

SOUTH GIPPSLAND SHIRE COUNCIL

# GOVERNANCE RULES 2020

SEPTEMBER 2020



GOOD  
GOVERNANCE



OPENNESS



TRANSPARENCY



INTEGRITY



*South Gippsland  
Shire Council*

## Good Governance Framework – Governance Rules Overarching Principle

*The Governance Rules provide the meeting procedures for Council and Council Committees. The rules will guide the orderly conduct of meetings and election of the Mayor and Deputy Mayor.*

The Governance Rules are an integral part of Council's Good Governance Framework. They provide structure to the 'Decision Making' pillar.

## GOVERNANCE RULES Introduction

### 1. Nature of Rules

These are the *Governance Rules* of **South Gippsland Shire Council**, made in accordance with section 60 of the *Local Government Act 2020*.

- (a) The role of Council is to provide good governance in its *municipal district* for the benefit and wellbeing of the municipal community specified in section 8(1);
- (b) A Council must in the performance of its role give effect to the overarching governance principles specified in section 9(1).

### 2. Date of Commencement

These *Governance Rules* commence on 1 September 2020.

### 3. Contents

These *Governance Rules* are divided into the following Chapters:

Chapter	Name
<a href="#">Chapter 1</a>	Governance Framework
<a href="#">Chapter 2</a>	Meeting Procedure for Council Meetings
<a href="#">Chapter 3</a>	Meeting Procedure for Delegated Committees
<a href="#">Chapter 4</a>	Meeting Procedure for Community Asset Committees
<a href="#">Chapter 5</a>	Disclosure of Conflicts of Interest
<a href="#">Chapter 6</a>	Common Seal
<a href="#">Chapter 7</a>	Miscellaneous
<a href="#">Chapter 8</a>	Election Period Policy, including Attachment 1

### 4. Definitions

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

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

*Chief Executive Officer* includes an Acting Chief Executive Officer or delegated Senior Officer as determined by the *Chief Executive Officer*.

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

*Council* means South Gippsland Shire Council.

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

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

*Mayor* means the Mayor of *Council*.

*these Rules* mean these Governance Rules.

## Chapter 1 – Governance Framework

### 1. Context

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

- (a) the overarching governance principles specified in section 9(2) of the *Act*; and
- (b) supporting principles in section 9(3).

#### ***Local Government Act 2020 - Related Sections***

#### **Part 2 – Division 1 – Role and powers of a Council**

#### **Section 9(2) – Overarching governance principles**

- 1) The following are the overarching governance principles:
  - 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.

#### **Section 9(3) – Overarching supporting principles**

- 2) In giving effect to the overarching governance principles, a 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;
  - e) the service performance principles.

- (c) the following documents adopted or approved by *Council*: Available on Council's website at: [www.southgippsland.vic.gov.au/info/20004/your\\_council/97/council\\_policies](http://www.southgippsland.vic.gov.au/info/20004/your_council/97/council_policies):

- Community Engagement Policy
- Community Engagement Strategy
- Complaint Handling Policy
- Councillor Access to and Request for Council Information Policy
- Councillor Code of Conduct
- Councillor Support and expenditure Policy
- Election Period Policy
- Live Streaming of Council Meetings Policy
- Public Interest Disclosure Guidelines

- Public Participation in Meetings with Council Policy
- Public Transparency Policy
- Sound Recording of Council Meetings
- South Gippsland's Good Governance Framework
- Use of Council Term Mayoral

## 2. Purpose

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The purpose of these *Governance Rules* is to set the procedures that govern under ss.60 and 61(a):

- (a) conduct of *Council meetings*;
- (b) conduct of meetings of Delegated Committees and joint Delegated Committees;
- (c) conduct of meetings of Community Asset Committees;
- (d) internal meetings involving Councillors;
- (e) form and availability of meeting records;
- (f) election of the Mayor and the Deputy Mayor and/or appointment of an Acting Mayor;
- (g) election period policy in accordance with s.69;
- (h) procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under s.130;
- (i) procedure for the disclosure of a conflict of interest by a Councillor under s.131;
- (j) disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of s.126(1);
- (k) any other matters prescribed by the regulations;
- (l) use of the common seal;
- (m) provide for the appointment of Councillors as members of committees established by the Council or as Council representatives to external committees and organisations; and
- (n) Councillor Code of Conduct under section 139.

## 3. Decision Making

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### Overview:

This Chapter Section outlines the role of a Councillor and the responsibility and power of decision making for Council.

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

- (i) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
  - (ii) on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations.
- (b) *Council* must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of *Council* is entitled to communicate their views and have their interests considered).
- (c) Without limiting anything in paragraph (b) of this sub-Rule:
  - (i) before making a decision that will directly affect the rights of a person, *Council* (including any person acting with the delegated authority of *Council*) must identify the person or persons whose rights will be directly affected, give notice of the decision which *Council* must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made;
  - (ii) if a report to be considered at a *Council meeting* concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;
  - (iii) if a report to be considered at a *Delegated Committee* meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
  - (iv) if a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.
- (d) Council when making a decision, is to abide by *Part 3 - Division 1 – Community Accountability* of the *Act*, this includes but not limited to:
  - (i) Council's adopted Community Engagement Policy (section 55);
  - (ii) Community Engagement Principles (section 56) – participants in community engagement are informed appropriately in relation to Council decisions;
  - (iii) Council's adopted Public Transparency Policy (section 57);
  - (iv) Public Transparency Principles (section 58) – Council decision making processes must be transparent except when the Council is dealing with confidential information by virtue of this *Act* or any other Act.

#### 4. Role of Councillor

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As per section 28(2) of the *Act*, in performing the role of a Councillor, a Councillor must:

- (a) consider the diversity of interests and needs of the municipal community; and
- (b) support the role of the Council; and
- (c) acknowledge and support the role of the Mayor; and

- (d) act lawfully and in accordance with the oath or affirmation of office; and
- (e) act in accordance with the standards of conduct; and
- (f) comply with Council procedures required for good governance.
- (g) The role of a Councillor does not include the performance of any responsibilities or functions of the *Chief Executive Officer*.

## 5. Resolution of Council

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As per section 59 of the *Act*, a resolution of Council means:

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

## Chapter 2 – Meeting Procedure for Council Meetings

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## Part A – Introduction

### 1. Title

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*This Chapter* will be known as the "Meeting Procedure for Council Meetings".

### 2. Purpose of this Chapter

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The purpose of *this Chapter* is to:

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

### 3. Definitions and Notes

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3.1 In *this Chapter*:

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

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

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

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

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

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

"*quorum*" at a *Council meeting* is an absolute majority (for example, if nine Councillor, a quorum would equal five Councillors in attendance); and

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

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

## Part B – Election of Mayor

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

### 4. Election of the Mayor

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

Council is to follow section 25 and 26 of the *Act* when electing a Mayor of Council and a Deputy Mayor (if determined by Council).

