

SOUTH GIPPSLAND SHIRE COUNCIL

GOVERNANCE RULES 2022

OCTOBER 2022



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 (Act)*.

- (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) of the *Act*;
- (b) A Council must in the performance of its role give effect to the overarching governance principles specified in section 9(1) of the *Act*.

2. Date of Commencement

These *Governance Rules* commence on 1 September 2020.

3. Contents

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

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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*.

Rules and Sub-rules mean these *Governance Rules* and the clauses contained within them.

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) of the *Act*.

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:
- 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

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

- (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

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

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

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

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

2. Purpose of this Chapter

The purpose of this Chapter is to:

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

3. Definitions and Notes

3.1 In this Chapter:

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

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

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

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

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

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

"*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*

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*)

- 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

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*

- 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 Should no submissions be received, the *Chair* will call for final nominations prior to the commencement of the meeting being conducted and will then declare the nominations closed before the meeting begins. If no nominations are received, the *Chair* will call for nominations at the meeting.

- 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 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

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

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

- 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*

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

- 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*)

- 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) 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

- 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 day's 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*

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

The *majority* means the number of Councillors which is greater than half the total number of the Councillors of a *Council*. For example; with nine (9) Councillors a majority 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*

- 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

- 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

- 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

- 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

- 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

- 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

- 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:
- (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*

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

24. Notice Of Motion

- 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*

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*

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*

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

- 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

- 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

- 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

- 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

- 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

- 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

- 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

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

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

37. Priority of address

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

38. Motions In *Writing*

- 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

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

- 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

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

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

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

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

- 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 <i>agenda</i> /motion would remain the same content.	Debate continues unaffected	Yes, but only as to time, date and place of the proposed adjournment.

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
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 <i>Council</i>.</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 <i>Council</i> 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>	<p>No</p>

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 <i>Council</i> until such time (if any) as the <i>Council</i> resolves (by ordinary motion) to take the question from the table.	Prevents debate on the current matter before the <i>Council</i> 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 <i>Council</i> .	Council continues to consider the previous motion that is before <i>Council</i> .	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 <i>Mayor</i> , 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 <i>agenda</i> . 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 <i>Mayor/Deputy Mayor</i>	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).

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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

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

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

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

50. When Not Required

- 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

51. Chair To Decide

- 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**

- 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**

- 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**

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

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.

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.
 - (c) In relation to section (a) preference will be give to questions asked by persons who have not submitted a question in the previous 12 months.
- 56.8 The *Chair* or a member of Council staff or Councillor nominated by the *Chair* may read to those present at the meeting a question which has been submitted in accordance with this sub-clause 56. The order in which questions will be read will be at the discretion of the *Chair*, preference will be given to questions asked by persons who have not submitted a question in the previous 12 months.
- 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

- 57.1 Members of the community are able to submit a valid petition (or join 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.
- 57.16 An E-Petition may be accepted, if the E-Petition meets all the requirements specified in sub-clause 57.

Division 10 – Voting

58. How Motion Determined

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

59. Silence

Voting must take place in silence.

60. Recount

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

61. Casting Vote

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

62. By Show Of Hands

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

63. Procedure for a Division

- 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

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

- 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

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

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

- 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

- 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

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

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

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

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. Requests to Attend Council Meetings and Meetings of Delegated Committees Remotely

- 76.1 A Councillor or member of a *Delegated Committee* may attend and be considered present by electronic means of communication subject to the approval of the *Mayor* or Chairperson and the *Chief Executive Officer* and in accordance with sub-clause 76.2 and 76.3.
- 76.2 A Councillor or member of a *Delegated Committee* must be able to be seen and heard to be considered present at the meeting.
- 76.3 The *Mayor* or *Chairperson* and the *Chief Executive Officer* may refuse a request to attend by electronic means, if the required technology is not available at the designated meeting location to facilitate electronic attendance.
- 76.4 It will remain the responsibility of the Councillor or member of a *Delegated Committee* attending by electronic means to ensure that they have the required access and environment suitable for electronic communications.

77. Procedure not provided in *this Chapter*

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

78. Chief Executive Officer

- 78.1 The *Chief Executive Officer* or delegate, may participate in the meeting to provide support to the *Chair*;
- 78.2 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;
- 78.3 The *Chief Executive Officer* or delegate may, on request, assist with procedural issues that may arise;
- 78.4 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.
- 78.5 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
- 78.6 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

1. Meeting Procedure Generally

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

- 1.1 all of the provisions of *Chapter 2* apply to meetings of the *Delegated Committee*; and
- 1.2 any reference in *Chapter 2* to:
 - (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*.

