



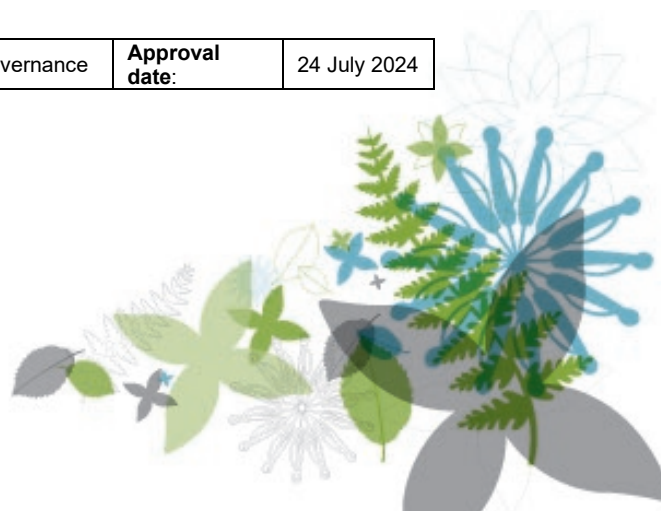
Colac Otway  
SHIRE

# GOVERNANCE RULES

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# GOVERNANCE RULES

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## PART 1 – INTRODUCTION

### DATE OF COMMENCEMENT

These Governance Rules commence on (insert date on adoption).

### CONTEXT

The Governance Rules have been developed in accordance with section 60 of the *Local Government Act 2020* (the Act). Their purpose is to ensure that Council:

- makes decisions on any matter fairly on the merits and with accurate and adequate information considering the interests of anyone impacted by decisions and
- has decision-making processes that are transparent and robust, ensuring that all decision makers have the opportunity to express their views.

These Rules should be read in the context of and in conjunction with the overarching governance principles specified in section 9(2) of the Act and the following documents approved by Council:

- Council Plan
- Councillor Code of Conduct
- Public Transparency Policy and
- Livestreaming and Recording of Council and Planning Committee Meetings Policy

### PRINCIPLES

Council is committed to governing on behalf of the Colac Otway community in a transparent, consultative and outcomes-driven way, as outlined by the overarching governance principles set out at section 9(2) of the Act:

- decisions are to be made and actions taken in accordance with the relevant law and Council policies
- priority is to be given to achieving the best outcomes for the municipal community, including future generations
- the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted
- the municipal community is to be engaged in strategic planning and strategic decision making
- innovation and continuous improvement is to be pursued
- collaboration with other councils and governments and statutory bodies is to be sought
- the ongoing financial viability of the Council is to be ensured
- regional, state and national plans and policies are to be considered in strategic planning and decision making and



- the transparency of Council decisions, actions and information is to be ensured

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## DECISION MAKING

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

- fairly, by giving consideration and deciding which is balanced, ethical and impartial and
- on its merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations.

Council must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice. This includes ensuring that any person whose rights will be directly affected by a decision of Council is afforded an opportunity to communicate their views and have their interests considered.

If a report to be considered at a Council meeting or delegated committee 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.

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.

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## CONFIDENTIAL INFORMATION

Where the Chief Executive Officer is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, they may advise the information is confidential and advise Councillors and/or members of Council staff in writing accordingly. If not advised, then the information may still be confidential by virtue of the Act.

Information which has been advised 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.

Council may resolve to release information advised by the Chief Executive Officer as confidential information within the meaning of the Act.

The CEO will prepare a report twice yearly capturing all decisions made in meetings (including meetings of delegated committees) closed to the public and confidential attachments to reports presented in public meetings. This report will include advice on items which may be no longer confidential and are appropriate for release by Council resolution.



## DEFINITIONS

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

**Act** - the *Local Government Act 2020*

**Chief Executive Officer** - includes an Acting Chief Executive Officer

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

**Council** - Colac Otway Shire Council

**Council meeting** - a meeting of the Council convened in accordance with the Act and these Governance Rules and includes scheduled and unscheduled meetings (whether held in-person attendance or by electronic means of communication)

**Days** unless specified as 'business days' the use of the term 'days' in these rules includes all seven days of the week including those days on the weekend

**Delegated Committee** - a Delegated Committee established under section 63 of the Act

**Delegated Committee meeting** - a meeting of a Delegated Committee convened in accordance with these Governance Rules and includes scheduled and unscheduled meetings (whether held in-person attendance or by electronic means of communication)

**Instrument of Delegation** - an instrument of delegation made by the Chief Executive Officer under section 47(1)(b) of the Act

**Mayor** - the Mayor of Council

**Meetings by electronic** - of communication include meetings where all members attend electronically, or where some members attend in-person and some attend via electronic means of communication



## PART 2 – COUNCIL MEETINGS

### MEETING PREPARATION

#### **1. Dates and Times of Meetings Fixed by Council (Scheduled Meetings)**

1.1 Subject to Rule 11, Council must from time to time fix the date, time and place of all Council meetings.

#### **2. Council May Cancel or Alter Meeting Dates**

2.1 Council may cancel or change the date, time and place of any Council meeting which has been fixed by it and must provide reasonable notice of the change to the public.

#### **3. Meetings Not Fixed in the schedule of annual meetings by Council (Unscheduled Meetings)**

3.1 The Council may by resolution, call an unscheduled meeting of the Council. The resolution must specify the date, time and place of the meeting and the business to be transacted.

3.2 In addition, the Mayor or at least three Councillors may by a written notice call an unscheduled Council meeting.

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

3.4 The Chief Executive Officer must convene the unscheduled Council meeting as specified in the notice.

#### **4. Notice of Meeting**

4.1 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.

4.2 Notwithstanding 4.1, 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 election period of their absence.

4.3 Reasonable notice of each Council meeting must be provided to the public at least seven days before the meeting. Council may do this:

- (a) for meetings which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in a newspaper generally circulating in the municipal district either at various times throughout the year, or prior to each such Council meeting and





- (b) for any meeting by giving notice on its website and in each of its Customer Service Centres and in at least one newspaper generally circulating in the municipal district

**4.4** If urgent or extraordinary circumstances prevent Council from complying with the notice requirements in this section, the Council must:

- (a) give such notice as is practicable and
- (b) specify the urgent or extraordinary circumstances which prevented the Council from complying from the notice requirements in this section in the minutes of the meeting

## **5. Agenda and the Order of Business**

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

## **6. Prohibition of Unauthorised Recording of Meetings**

**6.1** Other than an official Council recording, no video or audio recording of proceedings of Council meetings will be permitted without specific approval by resolution of the relevant Council meeting.

