committee Chairperson**

- (1) At the Meeting at which Council establishes a Delegated Committee it must also appoint a Chairperson under section 63(2) of the Act;
- (2) The Chair of a Delegated Committee must be a Councillor under section 63(2)(a) of the Act;
- (3) For the avoidance of doubt, Sub-Rule (1) does not intend to limit the powers of the Mayor provided in the Act.

### **2.3.4 The Chairperson's Duties and Discretions**

In addition to the specific duties and discretions provided in these Governance Rules, the Chairperson:

- (1) must not accept any Motion, question or statement which is:
  - (a) vague or ambiguous;
  - (b) defamatory, malicious, abusive or objectionable in language or substance;

- (c) is not relevant to the current agenda item and has not been admitted as a Late Item;
- (d) intended to be an amendment but is not; or
- (e) outside the powers of Council;
- (2) must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise during the Meeting;
- (3) must call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council under section 19(1)(b) and section 318 of the Act;
- (4) may direct that a vote be recounted to be satisfied of the result; and
- (5) must decide on all points of order.

#### **2.3.5 Chief Executive Officer**

- (1) The Chief Executive Officer, or Delegate, may participate in the meeting to provide support to the Chairperson.
- (2) The Chief Executive Officer should:
  - (a) immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
  - (b) advise if there are operational, financial, legal or risk implications arising from a proposed resolution;
  - (c) help clarify the intent of any unclear resolution to facilitate implementation;
  - (d) on request, assist with procedural issues that may arise.

#### **2.3.6 Councillors and Members of Delegated Committees**

- (1) Councillors and Members of Delegated Committees contribute to good governance and decision making by:
  - (a) seeking views of community members and reading the agenda prior to the meeting;
  - (b) demonstrating due respect and consideration to community views and the professional/expert advice provided in the agenda papers;
  - (c) attending meetings and participating in debate and discussion;
  - (d) demonstrating respect for the role of the Chairperson and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making; and
  - (e) being courteous and orderly.

#### **2.3.7 Community**

- (1) Council Meetings are decision making forums and it is important that they are open to the community to attend and/or view proceedings.
- (2) Community members may only participate in Council meetings in accordance with Rule 7.
- (3) Community members are encouraged to participate in Council's engagement processes.
- (4) Community members may seek to inform individual Councillors of their views by contacting them directly in advance of Meetings.

#### **2.34.8- Attendance**

The introduction of section 60(1) of the *Local Government Act 2020* requires that any attendees of Council Meetings and Delegated Committee Meetings that wish to attend via electronic means of communication must make a request and have it approved prior to attending electronically otherwise they may be considered absent. It is important to ensure that attendees clearly communicate attendance, apologies and absences with the Mayor or Chairperson in the approved formats to avoid unapproved absences which is regulated under section 35(1)(e) of the *Local Government Act 2020*.

#### **2.4.1 Attendance by electronic means of communication**

- (1) At meetings conducted in person or as a hybrid meeting, individual attendees shall physically attend the meeting unless a request to participate by electronic means of communication has been granted by the Mayor or Chairperson in accordance with this section.
- (2) The request must be made to the Mayor or Chairperson to attend the meeting by electronic means and must not be unreasonably refused.
- (3) The request must be made no later than two (2) hours prior to the commencement of a meeting, stating which meeting(s) will be attended via electronic means.
- (4) The request must consider any criteria that the Council has set for consideration of approval for a method of attendance.
- (5) The Mayor or Chairperson will provide a response to the request at least no later than one (1) hour prior to the commencement of the meeting and notify the rest of the members of the meeting of this decision.
- (6) References to a Councillor being present at a meeting shall be a reference to a Councillor being able to both hear and see other members in attendance and be heard and be seen by other members in attendance.
- (7) At the commencement of the meeting, the Mayor or Chairperson will conduct a roll call of virtual attendees to ensure they are able to be seen and heard by the meeting and that they can see and hear the meeting.
- (8) Momentary absences (approximately five (5) less than one (1) minutes) unless the Councillor is experiencing technical difficulties shall not be recorded as absences for the purposes of the meeting minutes.

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(a) Where a Councillor is unable to rejoin the meeting after the time period allocated to troubleshoot and resolve technical difficulties has passed, and they have not attempted to contact the CEO, Mayor or Chairperson either in writing or verbally, the Councillor will be considered absent for the remainder of the meeting.

(b) Where a Councillor is unable to rejoin the meeting after the time period allocated to troubleshoot and resolve technical difficulties has passed, and they have successfully contacted the CEO, Mayor or Chairperson either in writing or verbally to confirm that they are unable to resolve the technical difficulties, the Councillor will be considered an apology for the remainder of the meeting.

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(9) It will remain the responsibility of the member attending electronically to ensure that they have the required access and environment suitable for electronic communications.

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(10) The Mayor or Chairperson may not grant a request to participate in a meeting by electronic means of communication at the first meeting of Councillors after a general election, or if the meeting will consider:

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(a) the election of the Mayor under section 25 of the Act;

(b) the election of the Deputy Mayor under section 27 of the Act;

unless they are satisfied that extraordinary circumstances warrant it.

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#### **2.4.2 Apologies and Absences**

- (1) Councillors and Members of Delegated Committees who are unable to attend a Meeting are required to notify the Chairperson or CEO as to the reason for the absence so that the reason can be noted.
- (2) An apology submitted to a meeting will be recorded in the Minutes.
- (3) Council will not unreasonably withhold its approval of a leave of absence request.
- (4) A Councillor who has not submitted an apology or had a leave of absence approved who is not in attendance at a Council or Delegated Committee Meeting will be recorded as absent.

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#### 2.4.5 Matters Not Provided For

- (1) Where a procedure or any situation has not been provided for or cannot be dealt with under the Governance Rules, the Council may have regard to the rules, forms and usages of the Victorian Parliament insofar as they are applicable to the proceedings of the Council.

### 3. NOTICE OF MEETINGS AND AVAILABILITY OF AGENDA

**Overview:** Council Meetings are held regularly to conduct the ongoing business of the Council and Unscheduled Meetings may be held from time to time. It is important that the community is made aware of the times, dates, and locations of Council and Delegated Committee Meetings and the matters Council will consider. The timing of this notice should give the community adequate time to make arrangements to attend the Meeting. [Join via electronic means or watch via the livestream.](#)

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An agenda for each Council Meeting must be provided to Councillors in advance so that they can prepare adequately for the Council Meeting. The agenda contains the order of business and the professional advice of the organisation, with a recommendation for Council to consider. The agenda is made available to the public via Council's website and at Customer Service Centres upon request.

#### 3.1 Date, Time and Place of Council Meetings

- (1) At or before the last Meeting each calendar year, Council must fix the date, time and place of all Council Meetings and any Delegated Committee Meetings for the following calendar year.
- (2) The Council may change the date, time and place of any Council meeting which has been fixed and must provide reasonable notice of the changes to the public.

#### 3.2 Postponement

- (1) In the case of an emergency, the Chief Executive Officer or Delegate or, in the absence of both, a Senior Officer, may postpone a Council Meeting, provided every reasonable attempt is made to notify every Councillor of the postponement.
- (2) The Chief Executive Officer, Delegate or Senior Officer must submit a full written report of the circumstances requiring his or her action in respect of the emergency postponement at the next Council Meeting that is not an Unscheduled Meeting.

#### 3.3 Unscheduled Meetings

- (1) Council may, by resolution, call an Unscheduled Meeting of Council.
- (2) The Mayor, or three Councillors, may by written notice call an Unscheduled Meeting of Council.
- (3) The Chief Executive Officer, following consultation with the Mayor, may call an Unscheduled Meeting.
- (4) A written notice to call an Unscheduled Meeting must:

- (a) specify the business to be transacted;
  - (b) the date and time of the Unscheduled Meeting;
  - (c) be delivered to the Chief Executive Officer or Delegate in sufficient time to enable notice to be given in accordance with **Rule 3.45**.
  - (d) provide three days' notice of each Unscheduled Meeting to the public or such public notice as practicable given the circumstances.
- (5) The Chief Executive Officer must determine the time and date for the meeting, giving consideration to:
- (a) the urgency of the business to be transacted;
  - (b) the availability of Councillors;
  - (c) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted.
- (6) The Chief Executive Officer must arrange for notice of the Unscheduled Meeting on Council's website.
- (7) Any resolution of Council to call an Unscheduled Meeting must specify the date and time of the Unscheduled Meeting and the business to be transacted.
- (8) The date and time of the Unscheduled Meeting must not be prior to 6:00pm on the day following the Council Meeting at which the resolution was made.
- (9) Only the business specified in the Council resolution, or written notice, may be considered at an Unscheduled Meeting, unless all Council, by unanimous resolution determine to admit another matter.

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#### 3.4 Fully Virtual Meetings

- (1) Council may, by resolution, change the format of a scheduled Council meeting from in person or hybrid to a fully virtual meeting.
- (2) The Chief Executive Officer must arrange for a notice of the change of meeting format to be placed on Council's website to allow sufficient time for the community wishing to address the public gallery to make alternative arrangements to join the virtual meeting in accordance with Rule 7.
- (3) Should the Chief Executive Officer determine that extraordinary circumstances warrant it, they are authorised to determine that any meeting be conducted solely by electronic means of communication without Council resolution.
- (4) The Chief Executive Officer may take all relevant factors into account in making a determination that extraordinary circumstances warrant a meeting being conducted solely by electronic means of communication including, but not limited to:
  - (a) any risk to the health and safety of Councillors, staff and the community;
  - (b) whether all or part of the meeting is planned to be closed to members of the public under section 66(2) of the Act.

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(c) the ability to provide public notice to members of the public who had registered to attend the meeting;

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(d) whether the orderly conduct of a meeting may be affected by the choice of meeting format the availability of suitable meeting facilities.

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### 3.45 Notice of Meetings

#### 3.45.1 Council Meetings

- (1) A notice of a Meeting, that is not an Unscheduled Meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be sent electronically to every Councillor for all Council Meetings, at least seven days before the Meeting. A period of less than seven days may be justified if exceptional circumstances exist.
- (2) An agenda for each Council Meeting, that is not an Unscheduled Meeting, will be made available on Council's website at least seven days before the Council Meeting.
- (3) A schedule of Council Meetings must be prepared and published that ensures it is available to a broad section of the community, including on Council's website at least once each year and with such greater frequency as the Chief Executive Officer determines.

#### 3.45.2 Unscheduled Meetings

- (1) Notice of an Unscheduled Meeting must be published on Council's website as soon as practicable after the time and date of the meeting has been determined.
- (2) An agenda for an Unscheduled Meeting must be made available electronically to every Councillor at least three days before the meeting. A period of less than three days may be justified if exceptional circumstances exist.
- (3) An agenda for an Unscheduled Meeting will be made available on Council's website no less than three days before the Council Meeting.

#### 3.5.3 Virtual Meetings

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(1) Notice of a virtual meeting must be published on Council's website as soon as practicable after a resolution has been passed by Council.

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(2) An agenda for a virtual meeting must be made available in accordance with Sub-Rule 3.5.1.

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## 4. QUORUM

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**Overview:** No business can be transacted at a Council Meeting or a Delegated Committee Meeting unless a majority of the Councillors or Members of the Delegated Committee (as the case may be) is present thus forming a quorum. If there is no quorum at the commencement of a Meeting or if a quorum cannot be maintained during a Meeting, the Meeting is to be adjourned to another date and/or time. For a

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hybrid or virtual meeting, under section 61(6A) of the Local Government Act 2022, for the purposes of these meetings, attendees present by electronic means of communication are deemed present for the purposes of a quorum. Under section 61(7) of the Act, a quorum is an absolute majority meaning the number of Councillors which is greater than half the total number of the Councillors of Council.

**Table 1: Calculation for Formation of a Quorum**

Number of Councillors/Committee Members	Number required for Quorum
11	6
10	6
9	5
8	5
7	4

- (1) Meetings must commence within ~~30 minutes~~ one (1) hour of the scheduled starting time.

(a) The one (1) hour timeframe includes troubleshooting to resolve any technical issues experienced in the case of a hybrid or virtual meeting whereby a quorum of Councillors is still able to be achieved.

~~(4)~~(b) Where the timeframe exceeds one (1) hour and technical issues are not able to be resolved and a quorum cannot be achieved, the Mayor or Chairperson must proceed in accordance with Sub-Rule 2 below.