2. Meeting Procedure Can Be Varied

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

- 2.1 *Council* may; or
- 2.2 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

1. 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*.

2. Meeting Procedure

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

Chapter 5 – Disclosure of Conflicts of Interest

1. Introduction

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

2. Definition

In this Chapter:

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

3. 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:

- 3.1 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
- 3.2 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*:
- 3.2.1 advising of the conflict of interest;
- 3.2.2 explaining the nature of the conflict of interest; and
- 3.2.3 detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:
- (a) name of the other person;
- (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- (c) nature of that other person’s interest in the matter.

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

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.

* At the time of making these Governance 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.

4. 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:

- 4.1 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
- 4.2 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:
 - 4.2.1 advising of the conflict of interest;
 - 4.2.2 explaining the nature of the conflict of interest; and
 - 4.2.3 detailing, if the nature of the conflict of interest involves a member of a *Delegated Committee* and *joint Delegated Committee's* relationship with or a gift from another person the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - 4.2.4 nature of that other person's interest in the matter,and then immediately before the matter is considered at the meeting announcing to those present that 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.
- 4.3 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.

5. 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:

- 5.1 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
- 5.2 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:

- 5.2.1 advising of the conflict of interest;
- 5.2.2 explaining the nature of the conflict of interest; and
- 5.2.3 detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- 5.2.4 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.

- 5.3 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.

6. Disclosure at a Meeting Conducted Under the Auspices of Council

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

- 6.1 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;
- 6.2 absent himself or herself from any discussion of the matter; and
- 6.3 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.

7. Disclosure by Members of Council Staff Preparing Reports for Meetings

- 7.1 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:
 - 7.1.1 *Council meeting*;
 - 7.1.2 *Delegated Committee and joint Delegated Committee meeting*;
 - 7.1.3 *Community Asset Committee meeting*.

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

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

- 7.3 If the member of Council staff referred to in sub-Rule 7.1 is the *Chief Executive Officer*:
- 7.3.1 the *written* notice referred to in sub-Rule 7.1 must be given to the *Mayor*; and
- 7.3.2 the obligation imposed by sub-Rule 7.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

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

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

- 9.1 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.
- 9.2 If the member of Council staff referred to in sub-Rule 9.1 is the *Chief Executive Officer* the *written* notice must be given to the *Mayor*.

10. Retention of *Written* Notices

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

Chapter 6 – Common Seal

1. The Common Seal of Council

- 1.1 The Common Seal may be used only on the authority of the *Council*.
- 1.2 The *Chief Executive Officer* must ensure that the Common Seal is kept in safe custody at the Council office.
- 1.3 Every document to which the Seal is affixed must be signed by the *Chief Executive Officer*.
- 1.4 Unauthorised use of the Seal:
 - 1.4.1 No person may use the Common Seal or any device resembling the Common Seal without the authority of the *Council*.
 - 1.4.2 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.
 - 1.4.3 *Council* may, by resolution, give the *Chief Executive Officer* authority to use the Common Seal for general classes of activities or transactions.
 - 1.4.4 If the *Chief Executive Officer* uses the Common Seal in a manner prescribed by sub-clause 1.4.3 then he/she must advise *Council* of such use on a regular basis.

Chapter 7 – Miscellaneous

1. Informal Meetings of Councillors

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

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

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

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

2. Confidential Information

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

Chapter 8 – ELECTION PERIOD POLICY

1. Election Period Policy

- 1.1 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*.
- 1.2 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.
- 1.3 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.
- 1.4 The operation of *Council Advisory Committees* shall be suspended upon the commencement of the election period ahead of a general Council election.
- 1.5 Any outstanding Delegate's Reports may still be reported to a *Council meeting* during this period.
- 1.6 *Council* Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

REVISION HISTORY

Version	Approved By	Approval Date	Sections Modified	CM9 Ref#
1.0	Council	26 August 2020	New Policy as per Local Government Act 2020	D8157120
1.1	Council	19 October 2022	Policy reviewed in relation to Virtual Attendance following LG Act 2020 Regulatory Legislation Amendment (Reform) Act 2022 (live streaming), Public Question Time, E-Petitions, Election of Mayor/Deputy Mayor	D9313822



ELECTION PERIOD POLICY

Policy Number	C30
Council Meeting Date	26 August 2020
Next Review Date	July 2023

GOOD GOVERNANCE FRAMEWORK – COUNCIL ELECTION PERIOD POLICY

Overarching Principle

The Election Period Policy sets out the requirements to manage Council's functions and responsibilities during the election period.

