



Ararat Rural City

# Governance Rules

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# Governance Rules



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# Governance Rules



## Introduction

### 1. Nature of Rules

These are the Governance Rules of Ararat Rural City Council, made in accordance with section 60 of the Local Government Act 2020.

### 2. Date of Commencement

These Governance Rules commence on [TBC1-September-2020](#).

### 3. Contents

These Governance Rules are divided into the following Chapters:

Chapter	Name
Chapter 1	Governance Framework
Chapter 2	Meeting Procedure for Council Meetings
Chapter 3	Meeting Procedure for Delegated Committees
Chapter 4	Meeting Procedure for Community Asset Committees
Chapter 5	Disclosure of Conflicts of Interest
Chapter 6	Miscellaneous
Chapter 7	Election Period Policy

### 4. Definitions

In these Governance Rules, unless the context suggests otherwise the following words and phrases mean:

*Act* means the *Local Government Act 2020*.

[attend, attending and in attendance include attend, attending or in attendance by electronic means.](#)

*Chief Executive Officer* includes an Acting Chief Executive Officer.

*Community Asset Committee* means a Community Asset Committee established under section 65 of the Act.

*Council* means Ararat Rural City Council.

*Council meeting* has the same meaning as in the Act.

*Delegated Committee* means a Delegated Committee established under section 63 of the Act.

*Mayor* means the Mayor of Council.

*these Rules* means these Governance Rules.

# Governance Rules



## Chapter 1 – Governance Framework

### 1. Context

These Rules should be read in the context of and in conjunction with:

- (a) the overarching governance principles specified in section 9(2) of the Act; and
- (b) the following documents adopted or approved by Council:
  - i. Council Plan; and
  - ii. [Councillor Code of Conduct](#)
  - iii. [Public Transparency Policy](#)
  - iv. [Community Engagement Policy](#)

### 2. Decision Making

- (a) In any matter in which a decision must be made by *Council* (including persons acting with the delegated authority of *Council*), *Council* must consider the matter and make a decision:
  - i. fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
  - ii. on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- (b) *Council* must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of *Council* is entitled to communicate their views and have their interests considered).
- (c) Without limiting anything in paragraph (b) of this sub-Rule:
  - i. before making a decision that will directly affect the rights of a person, *Council* (including any person acting with the delegated authority of *Council*) must identify the person or persons whose rights will be directly affected, give notice of the decision which *Council* must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made;
  - ii. if a report to be considered at a *Council meeting* concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;
  - iii. if a report to be considered at a *Delegated Committee* meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
  - iv. if a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

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## Chapter 2 – Meeting Procedure for Council Meetings

### Part A – Introduction

1. **Title**  
This Chapter will be known as the "Meeting Procedure Chapter".
2. **Purpose of this Chapter**  
The purpose of this Chapter is to:
  - 2.1 provide for the election of the Mayor and any Deputy Mayor;
  - 2.2 provide for the appointment of any Acting Mayor; and
  - 2.3 provide for the procedures governing the conduct of Council meetings.
3. **Definitions and Notes**
  - 3.1 In this Chapter:
    - "*agenda*" means the notice of a meeting setting out the business to be transacted at the meeting;
    - "*Chair*" means the Chairperson of a meeting and includes a Councillor who is appointed by resolution to chair a meeting under section 61(3) of the *Act*;
    - "*minute book*" means the collective record of proceedings of *Council*;
    - "*municipal district*" means the municipal district of *Council*;
    - "*notice of motion*" means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;
    - "*notice of rescission*" means a notice of motion to rescind a resolution made by *Council*; and
    - "*written*" includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form, and *writing* has a corresponding meaning.
  - 3.2 Introductions to Parts, headings and notes are explanatory notes and do not form part of this Chapter. They are provided to assist understanding.

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## Part B – Election of Mayor

### Introduction

This Part is concerned with the annual election of the Mayor. It describes how the Mayor is to be elected.

#### 4. Election of the Mayor

The Chief Executive Officer must facilitate the election of the Mayor in accordance with the provisions of the Act.

#### 5. Method of Voting

The election of the Mayor must be carried out by a show of hands or such other visual or audible means as the Chief Executive Officer determines.

#### 6. Determining the Election of the Mayor

6.1 The Chief Executive Officer must open the meeting at which the Mayor is to be elected and invite nominations for the office of Mayor.

6.2 Any nominations for the office of Mayor must be: in writing and in a form prescribed by the Chief Executive Officer; and seconded by another Councillor.

6.3 Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor:

6.3.1 if there is only one nomination, the candidate nominated must be declared to be duly elected;

6.3.2 if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;

6.3.3 in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;

6.3.4 in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;

6.3.5 if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;

6.3.6 in the event of two or more candidates having an equality of votes and one of them having to be declared:

- a) a defeated candidate; and
- b) duly elected

the declaration will be determined by lot.

6.3.7 if a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:

- a) each candidate will draw one lot;
- b) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the

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alphabetical order of the Councillors' first names; and  
e) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected).

## Single Nomination

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

## Multiple Nominations and Candidate Elected On First Vote

6.5 If there is more than one nomination, the Councillors in attendance at the meeting must vote for one of the candidates.

6.6 In the event of a candidate receiving the votes of an absolute majority of Councillors, that candidate is declared to have been elected.

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

6.7 In the event that:

6.7.1 there are three or more candidates;

6.7.2 no candidate receives the votes of an absolute majority of Councillors; and

6.7.3 it is not resolved to conduct a new election at a later date and time,

the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors in attendance at the meeting will then vote for one of the remaining candidates.

6.8 If one of the remaining candidates receives the votes of an absolute majority of Councillors, that candidate is duly elected. If none of the remaining candidates receives the votes of an absolute majority of Councillors and it is not resolved to conduct a new election at a later day and time, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives the

votes of an absolute majority of Councillors. That candidate must then be declared to have been duly elected. 6.9 For the purposes of sub-Rules 6.7 and 6.8 if no candidate can be determined to have the fewest number of votes due to two or more candidates having an equality of votes then the candidate who is to be declared a defeated candidate will be determined by lot.

6.10 If a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:

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6.10.1 each candidate who has an equal number of votes with another candidate or candidates will draw one lot;

6.10.2 the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and

6.10.3 as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates until one of those candidates receives the votes of an absolute majority of Councillors).

Two Nominations or Two Remaining Candidates and No Candidate Obtaining An Absolute Majority On First Vote

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

6.12 If:

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

6.12.2 it is not resolved to conduct a new election at a later date and time Councillors must continue to vote until one of the candidates receives the votes of an absolute majority of Councillors, at which point that candidate will be declared duly elected. If, after two or more further votes are taken neither candidate receives the votes of an absolute majority of Councillors, the provisions of sub-Rule 6.11 and this sub-Rule 6.12 must again be followed.

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## 7. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for:

- 7.1 any office of Deputy Mayor; or
- 7.2 Chair of a Delegated Committee

will be regulated by Rules 4-6 (inclusive) of this Chapter, as if the reference to the:

- 7.3 Chief Executive Officer is a reference to the Mayor; and
- 7.4 Mayor is a reference to the Deputy Mayor or the Chair of the Delegated Committee (as the case may be).

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## 8. Appointment of Acting Mayor

If Council has not established an office of Deputy Mayor and it becomes required to appoint an Acting Mayor, it can do so by:

- 8.1 resolving that a specified Councillor be so appointed; or
- 8.2 following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter, at its discretion.



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## Part C – Meetings Procedure

### Introduction

This Part is divided into a number of Divisions. Each Division addresses a distinct aspect of the holding of a meeting. Collectively, the Divisions describe how and when a meeting is convened, when and how business may be transacted at a meeting.

