



# Governance Rules

Pursuant to the Local Government Act 2020

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## Purpose

These Governance Rules (“These Rules”) support Baw Baw Shire Council in ensuring good governance and decision making, in the best interests of the public. These Rules make clear the procedures of Council Meetings, for the Mayor and Councillors, staff of Baw Baw Shire, and members of the community wishing to participate in this process.

Council must adopt and keep in force Governance Rules under Section 60 of the Local Government Act 2020 (the Act).

These Rules supersede the Baw Baw Shire Council Meeting Procedure Local Law, Community Participation Time Policy, and Election Period Policy. The provisions in these policies are covered in the Governance Rules.

## Governance Principles

Section 9 of the Local Government Act 2020 (the Act) specifies the overarching governance principles and supporting principles that Council must adhere to in the performance of its role and functions.

These Rules ensure that the management of Council business is in accordance with the Act and meets the following overarching governance principles in Section 9(2) of:

- Ensuring Council decisions and actions are taken in accordance with the relevant law;
- Achieving the best outcomes for the municipal community;
- Engaging the municipal community in strategic planning and strategic decision making; and
- Ensuring public transparency.

These Rules also take into account the following supporting principles defined in Section 9(3) of the Act:

- The community engagement principles; and
- The public transparency principles.

## Date of Commencement

These Governance Rules commence on 15 September 2022.

## Contents

These Governance Rules are divided into the following sections:



Chapter	Name
Section 1	Governance Framework
Section 2	Meeting Procedure for Council Meetings
Section 3	Meeting Procedure for Delegated Committees
Section 4	Meeting Procedure for Community Asset Committees
Section 5	Disclosure of Conflicts of Interest
Section 6	Miscellaneous
Section 7	Election Period Policy
Section 8	Monitoring, Evaluation and Review

## Definitions

For the purposes of this policy, *Council* adopts the following definitions:

**The Act** means the *Local Government Act 2020*. Where reference is made to the *Local Government Act 1989*, this will be specified.

**Absolute majority means** the number of *Councillors* which is greater than half the total number of the *Councillors* of a Council.

**Advisory committee means** a committee established by the Council, that provides advice to the Council, that is not a *Delegated Committee*.

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

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

**Audit and Risk Committee** means the *Audit and Risk Committee* established by a *Council* under section 53 of *the Act*.

**Attend, Attending and In Attendance** include attend, attending or in attendance by electronic means.

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

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

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

**Chief Executive Officer** means the person occupying the office of *Chief Executive Officer* of Council, and includes an Acting *Chief Executive Officer*.

**Committee Meeting** means a meeting of a *Delegated Committee* convened in accordance with these *Governance Rules* or other *Rules* adopted by Council, and includes a scheduled or unscheduled meeting (whether held as face-to-face attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance).

**Common Seal** means the *Common Seal* of Council.

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

**Council** means Baw Baw Shire Council.

**Councillor** means a *Councillor* of Council.

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

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

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

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

**Delegated Committee Meeting** means a Meeting of a *Delegated Committee*.

**Delegate Report** means a formal report produced by a *Delegated Committee*.

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

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

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

interjecting when another person is speaking, except, in the case where a *Councillor* is raising a Point of Order;

making comments that are defamatory, malicious, abusive or offensive;

refusing to leave the Meeting when requested, ordered or directed to do so by the *Chair* in accordance with *The Act* and the Governance Rules; and

engaging in any other conduct which prevents the orderly conduct of the Meeting.

**Electronic Meeting** means any Council Meeting held in full or in part via electronic means using audio-video teleconference and with or without in-person attendance.

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

**Leave of Council** means the express permission of the Council, but mutual agreement or resolution of *Council*.

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

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

**Minister** means the *Minister* for Local Government.

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

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

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

**Quorum** means the *absolute majority* of *Councillors* present at the meeting; a *Quorum* is required to hold a formal meeting of Council.

**Reasonable Notice** means a period of notice which is acceptable to the majority of the community.

**These Rules** means these Governance Rules.

**Urgent Business** means a matter that relates to or arises out of a matter which has arisen since distribution of the *Agenda* and cannot safely or conveniently be deferred until the next meeting.

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

## Types of *Motions*

Type	Definition
<i>Motion</i>	A proposal framed in a way that will result in the opinion of <i>Council</i> being expressed, and a <i>Council</i> decision being made, if the proposal is adopted
<i>Alternate Motion</i>	A <i>Motion</i> put by a <i>Councillor</i> which changes the intent and purpose of the officer recommendation.
<i>Amendment</i>	An <i>Amendment</i> modifies an existing <i>Motion</i> by leaving out or adding words, which must be relevant to the original <i>Motion</i> and framed as to complement it as an intelligible and consistent whole.
<i>Bereavement Motion</i>	A <i>Motion</i> put in recognition of the passing of a significant community member. <i>Council</i> does not vote on a <i>Bereavement Motion</i> .
<i>Notice of Motion</i>	A notice setting out the text of a <i>Motion</i> which a <i>Councillor</i> proposes to move at a <i>Council</i> Meeting
<i>Procedural Motion</i>	A <i>Motion</i> that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure
<i>Notice of Rescission</i>	A <i>Notice of Motion</i> to rescind a resolution made by <i>Council</i>
<i>CEO General Business Motion</i>	A <i>Motion</i> put by a by the <i>CEO</i> to introduce information to the <i>Council</i> which must be approved by the <i>Chair</i>
<i>General Business Motion</i>	A <i>Motion</i> put by a <i>Councillor</i> which is General in nature and does not commit the <i>Council</i> to more than \$5,000 expenditure or 2 days' work

## Scope

This policy applies to to all elected *Councillors* while holding the office of *Councillor* and to all staff while remaining employees of Baw Baw Shire. This policy also applies to all members of the public during their interactions with Council.

# Section 1 – Governance Framework

## Context

### Legislative

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

- a) The *Local Government Act 1989*,
- b) The *Local Government Act 2020 (the Act)*, and
- c) The overarching governance principles specified in section 9(2) of the Act.

### Related policies and documents

Council's:

- Public Transparency Policy
- *Councillor Code of Conduct*
- *Councillor and Staff Interaction Policy*
- *Councillor Expense Policy 2020*
- Information Privacy Policy

And any other policy, regulations or guideline deemed directly relevant.

## 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 (of a minimum of 5 days) 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.

## Section 2 – Meeting Procedures for Council Meetings

### Part A – Introduction

#### 1. Title

This Section will be known as the Meeting Procedures.

#### 2. Purpose of this Chapter

The purpose of this Section is to:

- Provide for the election of the *Mayor* and any Deputy *Mayor*;
- Provide for the appointment of any Acting *Mayor*; and

- Provide for the procedures governing the conduct of *Council meetings*.

## Part B – Election of the Mayor

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

### 3. Election of the Mayor

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

### 4. Method of Voting

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

### 5. Determining the election of the Mayor

- 5.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected and invite nominations for the office of *Mayor*.
- 5.2 The *Mayor* becomes the Chair once elected by *Council*.
- 5.3 Any nominations for the office of *Mayor* must be:
  - 5.3.1 In a form prescribed by the *Chief Executive Officer*; and
  - 5.3.2 seconded by another *Councillor*.
- 5.4 All nominees will clearly indicate their acceptance of the nomination during this meeting;
- 5.5 Any nominees not present at the meeting held to elect the *Mayor*, must have provided their acceptance in writing to the *Chief Executive Officer*, prior to the meeting;
- 5.6 Once nominations have been accepted, the *Chief Executive Officer* shall confirm that no further nominations shall be accepted, and all *Councillors* contesting the election of the *Mayor* shall be known as candidates;
- 5.7 Any *Councillor* can withdraw their candidature at any time before *Councillors* are requested to vote;
- 5.8 Candidates may address *Council* for up to three minutes prior to the election of *Mayor* and *Deputy Mayor* being conducted.
- 5.9 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:

### ***Single Nomination***

- 5.9.1 If there is only one candidate for *Mayor*, the candidate nominated must be declared to be duly elected;

### ***Multiple Nomination and Candidate Elected on First Vote***

- 5.9.2 If there is more than one nomination, the *Councillors* in attendance at the meeting must vote for one of the candidates;
- 5.9.3 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***

- 5.9.4 In the event that:
- (i) there are three or more candidates:
  - (ii) no candidate receives the votes of an absolute majority of Councillors; and,
  - (iii) 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;
- 5.9.5 If one of the remaining candidates receives the votes of an absolute majority of Councillors, that candidate is duly elected.
- 5.9.6 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.
- 5.9.7 If three candidates are equally tied, a preference vote may be conducted in accordance with sub-Rule 5.9.6 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.
- 5.9.8 In the event that no candidate receives an absolute majority of the votes the *Council* may resolve to conduct a new election within seven days. *Council* may resolve to defer the meeting or elect a temporary Chairperson to consider the remaining business of the meeting.



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

- 5.9.9 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;
- 5.9.10 If 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 5 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
- 5.9.11 If 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 5.9.9 and 5.9.10 must again be followed.

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

Any election for the office of *Deputy Mayor*; or *Chair* of a *Delegated Committee* will be regulated by Rules 3-5 (inclusive) of this Chapter, as if the reference to the *Chief Executive Officer* is a reference to the *Mayor*; and *Mayor* is a reference to the *Deputy Mayor* or the *Chair* of the *Delegated Committee* (as the case may be).

## 7. 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:

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

## 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

#### 8. Dates, Time, and Place of Meetings Fixed by Council

- 8.1. Subject to Rule 10, *Council* must from time to time fix the date, time and place of all *Council Meetings*.
- 8.2. *Council Meetings* may be conducted electronically providing a livestream is available through Council's website. Councillors may request electronic participation via the format set out in 83.2;
- 8.3. *Council* by resolution can determine the proposed or preferred format style of meetings (in-person, electronic- including hybrid or parallel) noting the criteria and process available for a member who wishes to request approval to attend by electronic means.
- 8.4. *Council* may determine certain meetings that must be held solely as face-to-face (in-person) meetings. The meetings determined by *Council* as being solely in person meetings include:
  - 8.4.1. the election of *Mayor* and *Deputy Mayor*, and;
  - 8.4.2. the Hearing of Budget Submissions.

