

# Governance Rules

2022



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The City of Ballarat has established Governance Rules in accordance with section 60 of the *Local Government Act 2020*.

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## Commitment

Good governance, integrity and accountability are central to the *Local Government Act 2020* (the Act), to underpin local government democracy, conduct and enable our community to hold the Council to account. Council is committed to embedding the principles of good governance throughout its decision making, corporate governance and democratic governance by establishing and adhering to the Governance Rules established

Council decision making will be founded on good governance and conducted with transparency. The process by which decisions will be made is transparent and clearly articulated in these Governance Rules for the scrutiny of our community and accountability of Councillors, Members of Delegated Committees and Council staff. Council recognises that accountability, integrity and transparency are of fundamental importance to our community and are critical for enhancing good governance.

## CHAPTER 1 - INTRODUCTION

### Purpose

These Governance Rules determine the way in which Council will:

- Make decisions:
  - in the best interest of the Ballarat community;
  - fairly and on the merits of the matter; and
  - in a way that ensures any person whose rights will be directly affected by a decision will be entitled to communicate their views and have their interests considered.
- Elect its Mayor and Deputy Mayor; or Acting Mayor if required;
- Conduct meetings of Council, Delegated Committees, Advisory Committees, Hearing Committees and Community Asset Committees;
- Give notice of meetings and record and make available meeting records (minutes and live broadcasting of meetings);
- Be informed in its decision making through community engagement, advisory committees and Councillor areas of responsibility, and Council Officer reports; and
- Require the disclosure and management of conflicts of interest.

The Governance rules also include:

- Rules for the conduct of Council and Councillors during Election Periods, through the Election Period Policy; and
- An overview of alignment of the Governance Rules within Council's Governance and Integrity Framework.

### Principles

Council must, in the performance of its role, give effect to the overarching governance principles outlined in the Act. These principles are:

- a) Council decisions are to be made and actions taken in accordance with the relevant law;
- b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- c) The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- d) The municipal community is to be engaged in strategic planning and strategic decision making;
- e) Innovation and continuous improvement is to be pursued;
- f) Collaboration with other Councils and Governments and statutory bodies is to be sought;
- g) The ongoing financial viability of the Council is to be ensured;
- h) Regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
- i) The transparency of Council decisions, actions and information is to be ensured.

In giving effect to the overarching governance principles, Council must take into account the following supporting principles:

- a) the community engagement principles;
- b) the public transparency principles;
- c) the strategic planning principles;
- d) the financial management principles; and
- e) the service performance principles.

## CHAPTER 2 - CONTEXT

### 2.1 Affected Persons Rights and Interests

In any matter in which a decision must be made by Council (including person acting with the delegated authority of Council), Council must consider:

- fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
- on the merits, free from favouritism or self-interest and without regard to irrelevant considerations.

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).

Before making a decision that affects a person's rights, Council will endeavour to identify whose rights may be affected and provide an opportunity for that person (or persons) to convey those views regarding the effect on their rights and consider those views.

This includes but is not limited to the rights outlined in the *Charter of Human Rights and Responsibilities Act 2006*.

The opportunity provided for a person whose rights have been affected to contribute their views will be documented in any relevant report put before the Council or Delegated Committee.

A Council officer making a decision under delegation that affects the rights of a person will record in writing the opportunity provided to the person to have their views considered.

#### ***Section 60(2) of the Local Government Act 2020***

*The Governance Rules must provide for a Council to—*

- (a) consider and make decisions on any matter being considered by the Council fairly and on the merits; and*
- (b) institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests*

### 2.2 Context

**2.1.1** These Governance Rules are to be read in the context of and in conjunction with:

- a) the overarching governance principles
- b) Community Engagement Policy
- c) Public Transparency Policy;
- d) Conflict of Interest Guide for Councillors and Staff;
- e) Council Plan;
- f) Councillor Code of Conduct;
- g) Employee Code of Conduct; and
- h) other relevant policies.

**2.1.2** Each numbered section or sub-section is a rule or sub-rule.

**2.1.3** Guidance and Overview Notes within these rules are intended to be explanatory and included for guidance and do not form part of these Governance Rules. They will be monitored and updated to reflect changes to legislation or to assist interpretation and understanding.



## 2.3 Definitions and Notes

### 2.2.1 In these Governance Rules:

**Act** means the *Local Government Act 2020* (as amended from time to time);

**Advisory Committee** means an Advisory Committee established by Council that provides advice to:

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

that is not a Delegated Committee.

**Agenda** means the document containing the date, time and place of a meeting and lists the business to be transacted at a Council Meeting and includes a revised agenda;

**Authorised Officer** means a person appointed as an Authorised Officer under s224 of the *Local Government Act 1989* or any other Act;

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

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

**Chief Executive Officer** means the Chief Executive Officer of Council or the person acting in or performing the position of Chief Executive Officer;

**Committee Meeting** means a Meeting of a Delegated Committee;

**Common Seal** means the Common Seal of Council;

**Council** means Ballarat City Council;

**Council Meeting** means a meeting of the Council convened in accordance with these Governance Rules and includes a scheduled Meeting and unscheduled Meeting;

**Council Meeting conducted remotely** means a Council Meeting or a joint meeting of Council which is attended by one or more Councillors by electronic means of communication and conducted in accordance with rule 3.14.

**Councillor** means a Councillor of the Council;

**Councillor Code of Conduct** has the same meaning as in the Act;

**Delegated Committee** has the same meaning as in the Act;

**Delegated Committee Meeting** means a Meeting of a Delegated Committee;

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

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

- a) interjecting when another person is speaking, except, in the case of where a Councillor is raising a Point of Order;
- b) making comments that are defamatory, malicious, abusive or offensive;



- c) refusing to leave the Meeting when requested, ordered or directed to do so by the Chairperson in accordance with the Act and the Governance Rules; and
- d) engaging in any other conduct which prevents the orderly conduct of the Meeting;

**Majority** means the votes cast by a Majority of the Councillors or Members present at a Meeting at the time the vote is taken;

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

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

**Minutes** means the official record of the proceedings and decisions of a meeting;

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

**Municipal District** means the municipal district of Council;

**Notice of Amendment** means a Notice of Motion to amend a resolution made by Council;

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

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

**Officer** means an employed member of Council staff;

**Operational service request process** means a request for action through the Customer Request System in use by the Council; or request relating to the day to day management of Council operations as the functions of the Chief Executive Officer;

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

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

**Quorum** means the minimum number of Councillors necessary to conduct the business of Council. A quorum is an absolute majority;

**Repetitious Motion** means (a) a motion moved that is to the same effect, even if it is in a different form, as a motion (with or without amendment) that has been rejected by Council at the same meeting; or (b) a motion that substantially covers the same ground as a motion or amendment already dealt with by Council at the same meeting;

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

**Standing Orders** means the provisions of these Governance Rules which govern the conduct of meetings;

**Suspension of Standing Orders** means a suspension of the provisions of these Governance Rules, to facilitate full discussion on an issue without formal constraints;

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

**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;

**Visitor** means any person (other than a Councillor or an Officer) present at a meeting;

**Written or In Writing** includes duplicated, photocopied, photographed, printed and typed and extends to both hard copy and soft copy form.

### 2.2.2 Definitions provided by the Act:

The following definitions provided by the Act are applied to these Governance Rules:

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

**Confidential information** means the following information:

- (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;
- (b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person;
- (c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values;
- (d) law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;
- (e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;
- (f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
- (g) private commercial information, being information provided by a business, commercial or financial undertaking that—
  - i) relates to trade secrets; or
  - ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;
- (h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a);
- (i) internal arbitration information, being information specified in section 145;
- (j) Councillor Conduct Panel confidential information, being information specified in section 169;
- (k) information prescribed by the regulations to be confidential information for the purposes of this definition;
- (l) information that was confidential information for the purposes of section 77 of the *Local Government Act 1989*;

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

**Electoral Matter** means matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the election manager for the purposes of conducting an election.

**Nomination Day** means the last day on which nominations to be a candidate at a council election may be received in accordance with the Act and the regulations.

## CHAPTER 3 – MEETING PROCEDURE

### 3.1 Purpose of Council Meetings

- 3.1.1** Council holds scheduled meetings and, when required, unscheduled meetings to conduct the business of Council.
- 3.1.2** Council is committed to transparency in decision making and, in accordance with the Act, Council and Delegated Committee meetings are open to the public to attend. Meetings will only be closed to members of the public if:
- there are clear reasons for particular matters to remain confidential; or
  - a meeting is required to be closed for security reasons; or
  - it is necessary to enable the meeting to proceed in an orderly manner.
- 3.1.3** If a meeting is closed to the public for the reasons outlined in sub-rule 3.1.2 b) or 3.1.2 c), the meeting will continue to be live broadcasted. In the event live broadcast is not available the meeting may be adjourned, or a recording of the proceedings may be available on Council website.
- 3.1.4** For the avoidance of doubt, if a meeting is open to the public and the live broadcast is not available, a meeting that has not commenced will proceed as scheduled and a meeting that has commenced will continue.
- 3.1.5**

### 3.2 Meeting Roles

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#### Overview:

*In accordance with the Act, the Mayor must take the Chair at all Council Meetings at which the Mayor is present. If the Mayor is absent, the Deputy Mayor (if any) must take the chair and if both are absent, Council must elect one of the Councillors as Chairperson of the meeting.*

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

*The Chairperson is an independent leader of meetings and generally does not participate in debate or move or second motions.*

*The Act provides for the Mayor to appoint a Councillor as the Chair of a Delegated Committee and any such appointment prevails over any appointment made by Council. While there are no limitations on exercising that power, the Mayor must always act in a way that is consistent with the adopted Councillor Code of Conduct and transparency commitments of the Council.*

*Additionally, each member of the meeting has an obligation to participate in good decision-making through their preparation and contribution to the meeting.*

*Specific duties and discretions of the Chairperson are outlined throughout these Governance Rules.*

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### **3.2.1 Chairperson and Members**

- a) The Chairperson, Councillors and Members of Delegated Committees will ensure:
  - i) Decision making is transparent to members and observers;
  - ii) Meeting members have sufficient information to make good decisions;
  - iii) Every member is supported to contribute to decisions;
  - iv) Any person whose rights are affected has their interests considered;
  - v) Debate and discussion is focussed on the issues at hand;
  - vi) Meetings are conducted in an orderly manner;
  - vii) Decisions should be made on the merits of the matter.
- b) Council by resolution, or the Chief Executive Officer, may change the date, time and place of, or cancel, any meeting which has been fixed and must provide notice of the change to the public.

### **3.2.2 Mayor to take the Chair**

- a) The Mayor must take the chair at all Council Meetings at which the Mayor is present.
- b) If the Mayor is not in attendance at a Council meeting, the Deputy Mayor (if one has been elected) must take the chair.
- c) If the Mayor and any Deputy Mayor are not in attendance at a Council meeting, Council must appoint one of the Councillors as temporary Chairperson by resolution.

### **3.2.3 Delegated Committee Chairperson**

- a) At the meeting at which Council establishes a Delegated Committee it must also appoint a Chairperson.
- b) The Chairperson of a Delegated Committee must be a Councillor.
- c) For the avoidance of doubt, sub-rule a) does not intend to limit the powers of the Mayor provided in the Act.

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

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

- a) must not accept any motion, question or statement which is:
  - i) vague or ambiguous;
  - ii) defamatory, malicious, abusive or objectionable in language or substance; or
  - iii) outside the powers of Council;
- b) must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise during the meeting;
- c) must call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council;
- d) may direct that a vote be recounted to be satisfied of the result;
- e) must decide on all points of order in accordance with Rule 3.10; and
- f) Subject to sub-rule a), the Chairperson may determine to close a meeting to the public to maintain security and order, if the circumstances prevent seeking a Council resolution in accordance with Rule 3.13.1.