### Division 1 – Notices of Meetings and Delivery of Agendas

#### 9. Dates and Times of Meetings Fixed by Council

Subject to Rule 11, Council must from time to time fix the date, time and place of all Council meetings.

#### 10. Council May Alter Meeting Dates

Council may change the date, time and place of any Council meeting which has been fixed by it and must provide reasonable notice of the change to the public.

#### 11. Meetings Not Fixed by Council (Unscheduled or Special Meetings)

- 11.1 A Council Meeting may be called by:
  - 11.1.1 the Chief Executive Officer; or
  - 11.1.2 written notice by the Mayor or at least 3 Councillors.
- 11.2 The notice submitted under sub-Rule 11.1.2 must specify the date and time of the Council meeting and the business to be transacted.
- 11.3 The Chief Executive Officer must convene the Council meeting as specified in the notice submitted under sub-Rule 11.1.2.
- 11.4 Unless all Councillors are present in attendance and unanimously agree to deal with any other matter, only the business specified in the written notice submitted under sub-Rule 11.1.2 can be transacted at the Council meeting.

#### 12. Notice of Meeting

- 12.1 A notice of meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be delivered or sent electronically to every Councillor for all Council meetings at least 48 hours before the meeting.
- 12.2 Notwithstanding sub-Rule 12.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting during the period of ~~his or her~~their absence.
- 12.3 Reasonable notice of each Council meeting must be provided to the public. Council may do this:
  - 12.3.1 for meetings which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in a newspaper generally circulating in the municipal district either at various times throughout the year, or prior to each such Council meeting; and
  - 12.3.2 for any meeting by giving notice on its website and in at least one newspaper generally circulated in the municipal district:
    - a) ~~in each of its Customer Service Centres; and/or~~
    - b) a) in at least one newspaper generally circulating in the municipal

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~~district.~~

13. **Audio/Visual Recording of Meetings**

A person, including any representative of the media, must obtain the prior approval of the *Chief Executive Officer* to record any Council meeting by electronic means.

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## Division 2 – Quorums

### 14. Inability to Obtain a Quorum

If after 30 minutes from the scheduled starting time of any *Council meeting*, a quorum cannot be obtained:

- 14.1 the meeting will be deemed to have lapsed;
- 14.2 the *Mayor* must convene another *Council meeting*, the *agenda* for which will be identical to the *agenda* for the lapsed meeting; and
- 14.3 the *Chief Executive Officer* must give all Councillors *written* notice of the meeting convened by the *Mayor*.

### 15. Inability to Maintain a Quorum

- 15.1 If during any *Council meeting*, a quorum cannot be maintained then Rule 14 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 15.2 Sub-Rule 15.1 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.

### 16. Adjourned Meetings

- 16.1 *Council* may adjourn any meeting to another date or time but cannot in the absence of disorder or a threat to the safety of any Councillor or member of Council staff adjourn a meeting in session to another place.
- 16.2 The *Chief Executive Officer* must give *written* notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 16.3 If it is impracticable for the notice given under sub-Rule 16.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.

### 17. Time Limits for Meetings

- 17.1 A *Council meeting* must not continue after 3 hours from the time it commenced unless a majority of Councillors [present who are in attendance](#) vote in favour of it continuing.
- 17.2 A meeting cannot be continued for more than 30 minutes (or a further 30 minutes, if a majority of Councillors has already voted to continue it for 30 minutes).
- 17.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of sub-Rules 16.2 and 16.3 apply.

### 18. Cancellation or Postponement of a Meeting

- 18.1 The *Chief Executive Officer* may, in the case of an emergency necessitating the cancellation or postponement of a Council meeting, cancel or postpone a *Council meeting*.
- 18.2 The *Chief Executive Officer* must present to the immediately following *Council meeting* a *written* report on any exercise of the power conferred by sub-Rule 18.1.

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## Division 3 – Business of Meetings

### 19. Agenda and the Order of Business

The agenda for and the order of business for a *Council meeting* is to be determined by the *Chief Executive Officer* so as to facilitate and maintain open, efficient and effective processes of government.

### 20. Change to Order of Business

Once an *agenda* has been sent to Councillors, the order of business for that *Council meeting* may be altered with the consent of *Council*.

### 21. Urgent Business

If the agenda for a *Council meeting* makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of *Council* and only then if it:

- 21.1 relates to or arises out of a matter which has arisen since distribution of the *agenda*;
- and
- 21.2 cannot safely or conveniently be deferred until the next *Council meeting*.

## Division 4 – Motions and Debate

### 22. Councillors May Propose Notices of Motion

Councillors may ensure that an issue is listed on an agenda by lodging a *Notice of Motion*.

### 23. Notice of Motion

- 23.1 A *notice of motion* must be in writing signed by a Councillor, and be lodged with or sent to the *Chief Executive Officer* no later than 12.00pm (noon) and at least six (6) days prior to the Council Meeting to allow sufficient time for the *Chief Executive Officer* to include the *notice of motion* in agenda papers for a *Council meeting*.
- 23.2 The *Chief Executive Officer* may reject any *notice of motion* which:
  - 23.2.1 is vague or unclear in intention;
  - 23.2.2 is defamatory or objectionable in nature;
  - 23.2.3 it is beyond *Council's* power to pass; or
  - 23.2.4 if passed would result in *Council* otherwise acting invalidly but must:
    - 23.2.5 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
    - 23.2.6 notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.
- 23.3 The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the agenda.
- 23.4 The *Chief Executive Officer* must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.
- 23.5 Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were entered in the notice of motion register.
- 23.6 If a Councillor who has given a *notice of motion* is absent from the meeting or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- 23.7 If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.

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## 24. Chair's Duty

Any motion which is determined by the *Chair* to be:

- 24.1 defamatory;
- 24.2 objectionable in language or nature;
- 24.3 vague or unclear in intention;
- 24.4 outside the powers of *Council*; or
- 24.5 irrelevant to the item of business on the *agenda* and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the *Chair*.

## 25. Introducing a Report

- 25.1 Before a *written* report is considered by *Council* and any motion moved in relation to such report, a member of Council staff may introduce the report by indicating in not more than 2 minutes:
  - 25.1.1 its background; or
  - 25.1.2 the reasons for any recommendation which appears.
- 25.2 Unless *Council* resolves otherwise, a member of Council staff need not read any written report to *Council* in full.

## 26. Introducing a Motion or an Amendment

The procedure for moving any motion or amendment is:

- 26.1 the mover must state the motion without speaking to it;
- 26.2 the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
- 26.3 if a motion or an amendment is moved and seconded the *Chair* must ask: "Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"
- 26.4 if no Councillor indicates opposition or a desire to speak to it, the *Chair* may declare the motion or amendment carried without discussion;
- 26.5 if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- 26.6 after the mover has addressed the meeting, the seconder may address the meeting;
- 26.7 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, ~~providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;~~ and
- 26.8 if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

## 27. Right of Reply

- 27.1 The mover of a motion, including an amendment, has a right of reply to matters

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raised during debate.

- 27.2 After the right of reply has been taken but subject to any Councillor exercising ~~his or her~~ [his or her](#) right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

## 28. Moving an Amendment

- 28.1 Subject to sub-Rule 28.2 a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- 28.2 A motion to confirm a previous resolution of *Council* cannot be amended.
- 28.3 An amendment must not be directly opposite to the motion.

## 29. Who May Propose an Amendment

- 29.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- 29.2 Any one Councillor cannot move more than two amendments in succession.

## 30. How Many Amendments May be Proposed

- 30.1 Any number of amendments may be proposed to a motion but only one amendment may be accepted by the *Chair* at any one time.
- 30.2 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.