This policy forms part of the Governance Rules and is an integral part of the 'Decision Making' pillar of the Good Governance Framework.

1. PURPOSE

The *Election Period Policy C30* (the Policy) has been developed to ensure the general elections for the South Gippsland Shire Council are conducted in a manner that is ethical, fair and equitable, and are publicly perceived as such.

Councils must prepare, adopt and maintain a Council *Election Period Policy* in accordance with section 69 of the *Local Government Act 2020* (2020 Act).

2. SCOPE

This Policy applies to the Council, Delegated Committees of Council, Community Asset Committees, Advisory Committees, all Councillors regardless of whether or not they are nominating as a candidate, the Chief Executive Officer, Staff or a person acting under delegation given by the Council.

The Policy also applies to members of the public nominating or running as Candidates, where applicable.

If this Policy or parts thereof is inconsistent with the Regulations, Practice Notes and guidance provided by Local Government Victoria, these latter requirements shall prevail.

3. POLICY STATEMENT – PART 1 - PROHIBITIONS ON MAJOR POLICY DECISIONS

3.1 Background

The Policy facilitates the continuation of the ordinary business of Council throughout the election period in a reasonable and transparent manner, in accordance with statutory requirements and established caretaker conventions.



Council will ensure that its actions (both actual and perceived) in the election period immediately prior to a Council election are consistent with good governance practices and that it will avoid making significant policy decisions or resolving matters that would be more appropriately determined by the incoming Council.

Council will commit to ensuring resources including staff, equipment, vehicles and materials are not used in election campaigning, or in a way that may improperly influence an election, or improperly advantage existing Councillors and/or Candidates in the election.

3.2 Improper Use of Position

Section 123 of the 2020 Act prohibits Councillors from misusing or making inappropriate use of their position. A breach of section 123 attracts serious penalties, including possible imprisonment.

Councillors, Candidates and Staff are advised that Council is obliged to assist fully in the investigation of any matters arising from the election.

3.3 Prohibitions on Major Policy Decisions

Councils are prohibited under section 69(2) of the 2020 Act from making major policy decisions during the election period that:

1. relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
2. commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
3. the Council considers could be reasonably deferred until the next Council is in place; or
4. the Council considers should not be made during an election period.

A Council decision made in contravention of 3.3(1) or (2) is invalid.

The Council must also prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of 3.3(4) is entitled to compensation from the Council for that loss or damage (refer to section 59 in the 2020 Act in relation to a resolution of the Council).

These are explained in greater detail further below.

3.4 Chief Executive Officer Employment and Remuneration

Council will not, during the election period, make a decision:

- a. To employ a Chief Executive Officer (CEO);
- b. To terminate the CEO's employment;
- c. To vary the CEO's contract; or
- d. To alter the remuneration of the CEO.

Council may appoint an acting CEO, if necessary, during the election period.



3.3.1 Entering into Contracts

Council will not enter into a contract that will, or is likely to, commit the Council to expenditure exceeding one per cent of the Council's income from general rates and charges, municipal charges and service rates and charges in the preceding financial year.

Council may consider deferring other major expenditure commitments that can reasonably be deferred to the next Council.

3.6 Extraordinary Circumstances

If the Council considers that there are extraordinary circumstances which require the making of a major policy decision during the election period, the Council may apply in writing to the Minister for an exemption.

If the Minister is satisfied that there are extraordinary circumstances, the Minister may grant an exemption subject to any conditions or limitations the Minister considers appropriate.

An application for a Ministerial direction should demonstrate that the following apply:

1. The consequences of failing to make the decision would have serious negative impact on the community.
2. The decision cannot be delayed until after the election period.
3. The Council has been unable to make the decision prior to the election period or the need to make the decision prior to the election period was unforeseeable.

If an application is made it should include the following:

- a. Details of the matter to be addressed by the proposed decision along with reasons why the decision is important and urgent.
- b. A description of the degree of political sensitivity involved in the matter and whether it is likely to be an issue in the Council election.
- c. Details of any funding being provided by State or Federal Government, along with contact details for the relevant agency.
- d. An explanation of why the matter could not have been, or was not, resolved prior to the commencement of the election period.
- e. An explanation of why the decision cannot be delayed until after the election period.
- f. An extract from the Council minutes recording the Council resolution to seek an exemption.

3.7 Decisions Permissible Under Legislation

1. Council may not delay a decision that is required within a specified time frame by legislation e.g. planning decisions with timelines specified under the *Planning and Environment Act 1987*, or decisions required by the *Local Government Act 2020*, such as the preparation of an Annual Report.