- (2) If, after ~~one (30 minutes)~~ 1 hour from the scheduled starting time of any Meeting or adjournment, a quorum cannot be obtained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Senior Officer, may adjourn the Meeting for a period not exceeding seven days from the date of the adjournment.
- (3) If, during any Meeting or any adjournment of the Meeting, a quorum cannot be maintained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Senior Officer, may adjourn the Meeting for a period not exceeding seven days from the date of the adjournment.
- (4) The Chairperson may defer an item of business in respect of which there is, or is likely to be, a disclosure of a conflict of interest by one or more Councillors that will cause a quorum to be ~~lost, and~~ lost and direct the Chief Executive Officer to include that item of business on an agenda for a future Council Meeting.
- (5) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, Council will:
- (a) determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or

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- (b) determine to make decisions on separate parts of the matter at a meeting where a quorum can be maintained, before making a decision on the whole matter at a meeting for which a quorum can be maintained.
- (6) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, and the matter cannot be separated into component parts or prior decisions made, Council will delegate the decision to be made:
  - (a) by the Chief Executive Officer; or
  - (b) by a Delegated Committee, established for the purpose of determining the matter, comprised of all the Councillors who have not disclosed a conflict of interest and any other person(s) the Council considers suitable.
- (7) A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council Meeting.
- (8) The Chief Executive Officer must provide written notice, including by electronic means, to each Councillor of any Council Meeting adjourned to another date or time due to an inability to achieve or maintain a quorum.
- (9) Where it is not practicable because time does not permit notice in accordance with Rule 4(8) to occur, then, provided every reasonable attempt is made to contact each Councillor either verbally, or by some other means, it will be sufficient.
- (10) Notice of an adjournment to another date or time must be published on Council's website as soon as practical.

## 5. ELECTION OF MAYOR

**Overview:** *The role and functions of the Mayor are provided for under sections 25 and 26 of the Act. The holder of this significant office is the Chairperson at Council Meetings, is the leader of the Councillors, acts as the principal spokesperson for Council and carries out civic and ceremonial duties. This section describes how the Mayor, a Deputy Mayor and Acting Mayor are to be elected.*

### 5.1 Chief Executive Officer to set time and date for election of Mayor

- (1) The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor.
- (2) The election of Mayor must be held no later than one month after the date of the general election (section 26(1)), except that the election of the Mayor must be held in accordance with any provisions contained in the Act.
- (3) The election of the Mayor must be held in accordance with section 25 of the Act and these Governance Rules.
- (4) Where the position of Mayor has become vacant, the Chief Executive Officer will set a date and time within one month of the vacancy.
- (5) Depending on the term of office decided in Rule 5.5, the next election of the Mayor will be held as close as possible to the end of the term.

**5.2 Role of the Mayor**

- (1) The Mayor will chair the Council meetings.
- (2) The Mayor will promote behaviour among Councillors that meets the standards established in the Councillor Code of Conduct.
- (3) The Mayor will lead engagement with the community.
- (4) The Mayor may direct a Councillor to leave a Council Meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

**5.3 Role of the Deputy Mayor**

- (1) At the Council Meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.
- (2) If the Mayor is not in attendance at a Council Meeting the Deputy Mayor must take the Chair.
- (3) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.
- (4) If the Council has not resolved to establish the position of Deputy Mayor, any provisions in these Governance Rules relating to the Deputy Mayor have no effect.

**5.4 Method of Voting**

The election of the Mayor must be carried out by a show of hands or following a resolution made in accordance with Rule 8.2(1), an electronic method that enables those observing (in attendance and those watching a livestream broadcast) to see who a Councillor has voted for at the time the vote is taken.

**5.5 Determining the Election of Mayor / Deputy Mayor**

- (1) The Chief Executive Officer will preside during the election of the Mayor.
- (2) Prior to the election of the Mayor and Deputy Mayor Council must determine by resolution the term of office as one year or two years.
- (3) The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.
- (4) Where in an election for the Mayor:
  - (a) only one candidate has been nominated, that candidate must be declared elected;
  - (b) two candidates have been nominated, a vote must be taken and the candidate who receives the number of votes equal to or greater than half the Councillors of the Council must be declared elected;

- (c) two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council, a second vote will be conducted.
- (d) where, after a second vote, where two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6:00pm the following day;
- (e) more than two candidates have been nominated and no candidate receives the number of votes equal to or greater than half the Councillors of the Council:
  - (i) the candidate with the fewest number of votes cast must be eliminated;
  - (ii) the names of the remaining candidates must be put to the vote again; and
  - (iii) the procedure in (i) and (ii) above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedure outlined in Sub-Rule (4)(b).
  - (iv) in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes), the Chief Executive Officer will conduct a vote for one candidate to be defeated.
- (f) where there is an equal division of votes between two candidates, the election will be determined by lot for exclusion and the candidate remaining undrawn will be declared successful.
- (g) If Council resolves to have the office of Deputy Mayor, the provisions of Sub-Rules (3) and (4) apply to the election of the Deputy Mayor with all necessary modifications and adaptations.

#### 5.6 Ceremonial Mayoral Speech

- (1) Upon being elected, the Mayor may make a ceremonial speech.
- (2) The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead based on the adopted Council Plan.

#### 5.7 Election of Acting Mayor

- (1) If Council resolves at any time to appoint an Acting Mayor in accordance with section 20B of the Act, the provisions of Rules 5.5(3) and (4) apply to the appointment of the Acting Mayor with all necessary modifications and adaptations.



## 6. BUSINESS OF MEETINGS

**Overview:** The business to be transacted at a Council Meeting is contained in the Agenda provided to Councillors and available to the public on Council's website. The Chief Executive Officer oversees preparation of the Agenda and determines the content and order of business to facilitate open, efficient and effective processes of government. The role of the Mayor includes providing advice to the Chief Executive Officer when the Chief Executive Officer is setting the Agenda for Council meetings. Council can admit an item of urgent business if it has arisen after distribution of the Agenda and cannot be reasonably deferred to the next Meeting.

This section also provides time limits for Meetings. A Council Meeting must not continue after three hours unless a majority of Councillors agree, when up to two extensions of 30 minutes can be made.

### 6.1 Business at Meetings

- (1) The Chief Executive Officer may include any matter on the Agenda for a Council Meeting which he or she thinks should be considered at the Meeting to which the Agenda relates.
- (2) No business can be dealt with at a Meeting unless it is:
  - (a) Contained on the Agenda; or
  - (b) Accepted as a Late Item in accordance with Rule 6.4.

### 6.2 Order of Business for Council Meetings

- (1) The order of business will be determined by the Chief Executive Officer to facilitate and maintain open, efficient and effective processes of government.
- (2) The order of business for Council meetings may proceed in the following manner:
  - (a) Acknowledgement of Country and Prayer
  - (b) Apologies
  - (c) Declaration of Conflicts of Interest
  - (d) Confirmation of Minutes of previous Council Meeting/s
  - (e) Business arising from previous Council Meeting/s
  - (f) Acceptance of Late or Urgent Items
  - (g) Notices of Motion
  - (h) Receiving of Petitions or Joint Letters
  - (i) Invited Addresses, Presentations or Acknowledgements
  - (j) Questions on Notice
  - (k) Mayor and Councillors Report

- (l) Reports of Delegates
- (m) Officers' Reports
- (n) Further Gallery and Online Comments
- (o) In Closed Session

### 6.3 Change to order of business

- (1) Once an Agenda has been sent to Councillors, the order of business for that Meeting may be altered by a resolution of Council.

### 6.4 Late or Urgent Items

- (1) If the agenda for a Meeting makes provision for Late or Urgent Items, business cannot be admitted as a Late or Urgent Item other than by resolution of Council and only then if:
  - (a) it relates to or arises out of a matter which has arisen since distribution of the agenda; and
  - (b) deferring the item until the next Meeting will mean a decision on the item will not have any effect on the matter; or
  - (c) the item involves a matter of urgency as determined by the Chief Executive Officer; and
  - (d) it cannot be addressed through an operational service request process; and
  - (e) provided the matter does not:
    - (i) substantially affect the levels of Council service;
    - (ii) commit Council to significant expenditure not included in the adopted budget;
    - (iii) establish or amend Council Policy; or
    - (iv) commit Council to any contractual arrangement.
- (2) A Councillor proposing a matter be admitted as a Late or Urgent Item must lodge it in writing to the Chief Executive Officer no later than 12:00pm on the day of the Meeting.
- (3) The Chief Executive Officer will advise the Mayor of any matter he or she determines appropriate for Council to consider admitting as a Late or Urgent Item.

### 6.5 Time Limits for Meetings

- (1) A Meeting must not continue after three hours from the time it commences unless a majority of Councillors/Members present vote in favour of its extension in accordance with this Rule.

- (2) Extensions of a Meeting will be in block periods of 30 minutes.
- (3) After the initial 30 minute extension the Meeting must not continue unless a majority of Councillors present vote in favour of a further extension.
- (4) A Meeting may only be continued for a maximum of two 30 minute extensions.
- (5) In the absence of such extensions as provided for in Sub-Rules (1), (2) and (3), or in the event there is further business to be transacted at the completion of two extensions, the Meeting must stand adjourned to 6:00pm on the following day.
- (6) Notwithstanding Sub-Rule (5), the Chairperson may seek the agreement of Council not to adjourn the Meeting to the following day, if the Chairperson reasonably believes the remaining business will take less than 10 minutes to transact.

#### 6.6 Chairperson may temporarily adjourn a Meeting exceeding two hours

- (1) The Chairperson may adjourn a Meeting for a 10 minute break at an appropriate point in proceedings after two hours has elapsed.
- (2) Notwithstanding Sub-Rule (1), the Chairperson may seek the agreement of Council not to adjourn the Meeting if the Chairperson reasonably believes the remaining business of the Meeting will take less than 30 minutes to transact.

### 7. PUBLIC QUESTIONS, COMMENTS AND SUBMISSIONS

**Overview:** As outlined in the purpose of these Governance Rules, Council Meetings are held for Council to make its decisions. Gallery comments are an opportunity for members of the public to raise any matter. This allows those in the **physical or virtual** gallery to speak directly to Councillors but is not a forum designed for open discussion or debate. Council will listen respectfully to what is said and makes the commitment that if required a written response will be provided to the individual that raised the matter and a copy of that response will be circulated to all Councillors.

Where the community do not have the opportunity to **physically** attend the Council Meeting but still wish to be heard, this can be done **by**:

- ~~via Council's online chat room during the course of the Council Meeting or via submitting a question or comment via the Council's online Questions and Comments form prior to 1:00pm on the day of the Council Meeting:-~~
- ~~via submitting a question or comment via Council's online chat room during the course of the Council Meeting; or~~
- **registering to attend Council's online public gallery, per Sub-Rule 7.5.**

Assistance will be available for any community member seeking or requiring support to write their question(s) where required.

Petitioning is a long-established process for members of the community to demonstrate community support for a request or views on a matter, and for that request or view to be presented directly to Council. Rule 7 sets out the procedures to be followed to submit a question, comment or petition, the circumstances under which

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*a question, comment or petition may be disallowed and the process for addressing and responding to the question, comment or petition at or after the Meeting.*

*Council Meetings are recorded and broadcasted to the public via livestream and also made available for future viewing on Council's YouTube channel which can also be found on Council's website. This includes questions and submissions from members of the public.*

### 7.1 Public Questions and Comments for Agenda Items

- (1) The announcement of each agenda item as it occurs in the order of business is an opportunity for the general public to present to Council on a matter listed on the Agenda. This applies to Petitions, Notices of Motion and Officer Reports.

### 7.2 Further Gallery and Online Comments to be Held

- (1) The Council will provide an opportunity during the Further Gallery and Online Comments section of the Council Meeting to allow public submissions, questions of and comments to Council for a time period of three minutes, per person ~~however this may be extended at the determination of the Chairperson.~~ Where appropriate, the Chairperson or Chief Executive Officer may elect to respond to the submission, question or comment in writing.
- (2) The announcement of each agenda item as it occurs in the order of business is another opportunity for the general public to present to Council on a matter listed on the Agenda.
- (3) The Council may decide to defer the discussion to a later date.
- (4) Council Meetings are recorded and broadcasted to the public via livestream and also made available for future viewing on Council's YouTube channel which can also be found on Council's website. This includes questions and submissions from members of the public.

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### 7.3 Further Gallery and Online Comments Guidelines

- (1) Rules 7.2(2) will not apply during any period when the Council has resolved to close the meeting in respect of a matter under section 66(1) of the Act.
- (2) Further Gallery and Online Comments is not a forum for members of the public to lodge complaints against individuals, including councillors and staff, particularly as that individual gets no public right of reply to any matter raised. Any specific complaint against an individual must be put in writing and will be properly dealt with while ensuring fairness to all parties concerned.
- (3) Council Minutes will record all members of the public that have spoken to Council and the subject spoken to Council about but will not be a hansard recording.
- (4) Submissions as part of Further Gallery and Online Comments may be on any matter except if it:
  - (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
  - (b) relates to confidential information as defined under the Act;
  - (c) relates to the personal hardship of any resident or ratepayer; or
  - (d) relates to any other matter which the Council considers would prejudice the Council or any person.