## 31. An Amendment Once Carried

- 31.1 If the amendment is carried, the motion as amended then becomes the motion before the meeting, and the amended motion must then be put.
- 31.2 The mover of the original motion retains the right of reply to that motion.

## 32. Foreshadowing Motions

- 32.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of ~~his or her~~ [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.
- 32.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chair* being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- 32.3 The *Chief Executive Officer* or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.
- 32.4 The *Chair* is not obliged to accept foreshadowed motions.

## 33. Withdrawal of Motions

- 33.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of *Council*.
- 33.2 If the majority of Councillors objects to the withdrawal of the motion, it may not be withdrawn.

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- 34. Separation of Motions**  
Where a motion contains more than one part, a Councillor may request the *Chair* to put the motion to the vote in separate parts.
- 35. Chair May Separate Motions**  
The *Chair* may decide to put any motion to the vote in several parts.
- 36. Priority of Address**  
In the case of competition for the right of speak, the *Chair* must decide the order in which the Councillors concerned will be heard.
- 37. Motions in Writing**
- 37.1 The *Chair* may require that a complex or detailed motion be in writing.
  - 37.2 *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.
- 38. Repeating Motion and/or Amendment**  
The *Chair* may request the person taking the minutes of the *Council meeting* to read the motion or amendment to the meeting before the vote is taken.
- 39. Debate Must be Relevant to the Motion**
- 39.1 Debate must always be relevant to the motion before the *Chair*, and, if not, the *Chair* must request the speaker to confine debate to the motion.
  - 39.2 If after being requested to confine debate to the motion before the *Chair*, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker to be seated and not speak further in respect of the motion then before the *Chair*.
  - 39.3 A speaker to whom a direction has been given under sub-Rule 39.2 must comply with that direction.
- 40. Speaking Times**  
A Councillor must not speak longer than the time set out below, unless granted an extension by the *Chair*:
- 40.1 the mover of a motion or an amendment which has been opposed: 5 minutes;
  - 40.2 any other Councillor: 3 minutes; and
  - 40.3 the mover of a motion exercising a right of reply: 2 minutes.
- 41. Addressing the Meeting**  
If the *Chair* so determines:
- 41.1 any person addressing the *Chair* must refer to the *Chair* as:
    - 41.1.1 **Madam Mayor**; or
    - 41.1.2 **Mr Mayor**; or
    - 41.1.3 **Madam Chair**; or
    - 41.1.4 **Mr Chair**as the case may be;
  - 41.2 all Councillors, other than the *Mayor*, must be addressed as

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Cr \_\_\_\_\_(name).

41.3 all members of Council staff, must be addressed as

Mr or Ms \_\_\_\_\_(name) as appropriate or by their official title.

## 42. Right to Ask Questions

42.1 A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the Chair.

42.2 The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

## Division 5 – Procedural Motions

### 43. Procedural Motions

43.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.

43.2 Procedural motions require a seconder.

43.3 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:



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Procedural Motions Table

Procedural Motion	Form	Mover & Seconded	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking	Motion and <u>any</u> amendment <del>is</del> postponed to the stated time and/or date	Debate continues unaffected	Yes
2. Adjournment of debate indefinitely	and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking; or (c) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected	Yes
3. The closure	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for <i>Chair</i>	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising <u>his or her</u> <del>their</del> right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

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## Division 6 – Rescission Motions

### 44. Notice of Rescission

- 44.1 A Councillor may propose a *notice of rescission* provided:
- 44.1.1 the resolution proposed to be rescinded has not been acted on; and
  - 44.1.2 the *notice of rescission* is delivered to the *Chief Executive Officer* within 24 hours of the resolution having been made setting out -
    - (a) the resolution to be rescinded; and
    - (b) the meeting and date when the resolution was carried.

*It should be remembered that a notice of rescission is a form of notice of motion.*

*Accordingly, all provisions in this Chapter regulating notices of motion equally apply to notices of rescission.*

- 44.2 A resolution will be deemed to have been acted on if:
- 44.2.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or
  - 44.2.2 a statutory process has been commenced so as to vest enforceable rights in or obligations on *Council* or any other person.
- 44.3 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:
- 44.3.1 has not been acted on; and
  - 44.3.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 44.1.2,
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy

*By way of example, assume that, on a Monday evening, Council resolves to have legal representation at a planning appeal to be heard on the following Monday. Assume also that, immediately after that resolution is made, a Councillor lodges a notice of motion to rescind that resolution. Finally, assume that the notice of rescission would not be dealt with until the next Monday evening (being the evening of the day on which the planning appeal is to be heard).*

*In these circumstances, deferring implementation of the resolution would have the effect of depriving the resolution of efficacy. This is because the notice of rescission would not be debated until after the very thing contemplated by the resolution had come and gone. In other words, by the time the notice of rescission was dealt with the opportunity for legal representation at the planning appeal would have been lost.*

*Sub-Rule 44.3 would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.*

### 45. If Lost

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 motion* be re-listed at a future meeting.

### 46. If Not Moved

If a motion for rescission is not moved at the meeting at which it is listed, it lapses.

### 47. May be Moved by any Councillor

A motion for rescission listed on an agenda may be moved by any Councillor [present in attendance](#) but may not be amended.

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## 48. When Not Required

- 48.1 Unless sub-Rule 48.2 applies, a motion for rescission is not required where *Council* wishes to change policy.
- 48.2 The following standards apply if *Council* wishes to change policy:
  - 48.2.1 if the policy has been in force in its original or amended form for less than 12 months, a *notice of rescission* must be presented to *Council*; and
  - 48.2.2 any intention to change a *Council* policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.

## Division 7 – Points of Order

### 49. Chair to Decide

The *Chair* must decide all points of order by stating the provision, rule, practice or precedent which ~~he or she considers~~they consider applicable to the point raised without entering into any discussion or comment.

### 50. Chair May Adjourn to Consider

- 50.1 The *Chair* may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.
- 50.2 All other questions before the meeting are suspended until the point of order is decided.

### 51. Dissent from *Chair's* Ruling

- 51.1 A Councillor may move that the meeting disagree with the *Chair's* ruling on a point of order, by moving:  
"That the *Chair's* ruling [setting out that ruling or part of that ruling] be dissented from".
- 51.2 When a motion in accordance with this Rule is moved and seconded, the *Chair* must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present in attendance, temporary *Chair* elected by the meeting) must take ~~his or her~~their place.
- 51.3 The Deputy Mayor or temporary *Chair* must invite the mover to state the reasons for ~~his or her~~their dissent and the *Chair* may then reply.
- 51.4 The Deputy Mayor or temporary *Chair* must put the motion in the following form:  
"That the *Chair's* ruling be dissented from."
- 51.5 If the vote is in the negative, the *Chair* resumes the Chair and the meeting proceeds.
- 51.6 If the vote is in the affirmative, the *Chair* must then resume the Chair, reverse or vary (as the case may be) ~~his or her~~their previous ruling and proceed.
- 51.7 The defeat of the *Chair's* ruling is in no way a motion of censure or non- confidence in the *Chair* and should not be so regarded by the meeting.

### 52. Procedure for Point of Order

A Councillor raising a point of order must:

- 52.1 state the point of order; and

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52.2 state any section, Rule, paragraph or provision relevant to the point of order before resuming ~~his or her~~[their](#) seat.

## 53. Valid Points of Order

A point of order may be raised in relation to:

- 53.1 a motion, which, under Rule 24, or a question which, under Rule 54, should not be accepted by the *Chair*;
- 53.2 a question of procedure; or
- 53.3 any act of disorder.