*Note: under section 27 of the Act it states that any reference to Mayor in section 25 and 26 are interchangeable with Deputy Mayor.*

### 5. Election of the Mayor and Deputy Mayor (if determined by Council)

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- 5.1 The meeting to elect the Mayor (and Deputy Mayor) is to be held no later than one month after the date of the general election and is open to the public.
- 5.2 The *Chief Executive Officer* must call an additional *Council meeting* to elect a Mayor following a Council election declaration in accordance with the *Act*.
  - (a) The additional *Council meeting* may also consider the role of Deputy Mayor and any other matters as determined by the *Chief Executive Officer*.
- 5.3 The *Chief Executive Officer* acts as the *Chair* and facilitates the election of the Mayor in accordance with the provisions of the *Act*, these *Governance Rules*, *Councillor Code of Conduct Policy (C14)* and *Council's Election Period Policy (C30)*.
- 5.4 At the Meeting to elect the Mayor (and Deputy Mayor), Council:
  - (a) Must determine whether the Mayor is to be elected for a 1 year or a 2 year term, before the election of the Mayor take place. If no such resolution is passed the term of the Mayor remains at 1 year;
  - (b) Must elect a Mayor by an absolute majority of the Councillors;
  - (c) May by resolution of Council agree to elect a Deputy Mayor; and
  - (d) If a Deputy Mayor is to be elected, determine whether the Deputy Mayor is to be elected for a 1 or 2 year term. If no such resolution is passed the term of the Deputy Mayor remains at 1 year.;
  - (e) An election of a Deputy Mayor will take place after the election of the Mayor;
  - (f) Must elect a Deputy Mayor by an absolute majority of the Councillors;
  - (g) If an absolute majority of the councillors cannot be obtained, the Council may resolve to conduct a new election at a later specified time and date.

- 5.5 The *agenda* for the meeting to elect the first Mayor (or Deputy Mayor) of the election term may include:
- (a) The taking of the oath or affirmation of office, is conducted before the Mayor (and Deputy Mayor) election and in accordance with the *Act*;
  - (b) The fixing of allowances for the Mayor and Councillors, in accordance with *Act*; and
  - (c) The appointment of Councillor representatives to various bodies, Delegated Committees and joint Delegated Committees.

## 6. Method of Voting

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The election of the *Mayor (and Deputy Mayor if relevant)* must be carried out by a show of hands by each Councillor.

Each time a vote is required to be taken, Councillors shall clearly indicate their choice by show of hands. All votes must be recorded in the minutes.

The *absolute majority* means the number of Councillors which is greater than half the total number of the Councillors of a Council. For example; nine (9) Councillors the absolute majority of votes would be five (5).

Following a Council election, no Councillor can participate in the election of the Mayor or the Deputy Mayor if they have not signed the oath or affirmation of office.

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

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- 7.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- 7.2 The *Mayor* becomes the *Chair* once elected by Council.
- 7.3 Any nominations for the office of *Mayor* can be made by any Councillor for any Councillor and must be:
- 7.3.1 submitted *in writing* and in a form prescribed by the *Chief Executive Officer*; prior to the meeting; and
  - 7.3.2 seconded by another Councillor on this form.
- 7.4 All nominees will clearly indicate their acceptance of the nomination during the meeting;
- 7.5 Any nominees not present at the meeting held to elect the *Mayor*, must have provided their acceptance in writing to the *Chief Executive Officer*, prior to the meeting;
- 7.6 Once nominations have been accepted, all Councillors contesting the election of the *Mayor* shall be known as candidates;

- 7.7 The *Chair* will call for final nominations prior to the commencement of the meeting being conducted and upon receiving no further nominations will declare nominations closed before the meeting begins.
- 7.8 Any Councillor can withdraw their candidature at any time before Councillors are requested to vote.
- 7.9 Candidates may address Council for up to three minutes prior to the vote for the election of Mayor (and Deputy Mayor) being conducted.
- 7.10 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:
- 7.10.1 if there is only one nomination, the candidate nominated must be declared to be duly elected;
- 7.10.2 if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;
- 7.10.3 in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
- 7.10.4 in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
- 7.10.5 if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;
- 7.10.6 in the event of two or more candidates having an equality of votes and one of them having to be declared:
- (a) a defeated candidate; and
- (b) duly elected
- the declaration will be determined by lot.
- 7.10.7 if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
- (a) each candidate will draw one lot;
- (b) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors'

surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and

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

7.10.8 The *Chair* will announce the duly elected Mayor (and Deputy Mayor) and invite the Mayor (and Deputy Mayor) to address Council for not more than three minutes.

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

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Any election for:

- 8.1 any office of Deputy Mayor; or
- 8.2 *Chair of a Delegated Committee*

will be regulated by Rules 4-7 (inclusive) of *this Chapter*, as if the reference to the:

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

## 9. Appointment of Acting Mayor

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If *Council* has not established an office of Deputy Mayor and it becomes required to appoint an Acting Mayor (as per section 20B of the *Act*), it can do so by:

- 9.1 resolving that a specified Councillor be so appointed for a period specified by the Council; or
- 9.2 following the procedure set out in Rules 6 and 7 (inclusive) of *this Chapter*, at its discretion.
- 9.3 An Acting Mayor appointed in either Rules 9.1 or 9.2 above:
  - (a) must perform the role of the Mayor; and
  - (b) may exercise any of the powers of the Mayor; until the circumstances specified by Council no longer apply or the period of the appointment expires, whichever first occurs.

## 10. Mayor or Deputy Mayor of Office become vacant

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- 10.1 The office of Mayor (and Deputy Mayor) becomes vacant under section 20, 22 and 35 of the *Act*:
- (a) at the time and on the day of the election of the next Mayor;
  - (b) the day the Mayor (or Deputy Mayor) resigns from office in writing to the *Chief Executive Officer*;
  - (c) ceases to be qualified to be a Councillor, dies, becomes ineligible, ousted or suspended as a Councillor;
  - (d) or a Councillor is absent from *Council meetings* for a period of four (4) consecutive months without leave of absence obtained; or
  - (e) for any other reason stated in the *Act*.



## Part C – MEETINGS PROCEDURE

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

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

#### 11. Dates and Times of Meetings Fixed by *Council*

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Subject to Rule 13, *Council* must from time to time fix the date, time and place of all *Council meetings*.

- 11.1 At or before the last Meeting each calendar year, Council must fix the date, time and place of all *Council meetings* and any Delegated Committee Meetings for the following calendar year.

#### 12. *Council* May Alter Meeting Dates

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- 12.1 Council by resolution, or the *Chief Executive Officer*, may change the date, time and place of, or cancel, any *Council Meeting* which has been fixed and must provide notice of the change to the public.