## **7. Availability of Council Meeting Documentation**

**7.1** All endeavours will be made to make Council meeting documentation available:

- (a) through section to Councillors and relevant staff members six days prior to a scheduled meeting
- (b) on Council's website five days prior to a scheduled meeting and hard copies provided at its Customer Service centres
- (c) to Councillors and relevant staff members seven days prior to a scheduled meeting when the Council meeting is to be held on a Wednesday and the Monday or Tuesday immediately prior to the scheduled meeting is a public holiday

**7.2** Council may, on occasion, be unable to comply with sub-Rule 7.1 where the meeting is an unscheduled meeting.

## **8. Inability to Obtain a Quorum**

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

- (a) the meeting will be deemed to have lapsed
- (b) the Mayor must convene another Council meeting, the agenda for which will be identical to the agenda for the lapsed meeting



- (c) the Chief Executive Officer must give all Councillors written notice of the meeting convened by the Mayor

## **9. Inability to Maintain a Quorum**

- 9.1 If during any Council meeting, a quorum cannot be maintained then the meeting will be considered adjourned. This 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, or where prior notification has been given that the meeting will not proceed and there was no opportunity for Council to formally resolve to cancel it.
- 9.2 In the event that a quorum fails due to there being a predominant number of Councillors with a conflict of interest in a matter, Council will consider the alternative options outlined at s67 of the *Local Government Act 2020* including considering moving a motion to:
  - (a) split the matter into parts and/or
  - (b) delegate the decision to a person or committee not impacted by a conflict on the matter
- 9.3 A decision to delegate a matter under the above provision due to their being conflicts of interest which would cause a failure of a quorum is not itself a decision on which Councillors have a conflict.

## **10. Adjourned Meetings**

- 10.1 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.
- 10.2 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.
- 10.3 If it is impracticable for the notice given be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

## **11. Cancellation or Postponement of a Meeting**

- 11.1 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.
- 11.2 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 11.1.

## **12. Informal Meetings of Councillors**

- 12.1 If there is an informal meeting of Councillors involving at least three Councillors that:



- (a) is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors in advance of a Council meeting at which a related decision will be made and
- (b) is attended by at least one member of Council staff and
- (c) 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 tabled at the next convenient Council meeting and recorded in the minutes of that Council meeting.

### **13. Requirements relating to petitions and joint letters**

**13.1** A petition or joint letter must be presented to the next available scheduled meeting of Council where the petition or joint letter is received at least 10 days before the Council meeting.

**13.2** Every petition or joint letter presented to Council:

- (a) must be in writing (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 12 people
- (b) must be addressed to the Council, Mayor, a Councillor or Councillors, containing a request for action to be taken by Council
- (c) may be submitted electronically, by post or delivered in person
- (d) must be in the English language, or accompanied by a translation, which will need to be certified by the Chief Executive Officer who will present it to be correct
- (e) must not be defamatory or objectionable in language or nature and
- (f) must not relate to matters outside the powers of Council or relate to neighbourhood disputes/issues
- (g) must be received by Council in its original form 10 days prior to a Council meeting and, if it is not, will be presented at the next Council meeting and
- (h) may, at the discretion of the Chief Executive Officer, be refused if the same, or substantially the same, petition is received more than once in a twelve (12) month election period during the course of a term of Council

**13.3** Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.

**13.4** Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by Council.

**13.5** 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.



- 13.6** The Chief Executive Officer may accept electronic petitions received via online websites if they are satisfied that the petition is authentic and from a legitimate website and provided that the electronic petition has been closed and a copy has been forwarded to Council.
- 13.7** A petition or joint letter shall not be presented at a meeting of Council or received by Council unless it meets the definition under these Governance Rules, unless it is specifically resolved by Council to receive the petition or joint letter in a non-conforming format. Only the wording of the request and the number of signatories will be included in the public agenda for a Council meeting.
- 13.8** A petition or joint letter may nominate a person to whom a reply must be sent, but if no person is nominated or if it is not obvious who the intended contact person is, Council will reply to the first signatory who appears on the petition or joint letter.
- 13.9** Should a matter raised in a petition not be dealt with under 37.2 the CEO may bring an officer's report on the item to a subsequent Council meeting.



## PART 3 – MEETING PROCEDURE

### DEBATE AND DECISION MAKING

#### 14. Chair's Duty

14.1 Among other things, it is the Mayor's role to chair Council meetings and promote behaviour that meets the Councillors' Code of Conduct.

14.2 The Chair must not accept any motion that they determine to be:

- (a) defamatory
- (b) objectionable in language or nature
- (c) vague or unclear in intention
- (d) outside the powers of Council
- (e) a motion which if passed would result in Council otherwise acting invalidly
- (f) revealing or likely to reveal confidential information which has not been resolved to be made public by Council
- (g) 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, or
- (h) breaching any provision at 36(2) in the absence of a Council report.

#### 15. Maintaining order

15.1 In addition to the duties and discretions provided in this Part, the Chair:

- (a) must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community and
- (b) must call to order any person who is disruptive or unruly during any meeting.

#### 16. Change to Order of Business

16.1 Once an agenda has been sent to Councillors, the order of business for that Council meeting may be altered through resolution of Council.

#### 17. Introducing a Report

17.1 Before a written report is considered by Council and any motion moved, a member of Council staff may introduce the report if invited by the Chair by summarising its background and key analysis behind the officer's recommendation.

17.2 Unless Council resolves otherwise, a member of Council staff need not read any written report to Council in full.



## **18. Priority of address**

**18.1** Outside of the specific application of rules relating to the priority given to the mover and seconder, in the case of competition for the right to speak, the Chair must decide the order in which the Councillors concerned will be heard.

## **19. Introducing a Motion or an Amendment**

**19.1** The procedure for moving any motion or amendment is:

- (a) the mover must state the motion without speaking to it.
- (b) 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.

**19.2** If a motion or an amendment is moved and seconded the Chair must ask:

- (a) "Does any Councillor wish to speak to the motion or amendment?"

**19.3** If a Councillor indicates a desire to speak to it, then the Chair must first call on the mover to address the meeting.

**19.4** After the mover has addressed the meeting, the seconder may address the meeting.

**19.5** After the seconder has addressed the meeting, or has reserved their address, the Chair must invite debate by calling on any Councillor who wishes to speak to the motion.

**19.6** If, after the mover has addressed the meeting, the Chair has invited debate and no Councillor speaks to the motion, then the Chair must put the motion to the vote.

## **20. Moving an Amendment**

**20.1** Once the mover and seconder of a motion have been offered the opportunity to speak, a motion may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.

**20.2** An amendment must not be directly opposite to the motion.

## **21. Who May Propose an Amendment**

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

**21.2** Any one Councillor cannot move more than two amendments in succession without the agreement of the Chair and permission will not be unreasonably withheld.