- (5) No more than two questions will be accepted from any person at any one Meeting.
- (6) Where the Chief Executive Officer does not accept a question, the submitter is to be informed of the reason or reasons for which their question was not accepted.
- (7) The Chairperson reserves the right to cease a submission as part of Further Gallery and Online Comments if he or she deems the submission inappropriate.
- (8) Copies of all submissions, questions or comments submitted in writing by a member of the public allowed by the Chief Executive Officer will be provided to all Councillors.
- (9) A submission, question or comment submitted in writing by a member of the public, which has been disallowed by the Chief Executive Officer, will be provided to any Councillor but will not be read out by the Chief Executive Officer during the Further Gallery and Online Comments section.

#### 7.4 Further Gallery and Online Procedure

- (1) Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chairperson whenever called on to do so.
- (2) The Chairperson will allocate a maximum of three minutes to each person who wishes to address Council, ~~however this may be extended at the determination of the Chairperson.~~
- (3) The Chairperson or Chief Executive Officer will first invite any person who has given prior notice to present to Council.
- (4) The Chairperson or Chief Executive Officer will then invite members of the public gallery who would like to present to Council.
- (5) The Chairperson or Chief Executive Officer have the discretion to alter the order of persons to be heard.
- (6) The person, in addressing the Council:
  - (a) must confine their address to the three minute allocation of time;
  - (b) shall extend due courtesy and respect to the Council and the processes under which it operates;
  - (c) shall take direction from the Chairperson whenever called upon to do so.
  - (d) there will be no discussion or debate with the attendees in the public gallery however Councillors may ask questions of clarification of the attendee; and
  - (e) Standing Orders do not need to be suspended to allow discussion for the purposes of clarification.
- (7) A response to a submission, question or comment raised during the Further Gallery and Online Comments section of the Council Meeting may be provided immediately at the discretion of the Chairperson or Chief Executive Officer.

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- (8) If the matter requires further investigation or comment, the submission, question or comment will be referred to the relevant Council Officer for investigation and response if required.
- (9) Where required, Council Officers will respond acknowledging the question and providing procedural advice and/or the response within 10 working days of the Council Meeting.

#### 7.5 Virtual Public Gallery

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- (1) Anyone wishing to attend the virtual public gallery may do so by registering their interest via the Council Meetings webpage on Council's website in line with the procedures and guidelines outlined and in conjunction with the guidelines outlined in Rule 7.3.
- (a) Failure to follow the pre-registration procedures and guidelines may result in attendance being postponed to the following Council Meeting.
- (2) Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chairperson whenever called on to do so.
- (3) The Chairperson will allocate a maximum of three minutes to each person who wishes to address Council.
- (4) The Chairperson or Chief Executive Officer will invite presenters in the order of registration.
- (a) Where technical difficulties arise on the side of the presenter, the Chairperson will move to the next presenter registered and return to the previous presenter at the end of the list to provide sufficient time for resolution.
- (b) Where technical difficulties prevent the presenter from rejoining the meeting, they will have the opportunity to address the next Council Meeting.
- (5) The Chairperson or Chief Executive Officer have the discretion to alter the order of persons to be heard.
- (6) The person, in addressing the Council:
- (a) must confine their address to the three minute allocation of time;
- (b) shall extend due courtesy and respect to the Council and the processes under which it operates;
- (c) shall take direction from the Chairperson whenever called upon to do so.
- (d) there will be no discussion or debate with the attendees in the public gallery however Councillors may ask questions of clarification of the attendee; and
- (e) Standing Orders do not need to be suspended to allow discussion for the purposes of clarification.

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(7) The person addressing Council must ensure that their background does not display any offensive, indecent, insulting or objectionable item, image or words.

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(a) The Chairperson may order and cause the removal of any item, image or words that are deemed by the Chairperson to be objectionable, disrespectful or otherwise inappropriate.

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(b) Failure to comply with an order may result in the Chairperson terminating the address.

(8) A response to a submission, question or comment raised during the Further Gallery and Online Comments section of the Council Meeting may be provided immediately at the discretion of the Chairperson or Chief Executive Officer.

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(9) If the matter requires further investigation or comment, the submission, question or comment will be referred to the relevant Council Officer for investigation and response if required.

(10) Where required, Council Officers will respond acknowledging the question and providing procedural advice and/or the response within 10 working days of the Council Meeting.

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#### 7.56 Petitions and Joint Letters

(1) A petition or joint letter presented to Council must be received within the appropriate timeframe for the publishing of the Council agenda. Failure to meet the deadline will result in the petition or joint letter being included in the next Council agenda.

(a) Where the petition or joint letter relates to a complex or serious matter, it may be presented at the Council meeting as a Late or Urgent Item for receipt.

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(2) A petition or joint letter presented to the Council must lay on the table for a period determined by the Council but not exceeding the next two Council Meetings. No motion, other than to receive the petition or joint letter may be accepted by the Chairperson, unless the Council unanimously agrees to deal with it earlier.

(3) Every petition submitted to Council must:

- (a) be in legible and in permanent writing;
- (b) be clear and on each page the matter and action sought from council is stated;
- (c) not be derogatory, defamatory or objectionable in language or nature;
- (d) not relate to matters outside the powers of Council; and
- (e) include the names, addresses and original signatures of 10 or more people and identify a head petitioner with whom Council will communicate any directions or acknowledgements.



- (4) Where a petition has been signed by less than 10 people, it will be treated as a joint letter and forwarded directly to the appropriate member of Council staff for action as an operational item.
- (5) Any Councillor presenting a petition is responsible for ensuring that:
  - (a) he or she is familiar with the contents and purpose of the petition; and
  - (b) the petition is not derogatory, defamatory or objectionable in language or nature.
- (6) Unless Sub-Rules (6) or (7) apply, the only Motions that may be considered by Council on any petition are:
  - (a) that the petition be received; and
  - (b) that the petition be referred to the Chief Executive Officer or relevant General Manager for consideration and response; or
  - (c) that the petition be referred to the Chief Executive Officer or relevant General Manager for a report to a future Council Meeting.
- (7) If a petition relates to an item listed on the Agenda for the Meeting at which it is submitted, the petition may be dealt with in conjunction with the item.
- (8) If a petition relates to a 'planning matter' or 'statutory matter' which is the subject of a public submissions process in accordance with the relevant legislation, the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).
- (9) The Chief Executive Officer may determine that an electronic or online petition will be submitted to a Council Meeting.
- (10) The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council meeting.
- (11) An online or electronic petition will not be presented to a Council meeting if it contains signatures that are false or misleading or fails to meet the minimum 10 signatures to constitute a petition.

#### **7.67 Display of Placards and Posters**

- (1) Subject to Sub-Rules (2) and (3), a person can display any placards or posters in the Council Chamber or in any building where a Meeting is being, or is about to be, held, including outside the entrance to the building.
- (2) A placard or poster must not:
  - (a) display any offensive, indecent, insulting or objectionable item or words;
  - (b) obstruct the entrance to the Council Chamber or a building where a Meeting is being, or is about to be, held; or
  - (c) obstruct the view of or physically impede any person.

- (3) The Chairperson may order and cause the removal of any placard or poster that is deemed by the Chairperson to be objectionable, disrespectful or otherwise inappropriate.

#### 7.78 Chairperson May Remove

- (1) Members of the public present at a Council Meeting must not interject during the Council Meeting.
- (2) If a person, other than a Councillor, interjects or gesticulates offensively during the Council Meeting, the Mayor may direct:
  - (a) the person to stop interjecting or gesticulating offensively; and
  - (b) if the person continues to interject or gesticulate offensively, the removal of the person.
- (3) The Chairperson may cause the removal of any object or material that is deemed by the Chairperson to be objectionable or disrespectful.
- (4) In causing a person's removal under Sub-Rule (2)(b), or the removal of an object or material under Sub-Rule (3), the Chairperson may ask the Chief Executive Officer, an Authorised Officer of Council or a member of Victoria Police to remove the person, object and/or material.
- (5) Any person who has been called to order, including any Councillor, who fails to comply with the Chairperson's direction will be liable to be removed from the meeting.
- (6) The Chairperson has ~~thea~~ discretion to cause the removal of any person, including a Councillor, who disrupts any meeting or fails to comply with a direction.

### 8. VOTING

**Overview:** *At the conclusion of debate on a matter before the Meeting, the Chairperson must put the question, Motion or amendment to the vote. Each Councillor is entitled to one vote and voting must be able to be seen by those participating in the Meeting and those observing the Meeting. **In the case of a hybrid or virtual meeting, a Councillor may cast their vote by either raising their hand in view of the camera such that all present at the meeting are able to see or, at the Mayor or Chairperson's request, verbally stating their vote.** The vote is determined by a majority of the Councillors present at the Meeting at the time the vote is taken voting in favour of the Motion. If a vote is tied, the Chairperson generally has a casting vote.*

*Sometimes a Councillor may want his or her vote recorded – this is provided for in this section, along with the procedure when a Councillor calls for a division on a vote which is when how each Councillor voted is recorded.*

*Provision is made for the introduction of an electronic voting system as long as Council has resolved to implement the system and all participants in the Meeting and those observing a Meeting are able to see which way a Councillor has voted on a matter at the time the vote is taken.*

#### 8.1 How a matter is Determined

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- (1) To determine a Motion at a Meeting, the Chairperson must first call for those in favour of the Motion and then those opposed to the Motion, and must then declare the result to the Meeting.
- (2) In the event of a tied vote, the Chairperson must, unless the Act provides otherwise, exercise the casting vote.

## 8.2 Voting must be Seen

- (1) Voting may be by any method resolved by Council that enables those in attendance and those watching a livestream broadcast to clearly see which way a Councillor has voted at the time a vote is taken.

(2) In the absence of a Council resolving an alternative method, voting on any matter is by show of hands.

(3) In the case of a hybrid or virtual meeting, a Councillor may cast their vote by either raising their hand in view of the camera such that all present at the meeting are able to see or, at the Mayor or Chairperson's request, verbally stating their vote.

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(a) In the event of the absence of a Councillor during a vote due to an apparent technical failure, a Councillor or member of Council staff may bring this to the attention of the meeting Chair, who may briefly adjourn the meeting to enable the Councillor to re-join the meeting.

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(2)(b) Should the Councillor be unable to reconnect, the meeting shall resume in the Councillor's absence provided a quorum can still be maintained.

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## 8.3 When a Division is Permitted

- (1) A division may be requested by any Councillor on any vote.
- (2) The request must be made to the Chairperson either immediately prior to, or immediately after, the vote has been taken, and may not be made after the Meeting has moved to the next item of business.
- (3) When a division is called, the Chairperson must:
  - (a) ask each Councillor wishing to vote in favour of the motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes;
  - (b) ask each Councillor wishing to vote against the motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes;
  - (c) ask each Councillor abstaining from voting to indicate that they are abstaining and the Chairperson must then state the names of those Councillors to be recorded in the Minutes; and
  - (d) declare the result of the division.
- (4) Where a division is requested after the original vote has been taken, the Motion is decided on the division and the fact that there may be a difference between

the result obtained when the original vote was taken and the result obtained on the division must be disregarded.

#### **8.4 No Discussion once a Vote has been Declared**

- (1) Once a vote on a Motion has been declared carried or lost by the Chairperson, no further discussion relating to the Motion is allowed, unless the discussion:
  - (a) involves a Councillor requesting that his or her opposition to a resolution be recorded in the Minutes or calling for a division in accordance with Rule 8.3; or
  - (b) is a Councillor foreshadowing a notice of rescission where a resolution has just been made, or a positive Motion where a resolution has just been rescinded.

### **9. ADDRESSING THE MEETING**

**Overview:** *This section provides for how the Meeting is to be addressed by Councillors and Members of Council Staff. Members of the ~~Community~~ community may only address a Meeting in accordance with Rule 7 of these Governance Rules.*

#### **9.1 Councillor allowed to Speak Uninterrupted**

- (1) A Councillor who has the floor must not be interrupted unless:
  - (a) called to order by the Chairperson, when he or she must sit down and remain silent until the Councillor raising the Point of Order has been heard and the Point of Order dealt with; or
  - (b) given notice by the Chairperson his or her speaking time has elapsed or is about to elapse.