#### 13. Meetings Not Fixed by *Council* (additional *Council Meeting*)

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- 13.1 Council may by resolution call an additional *Council Meeting*.
- 13.2 The *Chief Executive Officer* may call additional *Council Meetings* including the call of a *Council meeting* to elect a Mayor as per sub-clause 5, in accordance with their powers under the Act or delegated to them by Council
- 13.3 The *Mayor*, and at least two (2) Councillors may request the *Chief Executive Officer* to call a *Council meeting* by a *written notice* provided to the *Chief Executive Officer*.
- (a) A written notice to call an additional *Council meeting*, must:
- (i) state the business to be transacted; and
  - (ii) to be delivered to the *Chief Executive Officer* in sufficient time to enable notice to be given to the Councillors and public notice.
- 13.4 The *Chief Executive Officer* must convene the *Council meeting* as specified in the notice as described as per sub-clause 13.3(a)(i).
- 13.5 Unless all Councillors are present and unanimously agree to deal with any other matter, only the business specified in the *written notice* can be transacted at the *Council meeting*.

## 14. Notice of Meeting

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- 14.1 A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for all *Council meetings* at least 48 hours before the meeting.
- 14.2 A notice of a meeting, including an additional *Council meeting* as far as practicable, aims to be provided at least five days notice.
- (a) a period of less than five days may apply, if exceptional circumstances exist for the calling of an additional *Council meeting*.
- 14.3 Notwithstanding Sub-Rule 14.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in *writing* to continue to give notice of any meeting during the period of his or her absence.
- 14.4 Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this:
- 14.4.1 for *meetings* which Council has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in a newspaper generally circulating in the *municipal district* either at various times throughout the year, or prior to each such *Council meeting*; and
- 14.4.2 for any fixed *Council meeting* by giving notice on Council's website and:
- (a) in each of its Customer Service Centres; and/or
- (b) in at least one newspaper generally circulating in the *municipal district*.
- 14.4.3 An *agenda* for a fixed *Council meeting* will be made available on Council's website no less than 48 hours before the *Council meeting*.
- 14.4.4 An *agenda* for an additional *Council meeting* will be made available on Council's website no less than 24 hours before the additional *Council Meeting*.

## Division 2 – Quorums

### 15. Inability to Obtain a Quorum

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No business can be transacted at a *Council meeting* unless a majority of the Councillors are present (quorum).

The *absolute majority* means the number of Councillors which is greater than half the total number of the Councillors of a Council. For example; nine (9) Councillors the absolute majority of votes would be five (5).

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

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

## 16. Inability to Maintain a Quorum

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- 16.1 If during any *Council meeting*, a quorum cannot be maintained then Rule 15 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 16.2 Sub-Rule 16.1 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.
- 16.3 If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, and the matter cannot be separated into component parts or prior decisions made, Council will delegate the decision to be made:
  - (a) By the *Chief Executive Officer*; or
  - (b) By a Delegated Committee, established for the purpose of determining the matter, comprised of all the Councillors who have not disclosed a conflict of interest and any other person(s) the Council considers suitable.
- 16.4 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*.
- 16.5 The *Chief Executive Officer* must provide written notice, including by electronic means, to each Councillor of any *Council meeting* reconvened to another date or time due to an inability to achieve or maintain a quorum.
- 16.6 Notice of a reconvened *Council meeting* to another date or time due to another date or time must be published on Council's website as soon as practical.

*For example, if Council is proposing to include items in the budget that would give rise to conflicts of interest to more than half of the number of Councillors, Council may consider whether to include these items in the budget as individual decisions prior to adopting the budget as a whole.*

## 17. Adjourned Meetings

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- 17.1 *Council* may adjourn any meeting to another date or time, but cannot in the absence of disorder or a threat to the safety of any Councillor or member of Council staff adjourn a meeting in session to another place.
- 17.2 The *Chief Executive Officer* must give *written* notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 17.3 If it is impracticable for the notice given under sub-Rule 17.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.

## 18. Time limits for Meetings

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- 18.1 A *Council meeting* must not continue after four (4) hours unless a majority of Councillors present vote in favour of it continuing.
- 18.2 A meeting cannot be continued for more than a further 30 minutes, unless otherwise resolved by Council.
- 18.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of sub-Rules 17.2 and 17.3 apply.

## 19. Cancellation or Postponement of a Meeting

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- 19.1 The *Chief Executive Officer* may, in the case of an emergency necessitating the cancellation or postponement of a *Council meeting*, cancel or postpone a *Council meeting*.
- 19.2 The *Chief Executive Officer* must present to the immediately following *Council meeting* a *written* report on any exercise of the power conferred by sub-Rule 19.1.

## Division 3 – Business of Meetings

### 20. Agenda and the Order of Business

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- 20.1 The *agenda* for and the order of business for a *Council meeting* is to be determined by the *Chief Executive Officer* so as to facilitate and maintain open, efficient and effective processes of government.
- 20.2 *Chief Executive Officer* may prepare and distribute a confidential *Council meeting agenda* to be dealt with in closed session, not available to the public, to deal with matters that are confidential as per the *Act*.

### 21. Change to Order of Business

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

## 22. Urgent Business

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- 22.1 If the *agenda* for a *Council meeting* makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of *Council* and only then if it:
- (a) it relates to or arises out of a matter which has arisen since distribution of the *agenda*; and
  - (b) deferring the item until the next *Council meeting* will mean a decision on the item will not have any effect on the matter; or
  - (c) the item involves a matter of urgency as determined by the *Chief Executive Officer*;
  - (d) it cannot be addressed through an operational service request process; and
  - (e) provided the matter does not:
    - (i) substantially affect the levels of Council service;
    - (ii) commit Council to significant expenditure not included in the adopted budget;
    - (iii) establish or amend Council Policy; or
    - (iv) commit Council to any contractual arrangement.