## **22. How Many Amendments May be Proposed**

**22.1** Any number of amendments may be proposed to a motion but only one amendment may be accepted by the Chair at any one time.



22.2 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.

### **23. An Amendment Once Carried**

23.1 If the amendment is carried, the original motion as amended then becomes the substantive motion and may be further debated before it is put to the vote.

23.2 Only Councillors who didn't speak to the original motion have a right to speak to the substantive motion.

23.3 The mover of the original motion retains the right of reply to the substantive motion.

### **24. Foreshadowing Motions**

24.1 At any time during debate a Councillor may foreshadow a motion to inform Council of their intention to move a motion on the item at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.

24.2 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.

24.3 The Chief Executive Officer is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.

24.4 If an item of business concerns a matter that involves a statutory or contractual deadline or other obligation that cannot be safely or conveniently deferred, the Chair may call for subsequent motions if a motion has been moved and fails and where no further motions have been foreshadowed.

24.5 In this instance the Chair may also initiate a short adjournment to allow for a motion to be drafted.

### **25. Withdrawal of Motions**

25.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder.

### **26. Voting in Parts**

26.1 On request by a Councillor or to facilitate debate on a long and complex motion where appropriate, the Chair may put any motion to the vote in several parts.

### **27. Motions in Writing**

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

27.2 The Chair 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.



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

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

## **29. Debate Must Be Relevant to the Motion**

**29.1** 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.

**29.2** 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.

**29.3** A speaker to whom a direction has been given must comply with that direction.

## **30. Right of Reply**

**30.1** The mover of a motion, including an amendment, has a right of reply to matters raised during debate.

**30.2** After the right of reply has been taken the motion must be put to the vote without any further discussion or debate.

## **31. Speaking Times**

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

- (a) the mover of a motion five minutes
- (b) the mover of an amendment three minutes
- (c) any other Councillor three minutes and
- (d) Councillor exercising a right of reply/closing statement two minutes

## **32. Time Limits for Meetings**

**32.1** The Chair will pause a Council meeting after four hours and the Council will consider if it wants to continue. A majority of Councillors present must vote in favour of its continuance.

**32.2** In the absence of a continuance, the meeting must stand adjourned to a time and date to be announced by the Chair, immediately prior to the meeting standing adjourned and where possible, within two business days.

**32.3** No meeting is to continue past six hours. In that event, the meeting is considered adjourned.

**32.4** The Council may adjourn for a short break every hour, after a period of two hours, or at the Chair's discretion.





### **33. Addressing the Meeting**

**33.1** If the Chair so determines:

(a) any person addressing the Chair must refer to the Chair as:

- Mayor or
  - Chair or Acting Chair
- as the case may be

**33.2** All Councillors, other than the Mayor, must be addressed as:

(a) Cr.....(surname).

**33.3** All members of Council staff, must be addressed by their official title.

### **34. Right to Ask Questions**

**34.1** A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the Chair.

**34.2** The Chair has the right to limit questions and direct that debate be commenced or resumed.

### **35. Councillors May Give Notice of Motions**

**35.1** Councillors may ensure that a matter is considered by a scheduled Council meeting by giving Notice of a Motion.

### **36. Notice of Motion**

**36.1** A notice of motion must be in writing signed by a Councillor and be lodged with or sent to the Chief Executive Officer at least eight days prior to the Council meeting, to allow sufficient time for the Chief Executive Officer to include the notice of motion in the agenda papers for a Council meeting.

**36.2** A notice of motion must call for a Council report if it proposes any action which would:

- (a) commit Council to unbudgeted expenditure above \$20,000
- (b) materially impact Council service levels, the delivery of strategic priorities in the annual action plan and delivery of initiatives in the draft budget
- (c) commit Council to a contractual arrangement
- (d) potentially prejudice Council in any litigation in which Council is a party or which concerns any litigation or compliance matter

**36.3** Notices of motion put forward by a Councillor must not include multiple unrelated items. Where such a notice is received, the CEO may, without changing the content and in consultation with the submitting Councillor, separate a notice of motion into separate notices of motion.



- 36.4** The Chief Executive Officer may reject any notice of motion which:
- (a) is defamatory
  - (b) is objectionable in language or nature
  - (c) is vague or unclear in intention
  - (d) reveals or is likely to reveal confidential information which has not been resolved to be made public by Council
  - (e) is outside the powers of Council or
  - (f) if passed would result in Council otherwise acting invalidly but must:
    - give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so and
    - notify in writing the Councillor who lodged it of the rejection and reasons for the rejection
- 36.5** Once a notice of motion is accepted by the CEO for the register it must immediately be circulated by the CEO to all Councillors.
- 36.6** The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda and may include an officer comment.
- 36.7** 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.
- 36.8** Except by resolution to change the order of business, each notice of motion before any meeting must be considered in the order in which they were entered in the notice of motion register.
- 36.9** Where a notice of motion is listed on an agenda, the Chair will first invite the Councillor who gave the notice of motion to move it. The Chair will offer an opportunity for the mover and seconder to speak in order before any other Councillor is offered an opportunity to speak.
- 36.10** 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.
- 36.11** If a notice of motion is not moved at the Council meeting at which it is listed, it lapses.
- 36.12** Unless Council resolves to re-list at a future Council meeting a notice of motion which has been lost, a similar motion must not be put before Council for at least three months from the date it was lost.
- 37. Petitions and joint letters**
- 37.1** On tabling a petition or joint letter a Councillor must move a motion to note the petition or joint letter and refer it to the CEO for preparation of a response unless the provisions of 37.2 apply.



**37.2** If a petition relates to:

- (a) a 'planning matter' which is the subject of a public notification process under the *Planning and Environment Act 1987* or
- (b) a 'statutory matter' or matter relating to the budget which is the subject of a community engagement process

the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory' or 'budgetary process' (as the case may be).

**37.3** If the petition or joint letter relates to any item already on the agenda for the Council meeting at which the petition or joint letter is submitted, the Chair may decide that the petition or joint letter will be considered as part of Council's deliberations on that agenda item.