*Rising to express a difference of opinion or to contradict a speaker is not a point of order.*

## Division 8 – Public Question Time

### 54. Question Time

- 54.1 There must be a public question time at every *Council meeting* fixed under Rule 9 to enable members of the public to submit questions to *Council*.
- 54.2 Sub-Rule 54.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the *Act*.
- 54.3 Public question time will not exceed 15 minutes in duration.
- 54.4 Questions submitted to *Council* must be:
  - 54.4.1 in *writing*, state the name and address of the person submitting the question and be in a form approved or permitted by *Council*; and
  - 54.4.2 placed in the receptacle designated for the purpose at the place of the meeting prior to the commencement of the *Council* meeting or be lodged electronically at the [prescribed designated](#) email address prior to 5pm on the day of the *Council meeting*.
- 54.5 A time limit of 3 minutes per presenter will apply.
- 54.6 No person may submit more than two questions at any one meeting.
- 54.7 If a person has submitted two questions to a meeting, the second question:
  - 54.7.1 may, at the discretion of the *Chair*, be deferred until all other persons who have asked a question have had their questions asked and answered; or
  - 54.7.2 may not be asked if the time allotted for public question time has expired.
- 54.8 The *Chair* or a member of Council staff nominated by the *Chair* may read to those [present in attendance](#) at the meeting a question which has been submitted in accordance with this Rule.
- 54.9 Notwithstanding sub-Rule 54.7, the *Chair* may refrain from reading a question or having a question read if the person who submitted the question is not [present in the gallery attendance](#) at the time when the question is due to be read.
- 54.10 A question may be disallowed by the *Chair* if the *Chair* determines that it:

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- 54.10.1 relates to a matter outside the duties, functions and powers of *Council*;
  - 54.10.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - 54.10.3 deals with a subject matter already answered;
  - 54.10.4 is aimed at embarrassing a Councillor or a member of Council staff;
  - 54.10.5 relates to personnel matters;
  - 54.10.6 relates to the personal hardship of any resident or ratepayer;
  - 54.10.7 relates to industrial matters;
  - 54.10.8 relates to contractual matters;
  - 54.10.9 relates to proposed developments;
  - 54.10.10 relates to legal advice;
  - 54.10.11 relates to matters affecting the security of *Council* property; or
  - 54.10.12 relates to any other matter which *Council* considers would prejudice *Council* or any person.
- 54.11 Any question which has been disallowed by the *Chair* must be made available to any other Councillor upon request.
- 54.12 All questions and answers must be as brief as possible, and no discussion may be allowed other than by *Councillors* for the purposes of clarification.
- 54.13 Like questions may be grouped together and a single answer provided.
- 54.14 The *Chair* may nominate a Councillor or the *Chief Executive Officer* to respond to a question.
- 54.15 A Councillor or the *Chief Executive Officer* may require a question to be put on notice. If a question is put on notice, a written copy of the answer will be sent to the person who asked the question.
- 54.16 A Councillor or the *Chief Executive Officer* may advise *Council* that it is ~~his or her~~*their* opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or *Chief Executive Officer* (as the case may be) must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given.

## Division 9 – Petitions and Joint Letters

### 55. Petitions and Joint Letters

- 55.1 Unless *Council* determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next fixed Council meeting after that at which it has been presented.
- 55.2 It is incumbent on every Councillor presenting a petition or joint letter to acquaint ~~himself or herself~~*themselves* with the contents of that petition or joint letter, and to ascertain that it does not contain language which is disrespectful towards Council.
- 55.3 Every Councillor presenting a petition or joint letter to *Council* must:
  - 55.3.1 write or otherwise record ~~his or her~~*their* name at the beginning of the petition or joint letter; and
  - 55.3.2 confine ~~himself or herself~~*themselves* to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of the prayer or request.

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- 55.4 Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), ~~typing or printing~~, contain the request of the petitioners or signatories and be signed by at least 12 people.
- 55.5 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- 55.6 Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- 55.7 Every page of a hard copy petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 55.8 Electronic or online petitions, joint letters, memorials or like applications must contain the name and email address of each petitioner or signatory, which details will, for the purposes of this Rule 55, qualify as the address and signature of such petitioner or signatory.
- 55.755.9 If a petition, joint letter, memorial or other like application relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.

## Division 10 – Voting

### 56. How Motion Determined

- 56.1 To determine a motion before a meeting, the *Chair* 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.
- 56.2 The question is determined in the affirmative by a majority of Councillors present at a meeting at the time the vote is taken voting in favour of the question.

### 57. Silence

Subject to Rule 60, voting must take place in silence.~~Voting must take place in silence.~~

### 58. Recount

The *Chair* may direct that a vote be recounted to satisfy ~~himself or herself~~themselves of the result.

### 59. Casting Vote

- 59.1 In the event of a tied vote, the *Chair* must exercise a casting vote.
- 59.2 The Chair may adjourn a meeting to consider how their casting vote will be cast.

## 60. How Votes Are Cast

Voting on any matter is by show of hands or such other visible or audible means as the Chair determines.

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## 60. ~~By Show of Hands~~

~~Voting on any matter is by show of hands.~~

## 61. Procedure for a Division

- 61.1 Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- 61.2 When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.
- 61.3 When a division is called for, the *Chair* must:
  - 61.3.1 first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of ~~his or her~~ their hands or otherwise signify their support in a manner recognised by the Chair. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the affirmative; and
  - 61.3.2 then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of ~~his or her~~ their hands or otherwise signify their opposition in a manner recognised by the Chair. The Chair must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the negative.

## 62. No Discussion Once Declared

Once a vote on a question has been taken, no further discussion relating to the question is allowed unless the discussion involves:

- 62.1 a Councillor requesting, before the next item of business is considered, that ~~his or her~~ their opposition to a resolution be recorded in the minutes or a register maintained for that purpose; or
- 62.2 foreshadowing a notice of rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

*For example, Rule 62 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.*

*Equally, Rule 62 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.*

*Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in sub-Rule 62.2, to discussion about a positive motion were a resolution has just been rescinded.*

## Division 11 – Minutes

### 63. Confirmation of Minutes

- 63.1 At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
  - 63.1.1 a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;
  - 63.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;
  - 63.1.3 if a Councillor indicates opposition to the minutes:
    - a) ~~he or she~~ they must specify the item(s) to which ~~he or she~~ they objects;

- b) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
  - c) the Councillor objecting must move accordingly without speaking to the motion;
  - d) the motion must be seconded;
  - e) the Chair must ask:  
"Is the motion opposed?"
  - f) if no Councillor indicates opposition, then the Chair must declare the motion carried without discussion and then ask the second of the questions described in sub-Rule 63.1.3(k);
  - g) if a Councillor indicates opposition, then the Chair must call on the mover to address the meeting;
  - h) after the mover has addressed the meeting, the seconder may address the meeting;
  - i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the Chair must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
  - j) if, after the mover has addressed the meeting, the Chair invites debate and no Councillor speaks to the motion, the Chair must put the motion; and
  - k) the Chair must, after all objections have been dealt with, ultimately ask:  
"The question is that the minutes be confirmed" or  
"The question is that the minutes, as amended, be confirmed",  
and ~~he or she must then~~ put the question to the vote accordingly;
- 63.1.4 a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed;
- 63.1.5 the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively; and
- 63.1.6 unless otherwise resolved or required by law, minutes of a *Delegated Committee* requiring confirmation by Council must not be available to the public until confirmed by *Council*.

#### 64. No Debate on Confirmation Of Minutes

No discussion or debate on the confirmation of minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.

#### 65. Deferral of Confirmation Of Minutes

*Council* may defer the confirmation of minutes until later in the *Council meeting* or until the next meeting if considered appropriate.

