



# GOVERNANCE RULES

## AUGUST 2022

(ADOPTED BY COUNCIL: 22 AUGUST 2022)

## GOVERNANCE RULES

### Introduction

#### 1. Nature of Rules

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

#### 2. Date of Commencement

These Governance Rules commence on 2 September 2022.

#### 3. Contents

These Governance Rules are divided into the following Chapters:

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

#### 4. Definitions

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

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

*attend, attending* and *in attendance* include attend, attending or in attendance by electronic means. *Chief Executive Officer* includes an Acting Chief Executive Officer.

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

*Council* means **Horsham Rural City** Council.

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

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

*Mayor* means the Mayor of *Council*.

*these Rules* means these Governance Rules.

## Chapter 1 – Governance Framework

### 1. Context

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

- (a) the overarching governance principles specified in section 9(2) of the *Act*; and
- (b) the following documents adopted or approved by *Council*:
  - (i) Council Plan
  - (ii) Councillor Code of Conduct

### 2. Decision Making

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

## Chapter 2 – Meeting Procedure for Council Meetings

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## Part A – Introduction

### 1. Title

This Chapter will be known as the "Meeting Procedure Chapter".

### 2. Purpose of this Chapter

The purpose of this Chapter is to:

- 2.1 provide for the election of the Mayor and any Deputy Mayor;
- 2.2 provide for the appointment of any Acting Mayor; and
- 2.3 provide for the procedures governing the conduct of *Council meetings*.

### 3. Definitions and Notes

#### 3.1 In this Chapter:

"*agenda*" means the notice of a meeting setting out the business to be transacted at the meeting;

"*Chair*" means the Chairperson of a meeting and includes a Councillor who is appointed by resolution to chair a meeting under section 61(3) of the *Act*;

"*minute book*" means the collective record of proceedings of *Council*;

"*municipal district*" means the municipal district of *Council*;

"*notice of motion*" means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;

"*notice of rescission*" means a *notice of motion* to rescind a resolution made by *Council*; and

"*written*" includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form, and *writing* has a corresponding meaning.

#### 3.2 Introductions to Parts, headings and notes are explanatory notes and do not form part of this Chapter. They are provided to assist understanding.

## Part B – Election of Mayor, Deputy Mayor and Chairs of Delegated Committees

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

### 4. Election of the *Mayor*

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

### 5. Method of Voting

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

### 6. Determining the election of the *Mayor*

- 6.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- 6.2 Any nominations for the office of *Mayor* must be:
  - 6.2.1 in writing and in a form prescribed by the *Chief Executive Officer*; and
  - 6.2.2 seconded by another Councillor.
- 6.3 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:
  - 6.3.1 if there is only one nomination, the candidate nominated must be declared to be duly elected;
  - 6.3.2 if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;
  - 6.3.3 in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
  - 6.3.4 in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
  - 6.3.5 if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;
  - 6.3.6 in the event of two or more candidates having an equality of votes and one of them having to be declared:
    - (a) a defeated candidate; and
    - (b) duly elected

the declaration will be determined by lot.

- 6.3.7 if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
- (a) each candidate will draw one lot;
  - (b) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
  - (c) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected).

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

Any election for:

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

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

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

## **8. Appointment of Acting Mayor**

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

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

## **9. Ceremonial Mayoral Speeches**

- 9.1 Upon being elected, the Mayor and outgoing Mayor may make a ceremonial speech.
- 9.2 The purpose of the ceremonial Mayoral speeches is to highlight priorities for the year ahead and the previous year.



## 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

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

Subject to Rule 12, *Council* must from time to time fix the date, time and place of all *Council meetings*.

#### 11. 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.

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

12.1 The *Mayor* or at least 3 Councillors may by a *written* notice call a *Council meeting*.

12.2 The notice must specify the date and time of the *Council meeting* and the business to be transacted.

12.3 The *Chief Executive Officer* must convene the *Council meeting* as specified in the notice.

12.4 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*.

#### 13. Notice Of Meeting

13.1 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 96 hours before the meeting.

13.2 Notwithstanding sub-Rule 13.1, 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.

13.3 That the agenda be made available to members of the public by 5pm 4 days prior to the meeting via the website.

13.4 Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this:

13.4.1 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

13.4.2 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

### 14. Inability To Obtain A Quorum

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

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

### 15. Inability To Maintain A Quorum

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

### 16. Adjourned Meetings

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

### 17. Time limits for Meetings

- 17.1 A *Council meeting* must not continue after 9:30pm unless a majority of Councillors who are in attendance vote in favour of it continuing.
- 17.2 A meeting cannot be continued for more than 30 minutes (or a further 30 minutes, if a majority of Councillors has already voted to continue it for 30 minutes).
- 17.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of sub-Rules 16.2 and 16.3 apply.