## 9.2 Addressing the Meeting

- (1) If the Chairperson so determines:
  - (a) any person addressing the Chairperson must refer to the Chairperson as:
    - (i) Mayor; or
    - (ii) Chairperson,
 as the case may be;
  - (b) all Councillors, other than the Mayor, must be addressed as Councillor (surname); and
  - (c) all Council staff must be addressed by their official title.
- (2) Except for the Chairperson, any Councillor or person who addresses the Council meeting must stand and direct all remarks through the Chairperson.
- (3) At all other meetings, persons may remain seated but must direct remarks through the Chairperson.
- (4) The Chairperson may permit any Councillor or person to remain seated whilst addressing the Chair, for reasons of sickness, infirmity or disability or for any other reason as determined by the Chairperson.

## 10. MOTIONS AND DEBATE

**Overview:** This section describes the procedure for introducing a Motion or amendment, the rules of debate, foreshadowing a Motion or amendment and the duty of the Chairperson in relation to accepting Motions and amendments. It also describes the process for a Councillor lodging a Notice of Motion for consideration and/or indicating they will raise a matter at the next Council Meeting (foreshadowing items).

A Councillor may move any Motion related to an item included in the Agenda. In the interest of transparency and informed decision making, Motions or amendments should not introduce new matters to a debate that have not been the subject of the report or background of the Motion being considered by Council. Motions are required to be submitted in writing so they can be displayed to the Meeting.

As a resolution must be able to be acted upon, a Motion must clearly state what is intended and what its effect will be if it becomes the decision. This provides clarity for the implementation of Council decisions.

This section also describes the circumstances and procedures under which a Council decision can be rescinded or altered. It also prescribes a procedure under which a Council policy can be altered or varied.

### 10.1 Moving a Motion

The procedure for any motion is-

- (a) The mover must state the motion without speaking to it;
- (b) It must be seconded by a Councillor other than the mover;

- (c) If a motion is not seconded, the motion will lapse for want of a seconder;
- (d) If the motion is seconded, the Chairperson must ask: "Is the motion opposed?";
- (e) If the motion is not opposed the mover of the motion may address the Council on the motion.
- (f) If no Councillor indicates opposition, the motion must be declared to be carried without being voted on and will be treated as being passed unanimously;
- (g) If a Councillor indicates opposition, then the Chairperson must request-
  - (i) the mover to address the Council on the motion;
  - (ii) the seconder to address the Council on the motion;
  - (iii) any Councillor opposed to debate the motion;
  - (iv) any other Councillors for and against the motion to debate in turn; and
  - (v) that the debate continues until one side has been exhausted at which time the Chairperson may conclude the debate and will ask the mover for the right of reply.

### 10.2 Chairperson's Duty

The Chairperson must not accept any Motion which:

- (1) is defamatory; or
- (2) is objectionable in language or nature; or
- (3) is vague or unclear in its intention; or
- (4) is outside the powers of Council; or
- (5) is not relevant to an item of business on the agenda and has not been admitted as a Late Item; or
- (6) intends to be an amendment but is not.

### 10.3 Right of Reply

- (1) The mover of a Motion, which has not been amended, may, once debate has been exhausted, exercise a right of reply to matters raised during debate.
- (2) After the right of reply has been exercised, the Motion must immediately be put to the vote without any further discussion or debate.
- (3) No new matters may be raised in the right of reply.
- (4) If no Councillor has spoken against a Motion, there will be no right of reply.

**10.4 Moving an Amendment**

- (1) A motion having been moved and seconded (but before being opposed or carried) may be amended by leaving out, inserting or adding words which must be relevant to the original motion and do not substantively alter the original intent of the motion.
- (2) An amendment may be proposed or seconded by any Councillor, except the mover and seconder of the original Motion.
- (3) If a Councillor proposes an amendment and the original mover and seconder of the Motion both indicate their agreement with the amendment, the amended Motion becomes the substantive Motion without debate or vote.
- (4) If a Councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:
  - (a) the amendment must be moved and seconded;
  - (b) a Councillor may speak on any amendment once, whether or not he or she has spoken to the Motion, but debate must be confined to the terms of the amendment;
  - (c) any number of amendments may be proposed to a Motion, but only one amendment may be accepted by the Chairperson at any one time. No second or subsequent amendment, whether to the Motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with and voted on;
  - (d) if the amendment is carried, the Motion as amended then becomes the Motion before the Meeting (known as the 'substantive Motion'); and
  - (e) the mover of an amendment does not have right of reply.

**10.5 Foreshadowing Motions**

- (1) At any time during debate a Councillor may foreshadow a Motion so as to inform Council of his or her intention to move a Motion at a later stage in the Meeting, but this does not extend any special right to the foreshadowed Motion.
- (2) A Motion foreshadowed may be prefaced with a statement that, in the event of a particular Motion before the Meeting being resolved in a certain way, a Councillor intends to move an alternative or additional Motion.
- (3) A Motion foreshadowed has no procedural standing and is merely a means to assist the flow of the Meeting.
- (4) The Minutes of the Meeting will not include foreshadowed Motions unless the foreshadowed Motion is subsequently formally moved as a Motion.

**10.6 Withdrawal of Motions**

- (1) Before any Motion is put to the vote, it may be withdrawn with the Agreement of Council.

**10.7 Separation of Motions**

- (1) Where a Motion contains more than one part, a Councillor may request the Chairperson to put the Motion to the vote in separate parts.
- (2) The Chairperson may decide to put any Motion to the vote in separate parts.

**10.8 Motions in Writing**

- (1) All Motions, except Procedural Motions, must be submitted in writing.
- (2) The Chairperson may adjourn a Meeting while a Motion is being written or may request Council to defer the matter until the Motion has been written, allowing the Meeting to proceed uninterrupted.

**10.9 Debate must be Relevant to the Motion**

- (1) Debate must always be relevant to the Motion before the Meeting, and, if not, the Chairperson must request the speaker to confine debate to the Motion.
- (2) If, after being requested by the Chairperson to confine debate to the Motion before the Meeting, the speaker continues to debate irrelevant matters, the Chairperson may direct the speaker to be seated and not speak further in respect of the Motion before the Chairperson. The speaker must immediately comply with any such direction.

**10.10 Adequate and Sufficient Debate**

- (1) Adequate debate is required where a matter is contentious in nature. In such a case, every Councillor should be given an opportunity to participate in the debate.
- (2) A Motion has been sufficiently debated if opposing views (where they exist) have been sufficiently put, not so much the number of those who have spoken but whether all minority opposing views have been put.
- (3) Once the views put are representative of the views of all Councillors the debate would be regarded as sufficient.



**10.11 Speaking times**

- (1) The Chairperson has the right to extend the speaking time where they determine that the current issue being spoken to is considered complex or serious and where the extension will add substantial value to understanding.
- (2) Unless an extension of speaking time has been approved, the maximum speaking times are:
  - (a) the mover of a Motion or amendment - three minutes;
  - (b) the mover of a Motion when exercising his or her right of reply - three minutes; and
  - (c) any other speaker - three minutes.

**10.12 Procedural Motions**

- (1) Unless otherwise prohibited, and subject to Sub-Rule (3), a procedural Motion may be moved at any time and must be dealt with immediately by the Chairperson.
- (2) Procedural Motions require a seconder.
- (3) The Chairperson may reject a procedural Motion if he or she believes the Motion on which it is proposed has not been adequately or sufficiently debated.
- (4) Regardless of any other provision in the Governance Rules, a procedural Motion must be dealt with in accordance with the table at Sub-Rule (8).
- (5) A Procedural Motion may not be moved or seconded by the Chairperson.
- (6) Unless otherwise provided, debate on a procedural Motion is not permitted and the mover does not have a right of reply.
- (7) Unless otherwise provided, a procedural Motion must not be amended.
- (8) Procedural Motions table:

<i><b>Motion</b></i>	<i><b>Recommended Form</b></i>	<i><b>Mover/Second</b></i>	<i><b>When Prohibited</b></i>	<i><b>Effect If Carried</b></i>	<i><b>Effect If Lost</b></i>	<i><b>Debate Permitted</b></i>
<b><i>Deferral of a matter (to a future meeting)</i></b>	'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral)'...	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of the Mayor/Deputy Mayor; (b) During the election of a Chairperson; or (c) When another Councillor is speaking	Consideration/debate on the Motion and/or amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future Meeting, where a fresh Motion may be put and debated	Debate continues unaffected	Yes
<b><i>Closure (of debate)</i></b>	'That the motion now be put'	Any Councillor who has not moved or seconded the original Motion or spoken for/against the original Motion	During nominations for a Chairperson	Motion or amendment is put to the vote immediately without further debate, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the Motion	Debate continues unaffected	No
<b><i>Laying a motion on the table (pausing debate)</i></b>	'That the motion be laid on the table'	A Councillor who has not spoken for/against the Motion	During the election of the Mayor/Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same Meeting	Debate continues unaffected	No
<b><i>Take a motion from the table (resume debate on a matter)</i></b>	'That the motion in relation to XX be taken from the table'	Any Councillor	When no Motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
<b><i>Alter the order of business</i></b>	'That the item listed at XX on the agenda be considered before/after the item listed as XY'	Any Councillor	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the Meeting	Items are considered in the order as listed in the Agenda	No

<b><i>Suspension of Standing Orders</i></b>	'That Standing Orders be suspended to ...' (reason must be provided)	Any Councillor		The rules of the Meeting are temporarily suspended for the specific reason given in the Motion  No debate or decision on any matter, other than a decision to resume Standing Orders, is permitted	The Meeting continues unaffected	No
<b><i>Resumption of Standing Orders</i></b>	'That Standing Orders be resumed'	Any Councillor	When Standing Orders have not been suspended	The temporary suspension of the rules of the Meeting is removed	The Meeting cannot continue	No
<b><i>Consideration of confidential matter(s)</i></b> <b><i>(close the meeting to members of the public)</i></b>	That, in accordance with section 66(2)(a) of the <i>Local Government Act 2020</i> the Meeting be closed to members of the public for the consideration of item XX is confidential as it relates to [insert reason]	Any Councillor	During the election of the Mayor/Deputy Mayor	The Meeting is closed to members of the public	The Meeting continues to be open to the public	Yes
<b><i>Reopen the meeting</i></b>	'That the meeting be reopened to members of the public'	Any Councillor		The Meeting is reopened to the public	The Meeting remains closed to the public	No

**10.13 Notices of Motion**

- (1) A notice of motion cannot be accepted by the Chairperson unless it has been listed on the agenda for the meeting at which it is proposed to be moved.
- (2) A Notice of Motion must be in writing, signed by the Councillor (including by electronic means), and be lodged with the Chief Executive Officer no later than close of business 10 days before the Meeting at which it is intended to be considered to ensure its inclusion in the Agenda.
- (3) The Chief Executive Officer must inform Councillors about the operational, legal, financial and other risks, including non-compliance with statutory obligations of any proposed notice of motion. The Chief Executive Officer may suggest revised wording to the draft notice of motion to facilitate compliance with the requirements for notices of motion under the Governance Rules.
- (4) A Notice of Motion must relate to the objectives, role and functions of Council as outlined in the Act.
- (5) A Notice of Motion must call for a Council report if the Notice of Motion proposes any action that:
  - (a) proposes to establish, amend or extend Council policy;
  - (b) proposes to impact the rights of any person who has not had the opportunity to contribute their views;
  - (c) commits Council to any contractual arrangement; or
  - (d) concerns any litigation in respect of which Council is a party.
- (6) The Chief Executive Officer must reject any Notice of Motion which:
  - (a) is too vague;
  - (b) is defamatory;
  - (c) may be prejudicial to any person or Council;
  - (d) is objectionable in language or nature;
  - (e) is outside the powers of Council
  - (f) is submitted during Election Period.
- (7) The Chief Executive Officer may reject a proposed Notice of Motion that:
  - (a) relates to a matter that can be addressed through the operational service request process; or
  - (b) relates to a matter that has been previously resolved by Council or is acted upon.
- (8) If rejecting a Notice of Motion, the Chief Executive Officer must inform the Councillor who lodged it of that rejection and the reasons for the rejection no

later than nine days before the Meeting at which it is intended to be considered. The Councillor may submit a revised Motion within 24 hours.

- (9) The Chief Executive Officer may advise the Chairperson to consider a notice of motion in a closed meeting of Council if the content/matter of the Notice of Motion is considered to be confidential as defined in section 3(1) of the Act.
- (10) The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the agenda and outline the policy, financial and resourcing implications if the Notice of Motion is passed.
- (11) The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the Notice of Motion being published in the agenda for the relevant Council Meeting.
- (12) The Chief Executive Officer must cause all Notices of Motion to be sequentially numbered, dated and entered in a register.
- (13) Unless the notice specifies a particular meeting date or Council resolves otherwise, the Chief Executive Officer will list the notice of motion and if more than one, in the order they were received, on the next appropriate meeting agenda.
- (14) The Motion moved must not be substantially different to the motion published in the Agenda, however, may be amended by resolution of the Council.
- (15) If a Councillor who has lodged a Notice of Motion is absent from the Meeting or fails to move the Motion when called upon by the Chairperson to do so, any other Councillor may move the Motion.
- (16) If a Notice of Motion to confirm a previous resolution of the Council cannot be carried in its original form, it will be lost.
- (17) If a Notice of Motion is lost, a similar Motion cannot again be put before the Council for at least three months from the date it was last lost, unless the Council resolves for the Motion to be re-listed at a future meeting.
- (18) If a Notice of Motion is not moved at the Council Meeting at which it is listed, it lapses.