#### 9. 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.

#### 10. Meetings Not Fixed by Council

- 10.1. The *Mayor* or at least 3 *Councillors* may by a written notice call a *Council meeting*.
- 10.2. The notice must specify the date and time of the *Council Meeting* and the business to be transacted.
- 10.3. The *Chief Executive Officer* must convene the *Council Meeting* as specified in the notice.

- 10.4. Unless all *Councillors* are in attendance and unanimously agree to deal with any other matter, only the business specified in the *written* notice can be transacted at the *Council meeting*.

## 11. Notice of Meeting

- 11.1. 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.
- 11.2. Notwithstanding sub-Rule 11.1, 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 their absence.
- 11.3. *Reasonable notice* of each *Council Meeting* must be provided to the public. *Council* may do this:
- 11.3.1. 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
- 11.3.2. for any meeting by giving notice on its website and:
- (a) in each of its Customer Service Centres; and/or
- (b) in at least one newspaper generally circulating in the *municipal district*.

## Division 2 – Quorums

### 12. Inability to Obtain A Quorum

If after 30 *Minutes* from the scheduled starting time of any *Council meeting*, a *Quorum*, being the majority of *Councillors* present at the meeting, cannot be obtained:

- 12.1. The meeting will be deemed to have lapsed;
- 12.2. The *Mayor* must convene another *Council meeting*, the *Agenda* for which will be identical to the *Agenda* for the lapsed meeting; and
- 12.3. The *Chief Executive Officer* must give all *Councillors* written notice of the meeting convened by the *Mayor*.

- 12.4. It should be noted that under section 61(6A) of the LG Act, for the purposes of these meetings, a *Councillor* present by electronic means of communication is deemed present for the purposes of a quorum, so long as the *Councillor* can be both seen and heard.
- 12.5. The *Chair* may determine whether a *Councillor* is sufficiently seen or heard.

## 13. Inability to Maintain A Quorum

- 13.1. If during any *Council meeting*, a *Quorum* cannot be maintained then Rule 12 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 13.2. Sub-Rule 13.1 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.

## 14. Adjourned Meetings

- 14.1. *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.
- 14.2. *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.

If it is impracticable for the notice given under sub-Rule 14.2 to be in *writing*, the *Chief Executive Officer* must give notice to each *Councillor* by telephone or in person.

## 15. Time limits for Meetings

- 15.1. A *Council Meeting* must not continue for a period of longer than three consecutive hours unless a majority of *Councillors* who are in attendance vote in favour of it continuing.
- 15.2. A meeting cannot be continued by extension for more than two hours (*Councillors* may request one 60-minute extension, and up to two further 30-minute extensions).
- 15.3. 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 14.2 and 14.3 apply.

## 16. Adjournment of Time Provision

- 16.1. In the event a break is required not for the purpose of discussing *Council Business*, but for sustenance or relief, a *Councillor* can call for an adjournment of time. This *Motion* requires a seconder and the time in which the meeting will be adjourned for must be specified.

## 17. Cancellation or Postponement of a Meeting

- 17.1. 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*.
- 17.2. 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 17.1.

## Division 3 – Business of Meetings

### 18. 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 an open, efficient and effective processes of government. The *Chair* may have input into the development of the *Agenda* and order of business in consultation with the *Chief Executive Officer*.

### 19. 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*.

### 20. Urgent Business

All *Agendas* for a *Council Meeting* can make provision for urgent business. Business cannot be admitted as *Urgent Business* other than by resolution of *Council* and only then if it:

- 20.1. It is proposed for admission by the *Chief Executive Officer* after consulting with the *Mayor*; and
- 20.2. The *Chair* has been given written notice of the proposed matter to be raised and has approved admittance of the item; and
- 20.3. It relates to or arises out of a matter which has arisen since production of the agenda; and
- 20.4. It cannot safely or conveniently be deferred until the next *Council meeting*.
- 20.5. Urgent Business cannot:

- 20.5.1. substantially affect the levels of Councils service; or
- 20.5.2. commit Council to significant expenditure not included in the adopted budget.

## Division 4 – Motions and Debate

### 21. Councillors May Propose Notices of Motion

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

### 22. Notice of Motion

22.1. A *Notice of Motion* must be in *writing* signed by a *Councillor* or sent from the appropriate *Councillors* email, and be lodged with or sent to the *Chief Executive Officer* to allow sufficient time for the *Notice of Motion* to be included in *Agenda* papers for a *Council Meeting* and to give each *Councillor* at least 48 hours' notice of such *Notice of Motion*.

22.2. A *Notice of Motion* requires a seconder

22.3. The *Chief Executive Officer* may reject any *Notice of Motion* which:

- 22.3.1. is vague or unclear in intention
- 22.3.2. is beyond *Council's* power to pass; or
- 22.3.3. if passed would result in *Council* otherwise acting invalidly; but must:
- 22.3.4. give the *Councillor* who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
- 22.3.5. notify in *writing* the *Councillor* who lodged it of the rejection and reasons for the rejection.

22.4. The full text of any *Notice of Motion* accepted by the *Chief Executive Officer* must be included in the agenda.

22.5. 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.

22.6. 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.

22.7. When tabled, *Council* must resolve to either receive the *Notice of Motion* either for noting or refer the matter to *Council* officers to action; with a report presented at

a future meeting of the *Council* no more than four *Council* meetings ahead, unless the *Council* agrees to deal with it at an earlier *Council* Meeting.

22.8. 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*.

22.9. If a *Notice of Motion* is not moved at the *Council Meeting* at which it is listed, it lapses.

## 23. General Business Motion

23.1. A *Councillor* may propose a *General Business Motion*, which calls for the presentation of a report to a later meeting, the drafting of a letter, or other business as approved in writing by the *Chief Executive Officer* and *Chair*.

23.2. A *General Business Motion* requires a seconder.

23.3. *General Business Motions* must not substantially affect the level of *Council* service, commit the *Council* to significant expenditure, establish or amend *Council* Policy, impact any prior *Council* resolutions or concern any litigation.

23.4. More specifically, a *General Business Motion* must not commit the *Council* to an expenditure of more than \$5000, or two days of Officer time.

23.5. When tabled, *Council* must resolve to either receive the *General Business Motion* either for noting and/or action, or refer the matter to *Council* officers to action; or refer to a future meeting of the *Council* not more than four *Council* meetings ahead with a report detailing action and investigation, unless the *Council* agrees to deal with it at an earlier *Council* Meeting.

## 24. Chief Executive Officer General Business Motion

24.1. A *Chief Executive Officer* may propose a *General Business Motion*, in order to introduce information to the *Council* Meeting.

24.2. A *Chief Executive Officer* *General Business Motion* must be in writing signed by the *Chief Executive Officer* and appropriate *Director* and be lodged with or sent to the *Chair* to allow enough time for them to give each *Councillor* at least 48 hours' notice of such *General Business Motion*.

24.3. A *Chief Executive Officer* *General Business Motion* is determined at the discretion of the *Chair*, and can be used to introduce urgent information, but where possible will not commit the *Council* to significant expenditure, establish or amend *Council* Policy or impact any prior *Council* resolutions.

24.4. A *Chief Executive Officer* *General Business Motion* must be read out by the Chief Executive Officer and requires a mover and seconder who are *Councillors*.



## 25. Bereavement Motion

- 25.1. A *Councillor* may propose a *Bereavement Motion*, which is a *Motion* called in recognition of the passing of a significant community member.
- 25.2. A *Bereavement Motion* requires a seconder.
- 25.3. A *Bereavement Motion* may not be put to a vote and is automatically considered unanimous.

## 26. Chair's Duty

Any *Motion* which is determined by the *Chair* to be

- 26.1 defamatory;
- 26.2 objectionable in language or nature;
- 26.3 vague or unclear in intention;
- 26.4 outside the powers of Council; or
- 26.5 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*.

## 27. Participation by the Chief Executive Officer

- 27.1. The *Chief Executive Officer* or *Delegate* may participate in the meeting to provide support to the *Chair*;
- 27.2. The *Chief Executive Officer* should immediately advise to the best of their knowledge if a proposed resolution or action is contrary to the law, advise if there are operational, financial or risk implications arising from a proposed resolution and help clarify the intent of unclear resolutions to facilitate implementation;
- 27.3. At the request of the *Chair*, the *Chief Executive Officer* or *Delegate* may address any item to clarify a statement made by a *Councillor* during the course of debate;
- 27.4. The *Chief Executive Officer* or *Delegate* may on request assist with procedural issues that may arise;
- 27.5. Where a resolution of Council, following a vote, leaves the action in indeterminate state (limbo) the *Chief Executive Officer* may ask for an alternative *Motion* to be developed by Council, or for *Council* to call for an Officer report.

## 28. Introducing A Motion

The procedure for moving any *Motion* or *Amendment* is:

- 28.1. The Chair must read the recommendation for the *Motion* to the meeting and ask the Councillors for a mover for the *Motion*;
- 28.2. The mover must raise their hand to move the *Motion* without speaking to it;
- 28.3. 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;
- 28.4. If a *Motion* or an *Amendment* is moved and seconded the *Chair* must allow the mover and seconder the opportunity to speak to the motion.
- 28.5. After the mover and seconder have 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*; by asking: “Does any other *Councillor* wish to speak for the motion? Does any *Councillor* wish to speak against the motion?”
- 28.6. 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.
- 28.7. An *Amendment* must only modify an existing *Motion* by leaving out or adding words, which must be relevant to the original *Motion* and framed as to complement it as an intelligible and consistent whole.
- 28.8. The mover and seconder of a motion cannot be the *Chair*, unless the *Chair* elects to temporarily vacate the seat of *Chair* until the item is disposed of.