### 18. Cancellation or Postponement of a Meeting

- 18.1 The *Chief Executive Officer* following consultation with the Mayor if possible may, in the case of an emergency necessitating the cancellation or postponement of a *Council meeting*, cancel or postpone a *Council meeting*.

- 18.2 The *Chief Executive Officer* must present to the immediately following *Council meeting* a *written* report on any exercise of the power conferred by sub-Rule 18.1.

### **Division 3 – Business of Meetings**

#### **19. Agenda and the Order Of Business**

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

#### **20. Change To Order Of Business**

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

#### **21. Urgent Business**

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

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

### **Division 4 – Motions and Debate**

#### **22. Councillors May Propose *Notices Of Motion***

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

#### **23. Notice Of Motion**

- 23.1 A *notice of motion* must be in *writing* signed by a Councillor, and be lodged with or sent to the *Chief Executive Officer* at least 24 hours before the Agenda is finalised and distributed to allow sufficient time for the Chief Executive Officer to include the *notice of motion* in agenda papers for a *Council meeting*.
- 23.2 The *Chief Executive Officer* following consultation with the Mayor if possible may reject any *notice of motion* which:
- 23.2.1 is vague or unclear in intention
- 23.2.2 it is beyond *Council's* power to pass; or
- 23.2.3 if passed would result in *Council* otherwise acting invalidly
- but must:
- 23.2.4 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
- 23.2.5 notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.
- 23.3 The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.

- 23.4 The *Chief Executive Officer* must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.
- 23.5 Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were entered in the notice of motion register.
- 23.6 If a Councillor who has given a *notice of motion* is absent from the meeting or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- 23.7 If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.
- 23.8 Unless the Council resolves to relist at a future meeting a Notice of Motion which has been lost or not moved, a similar motion must not be put before the Council for at least three (3) months from the date it was lost.

## 24. Chair's Duty

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

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

must not be accepted by the *Chair*.

## 25. Introducing a Report

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

## 26. Introducing A Motion or an Amendment

The procedure for moving any motion or amendment is:

- 26.1 the mover must state the motion without speaking to it;
- 26.2 the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
- 26.3 if a motion or an amendment is moved and seconded the *Chair* must ask:

"Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"

- 26.4 if no Councillor indicates opposition or a desire to speak to it, the *Chair* may declare the motion or amendment carried without discussion;
- 26.5 if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- 26.6 after the mover has addressed the meeting, the seconder may address the meeting;
- 26.7 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion; and
- 26.8 if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

## **27. Right Of Reply**

- 27.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
- 27.2 After the right of reply has been taken but subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

## **28. Moving An Amendment**

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

## **29. Who May Propose An Amendment**

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

## **30. How Many Amendments May Be Proposed**

- 30.1 Any number of amendments may be proposed to a motion but only one amendment may be accepted by the *Chair* at any one time.
- 30.2 No second or subsequent amendment, whether to the motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with.

## **31. An Amendment Once Carried**

- 31.1 If the amendment is carried, the motion as amended then becomes the motion before the meeting, and the amended motion must then be put.

31.2 The mover of the original motion retains the right of reply to that motion.

### **32. Foreshadowing Motions**

32.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of their intention to move a motion at a later stage in the meeting dealing with the same subject matter, but this does not extend any special right to the foreshadowed motion.

32.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chair* being resolved in a certain way, a Councillor intends to move an alternative or additional motion.

32.3 The *Chief Executive Officer* or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.

32.4 The *Chair* is not obliged to accept foreshadowed motions.

### **33. Withdrawal Of Motions**

33.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of *Council*.

33.2 If the majority of Councillors objects to the withdrawal of the motion, it may not be withdrawn.

### **34. Separation Of Motions**

Where a motion contains more than one part, a Councillor may request the *Chair* to put the motion to the vote in separate parts.

### **35. Chair May Separate Motions**

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

### **36. Priority of address**

After a motion is seconded and the mover has addressed the meeting, the seconder may address the meeting or reserve their address until later in the debate. The Chairperson may then call upon any Councillor who wishes to speak against the motion, then any other Councillors for and against the motion then debate in turn.

Except for the purposes of proposing an amendment or for the purposes of raising a point of order no Councillor may speak more than once on any motion.