## Division 4 – Motions and Debate

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

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

### 24. Notice Of Motion

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- 24.1 A *notice of motion* is required to outline the subject, provide sufficient background information to assist debate and allow Council to make an informed decision.
- 24.2 A *notice of motion* must not:
- (a) substantially affect the levels of Council service;
  - (b) commit Council to significant expenditure not included in the adopted budget;
  - (c) establish or amend Council Policy; or
  - (d) commit Council to any contractual arrangement.
- 24.3 A *notice of motion* may call for an Officer's Report to be prepared to:
- (a) consider the allocation of funds to a particular matter; or

- (b) consider changes to an adopted policy position of the Council.
- 24.4 A *notice of motion* must be in *writing* signed by a Councillor and a seconder, and be lodged with or sent to the *Chief Executive Officer* to allow sufficient time (fourteen (14) days prior to the *Council meeting* date) for him or her to include the *notice of motion* in *agenda* papers for a *Council meeting* and to give each Councillor at least 48 hours' notice of such *notice of motion*.
- 24.5 The *Chief Executive Officer* may reject any *notice of motion* which:
- (a) is vague, defamatory or unclear in intention;
  - (b) it is beyond *Council's* power to pass; or
  - (c) if passed would result in *Council* otherwise acting invalidly;
  - (d) which is identical or substantially similar to a *notice of motion* or other motion that has been considered by the Council in the preceding three (3) months;
  - (e) which is unworkable;
  - (f) may be prejudicial to any person or Council;
  - (g) does not have a signature of a seconder; or
  - (h) is submitted during Election Period.
- but must:
- (i) give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
  - (j) notify in writing the Councillor who lodged it of the rejection and reasons for the rejection.
- 24.6 The *Chief Executive Officer* may designate a *notice of motion* to be confidential in accordance with the *Act*, in which case the *notice of motion* will be considered at a meeting that is closed to members of the public, unless Council resolves otherwise at the *Council meeting*.
- 24.7 The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.
- 24.8 The *Chief Executive Officer* may arrange for a 'Chief Executive Officer Supplementary Advice', containing relevant contextual and risk management related information, to be provided to Councillors in the *agenda* as an addendum to a *notice of motion*.
- 24.9 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.
- 24.10 Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were entered in the *notice of motion* register.

- 24.11 If a Councillor who has given a *notice of motion* is absent from the meeting or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- 24.12 If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.
- 24.13 If a Councillor who has delivered a *notice of motion* is absent from the *Council meeting* at which the *notice of motion* is to be considered, or fails to move the motion when called upon to do so by the *Chair*, any other Councillor may move the *notice of motion*.
- 24.14 If the *Chair* has delivered a *notice of motion*, they must vacate the *Chair* of the meeting to move the *notice of motion* and:
- (a) the Deputy Mayor, respectively will assume the *Chair*, or
  - (b) if the Deputy Mayor is not present, the Council must elect another Councillor to assume the *Chair* for the consideration of that item.
- 24.15 If a *notice of motion* is lost, a similar motion may not be put before Council for at least three (3) months from the date it was last lost, unless Council resolves that the *notice of motion* be re-listed at a future meeting.

## 25. Chair's Duty

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Any motion, question or statement which is determined by the *Chair* to be:

- 25.1 defamatory;
- 25.2 objectionable in language or nature;
- 25.3 vague or unclear in intention;
- 25.4 outside the powers of *Council*; or
- 25.5 irrelevant to the item of business on the *agenda* and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the *Chair*.

## 26. Introducing a Report

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- 26.1 Before a *written* report is considered by *Council* and any motion moved in relation to such report, the Mayor may ask the *Chief Executive Officer* to introduce the report by indicating in not more than two (2) minutes:
- (a) its background; or
  - (b) the reasons for any recommendation which appears.

## 27. Introducing A Motion or an Amendment

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The procedure for moving any motion or amendment is:

- 27.1 The *Chair* introduces the *agenda* item by stating its *Agenda Item Number* and *Agenda Title* and calls for a mover of the item;
- 27.2 the mover must state the motion without speaking to it;
- 27.3 the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
- 27.4 if a motion or an amendment is moved and seconded the *Chair* must ask:  
  
*"Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"*
- 27.5 if no Councillor indicates opposition or a desire to speak to it, the *Chair* may put the motion to the vote;
- 27.6 if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- 27.7 after the mover has addressed the meeting, the seconder may address the meeting, or indicate they reserve the right to speak prior to the movers closing remarks;
- 27.8 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
- 27.9 if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

## 28. Right Of Reply

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- 28.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
  - (a) No new matters may be raised in the right of reply;
- 28.2 If no Councillor has spoken against a *motion*, there will be no right of reply.
- 28.3 After the right of reply has been taken but subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.



## 29. Moving An Amendment

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- 29.1 Subject to sub-Rule 29.2 a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- 29.2 A motion to confirm a previous resolution of *Council* cannot be amended.
- 29.3 An amendment must not be directly opposite to the motion or substantially contrary to, the motion. Such a proposed change is to be ruled an alternate motion to be considered only in the event that the motion before the meeting is lost and it has been raised as a foreshadowed motion.

## 30. Who May Propose An Amendment

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- 30.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion, at any time up to the commencement of the mover's closing remarks.
- 30.2 Any one (1) Councillor cannot move more than two amendments in succession.
- 30.3 The amendment will lapse if it is not seconded. Debate will continue on the motion before the meeting.
- 30.4 A Councillor may address the meeting once on any amendment, whether or not they have spoken to the original motion, but debate must be confined to the terms of the amendment.

## 31. How Many Amendments May Be Proposed

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

## 32. An Amendment Once Carried

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

## 33. Foreshadowing Motions

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- 33.1 At any time during debate a Councillor may foreshadow a motion up to the commencement of the mover's closing remarks, so as to inform *Council* of his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.

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

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

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

#### **34. Withdrawal Of Motions**

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

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

#### **35. Separation Of Motions**

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

#### **36. Chair May Separate Motions**

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

#### **37. Priority of address**

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

#### **38. Motions In Writing**

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38.1 The *Chair* may require that a motion or amendment be in writing.

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

38.3 The written motion must be read out by the mover before the *Chair* accepts it.

#### **39. Repeating Motion and/or Amendment**

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The *Chair* may request the *Chief Executive Officer* to read the motion or amendment to the meeting before the vote is taken.

#### **40. Debate Must Be Relevant To The Motion**

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40.1 Debate must always be relevant to the motion before the *Chair*, and, if not, the *Chair* must request the speaker to confine debate to the motion.

- 40.2 If after being requested to confine debate to the motion before the *Chair*, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker to be seated and not speak further in respect of the motion then before the *Chair*.
- 40.3 A speaker to whom a direction has been given under sub-Rule 40.2 must comply with that direction.

## 41. Speaking Times

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

- 41.1 the mover of a motion, or mover of any subsequent amendment which has been opposed: 5 minutes;
- 41.2 any other Councillor: 3 minutes; and
- 41.3 the mover of a motion exercising a right of reply: 2 minutes.
- 41.4 An extension of speaking time up to two (2) minutes may be granted by resolution of the Council but only one extension is permitted for each speaker on any motion. The extension may be granted for all Councillors that have not yet spoken to the motion.
- 41.5 The motion for an extension of speaking time must be proposed:
- (a) immediately before the speaker commences contributing to the debate;
  - (b) during the speaker's contribution to the debate; or
  - (c) immediately after the speaker has concluded contributing to the debate; or
  - (d) a motion for an extension of speaking time cannot be accepted by the *Chair* if another speaker has commenced their contribution to the debate.