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## PROCEDURAL MOTIONS

### **38. Managing procedural motions**

**38.1** Procedural motions must be seconded.

**38.2** Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the in accordance with the following table:



PROCEDURAL MOTIONS TABLE

| <b>Procedural Motion</b>  | <b>Form</b>  | <b>Mover</b>  | <b>When Motion Prohibited</b>   | <b>Effect if Carried</b>  | <b>Effect if Lost</b>       | <b>Debate Permitted on Motion</b> |
|---|--|---|---|---|-----------------------------|-----------------------------------|
| <b>1. Adjournment of debate to later hour, after a certain item on the agenda and/or date</b> | That this matter be adjourned to *am/pm and/or *date or after conclusion of the item at number | Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion | (a) During the election of a Chair<br>(b) When another Councillor is speaking   | Motion and amendment is postponed to the stated time and/or date                            | Debate continues unaffected | Yes                               |
| <b>2. Adjournment of debate indefinitely</b>  | That this matter be adjourned until further notice   | Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion | (a) During the election of a Chair<br>(b) When another Councillor is speaking or<br>(c) When the motion would have the effect of causing Council to be in breach of a legislative requirement | Motion and any amendment postponed but may be resumed at any later meeting if on the agenda | Debate continues unaffected | Yes                               |



| <b>Procedural Motion</b>                             | <b>Form</b>   | <b>Mover</b>  | <b>When Motion Prohibited</b>   | <b>Effect if Carried</b>  | <b>Effect if Lost</b>                                     | <b>Debate Permitted on Motion</b> |
|--|---|---|---|---|---|-----------------------------------|
| <b>3. The closure (of debate)</b>                    | That the motion be now put  | Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion | During nominations for Chair  | Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising their right to ask any question concerning or arising out of the motion | Debate continues unaffected                               | No                                |
| <b>4. Deferral of a matter (to a future meeting)</b> | 'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral) ...' | Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion | (a) During the election of the Mayor/Deputy Mayor (b) During the election of a Chairperson or (c) When another Councillor is speaking | Consideration/debate on the motion and/or amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future meeting, where a fresh motion may be put and debated                               | Debate continues unaffected                               | Yes                               |
| <b>5. Alter the order of business</b>                | 'That the item listed at xx on the agenda be considered before/after the item listed as xy'                 | Any Councillor  | (a) At a Meeting to elect the Mayor or (b) During any debate  | Alters the order of business for the meeting  | Items are considered in the order as listed in the Agenda | No                                |



| <b>Procedural Motion</b>                   | <b>Form</b>   | <b>Mover</b>                | <b>When Motion Prohibited</b>                   | <b>Effect if Carried</b>  | <b>Effect if Lost</b>                              | <b>Debate Permitted on Motion</b> |
|--|---|-----------------------------|---|---|--|-----------------------------------|
| <b>6. Suspension of Meetings Procedure</b> | 'That the Meetings Procedure be suspended to ...' (reason must be provided) | Any Councillor              |   | 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 Meetings Procedure, is permitted | The meeting continues unaffected                   | No                                |
| <b>7. Resumption of Meetings Procedure</b> | 'That the Meetings Procedure be resumed'                                    | Any Councillor/or the Mayor | When Meeting Procedures have not been suspended | The temporary suspension of the rules of the meeting is removed<br><br>The Mayor retains the ability to determine to reinstate the meeting procedure  | The Mayor may determine to reinstate the procedure | No                                |



| Procedural Motion  | Form   | Mover          | When Motion Prohibited                        | Effect if Carried                              | Effect if Lost                                 | Debate Permitted on Motion |
|--|--|----------------|---|--|--|----------------------------|
| <b>8. Consideration of confidential matter(s) (Close the meeting to members of the public)</b> | That, in accordance with Section 66(2)(a) of the <i>Local Government Act 2020</i> the meeting be closed to members of the public for the consideration of item (number) is confidential as it relates to [insert reason] | Any Councillor | During the election of the Mayor/Deputy Mayor | The meeting is closed to members of the public | The meeting continues to be open to the public | Yes                        |
| <b>9. Reopen the meeting</b>   | 'That the meeting be reopened to members of the public'  | Any Councillor |   | The meeting is reopened to the public          | The meeting remains closed to the public       | No                         |



## RESCISSION MOTIONS

### **39. Notice of Rescission**

**39.1** A Councillor may give notice of a motion to rescind a previous resolution of Council provided:

- (a) the resolution proposed to be rescinded has not been acted on
- (b) the effect of rescinding the resolution will not place the Council at significant legal, financial or other risk, including non-compliance with statutory obligations and
- (c) the Notice of Rescission is delivered to the Chief Executive Officer within five business days of the resolution having been made setting out the resolution to be rescinded and the meeting and date when the resolution was carried

**39.2** Notices of rescission may include a further motion which may be moved if the rescission is carried and must have the support of one other councillor indicated by them via email or with a signature on a hardcopy or electronic signature on a digital notice.

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

- (a) its contents have or substance has been communicated in writing to a person whose interests are materially affected by it or
- (b) a statutory process has been commenced so as to vest enforceable rights in or obligations on Council or any other person

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

- (a) has not been acted on and
- (b) is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with 39.1

### **40. If Lost or if not moved**

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

### **41. May be Moved by any Councillor**

**41.1** A motion for rescission listed on an agenda may be moved by any Councillor present.





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## POINTS OF ORDER

### **42. Valid Points of Order**

**42.1** A point of order may be raised in relation to a motion, amendment or statement made that:

- (a) is contrary to these Rules
- (b) is defamatory
- (c) is irrelevant to the matter under consideration or offensive
- (d) is outside Council's legal powers
- (e) constitutes improper behaviour
- (f) constitutes a tedious repetition of something already said
- (g) a motion, which, under rule 14 should not be accepted by the Chair
- (h) a question of procedure or
- (i) any act of disorder

### **43. Procedure for Point of Order**

**43.1** A Councillor raising a point of order must:

- (a) state the point of order and
- (b) state any section, rule, paragraph or provision of these rules or the Councillor Code of Conduct relevant to the point of order

**43.2** A Councillor who is interrupted by another Councillor calling for a point of order must immediately stop speaking and remain silent until the Councillor raising the point of order has been heard and the question disposed of by the Chair.

### **44. Chair May Adjourn to Consider**

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

**44.2** All other questions or matters before the meeting are suspended until the point of order is decided.

### **45. Chair to Decide**

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

### **46. Motion of dissent**

**46.1** A Councillor may move that the meeting disagree with a Chair's ruling on a point of order, by moving a motion that Council dissent from the Chair's ruling or part of a ruling.



- 46.2 A Councillor moving a motion of dissent on a point of order must reference the provision, rule, practice or precedent in substitution for the Chair's ruling. Debate on a motion of dissent is allowed.
- 46.3 A motion of dissent to a ruling on a point of order will take precedence over all other business and will be subject to a vote.
- 46.4 If the vote is in the affirmative, that the Chair's ruling be dissented from, the Chair must reverse or vary (as the case may be) their previous ruling and proceed accordingly.
- 46.5 The defeat of the Chair's ruling is not a motion of censure or no-confidence in the Chair.