In the case of competition for the right of speak, the Chair must decide the order in which the Councillors concerned will be heard.

### **37. Motions In Writing**

37.1 The *Chair* may require that a complex or detailed motion be in writing.

37.2 *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.

**38. Repeating Motion and/or Amendment**

The *Chair* may request the person taking the minutes of the *Council meeting* to read the motion or amendment to the meeting before the vote is taken.

**39. Debate Must Be Relevant To The Motion**

- 39.1 Debate must always be relevant to the motion before the Chair, and, if not, the *Chair* must request the speaker to confine debate to the motion.
- 39.2 If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker to be seated and not speak further in respect of the motion then before the Chair.
- 39.3 A speaker to whom a direction has been given under sub-Rule 39.2 must comply with that direction.

**40. Speaking Times**

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

- 40.1 the mover of a motion or an amendment which has been opposed: 5 minutes;
- 40.2 any other Councillor: 3 minutes; and
- 40.3 the mover of a motion exercising a right of reply: 2 minutes.

**41. Addressing the Meeting**

If the *Chair* so determines:

- 41.1 any person addressing the *Chair* must refer to the *Chair* as:
  - 41.1.1 Madam Mayor; or
  - 41.1.2 Mr Mayor; or
  - 41.1.3 Madam Chair; or
  - 41.1.4 Mr Chairas the case may be;
- 41.2 all Councillors, other than the *Mayor*, must be addressed as  
**Cr .....****(name)**.
- 41.3 all members of Council staff, must be addressed as Mr or Ms  
.....(name) as appropriate or by their official title.

**42. Right to Ask Questions**

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

## Division 5 – Procedural Motions

### 43. Procedural Motions

- 43.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.
- 43.2 Procedural motions require a seconder.
- 43.3 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:



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**PROCEDURAL MOTIONS TABLE**

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

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## Division 6 – Rescission Motions

### 44. Notice of Rescission

- 44.1 A Councillor may propose a *notice of rescission* provided:
- 44.1.1 it has been signed and dated by at least three Councillors;
  - 44.1.2 the resolution proposed to be rescinded has not been acted on; and
  - 44.1.3 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 Chapter regulating notices of motion equally apply to notices of rescission.*

- 44.2 A resolution will be deemed to have been acted on if:
- 44.2.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or
  - 44.2.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- 44.3 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:
- 44.3.1 has not been acted on; and
  - 44.3.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 44.1.3,
- 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 44.3 would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.*

**45. If Lost**

If a motion for rescission is lost, a similar motion may not be put before *Council* for at least three months from the date it was last lost, unless *Council* resolves that the *notice of motion* be re-listed at a future meeting.

**46. If Not Moved**

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

**47. May Be Moved By Any Councillor**

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

**48. When Not Required**

48.1 Unless sub-Rule 48.2 applies, a motion for rescission is not required where *Council* wishes to change policy.

48.2 The following standards apply if *Council* wishes to change policy:

48.2.1 if the policy has been in force in its original or amended form for less than 12 months, a *notice of rescission* must be presented to *Council*; and

48.2.2 any intention to change a *Council* policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.

**Division 7 – Points of Order**

**49. Chair To Decide**

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

**50. Chair May Adjourn To Consider**

50.1 The *Chair* may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.

50.2 All other questions before the meeting are suspended until the point of order is decided.

**51. Dissent From Chair's Ruling**

51.1 A Councillor may move that the meeting disagree with the *Chair's* ruling on a point of order, by moving:

"That the *Chair's* ruling [setting out that ruling or part of that ruling] be dissented from".

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

## 52. Procedure For Point Of Order

A Councillor raising a point of order must:

- 52.1 state the point of order; and
- 52.2 state any section, Rule, paragraph or provision relevant to the point of order before resuming their seat.

## 53. Valid Points Of Order

A point of order may be raised in relation to:

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

Rising to express a difference of opinion or to contradict a speaker is not a point of order.
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## Division 8 – Public Question Time

### 54. Question Time

- 54.1 There must be a public question time at every *Council meeting* fixed under Rule 10 to enable members of the public to submit questions to *Council*.
- 54.2 Sub-Rule 54.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the *Act*.