## 29. Right of Reply

- 29.1. The mover of a *Motion* has a right of reply to matters raised during debate.
- 29.2. After the right of reply has been taken but subject to any *Councillor* exercising their 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.
- 29.3. A right of reply is limited to two minutes.

## 30. Moving an Amendment

- 30.1. Subject to sub-Rule 30.2 a *Motion* which has been moved and seconded may be amended by leaving out or adding words. Any added or removed words must be relevant to the subject of the *Motion*.
- 30.2. A *Motion* to confirm a previous resolution of *Council* cannot be amended.
- 30.3. An *Amendment* must not be directly opposite to the *Motion*.

## 31. Who May Propose an Amendment

- 31.1. An *Amendment* may be proposed by any *Councillor*, either the mover of a motion by stating the amendment when speaking to the motion, or by any other *Councillor* by asking the consent of the mover to incorporate the amendment,
- 31.2. All amendments require a seconder to agree to the amendment,
- 31.3. Any one *Councillor* cannot move more than two amendments in succession on any individual *Motion*.

## 32. How Many Amendments May Be Proposed

- 32.1. Any number of amendments may be proposed to a *Motion* but only one *Amendment* may be accepted by the *Chair* at any one time.
- 32.2. 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.

## 33. An Amendment Once Carried

- 33.1. If the *Amendment* is carried, the *Motion* as amended then becomes the *Motion* before the meeting, and the amended *Motion* must then be put.
- 33.2. The mover of the original *Motion* retains the right of reply to that *Motion*.

## 34. Introducing an Alternate Motion

The procedure for moving an *Alternate Motion* is:

- 34.1. An *Alternate Motion* should be circulated amongst *Councillors* and the *Chief Executive Officer* more than 24 hours prior to the *Council Meeting* to ensure sufficient time for Council to consider the *Alternate Motion*;
- 34.2. If an *Alternate Motion* is drafted during a *Council Meeting*, the *Chief Executive Officer* can request to approve the *Alternate Motion* before it is put to the vote;

- 34.3. Before another *Councillor* moves the original *Motion*, the *Councillor* must propose to the *Chair* to move an *Alternate Motion* by raising their hand when the *Chair* calls for a mover;
- 34.4. The mover must state the *Alternate Motion* without speaking to it;
- 34.5. The *Alternate Motion* must be seconded, and the seconder must be a *Councillor* other than the mover. If an *Alternate Motion* is not seconded, the *Alternate Motion* lapses for want of a seconder; and the *Chair* may call for a mover for the original *Motion*;
- 34.6. If an *Alternate Motion* is moved and seconded the *Chair* must invite the mover and seconder to address the meeting;
- 34.7. After the mover and seconder have 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 *Alternate Motion*, providing an opportunity to alternate between those wishing to speak against the *Alternate Motion* and those wishing to speak for the *Alternate Motion*; and
- 34.8. If, after the mover has addressed the meeting, the *Chair* has invited debate and no *Councillor* speaks to the *Alternate Motion*, then the *Chair* must put the *Alternate Motion* to the vote.
- 34.9. Councillors may seek advice from the *Chief Executive Officer* on the wording for an *Alternate Motion*, but the *Chief Executive Officer* will not provide wording for an *Alternate Motion* that contradicts the law or the *Local Government Act 2020*. If the *Chief Executive Officer* *has declined to provide* wording for an *Alternate Motion* they must state this, verbally, to the meeting.
- 34.10. The mover and seconder of an *Alternate Motion* cannot be the *Chair*, unless the *Chair* elects to temporarily vacate the seat of *Chair* until the item is disposed of.

## 35. Right of Reply

- 35.1. The mover of an *Alternate Motion* has a right of reply to matters raised during debate.
- 35.2. After the right of reply has been taken but subject to any *Councillor* exercising their 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.
- 35.3. If the *Alternate Motion* is not carried, the *Chair* will call for a mover of the original, or other alternate or amended *Motion*.

## 36. An Alternate Motion Once Carried

If the alternate is carried, the *Motion* then becomes the *Motion* before the meeting.

## 37. Foreshadowing Motions

- 37.1. At any time during debate a *Councillor* may foreshadow a *Motion* so as to inform *Council* of their intention to move a *Motion* at a later stage in the meeting, but this does not extend any special right to the foreshadowed *Motion*.
- 37.2. 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*.
- 37.3. If the original *Motion* is lost, the *Councillor* who first foreshadowed the *Motion* must then move their *Motion* in accordance with rule 34.
- 37.4. 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 and seconded.
- 37.5. The *Chair* is not obliged to accept foreshadowed motions.

## 38. Withdrawal of Motions

- 38.1. Before any *Motion* is put to the vote, it may be withdrawn by the mover and seconder with the leave of *Council*.
- 38.2. If the majority of *Councillors* object to the withdrawal of the *Motion*, it may not be withdrawn.

## 39. 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. The *Councillor* does not need to have moved or seconded the *Motion* and can simply raise their hand to make the request. Requests of this nature are determined by the *Chair*.

## 40. Chair May Separate Motions

The *Chair* may decide to put any *Motion* to the vote in several parts.

## 41. Grouping of Motions

Where more than one *Motion* are very similar, a *Councillor* may request the *Chair* to put the *Motions* to the vote in a block. The *Councillor* does not need to have moved or seconded the *Motion* and can simply raise their hand to make the request. Requests of this nature are determined by the *Chair*.

## 42. Chair May Group Motions

The *Chair* may decide to put any *Motions* to the vote in a group.

## 43. 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.

## 44. Motions in Writing

- 44.1. The *Chair* may require that a complex or detailed *Motion* be considered in writing.
- 44.2. *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.

## 45. Repeating Motion and/or Amendment

The *Chair* may request an Officer or *Director* present at the *Council Meeting* to read the *Motion* or *Amendment* to the meeting before the vote is taken. This is applicable to all *Motions*.

## 46. Debate Must Be Relevant to The Motion

- 46.1. 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*.
- 46.2. 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*.
- 46.3. A speaker to whom a direction has been given under sub-Rule 46.2 must comply with that direction.

## 47. Speaking Times

A *Councillor* must not speak longer than the time set out below, unless granted an extension by the *Chair*.

- The mover of a *Motion* or an *Amendment* which has been opposed: 5 minutes during debate;
- Any other *Councillor*: 3 minutes; and
- The mover of a *Motion* exercising a right of reply: 2 minutes.

## 48. Addressing the Meeting

If the *Chair* so determines:

- 48.1 any person addressing the Chair must refer to the Chair as:
  - 48.1.1 *Mayor*; or
  - 48.1.2 *Chair*
- 48.2 All *Councillors*, other than the *Mayor*, must be addressed as  
Cr..... (name).
- 48.3 All members of *Council* staff, must be addressed as Mr or Ms  
..... (name) as appropriate or by their official title.
- 48.4 Any employee of the *Council* who is required, through the *Chair* to address the meeting will stand whilst doing so, if it is possible and practical to do so.
- 48.5 The *Mayor* and *Councillors* will stand to address the meeting, if it is possible and practical to do so.

## 49. Right to ask Questions

- 49.1 A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the Motion or Amendment before the Chair.
- 49.2 The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

## 50. Withdrawal of Remark

- 50.1 The *Chair* may require a *Councillor* to withdraw any remark which is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature.
- 50.2 A *Councillor* required to withdraw a remark must do so immediately without qualification or explanation.

## Division 5 – Procedural Motions

### 51. Procedural Motions

- 51.1 Unless otherwise prohibited, a *Procedural Motion* may be moved at any time and must be dealt with immediately by the *Chair*.
  - 51.1.1 *Procedural Motions* require a seconder.

51.1.2. Notwithstanding any other provision in this Chapter, *Procedural Motions* must be dealt with in accordance with the following table:



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

## Division 6 – Rescission Motions

### 52. Notice of Rescission

52.1. A *Councillor* may propose a *Notice of Rescission* provided:

52.1.1. it has been signed and dated by at least three *Councillors*;

52.1.2. the resolution proposed to be rescinded has not been acted on; and

52.1.3. 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 Section regulating notices of Motion equally apply to notices of rescission.*

52.2 A Chief Executive Officer may propose a Notice of Rescission provided:

52.2.1 A formal report has been prepared for a *Council Meeting*;

52.2.2 the resolution proposed to be rescinded has not been acted on; and

52.2.3 the *Notice of Rescission* is delivered to the *Chair* and *Councillors* 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.

52.3 A *Notice of Rescission prepared by the Chief Executive Officer* is presented for *Council* consideration, to be determined at the Council's discretion, by a resolution of Council.

52.4 A resolution will be deemed to have been acted on if:

52.4.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or

52.4.2 a statutory process has been commenced so as to vest enforceable rights in or obligations on *Council* or any other person.

52.5 *The Chief Executive Officer* or an appropriate member of *Council* staff must defer implementing a resolution which:

52.5.1 has not been acted on; and

52.5.2 is the subject of a *Notice of Rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 52.1.3,

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 52.5 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.*

## 53. 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.

## 54. If Not Moved

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

## 55. May Be Moved by Any Councillor

A *Motion* for rescission listed on an *Agenda* may be moved by any *Councillor* in attendance but may not be amended.

## 56. When Not Required

- 56.1 Unless sub-Rule 56.2 applies, a *Motion* for rescission is not required where *Council* wishes to change policy.
- 56.2 The following standards apply if *Council* wishes to change policy:
- 56.2.1 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
- 56.2.2 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

### 57. Chair to Decide

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

### 58. Chair May Adjourn to Consider

- 58.1 The *Chair* may adjourn the meeting to consider a *Point of Order* but otherwise must rule on it as soon as it is raised.
- 58.2 All other questions before the meeting are suspended until the *Point of Order* is decided.