## 42. Addressing the Meeting

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If the *Chair* so determines:

- 42.1 any person addressing the *Chair* must refer to the *Chair* as:
- (a) Madam Mayor; or
  - (b) Mr Mayor; or
  - (c) Madam *Chair*; or
  - (d) Mr *Chair*.
- as the case may be;
- 42.2 all Councillors, other than the *Mayor*, must be addressed as

Cr .....(surname).

- 42.3 all members of Council staff, must be addressed as Mr or Ms  
.....(surname) as appropriate or by their official title.

**43. Right to Ask Questions**

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

**Division 5 – Procedural Motions**

**44. Outcome of a Motion**

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The outcome of every motion, needs to state in the minutes as to:

- 44.1 whether it was put to the vote and the result (CARRIED UNANIMOUSLY, CARRIED, LOST, WITHDRAWN, LAPSED or AMENDED) and identification of those motions voted on by secret ballot;
- 44.2 where a Councillor present at the meeting who does not vote (abstains) on a motion due to a reasonable apprehension of bias or actual bias, or other ground at common law, they should disclose the reason they abstained from casting a vote for inclusion in the minutes.

**45. Procedural Motions**

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

PROCEDURAL MOTIONS TABLE

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion  The motion requires only a mover	(a) During the election of a <i>Chair</i> , (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date.  The Agenda/motion would remain the same content.	Debate continues unaffected	Yes, but only as to time, date and place of the proposed adjournment.
Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion  The motion requires only a mover	(a) During the election of a <i>Chair</i> , (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the <i>Council</i> has been made for that meeting in accordance with section 85 of the <i>Act</i> ; or  (d)When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the <i>agenda</i>	Debate continues unaffected	Yes

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
The closure	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion.  The motion requires only a mover	(a) During nominations for <i>Chair</i>  (b) The Chair has discretion to reject this motion if the matter is contentious by nature or the original motion has not been adequately debated. Adequate debate arises when every Councillor who wishes to speak has had an opportunity to do so.	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
The Previous Question	"That the question be NOT now put."	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion  The motion requires only a mover.	(a) During the election of a <i>Chair</i> ;  (b) While there is an amendment before the <i>Chair</i> .  (c) The Chair has discretion to reject this motion if the matter is contentious by nature or the original motion has not been adequately debated. Adequate debate arises when every Councillor who wishes to speak has had an opportunity to do so.	Prevents the original motion or substantive motion to which it relates being dealt with at that meeting or any adjournment of it.	Requires the original or substantive motion to which it relates be put to the vote immediately without any further debate or amendment.	No

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
Deferral Motion	<p>During debate on a motion or amendment the <i>Chair</i> may accept a deferral motion to defer the matter before the Council.</p> <p>That the motion be deferred to another <i>Council meeting</i> and specified in the resolution.</p>	<p>Requires a mover and, if accepted by the <i>Chair</i>, will take precedence over the motion or amendment before the Council at the time</p> <p>The motion requires only a mover</p>	<p>It will not take precedence over a formal motion or a motion of dissent on a point of order</p>	<p>Motion or any amendment associated to the motion will be a subject of a further motion to be presented to a future <i>Council meeting</i>. The motion or amendment before the meeting at the time of the deferral motion has effectively lapsed should the deferral motion be successful. The subject matter may be amended and updated when/if it is brought back to the table.</p>	<p>Debate continues unaffected and back to the original motion or amendment prior to the motion being put.</p>	No

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
Laying the question on the table	That the motion be laid on the table.  A motion may be moved "That the (question, letter, document, report etc) lay on the table	Any Councillor may move or second  It is a formal motion which may be debated and if carried, it has the effect of adjourning any further debate on the matter currently before the Council until such time (if any) as the Council resolves (by ordinary motion) to take the question from the table.	Prevents debate on the current matter before the Council can proceed until a motion to take the question from the table is passed.	If carried in respect of an amendment, it has the effect that both the original motion and the amendment will be adjourned; and prevents debate on the matter currently before the Council.	Council continues to consider the previous motion that is before Council.	Yes
Alter the order of business	'That the item listed at xx on the <i>agenda</i> be considered before/after the item listed as xy'	Any Councillor may move or second	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the <i>Agenda</i>	No



Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
Proceeding to the next business	"That the meeting proceeds to the next business."	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion.  Requires only a mover.	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the <i>Council</i> has been made for that meeting in accordance with section 85 of the <i>Act</i> ; or (d) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	If carried in respect of the original motion the business is no longer debated or dealt with. The Chair would be required to move to the next item on the agenda.  If carried in respect of a formal motion, it would dispose of the formal motion immediately and permits debate upon the original motion to proceed.  If carried in respect of an amendment, disposes of the amendment immediately and permits debate upon the original motion to proceed, but no similar amendment may be moved at that meeting or any adjournment of it.	The business, amendment, or formal motion would proceed and be dealt with.	No

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
Suspension of Standing Orders	'That Standing Orders be suspended to ...' (reason must be provided)	Any Councillor may move or second		The rules of the meeting are temporarily suspended for the specific reason given in the motion  No debate or decision on any matter, other than a decision to resume Standing Orders, is permitted	The meeting continues unaffected	No
Resumption of Standing Orders	'That Standing Orders be resumed'	Any Councillor may move or second	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed	The meeting cannot continue	No
Consideration of confidential matter(s) (Close the meeting to members of the public)	That, in accordance with section 66(2)(a) of the <i>Act</i> the meeting be closed to members of the public for the consideration of item xx is confidential as it relates to [insert reason]	Any Councillor may move or second	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
Reopen the meeting	'That the meeting be reopened to members of the public'	Any Councillor may move or second.		The Meeting is reopened to the public	The meeting remains closed to the public	No

## Division 6 – Rescission Motions

### 46. Notice of Rescission

- 46.1 A Councillor may propose a *notice of rescission* provided:
- 46.1.1 it has been signed and dated by at least three Councillors;
  - 46.1.2 the resolution proposed to be rescinded has not been acted on; and
  - 46.1.3 the *notice of rescission* is delivered to the *Chief Executive Officer* within 24 hours of the resolution having been made setting out:
    - (a) the resolution to be rescinded; and
    - (b) the meeting and date when the resolution was carried.

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

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

- 46.2 A resolution will be deemed to have been acted on if:
- 46.2.1 its contents have or substance has been communicated in *writing* to a person whose legal rights and obligations are materially affected; or
  - 46.2.2 a statutory process has been commenced.
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- 46.3 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:
- 46.3.1 has not been acted on; and
  - 46.3.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 46.1.3,
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy, giving rise to non-compliance with a legal obligation or placing the Council at legal, financial or other risk.

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

#### 47. If Lost

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If a motion for rescission is lost, a similar motion may not be put before *Council* for at least three (3) months from the date it was last lost, unless *Council* resolves that the *notice of motion* be re-listed at a future meeting.