### **3.2.5 Chief Executive Officer**

- a) The Chief Executive Officer, or delegate, may participate in the meeting to provide support to the Chairperson.
- b) The Chief Executive Officer:
  - i) Should immediately advise if a proposed resolution or action is, to the best of their knowledge, contrary to legislation or Council policy;
  - ii) May advise if there are administrative or operational implications arising from a proposed resolution;
  - iii) May assist to clarify the intent of any unclear motion to facilitate implementation of a resolution;
  - iv) On request, assist with procedural issues that may arise.

### **3.2.6 Councillors and members of Delegated Committees**

- a) Councillors and members of Delegated Committees contribute to good governance and decision making by:
  - i) Seeking views of community members and reading agenda papers prior to the meeting;
  - ii) Demonstrating due respect and consideration to community views and the professional / expert advice provided in the agenda papers;
  - iii) Attending meetings and participating in debate and discussion;
  - iv) Demonstrating respect for the role of the Chairperson and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making;
  - v) Being courteous and orderly.

### **3.2.7 Community**

- a) Council Meetings are decision making forums for the Council that are open to the community to attend and/or view proceedings.
  - i) Community members may only participate in Council meetings in accordance with Rule 3.7.
  - ii) Community members are encouraged to participate in Council's engagement processes.
  - iii) Community members may seek to inform individual Councillors of their views by contacting them directly in advance of meetings.

### **3.2.8 Apologies and absences**

- a) Councillors and members of Delegated Committees who are unable to attend a meeting may submit an apology:
  - i) In writing to the Chairperson, who will advise the meeting: or
  - ii) By seeking another Councillor or member of the Delegated Committee to submit it at the meeting on their behalf.
- b) An apology submitted to a meeting will be recorded in the minutes.
- c) A Councillor intending to take a leave of absence must submit the notification in writing to the Mayor.

- d) If this is not practicable, the Councillor must give the Chief Executive Officer notice of an apology prior to the Council Meeting.
- e) If a Councillor leaves a Council Meeting, the Councillor must request permission from the Chairperson before leaving the Chamber.
- f) Unless there is an emergency, or otherwise in accordance with sub-clause 3.2.8 h) of these Governance Rules, a Leave of Absence requested during a Council Meeting will only be granted at the end of a motion.
- g) Unless there is an emergency, or otherwise in accordance with sub-clause 3.2.8 h) of these Governance Rules, a leave of absence must not be requested or granted during a debate.
- h) The Chairperson may call a comfort break at any time during a meeting on a request from a Councillor.

*Section 35 (1) (e) of the Act provides a Councillor ceases to hold office if they are absent from Council meetings for a period of 4 consecutive months without leave obtained from the Council.*

### **3.3 Notices of meetings and delivery of agendas**

#### **Overview:**

*Council meetings are held regularly to conduct the ongoing business of the Council and unscheduled meetings may be held from time to time.*

*It is important that the community is made aware of the times, dates and locations of Council and Delegated Committee meetings and the matters Council will consider. The timing of this notice should give the community adequate time to make arrangements to attend the meeting or view via the live broadcast.*

*An agenda for each Council meeting must be provided to Councillors in advance so that they can prepare adequately for the Council meeting. The agenda contains the order of business and the professional / expert advice of the organisation, with a recommendation for Council to consider.*

*The agenda is made available to the public via Council's website and in hard copy format at the meeting location prior to the meeting.*

#### **3.3.1 Date, time and place of meetings**

- a) At or before the last meeting each calendar year, Council must fix the date, time and place of all Council Meetings and any Delegated Committee Meetings for the following calendar year;
- b) Council may resolve a Delegated Committee will set its own schedule of meetings;
- c) Council may from time to time change the date, time and place of any meeting which has been fixed and must provide reasonable notice of the change to the public.

#### **3.3.2 Unscheduled meetings**

- a) Council may by resolution call an unscheduled meeting of the Council; or
- b) The Mayor, or three Councillors may by written notice call an unscheduled meeting of the Council; or
- c) The Chief Executive Officer, following consultation with the Mayor, may call an unscheduled meeting.



- d) A written notice to call an unscheduled meeting must:
  - i) Specify the business to be transacted;
  - ii) be delivered to the Chief Executive Officer or delegate in sufficient time to enable notice to be given in accordance with Rule 3.3.3.
- e) The Chief Executive Officer must determine the time and date for the meeting, giving consideration to:
  - i) the urgency of the business to be transacted;
  - ii) the availability of Councillors; and
  - iii) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted.
- f) The Chief Executive Officer must arrange for notice of the meeting on Council's website.
- g) Any resolution of Council to call an unscheduled meeting must specify the date and time of the unscheduled meeting and the business to be transacted. The date and time of the unscheduled meeting must not be prior to 6pm on the day following the Council meeting at which the resolution was made.
- h) The Chief Executive Officer must call an unscheduled meeting to elect a Mayor following a Council election declaration, in accordance with the Act.
- i) The unscheduled meeting for the election of a Mayor following an election may also consider the role of Deputy Mayor and any other matters as determined by the Chief Executive Officer.

### **3.3.3 Notice of Meetings**

#### **Council Meetings**

- a) A notice of a meeting, that is not an unscheduled meeting, must state the date, time and place of the meeting and the business to be dealt with, or incorporating or accompanied by an agenda of the business to be dealt with, and must be delivered or made available electronically to every Councillor for all Council meetings, as early as practical; or at least at least 2 days before the meeting;
- b) Subject to any resolution of Council, the Chief Executive Officer will determine the method of delivery to be used under sub-rule a).
- c) Reasonable notice of Council meetings is considered to be a least 2 days before a meeting.
- d) A schedule of Council meetings must be prepared and published that ensures it is available to a broad section of the community, including on Council's website at least once each year; and with such greater frequency as the Chief Executive Officer determines; or just prior to each meeting unless extraordinary circumstances exist.

#### **Unscheduled Meetings**

- a) Notice of an unscheduled meeting must be published on Council's website as soon as practicable after the time and date of the meeting has been determined.
- b) An agenda for an unscheduled meeting must be made available electronically to every Councillor at least 2 days before the meeting. A period of less than 2 days may be justified if exceptional circumstances exist.
- c) An agenda for an unscheduled meeting will be made available on Council's website no less than 24 hours before the Council meeting.

## 3.4 Quorum

### Overview:

*No business can be transacted at a Council Meeting or a Delegated Committee meeting unless a majority of the Councillors or members of the Delegated Committee (as the case may be) is present (quorum). If there is no quorum at the commencement of a meeting or if a quorum cannot be maintained during a meeting, the meeting is to be adjourned to another date and/or time. A quorum is an absolute majority in accordance with s61(7) of the Act.*

### 3.4.1 Inability to gain quorum to commence

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

- a) those Councillors present; or
- b) if there are no Councillors present, the Chief Executive Officer; or,
- c) in the absence of the Chief Executive Officer, an Authorised Officer;

must adjourn the Council meeting for a period within four (4) weeks from the date of the adjournment.

### 3.4.2 Inability to gain quorum

If during any Council Meeting or any adjournment of the Council meeting, a quorum cannot be maintained:

- a) those Councillors present; or
- b) if there are no Councillors present, the Chief Executive Officer; or,
- c) in the absence of the Chief Executive Officer, an Authorised Officer;

must adjourn the Council meeting for a period not exceeding seven (7) days from the date of the adjournment.

### 3.4.3 Inability to achieve or maintain a quorum due to conflicts of interest of Councillors

If a quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by the majority of Councillors, Council will:

- a) Determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
- b) Determine to make decisions on separate parts of the matter at a meeting where quorum can be maintained, before making a decision on the whole matter.

### 3.4.4 Delegation due to conflicts of interests

If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, and the matter cannot be separated into component parts or prior decisions made, Council may delegate the decision to be made:

- a) By the Chief Executive Officer; or
- b) By a Delegated Committee, established for the purpose of determining the matter, comprised of all the Councillors who have not disclosed a conflict of interest and any other person(s) the Council considers suitable.

A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council meeting.

### 3.4.5 Adjournment

The Chief Executive Officer must provide written notice of an adjournment under sub-rules 3.4.1, 3.4.2 or 3.4.3, however, where this is not practicable because time does not permit that to occur, then, provided every reasonable attempt is made to contact every Councillor; notice by telephone, email, in person or by some other means is sufficient.

### 3.4.6 Adjourned meetings

- a) Council may adjourn any Council meeting.
- b) The Chief Executive Officer, or his or her delegate, must give notice to each Councillor of the date, time and place to which the Council meeting stands adjourned and of the business remaining to be considered.
- c) Notice of an adjournment to another date or time must be published on Council's website as soon as practical.

#### **Quorum Calculation**

**Section 61(4) of the Act** provides that a quorum at a meeting must be at least a majority of the Councillors or members of the Delegated Committee.

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

### 3.5 Election of the Mayor

#### Overview:

*The role and functions of the Mayor are provided in the Act. The holder of this significant office is the Chairperson at Council Meetings, is the leader of the Councillors, acts as the principal spokesperson for Council and carries out civic and ceremonial duties.*

*This section describes how the Mayor, a Deputy Mayor and Acting Mayor are to be elected.*

*The Act has specific provisions governing the election of the Mayor and the term of office for the Mayor:*

#### **Section 25 - Election of Mayor**

##### *25 Election of Mayor*

- (1) At a Council meeting that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council.*
- (2) Subject to section 167, any Councillor is eligible for election or re-election to the office of Mayor.*
- (3) The election of the Mayor must—*
  - (a) be chaired by the Chief Executive Officer; and*
  - (b) subject to this section, be conducted in accordance with the Governance Rules.*
- (4) Subject to subsections (5) and (6), the Mayor must be elected by an absolute majority of the Councillors.*
- (5) If an absolute majority of the Councillors cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date.*
- (6) If only one Councillor is a candidate for Mayor, the meeting must declare that Councillor to be duly elected as Mayor.*
- (7) In this section, absolute majority means the number of Councillors which is greater than half the total number of the Councillors of a Council.*

#### **Section 26 – When is a Mayor to be elected**

- (1) A Mayor is to be elected no later than one month after the date of a general election.*
- ...*
- (3) Before the election of the Mayor, a Council, other than the Greater Geelong City Council, must determine by resolution whether the Mayor is to be elected for a 1 year or a 2 year term.*
- (4) If the Mayor is elected for a 1 year term, the next election of the Mayor must be held on a day to be determined by the Council that is as close to the end of the 1 year term as is reasonably practicable.*
- (5) If the Mayor is to be elected for a 2 year term, the next election of the Mayor must be held on a day to be determined by the Council that is as close to the end of the 2 year term as is reasonably practicable.*
- (6) A Mayor is to be elected within one month after any vacancy in the office of Mayor occurs.*
- (7) The election of a Mayor after the period specified in this section does not invalidate the election.*
- (8) A Councillor elected to fill a vacancy in the office of Mayor caused other than by the expiration of a one year or a 2 year term serves the remaining period of the previous Mayor's term*

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

- a) The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor, except that the election of the Mayor must be held in accordance with any provisions contained in the Act and these Governance Rules.
- b) At the meeting to elect the Mayor, Council must first resolve if the term of the Mayor is to be 1 or 2 years.
- c) The order of business at the Council meeting to elect the Mayor is to be determined by the Chief Executive Officer. In the absence of any changes directed by the Chief Executive Officer, the default order of business will be:
  - i) Opening and Acknowledgement of Country;

- ii) Apologies;
  - iii) Oath of office (at the Council meeting to elect the Mayor following the declaration of results of a general election of Councillors);
  - iv) Councillor Code of Conduct (at the Council meeting to elect the Mayor following the declaration of results of a general election of Councillors);
  - v) ;
  - vi) Term of the Mayor and determination of the position of Deputy Mayor;
  - vii) Election of the Mayor;
  - viii) Presentation and commencement speech by the incoming Mayor;
  - ix) Election of Deputy Mayor (if the position is established); and
  - x) Ceremonial motions.
- d) The Councillor elected to the position of Mayor may make a commencement speech for up to 10 minutes outlining their vision for the Mayoral term.
  - e) The commencement speech may not address matters outside the powers of the Council, be derogatory, or be prejudicial to any person or the Council.