### 59. Dissent from Chair's Ruling

- 59.1 A *Councillor* may move that the meeting disagree with the *Chair's* ruling on a point of order, by moving:
- 59.2 "That the *Chair's* ruling [setting out that ruling or part of that ruling] be dissented from".
- 59.3 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 in attendance, temporary *Chair* elected by the meeting) must take their place.
- 59.4 The *Deputy Mayor* or temporary *Chair* must invite the mover to state the reasons for their dissent and the *Chair* may then reply.
- 59.5 The *Deputy Mayor* or temporary *Chair* must put the *Motion* in the following form:  
"That the *Chair's* ruling be dissented from."

- 59.6 If the vote is in the negative, the *Chair* resumes the *Chair* and the meeting proceeds.
- 59.7 If the vote is in the affirmative, the *Chair* must then resume the *Chair*, reverse or vary (as the case may be) their previous ruling and proceed.
- 59.8 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.

## 60. Procedure for Point of Order

A *Councillor* raising a *Point of Order* must:

- 60.1 State the point of order; and
- 60.2 State any section, Rule, paragraph or provision relevant to the *Point of Order* before resuming their seat.

## 61. Valid Points of Order

A *Point of Order* may be raised in relation to:

- 61.1 A *Motion*, which, under Rule 26, or a question which, under Rule 62, should not be accepted by the *Chair*;
- 61.2 A question of procedure; or
- 61.3 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 Participation Time

### 62. Question Time

- 62.1 There must be a public question time at every *Council Meeting* fixed under Rule 8 to enable members of the public to submit questions to *Council*.
- 62.2 Sub-Rule 62.1 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*.
- 62.3 Public question time will not exceed 30 *Minutes* in duration, unless approved by the *Chair*.
- 62.4 Questions submitted to *Council* must be:
  - 62.4.1 in writing, state the name and address of the person submitting the question and generally be in a form approved or permitted by *Council*; and

62.4.2 received in hard copy 48 hours prior to the *Council Meeting* or lodged electronically at the prescribed email address or via other online means prescribed by the *Council* 48 hours prior to the *Council meeting*.

62.4.3 where possible, any questions received outside of this time frame which can be sufficiently answered will be responded at the nearest *Council meeting*. Similarly, questions received within this time frame which cannot be sufficiently answered will be responded to at the next *Council meeting*, if such an agreement can be reached with the *Chief Executive Officer* and *Chair*. In either instance, this will be communicated to the author or the question.

62.5 No person may submit more than five questions at any single meeting.

62.6 If a person has submitted more than five questions to a meeting, the additional questions:

62.6.1 may, at the discretion of the *Chair*, be deferred to another *Council meeting*,

62.6.2 may not be answered.

62.7 The *Chair* or a member of *Council* staff nominated by the *Chair* may read to those in attendance at the meeting a question which has been submitted in accordance with this Rule.

62.8 Notwithstanding sub-Rule 62.6, the *Chair* may refrain from reading a question or having a question read if the person who submitted the question is not physically present in the gallery at the time when the question is due to be read. In this instance, questions and responses will be provided to the submitter in full, in writing post *Council Meeting*.

62.9 A question may be disallowed by the *Chair* if the *Chair* determines that it:

62.9.1 relates to a matter outside the duties, functions and powers of *Council*;

62.9.2 relates to a matter that is the responsibility of another authority or body;

62.9.3 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;

62.9.4 deals with a subject matter already answered;

62.9.5 is aimed at embarrassing a *Councillor* or a member of *Council* staff or is directed at a specific *Councillor* or member of *Council* staff, and not to the *Council*;

62.9.6 relates to personnel matters;

62.9.7 relates to the personal hardship of any resident or ratepayer;

- 62.9.8 relates to industrial matters;
- 62.9.9 relates to contractual matters;
- 62.9.10 relates to tenders;
- 62.9.11 relates to proposed developments;
- 62.9.12 relates to legal advice;
- 62.9.13 relates to matters affecting the security of *Council* property; or
- 62.9.14 relates to any other matter which *Council* considers would prejudice *Council* or any person.
- 62.10 Any question which has been disallowed by the *Chair* must be made available to any other *Councillor* upon request.
- 62.11 Any question which has been disallowed by the *Chair* can be directed to the *Chief Executive Officer* who may provide a written response.
- 62.12 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.
- 62.13 The author of a question is entitled to ask up to two clarifying questions.
- 62.14 Like questions may be grouped together and a single answer provided.
- 62.15 Statements precluding a question will not be addressed and can be removed when considered at the public meeting and in the *minutes*.
- 62.16 The *Chair* may nominate a *Councillor* or the *Chief Executive Officer* to respond to a clarifying question.
- 62.17 A *Councillor* or the *Chief Executive Officer* may advise *Council* that it is 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.

## 63. Public Submissions

- 63.1 There must be a public submission time at every *Council Meeting* fixed under Rule 8 to enable members of the public to submit on officer reports listed on the *Agenda* at that *Council Meeting*.
- 63.2 Sub-Rule 63.1 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*.

- 63.3 Community members will be invited to address the *Council* in the *Chamber* on their submissions.
- 63.4 Community members must register prior to the commencement of the *Council Meeting* to speak on an *agenda* item, and arrival time of 15 minutes prior to the commencement of the meeting is recommended.
- 63.5 The *Chair* will consider requests from community members who wish to address Council electronically, if the request is received in writing 48 hours prior to the *Council Meeting*.
- 63.5.1 Community members participating electronically must be seen and heard and are responsible for their own technology;
- 63.5.2 The *Chair* may choose to limit how many community members can address the *Council* electronically at any *Council Meeting*;
- 63.5.3 No more than 10 (ten) electronic submissions will be accepted at any *Council Meeting*;
- 63.5.4 Any community member with an inappropriate or offensive background may be removed from the *Council Meeting* with no right of reply.
- 63.6 Community members will be invited to lodge electronic or written submissions, which must be received in hard copy 48 hours prior to the *Council Meeting* or lodged electronically at the prescribed email address or via other online means prescribed by the *Council* 48 hours prior to the *Council* meeting.
- 63.7 Written submissions will be provided to all *Councillors* in advance of the *Council* meeting, and published in the *Minutes* of the *Council* meeting, but will not be read out loud.
- 63.8 Written and electronic submissions must not exceed 400 words, and verbal submissions must not exceed 3 minutes.
- 63.9 Submissions must relate to *Council* Business and not be the responsibility of another authority or body.
- 63.10 Submitters cannot speak on behalf of another person or group unless they have in writing, or the express permission of that person or group.
- 63.11 Where a group, association, organisation or any other entity intends to make a submission, only one submission can be received on behalf of the group.
- 63.12 Submitters who elect to speak on more than one item listed on the *Agenda* of a *Council* meeting may, at the discretion of the *Chair* be given 5 minutes to speak on all items but may still submit separate written submissions.
- 63.13 The order in which public submissions will be heard is ultimately at the discretion of the *Chair*. The *Chair* where possible will elect to hear submissions prior to the commencement of any motions but may determine to hear



submissions before a specific agenda item where deemed relevant, by changing the order of business.

- 63.14 Questions from *Councillors* can be disallowed at the discretion of the *Chair* if they are deemed inappropriate, and no discussion may be allowed other than by *Councillors* for the purposes of clarification.
- 63.15 Submitters may only directly answer the questions from *Councillors* and not enter a debate or argue with the *Councillor*.
- 63.16 The *Chair* may direct a submitter who has entered debate or argument to cease to answer.
- 63.17 *Council* will provide the opportunity for submissions to be heard under Section 223 of the *Local Government Act 1989*, and where appropriate, *Council* will call a *Council meeting* to hear submissions made under Section 223 of the *Local Government Act 1989* or on planning applications or proposed planning scheme amendments prior to the formal decision process.
- 63.18 The *Chair* may direct a submitter who is defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance; to cease their submission.
- 63.19 Submissions to *Council* are made pursuant to the laws of the State of Victoria and they do not enjoy parliamentary privilege.
- 63.20 If a matter is deferred, the *Chair* may direct that submissions will not be heard again.
- 63.21 *Councillors* must not participate in Public Participation time in their capacity as a private citizen unless they have declared a Conflict of Interest and removed themselves from the chamber during debate.

## Division 9 – Petitions

### 64. Petitions

- 64.1 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 *Council Meeting* after that at which it has been presented.
- 64.2 The nominated person or lead petitioner may attend the *Council Meeting* and speak for up to 3 minutes on the contents of a petition before it is presented by a *Councillor* to be tabled at the meeting. Sub-Rules 63.4, 63.15 and 63.16, apply to a nominated person or lead petitioner when speaking.
- 64.3 The *Chair* would call upon the petitioner before the petition is presented by asking "Is the nominated person or lead petitioner in the room this evening?"

and if they are present will ask “Would you like to speak in relation to the petition?”

- 64.4 If the nominated person or lead petitioner is not present or does not wish to speak, the *Chair* would call for a *Councillor* to present the petition. If the nominated person or lead petitioner is present, once they have been given the opportunity to speak, the *Chair* would then call for a *Councillor* to present the petition.
- 64.5 It is incumbent on every *Councillor* presenting a petition to acquaint themselves with the contents of that petition and to ascertain that it does not contain language disrespectful to *Council*.
- 64.6 Every *Councillor* presenting a petition to *Council* must:
- 64.6.1 confine 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; and
- 64.6.2 seek a seconder in order to progress the petition through *Council*
- 64.6.3 when tabled, *Council* must resolve to either receive the petition with either an included officer recommendation for noting and / or action, or refer the matter to *Council* officers to action and investigate and report back to the lead petition writer as required; or refer to a future meeting of the *Council* not more than four *Council* meetings ahead with a report detailing action and investigation, unless the *Council* agrees to deal with it at an earlier *Council* Meeting.
- 64.7 Every petition to Council must be in writing (other than pencil), typed, printed, or provided via the means of an online form on the Baw Baw Shire website. The petition must contain the request of the petitioners or signatories and be signed by more than 12 people.
- 64.8 The *Minutes* will capture the name of the *Councillor* presenting the petition.
- 64.9 Petitions must relate to *Council* Business and not be the responsibility of another authority or body.
- 64.10 Every petition 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.
- 64.11 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*.