#### 48. If Not Moved

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

#### 49. May Be Moved By Any Councillor

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

#### 50. When Not Required

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- 50.1 Unless sub-Rule 50.2 applies, a motion for rescission is not required where *Council* wishes to change policy.
- 50.2 The following standards apply if *Council* wishes to change policy:
- 50.2.1 if the policy has been in force in its original or amended form for less than twelve (12) months, a *notice of rescission* must be presented to *Council*; and
- 50.2.2 any intention to change a *Council* policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.

### Division 7 – Points of Order

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#### 51. Chair To Decide

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- 51.1 Only one point of order can be raised before the *Chair* at any one time.
- 51.2 The *Chair* must decide on points of order in the order in which they are raised.

- 51.3 The *Chair* 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.

## 52. *Chair May Adjourn To Consider*

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

## 53. *Dissent From Chair's Ruling*

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

## 54. *Procedure For Point Of Order*

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A Councillor raising a point of order must:

- 54.1 state the point of order; and
- 54.2 state any section, Rule, paragraph or provision relevant to the point of order before resuming his or her seat.

## 55. *Valid Points Of Order*

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A point of order may be raised in relation to:

- 55.1 a motion, which, under Rule 25 - *Chair's Duty*, or a question which, under Rule 56 - *Question Time*, should not be accepted by the *Chair*;
- 55.2 a question of procedure; or
- 55.3 any act of disorder; or

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

## Division 8 – Public Question Time

### 56. Question Time

- 56.1 There must be a public question time at every *Council meeting* fixed under Rule 11 - Dates and Times of Meetings Fixed by Council to enable members of the public to submit questions to *Council*.
- 56.2 Sub-Rule 56.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the *Act*.
- 56.3 Public question time in the *agenda* will not exceed 15 minutes in duration.
- 56.4 Questions submitted to *Council* must be:
  - (a) Relevant to the business or functions of Council; and
  - (b) Clear and legible.
  - (c) in writing state the name and address of the person submitting the question and generally be in a form approved or permitted by Council; and
  - (d) placed in the receptacle designated for the purpose at the place of the *Council meeting* prior to the commencement of the monthly *Council meeting*
  - (e) Questions submitted on the day of the *Council meeting*, may be taken on notice, included in the current *Council meeting* minutes and responses to those questions will be provided at the next *Council meeting*.
- 56.5 No person may submit more than three (3) questions at any one *Council meeting*. This includes a combined total of three (3) questions for related parties or groups within the *municipal district*.
- 56.6 All reasonable attempts will be made to answer pre-submitted questions at the *Council meeting*. When further time is required to prepare an answer, questions may be taken on notice and responses will be provided at the next *Council meeting*.
- 56.7 If a person has submitted three (3) questions to a meeting, the second and third question:
  - (a) may, at the discretion of the *Chair*, be deferred until all other persons who have asked a question have had their questions asked and answered; or

- (b) may not be asked if the time allotted for public question time has expired.
- 56.8 The *Chair* or a member of Council staff nominated by the *Chair* may read to those present at the meeting a question which has been submitted in accordance with this Rule 56.
- 56.9 Notwithstanding sub-Rule 56.7, the *Chair* may refrain from reading a question or having a question read if the person who submitted the question is not present in the gallery at the time of the meeting when the question is due to be read.
- 56.10 It is at the absolute discretion of the *Chair* to not allow any question. A question may be disallowed by the *Chair* if the *Chair* determines that it:
- (a) relates to a matter outside the duties, functions and powers of *Council*;
  - (b) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - (c) deals with a subject matter already answered;
  - (d) is aimed at embarrassing a Councillor or a member of Council staff;
  - (e) relates to personnel matters;
  - (f) relates to the personal hardship of any resident or ratepayer;
  - (g) relates to industrial matters;
  - (h) relates to contractual matters;
  - (i) relates to proposed developments;
  - (j) relates to legal advice;
  - (k) relates to confidential information as defined under the *Act*; or
  - (l) relates to matters affecting the security of *Council* property;
  - (m) is illegible, vague, not make sense or not be a question; and/or
  - (n) relates to any other matter which *Council* considers would prejudice *Council* or any person.
- 56.11 Any question which has been disallowed by the *Chair* must be made available to any other Councillor upon request.
- 56.12 All questions and answers must be as brief as possible, and no discussion may be allowed other than by *Councillors* for the purposes of clarification.
- 56.13 Like questions may be grouped together and a single answer provided.
- 56.14 The *Chair* may nominate a Councillor or the *Chief Executive Officer* to respond to a question.

- 56.15 A Councillor or the *Chief Executive Officer* may require a question to be put on notice. If a question is put on notice, a *written* copy of the answer will be sent to the person who asked the question.
- 56.16 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.

## Division 9 – Petitions and Joint Letters

### 57. Petitions and Joint Letters

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- 57.1 Members of the community are able to submit a valid petition (or joint letter):
- (a) to a Councillor; or
  - (b) by mail or delivery in person to the Leongatha Council Office and addressed to the *Chief Executive Officer*.
- 57.2 Unless *Council* determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next *Council meeting* after that at which it has been presented.
- 57.3 It is incumbent on every Councillor presenting a petition or joint letter to acquaint himself or herself with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to *Council*.
- 57.4 Every Councillor presenting a petition or joint letter to *Council* must:
- (a) confine himself or herself to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of the prayer or request.
- 57.5 Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least five (5) people and submitted by the lead petitioner with their contact details.
- 57.6 The minutes will capture the name of the Councillor presenting the petition.
- 57.7 Petitions must relate to Council business and not be the responsibility of another authority or body.
- 57.8 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the residential address and signature of every petitioner or signatory must be clearly stated.



- 57.9 Any signature appearing on an individual page which does not bear the text of the whole of the petition (prayer) or request may not be considered by *Council*.
- 57.10 Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 57.11 Petitions or joint letters and/or signatories not provided with the correct details will not be counted as valid pages/petitioners when considered by Council.
- 57.12 If a petition, joint letter, memorial or other like application relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.
- 57.13 Petitions relating to a Planning Permit Application are treated as a formal objection and these will be referred directly to the Planning Team to be considered with any other objections. These objections must comply with section 57 of the *Planning and Environment Act 1987 (Victoria)*.
- 57.14 Petitions relating to a formal submission process undertaken by Council, will be referred directly to the relevant Department and dealt with as a submission to that matter.
- 57.15 To comply with the *Privacy and Data Protection Act 2014 (Victoria)*, personal information provided as part of the petition will only be used for the primary purpose for which it was provided – that is, to consider the petition.

## Division 10 – Voting

### 58. How Motion Determined

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To determine a motion before a meeting, the *Chair* must first call for those in favour of the motion and then those opposed to the motion, and must then declare the result to the meeting.

### 59. Silence

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Voting must take place in silence.

### 60. Recount

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

### 61. Casting Vote

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

### 62. By Show Of Hands

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Voting on any matter is by show of hands by each Councillor.