#### **10.14 Notices of Rescission**

- (1) A Councillor may propose a Motion to rescind or alter a previous resolution of Council provided:
  - (a) the previous resolution has not been acted on; and
  - (b) a notice is delivered to the Chief Executive Officer or Delegate setting out:
    - (i) the relevant previous resolution to be rescinded or altered; and
    - (ii) the Meeting and date when the relevant previous resolution was carried.

- (2) A Notice of Rescission must be in writing, signed (including by electronic means) by a Councillor and be delivered to the Chief Executive Officer by close of business at least 10 days prior to the next Meeting.
- (3) The Chief Executive Officer, or a member of Council staff with responsibility for the subject matter of a resolution, may implement a resolution of Council at any time after the close of the Meeting at which it was made. A resolution of Council will be deemed to have been acted on if:
  - (a) its contents or substance has been formally communicated to a person whose interests are materially affected by it, including by publishing the proposed Minutes of a Council Meeting on Council's website; or
  - (b) a statutory process has been commenced so as to vest enforceable rights or obligations on Council or any other person.
- (4) Notwithstanding Sub-Rule (3), the Chief Executive Officer or member of Council staff must defer implementing a resolution which:
  - (a) has not been acted on; and
  - (b) is the subject of a Notice of Rescission which has been delivered to the Chief Executive Officer in accordance with Sub-Rule (4), unless deferring implementation of the resolution would have the effect of depriving the resolution of usefulness, giving rise to non-compliance with a legal obligation or placing the Council at operational, legal, financial or other risk.
- (5) If a Motion for rescission is lost, a similar Motion may not be put before Council for at least three months from the date it was last lost, unless Council resolves that the Notice of Rescission be re-listed at a future Meeting.
- (6) If a Motion for rescission is not moved at the Meeting for which it is listed, it lapses.
- (7) A Notice of Rescission listed on an Agenda may be moved by any Councillor present but be moved in the form it was listed and must not be amended.
- (8) The Chief Executive Officer must cause all rescissions to be sequentially numbered, dated and entered in a register.

#### **10.15 Change of Council Policy**

- (1) Council reviews its policies to ensure they are current and continue to reflect community expectations and the position held by Council.
- (2) It is good practice for Council to review significant policies at least once in each Council term (every four years) and such reviews may lead to change in policy position.
- (3) Subject to Sub-Rule (4), if Council wishes to change a Council policy, a formal notice of rescission is not required.
- (4) If a policy has been in force in its original or amended form for less than 12 months, any intention to change the policy which may result in a substantial

change to the policy's application or operation for members of the public should be communicated to those affected, and their comment sought, prior to the policy being changed.

#### 10.16 Foreshadowed Items

- (1) At the time designated in the Meeting Agenda, a Councillor may foreshadow a Notice of Motion to be submitted for consideration at the next Meeting by indicating, when called on to do so by the Chairperson, the subject matter of the foreshadowed Notice of Motion.
- (2) The subject matter, as indicated by the Councillor, of a Foreshadowed Item will be recorded in the Minutes.
- (3) No discussion or debate is allowed on a Foreshadowed Item.
- (4) A Foreshadowed Item will have no further formal status at that Council Meeting.
- (5) Foreshadowed Items are intended to be used to indicate to Council and the community matters of importance that will be raised at the next Council Meeting.
- (6) If a Councillor does not submit a Notice of Motion for the next Council Meeting, no further action on a Foreshadowed Item will occur.

### 11. POINTS OF ORDER

**Overview:** *A Point of Order is taken when a Councillor draws the attention of the Chairperson to an alleged irregularity in the proceedings. Valid Points of Order, the process for raising and ruling on a Point of Order, and the procedure if there is dissent on the Chairperson's ruling are described in this section.*

#### 11.1 Raising Points of Order

- (1) A Councillor raising a Point of Order must state:
  - (a) the Point of Order; and
  - (b) any section, Rule, paragraph or provision relevant to the Point of Order.
- (2) The Chairperson must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the Point of Order raised, without entering into any discussion or comment.
- (3) The Chairperson may adjourn the Meeting to consider a Point of Order; otherwise he or she must rule on it as soon as it is raised.
- (4) All other matters before Council are suspended until the Point of Order is decided.

#### 11.2 Dissent in Chairperson's Ruling

- (1) A Motion of dissent in the Chairperson's ruling must, if seconded, be given priority to all other items of business and a substitute Chairperson must be elected to preside while the Motion is being considered.



- (2) The substitute Chairperson must put questions relative to the ruling to the Chairperson first, and then to the mover of the Motion.
- (3) The substitute Chairperson must conduct a debate on the Chairperson's ruling, and the matter must be decided by a majority vote.
- (4) The Chairperson must then resume the Chair for the remainder of the Meeting.

### 11.3 Valid Points of Order

- (1) A Point of Order may be raised in relation to:
  - (a) a Motion which has not been accepted by the Chairperson;
  - (b) a procedural matter;
  - (c) a Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
  - (d) debate that is irrelevant to the matter under consideration;
  - (e) a matter that is outside the powers of Council; or
  - (f) any act of disorder.

### 11.4 Contradiction or Opinion

- (1) Rising to express a mere difference of opinion or to contradict a speaker is not a Point of Order.

### 11.5 Disorderly Conduct

- (1) The conduct of Councillors at meetings is governed by the Act, these Rules and the Councillor Code of Conduct.

### 11.6 Chairperson May Adjourn Disorderly Meeting

- (1) The Chairperson may call a break in a Meeting for either a short time, or to resume another day if:
  - (a) the behaviour ~~at the Council table~~ **by Councillors** or in the gallery is significantly disrupting the Meeting; or
  - (b) when a Meeting has been in progress for longer than two hours.
- (2) The break referred to in Sub-Rule (1) is an adjournment.
- (3) Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the Meeting, and prevents the conduct of Council business:
  - (a) Council may, by resolution, suspend that Councillor from a portion of the Meeting or from the balance of the Meeting where the Chairperson has warned the Councillor to cease that behaviour; or

- (b) The Mayor, under section 19 of the Act, at a Council meeting, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the meeting for a period of time or the balance of the Meeting.
- (4) Where Council suspends a Councillor under Sub-rule (3)(a), or the Mayor directs a Councillor to leave the meeting under Sub-rule (3)(b) the Councillor will take no active part in the portion of the Meeting from which he or she has been suspended.
- (5) If a Councillor has been suspended from a meeting or directed to leave in accordance with Sub-rule (3) the Chairperson may ask the Chief Executive Officer, an Authorised Officer of Council or a member of Victoria Police to remove the Councillor from the Chamber or if attendance is by electronic means of communication, the Chairperson may direct the Chief Executive Officer or an Authorised Officer to remove the Councillor from the meeting by terminating the connection.

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### 11.7 Final Ruling on a Point of Order

- (1) The decision of the Chairperson in respect to a point of order raised will not be open for discussion and will be final and conclusive.

## 12. MINUTES

**Overview:** *The Minutes of a Meeting must contain details of the proceedings and resolutions made, be clearly expressed, be self-explanatory and incorporate relevant reports or a summary of the relevant reports considered in the decision-making process. The Minutes of a Council Meeting must be submitted to the next appropriate Council Meeting for confirmation.*

### 12.1 Keeping of Minutes

- (1) The Chief Executive Officer or Delegate is responsible for the keeping of Minutes on behalf of Council. Those Minutes must record:
  - (a) the date, place, time and nature of the Council Meeting;
  - (b) the names of Councillors and whether they are present, an apology, on leave of absence, etc.;
  - (c) the titles of the members of Council staff present who are not part of the gallery;
  - (d) the disclosure of a conflict of interest made by a Councillor in accordance with the Act;
  - (e) the arrivals and departures of Councillors, during the course of the Meeting (including any temporary departures or arrivals);
  - (f) every Motion and amendment moved (including procedural Motions),
  - (g) the outcome of every Motion moved;

- (h) where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
- (i) when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any Motion, noting that under section 61(5) of the Act that a Councillor present at the meeting who does not vote is taken to have voted against the question;
- (j) details of any failure to achieve or maintain a quorum;
- (k) a summary of any question asked and the response provided as part of public question time Further Gallery and Online Comments time;
- (l) details of any petitions made to Council;
- (m) the time and reason for any adjournment of the Meeting or suspension of standing orders;
- (n) any other matter, which the Chief Executive Officer thinks should be recorded to clarify the intention of the Meeting or assist in the reading of the Minutes; and
- (o) the time the Council Meeting was opened and closed, including any part of the Council Meeting that was closed to members of the public.

## 12.2 Confirmation of Minutes

- (1) The Minutes as recorded by the Chief Executive Officer, or Delegate, will be made available as the proposed Minutes to:
  - (a) Councillors, within seven days;
  - (b) members of the public, by publishing them on Council's website within seven days;

of the Council Meeting they relate to.
- (2) At every Council Meeting, the Minutes of the preceding Council Meeting(s) must be dealt with as follows:
  - (a) a Motion will be moved to confirm the Minutes in the following terms: 'That Council adopt the Minutes and resolutions of the Ordinary Council Meeting of .....(day).....(month).....';
  - (b) if a Councillor indicates opposition to the Minutes, the Councillor must specify the particular item or items in the Minutes and, after asking any questions to clarify the matter, can only move a Motion to rectify the alleged error(s) in the Minutes by adding the following words to the Motion in Sub-Rule (2)(a) '...subject to the following alteration(s).....';
  - (c) no debate or discussion is permitted on the confirmation of Minutes except as to their accuracy as a record of the proceedings of the Council Meeting to which they relate;

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- (d) once the Minutes are confirmed in their original or amended form, the Minutes must, if practicable, be signed by the Chairperson of the Meeting at which they have been confirmed; and

~~(e) the Minutes must be entered in the minute book and each item in the minute book must be entered consecutively.~~

### 12.3 Recording of Proceedings

- (1) A person in the gallery must not operate film, photographic, tape-recording or other equipment to reproduce sound and/or images at any Meeting without first obtaining the consent of the Chairperson.
- (2) The consent of the Chairperson may be revoked at any time during the course of a Meeting by the Chairperson stating that consent has been revoked and ordering that the recording cease.

### 13. SUSPENSION OF STANDING ORDERS

**Overview:** *Standing Orders are the rules made to govern the procedure at Council Meetings contained in these Governance Rules. Standing Orders cover a range of matters including the order of business, rules of debate, procedural motions and election procedures. Standing Orders can be suspended to facilitate the business of a meeting.*

- (1) To temporarily remove the constraints of formal meeting procedure and allow full discussion or clarification of an issue, Council may, by resolution, suspend standing orders in accordance with the procedural motion table at Rule 10.12.
- (2) No Motion can be accepted by the Chairperson or lawfully be dealt with during any suspension of standing orders, except a Motion to resume standing orders.
- (3) No Motion to suspend standing orders can be accepted by the Chairperson during a second extension of time for a Meeting.

### 14. DELEGATED COMMITTEES

**Overview:** *Council may establish Delegated Committees as part of its good governance framework. Delegated Committees can comprise of Councillors, members of Council staff and others and must be chaired by a Councillor. As Council may delegate specific powers, duties and functions to Committees, their meeting procedures need to be formal.*

- (1) If Council establishes a Delegated Committee, these Rules will apply to the Delegated Committee Meetings with any necessary modifications.
- (2) For the purpose of Sub-Rule(1):
  - (a) a Council Meeting is to be read as a reference to a Delegated Committee Meeting;
  - (b) a Councillor is to be read as a reference to a Member of the Delegated Committee; and

- (c) a reference to the Mayor is to be read as a reference to the Chairperson of the Delegated Committee.
- (3) If Council establishes a Delegated Committee, Council may resolve that a provision of these Governance Rules do not apply to that Committee.

## 15. COMMUNITY ASSET COMMITTEES

**Overview:** Section 65 of the Act provides for Council to establish a Community Asset Committee for the management of a community asset such as a hall or recreation reserve. Council may appoint members of the community to the committee and delegate to it powers, duties or functions. The powers delegated to a Community Asset Committee must be limited in the amount and purpose of any financial delegation.