#### 66. Form and Availability of Minutes

- 66.1 The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and to take the minutes of such meeting) must keep minutes of each Council meeting, and those minutes must record:
- 66.1.1 the date, place, time and nature of the meeting;
  - 66.1.2 the names of the Councillors present in attendance and the names of any Councillors who apologised in advance for their non-attendance;
  - 66.1.3 the names of the members of Council staff present in attendance;
  - 66.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5 and whether the conflict of interest was said by the Councillor to be a general conflict of



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- interest or a material conflict of interest;
  - 66.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
  - 66.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
  - 66.1.7 the vote cast by each Councillor upon a division and any abstention from voting;
  - 66.1.8 the vote cast by any Councillor who has requested that ~~his or her~~their vote be recorded in the minutes;
  - 66.1.9 questions upon notice;
  - 66.1.10 the failure of a quorum;
  - 66.1.11 any adjournment of the meeting and the reasons for that adjournment; and
  - 66.1.12 the time at which standing orders were suspended and resumed.
- 66.2 The Chief Executive Officer must ensure that the minutes of any Council meeting are:
- 66.2.1 published on Council's website; and
  - 66.2.2 available for inspection at Council's office during normal business hours.
- 66.3 Nothing in sub-Rule 66.2 requires Council or the Chief Executive Officer to make public any minutes relating to a Council meeting or part of a Council meeting closed to members of the public in accordance with section 66 of the *Act*.

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## Division 12 – Behaviour

### 67. Public Addressing the Meeting

- 67.1 Members of the public do not have a right to address *Council* and may only do so with the consent of the *Chair* or by prior arrangement.
- 67.2 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 *Chair* whenever called on to do so.
- 67.3 A member of the public present in attendance at a *Council meeting* must not disrupt the meeting.

### 68. Chair May Remove

The *Chair* may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 67.2.

*It is intended that this power be exercisable by the Chair, without the need for any Council resolution. The Chair may choose to order the removal of a person whose actions immediately threaten the stability of the meeting or wrongly threatens ~~his or her~~ the Chair's authority in chairing the meeting.*

### 69. Chair May Adjourn Disorderly Meeting

If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, ~~he or she~~ the *Chair* may adjourn the meeting to a later time on the same day or to some later day as ~~he or she~~ they think proper. In that event, the provisions of sub-Rules 16.2 and 16.3 apply.

### 70. Removal from Chamber

The *Chair*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer* or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the gallery under Rule 68.

## Division 13 – Additional Duties of Chair

### 71. The Chair's Duties and Discretions

In addition to the duties and discretions provided in this Chapter, the *Chair*:

- 71.1 must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community; and
- 71.2 must call to order any person who is disruptive or unruly during any meeting.

## Division 14 – Suspension of Standing Orders

### 72. Suspension of Standing Orders

- 72.1 To expedite the business of a meeting, *Council* may suspend standing orders.

*The suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal meeting procedure. Its purpose is to enable the formalities of meeting procedure to be temporarily disposed of while an issue is discussed.*

- 72.2 The suspension of standing orders should not be used purely to dispense with the

# Governance Rules



processes and protocol of the government of *Council*. An appropriate motion would be:

"That standing orders be suspended to enable discussion on....."

- 72.3 No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.
- 72.4 Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be: "That standing orders be resumed."

## Division 15 – ~~Miscellaneous~~Physical and Remote Attendance

### 73. Mode of Attendance

73.1 Each notice of meeting must indicate whether the relevant Council meeting is to be conducted:

73.1.1 wholly in person;

73.1.2 wholly by electronic means; or

73.1.3 partially in person and partially by electronic means.

73.2 The indication in the notice of meeting must be consistent with any Resolution of Council that has expressed a preference for, or otherwise specified, when Council meetings are to be conducted:

73.2.1 wholly in person;

73.2.2 wholly by electronic means; or

73.2.3 partially in person and partially by electronic means.

73.3 If a Council meeting is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.

73.4 Any request made under sub-Rule 73.3 must:

73.4.1 be in writing;

73.4.2 be given to the Chief Executive Officer no later than 24 hours prior to the commencement of the relevant Council meeting; and

73.4.3 specify the reasons why the Councillor is unable or does not wish to attend the Council meeting in person.

73.5 The Chief Executive Officer must ensure that any request received in accordance with sub-Rule 73.4 and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant Council meeting.

73.6 Council may approve and must not unreasonably refuse any request.

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# Governance Rules



73.7 A Councillor who is attending a Council meeting by electronic means is responsible for ensuring that they are able to access such equipment and are in such an environment that facilitates participation in the Council meeting.

73.8 Without detracting from anything said in sub-Rule 73.7, a Councillor who is attending a meeting by electronic means must be able to:

73.8.1 hear the proceedings;

73.8.2 see all Councillors and members of Council staff who are also attending the Council meeting, at least while a Councillor or member of Council staff is speaking;

73.8.3 be seen by all Councillors, members of Council staff and members of the public who are physically present at the Council meeting; and

73.8.4 be heard when they speak.

73.9 If the conditions of sub-Rule 73.8 cannot be met by one or more Councillors attending a Council meeting, whether because of technical difficulties or otherwise:

73.9.1 the Council meeting will nonetheless proceed as long as a quorum is present; and

73.9.2 the relevant Councillor (or Councillors) will be treated as being absent from the Council meeting or that part of the Council meeting

unless the Council meeting has been adjourned in accordance with these Rules.

73.10 Nothing in this Rule 73 prevents a Councillor from joining (or re-joining) a Council meeting at the time that they achieve compliance with sub-Rule 73.8 even if the Council meeting has already commenced or has continued in their absence.

## **74 Meetings Conducted Remotely**

If a Council meeting is conducted wholly or partially by electronic means, the Chair may, with the consent of the meeting, modify the application of any of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of the meeting.:

74.2—by law a meeting may be conducted electronically; and

74.3—Council decides that a meeting is to be conducted electronically,

the Chair may, with the consent of the meeting, modify the application of any of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of the meeting.

## **75 Procedure not Provided in this Chapter**

In all cases not specifically provided for by this Chapter, resort must be had to the Standing Orders and Rules of Practice of the Upper House of the Victorian Parliament (so far as the same are capable of being applied to Council proceedings).

## **7675 Criticism of Members of Council Staff**

76.275.2—The Chief Executive Officer may make a brief statement at a Council meeting in respect of any statement by a Councillor made at the Council meeting criticising

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# Governance Rules



~~him or her~~them or any member of Council staff.

~~76.375.3~~ A statement under sub-Rule 75.1 must be made by the *Chief Executive Officer*, through the *Chair*, as soon as it practicable after the Councillor who made the statement has resumed ~~his or her~~their seat.

## 76. Procedure not provided in this Chapter

In all cases not specifically provided for by this Chapter, resort must be had to the Standing Orders and Rules of Practice of the Upper House of the Victorian Parliament (so far as the same are capable of being applied to Council proceedings).

# Governance Rules



## Chapter 3 – Meeting Procedure for Delegated Committees

### 1. Meeting Procedure Generally

If *Council* establishes a *Delegated Committee*:

- 1.1 all of the provisions of Chapter 2 apply to meetings of the *Delegated Committee*; and
- 1.2 any reference in Chapter 2 to:
  - 1.2.1 a *Council meeting* is to be read as a reference to a *Delegated Committee* meeting;
  - 1.2.2 a Councillor is to be read as a reference to a member of the *Delegated Committee*; and
  - 1.2.3 the Mayor is to be read as a reference to the Chair of the *Delegated Committee*.