4. POLICY STATEMENT - PART 2 - PREVENTION AND CONTROLS

The Policy must include procedures to prevent inappropriate decision making and inappropriate use of resources.



The 2020 Act also requires under section 304 of the 2020 Act prohibitions on publishing electoral material during the election period. Penalty points are applicable for breaches under the 2020 Act.

To this end the following requirements apply:

4.1 Prevention of Inappropriate Decisions

1. A Councillor or member of Council staff must not use Council resources in a way that—
 - a. is intended to; or
 - b. is likely to—
affect the result of an election under this Act.
2. A Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.
3. To facilitate these requirements Council will not during the election period:
 - a. Allocate community grants or other forms of direct funding for community organisations.
 - b. Approve major planning scheme amendments.
 - c. Adopt new or revised policy directions or strategic plans.
 - d. Make changes to strategic objectives or strategies in the Council Plan.
4. During the election period the Council will not make significant decisions that bind the incoming Council except where:
 - a. the issue is urgent
 - b. it is considered absolutely necessary for Council operational purposes or pursuant to statutory requirements;
 - c. failure to make a decision would be a breach of legislative requirements;
 - d. the issue cannot be reasonably deferred without major negative repercussions; or
 - e. the decision relates to the completion of an activity already undertaken and endorsed by Council e.g. via the Budget, Council Plan, approving Meeting Minutes and ordinary procedural reports etc.
5. It shall be the responsibility of the CEO to determine whether a matter meets these criteria.

4.2 Prevention of Misuse of Resources

The Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in that regard. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice will be sought from the CEO as to the nature of the usage.



The following protocols shall apply during the election period:

1. Use of Council Resources

Council resources, including vehicles, offices, support staff, hospitality services, equipment and stationery will be used exclusively for normal Council business during the election period, and will not be used in connection with any election matter. Similarly, Council funded telephones and e-mail addresses are not to be used by Councillors as contact points in their election campaign material.

2. Council Reimbursements

Reimbursement of Councillors' out-of-pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal (required) Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.

3. South Gippsland Shire Council Branding

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

4. Councillor Title Use

Councillors may use the title "Councillor" in their personal election material, as they continue to hold their positions in the period, however to avoid confusion Councillors are required to ensure where they use the title 'Councillor' in their publications they clearly indicate it is their own material and does not represent Council.

4.3 Authors to be identified

1. Under s.290 (1) of the 2020 Act a person must not during the election period—
 - a. print, publish or distribute; or
 - b. cause, permit or authorise to be printed, published or distributed—
a newspaper, circular or pamphlet containing an article, report, letter or other matter containing electoral matter unless the author's name and address are set out at the end of the article, report, letter or other matter, or if only part of the article, report, letter or other matter appears in any issue of a newspaper, circular or pamphlet at the end of that part.

Penalty points apply under s.290 (1) of the 2020 Act for breaches of this clause (2).

2. Under s.290 (2) of the 2020 Act s.290 (1) does not apply to the publication in a newspaper of—
 - (a) a leading article; or
 - (b) an article that consists solely of a report of a meeting and does not contain electoral matter, other than comment made by a speaker at the meeting.
3. Under s.290 (3) of the 2020 Act it is sufficient compliance with s.290 (1) if a newspaper containing a letter containing electoral matter sets out—
 - (a) the author's name; and
 - (b) the suburb or locality in which the author's address is located.



4.4 Prevention of Unnecessary Publicity

It is recognised that Council publicity is intended to promote Council activities and services. Council publicity will not be used in any way that might influence the outcome of a Council election.

During the election period, no Council employee may make any public statement that could be construed as influencing the election. This does not include statements of clarification that are approved by the CEO.

4.5 Prevention of Council Media Services Access

Council's Communications team undertake the promotion of Council activities and initiatives. Council publicity during the election period will be restricted to communicating normal Council activities and responses to customer needs and will be subject to certification by the CEO.

Any requests for media advice or assistance from Councillors during the election period will be channelled through the CEO. No media advice or assistance will be provided in relation to election campaign matters, or in regard to publicity that involves specific Councillors or Candidates.

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

4.6 CEO Certification of Publication Materials – Section 290 and Section 304

Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice during the election period unless the publication has been certified, in writing, by the CEO.

Councillors or members of Council staff must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period on behalf of, or in the name of, a Councillor using Council resources if the electoral advertisement, handbill, pamphlet or notice has not been certified by the CEO.