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## PUBLIC QUESTION TIME

### 47. Question Time

- 47.1 Unless Council resolves differently, there must be 30 minutes public question time at every Council meeting and 15 minutes question time at the beginning of unscheduled meetings. Question time is specifically for succinct questions in form and character, rather than forums for making statements and discussion. A person addressing the Council may however make a very short succinct statement as necessary to provide essential background or context to a question.
- 47.2 A time limit of five minutes per person applies regardless of the number of questions.
- 47.3 Any member of the public addressing Council must address all questions to the Chair and extend due courtesy and respect to Council and the processes under which it operates. Any member of the public take direction from the Chairperson whenever called on to do so.
- 47.4 The Chair has discretion to extend question time having regard to the agenda for the meeting and time available.
- 47.5 Questions in writing and registrations received are managed in order of submission and registration. Time may be limited for questions from the gallery in some instances. To ensure their opportunity to speak, members of the public are encouraged to register their questions in advance. Members of the public may:
  - (a) submit a question (online, by post or hand delivered to our Customer Service centre) by no later than 5pm two days prior to the Scheduled Council meeting, to be read out at the meeting
  - (b) register by no later than 5pm two days prior to the scheduled meeting to join the meeting virtually or by phone to ask their question, the topic of which must be registered to support officers' preparation
  - (c) register at the meeting to ask a question from the public gallery by submitting the topic of their question in writing

If the time allotted for public question time has expired the CEO will organise responses to be provided in writing to any remaining questions after the meeting.



- 47.6 The Chief Executive Officer may take any question on notice and provide answers in writing.
- 47.7 The Chair of the meeting may disallow any question on the ground that it is repetitive of a question already asked (including at previous meetings), offensive, revealing or seeking to reveal confidential information (including questions relating to compliance or enforcement matters or other legal proceedings) or is asked to embarrass a Councillor or member of the administration.
- 47.8 The Chair may where necessary ask members of the public to confirm that all aspects of their question/s have been answered and request further follow up outside the meeting by the CEO or delegate where necessary.
- 47.9 Like questions may be grouped together and a single answer provided.

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## VOTING

### **48. How Motion Determined**

- 48.1 Voting on any matter is by show of hands.
- 48.2 Any Councillors who abstain from voting will be counted as voting against the motion.
- 48.3 All votes cast by Councillors will be declared by the Chair and recorded in the minutes.

### **49. Silence**

- 49.1 Voting must take place in silence.

### **50. Recount**

- 50.1 Any Councillor including the Chair may ask that a vote be recounted to satisfy themselves of the result.

### **51. Casting Vote**

- 51.1 The provisions relating to use of the casting vote are advisory. Council acknowledges that the Chair is always free to exercise the casting vote as they see fit, notwithstanding the expectations outlined in these provisions.
- 51.2 Unless circumstances require an immediate decision, it is the expectation of Council that in the event of a tied vote, the Chair defer the item until the next meeting. Should the vote be tied, the Mayor may choose to not exercise their casting vote and may defer the item.
- 51.3 It is the expectation of Council that if the casting vote is being used, that it should support continuance of the status quo.



## **52. No Discussion Once Declared**

- 52.1** Once a vote on a motion has been taken, no further discussion relating to the motion is allowed unless the discussion involves foreshadowing a notice of rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

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### URGENT BUSINESS

## **53. Urgent Business**

- 53.1** Business cannot be admitted as urgent business other than by resolution of Council.
- 53.2** When the Chair asks if the CEO or any Councillor has an item for consideration during urgent business, a Councillor may propose an item of business be admitted to the agenda.
- 53.3** The mover of an item of urgent business must first move a motion to admit an item to the agenda. If Council resolves to admit the item as urgent business, the Councillor may then put forward a substantive motion on that item.
- 53.4** Council may resolve to admit an item of business to the agenda if it is satisfied that it:
- (a) relates to or arises out of a matter which has arisen since the closing date to lodge a notice of motion and
  - (b) cannot safely or conveniently be deferred until the next Council meeting

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### MINUTES

## **54. Confirmation of Minutes**

- 54.1** At every Council meeting the minutes of the preceding meeting(s) must be dealt with as follows:
- (a) a copy of the draft minutes must be delivered to each Councillor no later than 48 hours before the meeting
  - (b) the Chair will confirm the version of the minutes being adopted if there have been multiple revisions made by the administration
  - (c) following the moving and seconding of the minutes, if no Councillor indicates an intention to move an amendment, the motion is put to the vote and
  - (d) if a Councillor intends to move a motion to adopt the minutes with amendment, they must clearly state the words to be added or removed from the draft minutes
- 54.2** A resolution of Council must confirm the minutes and the minutes must, if practicable, be signed by the Chair of the meeting at which they have been confirmed.



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

**55.1** 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
- (c) any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Part 6
- (d) arrivals and departures (including temporary departures) of Councillors during the course of the meeting
- (e) each motion and amendment moved (including motions and amendments that lapse for the want of a seconder)
- (f) the outcome of every motion, other than procedural motions, whether it is carried, lost, deferred, withdrawn, lapsed or amended
- (g) the vote cast by each Councillor
- (h) use of the casting vote
- (i) questions on 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
- (m) the full text of any public questions and the full responses provided by the Mayor, Chief Executive Officer or their nominee and
- (n) any other matter which the Chief Executive Officer thinks should be recorded to clarify the intention of the Council meeting or the recording of the minutes

**55.2** The Chief Executive Officer must ensure that the confirmed minutes of any Council meeting are:

- (a) published on Council's website and
- (b) available for inspection at Council's office during normal business hours

**55.3** Nothing in these rules 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.



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## BEHAVIOUR

### **56. Public Addressing the Meeting**

**56.1** 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.

**56.2** A member of the public present at a Council meeting must not disrupt the meeting.

### **57. Chair May Remove**

**57.1** The Chair may order and cause the removal of any person, other than a Councillor, who after being warned continues to disrupt a meeting or fails to comply with a direction given by the Mayor.

### **58. Chair may adjourn disorderly meeting**

**58.1** If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, the Chair may adjourn the meeting to a later time on the same day or to some later day as the Chair thinks proper.

### **59. Removal from Chamber**

**59.1** The Chair, or Council in the case of a suspension, may ask the Chief Executive Officer or a member of the Victoria Police to remove from the Chamber any person who acts in breach of these rules and whom the Chair has ordered to be removed from the gallery under Rule 69.

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

**60.1** The Chief Executive Officer may make a brief statement at a Council meeting in respect of any statement by a Councillor made at the Council meeting criticising them or any member of Council staff.