- 54.3 Public question time will not exceed 15 minutes in duration, however the Council may determine an extension of a further 15 minutes.
- 54.4 Questions submitted to *Council* must be:
- 54.4.1 in *writing*, state the name and address of the person submitting the question and generally be in a form approved or permitted by *Council*; and
- 54.4.2 placed in the receptacle designated for the purpose at the place of the meeting prior to 5pm on the day of the *Council meeting*, or be lodged electronically at the prescribed email address prior to 5pm on the Friday prior to the day of the *Council meeting*.
- 54.5 No person may submit more than two questions at any one meeting.
- 54.6 If a person has submitted two questions to a meeting, the second question:
- 54.6.1 may, at the discretion of the *Chair*, be deferred until all other persons who have asked a question have had their questions asked and answered; or
- 54.6.2 may not be asked if the time allotted for public question time has expired.
- 54.7 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.
- 54.8 Notwithstanding sub-Rule 54.6, the *Chair* may refrain from reading a question or having a question read if the person who submitted the question is not present in the gallery at the time when the question is due to be read.
- 54.9 A question may be disallowed by the *Chair* if the *Chair* determines that it:
- 54.9.1 relates to a matter outside the duties, functions and powers of *Council*;
- 54.9.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
- 54.9.3 deals with a subject matter already answered;
- 54.9.4 is aimed at embarrassing a Councillor or a member of Council staff;
- 54.9.5 relates to personnel matters;
- 54.9.6 relates to the personal hardship of any resident or ratepayer;
- 54.9.7 relates to industrial matters;
- 54.9.8 relates to contractual matters;
- 54.9.9 relates to proposed developments;
- 54.9.10 relates to legal advice;
- 54.9.11 relates to matters affecting the security of *Council* property; or
- 54.9.12 relates to any other matter which *Council* considers would prejudice *Council* or any person.

- 54.10 A submitter to a question that has been disallowed will be notified in writing the reason/s for not allowing the question.
- 54.11 Any question which has been disallowed by the *Chair* must be made available to any other Councillor upon request.
- 54.12 All questions and answers must be as brief as possible, and no discussion may be allowed other than by *Councillors* for the purposes of clarification.
- 54.13 Like questions may be grouped together and a single answer provided.
- 54.14 The *Chair* may nominate a Councillor or the *Chief Executive Officer* to respond to a question.
- 54.15 A Councillor or the *Chief Executive Officer* may require a question to be put on notice. If a question is put on notice, a *written* copy of the answer will be sent to the person who asked the question.
- 54.16 A Councillor or the *Chief Executive Officer* may advise *Council* that it is their opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or *Chief Executive Officer* (as the case may be) must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given.

## Division 9 – Petitions and Joint Letters

### 55. Petitions and Joint Letters

- 55.1 Unless *Council* determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next fixed *Council meeting* after that at which it has been presented.
- 55.2 It is incumbent on every Councillor presenting a petition or joint letter to acquaint themselves with the contents of that petition or joint letter, and to ascertain that it does not contain language which is disrespectful towards *Council*.
- 55.3 Every Councillor presenting a petition or joint letter to *Council* must:
  - 55.3.1 write or otherwise record their name at the beginning of the petition or joint letter; and
  - 55.3.2 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.
- 55.4 Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), contain the request of the petitioners or signatories and be signed by at least 12 people.
- 55.5 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- 55.6 Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.

- 55.7 Every page of a hard copy petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 55.8 Electronic or online petitions, joint letters, memorials or like applications must contain the name, address and email address of each petitioner or signatory, which details will, for the purposes of this Rule 55, qualify as the signature of such petitioner or signatory.
- 55.9 If a petition, joint letter, memorial or other like application relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.

## **Division 10 – Voting**

### **56. How Motion Determined**

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.

### **57. Silence**

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

### **58. Recount**

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

### **59. Casting Vote**

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

59.1 The Chair may adjourn a meeting to consider how their casting vote will be cast.

### **60. How Votes Are Cast**

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

### **61. Procedure For A Division**

61.1 Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.

61.2 When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.

61.3 When a division is called for, the *Chair* must:

61.3.1 first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of their hands or otherwise signify their support in a manner recognised by the Chair. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the affirmative; and

61.3.2 then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in

the negative must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the negative.