## 63. Procedure for a Division

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

## 64. No Discussion Once Declared

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

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

*For example, Rule 64 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.*

*Equally, Rule 64 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.*

*Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in sub-Rule 64.2, to discussion about a positive motion were a resolution has just been rescinded.*

## Division 11 – Minutes

### 65. Confirmation of Minutes

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- 65.1 At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
- 65.1.1 a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;
  - 65.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed and voted on at the *Council meeting*;
  - 65.1.3 if a Councillor indicates opposition to the minutes:
    - (a) he or she must specify the item(s) to which he or she objects;
    - (b) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
    - (c) the Councillor objecting must move accordingly without speaking to the motion;
    - (d) the motion must be seconded;
    - (e) the *Chair* must ask:  
*"Is the motion opposed?"*
    - (f) if no Councillor indicates opposition, then the *Chair* must declare the motion carried without discussion and then ask the second of the questions described in sub-Rule 65.1.3(k);
    - (g) if a Councillor indicates opposition, then the *Chair* must call on the mover to address the meeting;
    - (h) after the mover has addressed the meeting, the seconder may address the meeting;
    - (i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
    - (j) if, after the mover has addressed the meeting, the *Chair* invites debate and no Councillor speaks to the motion, the *Chair* must put the motion; and
    - (k) the *Chair* must, after all objections have been dealt with, ultimately ask:

"The question is that the minutes be confirmed" or

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

and he or she must put the question to the vote accordingly;

- 65.1.4 a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed;
- 65.1.5 the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively; and
- 65.1.6 unless otherwise resolved or required by law, minutes of a *Delegated Committee* that has dealt with confidential matters, requiring confirmation by *Council* must not be made available to the public until confirmed by resolution *Council*.

## 66. No Debate on Confirmation Of Minutes

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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.

## 67. Deferral Of Confirmation Of Minutes

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

## 68. Form and Availability of Minutes

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- 68.1 The *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer* to attend the meeting and to take the minutes of such meeting) must keep minutes of each *Council meeting*, and those minutes must record:
  - (a) the date, place, time and nature of the meeting;
  - (b) the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance, or granted leave of absence, or absent without an apology;
  - (c) the names of the members of Council staff present;
  - (d) any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under *Chapter 5*;
  - (e) arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
  - (f) each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
  - (g) the vote cast by each Councillor upon a division;

- (h) the vote cast by any Councillor who has requested that his or her vote be recorded in the minutes;
  - (i) questions upon notice;
  - (j) the failure of a quorum;
  - (k) any adjournment of the meeting and the reasons for that adjournment;
  - (l) the time at which standing orders were suspended and resumed; and
  - (m) any other matter which the *Chief Executive Officer* thinks should be recorded to clarify the intention of the meeting or the reading of the minutes.
  - (n) contain sufficient information to provide for an historical and public record of the Council's activities and decisions.
  - (o) the outcome of every motion needs to state in the minutes, whether it was put to the vote and the result (CARRIED UNANIMOUSLY, CARRIED, LOST, WITHDRAWN, LAPSED or AMENDED) and identification of those motions voted on by secret ballot;
  - (p) for the purpose of determining the result of a vote, a Councillor present at the meeting who does not vote (abstains) is to be taken to have voted against the question. Refer to S.61 (5)(d) and (e) and (6) of the Act for exemptions and application.
- 68.2 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are:
- 68.2.1 published on *Council's* website; and
  - 68.2.2 available for inspection at *Council's* office during normal business hours.
- 68.3 Nothing in sub-Rule 68.2 requires *Council* or the *Chief Executive Officer* to make public any minutes relating to a *Council meeting* or part of a *Council meeting* closed to members of the public in accordance with section 66 of the *Act*.

## Division 12 – Behaviour

### 69. Public Addressing The Meeting

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

## 70. *Chair May Remove*

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The *Chair* may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 69.2.

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

## 71. *Chair may adjourn disorderly meeting*

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If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of sub-Rules 17.2 and 17.3 apply.

## 72. *Removal from Chamber*

---

The *Chair*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer* or a member of the Victoria Police or an officer authorised by the *Chief Executive Officer*, to remove from the Chamber any person who acts in breach of *this Chapter* and whom the *Chair* has ordered to be removed from the gallery under Rule 73.

## Division 13 – Additional Duties of Chair

## 73. *The Chair's Duties and Discretions*

---

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

- 73.1 must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community;
- 73.2 must call to order any person who is disruptive or unruly during any meeting.
- 73.3 must allow the *Chief Executive Officer* the opportunity to correct factual errors or incorrect assumptions that arise during the meeting;
- 73.4 may direct that the vote be re-counted to be satisfied of the result; and.
- 73.5 must decide on all points of order, in the order they are called.

## Division 14 – Suspension of Standing Orders

### 74. Suspension of Standing Orders

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

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

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

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

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

74.3 In circumstances where Council requests staff to leave the *Council meeting*, the minute taker must remain present during the suspension of standing orders. If the minute taker is to be excluded also, then the Council should adjourn the meeting.

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

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

*"That standing orders be resumed."*

## Division 15 – Miscellaneous

### 75. Meetings Conducted Remotely

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If:

75.1 by law a meeting may be conducted electronically; and

75.2 *Council* decides that a meeting is to be conducted electronically,

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

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

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

## 77. Chief Executive Officer

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- 77.1 The *Chief Executive Officer* or delegate, may participate in the meeting to provide support to the *Chair*;
- 77.2 The *Chief Executive Officer* should immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law, advise if there are operational, financial or risk implications arising from a proposed resolution and help clarify the intent of unclear resolutions to facilitate implementation;
- 77.3 The *Chief Executive Officer* or delegate may, on request, assist with procedural issues that may arise;
- 77.4 The *Chief Executive Officer* may make a brief statement at a *Council meeting* in respect of any statement by a Councillor made at the *Council meeting* criticising him or her or any member of Council staff.
- 77.5 A statement under sub-Rule 77.4 must be made by the *Chief Executive Officer*, through the *Chair*, as soon as it practicable after the Councillor who made the statement has resumed his or her seat; and
- 77.6 Where a resolution of Council, following a vote, leaves the action in indeterminate state (limbo), the *Chief Executive Officer* may ask for an alternative motion to be developed by Council, or for Council to call for an Officer's report.



## Chapter 3 – Meeting Procedure for Delegated Committees and Joint Delegated Committees

### 78. Meeting Procedure Generally

---

If *Council* establishes a *Delegated Committee* or *joint Delegated Committee*:

78.1 all of the provisions of *Chapter 2* apply to meetings of the *Delegated Committee*; and

78.2 any reference in *Chapter 2* to:

- (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) the Mayor is to be read as a reference to the *Chair* of the *Delegated Committee*.