Certifications by the CEO will be in writing on or affixed to a copy of the publication and be in the following form:

'Certified by the Chief Executive Officer in accordance with section 290 and section 304 of the Local Government Act 2020'

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

The following protocols shall apply during the election period:

1. Website
 - a. Material published on Council's website in advance of the election period is not subject to certification. Existing material that is prominently displayed will be reviewed and consideration given to its removal if it would be considered electoral material, were it to be published during the election period.
 - b. Councillors' names and contact information will remain on the website during the election period, but Councillors' profiles will be removed.



2. Social Media

- a. Social media will continue to be used by Council staff to respond to general customer service information provision. These responses will be certified by the CEO.
- b. To facilitate timely responses, a series of standard statements, pre-certified by the CEO, will be used where applicable.
- c. Staff responsible for administering individual social media sites will monitor their respective sites during the election period and use moderation features where available, such as approved standard statements, to ensure no electoral matter is posted.
- d. Any social media posting from the community or candidates that may influence the election outcome will be removed as soon as practicable.

3. Council Agendas, Minutes and Briefing Papers

- a. Council Agendas, Minutes and Briefing Papers do not require certification by the CEO unless they are printed and published for a wider distribution than normal.
- b. All reports and briefing papers during the election period will include a statement verifying that they do not breach section 69 and section 304 of the 2020 Act.

4. Annual Report

The Annual Report will be prepared, endorsed and published during the election period. This document does not require certification, however the CEO will check and approve the use of pictures and content, in order to remove items that could be construed as electioneering. Councillors' names and details will be included in the Annual Report without photographs.

Guidance about publications and resources is contained in **Attachment 1** of this Policy.

5. POLICY STATEMENT - PART 3 - LIMITING PUBLIC CONSULTATION AND COUNCIL EVENTS

The Policy must include procedures to prevent limits on public consultation and the scheduling of Council events. To this end the following requirements apply:

5.1 Public Meetings, Community Consultation and Events

Scheduling public consultations and events in the lead up to elections frequently raises concerns over their potential use by sitting Councillors and Candidates for electioneering purposes. To this end Council will ensure elections are not compromised by inappropriate electioneering and will safeguard the authority of the incoming Council by placing restrictions on the opportunities Councillors or members of the public have to promote themselves or political issues that may influence election outcomes.

1. Council Meetings, Briefings and Public Presentation Session

- a. Councillor Reports, Public Question Time conducted at Council Meetings and Public Presentation Sessions will not be used by Councillors or Candidates for actual or perceived electioneering activities. The CEO and/or Mayor may call an immediate stop to a speaker, and/or not release documentation provided by speakers considered by them to be misusing Council resources for potential electioneering purposes at these times.



- b. Councillors may speak to Agenda items of any Council Meetings and/or Special Council Meetings and Briefings held during the election period.
- c. Council will limit speakers at Public Presentation sessions held in the election period to discussion of topics that are on the Council Agenda for that month. If there are no speakers to the Agenda then the Public Presentation sessions may be cancelled by the CEO.
- d. External speakers wishing to present to Council at a Public Presentation session during the election period must provide the Council Business Officer with a list of the topics to be raised when booking a time and provide a copy of any documents or power point presentations they wish to use at the session. These topics and documents will be considered by the CEO as to their relevance to the Council Agenda. The Speaker will be advised of any items not relevant to the Agenda that cannot be raised and encourage the Speaker to book a time to present to the newly elected Council at the next appropriate session.

2. Public Consultation

- a. Council will not conduct community consultation activities during election periods, excluding those required for statutory purposes that cannot be delayed until after the election period.
- b. The CEO is to approve in writing any consultation activities that may be held at any time during the election period. Permission must be gained prior to commencement or advertisement of the activity.

3. Community Events

Council will limit community events as far as practicable during the election period to those normally held on a periodic basis; such as Coal Creek markets and annual festivals. The CEO is to approve in writing any new community events that have to be held during this election period. Permission must be gained prior to commencement or advertisement of the activity.

4. Speeches

Any required speeches to be made on behalf of Council by the Mayor, Councillors, CEO or Staff during the election period will be scripted and certified by the CEO prior to the event.

5. Councillor Community Meetings

Councillors will not hold any community meetings or gatherings under the auspice of Council, or use any Council resources for such events during the election period.



6. POLICY STATEMENT - PART 4 - ACCESS TO COUNCIL INFORMATION FOR COUNCILLORS AND CANDIDATES

Council's *Election Period Policy*, prepared in accordance with section 69 of the 2020 Act, is required to include procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.

To this end the following requirements apply:

6.1 Access to Information

The Council recognises that all election candidates have the right to access information from the Council administration, subject to the *Privacy and Data Collection Act 2014*.

Neither Councillors nor Candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the election period.

Councillors will continue to receive information that is necessary to fulfil their elected roles, particularly in regard to information relating to Council Agenda and Briefing Paper items currently under consideration.