## 62. No Discussion Once Declared

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

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

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

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

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

## Division 11 – Minutes

### 63. Confirmation of Minutes

- 63.1 At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
  - 63.1.1 a copy of the minutes must be delivered to each Councillor no later than 96 hours before the meeting;
  - 63.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;
  - 63.1.3 if a Councillor indicates opposition to the minutes:
    - (a) 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 63.1.3(k);
- (g) if a Councillor indicates opposition, then the *Chair* must call on the mover to address the meeting;
- (h) after the mover has addressed the meeting, the seconder may address the meeting;
- (i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
- (j) if, after the mover has addressed the meeting, the *Chair* invites debate and no Councillor speaks to the motion, the *Chair* must put the motion; and
- (k) the *Chair* must, after all objections have been dealt with, ultimately ask:

"The question is that the minutes be confirmed" or

"The question is that the minutes, as amended, be confirmed",

and then must put the question to the vote accordingly;

- 63.1.4 a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed;
- 63.1.5 the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively; and
- 63.1.6 unless otherwise resolved or required by law, minutes of a *Delegated Committee* requiring confirmation by *Council* must not be available to the public until confirmed by *Council*.

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

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

#### **65. Deferral Of Confirmation Of Minutes**

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

#### **66. Form and Availability of Minutes**

66.1 The *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer* to attend the meeting and to take the minutes of such meeting) must keep minutes of each *Council meeting*, and those minutes must record:

- 66.1.1 the date, place, time and nature of the meeting;

- 66.1.2 the names of the Councillors in attendance and the names of any Councillors who apologised in advance for their non-attendance;
  - 66.1.3 the names of the members of Council staff in attendance;
  - 66.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5;
  - 66.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
  - 66.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
  - 66.1.7 the vote cast by each Councillor upon a division and any abstention from voting;
  - 66.1.8 the vote cast by any Councillor who has requested that their vote be recorded in the minutes;
  - 66.1.9 questions upon notice;
  - 66.1.10 the failure of a quorum;
  - 66.1.11 any adjournment of the meeting and the reasons for that adjournment; and
  - 66.1.12 the time at which standing orders were suspended and resumed.
- 66.2 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are:
- 66.2.1 published on *Council's* website; and
  - 66.2.2 available for inspection at *Council's* office during normal business hours.
- 66.3 Nothing in sub-Rule 66.2 requires *Council* or the *Chief Executive Officer* to make public any minutes relating to a *Council meeting* or part of a *Council meeting* closed to members of the public in accordance with section 66 of the *Act*.

## **Division 12 – Behaviour**

### **67. Public Addressing The Meeting**

- 67.1 Members of the public do not have a right to address *Council* and may only do so with the consent of the *Chair* or by prior arrangement.
- 67.2 Any member of the public addressing *Council* must extend due courtesy and respect to *Council* and the processes under which it operates and must take direction from the *Chair* whenever called on to do so.
- 67.3 A member of the public in attendance at a *Council meeting* must not disrupt the meeting.

### **68. Chair May Remove**

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

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

**69. Chair may adjourn disorderly meeting**

If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, the *Chair* 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 16.2 and 16.3 apply.

**70. Removal from Chamber**

The *Chair*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer* or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the gallery under Rule 71.

**Division 13 – Additional Duties of Chair**

**71. The Chair's Duties And Discretions**

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

71.1 must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community; and

71.2 must call to order any person who is disruptive or unruly during any meeting.

**Division 14 – Suspension of Standing Orders**

**72. Suspension of Standing Orders**

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

*The suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal meeting procedure.*

*Its purpose is to enable the formalities of meeting procedure to be temporarily disposed of while an issue is discussed.*

72.2 The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*. An appropriate motion would be:

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

72.3 No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.

72.4 Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:

"That standing orders be resumed."

## Division 15 – Physical and Remote Attendance

### 73. Mode of Attendance

- 73.1 Each notice of meeting must indicate whether the relevant *Council meeting* is to be conducted:
- 73.1.1 wholly in person;
  - 73.1.2 wholly by electronic means; or
  - 73.1.3 partially in person and partially by electronic means.
- 73.2 The indication in the notice of meeting must be consistent with any Resolution of *Council* that has expressed a preference for, or otherwise specified, when *Council meetings* are to be conducted:
- 73.2.1 wholly in person;
  - 73.2.2 wholly by electronic means; or
  - 73.2.3 partially in person and partially by electronic means.
- 73.3 If a *Council meeting* is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.
- 73.4 Any request made under sub-Rule 73.3 must:
- 73.4.1 be in writing;
  - 73.4.2 be given to the *Chief Executive Officer* preferably no later than 24 hours prior to the commencement of the relevant *Council meeting*; and
- 73.5 specify the reasons why the Councillor is unable or does not wish to attend the *Council meeting* in person. The *Chief Executive Officer* must ensure that any request received in accordance with sub-Rule 73.4 and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant *Council meeting*.
- 73.6 *Council* may approve and must not unreasonably refuse any request.
- 73.7 A Councillor who is *attending* a *Council meeting* by electronic means is responsible for ensuring that they are able to access such equipment and are in such an environment that facilitates participation in the *Council meeting*.
- 73.8 Without detracting from anything said in sub-Rule 73.7 a Councillor who is *attending* a meeting by electronic means must be able to:
- 73.8.1 hear the proceedings;
  - 73.8.2 see all Councillors and members of Council staff who are also *attending* the *Council meeting*, at least while a Councillor or member of Council staff is speaking;
  - 73.8.3 be seen by all Councillors, members of Council staff and members of the public who are physically present at the *Council meeting*; and

73.8.4 be heard when they speak.