- 64.12 A petition may nominate a person to whom a reply may be sent, but if no person is nominated *Council* may reply to the first or any person whose signature appears on the petition.
- 64.13 Where the petition relates to a current planning or subdivision application, the petition will be considered as an objection in accordance with the Planning and Environment Act 1987 and will not be tabled at *Council* as a separate matter.
- 64.14 Every page of a petition 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.
- 64.15 All petitions received by *Councillors* and/or *Council* Officers must be lodged with the *Chief Executive Officer* for tabling no later than 5.00pm the day prior to the meeting. All petitions received after this deadline will be held over for tabling at the next Ordinary meeting.
- 64.16 A copy of the text of the petition must be included in the *Minutes* of the *Council Meeting* at which it was tabled.
- 64.17 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. In this instance, the petition need not be included *Minutes* of the *Council* meeting.
- 64.18 A reply must always be provided to the nominated person to whom a reply may be sent, or to the first, or any person whose signature appears on the petition.

## Division 10 – Voting

### 65. How Motion Determined

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.

### 66. Silence

Voting must take place in silence.

### 67. Recount

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

### 68. Casting Vote

In the event of a tied vote, the *Chair* must exercise a casting vote.

## 69. By Show Of Hands

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

## 70. Procedure for A Division

- 70.1 Immediately after any question is put to vote in a meeting and before the next item of business has commenced, a *Councillor* may call for a division.
- 70.2 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.
- 70.3 When a division is called for, the *Chair* must:
  - 70.3.1 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 their hands or otherwise signify their support in a manner recognised by the *Chair*.
  - 70.3.2 The *Chair* must then state the names of each *Councillor* with an affirmative vote. *The Chief Executive Officer* or any *Authorised Officer* must record, the names of those *Councillors* voting in the affirmative; and
  - 70.3.3 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 their hands or otherwise signify their opposition in a manner recognised by the *Chair*.
  - 70.3.4 The *Chair* must then state the names of each *Councillor* with a vote in the negative. *The Chief Executive Officer* or any *Authorised Officer* must record, the names of those *Councillors* voting in the negative.

## 71. 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:

- 71.1 A *Councillor* requesting, before the next item of business is considered, that their opposition to a resolution be recorded in the *Minutes* or a register maintained for that purpose; or
- 71.2 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 71 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 71 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 71.2 to discussion about a positive Motion were a resolution has just been rescinded.*

## Division 11 – Minutes

### 72. Confirmation of Minutes

- 72.1 At every *Council Meeting* the *Minutes* of the preceding meeting(s) must be dealt with as follows:
- 72.1.1 a copy of the *Minutes* must be delivered to each *Councillor* no later than 48 hours before the meeting; electronically or via hard copy on request
  - 72.1.2 if no *Councillor* indicates opposition, the *Minutes* must be declared to be confirmed;
  - 72.1.3 if a *Councillor* indicates opposition to the minutes:
    - (a) they must specify the item(s) to which they object;
    - (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 71.1.3(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 *Councillors* peaks 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 they must put the question to the vote accordingly;

- 72.2 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 (electronic signing of minutes is permissible);
- 72.3 The mover must have been present at the meeting of which the *Minutes* are being confirmed;
- 72.4 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*.

## 73. 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.

## 74. 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.

## 75. Form and Availability of Minutes

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:

- 75.1 The date, place, time and nature of the meeting;
- 75.2 The names of the *Councillors* in attendance, the method of attendance and the names of any *Councillors* who apologised in advance for their non-attendance;
- 75.3 The names of the members of *Council* staff in attendance;
- 75.4 Any disclosure of a conflict of interest made by a *Councillor*, including the explanation given by the *Councillor* under Section 5 and whether the conflict of interest was said by the *Councillor* to be a general conflict of interest or a material conflict of interest
- 75.5 Arrivals and departures (including temporary departures) of *Councillors* during the course of the meeting;
- 75.6 Each *Motion* and *Amendment* moved (including *Motions* and amendments that lapse for the want of a seconder);
- 75.7 The vote cast by each *Councillor* upon a division and any abstention from voting
- 75.8 The vote cast by any *Councillor* who has requested that their vote be recorded in the minutes;
- 75.9 Questions upon notice;
- 75.10 The failure of a *Quorum*;
- 75.11 Any adjournment of the meeting and the reasons for that adjournment; and
- 75.12 The time at which *standing* orders were suspended and resumed.
- 75.13 The *Chief Executive Officer* must ensure that the *Minutes* of any *Council Meeting* are published on *Council's* website; and available for inspection at *Council's* office during normal business hours.
- 75.14 Nothing in sub-Rule 75.13 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*.

## Division 12 – Behaviour

### 76. Public Attending or Addressing the Meeting

- 76.1 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.
- 76.2 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.
- 76.3 A member of the public in attendance at a *Council Meeting* must not disrupt the meeting and must observe the following behavioural protocols:
- 76.3.1 Be quiet during proceedings;
  - 76.3.2 Not create a nuisance within the meeting;
  - 76.3.3 Be respectful for the protocols of the meeting;
  - 76.3.4 Not harass those attending the meeting, including *Councillors*, officers and other public participants;
  - 76.3.5 Not bring in any placards, posters or materials other than personal effects unless prior permission has been sought and granted from the *Chair*; and
  - 76.3.6 Not display any physical violence or verbal abuse to anyone or anything within the meeting.

### 77. 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 76.2.

*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 their authority in Chairing the meeting.*

### 78. 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*, they may adjourn the meeting to a later time on the same day or to some later day as they think proper. In that event, the provisions of sub-Rules 14.2 and 14.3 apply.



## 79. 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 Section and whom the *Chair* has ordered to be removed from the gallery under Rule 79.

## Division 13 – Additional Duties of Chair

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

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

- 80.1 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
- 80.2 Must call to order any person who is disruptive or unruly during any meeting.

## Division 14 – Suspension of Standing Orders

### 81. Suspension of Standing Orders

- 81.1 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.*

- 81.2 The suspension of *standing orders* should not be used purely to dispense with the processes and protocol of the government of *Council*. An appropriate *Motion* would be:  
"That *standing order* be suspended to enable discussion on....."
- 81.3 During a *suspension of standing orders*, the *Chair* must provide direction to the gallery as to whether they are to leave the Chamber, or if *Council* will convene in another location until orders resume.
- 81.4 No *Motion* can be accepted by the *Chair* or lawfully be dealt with during any suspension of *standing orders*.

- 81.5 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 – Meetings and the use of electronic communication

### 82. Determination of meeting format

By default, *Council Meetings* shall be conducted in person except as provided for in this division. Despite this Division, *Council* may, by resolution, determine that a specific meeting or meetings will be conducted wholly in person; wholly be electronic means; or partially in person and partially be electronic means

### 83. Meetings conducted in person

- 83.1 At meetings conducted in person, *Councillors* and members of *Delegated Committees* shall physically attend the *Council Meeting* unless a request to participate by electronic means of communication has been granted in accordance with this section.
- 83.2 A request to participate by electronic means of communication must be submitted in writing and lodged with the *Chief Executive Officer* and Manager Governance no later than 9am on the day of the *Council Meeting*.
- 83.3 The *Chief Executive Officer*, in consultation with the *Chair*, will provide a response to the request within two hours and notify all *Councillors* of the decision.
- 83.4 The *Chief Executive Officer* may not grant a request to participate in a meeting by electronic means of communication at the first meeting of *Councillors* after a general election, or if the meeting will consider:
- 83.4.1 The election of the Mayor under section 25 of the Act;
  - 83.4.2 The election of the Deputy Mayor under section 27 of the Act;
  - 83.4.3 The adoption of Governance Rules under section 60 of the Act;
  - 83.4.4 The adoption of a Community Vision under section 88 of the Act;
  - 83.4.5 The adoption of a Council Plan under section 90 of the Act;
  - 83.4.6 The adoption of the Annual Budget under section 94 of the Act;
  - 83.4.7 The adoption of a Revised Budget under section 94 of the Act; or
  - 83.4.8 The presentation by the Mayor of an Annual Report under section 139 of the Act;

Unless they are satisfied that exceptional circumstances warrant it.

- 83.5 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*.
- 83.6 A Councillor who is *attending* a meeting by electronic means must be able to:
- 83.6.1 hear the proceedings;
  - 83.6.2 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;
  - 83.6.3 be seen by all *Councillors*, members of Council staff and members of the public who are physically present at the *Council meeting*; and
  - 83.6.4 be heard when they speak.
- 83.7 If the *Councillor* or *Delegated Committee member* encounters technical difficulties during the meeting, they may be removed from the meeting and recorded as having left.
- 83.8 If the conditions of sub-Rule 83.6 cannot be met by one or more Councillors *attending* a *Council meeting*, whether by technical difficulties or otherwise:
- 83.8.1 The *Council meeting* will nonetheless proceed as long as a quorum is present; and
  - 83.8.2 The relevant *Councillor* (or Councillors) will be treated as being absent from the *Council meeting* or that part of the *Council meeting*.
- 83.9 Nothing in this Rule 83 prevents a *Councillor* from joining (or re-joining) a *Council meeting* at the time that they achieve compliance with Sub-Rule 83.6 even if the *Council meeting* has already commenced or has continued in their absence.
- 83.10 The *Chair* must be physically present if the majority of the *Council* or *Delegated Committee* is physically present.