- (1) The Governance Rules may apply to any Community Asset Committee established by Council.
- (2) Council may resolve, in establishing a Community Asset Committee which sections of the Governance Rules apply.
- (3) A Community Asset Committee must act in accordance with its adopted Charter, Instrument of Delegation and any Terms of Reference adopted by Council.

## 16. AUDIT AND RISK COMMITTEE

**Overview:** The Act provides for Council to establish an Audit and Risk Committee to provide oversight.

- (1) The Governance Rules will apply to the Audit and Risk Committee established by Council unless otherwise provided in the Audit and Risk Charter and Terms of Reference.
- (2) Council may resolve, in establishing an Audit and Risk Committee, that the meeting procedure Rules of these Governance Rules do not apply.
- (3) An Audit and Risk Committee must report the Minutes of all Committee meetings to the next practicable Council meeting.
- (4) An Audit and Risk Committee must act in accordance with its adopted Charter and Terms of Reference adopted by Council.

## 17. ELECTION PERIOD POLICY

- (1) Council will have in place an Election Period Policy that:
  - (a) governs decision making during a local government election period, including what may be considered at a Council meeting;
  - (b) prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
  - (c) sets out the conditions for any community engagement required to be undertaken during an election period, including consultations and civic events;
  - (d) sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns;
  - (e) defines roles and responsibilities in relation to who is the spokesperson for Council during an election period; and

- (f) sets out the requirements for a Councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.
- (2) At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its Election Period Policy.
- (3) The Election Period Policy forms part of these Governance Rules at Appendix 1.
- (4) Any outstanding Delegate's Reports may still be reported to a Meeting of Council during this period.
- (5) Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

## 18. CONFLICT OF INTEREST

**Overview:** Part 6 Division 2 of the Act provides that Council must include in its Governance Rules procedures for disclosures of Conflicts of Interest, including at meetings conducted under the auspices of Council that are not Council meetings. Meetings conducted under the auspices of Council include those meetings arranged or hosted by Council.

*These Rules provide the procedures for disclosures of conflicts of interest.*

### 18.1 Definitions

Sections 127, 128 and 129 of the Act defines general and material conflicts of interest and provides exemptions for remoteness and interests in common with a substantial proportion of ratepayers along with other specific circumstances as set out in the following table:

Conflict Type	Definitions
<p><b>GENERAL CONFLICT OF INTEREST</b> (Section 127)</p> <p>(1) Subject to section 129, a relevant person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's <u>private interests</u> could result in that person acting in a manner that is contrary to their <u>public duty</u>.</p>	<p><b>Private Interests</b> (section 127(2))</p> <p>Any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief.</p> <p><b>Public Duty</b> (section 127(2))</p> <p>The responsibilities and obligations that a relevant person has to members of the public in their role as a relevant person</p>
<p><b>MATERIAL CONFLICT OF INTEREST</b> (Section 128)</p> <p>(1) Subject to section 129, a relevant person has a material conflict of interest in respect of a matter if an <u>affected person</u> would gain a benefit or suffer a loss depending on the outcome of the matter.</p> <p>(2) The benefit may arise or the loss incurred -</p> <p>(a) directly or indirectly; or</p> <p>(b) in a pecuniary or non-pecuniary form.</p>	<p><b>Affected Person</b> (section 128(3))</p> <p>For the purposes of section 128(3), any of the following is an <b>affected person</b>—</p> <p>(a) the relevant person;</p> <p>(b) a family member of the relevant person;</p> <p>(c) a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body;</p> <p>(d) an employer of the relevant person, unless the employer is a public body;</p> <p>(e) a business partner of the relevant person;</p> <p>(f) a person for whom the relevant person is a consultant, contractor or agent;</p> <p>(g) a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee;</p> <p>(h) a person from whom the relevant person has received a <u>disclosable gift</u>.</p> <p><b>Disclosable Gift</b> (section 128(4))</p> <p>means one or more gifts with a total value of, or more than, \$500 or if an amount is prescribed for the purposes of section 128(4), the prescribed amount, received from a person in the 5 years preceding the decision on the matter -</p>



	<p>(a) if the relevant person held the office of Councillor, was a member of Council staff or was a member of a delegated committee at the time the gift was received; or</p> <p>(b) if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation -</p> <p>but does not include the value of any reasonable hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a Councillor, member of Council staff or member of a delegated committee.</p>
<p><b>Exemptions (section 129)</b></p> <p>A conflict of interest does not arise if any of the following applies—</p> <ul style="list-style-type: none"> <li>(a) the conflict of interest is so remote or insignificant that it could not be reasonably regarded as capable of influencing the actions or decisions of the relevant person in relation to the matter;</li> <li>(b) the interest that would give rise to a conflict of interest is held in common with a substantial proportion of the residents, ratepayers or electors of the municipal district and does not exceed the interest held by the other residents, ratepayers or electors;</li> <li>(c) the relevant person does not know the circumstances that give rise to the conflict of interest, and could not be reasonably expected to know those circumstances;</li> <li>(d) the interest only arises because the relevant person is the representative of the Council on a not-for-profit organisation that has an interest in the matter and the relevant person receives no personal advantage from the not-for-profit organisation;</li> <li>(e) the interest only arises because a family member of the relevant person is a member but not an office-holder of a not-for-profit organisation;</li> <li>(f) the interest only arises because the relevant person is a member of a not-for-profit organisation that has expressed an opinion or advocated for an outcome in regard to the matter;</li> <li>(g) the interest arises in relation to a decision by a Councillor on a matter or in a circumstance that is prescribed to be exempt by the regulations.</li> </ul>	

**18.2 Obligations with regard to Conflict of Interest:**

- (1) Councillors, Members of Delegated Committees and Council staff are required to:
  - (a) avoid all situations which may give rise to conflicts of interest;
  - (b) identify any conflicts of interest; and
  - (c) disclose or declare all conflicts of interest.

**18.3 Councillors and Members of Delegated Committees**

- (1) May not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- (2) When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.
- (3) All disclosures of conflicts of interest will be recorded in the Minutes of a Council or Delegated Committee Meeting.
- (4) Council will maintain a Conflict of Interest Register which will be made available upon request.

**18.4 Procedure at a Council or Delegated Committee Meeting**

- (1) At the commencement of the Council meeting, the Chairperson will call for a declaration of all conflicts of interest to be declared throughout the course of the Council meeting, **and any Councillor with a conflict of interest must clearly state:**
  - (a) the item for which they have a conflict of interest;
  - (b) whether their conflict of interest is general or material; and
  - (c) the circumstances that give rise to the conflict of interest.
- (2) At the time indicated in the Agenda, a Councillor with a conflict of interest in an item on the Agenda must indicate they have a conflict of interest by clearly stating:
  - (a) the item for which they have a conflict of interest;
  - (b) whether their conflict of interest is general or material; and
  - (c) the circumstances that give rise to the conflict of interest.
- (3) Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor or Member of a Delegated Committee must indicate to the Meeting the existence of the conflict of interest and leave the Meeting.

- (a) **Where the meeting takes the form of a hybrid or virtual meeting, a Councillor or Member of a Delegated Committee required to leave the Meeting due to a conflict of interest must:**

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(i) deactivate their microphone and camera; or

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(ii) disconnect completely from the online meeting platform.

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(3)(b) The Chairperson or Chief Executive Officer will contact the Councillor or Member of a Delegated Committee by other means to notify them to rejoin the meeting.

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(4) A Councillor who is not present at the designated time in the Agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the manner required for the declarations of conflicts of interest at Sub-rule (2) prior to leaving the Meeting.

(a) Where the meeting takes the form of a hybrid or virtual meeting, a Councillor or Member of a Delegated Committee required to leave the Meeting due to a conflict of interest must:

(i) deactivate their microphone and camera; or

(ii) disconnect completely from the online meeting platform.

(4)(b) The Chairperson or Chief Executive Officer will contact the Councillor or Member of a Delegated Committee by other means to notify them to rejoin the meeting.

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(5) A Councillor or Member of a Delegated Committee who discloses a conflict of interest and leaves a Meeting must not communicate with any participants in the Meeting while the decision is being made.

#### 18.5 Procedure at other meetings organised, hosted or supported by Council

- (1) A Councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.
- (2) At the time indicated on the Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.
- (3) If there is no Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest as soon the matter arises.
- (4) At the time for discussion of that item, the Councillor will leave the Meeting (per Rule 18.4(3) or (4)) and not communicate with any members of the meeting for the duration of the discussion.
- (5) The existence of a conflict of interest will be recorded in the Minutes of the meeting.
- (6) If there are no Minutes kept of the meeting, the conflict of interest will be recorded in a meeting record and provided to Council's Governance team for recording in the register of Conflicts of Interest.
- (7) The meeting Minutes or record will also record the times when the Councillor left the Meeting and returned to the meeting.

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- (8) Meeting records and reports will be presented to Council for noting and inclusion on the public record.

#### 18.6 Council Staff

- (1) Must act in accordance with the Employee Code of Conduct.
- (2) Must not exercise a delegation or make a decision on any matter where they have a conflict of interest.
- (3) May be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at Rule 18.7 and the Employee Code of Conduct.

#### 18.7 Procedure for Disclosures of Conflicts of Interest by Council Staff

- (1) Council staff must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.
- (2) All conflicts of interest disclosed by Council staff will be provided to the Governance team for recording in the register of Conflicts of Interest.
- (3) A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:
  - (a) The number and qualifications of other people providing advice regarding the same matter is equal or greater; or
  - (b) The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
  - (c) The staff member's General Manager determines that the conflict of interest has not influenced the advice provided; and
  - (d) The existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.

### 19. JOINT COUNCIL MEETINGS

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**Overview:** *Regional collaboration provides benefits through collective procurement, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it is possible for the participating Councils to make their own decisions and determinations, in some circumstances, it may be beneficial to hold Joint Council Meetings as are provided for at section 62 of the Act.*

- (1) Council may resolve to participate in a Joint Council meeting to consider:
  - (a) collaborative projects;
  - (b) collaborative procurement; or
  - (c) emergency response.

- (2) If Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer (or Delegate) will agree on governance rules with the participating Council(s).
- (3) Where Wellington Shire Council is the lead Council on a matter to be brought for consideration at a Joint Council meeting, the Mayor will be nominated to Chair the Joint Council meeting.
- (4) A majority of Councillors will be appointed to represent Council at a Joint Council meeting.
- (5) Consistent information will be provided to Councillors prior to any Joint Meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.
- (6) A joint briefing arranged in accordance with Sub-rule (5) may be held electronically.

## REVISION HISTORY AND REVIEW

VERSION	TYPE OF CHANGE	EFFECTIVE DATE	APPROVED BY	SUMMARY OF CHANGES
1	New policy	1 September 2020	Council	Creation of new policy as required by introduction of <i>Local Government Act 2020</i> . Encapsulates majority of Local Law 1.
2	Major Review	16 August 2022	Council	Formal incorporation of virtual meeting procedures due to <i>Local Government Act 2020</i> update.

APPENDIX 1 – ELECTION PERIOD POLICY



WELLINGTON  
SHIRE COUNCIL

*The Heart of Gippsland*

# Election Period Policy

*Adopted 1 September 2020*

## ELECTION PERIOD POLICY

### OVERVIEW

The purpose of this policy is to outline the conduct of Council during the Election Period for municipal General Elections. The policy aims to ensure that general elections are conducted in a manner that is ethical, fair and equitable, are publicly perceived as such and support the conduct of good governance for Council and the organisation during the Election Period for municipal General Elections. The policy will also facilitate the continuation of the ordinary business of local government throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established "Election Period" conventions.

This policy also commits Council during the Election Period to:

- avoid making significant new policies or decisions that could unreasonably bind a future Council; and
- ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.

### THE POLICY

#### 1. Background

- 1.1 In the lead up to an election the local government sector adopts an Election Period Policy to avoid actions and decisions that may be interpreted as influencing voters or binding an incoming Council. Specific provisions have been incorporated in the *Local Government Act 2020* (the Act), that prohibit Council from making major policy decisions or publishing or distributing electoral matter in an Election Period.
- 1.2 Section 69 of the Act prescribes the conduct of a Council during the Election Period. This policy is seen as a way to ensure that Council complies with the Act and the municipal elections for Wellington Shire Council are conducted in a manner that is fair, equitable, upholds the highest standards of democratic governance and is publicly perceived as such.

#### 2. Definitions

- 2.1 It should be noted that where terms used in this policy are defined in the Act, their use in this policy is consistent with the definitions in the Act. Definitions used in this policy are detailed in Appendix 2.

#### 3. Election Period

- 3.1 Starts at midnight on the last day on which nominations for the election can be received; and
- 3.2 Ends at 6:00pm on election day.

This translates to a commencement date of 32 days prior to the General Election and it starts at midnight on the last day on which nominations for that election can be received.