### 2. Meeting Procedure Can Be Varied

Notwithstanding Rule 1, if *Council* establishes a *Delegated Committee* that is not composed solely of Councillors:

- 2.1 *Council* may; or
- 2.2 the *Delegated Committee* may, with the approval of *Council*

resolve that any or all of the provisions of Chapter 2 are not to apply to a meeting of the *Delegated Committee*, in which case the provision or those provisions will not apply until *Council* resolves, or the *Delegated Committee* with the approval of *Council* resolves, otherwise.

# Governance Rules



## Chapter 4 – Meeting Procedure for Community Asset Committees

### 1. Introduction

In this Chapter, “Instrument of Delegation” means an instrument of delegation made by the *Chief Executive Officer* under section 47(1)(b) of the *Act*.

### 2. Meeting Procedure

Unless anything in the Instrument of Delegation provides otherwise, the conduct of a meeting of a *Community Asset Committee* is in the discretion of the *Community Asset Committee*.

# Governance Rules



## Chapter 5 – Disclosure of Conflicts of Interest

### 1. Introduction

The following Rules in this Chapter apply only upon Division 1A of Part 4 of the *Local Government Act 1989* being repealed.<sup>†</sup>

### 2.1. Definition

In this Chapter:

**2.11.1** “meeting conducted under the auspices of Council” means a meeting of the kind described in section 131(1) of the Act, and includes a meeting referred to in Rule 1 of Chapter 6 (whether such a meeting is known as a ‘Councillor Briefing’ or by some other name); and

**2.21.2** a member of a *Delegated Committee* includes a Councillor.

### 3.2. Disclosure of a Conflict of Interest at a Council Meeting

A Councillor who has a conflict of interest in a matter being considered at a *Council meeting* at which ~~he or she~~they:

**3.12.1** ~~is present~~are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those ~~present~~in attendance at the *Council meeting* immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or

**3.22.2** ~~intends to attend~~be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council meeting* commences a written notice:

**3.2.12.2.1** ~~advising~~ of the conflict of interest;

**3.2.22.2.2** ~~explaining~~ the nature of the conflict of interest; and indicating whether it is a general conflict of interest or a material conflict of interest; and

**3.2.32.2.3** ~~detailing~~, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:

- a) name of the other person;
- b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- c) nature of that other person’s interest in the matter,

and then immediately before the matter is considered at the meeting announcing to those ~~present~~in attendance that ~~he or she~~they ~~have~~has a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

The Councillor must, in either event, leave the *Council meeting* immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the matter has been disposed of.

### 4.3. Disclosure of Conflict of Interest at a Delegated Committee Meeting

A member of a *Delegated Committee* who has a conflict of interest in a matter being considered at a *Delegated Committee meeting* at which ~~he or she~~they:

**4.13.1** ~~is present~~are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those ~~present~~in attendance at the *Delegated Committee meeting* immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or

<sup>†</sup> At the time of making these Rules the date on which Division 1A of Part 4 of the *Local Government Act 1989* is expected to be repealed is 24 October 2020.



# Governance Rules



4.23.2 intends to ~~present~~attend must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Delegated Committee* meeting commences a written notice:

- 4.2.13.2.1 ~~advising~~ of the conflict of interest;
- 4.2.23.2.2 explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and
- 4.2.33.2.3 detailing, if the nature of the conflict of interest involves a member of a *Delegated Committee*'s relationship with or a gift from another person the:
  - a) name of the other person;
  - b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- 4.2.43.2.4 nature of that other person's interest in the matter,

and then immediately before the matter is considered at the meeting announcing to those present in attendance that ~~he or she has~~they have a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

The member of a *Delegated Committee* must, in either event, leave the *Delegated Committee* meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the matter has been disposed of.

## 5. 4. Disclosure of a Conflict of Interest at a Community Asset Committee Meeting

A Councillor who has a conflict of interest in a matter being considered at a *Community Asset Committee* meeting at which ~~he or she~~they:

5.1.4.1. ~~is present~~are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those present in attendance at the *Community Asset Committee* meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or

5.2.4.2. intends to ~~present~~attend must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:

- 5.2.1.4.2.1 ~~advising~~ of the conflict of interest;
- 5.2.2.4.2.2 explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and
- 5.2.3.4.2.3 detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
  - a) name of the other person;
  - b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- 5.2.4.4.2.4 nature of that other person's interest in the matter,

and then immediately before the matter is considered at the meeting announcing to those present in attendance that ~~he or she~~they have ~~has~~ a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

The Councillor must, in either event, leave the *Community Asset Committee* meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the matter has been disposed of.

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# Governance Rules



## **6.5. Disclosure at a Meeting Conducted Under the Auspices of Council**

A Councillor who has a conflict of interest in a matter being considered by a meeting ~~conducted held~~ under the auspices of Council at which ~~he or she is present~~ they are in attendance must:

~~6-1-5.1.~~ 6.1-5.1. disclose that conflict of interest by explaining the nature of the conflict of interest to those present in attendance at the meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest;

~~6-2-5.2.~~ 6.2-5.2. absent ~~himself or herself~~ themselves from any discussion of the matter; and

~~6-3-5.3.~~ 6.3-5.3. as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice recording that the disclosure was made and accurately summarising the explanation given to those present in attendance at the meeting.

## **7.6. Disclosure by Members of Council Staff Preparing Reports for Meetings**

~~7-1-6.1.~~ 7.1-6.1. A member of Council staff who, in ~~his or her~~ their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which ~~he or she~~ they are ~~is~~ preparing or contributing to the preparation of a Report for the consideration of a:

~~7-1-1-6.1.1.~~ 7.1-1-6.1.1. *Council meeting*;

~~7-1-2-6.1.2.~~ 7.1-2-6.1.2. *Delegated Committee meeting*;

~~7-1-3-6.1.3.~~ 7.1-3-6.1.3. *Community Asset Committee meeting*

must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* disclosing the conflict of interest and explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest.

~~7-2-6.2.~~ 7.2-6.2. The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 6.7.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

~~7-3-6.3.~~ 7.3-6.3. If the member of Council staff referred to in sub-Rule 6.7.1 is the *Chief Executive Officer*:

~~7-3-1-6.3.1.~~ 7.3-1-6.3.1. the written notice referred to in sub-Rule 6.7.1 must be given to the *Mayor*; and

~~7-3-2-6.3.2.~~ 7.3-2-6.3.2. the obligation imposed by sub-Rule 6.7.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

## **8.7. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power**

~~8-1-7.1.~~ 8.1-7.1. A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest.

~~8-2-7.2.~~ 8.2-7.2. If the member of Council staff referred to in sub-Rule 7.8.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

# Governance Rules



## **9-8. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function**

**9-2-8.1.** A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest [and indicating whether it is a general conflict of interest or a material conflict of interest](#).

**9-2-8.2.** If the member of Council staff referred to in sub-Rule [89.1](#) is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

## **10-9. Retention of Written Notices**

The *Chief Executive Officer* must retain all written notices received under this Chapter for a period of three years.

# Governance Rules



## Chapter 6 – Miscellaneous

### 1. Informal Meetings of Councillors

If there is a meeting of Councillors that:

- 1.1. is scheduled or planned for the purpose of discussing the business of *Council* or briefing Councillors;
- 1.2. is attended by at least one member of Council staff; and
- 1.3. is not a *Council meeting*, *Delegated Committee* meeting or *Community Asset Committee* meeting.

the *Chief Executive Officer* must ensure that a summary of the matters discussed at the meeting are:

- a) tabled at the next convenient *Council meeting*; and
- b) recorded in the minutes of that *Council meeting*.

### 2. Confidential Information

2.1. ~~If, after the repeal of section 77(2)(c) of the Local Government Act 1989, the Chief Executive Officer is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, he or she/they may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.~~

2.2. Information which has been designated by the *Chief Executive Officer* as confidential information within the meaning of the *Act*, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.