**60.2** A statement under sub-Rule 78.1 must be made by the Chief Executive Officer, through the Chair, as soon as it practicable after the Councillor who made the statement has resumed their seat.

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## SUSPENSION OF MEETINGS PROCEDURE

### **61. Suspension of Meetings Procedure**

**61.1** To expedite the business of a meeting, Council may suspend meetings procedure.

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

- (a) "That meetings procedure be suspended to enable discussion on..."



- 61.3** No motion can be accepted by the Chair or lawfully be dealt with during any suspension of meetings procedure.
- 61.4** Once the discussion has taken place and before any motions can be put, the resumption of meetings procedure will be necessary. An appropriate proposal would be "That meetings procedure be resumed." The Chair retains the right to resume meeting procedure should that be necessary.



## PART 4 – MEETINGS CONDUCTED VIA ELECTRONIC MEANS OF COMMUNICATION

### ELECTRONIC COMMUNICATION

#### **62. Meeting requirements**

- 62.1** Council is permitted by the Act to hold meetings by electronic means of communication, and a Council meeting will be open to the public if members of the public are able to attend it in person, or if it is livestreamed (broadcast live) on Council's internet site.
- 62.2** Where a Councillor attends a Council meeting conducted by electronic means, the Councillor must be able to:
- (a) Hear the proceedings of the Council meeting and
  - (b) See all Councillors attending the Council meeting and
  - (c) Be seen all the time by Councillors and
  - (d) Be heard by all Councillors when they speak and
  - (e) Be seen and heard by members of the public on the livestream (or recording for Delegated Committee meetings)
- 62.3** If the conditions of 62.2 cannot be met by one or more Councillors attending a Council meeting conducted by electronic means, whether because of technical difficulties or otherwise, but a quorum is still present, the:
- (a) Council meeting will continue and
  - (b) The affected Councillor (or Councillors) will be treated as being absent from the Council meeting
- 62.4** Nothing in this Rule prevents a Councillor from joining (or re-joining) a Council meeting conducted by electronic means at the time that they achieve compliance with sub-rule 62.2, even if the Council meeting has already commenced or continued in their absence.
- 62.5** The Chief Executive Officer must ensure that a Council meeting conducted via electronic means is livestreamed continuously on Council's website (or a recording made available to the public for Delegated Committee meetings).
- 62.6** Nothing in these rules requires any portion of a Council meeting conducted via electronic means that is closed to the public to be livestreamed on Council's internet site.
- 62.7** If the livestream of a Council meeting conducted via electronic means is disrupted for any reason, the Chief Executive Officer must immediately inform the Chair of the meeting and the Council meeting will be adjourned for up to 30 minutes. If the technical issue cannot be resolved within 30 minutes and a quorum of in-person attendees cannot be maintained, an unscheduled meeting must be called as soon as practicable





following the meeting to deal with the remaining business on the agenda. If a quorum of in-person attendees can be maintained the Council will resolve how and when the remaining meeting items will be considered.

### **63. Requesting and Approval of 'electronic' attendance**

- 63.1** Council and Delegated Committee meetings will be conducted face-to-face (in-person) at a set location, unless the Mayor approves an alternative in accordance with the following sub-rules.
- 63.2** A Councillor or member of a Delegated Committee may request to attend a meeting by electronic means of communication (virtually) by submitting a request to the Mayor and Chief Executive Officer, not less than six hours prior to the meeting commencement time.
- 63.3** A request to attend a meeting via electronic means of communication should only be made for a reason such as (but not limited to) health issues, caring responsibilities, any risk to the health and safety of Councillors, staff, or the community or where a level of travel restriction has been imposed or recommended by government. Approval of a request will be at the discretion of the Mayor. The Mayor will not unreasonably deny a Councillor request to attend a meeting electronically and will take into consideration all of the reasons provided.
- 63.4** The request must be made in writing and state the reasons the Councillor or member of a Delegated Committee wishes to attend the meeting via electronic means.
- 63.5** The Mayor, in consultation with the Chief Executive Officer, will provide a response to the request within 48 hours (if possible) within receipt of the request or no less than four hours prior to the meeting commencement time, whichever is the earlier time, and notify all Councillors or members of a Delegated Committee of the decision.
- 63.6** Requests to participate by electronic means of communication must specify the meeting date(s) and type(s) relevant to the request.
- 63.7** It is the responsibility of the Councillor or member attending the meeting via electronic means to ensure they have the required access and environment suitable for participation (including a secure location when deliberations involve confidential information).
- 63.8** The Councillor or member attending via electronic means will be deemed absent from the meeting for any time that they are unable to both be heard and seen by all participants and hear and see all participants.
- 63.9** If the Mayor is absent from a meeting conducted by electronic means of communication due to technical difficulties, the role of Chair will be filled in accordance with section 61(3) of the Act for the election period of the Chairperson's absence.
- 63.10** Despite anything in these Rules, the Mayor (in consultation with the Chief Executive Officer and Councillors) may determine that a meeting be conducted wholly by



electronic means of communication, with consideration of, but not limited to, the following:

- (a) any health or safety risk to Councillors, staff, and the community or
- (b) a request from an absolute majority of Councillors to hold the meeting wholly by electronic means or
- (c) any other extraordinary circumstances

**64. Other matters not provided for**

**64.1** Where any of these Rules has not been expressly modified, and requires modification, to operate at a Council meeting conducted via electronic means, the Chair with the cooperation of the meeting, may modify so much of these Rules as is necessary to permit the Council meeting conducted by electronic means to proceed and to facilitate the more efficient and effective transaction of the business.

**65. Recording Proceedings**

**65.1** The proceedings of open Council meetings will be audio recorded to facilitate the preparation of the minutes of the meeting and to ensure their accuracy.

**65.2** Where practicable, the proceedings of open Council meetings will be streamed live on Colac Otway Shire Council's website so that interested parties can watch the proceedings in real time. A recording of the live stream will be made available on the Colac Otway Shire's website the day following the meeting.

**65.3** The Chief Executive Officer has the discretion and authority to delay publication of a recording in instances where comments made by members of the public at the meeting are considered to be objectionable, offensive, defamatory or inappropriate.

**65.4** The Council is authorised to resolve that audio and live stream recordings of meetings be edited by the deletion of comments from the public which the Council considers to be objectionable, offensive, defamatory or inappropriate.



## **PART 5 – MEETING PROCEDURE FOR DELEGATED COMMITTEES AND COMMUNITY ASSET COMMITTEES**

### COMMITTEE MEETING PROCEDURE

#### **66. Appointing Chairs of Delegated Committees**

**66.1** The Act provides the Mayor with specific power to appoint a Councillor to be the Chair of a Delegated Committee.