## 84. Meetings Conducted by electronic means of communication

- 84.1 If the *Chief Executive Officer* receives requests under rule 83 to participate remotely from an *absolute majority* of *Councillors*, the meeting may be conducted solely by electronic means of communication.
- 84.2 Should the *Chief Executive Officer* determine that extraordinary circumstances warrant it, they are authorised to determine that any meeting be conducted solely by electronic means of communication.
- 84.3 The *Chief Executive Officer* may decide that extraordinary circumstances warrant a meeting being conducted solely by electronic means of communication, with considerations including, but not limited to:

- 84.3.1 Any risk to the health and safety of *Councillors*, staff or members of the community;
- 84.3.2 Whether all or part of the meeting is planned to be closed to members of the public under section 66(2) of the *Act*;
- 84.3.3 The ability to provide public notice to members of the public who had registered to attend the meeting;
- 84.3.4 Whether the orderly conduct of a meeting may be affected by the choice of meeting format; and
- 84.3.5 The availability of suitable meeting facilities.

## 85. Adjustments to Meeting rules

- 85.1 If a *Council meeting* is conducted by electronic means of communication, the following modifications to the application of the Rules in this chapter are to be made:
  - 85.1.1 References to a *Councillor* being present at the meeting shall be a reference to a *Councillor* being able to both hear and see other members in attendance and be heard and be seen by other members in attendance;
  - 85.1.2 Momentary absences of less than one minute shall not be recorded as absences for the purposes of the meeting minutes, unless a vote or the Mayor's request for the declaration of conflicts of interest occurs during the absence;
  - 85.1.3 Casting a vote may occur by a *Councillor* either raising their hand in view of their camera such that it can be seen by other members in attendance or, at the *Chair's* request, verbally stating their vote;
  - 85.1.4 In the event of the absence of a *Councillor* during a vote due to an apparent technical failure, a *Councillor* or member of Council staff may bring this to the attention of the meeting *Chair*, who may briefly adjourn the meeting to enable the *Councillor* to re-join the meeting. Should the *Councillor* be unable to reconnect within three minutes, the meeting shall resume in the *Councillor's* absence, and the *Councillor* will be recorded as having left the meeting.
  - 85.1.5 In the event of a *Councillor* being required to leave a meeting due to a conflict of interest, a member of Council staff will temporarily remove the *Councillor* from the online meeting platform or put them into a virtual waiting room.

## 86. 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).

## 87. Photography or Videography at Council Meetings

Any person who is present at a *Council Meeting*, including *Councillors*, are prohibited from taking photos or videos during the *Council Meeting*, with the exception of the operation of the *Council Meeting* Livestream, or in instances where authorisation is provided by the *Chief Executive Officer*.

## 88. Criticism of members of Council staff

- 88.1 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 them or any member of *Council* staff.
- 88.2 A statement under sub-Rule 88.1 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 their seat.

## Section 3 – Meeting Procedure for Delegated Committees

### 1. Meeting Procedure Generally

If *Council* establishes a *Delegated Committee*:

- 1.1 All of the provisions of Section 2 apply to meetings of the *Delegated Committee*, and
- 1.2 Any reference in Section 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, (Section 3), if *Council* establishes a *Delegated Committee* that is not composed solely of *Councillors*:

*Council* may; or the *Delegated Committee* may, with the approval of *Council* resolve that any or all of the provisions of Section 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.

## Section 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*.

## Section 5 – Disclosure of Conflicts of Interest

### 1. Definition

In this Chapter:

- 1.1 “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 Section 6 (whether such a meeting is known as a ‘*Councillor Briefing*’ or by some other name); and
- 1.2 A member of a *Delegated Committee* includes a *Councillor*.

### 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 they:

- 2.1 Is in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those 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

- 2.2 Intend to attend must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council Meeting* commences a written notice:
- 2.2.1 advising of the conflict of interest;
  - 2.2.2 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
  - 2.2.3 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,
- 2.3 And then immediately before the matter is considered at the meeting announcing to those in attendance that they have a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.
- 2.4 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. In the event the meeting is being publicly livestreamed, the *Councillor* may not watch, or listen to the meeting livestream.
- 2.5 *Councillors* must not take any electronic devices with them when they depart the *Chamber* after making an announcement, personal or *Council* provided.

### 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 they:

- 3.1 Are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those present 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



- 3.2 Intend to attend must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Delegated Committee Meeting commences* a written notice:
- 3.2.1 advising of the conflict of interest;
  - 3.2.2 explaining the nature of the conflict of interest, and indicating whether it is a general conflict of interest or material conflict of interest; or
  - 3.2.3 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:
    - 3.2.3.1 name of the other person;
    - 3.2.3.2 nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
    - 3.2.3.3 nature of that other person's interest in the matter,
  - 3.2.4 and then immediately before the matter is considered at the meeting announcing to those in attendance that they have a conflict of interest, and indicating whether it is a general conflict of interest or a material 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.

## 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 they:

- 4.1 Are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest, and indicating whether it is a general conflict of interest or a material conflict of interest, to those present at the *Community Asset Committee Meeting immediately* before the matter is considered; or
- 4.2 Intend to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee Meeting commences* a written notice:
  - 4.2.1 advising of the conflict of interest;



- 4.2.2 explaining the nature of the conflict of interest; and
- 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:
  - 4.2.3.1 name of the other person;
  - 4.2.3.2 nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- 4.2.4 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 that they have 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 *Committee 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.

## 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 under the auspices of *Council* at which they are in attendance must:

- 5.1 Disclose that conflict of interest by explaining the nature of the conflict of interest to those 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
- 5.2 Absent themselves from any discussion of the matter; and
- 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 in attendance at the meeting.

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

- 6.1 A member of *Council* staff who, in his or her capacity as a member of *Council* staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a Report for the consideration of a *Council meeting, Delegated Committee meeting or Community Asset Committee meeting*;
  - 6.1.1.1 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

6.2 The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 7.1 records the fact that a member of *Council* staff disclosed a conflict of interest in the subject-matter of the Report.

6.3 If the member of *Council* staff referred to in sub-Rule 7.1 is the *Chief Executive Officer*:

6.3.1 the written notice referred to in sub-Rule 7.1 must be given to the *Mayor*; and

6.3.2 the obligation imposed by sub-Rule 7.2 may be discharged by any other member of *Council* staff responsible for the preparation of the Report.

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

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 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.

7.2 If the member of *Council* staff referred to in sub-Rule 7.1 is the *Chief Executive Officer*, the written notice must be given to the *Mayor*.

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

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.

8.2 If the member of *Council* staff referred to in sub-Rule 8.1 is the *Chief Executive Officer*, the written notice must be given to the *Mayor*.

## 9. Guidance on the disclosure of Conflict of Interest

Under the Act, an individual *Councillor* is considered to have a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their

public duty; and a material conflict of interest matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. Exemptions are applicable under the Act.

Guidance on conflict of interest and their identification and disclosure can be provided by *Council's Chief Executive Officer* to *Councillors* as a guide only. It would not constitute formal advice and does not displace the obligation of each *Councillor* to determine whether they have a conflict of interest in a particular case. It remains the job of each *Councillor* to consider and determine whether they have a conflict of interest.

## 10. Retention of Written Notices

The *Chief Executive Officer* must retain all written notices received under this Section for a period of three years, or as required under Public Records Act timelines.

## Section 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,
- 1.4 The *Chief Executive Officer* must ensure that a summary of the matters discussed at the meeting are:
  - 1.4.1 tabled at the next convenient *Council meeting*; and
  - 1.4.2 recorded in the *Minutes* of that *Council meeting*.

### 2. Committee and Delegate Reports

In the interest of public transparency, Council will have the opportunity to provide Committee and Delegate reports at each *Council Meeting* fixed under Rule 8. Such reports would detail their activities in their role as *Councillor*, and it is at the discretion of each *Councillor* to determine what to report. Reports can either be made verbally during the *Council Meeting* and published in the *minutes* of that *Council Meeting*, or only published in *minutes* of the *Council Meeting*.

### 3. Open Community Briefings

The *Council* will endeavour to hold *Open Community Briefings*, where Officers, members of the public or Community Groups will present on items of interest to the community. Where possible, *Open Community Briefings* will be publicly livestreamed, with questions accepted in advance of the meeting. The appropriate information, generally in the form of an Officer Report, which will be made publicly available on *Councils* website no less than 2 business days prior to the Briefing.

The dates and content of Open Community Briefings will be ultimately determined by the *Chair*.

## 4. Joint Council Meetings

- 4.1 *Council* may resolve to participate in a *Joint Council Meeting* to consider:
  - 4.1.1 matters subject to discussion of the Gippsland Local Government Network,
  - 4.1.2 collaborative projects,
  - 4.1.3 collaborative procurement,
  - 4.1.4 emergency response, and
  - 4.1.5 Shared visions
- 4.2 If *Council* has resolved to participate in a *Joint Council meeting*, the *Chief Executive Officer* (or *Delegate*) will agree on governance rules with the participating Councils.
- 4.3 Where *Baw Baw Shire Council* is the lead *Council* on a matter to be brought for consideration at a *Joint Council meeting*, the *Mayor of Baw Baw Shire Council* will be nominated to *Chair* the *Joint Council meeting*
- 4.4 The lead *Council* will determine the number of *Councillors* present at a *Joint Council Meeting*, a minimum of 3 *Councillors* from each *Council* must attend
- 4.5 The *Chair* of each *Council* will determine which *Councillors* will attend the meeting, if not all
- 4.6 A *Quorum* at a joint meeting is constituted by the number of *Councillors* that is equal to at least a majority of the *Councillors* from each of the Councils holding the joint meeting
- 4.7 Consistent information will be provided to *Councillors* prior to any Joint Meeting and every endeavour will be made by the *Chief Executive Officer* to facilitate a joint briefing, which may be held electronically.

Regional collaboration provides benefits through collective procurement, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it's possible for the participating Councils to make their own decisions

and determinations, in some circumstances, it may be beneficial to hold *Joint Council Meetings* as are provided for in *the Act*.

## 5. Common Seal

The *Common Seal* is a device which formally and solemnly records the collective will of *Council*. It is essential to protect the integrity of the *Common Seal* and describe when it can be affixed to a document.