2.3 Nothing in sub-Rule 2.2 will, without more, mean that information designated by the *Chief Executive Officer* under sub-Rule 2.1 satisfies the definition of "confidential information" contained in section 3(1) of the *Act*.



## Election Period Policy 2020

### DOCUMENT CONTROL

Category Type: Policy  
Type: Council  
Responsible Officer: Governance and Administration Coordinator

Last Review Date: 19 November 2019  
Date Approved: 25 August 2020  
Next Review Date: October 2023

Revision No: 4

Stakeholder Engagement:  
Councillors  
Chief Executive Officer  
Governance and Administration Coordinator

# Governance Rules



## INTENT

In the lead up to an election the Local Government sector adopts a caretaker period to avoid actions and decisions that may be interpreted as influencing voters or binding an incoming Council.

Specific provisions have been incorporated into the Local Government Act 2020 (the Act) that prohibit Council making some decisions, or publishing or distributing electoral matter in an "election period".

The relevant provisions of the Act and definitions are detailed in the Attachment to this Policy.

## POLICY

Ararat Rural City Council is committed to the principle of fair and democratic elections and therefore adopts and endorses the following practices and legislative requirements.

The Election Period Policy has been developed in order to ensure that general elections for Ararat Rural City Council to be held on Saturday 24 October 2020 are conducted in a manner that is fair and equitable, and is publicly perceived as such.

### Election Period

- 1 The election period (or caretaker period) commences morning (12.01am) of Tuesday 22 September 2020 and continues until 6pm Saturday 24 October 2020, a period of 32 days.
- 2 During the election period the Council will be deemed to be in 'election caretaker mode'.
- 3 The Chief Executive Officer will ensure that all Councillors and employees are informed of the requirements of this policy.

### Decision Making

- 1 It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an election period. The Council therefore commits to the principle that it will make every endeavour to avoid making decisions that inappropriately bind the incoming Council.
- 2 This includes a commitment to comply with the requirements of section 69 of the Act which prohibits specific Council decisions during an election period.
- 3 Council will not hold a scheduled Council Meetings during the election caretaker period.
- 4 Scope exists for Council to hold an unscheduled Council Meeting but only in the most urgent or extraordinary circumstances or statutory processes that may arise.

### Prohibited Decisions

Council is prohibited from making any Council decision:

- (a) During the election period for a general election that:
  - (i) 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
  - (ii) 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
  - (iii) the Council considers could be reasonably deferred until the next Council is in place; or

- (iv) the Council considers should not be made during an election period; or
- (b) 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.

#### What is a Council Decision?

A **Council decision** means the following:

- (a) a resolution made at a Council meeting;
- (b) a resolution made at a meeting of a delegated committee; or
- (c) the exercise of a power or the performance of a duty or function of Council by a member of Council staff (which includes the Chief Executive Officer) or a Community Asset Committee under delegation.

#### Misuse of Position

- 1 Councillors cannot use their current position to gain access to information or resources that would otherwise not be available. Councillors and candidates must be given equal access to support and information.
- 2 The penalty for Misuse of Position under Section 76D of the Local Government Act 1989 is 600 penalty units or imprisonment for 5 years or both.

#### PUBLIC CONSULTATION

- 1 Public consultation means a process that involves inviting individuals, groups or organisations or the community generally to comment on an issue or proposed action or proposed policy, and which includes discussion of that matter with the public.
- 2 Public consultations are best to be avoided during the election period unless they are required under the *Planning and Environment Act 1987*, or section 223 of the *Local Government Act 1989*.
- 3 Consultations may be undertaken during the election period to facilitate the day-to-day business of Council, to ensure matters continue to be proactively managed.
- 4 Consultations will avoid any express or implied links to the election.
- 5 Consultations under statutory provisions should only proceed after express agreement by the Chief Executive Officer and then if it relates solely to the normal day-to-day business of Council.

#### COUNCIL RESOURCES

- 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 the principle that it will ensure that Council resources are not used inappropriately during a Council election.
- 2 Council will ensure that due propriety is observed in the use of all Council resources, and Council employees 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, advice is to be sought from the Chief Executive Officer.
- 3 Council resources, including offices, support staff, hospitality services, equipment and

# Governance Rules



- stationery will be used exclusively for normal Council business during the election caretaker period, and shall not be used in connection with any electioneering activity.
- 4 Reimbursements of Councillors' out-of-pocket expenses during the election caretaker 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.
  - 5 No Council events, logos, letterheads, or other Ararat Rural City Council branding should be used for, or linked in any way to, a candidate's election campaign.
  - 6 The Chief Executive Officer or any employee should not be asked to undertake any tasks connected directly or indirectly with electioneering.
  - 7 Photos or images taken by 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 websites that may be able to be copied.
  - 8 No election material or active campaigning is to be conducted at any Council sponsored events or be displayed in any Council building.
  - 9 Allocations on budget for Councillors seminars/training and attendance at conferences are to be **allocated on a pro rata basis** between the commencement of the financial year and the election date, i.e. pro rata basis of 4 months out of 12-month period.
  - 10 The Council will also ensure other Ararat Rural City resources are not used inappropriately in ways that may influence voting in an election or provide an undue advantage for a candidate. This includes financial, human and material resources. Council employees must adhere to the following:
    - (a) Council employees will not undertake an activity that may affect voting in the election;
    - (b) Council employees will not authorise, use or allocate a Council resource for any purpose that may influence voting in the election; and
    - (c) Council employees who believe they are being placed in a compromising situation by a request from a Councillor should politely refer the Councillor to the Chief Executive Officer for clarification on their request.
  - 11 Prior to the election period the Chief Executive Officer will ensure that all Council employees are advised in regard to the application of the caretaker procedures.
  - 12 Any employee who considers that a particular use of Council resources may influence voting in an election or provide an undue advantage for a candidate should advise Chief Executive Officer before authorising, using or allocating the resource. The Chief Executive Officer will decide if the use of Council resources is appropriate or not.
  - 13 In applying these principles, the Council understands that the following will be normal practice during election periods:
    - (a) Public events will only be organised and run if it is totally unavoidable to conduct such events during the caretaker period and then only with the express permission of the Chief Executive Officer;
    - (b) Speeches for Councillors will only be prepared by Council officers in relation to events that are part of the normal services or operation of the Council and such speeches will not be circulated or available for publication;
    - (c) Media services, including media releases, will not be provided for Councillors during the election period;
    - (d) Media releases will not mention or quote any Councillor(s) during the caretaker period;



# Governance Rules



- (e) Councillor Newsletters will not be printed by Council during the election period; and
  - (f) Neither the Council logo nor Council stationery will be used by Councillors in any way that relates to the election.
- 14 Equipment and facilities provided to Councillors for the purpose of conducting normal Council business will not be used for campaigning purposes.
  - 15 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, Councillors will reimburse the Council for usage of those services during the caretaker period that exceeds normal usage levels.
  - 16 Councillors may wish to consider the specific ways to administer this procedure. For instance, Councillors may decide to use a private mobile phone for all election enquiries and publicise such on election literature.