6.2 Provision of Council Information to Councillors and Candidates

1. Information and briefing material prepared by staff for Councillors during the election period will relate only to factual matters or existing Council services. Such information will not relate to policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.
2. Where a Councillor wishes to request information for their use as a Councillor (e.g. a briefing from Council Officers, access to information on Council files) the Councillor must make the request through the CEO or the relevant Director. This protects both Councillors and Officers from any accusation of "inappropriate interaction" and/or "undue influence". It also allows the relevance of the information requested to be determined in relation to current Council business.
3. Council staff will not directly provide Councillors or Candidates with information but will refer any direct requests for information to the appropriate Director, or the CEO on broader matters during the election period.

6.3 Information Request Register

An Information Request Register (Register) will be maintained during the election period. This Register will be a public document that records all requests relating to electoral matters and non-routine requests for information by Councillors and Candidates, and the responses given to those requests.



6.4 Freedom of Information Requests

Applications for information under the *Freedom of Information Act (Victoria) 1982* will be dealt with in the normal manner. Their requirements are outlined in the Freedom of Information Act 1982.

6.5 Assistance to Candidates

The Council affirms that all Candidates for the Council election will be treated equally.

Any assistance and advice to be provided to Candidates as part of the conduct of the Council election will be provided equally to all Candidates. The types of assistance that are available will be documented and communicated to all Candidates in advance.

All election related enquiries from Candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Victorian Electoral Commission, CEO or a designated member of Council staff depending on the matter.

7. RISK ASSESSMENT

This Policy enables:

1. Council, Councillors, Candidates and Council Staff to understand their requirements and obligations.
2. Council to demonstrate its commitment to probity in its elections.
3. Community confidence and public trust in Council to be maintained or improved.
4. Council to address matters that may not be explicitly captured in the 2020 Act and, when followed will mitigate the likelihood of any breaches of the 2020 Act.
5. Control measures to be in place that ensure Council resources are not used for electoral or campaigning purposes.

8. IMPLEMENTATION STATEMENT

1. The CEO is responsible for determining any issues that arise in the implementation of this Policy.
2. The election period:
 - a. Starts at the time that nominations close on nomination day; and
 - b. Ends at 6.00pm on election day.
3. As soon as practical and no later than one month prior to the commencement of the election period, the CEO will ensure that all Councillors and staff are informed of the requirements of this Policy.
4. All Delegated Committees, Community Asset Committees and appointed Advisory Committees of Council will be provided with a copy of this Policy and encouraged not to hold formal Committee meetings during the election period. If



formal Committee meetings are required in the election period the Committee must ensure it follows the requirements of this Policy.

5. All staff have a responsibility to monitor the implementation of this Policy and immediately refer any departures or deviations from this Policy to the CEO.
6. A copy of the Policy will be provided to the Victorian Electoral Office for inclusion in the Candidates' kit.
7. The Policy will be published on Council's website www.southgippsland.vic.gov.au.

POLICY OWNERSHIP	
Directorate	Corporate & Community Services – Council Business
SUPPORTING INFORMATION	
Legislative Provisions	Charter of Human Rights and Responsibilities Act 2006 Equal Opportunity Act 2010 Freedom of Information Act 1982 Gender Equality Act 2020 Local Government Act 2020 Local Government Act 2020 - Part 8 Electoral Provisions and associated regulations Local Government (General) Regulations 2015 Local Government (Planning and Reporting) Regulations 2014 Ombudsman Act 1973 Privacy and Data Protection Act 2014 Protected Disclosure Act 2012
Council Supporting Documents	CEO Employment and Remuneration Policy C71 Community Engagement Strategy Community Engagement Policy C06 Complaint Handling Policy C64 Council Plan 2020-2024 Councillor Code of Conduct 2017 Councillor Access to and Request for Information Policy C66 Councillor Support and Expenditure Policy C51 Election Period Policy C30 Fraud and Corrupt Conduct Policy C19 Governance Rules 2020 Human Rights Policy C52 Information Privacy Policy C22 Live Streaming of Council Meetings Policy C67 Local Law No 2 2020 – Meeting Procedure and Common Seal Policy Framework Policy C72 Procurement Policy C32 Protected Disclosure Guidelines Public Participation in Meetings with Council Policy C65 Rates and Charges Hardship Policy C53 Risk Management Policy and Framework C35 Staff Code of Conduct 2017 Social Media Policy CE75 South Gippsland Shire Council Governance Framework Sound Recording of Council Meetings C48
Related Documents	Practice Notes and guidance prepared from time to time by the Department of Environment, Land, Water and Planning (DEWLP) and Local Government Victoria
File Number	TRIM Ref: D543819
DEFINITIONS	
The following list of definitions have been derived from the <i>Local Government Act 2020</i> , section 3(1) Definitions.	
Candidate	Is a person who has nominated themselves with the Victorian Electoral Commission and is seeking election as a Councillor.