**66.2** The Council may also resolve to appoint a Councillor to be Chair of a Delegated Committee (in a case where the Mayor has not made the appointment).

#### **67. Meeting Procedure Generally**

**67.1** If Council establishes a Delegated Committee:

(a) all the provisions of Part two and three apply to meetings of the Delegated Committee and any reference to:

- a Council meeting is to be read as a reference to a Delegated Committee meeting
- a Councillor is to be read as a reference to a member of the Delegated Committee and
- the Mayor is to be read as a reference to the Chair of the Delegated Committee

#### **68. Meeting Procedure Can Be Varied**

**68.1** Notwithstanding this Part, if Council establishes a Delegated Committee that is not composed solely of Councillors, the Council or the Delegated Committee may resolve that any or all of the provisions of Part two or three are not to apply to a meeting of the Delegated Committee.

#### **69. Requests to address a Delegated Committee**

**69.1** Where the Instrument of Delegation specifically permits, a person may request to be heard at a Delegated Committee meeting in relation to a matter listed on the Agenda.

#### **70. No Public Question Time**

**70.1** There will be no public question public time at Delegated Committee meetings.

#### **71. Community Asset Committee**

**71.1** 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.



## PART 6 – DISCLOSURE OF CONFLICTS OF INTEREST

The requirements to disclose conflicts of interest apply to Council meetings, delegated committees, community asset committees and meetings conducted under the auspices of Council. References to 'Council meeting' include all these meetings.

### CONFLICT OF INTEREST

#### **72. Disclosure of a Conflict of Interest**

**72.1** A Councillor who has a conflict of interest in a matter being considered at a Council meeting at which they:

- (a) are 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
- (b) intend to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Council meeting commences a written notice:
  - advising of the conflict of interest
  - explaining the nature of the conflict of interest detailing whether it is a material or general conflict and
  - detailing, if the nature of the conflict of interest involves a Councillor's relationship with or a gift from another person, the:
    - name of the other person
    - nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person and
    - nature of that other person's interest in the matter

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

**72.2** 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.

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

**73.1** A member of Council staff who, in their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a Report for the consideration of a:

- (a) Council meeting
- (b) Delegated Committee meeting
- (c) Community Asset Committee meeting



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

**73.2** The Chief Executive Officer must ensure that the Report referred to in sub-Rule 8.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

**73.3** If the member of Council staff referred to in 73.1 is the Chief Executive Officer:

- (a) the written notice must be given to the Mayor and
- (b) the obligation imposed may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

**74.1** 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.

**74.2** If the member of Council staff referred to in 74.1 is the Chief Executive Officer, the written notice must be given to the Mayor.

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

**75.1** 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.

**75.2** If the member of Council staff referred to in sub-Rule 10.1 is the Chief Executive Officer, the written notice must be given to the Mayor.

**76. Retention of Written Notices**

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



## PART 7 – ELECTION OF MAYOR

### ELECTION PROCEDURE

#### **77. Overseeing the Election**

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

#### **78. Method of Voting**

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

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

**79.1** The Chief Executive Officer must open the meeting at which the Mayor is to be elected and invite nominations for the office of Mayor.

**79.2** Any nominations for the office of Mayor must be seconded by another Councillor.

**79.3** Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor:

- (a) if there is only one nomination, the candidate nominated must be declared to be duly elected
- (b) if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates
- (c) in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected
- (d) 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
- (e) 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
- (f) in the event of there being three or more candidates and two or more candidates having an equality of votes, a lot will be drawn to reduce the candidate pool by one to no less than two candidates remaining
- (g) if a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:
  - each candidate will draw one lot



- the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names and
- as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. The word 'Defeated' shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word 'Defeated' written on it must be declared the defeated candidate and
- a further vote must be taken on the remaining candidates under the provisions of (cross reference) until there is a successful election.

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

**80.1** Any election for:

- (a) any office of Deputy Mayor or
- (b) Chair of a Delegated Committee

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

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

## **81. Appointment of Acting Mayor**

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

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

## **82. Appointment of a Temporary Chair**

**82.1** If the Council has not established an office of Deputy Mayor and if the Mayor or Deputy Mayor is unable to Chair a particular meeting, that meeting shall nominate a temporary Chair. The nomination and resolution process for determining the temporary Chair will be overseen by the CEO who will ask for nominations before conducting the vote.



## ELECTION PERIOD POLICY

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## 1. INTRODUCTION

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

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

## 2. PURPOSE

This Election period Policy has been developed in order to ensure that general elections for the Colac Otway Shire are conducted in a manner that is demonstrably ethical, fair and equitable.

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

This Policy also commits Council during the election period to:

- Avoid making significant new policies or decisions that could unreasonably bind a future Council and
- Ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.

## 3. DEFINITIONS

Where terms used in this Policy are defined in the Act, their use in this Policy is consistent with the definitions in the Act.

Definitions used in this Policy which are not defined by the Act are:

**Period** - the same meaning as 'election period' in section 3 (1) of the Act and means the period that starts on the close of nominations and ends at 6pm on Election Day.

**Publication** - includes any means of publication including letters and information on the internet and social media.

**Public consultation** - 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 that matter with the public.

**Significant decision** - an irrevocable decision that significantly affects the municipality and unreasonably binds the incoming Council.



#### **4. REFERENCES AND RELATED DOCUMENTS**

*Local Government Act 2020*

*Victorian Electoral Act 2002*

Councillor Code of Conduct

Election Period Procedures

#### **5. GUIDELINES**

Council will function in accordance with this Policy during the election period.

#### **6. ROLE OF CHIEF EXECUTIVE**

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

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

#### **7. DECISIONS BY COUNCIL**

##### **7.1 Major policy decisions**

During the Period, Council cannot make a Prohibited Decision.

A Prohibited Decision is a decision referred to in section 69 (2) of the Act, and includes a decision:

- Relating to the employment or remuneration of a Chief Executive Officer (CEO), other than a decision to appoint or remunerate an acting CEO or
- Committing Council to expenditure which exceeds 1% of the Council's revenue from rates and charges levied in the preceding financial year
- that Council considers could be reasonably deferred until the next Council is in place
- that Council considers should not be made during an election period.

Any decision of the kind highlighted above (relating to the employment or remuneration of the CEO or commits Council to expenditure above the threshold) made during the election period is deemed to be invalid under the Act.

##### **7.2 Significant decisions**

- (a) During the Period, Council will avoid making decisions that significantly affect the municipality and unreasonably bind the incoming Council.



(b) Significant decisions to be avoided include but are not limited to:

- Allocating community grants
- Directing funding to community organisations
- Major planning scheme amendments
- Changes to strategies and strategic objectives in the Council Plan.