### **3.5.2 Role and Election of Deputy Mayor**

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

### **3.5.3 Method of Voting for Mayor**

The election of the Mayor must be carried out by a show of hands.

### **3.5.4 Procedure for Election of the Mayor**

- a) All nominations to be a candidate for Mayor and Deputy Mayor are to be provided in writing to the Chief Executive Officer no later than a date and time to be fixed by the Chief Executive Officer.
- b) The Chief Executive Officer will advise all Councillors of the names of the candidates within 24 hours of nominations closing.
- c) The Chief Executive Officer must preside during the election of the Mayor.
- d) The Chief Executive Officer must formally invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.

In an election for the Mayor:

- e) If there is only one (1) nomination, the candidate is declared elected.
- f) If two (2) candidates have been nominated, a vote must be taken and the candidate who receives the number of votes equal to greater than half the Councillors of the Council must be declared elected;

- g) Two (2) candidates have been nominated and no candidate receives the number of votes equal to greater than half the Councillors of the Council, a second vote will be conducted;
- h) Where, after a second vote, two candidates have been nominated and no candidate receives the number of votes equal to greater than half the Councillors of the Council, the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6 pm the following day;

More than two candidates

- i) If more than two (2) candidates have been nominated and no candidate receives the number of votes equal to or greater than half the Councillors of the Council:
  - i) the candidate with the fewest number of votes cast must be eliminated;
  - ii) the names of the remaining candidates must be put to the vote again; and
  - iii) the procedure in sub-rules i) and,ii) above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined in sub-rule f).
- j) In the event of two or more candidates having an equal amount of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes);
- k) The Chief Executive Officer will conduct a vote for one candidate to be defeated.

**3.5.5 Procedure for Election of the Deputy Mayor**

- a) If Council resolves to have the office of Deputy Mayor, the provisions of sub-rules 3.5.3 and 3.5.4 apply to the election of the Deputy Mayor with all necessary modifications and adaptations.
- b) Subject to sub-rule 3.5.5 a), the Chief Executive Officer must arrange an election as soon as possible after the office of Deputy Mayor becomes vacant.

## **3.6 Conduct and Business of Meetings**

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### **Overview:**

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

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### **3.6.1 Time limits for Council meetings**

- a) A Council meeting must start within 30 minutes of the advertised start time.
- b) A Council meeting will not continue after 11.00 pm unless a majority of Councillors present vote in favour of its continuance. In the absence of such continuance, a Council meeting must stand adjourned to a time, date and place announced by the Chairperson immediately prior to the meeting standing adjourned.

### **3.6.2 The order of business**

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

- a) No business can be dealt with at a meeting unless it is:
  - i) Contained on the agenda; or
  - ii) Admitted as urgent business in accordance with Rule 3.6.4;

### **3.6.3 Change to order of business**

Once an agenda has been sent to Councillors, the order of business for that Council Meeting may only be altered by a resolution of the Council. This includes a request for an item to be brought forward.

### **3.6.4 Urgent Business**

- a) Subject to sub-rule b), urgent business may be considered at any scheduled meeting.
- b) Urgent business can only be admitted by resolution of Council and only then if it:
  - i) relates to or arises out of a matter which has arisen since distribution of the agenda; and
  - ii) cannot safely or reasonably be deferred until the next scheduled meeting.
- c) Notwithstanding anything to the contrary in these Governance Rules, a Councillor, with the agreement of the Chief Executive Officer, may only submit or propose an item of urgent business if the matter relates to business that does not:
  - i) substantially affect the levels of Council service;
  - ii) commit Council to significant expenditure not included in the adopted budget;
  - iii) establish or amend Council policy;
  - iv) commit Council to any contractual arrangement;
  - v) require, pursuant to any other policy determined by Council from time to time, the giving of prior notice; and



- vi) the proposed motion(s) is in writing and given to the Chairperson who must seek a resolution of approval from Council to proceed at the particular meeting.
- d) A Councillor proposing that a matter be admitted as Urgent Business must lodge it in writing with the Chief Executive Officer no later than 30 minutes prior to commencement of the meeting.
- e) The Chief Executive Officer may identify and determine a matter appropriate for Council to consider admitting as urgent business and will advise the Mayor as soon as practicable.

### **3.7 Public Questions, Representations and Submissions**

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#### **Overview:**

*As outlined in the purpose of these Governance Rules, Council meetings are held for Council to make its decisions. Although members of the public do not have a statutory right to address Council, provisions are made for Council to respond to questions from the community and for the public to make submissions to Council.*

*At each meeting there is an opportunity for members of the public to ask questions of the Council. Assistance will be available for any member of the public who requires and seeks support to write their question(s).*

*Petitioning is a long-established process for members of the community to demonstrate community support for a request or views on a matter, and for that request or view to be presented directly to Council.*

*This section sets out the procedures to be followed to submit a question, representation, submission or petition, the circumstances under which a question, representation, submission or petition may be disallowed and the process for addressing and responding to the question or petition at or after the meeting.*

*Council meetings are broadcast to the public and recorded, this includes public questions and representations.*

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#### **3.7.1 Public Question Time**

- a) There shall be a public question time at every meeting to enable members of the public to submit questions to Council. Question time will be for a period of 30 minutes. Council may resolve to alter this time period.
- b) There will be no public question time held at unscheduled meetings or during the local government election caretaker period.
- c) Questions submitted to Council must be prefaced by the name and suburb of the person submitting the question.
- d) Questions submitted to Council must be submitted in writing by 12:00pm on the day of the Council Meeting:
  - i. In the form approved; or
  - ii. by email to Council's prescribed email address;.or
  - iii. in person during normal office hours at the Council Offices at 25 Armstrong Street South, Ballarat.
- e) A person having complied with Rule 3.7.1 d) may register to attend the public gallery and present their questions in person during Public Question Time to Council.

- f) If a person submitting a question is not present in the gallery during Public Question Time, their questions will be read out and a response provided at the meeting and a written response provided after the Meeting.
- g) Once all registered public questions have been asked and the allocated time for Public Questions Time, including time extensions has not expired, the Chairperson in their discretion may call from the gallery any unregistered person come forward to submit up to two questions at the meeting.
- h) Questions submitted in accordance with Rule 3.7.1 d) that are not able to be considered in the allotted public question time at the meeting, will be referred to the relevant department to provide a response in writing..
- i) Like questions may be grouped together and a single answer provided.
- j) No person may submit more than two questions at any meeting. If a person has submitted more than two questions to a meeting, the third and further questions:
  - i) may, at the discretion of the Chairperson, be deferred until all other persons who have asked a question have had their questions asked and answered; or
  - ii) may not be asked if the time allotted for public question time has expired.
- k) A question may be disallowed by the Chairperson if the Chairperson determines that it:
  - i) relates to a matter outside the duties, functions and powers of Council;
  - ii) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - iii) deals with a subject matter already answered;
  - iv) is aimed at embarrassing a Councillor or a member of Council staff;
  - v) relates to personnel matters;
  - vi) relates to the personal hardship of any resident or ratepayer;
  - vii) relates to industrial matters;
  - viii) relates to contractual matters;
  - ix) relates to proposed developments;
  - x) relates to legal advice;
  - xi) relates to matters affecting the security of Council property; or
  - xii) relates to any other matter which Council considers would prejudice Council or any person.
- l) All questions and answers must be as brief as possible, and no discussion may be allowed other than for the purposes of clarification.
- m) The Chairperson may nominate a Councillor or the Chief Executive Officer to respond to a question.
- n) A Councillor or the Chief Executive Officer may require a question to be put on notice. If a question is put on notice, the answer to it must be recorded in the minutes of Council. A written copy of the answer must be sent to the person who asked the question. It is expected that responses to questions will be within Council service levels for correspondence.
- o) Council will have a standard agenda item (with a report) that reflects unanswered questions from question time. This will keep a sequential dated record of questions asked and responses.

- p) A Councillor or the Chief Executive Officer may advise Council that it is his or her 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.

### **3.7.2 Public representations**

The public may make a presentation on all agenda items in a meeting. These items will be called "public representations" on the Council agenda, and:

- a) Presentation's must be submitted in writing, not more than 500 words by 2:00pm on the day of the relevant meeting:
- i. In the form approved; or
  - ii. by email to Council's prescribed email address;.or
  - iii. in person during normal office hours at the Council Offices at 25 Armstrong Street South, Ballarat.
- b) No unregistered public presenters will be allowed to speak;
- c) The presenter will be given 3 to 5 minutes to address the relevant agenda item(s). Extension of this time is at the discretion of the chair;
- d) If a person submitting a presentation is not present in the gallery, their presentation will be read out subject to the time limits a rule 3.7.2 c);
- e) Any Councillor can ask questions of the public presenter; and
- f) All representations must relate to items on the agenda and be heard prior to each respective agenda item being considered by Council.

### **3.7.3 Public questions and representations from members of the public not in attendance**

- a) Council may, by resolution, determine that the Chief Executive Officer must develop a procedure that enables the submission of questions and statements by members of the public who are not in attendance but are viewing the live broadcast to be admitted to the meeting;
- b) A procedure developed in accordance with sub-rule a) must give consideration to:
- i) Accessibility;
  - ii) Community members in attendance at the meeting; and
  - iii) Relevance of the question or representation to an item on the agenda for the meeting.

### **3.7.4 Petitions and Joint Letters**

- a) A petition or joint letter received by the Council or an individual Councillor must be lodged with the Chief Executive Officer.
- b) A petition must be on the specified form published by Council available on Councils website and must:
- i) be in legible and permanent writing;
  - ii) have the full name, address and signature of all individual signatories;
  - iii) not be defamatory, indecent, abusive or objectionable in language or content;
  - iv) not relate to matters beyond the powers of the Council; and
  - v) include the whole of the request of the petitioners or signatories on each page.

- c) The Chief Executive Officer must arrange for petitions to be submitted to the next practicable meeting following their receipt.
- d) Only the petitioner's request and the number of signatories will be included in the agenda for the Council meeting at which it will be considered.
- e) If a petition is addressed to an individual Councillor, and listed on the agenda, that Councillor may read the petition out at the Council meeting without speaking to it. Other petitions will be read by the Chief Executive Officer or his/her delegate.
- f) The only motions that may be considered for any petitions are:
  - i) that the petition be received; and
  - ii) that the petition be referred to the Chief Executive Officer for consideration and response; or
  - iii) that the petition be referred to the Chief Executive Officer for a report to a future Council meeting.
- g) If the petition relates to any item already on the agenda for the Council meeting at which the petition is submitted, the matter may be dealt with in conjunction with that agenda item.
- h) If the petition relates to an operational matter, the Council must refer it to the Chief Executive Officer for consideration.
- i) If the petition relates to:
  - i) a planning matter which is the subject of a public notification process under the *Planning and Environment Act 1987*; or
  - ii) a statutory matter which is the subject of a public submission process;
 the petition will be treated as a joint submission in relation to the planning matter or statutory matter (as the case may be).
- j) A petition may nominate a person to whom a reply must be sent, but if no person is nominated or is the obvious intended contact person, the Council may reply to the first signatory who appears on the petition.
- k) Any petitions that do not comply with these Governance Rules:
  - i) can be referred to relevant Councillors by the Chief Executive Officer for their information; and
  - ii) can be tabled as a joint letter at a Council Meeting.
- l) Nothing in this sub-rule shall prevent the Chief Executive Officer from determining that an electronic or online petition will be submitted to a Council meeting or the Council resolving to consider a petition as urgent business under rule 3.6.4.