CEO / Chief Executive Officer	The person appointed by a Council under s.44 to be its Chief Executive Officer or any person acting in that position.
Councillor	A person who holds the office of member of a Council.
Electoral Matter	<p>Electoral matter refers to any electoral material which is intended to affect voting in an election. It does not include:</p> <ul style="list-style-type: none"> • Any electoral material produced by, or on behalf of, the Victorian Electoral Office or Returning Office for the purposes of conducting an election; • An advertisement in a newspaper announcing the holding of a meeting. • It does include material that: <ul style="list-style-type: none"> • Publicises the strengths or weaknesses of a Candidate; • Advocates the policies of the Council or of a Candidate; • Responds to claims made by a Candidate; or • Publicises the achievements of the elected Council.

Election Period	Is the period that – a. Starts at the time that nominations close on nomination day; and b. Ends at 6 pm on election day”.
Electoral Material	An advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.
Public Consultation	Means a process that involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy, and includes discussion of the matter with the public.
Significant / Major Policy Decision	Means an irrevocable decision that significantly affects the municipality.

REVISION HISTORY

Policy Review	In accordance with Council’s policy review process, this policy will be reviewed outside the standard 4-year cycle. This Policy must be reviewed at least one year prior to a Council Election to ensure that it meets with current practice and legislative amendments of the time.		
Version	Approved	Approval Date	Sections Modified
1.0	Ordinary Council Meeting	23 March 2016	New Version of Modified Policy
2.0	Council Meeting	24 August 2020	New Version of modified policy to align to 2020 Act.



Attachment 1: Publications and Resources

	Publications	Resources
	<i>All Publications must be certified. Refer to clause 4.6 of this Policy.</i>	<i>Council resources should not be used for electoral campaigning purposes.</i>
Annual Report	<p>The Annual Report is required by law and would not normally be considered an “advertisement, handbill, pamphlet or notice”. It should not require certification.</p> <p>However, the Annual Report must not include material that is electioneering or that publicises the attributes or achievements of individual Councillors.</p> <p>In addition, if a Council will be printing or distributing a greater number of copies of the Annual Report than usual, it may be regarded as a pamphlet and should be subject to certification by the CEO.</p>	<p>Section 100 of the 2020 Act requires the Council hold a Council meeting to present the Annual Report to Council in the year of a general election, on a day not later than the day before the election day.</p> <p>The preparation of the Annual Report is a proper use of Council resources.</p>
Annual Report summary	Any publication of an extract or summary of the Annual Report is likely to be regarded as a pamphlet and must be subject to the certification process.	Council resources should not be used to produce or distribute any summary of an Annual Report during the election that would be regarded as electoral material.
Council Meetings	<p>Agenda papers and minutes of meetings would not normally be considered advertisements, handbills, pamphlets or notices and should not require certification.</p> <p>However, if Council meeting papers are printed or published for a wider distribution than normal, they should be treated as pamphlets and be subject to the certification process.</p>	The conduct of Council meetings, as well as the preparation of agenda papers and minutes, is part of normal Council business. It is expected that they would continue to be resourced by the Council administration during an election period.



	Publications	Resources
	<i>All Publications must be certified. Refer to clause 4.6 of this Policy.</i>	<i>Council resources should not be used for electoral campaigning purposes.</i>
Advertisements & Notices	<p>All Council advertisements and notices must be subject to the certification process during an election period. This includes job advertisements and various notices, such as Council meetings and road closures.</p> <p>Newspaper notices of meetings are not regarded as electoral material under section 3(1) of the 2020 Act and can be certified.</p>	
Website – New Material	<p>Any new material published on the Council’s web site during the election period that may be considered an advertisement, handbill, pamphlet or notice must be subject to the certification process.</p> <p>As noted above, Council agendas, minutes of meetings, adopted Budgets and full Annual Reports do not require certification if published in the usual way.</p>	Council’s web sites should not be used to convey information that could be regarded as electoral material unless it is only about the election process.
Website – Existing Material	<p>It is not necessary to certify material that was published on the Council’s web site well before the election period.</p> <p>However, it is recommended that web sites be checked at the start of the election period for:</p> <ul style="list-style-type: none"> • Profiles of Councillors who are candidates should be removed from the web site, but not contact details. • Information prominently displayed on the web site that might be regarded as likely to influence how people vote should be removed. 	Council’s web sites should not be used to convey information that could be regarded as electoral material unless it is only about the election process.