The Chief Executive Officer will ensure that all employees are informed of the requirements of this policy in advance of the Election Period commencing.

#### 4. Decision Making

- 4.1 Careful consideration will be given to what decisions at council or special committee meetings should be made in the 32 days leading up to the general election, so that the incoming Councillors are not unreasonably compromised.
- 4.2 It is an established democratic principle that elected bodies should not unnecessarily bind government during an election period. The Council therefore commits to the principle that it will make every endeavour to avoid making decisions that bind the incoming Council.
- 4.3 This includes a commitment to not only comply with the requirements of Section 93A of the Act, pertaining to major policy decisions, but as well relating to significant decisions as specified within this policy.
- 4.4 Examples of the types of actions that should be avoided are:
  - allocation of community grants or other direct funding to community organisations;
  - major planning scheme amendments;
  - awarding of contracts both civil and service;
  - changes to strategic objective;
  - changes to strategies in the Council Plan;
  - asking Questions on Notice;
  - submitting Notices of Motion;
  - introduction of Late Items;
  - decisions relating to the employment or remuneration of a Chief Executive Officer, other than a decision to appoint an acting Chief Executive Officer (section 69(2)(a) of the Act); or
  - to terminate the appointment of a Chief Executive Officer.
- 4.5 Ordinary Council and Delegated Committee Meeting agendas and Unscheduled Council Meeting agendas and/or minutes are to be carefully vetted by the Chief Executive Officer and/or Corporate Management Team to ensure that no agenda item is included in any council agenda during the election period that could potentially influence voters' intentions or encourage candidates to use as part of electioneering under section 69(2) of the Act.
- 4.6 During the Election Period, the Chief Executive Officer will ensure that a "Election Period Statement" is included in every report submitted to an Ordinary Council Meeting and/or Unscheduled Meeting for a decision.
- 4.7 The "Election Period Statement" will specify one of the following:
  - a) The recommended decision is not a Major Policy Decision or a Significant Decision as defined by Council's Election Period Policy.

- b) The recommended decision is not a Major Policy Decision but **is** a Significant Decision as defined by Council's Election Period Policy however an exception should be made for the following reason/s: *[insert reasons for making an exemption]*.
- c) The recommended decision is to seek an exemption from the Minister because the matter requires a Major Policy Decision as defined by Council's Election Period Policy .
- d) The recommended decision is a Major Policy Decision, as defined by Council's Election Period Policy, however an extraordinary circumstances exemption was granted by the Minister for Local Government on *[insert date]*.

## 5. Major Policy Decisions

- 5.1 Section 69 of the Act prohibits a Council, Committee or a person acting under a delegation given by the Council from making a major policy decision during the Election Period for a General Election. If Council considers that there are extraordinary circumstances which require the making of a major policy decision during the election period, the Council may apply in writing to the Minister for an exemption. Rates and charges levied continue to apply under the relevant sections of the *Local Government Act 1989*.

## 6. Significant Decisions

- 6.1 Council will avoid making other decisions during the Election period that are of a significant nature and would unreasonably bind the incoming Council. Significant decisions include:
- a) irrevocable decisions that commit the Council to substantial expenditure or major actions; and
  - b) irrevocable decisions that will have a major impact on the municipality or the community.

## 7. Public Consultation

### 7.1 Definition

Public consultation means a process which involves an invitation or invitations to individuals, groups, organisations or the community generally to comment on an issue or proposed action, proposed policy, and includes discussion of that matter with the public.

### 7.2 Right to Postpone

Public consultation may be undertaken during the Election Period to facilitate the day to day business of Council, to ensure matters continue to be proactively managed. Consultation will avoid express or implicit links to the election. In view of the potential for a matter or issue to become contentious or politically sensitive in the course of an Election period, Council reserves the right to postpone a matter if the issue is likely to affect voting.

### 7.3 Statutory Requirements

The requirements of 7.2 do not apply to public consultation required under the *Planning and Environment Act 1987* .

## 8. Council Resources

- 8.1 It is an established democratic principle that public resources must not be used in a manner that would influence the way people vote in elections. Council therefore commits to this principle in that it will ensure Council resources are not used inappropriately during a Council election. This includes a commitment to comply with the following procedures.
- 8.2 Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in that regard. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, the matter must be referred to the Chief Executive Officer or his or her delegate.
- 8.3 Council resources, including offices, support staff, hospitality services, equipment such as mobile phones, laptops, tablets and printers, and stationery will be used exclusively for normal Council business during the Election Period, and shall not be used in connection with any electioneering activity.
- 8.4 Reimbursements of Councillor's out-of-pocket expenses during the Election Period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.
- 8.5 No Council logos, letterheads or other corporate branding will be used for, or linked in any way to, a candidate's election campaign.
- 8.6 Photos or images taken or provided by Council are not to be used by Councillors for the purposes of electioneering or in support of their election campaign. This applies equally to images on Council's website that may be copied.
- 8.7 No election material or active campaigning is to be conducted at Council sponsored events or be displayed in any Council building.
- 8.8 In applying these principles, the Council understands that the following will be normal practice during the Election Period:
  - 8.8.1 Public events will only be organised and run if it is totally unavoidable to conduct such events during the Election period and then only with the express permission of the Chief Executive Officer;
  - 8.8.2 Speeches for Councillors will only be prepared by Media & Communications business unit in relation to events that are part of normal services or operation of the Council and such speeches will not be circulated or available for publication;
  - 8.8.3 Media services, including media releases, will not be provided to Councillors during the Election Period;
  - 8.8.4 Media releases will not mention or quote any Councillor(s) during the Election Period;
  - 8.8.5 All Council newsletters will not be printed during the Election Period; and
  - 8.8.6 Neither the Council logo nor Council stationery will be used by Councillors in any way that relates to the election.

**9. Equipment and facilities provided to Councillors for the purpose of conducting normal Council business will not be used for campaigning purposes**

- 9.1 Where Councillors have Council funded services, such as mobile phones, land lines and internet connections, and where it is impractical for Councillors to discontinue their use of these during the Election Period, Councillors will reimburse the Council for usage of those services during the Election Period that exceeds normal usage levels. Councillors may wish to consider the specific ways to administer this procedure. For instance, Councillors may decide to use a private phone for all election enquiries and publicise such number on election material.
- 9.2 Councillors standing for re-election must not use Council equipment as a resource to assist with election campaigns. This includes photos or images provided by Council for past Council specific activities

**10. Information**

**10.1 Candidates' Access to Information**

All election candidates have equal rights to information relevant to their election campaigns from the Council administration. Whilst it is important that sitting Councillors continue to receive information that is necessary to fulfill their existing elected roles, neither Councillors nor candidates will receive information or advice from Council officers that may improperly advantage candidates in the elections.

There will be complete transparency in the provision of all information and advice during the Election Period.

**10.2 Information Request Register**

An Information Request Register will be maintained by the Corporate Services business unit during the Election Period. This register will be a public document that records all requests relating to electoral matters and non-routine requests for information by Councillors and candidates, and the responses given to those requests.

Responses to Councillors and candidate requests, as per clause 9.1, will be provided by the Chief Executive Officer or General Managers. Managers will be required to discuss the request and the proposed response with their General Manager prior to the response being provided.

Only Information that can reasonably be accessed will be released.

**11. Misuse and Improper Direction of Position**

- 11.1 Section 123 of the Act prescribes serious penalties for any Councillor who inappropriately makes use of their position or information obtained in the role of a Councillor, to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person or to cause, or attempt to cause, detriment to the Council or another person.

**12. Assistance to Candidates**

- 12.1 The Council affirms that all candidates for the Council election will be treated equally.
- 12.2 All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Election Manager or, where the matter is outside the responsibility of the Election Manager (such as the CEO list), to the Chief Executive Officer or a designated

member of Council staff.

- 12.3 Candidates will be informed of their obligation to complete a Nomination Form which will be available from the Election Manager and electronically via the Victorian Electoral Commission's website, accompanied by the nomination fee.
- 12.4 Candidates will also be informed of the requirements to complete and submit an "Election Campaign Donation Return Form" to the Chief Executive Officer within 40 days after the Election Day.

An election campaign donation form must:

- (a) Be in the prescribed form; and
- (b) Contain the prescribed detail in respect of any gifts received during the donation period, by the candidate or on behalf of the candidate, to be used for or in connection with the election campaign.

**Donation period** means the period—

- (a) commencing on whichever is the later of—
  - (i) 30 days after the last general election for the Council; or
  - (ii) 30 days after the last election for the Council at which the person required to give the election campaign donation return was a candidate; and
- (b) ending 30 days after election day in the current election for the Council;

### 13. Communication

- 13.1 Council communication will not be used in any way that might influence the outcome of a Council election.
- 13.2 During the Election Period, no employee will initiate any public statement that relates to an election issue. Public statements are not only formal press releases but also verbal comments at meetings, functions and events where attending as part of their Council role.
- 13.3 Any requests from Councillors for media advice or assistance during the Election Period will be channelled through the Chief Executive Officer.
- 13.4 In response to media enquiries, the Chief Executive Officer, General Managers or the Media and Public Relations team will only provide a response and such information should relate to current services and operations.
- 13.5 In the Election Period, no media releases will be issued quoting or featuring any Councillor.
- 13.6 During the Election Period, Council initiated communications shall be restricted to communication of normal Council activities.
- 13.7 No media advice or assistance will be provided to Councillors in relation to election campaign matters.
- 13.8 No publicity will be provided that involves specific Councillors.

- 13.9 Councillors should not use their position as an elected representative or their access to Council staff and other Council resources or information in support of an election campaign. This includes photos or images provided by Council for past Council activities.
- 13.10 Contact with the local media will be restricted to the communication of normal Council activities and responding to questions not involving the election or possible election outcomes.
- 13.11 Publicity of Council events (if any during the Election Period) will be restricted to the communication of factual material and will not mention or quote any Councillor.
- 13.12 Councillor participation at Council sponsored events (if any during the Election Period) should not be used to gain attention in support of an election campaign. Council sponsored events includes launches, events, and any other public forum outside of the normal Council meeting cycle – the easiest way to deal with these is to simply not have them during the Election Period.

#### 14. Council Publications

- 14.1 Council must refrain from printing, publishing or distributing or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer.

This is to ensure that Council does not utilise public funds that may influence or be seen to influence people's voting intentions.

- 14.2 The Chief Executive Officer must not intentionally or recklessly certify an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process. – it is an offence for the Chief Executive Officer to contravene this requirement.
- 14.3 Electoral matter is any matter that is intended or likely to affect voting in an election.
- 14.4 Certification by the Chief Executive Officer must be in writing and cannot be delegated. Certification wording – over the Chief Executive Officers signature – should be as follows:
- “Certified by the Chief Executive Officer that this document does not contain electioneering material in accordance with the Local Government Act 2020.”***
- 14.5 A Councillor or member of Council staff must not intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period on behalf of, or in the name of, the Council or on behalf of, or in the name of, a Councillor using Council resources if the electoral advertisement, handbill, pamphlet or notice has not been certified by the Chief Executive Officer.
- 14.6 Electoral material has been interpreted to refer to documents produced for the purpose of communicating with the community, including:
- Council newsletters;
  - Advertisements and notices, for example job advertisements and public notices of contracts;

- Media releases;
- Leaflets and brochures;
- Mailouts to multiple addresses.

**All the above publications will require certification by the Chief Executive Officer.**

Material is definitely electoral matter if it consists of any of the following:

- publicises the strength or weakness of a candidate;
- advocates the policies of the Council or of a candidate;
- responds to claims made by a candidate;
- publicises the achievements of the elected Council;
- publicises matters that have already been the subject of public debate;
- about matters that are known to be contentious in the community and likely to be the subject of election debate;
- dealing with Election Candidates' statements;
- referring to Councillors or candidates by name or by implicit reference.

- 14.7 The publication of material specified above applies to all of Council's websites under the auspice of Council. ***Any new pages on the website or new material will require certification by the Chief Executive Officer during the Election Period.***
- 14.8 The recommended practice, in line with State and Federal Governments, is where possible; avoid all publication activity during the Election Period except where it is essential for the conduct of Council operations.
- 14.9 A number of Council publications with reference to either current Councillors or candidates, both on the website and public display will be withdrawn from display during the Election Period.
- 14.10 During the Election Period, Council's website will not contain material which is precluded by this policy or the statutory requirements relating to publications. Any references to the election will only relate to the election process.
- 14.11 Profiles of the current Mayor and Councillors will be removed from Council's website during the Election Period but retain their contact details for their day-to-day role as a Councillor i.e. names, photos and mobile phone numbers.
- 14.12 Any new material published on Council's website during the Election Period that may be considered to be an advertisement, handbill, pamphlet or notice must also be subject to the certification process via the Chief Executive Officer.
- 14.13 Council is required by the Act to produce an annual report, and the annual report may be published during the Election Period. The annual report will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors but will fulfill its statutory obligations on reporting matters. In accordance with the requirements of section 100 of the Act, Council may

be required to consider the annual report at a meeting of Council held during the Election Period.