### **3.7.5 Deputations and presentations**

- a) Deputations to be referred to Mayor.
- b) Summary of submissions:
  - i) A deputation must lodge with the Chief Executive Officer, a written submission detailing the subject matter of the deputation prior to the deputation addressing Council.
- c) A deputation wishing to be heard by Council may make a written request to the Chief Executive Officer who must refer the request to the Mayor.
- d) Consideration of request:

The Mayor may:

- i) ask the Chief Executive Officer to include the deputation on the agenda for a future Council Meeting; or
  - ii) ask the Chief Executive Officer to include a request for a deputation on the Agenda for a future Council meeting; or
  - iii) in consultation with the Chief Executive Officer, decline the request.
- e) Chief Executive Officer to determine Councillor Briefing request referred to.
- If the Mayor asks for a deputation to be heard, the Chief Executive Officer must notify all Councillors of that direction, and also notify a member of the deputation of the date, time, and place at which the deputation will be heard.
- f) Limitations of time upon speakers
- Council will not hear more than two (2) speakers on behalf of any deputation, and the Chairperson may set time limits on the length and address of each speaker for a period of 3 minutes.
- g) Questions but no discussion permitted
- Councillors and members of Council staff may question the deputation on matters raised by it for purposes of clarification; but no discussion will be allowed.
- h) Matter to be determined at a subsequent meeting.
- No motion must be allowed on any deputation until the next meeting after the deputation has been heard.
- i) Prior meeting with deputation
- A deputation must meet with Council's appropriate department prior to addressing Council so that the procedures detailed in these sub-rules can be discussed and explained.

### **3.7.6 Public addressing the meeting**

- a) Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chairperson whenever called on to do so.
- b) Council may suspend standing orders in accordance with rule 3.12, to hear from a community member or representative of an organisation, on matters of significance to the Council, only if prior arrangements have been made by written request to the Mayor or Chief Executive Officer.

### **3.7.7 Prohibited items**

- a) A person may not bring into the Council Chamber or any building where a meeting is being, or is about to be held, including outside the entrance to the building, any item that may affect the safety or security of the meeting.
- b) Items considered to affect the safety or security of a meeting include:
  - i) Any object larger than a small backpack;
  - ii) Devices that amplify sound;
  - iii) Any other object identified by a Councillor, Council staff or security officer suspected to be dangerous or inappropriate.
- c) The Chairperson may cause the removal of any object or material that is deemed by the Chairperson to be objectionable or disrespectful.

### 3.7.8 Chairperson may remove

- a) Members of the public present at a Council meeting must not interject during the Council meeting.
- b) If a person, other than a Councillor, interjects or gesticulates offensively during the Council meeting, the Mayor may direct:
  - i) the person to stop interjecting or gesticulating offensively; and
  - ii) if the person continues to interject or gesticulate offensively, the removal of the person.
- c) In causing a person's removal under sub-rule b) ii), or the removal of an object or material under this sub-rule, the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of security or Victoria Police to remove the person, object or material.

**Explanatory Note:** *It is intended that this power to remove a member of the public, be exercisable by the Chairperson, without the need for any Council resolution. The Chairperson may choose to order the removal of a person whose actions immediately threaten the stability of the meeting or wrongly threatens his or her authority in chairing the meeting.*

### 3.7.9 Chairperson may adjourn disorderly meeting

- a) The Chairperson may call a break in a meeting for either a short time, or to resume another day if:
  - i) the behaviour at the Council table or in the gallery is significantly disrupting the meeting; or
  - ii) a meeting has been in progress for longer than 2 hours.
- b) The break referred to in sub-rule a) is an adjournment.
- c) If the Chairperson calls a meeting to resume on another day, the provisions of rule 3.4.5 apply.

## 3.8 Motions and Debate

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### Overview:

*This section describes the procedure for introducing a motion or amendment, the rules of debate, foreshadowing a motion or amendment and the duty of the Chairperson in relation to accepting motions and amendments. It also describes the process for a Councillor lodging a notice of motion for consideration and/or indicating they will raise a matter at the next Council meeting.*

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

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

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

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### 3.8.1 Councillors may propose Notices of Motion

Councillors may propose an issue to be listed on the agenda by lodging a Notice of Motion in accordance with the rules outlined in this chapter.

### 3.8.2 Notices of Motion

- a) Prior to a Council meeting, Councillors wanting to include a matter on the agenda, must complete a notice of motion form.
- b) A notice of motion form must be signed by the Councillor; and be lodged with the Chief Executive Officer (whether personally, email or otherwise) by 4pm the Thursday before the Council meeting agenda is due to be published. So as to allow sufficient time for him or her to give each other Councillor notice of such notice of motion; and to allow sufficient time for the notice of motion to be put in the agenda for the next Council meeting. If a notice of motion form is received after that time, it must, unless withdrawn, be included in the agenda for the following Council meeting
- c) The Chief Executive Officer must reject any notice of motion which:
  - i) is too vague;
  - ii) is identical or substantially similar to a notice of motion or a rescission motion that has been considered by the Council and lost in the preceding six (6) months;
  - iii) is defamatory;
  - iv) may be prejudicial to any person or Council;
  - v) is objectionable in language or nature;
  - vi) is outside the powers of Council;
  - vii) is a notice of motion submitted during the Caretaker Period; or
  - viii) is a matter subject to a Council decision making process which has commenced but is not yet complete.



- d) If the Chief Executive Officer rejects a notice of motion under sub-rule 3.8.2 c), he or she will inform the Councillor who lodged the notice of motion of that rejection and the reasons for it. The Councillor will be provided with 24 hours to lodge a revised notice of motion provided that the meeting at which the notice of motion is to be considered is more than 24 hours from the time of rejection.
- e) The Chief Executive Officer may reject and refer any notice of motion to the Council's operational service request process if it relates to a matter that he or she determines is more appropriately addressed that way.
- f) Subject to sub- rules 3.8.2 g) and h) a notice of motion must call for a Council report if the notice of motion:
  - i) substantially affects the level of Council services;
  - ii) commits the Council to expenditure in excess of \$20,000 and that has not been included in the adopted budget;
  - iii) establishes or amends a Council policy; or
  - iv) commits the Council to any contractual arrangement, as determined by the Chief Executive Officer.
- g) Where a notice of motion is likely to commit Council to significant expenditure not included in the adopted budget then the notice of motion must call for a report for Council's consideration and public submission process if applicable.
- h) The Chief Executive Officer may direct a notice of motion to be confidential in accordance with Section 66(2)(a) of the Act, in which case the notice of motion will be confidential unless the Council resolves otherwise.
- i) The full text of any notice of motion accepted by the Chief Executive Officer must be included in the material accompanying the agenda.
- j) The Chief Executive Officer must arrange for a formal report to be prepared and presented to the Council for the purposes of sub-rule f). Where practicable the report should be presented to the next Council meeting.
- k) 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.
- l) Except by leave of Council, each notice of motion must be considered in the order in which they were received by the Chief Executive Officer.
- m) If a Councillor who has given a notice of motion is absent from the Council meeting or fails to move the motion when called upon by the Chairperson, any other Councillor may move the motion.
- n) If a Councillor proposing the motion wishes to amend the notice of motion, he or she may do so by seeking leave of the Council to amend the notice of motion prior to it being seconded.
- o) The Chairperson, having lodged a notice of motion in accordance with this sub-rule, must vacate the Chair of the Council meeting to move the notice of motion; and the Deputy Mayor or, in the absence of the Deputy Mayor, temporary Chairperson appointed by the Council, will take the Chair for the duration of consideration of the item.
- p) If a notice of motion is not moved at the Council Meeting at which it is listed, it lapses.

### **3.8.3 Introducing a motion at a Council meeting**

Before a motion at a Council Meeting is moved, a Councillor may introduce it by indicating, in not more than two (2) minutes:

- a) its intent; or
- b) the desired outcome, if it is passed.

### **3.8.4 Unacceptable motions at a Council meeting**

Any motion which is determined by the Chairperson at a Council meeting to be:

- a) defamatory;
- b) objectionable in language or nature;
- c) vague or unclear in intention;
- d) outside the powers of Council; or
- e) irrelevant to the item of business on the agenda and has not been admitted as urgent or general business, or
- f) purports to be an amendment but is not;

must not be accepted by the Chairperson.

### **3.8.5 Moving a motion or an amendment to a motion at a Council meeting**

Provided rule 3.8.4 does not apply, the procedure for moving any motion or amendment to a motion is:

- a) the mover must state the motion and be given an opportunity to introduce the motion in accordance with rule 3.8.3;
- b) the motion must be seconded by a Councillor other than the mover;
- c) if a motion is not seconded, the motion lapses;
- d) if a motion or an amendment is moved and seconded the Chairperson must ask:
- e) "Is the motion or amendment opposed?"
- f) if a Councillor indicates opposition, then the Chairperson must call on the mover to address the Council meeting;
- g) after the mover has addressed the meeting, the seconder may address the Council Meeting, or the seconder may reserve his or her right to speak later in the debate;
- h) after the seconder has addressed the Council meeting (or after the mover has addressed the Council meeting if the seconder does not address the Council meeting) the Chairperson must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
- i) if, after the mover has addressed the Council meeting, the Chairperson has invited debate and no Councillor speaks to the motion, then the Chairperson must put the motion to the vote.

### **3.8.6 Right of reply**

As a mover of the motion, the Councillor has a right of reply to sum up the debate.

- a) The mover of a motion has a right of reply to matters raised during debate.
- b) The mover of a motion loses his or her right of reply if an amendment to the motion is carried.

- c) The mover of an amendment to a motion does not have a right of reply.
- d) A Councillor exercising a right of reply must not introduce any new matter.
- e) After the right of reply has been taken, the motion must immediately be put to the vote without any further discussion or debate.

### **3.8.7 Moving an amendment to a motion**

- a) Subject to sub-rule b), 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.
- b) A motion to confirm a previous resolution of Council cannot be amended.

### **3.8.8 Agreed alterations to a motion or amendment**

- a) A motion having been moved and seconded may, with the consent of the mover and seconder, be amended by the minute taker by leaving out, inserting or adding words which must be relevant to the motion and framed so as to complement it as an intelligible and consistent whole, provided that the amendment is made before the motion is voted on.
- b) With the leave of the Chairperson, both the mover and seconder of a motion may agree to an alteration to the original motion proposed by any other Councillor. This does not necessitate the recording of an amendment into the minutes of the meeting as the alteration would then form part of the substantive motion.
- c) A Councillor may request at any time before a vote is taken on a motion or amendment which is in two or more parts, that each part be put to the vote separately. The Chairperson may agree with or refuse such a request or can decide to put any motion to the vote in separate parts.

### **3.8.9 Who may propose an amendment**

An amendment to a motion may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.

### **3.8.10 Who may debate an amendment**

A Councillor may address the meeting once (1) on any amendment, whether or not they have spoken to the original motion, but their debate must be confined to the terms of the amendment.

### **3.8.11 How many amendments may be proposed**

- a) Any number of amendments may be proposed to a motion but only one (1) amendment may be accepted by the Chairperson at any one time.
- b) No second or subsequent amendment may be taken into consideration until the previous amendment has been dealt with.

### **3.8.12 An amendment to a motion once carried**

- a) If the amendment to a motion is carried, the motion as amended then becomes the motion before the Council meeting.
- b) the mover and seconder of the amendment are deemed to be the mover and seconder of the motion before the meeting.

### **3.8.13 An amendment to a motion if lost**

- a) If the amendment to a motion is lost, the debate can resume from where it left off.

- b) A Councillor who has already spoken to the original motion must not speak again unless to continue the debate as if the amended motion had not been put.

#### **3.8.14 Withdrawal of motions**

Before any motion is put to the vote, it may be withdrawn by the mover with agreement from the seconder or by resolution of Council.

#### **3.8.15 Chairperson may allow motions to be moved in a block**

The Chairperson may, in his or her discretion, allow or request Councillors to move “like items” in a block.

#### **3.8.16 Priority of address**

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

#### **3.8.17 Motions in writing**

- a) All motions, except procedural motions, should be in writing.
- b) Council may adjourn the Council meeting while the motion is being written or Council may defer the matter until the motion has been written, allowing the Council meeting to proceed uninterrupted.
- c) The Chairperson may request the person taking the minutes of the Council meeting to read the motion or amendment to the Council meeting before the vote is taken.