### **7.3 Council meetings**

Council meetings will not be held during the election period unless exceptional circumstances warrant it.

### **7.4 Council agenda items**

Should a Council meeting be required during the Period, papers prepared for the Council meeting will be carefully vetted to ensure that no agenda item is included that could potentially influence voters' intentions at the forthcoming election or could encourage Councillor candidates to use the item as part of their electioneering.

Councillors will refrain from moving motions or raising matters at a meeting that could potentially influence voting at the election.

## **8. PUBLIC CONSULTATION & EVENTS**

Public consultation during the election period will be limited.

Council events will not be scheduled to take place at all during the election period.

If consultation must be undertaken or an event held during this time, Council must justify to the community the special circumstances making it necessary and how the risks of influencing the election will be mitigated or prevented.

### **8.1 Statutory requirements**

The requirements of Clause 8 do not apply to public consultation required under the *Planning and Environment Act 1987*.

## **9. COUNCIL PUBLICATIONS**

### **9.1 Prohibition on publishing material during the election period**

This policy in accordance with the Act prohibits a Councillor or member of Council staff from printing, publishing or distributing any electoral material during the election period on Council's behalf unless the electoral material only contains information about the election process or is otherwise in accordance with or under any legislation. This is to ensure that Council does not utilise public funds that may influence or be seen to influence people's voting intentions.

### **9.2 Prohibited material**

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



- Any electoral material produced by or on behalf of the Election manager or Victorian Electoral Commission for the purposes of conducting the election or
- An advertisement in a newspaper announcing the holding of a meeting.

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

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

Electoral matter includes material which:

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

### **9.3 Council publications including Councillor information**

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

### **9.4 Website**

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

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

### **9.5 Annual report**

Council is required by the Act to produce and put on public display a copy of its Annual Report. The relevant Annual Report may be published during an election period. The Annual Report published during an election period will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.

### **9.6 Council documents**

Items submitted for regular Council publications will be reviewed to ensure that they comply with the principles of the Act and this Policy and may be amended accordingly before publication.

### **9.7 Social media**

Any publication on Council-managed social media sites including but not limited to Facebook, Twitter and blogs during the election period will be approved by the CEO.



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

Councillors' individual (personal) social media pages are not managed by Council so are not subject to the same provisions.

## **10. COUNCIL RESOURCES**

### **10.1 Application of resources**

It is an established democratic principle that public resources must not be used in any way that would influence the way people vote in elections, except regarding supporting the actual election process.

Council therefore commits to the principle that it will ensure that Council resources are not used inappropriately during the Period.

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

### **10.2 Role of officers**

The Executive Officer to the CEO, Mayor and Councillors, Governance staff, or any other staff member, will not, during the Period, be asked to undertake any tasks connected directly or indirectly with the election campaign of a Councillor standing for re-election.

### **10.3 Use of Council resources by Councillors**

Councillors may continue to use any Council equipment provided to them to facilitate their performance of normal Council duties, subject to existing protocols and terms of use. Councillors standing for re-election must not use Council equipment as a resource to assist with election campaigns.

Photocopying for election campaigning proposes by Councillors or staff on office photo copiers is not permitted.

Databases and mailing lists held by the organisation remain the property of the Council and are subject to the principles of the *Privacy and Data Protection Act 2014* and are therefore not available to members of the public, candidates or Councillors.

The organisation will not prepare or produce any materials associated with Councillors' individual election campaigns.

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

Councillors will not use Council issued mobile phones and email addresses for election campaigning purposes.



The use of Council's internet or intranet sites for any activity to do with election campaigning is prohibited. This includes linking Council websites to private candidate websites.

Access to the voters' roll is subject to the requirements of the Act and *Privacy and Data Protection Act*. A copy of the voters' roll will be provided to candidates by the Election manager or Victorian Electoral Commission. The voters' roll will be available for inspection during the election period at advertised times.

Council facilities booked for electoral campaigning purposes by Councillors, candidates or supporters or other persons during the election period will be made available at the same rate to all hirers.

#### **10.4 Officer's discretion**

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.

The organisation will continue to provide support to Councillors with respect to their day-to-day Council business. Where the use of Council resources appears to relate to the election campaign of a Councillor standing for re-election, the matter must be referred to the CEO or their delegate.

#### **10.5 Councillors' entitlement to reimbursement**

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

### **11. MEDIA**

#### **11.1 Restriction on services**

Council's Communications services are intended to promote Council activities or initiatives and must not be used in any way that might favour a candidate. During the election period this team's service must not be used in any way that might promote a Councillor as an election candidate.

Council publicity during the election period will be restricted to communicating normal Council activities and initiatives.

#### **11.2 Media releases/spokespersons**

Media releases will minimise references to specific Councillors and will not identify any Councillor in a manner that could promote a Councillor as an election candidate. Where it is necessary to identify a spokesperson, the CEO or their delegate will be consulted.

Media releases will require approval by the CEO.

#### **11.3 Councillors**

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



#### **11.4 Council employees**

During the election period no Council employee may make any public statement that relates to an election issue unless prior approval has been obtained by the CEO or their delegate.

### **12. INFORMATION**

#### **12.1 Candidates' access to information**

All election candidates have equal rights to information relevant to their election campaigns and from the Council administration. While it is important that sitting Councillors continue to receive information that is necessary to fulfil their existing elected roles, neither Councillors nor candidates will receive information or advice from Council officers that may improperly advantage candidates in the elections (which includes internal publications such as the weekly CEO Update and Councillor Newsletter).

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

#### **12.2 Information request register**

Governance will maintain an Information Request Register during the 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.

#### **12.3 Improper use of position**

Section 123 of the *Local Government Act 2020* prohibits Councillors from misusing or inappropriately making use of their position. A breach attracts serious penalties.

### **13. ASSISTANCE TO CANDIDATES**

#### **13.1 Role of election manager or Victorian Electoral Commission**

All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Election manager or Victorian Electoral Commission or, where the matter is outside the responsibilities of the Election manager or Victorian Electoral Commission, to the CEO or their delegate.

#### **13.2 Candidate information**

Council will provide candidates with a Councillor Candidate Information Kit to assist them in running and nominating for Council. This will include an outline of meeting dates and times for the first four weeks of Council meetings and Councillor Induction workshops.

Candidates will be informed of their obligation to complete a Nomination Form which will be available from the Election manager or Victorian Electoral Commission, accompanied by the nomination fee.



Candidates will also be informed of the requirements to complete and submit an 'Election Campaign Return' to the CEO within 40 days after the Election Day. The return must contain details of any campaign donation or received within the donation period.

**Document Control**

|                    |              |               |           |
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