	Publications	Resources
	<i>All Publications must be certified. Refer to clause 4.6 of this Policy.</i>	<i>Council resources should not be used for electoral campaigning purposes.</i>
Social Media	<p>Any publication on social media sites like Facebook or Twitter, which is auspiced by the Council, will generally require certification by the CEO.</p> <p>A number of CEO approved standard responses can be prepared and utilised to respond to relevant matters that are raised on social media sites.</p> <p>Similar requirements apply to Council blog sites.</p>	<p>Council auspiced social media must not be used for election campaigning.</p> <p>It is recommended that a Council consider either limiting access to its social media sites during election periods or undertaking constant monitoring to ensure no electoral matter is posted.</p>
Email	<p>Emails that are part of the normal conduct of Council business should not require certification.</p> <p>However, any emails with multiple addressees, used for broad communication with the community, should be subject to the certification process.</p>	<p>Council email services must not be used for electioneering purposes.</p> <p>If necessary, Councillors should be referred to one or more of the free email providers for private email addresses.</p>
Correspondence	<p>Mass mail outs or identical letters sent to a large number of people by or on behalf of Council must be subject to the certification process.</p>	<p>Council staff should not prepare Councillors' private mail or electoral correspondence and such material must not be printed on Council stationery or using Council equipment.</p>
Brochures, Pamphlets, Handbills, Flyers, Newsletters and Books	<p>Documents promoting an event, activity, consultation or information to be distributed during the election period must be subject to the certification process.</p>	<p>Council staff or Councillors should not prepare brochures, fliers, pamphlets or other documents that may be considered electoral material on behalf of a Councillor or Candidate and such material must not be printed on Council stationery or using Council equipment.</p>



	Publications	Resources
	<i>All Publications must be certified. Refer to clause 4.6 of this Policy.</i>	<i>Council resources should not be used for electoral campaigning purposes.</i>
Mobile phones/ Home phone line		<p>Mobile phone costs associated with electioneering should not be paid by the Council. This should be addressed in Council policies and procedures and properly monitored.</p> <p>If Councillors are provided with a Council owned mobile phone, suitable procedures should be put in place. This may involve</p> <ul style="list-style-type: none"> • Requiring Councillors to use another mobile phone for electioneering, or • Establishing arrangements to monitor usage and ensure reimbursement by Councillors of costs associated with electioneering or other private use.
Council offices and libraries	<p>Existing documents available to the public at Council offices and libraries do not normally require CEO certification.</p> <p>However, any increase in the availability of a publication should be subject to certification.</p> <p>It is also recommended that staff check material in libraries and offices to make sure that publications including electoral matter are not prominently displayed.</p>	<p>Electoral material, including pamphlets, posters and notices should not be visible or available at any Council premises during an election.</p> <p>The only exception to this is material issued by the returning officer for the purpose of conducting the election.</p>
Media releases	Media releases should be regarded as documents that require certification by the CEO.	<p>Council staff must not prepare, or assist in the preparation of, media releases that contain electoral material.</p> <p>Councillors should be advised that media releases dealing with their election campaign should only be issued privately.</p>



	Publications	Resources
	<i>All Publications must be certified. Refer to clause 4.6 of this Policy.</i>	<i>Council resources should not be used for electoral campaigning purposes.</i>
Events	<p>Material printed or disseminated during the election period to publicise a function or event must be subject to the certification process.</p> <p>New events or functions that do not form part of regular or annual events require certification of the CEO prior to commencement or advertising.</p>	<p>Functions or events for the purpose of electioneering must not be resourced or publicised by the Council.</p> <p>Normal Council events are not prohibited in the election period. However, it is recommended that they be kept to a minimum.</p> <p>Where events do occur, Councillors should be advised that they are representing the Council and should not use the opportunity for electioneering.</p>
Speeches	Any publication or distribution of Councillors' speeches by the Council must be subject to the certification process.	Council staff and resources should not be used to prepare or publish speeches that contain electoral matter.
Title of "Councillor"		<p>Councillors may use the title "Councillor" in their election material, as they continue to hold their positions in the period.</p> <p>To avoid confusion, Councillors should be advised to ensure that any election publication using the title "Councillor" clearly indicates that it is their own material and does not represent Council.</p>
Returning Officer	The election returning officer is a statutory position and does not perform his or her duties on behalf of the Council. Therefore, publications by a VEC returning officer do not need certification.	