#### **3.8.18 Debate must be relevant to the question**

- a) Debate must always be relevant to the question before the Chairperson, and, if not, the Chairperson must request the speaker to confine debate to the question.
- b) If after being requested to confine debate to the question before the Chairperson, the speaker continues to debate irrelevant matters, the Chairperson may direct the speaker to be seated and not speak further in respect of the question then before the Chairperson.
- c) A speaker to whom a direction has been given under sub-rule b), must comply with that direction.

#### **3.8.19 Speaking times**

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

- a) the mover of a motion or an amendment: five (5) minutes;
- b) seconder of the motion or an amendment: three (3) minutes;
- c) any other Councillor: three (3) minutes; and
- d) subject to rule 3.8.6, the mover of a motion exercising a right of reply: two (2) minutes.

#### **3.8.20 Addressing the Council Meeting**

If the Chairperson so determines:

- a) Any person addressing the Chairperson must refer to the Chairperson as:

Madam Mayor; or

Mr Mayor; or

Madam Chair; or

Mr Chair; or

as the case may be.

- b) All Councillors, other than the Mayor, must be addressed as  
Cr \_\_\_\_\_(name).
- c) All members of Council staff, must be addressed as  
Mr, Mrs or Ms \_\_\_\_\_(name) as appropriate or by their official title.

### **3.8.21 Foreshadowing motions**

- a) At any time during debate a Councillor may foreshadow a motion so as to inform Council of his or her intention to move a motion at a later stage in the Council meeting, but this does not extend any special right to the foreshadowed motion.
- b) A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the Chairperson being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- c) A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the meeting.
- d) The Chief Executive Officer or person taking the minutes of the meeting will not record a foreshadowed motion in the minutes until the foreshadowed motion is formally moved.

### **3.8.22 Right to ask questions**

- a) Subject to sub-rule c), a Councillor may, at any time when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the Council.
- b) Questions are not to be asked between moving and seconding a motion except to seek clarification on the motion moved.
- c) The Chairperson has the right to disallow any question that does not specifically relate to the motion or amendment directly before it and to disallow any question should they, in the reasonable opinion of the Chairperson, be considered irrelevant.
- d) The Chairperson has the right to limit questions and direct that debate be commenced or resumed.

### **3.8.23 Procedural motions**

- a) Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the Chairperson.
- b) Procedural motions require a seconder.
- c) Notwithstanding any other provision in these Governance Rules, procedural motions must be dealt with in accordance with the procedures set out in the Procedural Motions Table in this rule 3.8.23.

## PROCEDURAL MOTIONS TABLE

Motion	Form	Mover/Seconder	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
<b>Adjournment of debate to later hour and/or date</b>	'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	<ul style="list-style-type: none"> <li>a) During the election of the Mayor/Deputy Mayor;</li> <li>b) During the election of a Chairperson; or</li> <li>c) When another Councillor is speaking</li> </ul>	Motion and any amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
<b>Adjournment of debate indefinitely</b>	'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	<ul style="list-style-type: none"> <li>a) During the election of a Chairperson;</li> <li>b) When another Councillor is speaking;</li> <li>c) When a motion would have the effect of causing Council to be in breach of a legislative requirement</li> </ul>	Motion and any amendment postponed but may be resumed at any later Council meeting if on the agenda	Debate continues unaffected	Yes
<b>The Closure (of debate)</b>	'That the motion now be put'	Any Councillor who has not moved or seconded the original motion or spoken for/against the original motion	During nominations for a <i>Chairperson</i>	Motion or amendment is put to the vote immediately without further debate, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
<b>Laying a motion on the table (pausing debate)</b>	'That the motion be laid on the table'	Any <i>Councillor</i> who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	<ul style="list-style-type: none"> <li>a) During the election of a Chairperson;</li> <li>b) When another Councillor is speaking;</li> <li>c) When a motion would have the effect of causing Council to be in breach of a legislative requirement</li> </ul>	<p>Motion and amendment is not further discussed or voted on until:</p> <ul style="list-style-type: none"> <li>a) Council resolves to take the question from the table at the same Council meeting; or</li> </ul> <p>The matter is placed on a subsequent agenda and Council resolves to take the question</p>	Debate continues unaffected	No
<b>Take a motion from the table (resume debate on a matter)</b>	'That the motion in relation to xx be taken from the table'	Any Councillor	When no motion is on the table	Debate of the item resumes	Debate of the item remains paused	No

Motion	Form	Mover/Seconder	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
<b>Proceeding to next business</b>	<p>'That the meeting proceed to the next business:</p> <p>Note: This motion:</p> <p>a) may not be amended;</p> <p>b) may not be debated; and</p> <p>must be put to the vote as soon as seconded'</p>	Any Councillor who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	<p>a) During the election of a Chairperson;</p> <p>b) When another Councillor is speaking;</p> <p>c) When a motion would have the effect of causing Council to be in breach of a legislative</p>	<p>If carried in respect of:</p> <p>a) An amendment - Council considers the motion without reference to the amendment;</p> <p>b) A motion – no vote or further discussion on the motion until it is placed on an agenda for a later Council meeting</p>	Debate continues unaffected	No
<b>Repetitious Motion</b>	'That the motion is a Repetitious Motion'	A Councillor who has not spoken to the motion or any amendment of it	<p>a) During the election of a Chairperson;</p> <p>b) When another Councillor is speaking</p>	<p>a) No vote or further discussion on the motion unless it is placed on an agenda for a later meeting;</p> <p>b) Proceed to next business</p>	Debate continues unaffected	Yes
<b>Alter the order of business</b>	'That the item listed at xx on the agenda be considered before/after the item listed as xy'	Any Councillor	<p>(a) At a Meeting to elect the Mayor; or</p> <p>(b) During any debate</p>	Alters the order of business for the meeting	Items are considered in the order as listed in the agenda	No
<b>Suspension of Standing Orders</b>	'That Standing Orders be suspended to ...' (reason must be provided)	Any Councillor (including the Mayor/Chairperson)	<b>During debate</b>	The rules of the <i>Meeting</i> are temporarily suspended for the specific reason given in the motion	The meeting continues unaffected	No and no debate or decision on any matter. Resolution to resume Standing Orders is the only decision permissible.
<b>Resumption of Standing Orders</b>	'That Standing Orders be resumed'	Any Councillor (including the Mayor/Chairperson)	Between a motion being moved and seconded	The temporary suspension of the rules of the meeting is removed	The meeting cannot continue	No



Motion	Form	Mover/Seconder	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
<b>Consideration of confidential matter(s) (Close the meeting to members of the public)</b>	That, in accordance with section 66(2)(a) of the Act, the meeting be closed to members of the public for the consideration of item ## which is confidential as it relates to ## (insert grounds from definition)	Any Councillor	During the election of the Mayor/Deputy Mayor	The meeting is closed to members of the public	The meeting Continues to be open to the public	Yes
<b>Reopen the meeting</b>	'That the meeting be reopened to members of the public'	Any Councillor		The Meeting is reopened to the public	The meeting remains closed to the public	No

### 3.8.24 Notice of Rescission or Amendment

- a) A previous resolution of Council may be rescinded or amended by:
  - i) a report included on the agenda for a Council meeting; or
  - ii) a notice of rescission or amendment proposed by a Councillor in accordance with this rule 3.8.24.
- b) Councillor may propose a notice of rescission or amendment provided:
  - i) the resolution proposed to be rescinded or amended has not been acted on; and
  - ii) the notice of rescission or amendment is received in writing by the Chief Executive Officer in accordance with rule 3.8.1, setting out:
  - iii) the resolution to be rescinded or amended; and
  - iv) the meeting and date when the resolution was carried.

**Explanatory Note:** It should be remembered that a notice of rescission or amendment is a form of notice of motion. Accordingly, all provisions in these Governance Rules regulating notices of motion equally apply to notices of rescission.

- c) The Chief Executive Officer, or a member of Council staff with responsibility for it, may implement a resolution at any time after the close of the meeting at which it was made. A resolution will be deemed to have been acted on if:
  - i) its contents have, or substance has, been formally communicated to a person whose interests are materially affected by it; or
  - ii) a statutory process has been commenced;
 so as to vest enforceable rights in or obligations on Council or any other person.

**Explanatory Note:** *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 3.8.24 c) 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.*

### **3.8.25 Notice of Rescission or Amendment if lost**

If a notice of rescission or amendment is lost, a similar motion may not be put before Council for at least six (6) months from the date it was last lost, unless Council resolves that the notice of rescission or amendment be re-listed at a future Council meeting.

### **3.8.26 If not moved**

If a notice of rescission or amendment is not moved at the Council meeting at which it is listed, it lapses.

### **3.8.27 May be moved by any Councillor**

A notice of rescission or amendment listed on an agenda may be moved by any Councillor present but may not be amended.

### **3.8.28 When not required**

A notice of rescission or amendment is not required where Council wishes to change policy.

### **3.8.29 Changes to Council Policy**

- a) Council reviews its policies to ensure they are current and continue to reflect community expectations and the position held by Council.
- b) It is good practice for Council to review significant policies at least once in each Council term (every 4 years) and such reviews may lead to change in policy position.
- c) Subject to sub-rule d), if Council wishes to change a Council policy, a formal notice of rescission is not required.
- d) If a policy has been in force in its original or amended form for less than 12 months, any intention to change the policy which may result in a substantial change to the policy's application or operation for members of the public should be communicated to those affected, and their comment sought, prior to the policy being changed.

## 3.9 Voting

### Overview:

*At the conclusion of debate on a matter before the meeting, the Chairperson must put the question, motion or amendment to the vote. Each Councillor is entitled to one vote and voting must be able to be seen by those participating in the meeting and those observing the meeting. The vote is determined by a majority of the Councillors present at the meeting at the time the vote is taken voting in favour of the motion.*

*If a vote is tied, the Chairperson has a casting vote.*

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

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

### 3.9.1 How a motion is determined

- a) To determine a motion before a Council Meeting, the Chairperson must:
  - i) first call for those in favour of the motion;
  - ii) then those opposed to the motion; and
  - iii) if required, identify any Councillor who has abstained from voting, and then declare the result to the Council Meeting.

### 3.9.2 How a motion is determined

In the event of a tied vote, the Chairperson has a casting vote in accordance with the Act.

### 3.9.3 By show of hands

Unless Council resolves otherwise, voting on any matter is by show of hands.

### 3.9.4 Procedure for a division

- a) Immediately after any question or motion is put to a Council meeting and before the next item of business has commenced, a Councillor may call for a division.
- b) 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.
- c) When a division is called for, the Chairperson must:
  - i) 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 (1) of his or her hands;
    - a. the Chairperson must then state and the Chief Executive Officer or his or her delegate must record, the names of those Councillors voting in the affirmative; and
  - ii) 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 (1) of his or her hands;

- a. the Chairperson must then state and the Chief Executive Officer or his or her delegate must record, the names of those Councillors voting in the negative;
- b. the Chief Executive Officer or his or her delegate must record, the names of those Councillors who abstained from voting.

### 3.9.5 No discussion once declared

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

- a) a Councillor requesting, before the next item of business is considered, that his or her opposition to a resolution be recorded in the minutes;
- b) foreshadowing a notice of rescission or amendment where a resolution has just been made; and or a positive motion where a resolution has just been rescinded; or
- c) foreshadowing a notice of rescission or amendment, in which case what is foreshadowed must be noted in the minutes of the Council meeting.

***Explanatory Note:*** For example, rule 3.9.5 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.

*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 b), to discussion about a positive motion where a resolution has just been rescinded.*

## 3.10 Points of Order

### Overview:

*A point of order is taken when a Councillor officially draws the attention of the Chairperson of a Council Meeting to an alleged irregularity in the proceedings. Valid points of order, the process for raising and ruling on a point of order, and the procedure if there is dissent on the Chair's ruling are described in this section.*

### 3.10.1 Points of Order

A point of order may be raised in relation to:

- a) an act that is contrary to these Governance Rules;
- b) an act of disorder or conduct in contravention of the Councillor Code of Conduct;
- c) a question of procedure under these Governance Rules;
- d) an act or conduct that is frivolous, vexatious or constitutes improper conduct; or
- e) any act of disorder.