- 5.1 The *Chief Executive Officer* must ensure the security of the *Common Seal* at all times.
- 5.2 The *Common Seal* may only be used on the authority of the *Council*, pursuant to a *Council* decision.
- 5.3 The affixing of the *Common Seal* to any document must be attested to by the signatures of both the *Mayor* and the *Chief Executive Officer*; or in the absence of the *Mayor*, by another *Councillor* and the *Chief Executive Officer* or any other member of the *Council* staff authorised by the *Council*.
- 5.4 The *Common Seal* and words to be used accompanying it on any document to which it is affixed are as follows:

The *COMMON SEAL* of

BAW BAW SHIRE COUNCIL

was affixed on

in the presence of:

*Mayor | Councillor*

Chief Executive Officer/Authorised Officer

- 5.5 Any person who uses the *Common Seal* or any replica of it without authority is guilty of an offence.

## 6. Confidential Information

- 6.1 If the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of *the Act*, they may

designate the information as confidential and advise *Councillors* and/or members of *Council* staff in writing accordingly.

- 6.2 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.
- 6.3 Nothing sub-Rule 6.2 will, without more, mean that information designated by the *Chief Executive Officer* under sub-Rule under sub-Rule 6.2 satisfies the definition of "confidential information" contained in section 3(1) of the *Act*.

## Section 7 – Election Period Policy

*Council* must adopt and keep in force an Election Period Policy, in its Governance Rules, under Section 69 of *the Local Government Act 2020* ('the Act')

*Council* must adopt and keep in force an Election Period Policy, in its Governance Rules, under Section 69 of *the Local Government Act 2020* ('the Act')

### Purpose

The Election Period Policy has been developed to ensure that the general elections for the Baw Baw Shire are conducted in a manner that is ethical, fair and equitable.

The Policy will facilitate the continuation of the ordinary business of local government in the Baw Baw Shire throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established 'caretaker' conventions.

This Policy also commits *Council* during the election period to:

- Avoid making significant new policies or decisions that could unreasonably bind a future Council;
- Ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing *Councillors* as candidates in the election;
- Limit public consultation and *Council* events. If consultation must be undertaken or an event held during this time, *Council* must justify to the community on the special circumstances and how the risks of each influencing the election will be prevented; and
- *Councillor* candidates will be treated in the same way as other candidates with respect to access to *Council* held information.

### Scope

This Election Period Policy applies to all *Councillors* and *Council* officers during the election period for a General Election.

The election period commences on the last day on which nominations can be received and continues until 6pm on Election Day.

### Legislative context

The *Local Government Act 2020* (*the Act*) provides that during the 'election period' certain prohibitions apply to the general functions and powers of Council. It is during this time that *Council* enters the election period.

The 'election period' is defined by *The Act* as starting at 12 pm on the last day for nominations and ending at 6pm on the Election Day. The last day for nominations is the day that is 32 days before the Election Day.

This policy replaces and overrides any previous policy or document that refers to the election period.

The Election Period Policy must be adopted by *Council* and it must be reviewed no later than twelve months from the commencement of the election period for the next election.

## Policy principles

During the election period this policy will ensure community confidence in the practices of Council, *Councillors*, Special Committees and *Council* officers. This policy establishes a series of election period practices which aim to ensure that actions of the current *Council* do not bind an incoming Council.

The policy covers:

- Decisions that are made by Council;
- Scheduling consideration and announcement of decisions;
- Use of Council's resources including material published by Council;
- Access to information;
- Council's online presence including social media;
- Media;
- Attendance and participation at *Council* organised activities and events; and
- Public consultation during the election period.

## Policy detail



# 1 Roles and Responsibilities

## 1.1 Responsibility of Councillors

*Councillors* should be aware of their responsibilities in relation to improper use of position as outlined in the Act. Section 123 of *The Act* prohibits *Councillors* from misusing their position.

Section 69 in relation to the election period ensures a fair election is held where *Council* resources are not used for campaign purposes or to influence voters.

During the Election Period, *Councillors* will:

- Be supported to continue to undertake their role as *Councillor*;
- Will continue to fulfil their *Councillor* duties (unless granted a leave of absence); and
- Will continue to engage with the community in their *Councillor* role.

During the Election Period, the *Councillors* will not:

- Use their position to influence *Council* officers, or access *Council* resources or information, in support of any election campaign or candidacy.

## 1.2 Role of the Chief Executive Officer

In addition to the Chief Executive Officer's (*Chief Executive Officer*) statutory responsibilities, the *Chief Executive Officer* or their *Delegate* will ensure as far as possible, that:

- All *Councillors* and officers are informed of the application of this policy 30 days prior to the commencement of the election period;
- Matters of *Council* business requiring major policy or significant decisions are scheduled for *Council* to enable resolution prior to the commencement of the election period, or deferred where appropriate for determination by the incoming Council; and,
- Guidelines to staff on the role and responsibilities of staff in the implementation of this policy are issued if appropriate.

# 2 Decision making during the election period

## 2.1 Prohibited Council Decisions

Pursuant to section 69 of *the Act*, under the Election Period Policy, any *Council* decision must be prohibited during the election period for a general election that:

- 2.1.1 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
- 2.1.2 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

- 2.1.3 The *Council* considers could be reasonably deferred until the next *Council* is in place; or
- 2.1.4 The *Council* considers should not be made during an election period, and
- 2.1.5 Any *Council* decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

## 2.2 Council Meetings During an Election Period

During the election period, Council can continue to meet in accordance with the dates and times fixed by Council or can call extraordinary meetings outside of this schedule. However, the following adjustments will be made to the Agenda:

- Public Question Time will be suspended.
- General Business and Notice of Motion will not be allowed where the matter is an Electoral Matter.

*Councillors* will limit their discussion during debate to the topic under consideration and will avoid raising Electoral Matter where possible.

## 2.3 Decisions Which Council Considers Should not be Made During an Election Period

During the election period, *Council* will avoid making decisions that significantly affect the municipality and unreasonably bind the incoming Council.

Significant decisions include the following:

- Major planning and development decisions;
- Allocating community assistance grants and other forms of funding to community organisations; and
- Major Contract Decisions;
- Major changes to new or existing *Council* Policies;
- Adoption of Master Plans, Township Plans, Streetscape Designs or similar documents;
- Setting advocacy positions; and,
- Changes to the *Council* plan.

Major planning and development decisions may be determined by Council during the election period where exceptional circumstances apply, such as where the statutory timeframes may result in a failure to determine, or if some other unacceptable exposure or risk of community detriment is evident.

All decisions made during the election period will be vetted by the Chief Executive Officer, to ensure that the information being considered by *Council* adheres to the Election Period Policy. This will be proclaimed in writing as part of the *Council Meeting Agenda* that is made available to the public.

## 2.4 Validity of Council Decisions

A *Council* decision made in contravention of section 69 of *The Act* is considered invalid.

Any person who suffers any loss or damage as a result of acting in good faith on a *Council* decision that is invalid by virtue of section 69 of *The Act* is entitled to compensation from the *Council* for that loss or damage. Any person who suffers any loss or damage as a result of acting in good faith on a major policy decision made in contravention of this section is entitled to compensation from the *Council* for that loss or damage.

## 2.5 Council Decisions Made Under Delegation

During the election period, Section 59 of *The Act* specifies that a special or *Delegated Committee* or a person acting under a delegation given by the *Council* is subject to compliance with the policy and Section 69 of *The Act* as if the decision was being made at a *Council* meeting.

## 2.6 Extraordinary Circumstances

If *Council* considers that there are extraordinary circumstances where the Baw Baw Shire's community would be significantly disadvantaged by the *Council* not making a particular Major Policy Decision, the *Council* will, by resolution, request a compliance exemption under Section 177 of *the Act*.

# 3 Public Consultation

## 3.1 Right to Postpone

Some public consultation activities may be necessary during the election period to facilitate the day to day business of *Council* and ensure matters continue to be proactively managed.

Any such public consultations will avoid express or implicit links to the election.

In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the election period *Council* reserves the right to postpone a matter if the issue becomes contentious or is likely to affect voting.

*Council* will not continue or commence public consultation on any contentious or politically sensitive matter after the commencement of the election period.

Any public consultation that is likely to run into the election period must have prior *Chief Executive Officer* approval. Where approved, results of such consultation will not be reported to *Council* until after the election.

## 3.2 Public Participation Time at Council Meetings

During the Election Period, Public Participation Time at *Council* Meetings will be restricted. Petitions or Public Submissions received will be managed in accordance with *The Act* and this policy.

### 3.3 Statutory Requirements

The requirements of Clause 3.1 and 3.2 do not apply to public consultation required pursuant to the *Planning and Environment Act 1987* or matters subject to Section 223 of the *Local Government Act 1989*.

## 4 Council events

*Council* run events will be scheduled to ensure only those essential to the operations of *Council*, that must be held within a specific time which coincides with the election, are held during the Election Period.

For those functions, the *Chief Executive Officer* (or delegate) will fulfill any speaking requirements. The *Mayor* and *Councillors* must not give speeches or addresses at *Council* organised or sponsored events and functions during the election period unless expressly authorised by the CEO.

No election material or active campaigning is to be conducted at *Council* sponsored events or displayed in/on any *Council* building.

## 5 Council Publications

### 5.1 Prohibition on Publishing Material during the Election Period

Section 290 of *The Act* prohibits *Council* from printing, publishing or distributing or causing, permitting or authorising to be printed, published or distributed any advertisement, handbill, pamphlet or notice during an election period unless it has been certified, in writing, by the Chief Executive Officer.

The *Chief Executive Officer* must not intentionally or recklessly certify a publication that contains electoral matter, unless that material is only about the election process.

The *Chief Executive Officer* must not *Delegate* the power to certify any advertisement, handbill, pamphlet or notice under this section to a member of *Council* staff.

### 5.2 Certification of Publications

Publications to be printed, published or distributed during the election period must first be certified by the Chief Executive Officer.

The certification by the *Chief Executive Officer* will be in writing on or affixed to a copy of the publication and be in the following form:

'Certified by the Chief Executive Officer in accordance with Section 290 of the Local Government Act 2020.