### 79. Meeting Procedure Can Be Varied

---

Notwithstanding Rule 1, if *Council* establishes a *Delegated Committee* or *joint Delegated Committee* that is not composed solely of South Gippsland Shire Council Councillors:

79.1 Council may; or

79.2 the *Delegated Committee* or *joint Delegated Committee* may, with the approval of *Council*.

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

## Chapter 4 – Meeting Procedure for Community Asset Committees

### 80. Introduction

---

In *this Chapter 4*, “Instrument of Delegation” means an instrument of delegation made by the *Chief Executive Officer* under section 47(1)(b) of the *Act*.

### 81. Meeting Procedure

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

## Chapter 5 – Disclosure of Conflicts of Interest

### 82. Introduction

---

The following Rules in *this Chapter 5* apply only upon Division 1A of Part 4 of the *Local Government Act 1989* being repealed.\*

### 83. Definition

---

In *this Chapter*:

83.1 “meeting conducted under the auspices of *Council*” means a meeting of the kind described in section 131(1) of the *Act*, and includes a meeting referred to in Rule 93 of *Chapter 7* (whether such a meeting is known as a ‘Councillor Strategic Briefing’ or by some other name); and

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

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

---

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

84.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting* immediately before the matter is considered; or

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

- (a) advising of the conflict of interest;
- (b) explaining the nature of the conflict of interest; and
- (c) detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:
  - (i) name of the other person;
  - (ii) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
  - (iii) nature of that other person’s interest in the matter.

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

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

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

## 85. Disclosure of Conflict of Interest at a Delegated Committee and Joint Delegated Committee Meeting

---

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

- 85.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Delegated Committee and joint Delegated Committee* meeting immediately before the matter is considered; or
- 85.2 intends to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Delegated Committee and joint Delegated Committee* meeting commences a written notice:
- (a) advising of the conflict of interest;
  - (b) explaining the nature of the conflict of interest; and
  - (c) detailing, if the nature of the conflict of interest involves a member of a *Delegated Committee and joint Delegated Committee's* relationship with or a gift from another person the:
    - (i) name of the other person;
    - (ii) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- 5.1.2 nature of that other person's interest in the matter,
- and then immediately before the matter is considered at the meeting announcing to those present that he or she has a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.
- 85.3 The member of a *Delegated Committee* must, in either event, leave the *Delegated Committee and joint Delegated Committee* meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the matter has been disposed of.

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

---

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

- 86.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Community Asset Committee* meeting immediately before the matter is considered; or

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

- (a) advising of the conflict of interest;
- (b) explaining the nature of the conflict of interest; and
- (c) detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
  - (i) name of the other person;
  - (ii) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- (d) nature of that other person's interest in the matter,

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

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

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

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

- 87.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting immediately before the matter is considered;
- 87.2 absent himself or herself from any discussion of the matter; and
- 87.3 as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.

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

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88.1 A member of Council staff who, in his or her capacity as a member of Council staff, has a conflict of interest in a matter in respect of which he or she is preparing or contributing to the preparation of a Report for the consideration of a:

- (a) *Council meeting*;
- (b) *Delegated Committee and joint Delegated Committee meeting*;
- (c) *Community Asset Committee meeting*

must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* disclosing the conflict of interest and explaining the nature of the conflict of interest.

88.2 The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 88.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

88.3 If the member of Council staff referred to in sub-Rule 88.1 is the *Chief Executive Officer*:

- (a) the written notice referred to in sub-Rule 88.1 must be given to the *Mayor*; and
- (b) the obligation imposed by sub-Rule 88.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

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89.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.

89.2 If the member of Council staff referred to in sub-Rule 89.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

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

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90.1 A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an *Act* by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.

90.2 If the member of Council staff referred to in sub-Rule 90.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

## 91. Retention of Written Notices

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

## Chapter 6 – Common Seal

### 92. The Common Seal of Council

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- 92.1 The Common Seal may be used only on the authority of the Council.
- 92.2 The *Chief Executive Officer* must ensure that the Common Seal is kept in safe custody at the Council office.
- 92.3 Every document to which the Seal is affixed must be signed by the *Chief Executive Officer*.
- 92.4 Unauthorised use of the Seal:
- (a) No person may use the Common Seal or any device resembling the Common Seal without the authority of the Council.
  - (b) The Council's Common Seal may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the *Chief Executive Officer* or some other senior officer authorised by him or her.
  - (c) Council may, by resolution, give the *Chief Executive Officer* authority to use the Common Seal for general classes of activities or transactions.
  - (d) If the *Chief Executive Officer* uses the Common Seal in a manner prescribed by sub-clause (c) then he/she must advise Council of such use on a regular basis.

## Chapter 7 – Miscellaneous

### 93. Informal Meetings of Councillors

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If there is a meeting of three (3) or more Councillors that:

- 93.1 is scheduled or planned for the purpose of discussing the business of *Council* or briefing Councillors. These may include;
- (a) Strategic Briefings to Councillors on matters likely to come before Council for a decision;
  - (b) Sessions where members of the public are invited to present to Council, or
  - (c) Sessions where members of the public are invited to listen to an open Strategic Briefing.
- 93.2 is attended by at least one member of Council staff; and
- 93.3 is not a *Council* meeting, *Delegated Committee* meeting or *Community Asset Committee* meeting.

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

- 93.4 tabled at the next convenient *Council meeting*; and
- 93.5 recorded in the minutes of that *Council meeting*.

### 94. Confidential Information

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- 94.1 If, after the repeal of section 77(2)(c) of the *Local Government Act 1989*, the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the *Act*, he or she may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 94.2 Information which has been designated by the *Chief Executive Officer* as confidential information within the meaning of the *Act*, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.



## Chapter 8 – ELECTION PERIOD POLICY

### 95. Election Period Policy

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- 95.1 Council's *Election Period Policy* is to be read in conjunction with these *Governance Rules*. Council's *Election Period Policy* is available on Council's website and is made available in **Attachment 1** of these *Governance Rules*.
- 95.2 Council will have in place an election period policy that:
- (a) Governs decision making during a Local Government election period, including what may be considered at a *Council meeting*
  - (b) Prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
  - (c) Sets out the conditions for any community engagement required to be undertaken during an election period, including consultations, 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 materials that relate to issues that are the subject of election campaigns
  - (e) Defines roles and responsibilities in relation to who is the spokesperson for Council during an election period
  - (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.
- 95.3 At least once in each Council term and, not later than twelve (12) months prior to the commencement of an election period, Council will review its election period policy.
- 95.4 The operation of Council Advisory Committees shall be suspended upon the commencement of the election period ahead of a general Council election.
- 95.5 Any outstanding Delegate's Reports may still be reported to a *Council meeting* during this period.
- 95.6 Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

**ATTACHMENT 1 – ELECTION PERIOD POLICY**