### 3.10.2 Procedure for point of order

- a) A Councillor raising a point of order must nominate the ground under rule 3.10.1 relied upon to support the point of order being taken.
- b) When the point of order is raised, the Councillor who is speaking must stop and remain silent until the point of order is decided upon, unless otherwise directed by the Chairperson.
- c) The Chairperson may request a Councillor provide an explanation in respect to the point of order raised.

### 3.10.3 Chairperson to decide

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

### 3.10.4 Chairperson may adjourn to consider

- a) The Chairperson may adjourn the Council meeting to consider a point of order, but otherwise must rule on it as soon as it is raised.
- b) All other questions before Council are suspended until the point of order is decided.

### 3.10.5 Dissent from Chairperson's ruling

- a) A Councillor may move that the Council meeting disagree with the Chairperson's ruling on a point of order, by moving:  
"That the Chairperson's ruling [setting out that ruling or part of that ruling] be dissented from".
- b) When a motion in accordance with this sub-rule is moved and seconded, the Chairperson must leave the Chair; the Deputy Mayor, or temporary Chairperson appointed by the meeting must take his or her place.
- c) The temporary Chairperson must invite the mover to state the reasons for his or her dissent and the Chairperson may then reply.
- d) The temporary Chairperson must put the motion in the following form:  
"That the Chairperson's ruling be dissented from."
- e) If the vote is in the negative, the Chairperson resumes the Chair and the Council meeting proceeds.
- f) If the vote is in the affirmative, the Chairperson must then resume the Chair, reverse or vary (as the case may be) his or her previous ruling and proceed.
- g) The defeat of the Chairperson's ruling is in no way a motion of censure or no confidence in the Chairperson; and should not be so regarded by the Council meeting.

### 3.10.6 Contradiction or Opinion

A point of order may not be raised to express a mere difference of opinion or to contradict a speaker.

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

### 3.10.7 Disorderly Conduct by a Councillor

- a) The conduct of Councillors at Council meetings is governed by the Act, these Governance Rules and the Councillor Code of Conduct.
- b) During the course of any Council meeting, Councillors must comply with the Councillor Code of Conduct, a copy of which is available on the website, or can be obtained by contacting the Chief Executive Officer's office
- c) Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the meeting, and prevents the conduct of Council business:
  - i) Council may, by resolution, suspend that Councillor from a portion of the meeting or from the balance of the meeting where the Chairperson has warned the Councillor to cease that behaviour; or

- ii) The Mayor, under section 19 of the Act, at a Council meeting, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the meeting for a period of time or the balance of the meeting.
- d) Where Council suspends a Councillor under sub- rule c) i), or the Mayor directs a Councillor to leave the meeting under sub-rule c) ii) the Councillor will take no active part in the portion of the meeting from which he or she has been suspended.
- e) If a Councillor has been suspended from a meeting or directed to leave in accordance with sub-rule c) the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the Councillor.

*The Act (section 19(1)(b) provides the power to the Mayor to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.*

## 3.11 Minutes

### Overview:

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

#### 3.11.1 Keeping of minutes

- a) The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the Council Meeting and to take the minutes of such meeting) must keep minutes of each Council meeting and those minutes must record:
  - i) the date, place, time and nature of the Council meeting;
  - ii) the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
  - iii) the titles of the members of Council staff present who are not part of the gallery;
  - iv) any disclosure of an interest or a conflict of interest made by a Councillor in accordance with the Act;
  - v) arrivals and departures (including temporary departures) of Councillors during the course of the Council meeting;
  - vi) each motion, amendment moved and foreshowed motions (including motions and amendments that lapse for the want of a seconder);
  - vii) the outcome of every motion moved
  - viii) the vote cast by each Councillor upon a division;
  - ix) the vote cast by any Councillor who has requested that his or her vote be recorded in the minutes;
  - x) when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any motion, noting that under s61(5) of the Act that a Councillor present at the meeting who does not vote is taken to have voted against the question;
  - xi) questions upon notice;
  - xii) the failure of a quorum;

- xiii) any adjournment of the Council meeting and the reasons for that adjournment; and
- xiv) the time at which standing orders were suspended and resumed.

### **3.11.2 Confirmation of minutes**

At every Council meeting the minutes of the preceding Council meeting must be dealt with as follows:

- a) a copy of the minutes must be delivered to each Councillor no later than 2 days before the next Council meeting;
- b) if no Councillor indicates opposition, the minutes must be declared to be confirmed;
- c) if a Councillor indicates opposition to the minutes:
  - i) he or she must specify the item(s) to which he or she objects;
  - ii) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
  - iii) the Councillor objecting must move a motion clearly setting out the alternative wording to amend the minutes without speaking to the motion; and;
  - iv) the motion must then be open to debate and at the conclusion of debate, the Chairperson must put the motion to the vote;
- d) a resolution of Council must confirm the minutes and the minutes must, if practicable, be signed by the Chairperson of the Council meeting at which they have been confirmed.

### **3.11.3 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.

### **3.11.4 Deferral of confirmation of minutes**

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

### **3.11.5 Recording of meetings**

- a) If Council resolves that the proceedings of a Council meeting be recorded, the Chief Executive Officer (or his or her delegate) may record on suitable recording equipment all proceedings of a meeting of Council except where the meeting is closed to the public in accordance Section 66(2)(a) of the Act.
- b) Subject to sub-rule a), a person must not operate photographic, audio or video recording equipment or any other recording device at any Council meeting without first obtaining the consent of Council or the Chairperson (as the case may be). Such consent may at any time during the course of such meeting be revoked by Council or the Chairperson (as the case may be).
- c) Where Council has identified that it will record such meetings, visitors will also be advised by appropriate venue signage that while care is taken through recording/filming to maintain a person's privacy as an attendee in the gallery, they may be recorded on audio/film.

### **3.11.6 Records of Council meetings**

Records should be kept of Council meetings in accordance with the Act.



## 3.12 Suspension of Standing Orders

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### Overview:

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

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### 3.12.1 Suspension of Standing Orders

Council may decide to suspend the Council meeting to discuss the issues surrounding an item on the agenda. Council may hold this discussion in the Council Chamber or move to another room to discuss in private

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

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

- b) 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 orders be suspended to enable discussion on....."

- c) 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."

## 3.13 Circumstances in which Council will close a meeting to members of the public

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### Overview:

*Council is committed to openness and transparency in its decision making and will only close a meeting to members of the public when it is unavoidable. In circumstances where a meeting is closed to the public to maintain order or safety and security, the meeting will be live broadcasted.*

*The Act provides the basis for matters to be considered as confidential. Council will only close a meeting to the public for consideration of confidential matters in accordance with the Act and its Public Transparency Policy.*

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### 3.13.1 Meetings closed to the public

- a) The Chief Executive Officer may determine to advertise that a meeting will be closed to members of the public if:
- i) There is reason to believe the safety or security of Councillors, Council staff or members of the public will be at risk if the meeting is open to the public; or
  - ii) All matters to be considered at the meeting are confidential in nature.
- b) Council may resolve to close a meeting to members of the public if:
- i) There is reason to believe the safety or security of Councillors, Council staff or members of the public is at risk; or
  - ii) A meeting, has become, or is at risk of becoming so disorderly that the business of Council cannot be conducted; or

- iii) The matter to be considered relates to confidential matters.
- c) Having closed the meeting in accordance with sub-rule b), Council may resolve that it's decision or any report considered, or any part of its decision or part of any report considered, may be released to the public, to provide clarity that a Councillor or Council staff member who discusses those elements resolved to be released is not releasing confidential information.

### **3.13.2 Designated Confidential information**

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

## **3.14 Meetings conducted remotely**

### **Overview:**

*Council is permitted by the Act to hold meetings by electronic means, and a Council meeting will be open to the public if members of the public are able to attend it in person, or if it is broadcasted live on Council's website.*

*Where a meeting is conducted remotely, the Rules will be modified in accordance with this Part 3.14.*

### **3.14.1 Requests to attend Council Meeting by electronic means**

- a) Councillors and members of Delegated Committees who wish to attend a Meeting by electronic means, may submit a request in writing to the Chairperson.
- b) The submission must state the reason requesting attendance by electronic means.
- c) The request must be made at least 8 hours prior to the meeting(s) that will be attended via electronic means.
- d) The Chairperson must consider request for attendance by electronic means.
- e) The Chairperson will provide a response to the request by no later than 4 hours prior to commencement of the Meeting and notify the rest of the members of the meeting of this decision.
- f) It will remain the responsibility of the Councillor or member of Delegated Committee attending electronically to ensure that they have the required access and environment suitable for electronic communications.
- g) Requests for attending by electronic means for Delegated Committee meetings can be done annually for a maximum period of 12 months

### **3.14.2 Council Meetings conducted remotely**

- a) Where a Councillor attends a Council Meeting conducted remotely, they must be able to:
  - i) hear the proceedings of the Council Meeting;
  - ii) see all Councillors also attending the Council Meeting at least when they are speaking;
  - iii) be seen at all times by all Councillors, members of Council staff and members of the public also attending the Council Meeting; and
  - iv) be heard when they speak.
  
- b) If the conditions of sub-rule a) cannot be met by one or more Councillors attending a Council Meeting conducted remotely, but a quorum is still present, the:
  - i) Council Meeting will proceed; and
  - ii) Councillor (or Councillors) will be treated as being absent from the Council Meeting, unless the Council Meeting is adjourned in accordance with these Rules.
  
- c) Nothing in rule 3.14.1 prevents a Councillor from remotely joining a Council Meeting at the time that they achieve compliance with sub-rule a), even if that Council Meeting has already commenced.
  
- d) The Chief Executive Officer must ensure that a Council Meeting conducted remotely is broadcasted live continuously on Council's website.
  
- e) Nothing in sub-rule d) requires any portion of a Council Meeting conducted remotely that is closed to the public under section 66(1) of the Act to be broadcasted live on Council's website.
  
- f) If the live broadcast of a Council Meeting conducted remotely is interrupted for any reason, the Chief Executive Officer must immediately inform the Council Meeting and the Council Meeting must be adjourned and, except for a resolution of Council made under sub-rule f) ii), no further business can be conducted until:
  - i) the live broadcast can be reinstated; or
  - ii) such later date and time fixed by resolution of Council, in which case rule 3.4.6 applies.

## CHAPTER 4 – DELEGATED COMMITTEES

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### Overview:

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

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### Delegated Committee

- 4.1.1** If Council establishes a Delegated Committee, these Governance Rules will apply to the Delegated Committee meetings with any necessary modifications.
- 4.1.2** For the purpose of sub-rule 4.1.1:
- a) a Council meeting is to be read as a reference to a Delegated Committee meeting;
  - b) a Councillor is to be read as a reference to a member of the Delegated Committee; and
  - c) a reference to the Mayor is to be read as a reference to the Chairperson of the Delegated Committee.
- 4.1.3** If Council establishes a Delegated Committee, Council may resolve that a provision of these Governance Rules do not apply to that committee.

## CHAPTER 5 – CONFLICTS OF INTEREST

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### Overview:

*The Act defines general and material conflicts of interest and provides exemptions for remoteness and interests in common with a substantial proportion of ratepayers along with other specific circumstances.*

*The Act also provides that Council must include in its Governance Rules procedures for disclosures of Conflicts of interest, including at meetings conducted under the auspices of Council that are not Council meetings. Meetings conducted under the auspices of Council include those meetings arranged or hosted by Council.*

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

*Further guidance is available from the Managing Conflicts of Interest guideline.*

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### 5.1 Obligations with regard to conflict of interest

- 5.1.1 Councillors, members of Delegated Committees and Council staff are required to:
- a) Avoid - all situations which may give rise to conflicts of interest;
  - b) Identify - any conflicts of interest; and
  - c) Disclose – or declare all conflicts of interest.

### 5.2 Councillors and Members of Delegated Committees

- 5.2.1 May not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- 5.2.2 When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.
- 5.2.3 All disclosures of conflicts of interest will be recorded in the minutes of a Council or Delegated Committee meeting.