## INFORMATION

- 1 The Council recognises that all election candidates have rights to information from the Council administration. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from Council officers that might be perceived to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the election caretaker period.
- 2 Information and briefing material prepared by employees for Councillors during the election caretaker period will relate only to factual matters or to existing Council services to assist Councillors in conducting normal day to day activities.
- 3 An Information Request Register will be maintained by the Governance Unit commencing on the opening of nominations. This Register will be a public document (available for inspection) that records all requests for information of a non-election nature by all candidates, and the responses given to those requests.
- 4 Responses to candidates' requests will be provided by the Chief Executive Officer. Only information that can be reasonably accessed will be released.
- 5 Section 76D of the *Local Government Act 1989* prescribes serious penalties for any Councillor who inappropriately makes use of their position or information obtained in the role of Councillor, to gain an advantage.
- 6 Any Freedom of Information (FoI) applications lodged during the election period on matters such as expenses, costs etc. regarding current Councillors will be dealt with where possible outside of the election period (The FoI Act specifies a 30 day period in providing a response to a FoI application).

## COMMUNICATION

- 1 Council communication will not be used in any way that might influence the outcome of a Council election.
- 2 During the election caretaker 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.
- 3 Any requests for media advice or assistance from Councillors during the election period will be channelled through the Chief Executive Officer.
- 4 In response to media inquiries the Chief Executive Officer will only provide information that

# Governance Rules



- relates to current services and operations.
- 5 In the election period no media releases will be issued quoting or featuring the Mayor or Councillor(s).
  - 6 During the election caretaker period, Council initiated communications shall be restricted to the communication of normal Council activities.
  - 7 No media advice or assistance will be provided to Councillors in relation to election campaign matters.
  - 8 No publicity will be provided that involves specific Councillors.
  - 9 Councillors should not use their position as an elected representative or their access to Council employees and other Council resources or information in support of an election campaign. This includes photos or images provided by Council for past Council activities.
  - 10 Sessions 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.
  - 11 Publicity of Council events (if any during the election period) will be restricted to the communication of normal Council activities.
  - 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 this time period.

## COUNCIL PUBLICATIONS

- 1 Council will limit printing, publishing and distributing publications during an election period. This is to ensure that Council does not utilise public funds that may influence or be seen to influence people's voting intentions.
- 2 Council must not print, publish or distribute a publication during the election period unless it has been authorised in writing by the Chief Executive Officer.
- 3 The Chief Executive Officer must not authorise a publication that contains electoral matter.
- 4 Electoral matter is any matter that is intended or likely to affect voting in an election.
- 5 The authorisation by the Chief Executive Officer must be in writing and cannot be delegated. Authorisation wording – over the Chief Executive Officers signature - should be as follows "Authorised by the Chief Executive Officer in accordance with the Election Period Policy"
- 6 The following documents are Council publications:
  - Council newsletters
  - Advertisements and notices e.g. job advertisements, public notices of contracts etc.
  - Media releases
  - Leaflets and brochures
  - Mail-outs to multiple addresses

**All these publications will require authorisation by the Chief Executive Officer provided that the CEO is certain they do not contain electoral matter.**

# Governance Rules



- 7 This Policy also applies to the publication of material specified in this Policy published on Council's website.
- 8 The recommended practice – in line with State and Federal Governments – is where possible to avoid all publication activity during the election period except where it is essential for the conduct of Council operations.
- 9 A number of Council publications with references to either current Councillors or candidates, both on website and public display will be withdrawn from such display during an election period.
- 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.
- 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 Councillor ie names, photos and mobile numbers.
- 12 Any new material published on Council's web site during the election period that may be considered to be an advertisement, handbill, pamphlet or notice must also be subject to the certification process. Council agendas, minutes and the annual report are considered exempt from certification.
- 13 Council is required by the Act to produce an annual report, and the *Annual Report 2019/2020* 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 fulfil its statutory obligations on reporting matters. It may also be required for the Annual Report to be the subject of a Council Meeting in October to confirm the completion of the Annual Report.
- 14 Social Media – any publication on social media sites such as Facebook or twitter which are auspiced by Council will also require authorisation by the Chief Executive Officer. Similar requirements apply to Council blog sites.
- 15 Any matter that exists on Social Media pages that could be viewed as electoral matter will be removed including YouTube videos or photos of Councillors at publicity events, as is done with Councillor profiles on Council websites.

Social media activity during the caretaker period is to conform with the following:

- On all Facebook pages the "post comments' from all" facility to be disabled.
- Facebook posts to be kept to minimum, normal day-to-day activities only.
- No launches or announcements of any new projects, policy initiatives, or programs.
- You Tube videos to be removed and suspended during the period.
- No matter is permitted that may be construed as electoral matter – sites should be reviewed to ensure there is none.
- No hosting or responding to political content at all is permitted.
- During this time ensure moderation of Twitter and Facebook sites.
- Keep Twitter updates to a minimum – normal day-to-day business only.

# Governance Rules



## ASSISTANCE TO CANDIDATES

- 1 The Council affirms that all candidates for the Council election will be treated equally.
- 2 Any assistance and advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.
- 3 All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer (for instance CEO Lists), to the Chief Executive Officer or a designated Council officer.

## CARETAKER STATEMENT - SPECIAL COUNCIL MEETING REPORTS

- 1 As Council will not hold an ordinary Council Meeting this section only applies to reports for a Special Council Meeting, if such a meeting is called.
- 2 In order to facilitate compliance with its commitment to ensuring appropriate decision-making during elections, Council endorses the following procedure:

During the election period, the Chief Executive Officer will ensure that a "Caretaker Statement" is included in every report submitted to a Council meeting (if required) for a decision.

The "Caretaker Statement" will specify the following:

"The recommended decision is not a "Prohibited Decision", as defined in section 69 of the Local Government Act 2020."

During the caretaker period, the Council will not make a decision on any matter or report that does not include the Caretaker Statement.

## DISCLAIMER

This Policy has been written to provide a guide only for Council employees, Councillors and candidates and is not a substitute for legal advice. Individuals should seek their own independent advice if they are unsure about any aspect of the Act and associated regulations in relation to the election period.

## ADMINISTRATIVE UPDATES

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

# Governance Rules



## TERMS/DEFINITIONS

Term	Definition
Act	Local Government Act 2020
Foi	Freedom of Information

## REFERENCES

In accordance with the Local Government Act 2020 and the Local Government Act 1989 transitional arrangements, the following sections of the Local Government Act 1989 are currently still in force.

<p><b>Section 76D</b></p> <p><i>Provision to be repealed on 24 October 2020</i></p>	<p><b>Misuse of Position</b></p> <p>1 A person who is, or has been, a Councillor or member of a special committee must not misuse his or her position:</p> <p>(a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or</p> <p>(b) to cause, or attempt to cause, detriment to the Council or another person.</p> <p>Penalty: 600 penalty units or imprisonment for 5 years or both</p> <p>2 For the purposes of this section, circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a special committee include:</p> <p>(a) making improper use of information acquired as a result of the position he or she held or holds; or</p> <p>(b) disclosing information that is confidential information within the meaning of section 77(2); or</p> <p>(c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E; or</p> <p>(d) exercising or performing, or purporting to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform; or</p> <p>(e) using public funds or resources in a manner that is improper or unauthorised; or</p> <p>(f) failing to disclose a conflict of interest as required under this Division.</p> <p>3 This section:</p> <p>(a) has effect in addition to, and not in derogation from, any Act or law relating to the criminal or civil liability of Councillors or members of special committees; and</p> <p>(b) does not prevent the institution of any criminal or civil proceedings in respect of that liability.</p>
<p><b>Section 95</b></p> <p><i>Provision to be repealed 1 July 2021</i></p>	<p><b>Conduct Principles</b></p> <p>Council staff must in the course of their employment:</p> <p>(a) act impartially;</p> <p>(b) act with integrity including avoiding real or apparent conflicts of interest;</p> <p>(c) accept accountability for results; and</p> <p>(d) provide responsive service.</p>
<p><b>Section 223</b></p>	<p><b>Right to make Submission</b></p> <p>Section 223 is not being repealed and has limited ongoing application.</p>