Copies of all certified documents will be retained on *Council* records.

Publications which require certification include:

- Brochures, pamphlets, handbills, flyers, magazines and books;
- Reports (other than *Agenda* papers and *Minutes* in accordance with Section 7.7);
- Advertisements and notices, except newspaper notices of meetings;
- New website material, excluding minor operational updates to existing information;
- Social media publications (which includes Facebook, Instagram and Twitter posts);
- Emails with multiple addresses, used for broad communication with the community;
- Mass mail outs or identical letters sent to a large number of people by or on behalf of Council;
- Media releases;
- Material to publicise a function or event; and
- Any publication or distribution of *Councillors'* speeches.

### 5.3 Prohibited Material

Electoral matter is defined in *The Act* and means any matter which is intended or likely to affect voting in an election, but does not include:

- Any electoral material produced by or on behalf of the returning officer for the purposes of conducting an election, or
- An advertisement in a newspaper announcing the holding of a meeting.

A publication is taken to contain electoral matter if it contains an express or implicit reference to, or comment on:

- The election; or
- A candidate in the election; or
- An issue submitted to, or otherwise before, the voters in connection with the election.

Electoral matter includes material which:

- Publicises the strengths or weaknesses of a candidate;
- Advocates the policies of the *Council* or of a candidate;
- Responds to claims made by a candidate; and
- Publicises the achievements of the elected Council.

### 5.4 Council Publications Including Councillor Information

Any reference to *Councillors* standing for re-election in *Council* publications printed, published, or distributed during an election period must not include promotional text.

### 5.5 Website

Material published on Council's website in advance of the election period is not subject to certification, however existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that would be considered electoral matter, were it to be published during the election period.

*Councillor* contact information will remain available on the website during the election period, but *Councillors'* profiles will be removed.

Any material published on Council's website during the election period must be certified by the Chief Executive Officer, excluding minor operational updates to existing information.

## **5.6 Annual Report**

*Council* is required by *The Act* to produce and put on public display a copy of its Annual Report. The Annual Report will 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*.

The Annual Report does not require certification by the Chief Executive Officer; however, any publication of an extract or summary of the Annual Report will require certification.

## **5.7 Council and Committee Agendas and Minutes**

*Agenda* papers and *Minutes* of *Council* and Committee meetings do not require certification by the *Chief Executive Officer* unless they are printed or published for a wider distribution than normal.

Papers prepared for *Council* or special committee meetings during the election period will be carefully vetted to ensure that no *Agenda* item is included that could potentially influence voter's intentions at the forthcoming election or could encourage *Councillor* candidates to use the items as part of their electioneering. Items submitted for Community Participation Time will be reviewed to ensure that they comply with the principles of *The Act* and this policy and may be amended accordingly before publication.

## **5.8 Social Media**

Any publication or new content on social media sites managed by *Council* must be certified by the *Chief Executive Officer* during the election period.

Staff responsible for administering social media sites will monitor sites during the election period and use moderation features where available to ensure no electoral matter is posted.

At the commencement of the election period, *Council* will advise social media followers that comments containing electoral matter will be deleted.

Information published prior to the Election Period on *Council's* social media and website is not subject to *Chief Executive Officer* certification.

## 6 Council Resources

### 6.1 Application of Resources

*Council* resources, including offices, vehicles, staff, hospitality, services, property, equipment and stationery must be used exclusively for normal *Council* business during the election period and must not be used in connection with any election campaign or issue.

### 6.2 Role of Council officers

The Executive Assistant to the *Mayor* (and *Councillors*), Governance staff, or any other staff member, will not be asked to undertake any tasks connected directly or indirectly with the election campaign of a *Councillors standing* for re-election.

### 6.3 Use of Council Equipment by Councillors

*Councillors* must return any *Council* equipment provided to them to facilitate their performance of normal *Council* duties on or before election day, at the conclusion of the election period. *Councillors* may continue to use their Council equipment throughout the election period solely for the performance of their *Councillor* duties and must not use *Council* equipment for the purposes of campaigning.

*Councillors* standing for re-election can, if elected, seek the return of *Council* equipment after the declaration of polls and swearing in ceremony. The *Chief Executive Officer* may determine that some items of a negligible value, and that could not reasonably be used for the purposes of an election campaign need not be returned.

### 6.4 Councillors' Entitlement to Reimbursement

Reimbursements of *Councillors'* out-of-pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal *Council* duties, and not for expenses that support or are connected with a candidate's election campaign.

### 6.5 Council Branding

No *Council* logos, letterheads, or other corporate branding will be used for, or linked in any way to, a candidate's election campaign.

### 6.6 Photographs and Images

*Councillors* are not permitted to use photos or images taken by, or provided by Council, for the purposes of their election campaign (including photographs appearing on Council websites).

### 6.7 Cessation of Ward Specific Publications

Ward-specific publications or *Councillor* profiles will not be arranged by *Council* during the election period.

### 6.8 Officers' Discretion

The *Council* will ensure that due propriety is observed in the use of all *Council* resources, and *Council* staff are required to exercise appropriate discretion in that regard. Where the use of *Council* resources appears to relate to the election campaign of a *Councillors standing* for re-election, the matter must be referred to the *Chief Executive Officer* or his or her *Delegate*.

## 7 Media Services

### 7.1 Restriction on Services

Council's Communications team undertake the promotion of *Council* activities and initiatives.

During the election period this team's services must not be used in any way that might promote a *Councillor* as an election candidate.

*Council* publicity during the election period will be restricted to communicating normal *Council* activities and initiatives and subject to certification by the Chief Executive Officer.

### 7.2 Media Releases/Spokespersons

The *Chief Executive Officer*, or delegate, will be the primary spokesperson for Council communications during an election period.

Media releases will minimise references to specific *Councillors* and will not identify any *Councillor* in a manner that could promote a *Councillor* as an election candidate.

Media releases will require certification by the *Chief Executive Officer*. Media responses and statements will only be issued in the name of the *Chief Executive Officer* or their delegate.

### 7.3 Councillors

*Councillors* will not use their position as an elected representative or their access to *Council* Officers and other *Council* resources to gain media attention in support of an election campaign.

### 7.4 Council Employees

During the election period *Council* employees may not make any public statement that relates to an election issue unless prior approval has been obtained by the *Chief Executive Officer* or their *Delegate*.

During the election period the *Chief Executive Officer* may exercise their discretion to correct any misinformation circulating in the community if that misinformation causes the community concern or distress.

## 8 Information

### 8.1 Candidates' Access to Information

*Councillors* will continue to receive information necessary to fulfill their existing roles as a *Councillor* during the election period.

All election candidates have equal rights to information relevant to their election campaigns from the *Council* administration.



Neither *Councillors* nor candidates will receive information or advice from *Council* officers that may improperly advantage candidates in the elections (which includes information periodically posted to the Councillor Portal).

There will be complete transparency in the provision of all information and advice during the caretaker period.

## **8.2 Information Request Register**

Governance will maintain an Information Request Register during the election period. This Register will be a public document that records all requests relating to electoral matters and non-routine requests for information by *Councillors* and candidates, and the responses given to those requests.

## **8.3 Councillor CRMs**

*Councillors* may continue to make operational requests through the CRM system covering issues such as, but not limited to, roads, footpaths, trees, waste management and general amenity. Such requests will be administered as community requests.

## **8.4 Improper Use of Position**

Section 123 of *The Act* prohibits *Councillors* from misusing or inappropriately making use of their position. A breach of section 123 attracts serious penalties, including possible imprisonment.

# **9 Assistance to Candidates**

## **9.1 Role of Returning Officer**

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, to the *Chief Executive Officer* or his or her *Delegate*.

## **9.2 Candidate Information**

*Council* will provide candidates with a *Councillor* Candidate Information Kit to assist them in running and nominating for Council.

Candidates will be informed of their obligation to complete a Nomination Form which will be available from the Returning Officer, accompanied by the nomination fee of \$250.

Candidates will also be informed of the requirements to complete and submit an 'Election Campaign Return' to the *Chief Executive Officer* within 40 days after the election day. The return

must contain details of any campaign donation or gift valued at more than \$500 which was received between 30 days after the previous election and 30 days after the current election.

## 10 Councillor to declare their candidacy in a State or Federal election

*Councillors* will, as soon as practicable after becoming a Prospective Candidate, inform Council by delivering written notice to Council's *Chief Executive Officer*.

The *Chief Executive Officer*, upon receipt of such written notice, will advise all *Councillors*.

Prospective Candidates will declare their intended candidacy at the next Ordinary Meeting of Council following their notification to the Chief Executive Officer.

Nominated Candidates should apply for a leave of absence for a period that commences no later than the date of their nomination as a candidate with the relevant electoral commission and concludes no earlier than the close of voting for the election.

Applications for leave of absence will be sought in accordance with the processes ordinarily adopted by Council. Such applications will not be unreasonably refused.

During the approved period of leave, Nominated *Councillors* should not attend meetings of Council or Council committees, or otherwise act as a *Councillor*.

All Council equipment and materials must be returned to *Council* for the approved period of leave.

## Section 8 – Monitoring, Evaluation and Review

*Council* is committed to monitoring its processes, procedures and decision making in order to understand the overall level of success of the implementation of *These Rules*.

A periodic review of *These Rules* will be undertaken to ensure their relevance is in line with public interest, and that they support effective decision making of the Council. As a minimum, a review will occur in line with a new *Council* Term.

However, a *Council* can amend *These Rules* at any time. In fact, it is important that *These Rules* are at times reviewed during a *Council* Term to reflect improvements in *Council* practices.

## Review

Approval date	14 September 2022
Approval authority	Council
Effective from	15 September 2022
Review term	Council term
Next review date	November 2024
Responsible position	Manager Governance
Responsible Director	Governance and Information Services
Version	5

## Revision History

Approval date	Version	Revision description
14 September 2022	4	Changes to enable remote participation
13 September 2023	5	Election Period Policy updated