### 5.3 Procedure at a Council or Delegated Committee meeting

- 5.3.1 At the time indicated in the agenda, a Councillor with a conflict of interest in regards to an item on that agenda must indicate they have a conflict of interest by clearly stating;
- a) The item for which they have a conflict of interest; and
  - b) Whether their conflict of interest is general or material; and
  - c) The circumstances that give rise to the conflict of interest.
- 5.3.2 Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor or member of a Delegated Committee must indicate to the meeting the existence of the conflict of interest and leave the meeting.
- 5.3.3 A Councillor who is not present at the designated time in the agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the manner that is required for the declarations of conflicts of interest at sub-rule 5.3.1 prior to leaving the meeting.
- 5.3.4 A Councillor or member of a Delegated Committee who discloses a conflict of interest and leaves a Council meeting must not communicate with any participants in the meeting while the decision is being made.

## **5.4 Procedure at Advisory Committee Meetings and other meetings organised, hosted or supported by Ballarat**

- 5.4.1** A Councillor or a member of an Advisory Committee who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or the subject of a decision to be made by a member of staff acting under delegation.
- 5.4.2** At the time indicated on the agenda, a Councillor or a member of an Advisory Committee with a conflict of interest will indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.
- 5.4.3** If there is no agenda, a Councillor or a member of an Advisory Committee with a conflict of interest will indicate the existence of the conflict of interest as soon the matter arises.
- 5.4.4** At the time for discussion of that item, the Councillor or a member of an Advisory Committee will leave the discussion and not communicate with any members of the meeting for the duration of the discussion.
- 5.4.5** The existence of a conflict of interest will be recorded in the minutes of the meeting.
- 5.4.6** If there are no minutes kept of the meeting, the conflict of interest will be recorded in a meeting record and provided to the Governance team for recording in the conflicts of interest register.
- 5.4.7** The meeting minutes or record will also record the duration of the discussion and whether the Councillor or a member of an Advisory Committee left the meeting.
- 5.4.8** Meeting records and reports will be presented to Council for noting and inclusion on the public record.

## **5.5 Council staff**

- 5.5.1** Must act in accordance with the Employee Code of Conduct.
- 5.5.2** Must not exercise a delegation or make a decision on any matter where they have a conflict of interest.
- 5.5.3** May be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at rule 5.6 and the Employee Code of Conduct.

## **5.6 Procedure for disclosures of conflicts of interest by Council Staff**

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

## 5.7 Contractors and Consultants

**5.7.1** All Contractors and consultants engaged by Council to provide advice to the decision-making process will be required to disclose conflicts of interest.

**5.7.2** A Contractor or consultant who discloses a conflict of interest will not be engaged to provide advice on that matter unless;

- a) The conflict is so remote or insignificant it could not be considered to influence the advice being provided; or
- b) There are no other contractors or consultants reasonably available and qualified to provide the technical advice required; and
- c) The conflict of interest is documented in all advice provided by that contractor or consultant, as well as any Council Report(s). or consultant.

*The Act has specific provisions governing conflicts of interest:*

### **Section 127 of the Act - General conflict of interest**

- (1) *(1) Subject to section 129, a relevant person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.*
- (2) *For the purposes of subsection (1)—*

***private interests** means any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief;*

***public duty** means the responsibilities and obligations that a relevant person has to members of the public in their role as a relevant person.*

### **128 Material conflict of interest**

- (1) *Subject to section 129, a relevant person has a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.*
- (2) *The benefit may arise or the loss incurred—*

- (a) *directly or indirectly; or*
- (b) *in a pecuniary or non-pecuniary form.*

- (3) *For the purposes of this section, any of the following is an affected person—*

- (a) *the relevant person;*
- (b) *a family member of the relevant person;*
- (c) *a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body;*
- (d) *an employer of the relevant person, unless the employer is a public body;*
- (e) *a business partner of the relevant person;*
- (f) *a person for whom the relevant person is a consultant, contractor or agent;*
- (g) *a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee;*
- (h) *a person from whom the relevant person has received a disclosable gift.*



## CHAPTER 6 – DELEGATIONS

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### Overview:

*Council can make decisions (act) in two ways – by resolution at a Council meeting or by delegation (others acting on its behalf). The Act provides for Council to delegate to the Chief Executive Officer powers, duties or functions of a Council.*

*Delegation of Council powers to the Chief Executive Officer and other members of Council staff is a long-established practice to enable day to day operational decisions to be made efficiently. Delegation of Council powers is primarily enabled and regulated by the Local Government Act 2020, however powers, duties and functions may be delegated from a range of Acts, Regulations and local laws.*

*Additionally, the Act and other legislation confers some powers duties and functions directly to the Chief Executive Officer. These may also be delegated by the Chief Executive Officer to various positions in the organisation's structure.*

*Delegations are to a position in the organisational structure rather than to a person.*

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### 6.1 Delegations

- 6.1.1 A delegate must exercise and perform the duties and functions set out in the Instrument of Delegation and in accordance with any legislation or policies of Council.
- 6.1.2 A delegate making a decision that will affect any person's rights, will identify whose rights may be affected and provide an opportunity for that person (or persons) to convey their views regarding the effect on their rights, and consider those views.
- 6.1.3 Delegates must keep where appropriate records of decisions and actions taken under delegation.
- 6.1.4 The Chief Executive Officer may designate certain decisions made under delegation as matters to be reported to Council.
- 6.1.5 Council's public register of delegations will be available on its website and for inspection, on request, at Council's offices.

## CHAPTER 7 – JOINT COUNCIL MEETINGS

### Overview:

*Regional collaboration provides benefits to the Ballarat community 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 provided for in the Act.*

### 7.1 Collaboration through partnership

7.1.1 Council may resolve to participate in a joint Council meeting to consider:

- a) Matters subject to discussion of the [insert existing alliance];
- b) Collaborative projects;
- c) Collaborative procurement; or
- d) Emergency Response.

7.1.2 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.

7.2.3 Where Ballarat is the lead Council on a matter to be brought for consideration at a joint Council meeting, the Mayor will be nominated to Chair the joint Council meeting.

*The Act has specific provisions governing joint meetings of Councils:*

#### **Section 62 of the Act – Joint meetings of Councils**

- (1) *Two or more Councils may determine to hold a joint meeting.*
- (2) *A joint meeting is a Council meeting of each Council for the purposes of this Act and the provisions of this Act, except section 61(3), (4) and (5)(d), apply accordingly.*
- (3) *A joint meeting is to be constituted by the Councillors of the Councils holding the joint meeting consisting of—*
  - (a) *the total number of Councillors determined by the Councils holding the joint meeting; and*
  - (b) *at least 3 Councillors from each of the Councils holding the joint meeting.*
- (4) *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.*
- (5) *Subject to subsections (2) and (6), the procedures for conducting a joint meeting are to be determined by the Councils holding the joint meeting.*

## CHAPTER 8 – WHAT INFORMS DECISION-MAKING

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### Overview:

*Advisory Committees play a key role in connecting community views and experts with the decision-making processes of Council. These committees provide advice to Council and to Council officers exercising delegation to make decisions or implement policy.*

*These committees, are usually comprised of community members and Councillors, and may sometimes include representatives of community organisations. These committees are essential forums to provide input to the development of Council policy and decision making in their areas of focus.*

*Reporting of these committees to Council is a transparency mechanism.*

*The appointment of Councillors to specific areas of responsibility also provides a framework for relationships between Councillors and the administration of Council to underpin informed decision-making.*

*Council also has Councillor representatives on external committees and organisations to ensure Council's voice is heard in key priority areas. These committees and organisations also inform Council, via its representatives, in regard to sector and/or expert views.*

*This section also provides for the appointment of Councillors as members of committees established by the Council, and as Council representatives or delegates on external committees and organisations.*

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### 8.1 Advisory Committees

#### 8.1.1 Role and Term of Advisory Committees

- a) In the first year of each Council term, Council will establish its Advisory Committees for the next four years;
- b) Advisory Committees established by Council will be consulted for input on related policy, strategy or major operational proposals.
- c) Advisory Committees established by Council will be chaired by a Councillor appointed in accordance with rule 8.1.2;
- d) Each Advisory Committee will be established in accordance with a model terms of reference determined by the Chief Executive Officer that at a minimum will prescribe:
  - i) Membership terms that provide for renewal of membership and continuity of contribution, with provision for initial appointments to support rotation of memberships;
  - ii) Inclusive and transparent recruitment processes for community member membership and participation;
  - iii) Requirements for disclosures of conflicts of interest; and
  - iv) A description of the roles of members including attendance and participation requirements, role of the committee, Councillor chair, reporting requirements, and confidentiality.
- e) Any person appointed to an Advisory Committee that nominates for election to Council, State Parliament or Federal Parliament must take leave of absence from their Committee position from the time of declaring they have nominated (or intend to nominate). Upon election, they will be deemed to have resigned from the Committee.

- f) In order to maintain transparency of Advisory Committee operations, the following information is to be published on Council's website in respect of each Advisory Committee:
  - i) The Terms of Reference
  - ii) The names of all members \*
  - iii) Reports of Committee activities (in minutes of Council meetings)
- g) All Advisory Committees established by Council will sunset on 30 June following each Council election, unless they have been re-established in the new Council term.

#### **8.1.2 Appointment of Councillors to Committees, Delegated Committees and Boards**

- a) At least by the last Council Meeting of the calendar year, the Council must resolve to:
  - i) allocate Councillors to nominated Advisory Committees, Delegated Committees or board positions; and
  - ii) remove Councillors from Advisory Committees, Delegated Committees or board positions.

Notwithstanding sub-rule i), Council may, by resolution, allocate Councillors to, and remove Councillors from, nominated Advisory Committees, Delegated Committees and board positions at any other time.

#### **8.1.3 Reports by Advisory Committees**

- a) A Councillor who is the Chairperson of an Advisory committee; appointed by Council as a member of an Advisory Committee; community consultative committee; reference group; or to an external body may provide to the next practicable Council meeting a written account of the most recent discussions of the committee or body.

#### **8.1.4 Hearing Committees**

- a) Council may establish Hearing Committees to provide an opportunity to hear from community members in formal setting on key issues.
- b) A Hearing Committee will be comprised only of Councillors.
- c) Where an issue affects a large proportion of the Ballarat community, all Councillors will be appointed to the Hearing Committee.
- d) Priority will be given to those members of the community who have registered an interest in addressing a Hearing Committee.
- e) Community members will be provided with reasonable notice of the date and time that they will be invited to address a Hearing Committee.
- f) Council may resolve that a Hearing Committee meeting will be held electronically and make provisions for community members to address the committee by a video conferencing tool.
- g) Council may resolve a Hearing Committee meeting will be live broadcasted.
- h) A summary of proceedings of all Hearing Committee meetings held will be reported to Council.

#### **8.5 Council Reports**

- a) The Chief Executive Officer will determine the form of reports to Council prepared for inclusion in the agenda for a Council or Delegated Committee meeting.
- b) Reports presented to Council for consideration and decision will address where relevant:

- i) Alignment with the Community Vision, Council Plan, strategies and policies;
- ii) Community impact;
- iii) Climate emergency and environmental sustainability implications;
- iv) Economic sustainability implications;
- v) Financial implications;
- vi) Legal and risk considerations;
- vii) Human Rights considerations;
- viii) Community consultation and engagement;
- ix) *Gender Equality Act 2020*; and
- x) Conflicts of interest that have arisen in the preparation of the report.

## CHAPTER 9 – COUNCIL RECORDS

### Overview:

*Records of meetings held between Councillors and Council staff that consider matters that could be the subject of a future Council decisions should be recorded. This provides a mechanism for enhancing public trust through the recording and reporting on conflicts of interest to ensure transparency in decision-making in accordance with public transparency principles.*

### 9.1 Records of meetings held under the auspices of Council

- 9.1.1** A record of the matters discussed at meetings organised or hosted by Ballarat City Council that involve Councillors and Council staff will be kept.
- 9.1.2** Records kept in accordance with sub-rule one will include:
- a) The attendees at the meeting;
  - b) The title of matters discussed;
  - c) Any conflicts of interest disclosed and whether the person with the conflict of interest left the meeting.
- 9.1.3** Where minutes are kept of a meeting and made available to the community an additional record is not required to be kept.