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

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

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

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

73.10 Nothing in this Rule 73 prevents a Councillor from joining (or re-joining) a *Council meeting* at the time that they achieve compliance with sub-Rule 73.9 even if the *Council meeting* has already commenced or has continued in their absence

#### **74. Meetings Conducted Remotely**

If a Council meeting is conducted:

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

### **Division 16 – Miscellaneous**

#### **75. Criticism of members of Council staff**

75.1 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.

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

#### **76. Procedure not provided in this Chapter**

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

## Chapter 3 – Meeting Procedure for Delegated Committees

### 1. Meeting Procedure Generally

If *Council* establishes a *Delegated Committee*:

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

### 2. Meeting Procedure Can Be Varied

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

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

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

## **Chapter 4 – Meeting Procedure for Community Asset Committees**

### **1. Introduction**

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

### **2. Meeting Procedure**

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

## Chapter 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 Chapter 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,

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.

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.

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



- 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 a material conflict of interest; and
  - 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:
    - (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
  - 3.2.4 nature of that other person's interest in the matter,
- and then immediately before the matter is considered at the meeting announcing to those 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.

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 to those in attendance at the *Community Asset Committee* meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 4.2 intend to attend 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 indicating whether it is a general conflict of interest or a material 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:
    - (a) name of the other person;
    - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
  - 4.2.4 nature of that other person's interest in the matter,

and then immediately before the matter is considered at the meeting announcing to those 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.

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 their 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:
  - 6.1.1 *Council meeting*;
  - 6.1.2 *Delegated Committee meeting*;
  - 6.1.3 *Community Asset Committee meeting*

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

- 6.2 The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 6.1 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 6.1 is the *Chief Executive Officer*:
  - 6.3.1 the written notice referred to in sub-Rule 6.1 must be given to the *Mayor*; and
  - 6.3.2 the obligation imposed by sub-Rule 6.2 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 as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest.
- 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. Retention of Written Notices**

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

## Chapter 6 – Miscellaneous

### 1. Informal Meetings of Councillors

If there is a meeting of Councillors that:

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

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

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

### 2. Confidential Information

- 2.1 If 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.
- 2.2 Information which has been designated by the *Chief Executive Officer* as confidential information within the meaning of the *Act*, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.
- 2.3 Nothing in sub-Rule 2.2 will, without more, mean that information designated by the *Chief Executive Officer* under sub-Rule 2.1 satisfies the definition of “confidential information” contained in section 3(1) of the *Act*.

## Chapter 7 – Election Period Policy

### COUNCIL ELECTION PERIOD POLICY 2020

#### 1. PURPOSE

This policy provides a framework for the conduct of Council business during the 2020 general election period. It establishes a series of caretaker practices, which aim to ensure that prohibited decisions and actions of the current Council are not made, and ensure the use of Council resources and information throughout the election period is in accordance with the caretaker provisions of the *Local Government Act 2020*. This policy is designed to prevent the Council from making prohibited decisions or using resources inappropriately during the election period before the general election.

#### 2. INTRODUCTION

Victorian Councils are required to observe special “caretaker arrangements” during a general election period. Caretaker arrangements aim to avoid the use of public resources in a way that may unduly affect the election result and minimise decisions that may unduly limit the decision-making ability of the incoming council. Section 69 of the *Local Government Act 2020* requires that Council prepare, adopt and maintain an election period policy in relation to procedures to be applied by Council during the election period for a general election and any by-election.

#### 3. SCOPE

This policy applies to individual Councillors, the Council as a Body Corporate, Delegated Committees of the Council, the Chief Executive Officer, Executive Managers, all Council staff and any person acting on behalf of the organisation under a delegation.