- 14.14 Social media – any publication on social media sites such as Facebook, Twitter or Council blogs that are under the auspice of Council will also require certification by the Chief Executive Officer.



**APPENDIX 1 RELEVANT ACT REFERENCE*****Local Government Act 2020******69 Governance Rules to include election period policy***

- (1) *A Council must include an election period policy in its Governance Rules.*
- (2) *An election period policy must prohibit any Council decision during the election period for a general election that—*
  - (a) *relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or*
  - (b) *commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or*
  - (c) *the Council considers could be reasonably deferred until the next Council is in place; or*
  - (d) *the Council considers should not be made during an election period.*
- (3) *An election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.*
- (4) *A Council decision made in contravention of subsection (2)(a) or (b) is invalid.*
- (5) *Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of subsection (4) is entitled to compensation from the Council for that loss or damage.*

## APPENDIX 2 DEFINITIONS

It should be noted that some of the terms used in this policy are defined in the *Local Government Act 2020* (the Act) and their use in this policy is consistent with the Act.

**Community engagement principles** means the principles specified in section 56 of the Act as follows:

### **56 The community engagement principles**

*The following are the community engagement principles—*

- (a) *a community engagement process must have a clearly defined objective and scope;*
- (b) *participants in community engagement must have access to objective, relevant and timely information to inform their participation;*
- (c) *participants in community engagement must be representative of the persons and groups affected by the matter that is the subject of the community engagement;*
- (d) *participants in community engagement are entitled to reasonable support to enable meaningful and informed engagement;*
- (e) *participants in community engagement are informed of the ways in which the community engagement process will influence Council decision making.*

**Donation period** means the period—

- (a) commencing on whichever is the later of—
  - (i) 30 days after the last general election for the Council; or
  - (ii) 30 days after the last election for the Council at which the person required to give the election campaign donation return was a candidate; and
- (b) ending 30 days after election day in the current election for the Council;

**Election period** means the period that—

- (a) starts at the time that nominations close on nomination day; and
- (b) ends at 6 p.m. on election day;

**Electoral material** means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting.

**Electoral matter** is not defined in the Act but has the same meaning as matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the Election Manager for the purposes of conducting an election.

**Major Policy Decision** is not defined under the Act but has the same meaning as any decision:

- (a) the remuneration, appointment or dismissal of a Chief Executive Officer;

- (b) entering into any contracts worth more than 1% of the Council's revenue from rates and charges levied under section 158 of the *Local Government Act 1989* (the 1989 Act) in the previous financial year; and
- (c) the exercise of any entrepreneurial power under section 193 of the 1989 Act if the amount assessed under section 193(5A) of the 1989 Act in respect of the proposal exceeds whichever is greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 of the 1989 Act in the previous financial year.

**Public Consultation** is not defined in the Act, but **Act but** means a process which involves an invitation or invitations to individuals, groups, organisations or the community generally to comment on an issue or proposed action, proposed policy, and includes discussion of that matter with the public.

**Publish** means publish by any means including by publication on the Internet;

**Significant Decision** is not defined in the Act, but in this context means an irrevocable decision that significantly affects the municipality.

## HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

## RELATED DOCUMENTS

Type:	Details:
General	Gifts and Donations Register Employee Code of Conduct Councillor Code of Conduct Human Rights Charter
Type:	Details:
General	Gifts, Benefits and Hospitality Register, Employee Code of Conduct, Councillor Code of Conduct, Human Rights Charter,

## REVISION HISTORY AND REVIEW

VERSION	TYPE OF CHANGE	EFFECTIVE DATE	APPROVED BY	SUMMARY OF CHANGES
1	New policy	15 March 2016	Council	Creation of new policy as required by updated legislation

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2	Minor Review	17 December 2019	Council	Minor formatting
3	Major Review	1 September 2020	Council	Changes to section references and definitions in line with introduction of <i>Local Government Act 2020</i>
4	Major Review	16 August 2022	Council	Formal incorporation of virtual meeting procedures due to <i>Local Government Act 2020</i> update.

## 12. GENERAL MANAGER DEVELOPMENT

### 12.1. PROPOSED LEASE - MORTIMER DRIVE, FULHAM - CONSIDERATION OF SUBMISSIONS

#### ACTION OFFICER: MANAGER ECONOMIC DEVELOPMENT

#### PURPOSE

For Council to authorise a lease with H2X Global Limited (H2X) for land and buildings located at West Sale Airport.

#### PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY

#### RECOMMENDATION

***That Council:***

- 1. Note no submissions have been received regarding the proposed lease; and***
- 2. Authorise the Chief Executive Officer to enter into a new lease with H2X Global Limited (H2X) for land and buildings located at West Sale Airport.***

#### BACKGROUND

The following was resolved at an ordinary meeting on 21 December 2021:

***That Council:***

- 1. Authorises the Chief Executive Officer to negotiate and finalise a lease of the TAFE mechanical trades precinct at West Sale Airport to H2X Global (or their nominee) incorporating the following terms:***
  - a. a five-year term including a rental waiver for up to the first two years;***
  - b. to complete a market review of the subject precinct prior to the third anniversary;***
  - c. that any further rental waiver requests for future years will be considered and assessed based on the following:***
    - i. the market assessment of the subject precinct;***
    - ii. demonstrated growth in direct employment;***
    - iii. local investment and supply chain benefits;***
    - iv. establishing partnerships with local industry or TAFE; and***
- 2. That (1) above is based on the potential significant economic development benefits of the proposal and the alignment of the proposal with the Council Plan 2021-25 priorities around supporting renewable energy initiatives addressing climate change and facilitating economic recovery.***

Subsequently, public notice indicating Council's intention to lease the property was published on Council's website and in the Gippsland Times (refer attached). The notice stated a lease term of up to 10 years.

Wellington Shire Council owns the land and buildings located at Mortimer Drive, Fulham. The property has been leased by TAFE Gippsland for a number of years and used as the Mechanical Trades Precinct. With TAFE vacating their entire West Sale Airport site, the opportunity to lease existing facilities on the site has become apparent.



**Figure 1 – Proposed lease area. Hawker Place not included.**

## **ATTACHMENTS**

1. Public Notice - Proposed Lease - H2X 7 June 2022 [12.1.1 - 1 page]

## **OPTIONS**

Council has the following options available:

1. Progress establishing a new lease at Mortimer Drive, Fulham; or
2. Not progress establishing a new lease at this time.

## **PROPOSAL**

That Council:

1. Note no submissions have been received regarding the proposed lease; and
2. Authorise the Chief Executive Officer to enter into a new lease with H2X Global Limited (H2X) for land and buildings located at West Sale Airport.

## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a conflict of interest.

## FINANCIAL IMPACT

In subsequent years, a new lease will provide additional revenue to Council which is not currently being received from the site. Revenue can then be directed to offset costs for the provision of other Council services.

Leases will be reviewed in line with market valuations at regular intervals in line with standard commercial leasing practice. Therefore whilst leases may be offered initially below market value, rental will revert to market at the time of the first or second market review. This will be subject to potential further waivers.

## COMMUNICATION IMPACT

In accordance with section 115 (4) of the *Local Government Act 2020*, Council has provided public notice of the intention to lease land and then consider any submissions.

## LEGISLATIVE IMPACT

The requirements of *the Local Government Act 2020* must be addressed when Council considers entering into any lease as governed by section 115. Council is required to comply with section 115 of the *Local Government Act 2020*. These provisions require Council to notify its intent to enter into a lease and also to invite and then consider any submissions. As provided for in section 115(1) Council's power to lease land is limited to leases of a term of 50 years or less.

## COUNCIL POLICY IMPACT

The recommendations contained in this report are consistent with Council's policy on *Rental and Leasing of Council Owned Properties*.

## COUNCIL PLAN IMPACT

The Council Plan 2021-25 Theme 1 "Environment and Climate Change" states the following strategic outcome:

**Strategic Outcome 1.2:** *"Assist community to transition to a low carbon economy via adoption of sustainable practices and renewable energy."*

The Council Plan 2021-25 Theme 2 "Economy and Sustainable Growth" states the following strategic outcome:

**Strategic Outcome 2.1:** *"A diverse economy that creates jobs and opportunities."*

This report supports the above Council Plan strategic outcomes.

## RESOURCES AND STAFF IMPACT

The implementation of this report's recommendation will be undertaken within the resources of the Development Division including engaging other specialist advice from time to time.

## **COMMUNITY IMPACT**

The flow-on effect of implementing this report will result in a positive community impact. The project will provide opportunities for investment and jobs within our region.

## **ENVIRONMENTAL IMPACT**

Environmental impacts will be managed through essential planning and environmental approvals. In addition, obligations regarding appropriate ongoing environmental management and reporting will be detailed within the lease.

## **ENGAGEMENT IMPACT**

Formal consultation has taken place in the form of seeking submissions in accordance with section 115 (4) of the *Local Government Act 2020*.

## **RISK MANAGEMENT IMPACT**

Risks will be managed within the context of the lease document.





WELLINGTON SHIRE COUNCIL

## Notice of Intention to Enter into Lease

### Mortimer Drive, Fulham

Wellington Shire Council (Council) gives notice under Section 115 of the *Local Government Act 2020* (Act) that it intends to offer a lease for a term up to 10 years at the former Mechanical Trades Hall, Mortimer Drive, Fulham (refer to plan below).

Council intends to offer the lease at market value but with an initial rent free period of two years and the opportunity for the tenant to benefit from additional rental reductions in the following years subject to the satisfaction of certain conditions concerning investment in the local community.

The property is to be leased for the purposes of an advanced vehicle assembly, manufacturing and testing facility with ancillary research and development and skills training.

Any person may make a written submission to Council.



\*Subject to survey. Hawker Place excluded from leased area.

*All submissions must be received on or before **5.00pm on Friday 8 July 2022**. Submissions will then be considered in accordance with Council's Community Engagement Policy by Council or a Committee of Council (Committee) convened for that purpose.*

*If a person wishes to be heard in support of their submission they must so indicate in their written submission and this will entitle them to appear in person or by a person acting on their behalf before Council or a Committee to be held at a date and time to be advised at Council Chambers, 70 Foster Street, Sale. The meeting will proceed if one or more persons request to be heard.*

*Submissions made in accordance with Council's Community Engagement Policy are not considered confidential and will be incorporated into the agenda and minutes of any Council or Committee meeting at which the matter is considered. Any person requiring more information may contact Brent Setches, Commercial Property Officer, on 1300 366 244.*

WAC\_1305

## 13. FURTHER GALLERY AND ONLINE COMMENTS

*Gallery comments are an opportunity for members of the public to raise any particular matter they wish. This allows those in the gallery to speak directly to Councillors but is not a forum designed for open discussion or debate. We will listen respectfully to what you have to say and make the commitment that if your query requires a written response, we will advise you that a response will be forthcoming, and a copy of that response will be circulated to all Councillors.*

*This is not a forum for members of the public to lodge complaints against individuals, including Councillors and staff, particularly as that individual gets no public right of reply to any matter raised. We take complaints seriously, and in line with the guidance from the Victorian Ombudsman and the local Government Inspectorate, we request that any specific complaint against an individual be put in writing. This way, your concern can be properly dealt with while ensuring fairness to all parties concerned.*

*If you wish to speak, we remind you that this part of the meeting is being recorded and broadcast on our website. Council's official Minutes will record that you have spoken to Council and the subject you spoke to Council about but will not record specific comments. We ask you to state your name in full, where you are from, and you have three minutes.*

ONLINE COMMENTS -

FURTHER GALLERY COMMENTS -

Meeting declared closed at:

The live streaming of this Council meeting will now come to a close.

## **14. IN CLOSED SESSION**

### **COUNCILLOR**

*That the meeting be closed to the public pursuant to Section 66(2) of the Local Government Act 2020 to consider matters under Section 66(5)(b) as defined by Section 3(1) being:*

- a) Council business information*
- b) Security information*
- c) Land use planning information*
- d) Law enforcement information*
- e) Legal privileged information*
- f) Personal information*
- g) Private commercial information*
- h) Confidential meeting information*
- i) Internal arbitration information*
- j) Councillor Conduct Panel confidential information*
- k) Information prescribed by the regulations to be confidential information*
- l) Information that was confidential information for the purposes of section 77 of the Local Government Act 1989*

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**IN CLOSED SESSION**

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### **COUNCILLOR**

*That Council move into open session and ratify the decision made in closed session.*