*The Act has specific provisions governing recording of conflicts of interest in a meeting conducted under the auspices of Council:*

**Section 131 of the Act – Disclosure of conflict of interest at other meetings**

*Provides that in respect of a conflict of interest in respect of a matter at a meeting conducted under the auspices of the Council that is not a meeting specified in section 130(1)(a), (b) or (c).*

- (2) A Councillor who has a conflict of interest in respect of a matter must—
- (a) disclose the conflict of interest in the manner required by the Council's Governance Rules; and
  - (b) comply with the procedures specified in the Council's Governance Rules for the purposes of this section.
- (3) If a Councillor fails to comply with subsection (2), an application may be made under section 154 to a Councillor Conduct Panel alleging serious misconduct

*“Under the auspices of Council” is taken to mean in any way resourced by Council.*

### 9.2 Councillor Attendance Record

- 9.2.1** Council will maintain a register of Councillor attendance at Council meetings; Delegated Committee meetings; and meetings arranged to brief Councillors.
- 9.2.2** The register of attendance kept in accordance with sub-rule (1) will be published on Council's website quarterly.

## CHAPTER 10 – COMMUNITY ASSET COMMITTEES

### Overview:

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

### Community Asset Committee

- 10.1.1** 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.
- 10.1.2** 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.
- 10.1.3** The Chief Executive Officer must submit an annual report to Council in relation to the activities and the performance of the established Community Asset Committees.
- 10.1.4** A Community Asset Committee must act in accordance with its adopted, Instrument of Delegation and any Terms of Reference adopted by Council.

#### **Section 65 of the Act – Community Asset Committee**

- (1) A Council may establish a Community Asset Committee and appoint as many members to the Community Asset Committee as the Council considers necessary to enable the Community Asset Committee to achieve the purpose specified in subsection (2).*
- (2) A Council may only establish a Community Asset Committee for the purpose of managing a community asset in the municipal district*

#### **Delegation of Powers, Duties or Functions to a Community Asset Committee is provided for in Section 47 of the Act provides:**

- (1) The Chief Executive Officer may by instrument of delegation delegate any power, duty or function of the Council that has been delegated to the Chief Executive Officer by the Council to—*
  - (a) a member of Council staff; or*
  - (b) the members of a Community Asset Committee.*

*This means Council **may not** delegate directly to a Community Asset Committee*



## CHAPTER 11 – ELECTION PERIODS

### Overview:

*The Election Period Policy governs the conduct of Council, Councillors and members of Council staff during an election period to ensure appropriate decision-making in the lead up to a Council election. The Election Period prohibits the use of Council resources for any election campaign and puts in place a procedure to ensure Council does not print, publish or distribute any material that may influence the outcome of the election.*

*Additionally, the Election Period Policy addresses Councillors and staff standing as candidates in Council, State or Federal elections.*

### 11.1 Election Periods Generally

11.1.1 Council will have in place an election period policy that:

- a) Governs decision making during a local government election period, including what may be considered at a Council meeting;
- b) Prohibits the use of Council resources for any election campaign purposes.
- c) Sets out the conditions for any community engagement required to be undertaken during an election period, including consultations, Civic events, and activities of Advisory Committees established by Council;
- d) Sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish material that relate to issues that are the subject of election campaigns;
- e) Defines roles and responsibilities in relation to who is the spokesperson for Council during an election period; and
- f) Sets out the requirements for a Councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.

11.1.2 At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its election period policy.

11.1.3 The Election Period Policy forms part of these Governance Rules.

11.1.4 The operation of Council Advisory Committees shall be suspended upon the commencement of the election period ahead of a general Council election.

11.1.5 Any outstanding Delegate's Reports may still be reported to a meeting of Council during this period.

11.1.6 Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

#### **Section 69 of the Act – Governance Rules to include election period policy**

- (1) A Council must include an election period policy in its Governance Rules.
- (2) An election period policy must prohibit any Council decision during the election period for a general election that—
  - a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
  - b) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
  - c) the Council considers could be reasonably deferred until the next Council is in place; or
  - d) the Council considers should not be made during an election period
- (3) An election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to

## **11.2 Election Period Policy**

### **11.2.1 Purpose**

The Act requires Council to include an Election Period Policy (Policy) in its Governance Rules.

### **11.2.2 Scope**

There are specific caretaker provisions in the Act that Councils must implement during the election period. These include limits on Council publications, public consultation, the scheduling of Council events, and prohibitions on certain types of decisions.

The election period (or caretaker period) commences from the time nominations close on nomination day and ends at 6pm on election day (32 days). During the election period, Council will be deemed to be in 'election caretaker mode'.

The provisions in this policy apply throughout the election period unless otherwise stated.

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

### **11.2.3 Policy Statement**

In the lead up to a general election, the Local Government sector adopts a caretaker period to avoid actions and decisions that may be interpreted as inappropriate and to ensure there is no inappropriate use of resources during the election period that appear to influence voters or bind an incoming Council.

### **11.2.4 Council Business**

The Chief Executive Officer must ensure as far as possible that:

- a) No later than 30 days prior to the commencement:
  - i) all Councillors, Managers and Council officers are informed of the requirements and application of this policy; and
  - ii) a copy of this policy is given to all Councillors.
- b) Matters of Council business requiring significant decisions are scheduled for Council to consider prior to the commencement of the election period; or deferred where appropriate for determination by the incoming Council.
- c) All Candidates are familiar with the policy.

### **11.2.5 Prohibited Decisions**

During the election period, section 69 of the Act prohibits any Council and Delegated Committees from making a decision during the election period for a general election that:

- a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
- b) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or

- c) the Council considers could be reasonably deferred until the next Council is in place;  
or
- d) the Council considers should not be made during an election period.

If Council considers that there are extraordinary circumstances where the Ballarat and wider community would be significantly disadvantaged by Council not making a particular major policy decision, Council will, by resolution, request an exemption from the Minister for Local Government in accordance with section 177 of the Act. The request for exemption is not automatically granted.

#### **11.2.6 Guidance on Decisions**

During the election period, Council will follow procedures to prevent making decisions that would affect voting at an election or decisions that may unreasonably bind an incoming Council and could reasonably be deferred until after the election.

Examples of inappropriate decisions include:

- Allocating community grants or other direct funding to community organisations;
- Major planning scheme amendments;
- Changes to strategic objectives and strategies identified in the Council Plan;
- Adopting policy; and
- Setting advocacy positions.

All documentation prepared for Council or Delegated Committee meetings will be carefully vetted by the Chief Executive Officer or Delegate to ensure that no agenda item is included that could potentially influence voters' intentions at the general election or could encourage Councillor candidates to use the item as part of their electioneering.

#### **11.2.7 Consideration for Officers with Delegated Authority**

Before making decisions under delegated authority during the election period, Council staff should consider the following:

- a) Whether the decision is 'significant';
- b) The urgency of the issues (can it wait until after the election? or it cannot be reasonably deferred without major negative repercussions);
- c) Whether the decision is likely to be controversial; and
- d) Whether the decision is in the best interests of Council.

It is the responsibility of the Chief Executive Officer to determine if a matter is significant and if it is urgent.

#### **11.2.8 Business at Council and Delegated Committee meetings**

Council and Delegated Committee meeting papers will be reviewed to ensure that no agenda item is included that could potentially influence voters' decision at the election or give rise to a prohibited major decision or inappropriate decision.

#### **11.2.9 Community Engagement**

Community engagement is an integral part of Council's policy development process and operations. During the election period, however, Council will undertake procedures to limit this consultation to reduce the perception that this may influence voting. Councillors

acknowledge that issues raised through the consultation, and decisions that follow, may also unreasonably bind the incoming Council.

No public consultation will be undertaken during the election period unless authorised by a Council decision that acknowledges the application of this policy and justifies to the Ballarat community the special circumstances making it necessary and how the risks of influencing the election will be mitigated or prevented.

There will be no Public Question and Submission Time during the election period.

#### **11.2.10 Council Resources**

Public resources must not be used in a manner that would influence the way people vote in elections. Council will ensure that Council resources are not used inappropriately during a Council election and comply with the requirements of the Act.

Council resources, including offices, Council staff, hospitality services, equipment, electronic equipment and stationery will be **used exclusively for normal Council business** during the election period, and will not be used in connection with any electioneering activity.

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

#### **11.2.11 Council Information**

Information and briefing material prepared by Council staff for Councillors during the election period will relate only to factual matters or to existing Council services to assist Councillors in conducting normal day to day activities.

Access to historical briefings and workshop papers will be suspended for the duration of the election period.

An **Information Request Register** will be established by the Executive Manager, Governance and Risk and maintained by the Statutory Compliance unit, commencing on the 1st day of the election period. This register will be a public document (available for inspection) that records all requests for information **by all candidates**, and the responses given to those requests.

Responses to candidates' requests will only be provided by Managers, Executive Managers, Directors or the Chief Executive Officer.

#### **11.2.12 Council Communication**

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

Publicity of Council events will be restricted to the communication of normal Council activities.

Media inquiries regarding the election or possible election outcomes will only be responded to by the Chief Executive Officer or the Manager, Communications and Marketing.

In the election period no media releases will be issued quoting or featuring the Councillor(s). When media releases are issued, these will contain facts only.

Councillor correspondence will be managed in the usual process. Correspondence addressed to councillors will not be responded to regarding any election matter during the election period. All correspondence responded to by councillors will not reference any election matter and will be restricted to normal Council business.

### **11.2.13 Council Publications**

The Act places limitations on Council from printing, publishing or distributing publications during the election period. This is to ensure that Council does not utilise public funds that may influence, or be seen to influence, people's voting intentions.

During the election period Council's website will not contain material which is precluded by this policy or the statutory requirements relating to publications. Any references to the election will only relate to the election process. Profiles of the current Mayor and Councillors will be removed from Council's website during the Election Period, but the website will retain their contact details for their day-to-day role as Councillor.

Any new material published on Council's website during the election period that **may** be considered to be an advertisement, handbill, pamphlet or notice must also be subject to the certification process. Council agendas, minutes and the annual report are considered exempt from certification.

The Annual Report will be compiled during the election period and will not contain any material that could be regarded as electioneering or that inappropriately promotes individual Councillors. Information about Councillors will be restricted to names, contact details, titles, membership of Delegated Committees and other bodies to which they have been appointed by the Council.

Council's newsletter 'myBallarat' will not be produced or distributed during the election period.

Any publication of comments or new content on social media sites that are managed by Council must be certified by the Chief Executive Officer during the election period. At the commencement of the election period, Council will advise social media subscribers that comments containing electoral matter will be deleted.

### **11.2.14 Council Events**

During the election period, Council will undertake procedures to limit the scheduling of Council events during this period. Councillors acknowledge that the scheduling of Council events in the lead up to elections may raise concerns over their potential use by sitting Councillors for electioneering purposes.

No Council event will be scheduled during the election period unless authorised by a Council decision that acknowledges the application of this Policy and justifies to the Ballarat community the special circumstances making it necessary and how the risks of influencing the election will be mitigated or prevented.

Councillors should refrain from delivering speeches or keynote addresses at Council-organised or sponsored events and functions during the election period other than protocol speeches, such as short welcome and thank you speeches.

Any speech or address should have prior approval of the Chief Executive Officer or Manager Communications and Marketing. Councillors may continue to attend events and functions which are staged by external organisations during the election period.

### **11.2.15 Assistance to Candidates**

The Council affirms that all candidates for the Council election will be treated equally, fairly and without discrimination. Any assistance, information and advice to be provided to candidates as part of the conduct of the Council election will be provided and made accessible equally to all candidates.

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 a designated Council staff.

**11.12.16 Electoral Signs**

Councillors and prospective candidates must comply with City of Ballarat Community Local Law 2017 for the placement of advertising / electoral signs within the City of Ballarat municipality.