#### 4. PRINCIPLES

Councillors and staff are committed to the lawful, transparent, fair and un-biased conduct of Council elections and will ensure that the terms, conditions and arrangements provided for under this policy will be adhered to. In addition, the reporting requirements contained in the Council’s Public Interest Disclosure Guidelines and the Management of the Public Interest Disclosures Procedure will be followed where disclosures of improper or corrupt conduct or detrimental action by Councillors or employees, in regard to election-related matters, are made.

##### 4.1 Prohibited Decisions

- 4.1.1 Council is prohibited from making any Council decision:
- (a) during the election period for a general election that:
    - (i) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
    - (ii) commits the Council to expenditure exceeding one per cent (1%) this amounts refers to \$266,850 (for purchase of goods or services) or \$200,000 (for carrying out of works). of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or

- (iii) the Council considers could be reasonably deferred until the next Council is in place; or
  - (iv) the Council considers should not be made during an election period; or
- (b) during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

- 4.1.2 For the purposes of clause 4.1.1 of this policy, **Council decision** means the following:
- (a) a resolution made at a Council meeting;
  - (b) a resolution made at a meeting of a delegated committee; or
  - (c) the exercise of a power or the performance of a duty or function of Council by a member of Council staff (which includes the Chief Executive Officer) or a Community Asset Committee under delegation.

## 4.2 Council Publications and Communications

Section 304 of the *Local Government Act 2020* prohibits Council from printing, publishing and distributing material that is electoral matter during an election period. Electoral matter is broadly defined to be matter which is intended or likely to affect voting in an election. This limitation does not apply to electoral material that is only about the election process.

There is a requirement that the Chief Executive Officer is familiar with the requirements of the *Local Government Act 2020*, and any other requirements, with respect to the printing, publishing and/or distribution of electoral publications.

The Chief Executive Officer will review and approve all publications throughout the election period prior to publication, to ensure that they comply with the requirements of Section 304. This includes Council newsletters, handbills, pamphlets, advertisements and notices, media releases, brochures, leaflets and mail-outs (whether electronic or otherwise). This also applies to publication of material on Council's website and the social media.

In accordance with the intent of the *Local Government Act 2020*:

- the Chief Executive Officer must not intentionally or recklessly approve an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process
- the Chief Executive Officer must not delegate the power to approve any advertisement, handbill, pamphlet or notice under this section to a member of Council staff
- a Councillor or member of Council staff must not intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period on behalf of, or in the name of, the Council or on behalf of, or in the name of, a Councillor using Council resources if the electoral advertisement, handbill, pamphlet or notice has not been certified by the Chief Executive Officer under this section.

The requirements, above, do not apply to the publication of any document published before the commencement of the election period and to publication of any document required to be published in accordance with, or under, any Act or regulation.

Official media statements will only be made by the Chief Executive Officer during the election period, including radio and television interviews.

In as much as it is possible throughout the election period, Council publicity and communications will be restricted to promoting normal Council activities and services and informing residents about the election process.

#### **4.3 Council and Delegated Committee meetings**

The Chief Executive Officer will ensure that arrangements are in place so that papers prepared for council or delegated committee meetings during the election period do not include any agenda matter that could potentially influence voters' intentions at the forthcoming election or could encourage councillor candidates to use the matter as part of their campaign platform.

During the election period, Councillors will refrain from moving motions on or raise matters at a meeting that could potentially influence voting at the election. Council will not consider decisions relating to the following matters during the election period:

- allocation of community grants or other direct funding to community organisations
- major planning scheme amendments
- changes to strategic objectives and strategies in the council plan.

#### **4.4 Use of Public Resources**

Public resources must not be used in any way that may influence the way people vote in the general election or give Councillors any inappropriate real or perceived electoral advantage. The following guidelines during the election period will apply:

- Council resources, including offices, support staff, hospitality, equipment, email, mobile phones and stationery will be used exclusively for normal Council business and will not be used in connection with election campaigning.
- Any resource provided to a Councillor which has an expressly permitted private-use component (e.g. the mayoral vehicle) may still be used for private purposes, but nothing in connection with election campaigning.
- Reimbursement of out-of-pocket expenses for sitting Councillors during the election period will only apply to costs that have been incurred in the performance of normal Council duties and not for expenses that could be perceived as supporting, or being connected with, a candidate's election campaign.
- The council logo, letterhead or other Horsham Rural City Council branding will not be used for, or linked in any way to, a candidate's election campaign.
- Council officers will not be asked to undertake any tasks connected with a candidate's election campaign.
- Any requests for provision of information or advice held by Council, made by a sitting Councillor or candidate, should be directed to the Chief Executive Officer or appropriate senior management member. There shall be complete transparency in the provision of all information and advice and any information or advice provided to a sitting Councillor or candidate as part of the conduct of the Council election will be provided equally to all candidates and made available in an accessible format if requested.

Councillors will continue to automatically access council-held documents during the election period, but only as is necessary for them to perform their current role and functions.

#### **4.5 Public Consultation, Council Events and other activities**

Consultation forms an integral part of policy development and operations; however, consultation undertaken close to a general election may become an election issue in itself and influence voting. Issues raised through the consultation and decisions that follow may also unreasonably bind the incoming council.

## **Events**

The scheduling of council events in the lead-up to elections also frequently raises concerns over their potential use by sitting councillors for electioneering purposes. Events and functions can take many forms including conferences, workshops, forums, launches/openings, promotional activities, and social occasions (such as dinners, receptions and balls).

Any public consultation or scheduling of council events during the election period will be reviewed by the Chief Executive Officer who may determine that an individual activity or event is:

- not permitted to proceed; or
- is permitted to proceed but subject to any restrictions which the Chief Executive Officer may impose.

## **Consultation**

If the Chief Executive Officer determines that consultation must be undertaken or an event held during this time, the Chief Executive Officer (on behalf of the Council) must justify to the community the special circumstances making it necessary and how risks over influencing the election will be mitigated or prevented.

Public consultation must be undertaken during an election period if the consultation is mandated by legislation.

Where consultation is discretionary then the consultation can occur during the election period but only after the Chief Executive Officer determines whether or not the consultation will influence the outcome of the election. If the matter subject to the consultation is likely to be closely associated in the minds of voters with a particular candidate or group of candidates then it may be prudent for the Chief Executive Officer to delay the consultation until after the election period.

## **Councillor attendance at events and functions**

Councillors can continue to attend events and functions during an election period provided that their attendance is consistent with the ordinary course of their Council duties.

If a Councillor is asked to give a speech at an event or function during an election period then they should take particular care to only use or provide information that would generally be the nature of a speech to the relevant audience.

## **Council staff activities during an election period**

Council staff should not undertake any activity that may influence the outcome of an election, except where the activity relates to the election process and is authorised by the Chief Executive Officer.

Council staff should not authorise, use or allocate a Council resource for any purpose which may influence voting in the election, except where it relates to the election process and is authorised by the Chief Executive Officer.

This includes making Council resources available to Councillors for campaign purposes. Council staff must not assist any Councillor with their election campaign at any time, including outside working



hours. Where the use of Council resources could be construed as being related to a candidate's election campaign, the incident must be reported to the Chief Executive Officer.

#### 4.6 Record keeping

The Chief Executive Officer shall keep a documented record of all:

- documentation reviewed
- documentation approved
- media or other statements released
- information or advice provided on request to a sitting Councillor or candidate
- information relating to events and consultation permitted to proceed, under this policy during the election period.

### 5. COMMUNICATION

Individual Councillors, Reception (Civic Centre and Natimuk), Website, Intranet

### 6. RESPONSIBILITY

**Policy Owner:** Director Corporate Services

### 7. DEFINITIONS

Definition	Meaning
Council as a Body Corporate	Refers to decisions and actions arising from a meeting of the Horsham Rural City Council.
Delegation	Principally a formal document issued by the Council or the Chief Executive Officer which empowers another officer or officers to undertake an action, duty or responsibility, but an individual may have authority arising from an informal or implied direction or instruction (delegation) from a body or senior person.
Election period (also known as Caretaker Period)	Is defined in the <i>Local Government Act 2020</i> to be the period from the last day of nominations until the election day (a 32 day period). In conjunction with Section 44(1) of the Interpretation of Legislation Act 1984, the first day of the period for the 2020 general election will therefore be Tuesday, 22nd September 2020.
Prohibited Decision or Prohibited Action	A decision or action whenever made by the current Council that binds the incoming Council and limits its freedom of action.

### 8. SUPPORTING DOCUMENTS

Document	Location
Local Government Act 2020	Internet
Public Interest Disclosures Guidelines	HRCC Intranet
Management of Public Interest Disclosures Procedure	HRCC Intranet

### 9. DOCUMENT CONTROL

Version Number	Approval Date	Approval By	Amendment	Review Date
01	15 February 2016	Council	Replaces Council Election Caretaker Arrangements Policy 2019	1 October 2019
02	28 October 2019	Council	Review	1 October 2023
03	21 September 2020	Council	Review in line with <i>Local Government Act 2020</i>	1 October 2023