



# Yarra Ranges Council Governance Rules

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Contact Officer:	Governance Coordinator

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## Chapter 1 – Introduction

### 1. Nature of rules

- 1.1 These are the Governance Rules of Yarra Ranges Shire Council, made in accordance with section 60 of the Local Government Act 2020.

### 2. Date of commencement

- 2.1 These Governance Rules commence on 2 September 2022.

### 3. Contents

- 3.1 These Governance Rules are divided into the following Chapters:

Chapter	Name
Chapter 1	Introduction
Chapter 2	Governance Framework
Chapter 3	Meeting Procedure for Council meetings
Chapter 4	Meeting Procedure for Delegated Committees
Chapter 5	Meeting Procedure for Community Asset Committees
Chapter 6	Joint meetings of Councils
Chapter 7	Disclosure of Conflicts of Interest
Chapter 8	Miscellaneous
Chapter 9	Use of the Common Seal
Chapter 10	Election Period Policy

### 4. Definitions

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

Act	means the Local Government Act 2020
Attend, attending or in attendance	Means attend, attending or attendance in-person, on site or by electronic means.
Chief Executive Officer	means the person occupying the office of Chief Executive Officer of Council, and includes a person acting in that office
Community Asset Committee	means a Community Asset Committee established under section 65 of the Act
Council	means Yarra Ranges 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 and any person appointed by Council to be acting as Mayor
Rules	means these Governance Rules

## **Chapter 2 – Governance framework**

### **1. Context**

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

- (a) the overarching governance principles specified in section 9(2) of the Act; and
- (b) the following documents adopted or approved by Council:
  - (i) Public Transparency Policy;
  - (ii) Councillor Code of Conduct;
  - (iii) Employee Code of Conduct; and
  - (iv) other relevant policies.

### **2. Decision making**

2.1 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:

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

2.2 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).

2.3 Without limiting anything in paragraph 2.2 of this sub-Rule:

- (a) 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;
- (b) 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 or persons have been provided with an opportunity to communicate their views and have their interests considered;
- (c) 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

- (d) 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 have their interests considered.

**Chapter 3 – Meeting procedure for Council meetings**

**Part A – Introduction**

**1. Purpose of this Chapter**

1.1 The purpose of this Chapter is to:

- (a) provide for the election of the Mayor and any Deputy Mayor;
- (b) provide for the appointment of any Acting Mayor; and
- (c) provide for the procedures governing the conduct of Council meetings.

**2. Definitions and notes**

2.1 In this Chapter:

Absolute Majority	means the number of Councillors which is greater than half the total number of the Councillors of a Council. In the case of a Delegated Committee an absolute majority is the number of members which is greater than half the number of members appointed to the Delegated Committee
Agenda	means the notice of a meeting setting out the business to be transacted at the meeting
Agreement of Council	means indicative agreement of all of the Councillors in attendance, without a vote being conducted. In the event there is any uncertainty about the majority of Councillors agreeing, the matter may be put to a vote
Audit and Risk Management Committee	means the Audit and Risk Committee established by Council under section 53 of the Act
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
Chamber	means any room where the Council holds a Council meeting
Code of Conduct	has the same meaning as “Councillor Code of Conduct” in the Act and includes a code of conduct in respect of Council employees
Community Asset Committee meeting	means a meeting of the Community Asset Committee
Council Plan	has the same meaning as in the Act
Councillor	means a Councillor of Council
Delegate	means a member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation
Delegated Committee meeting	means a meeting of a Delegated Committee
Deputy Mayor	means the Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor
Director	means a senior member of Council staff holding the position of Director or another position (however designated) which reports directly to the Chief Executive Officer
Disorder	means any disorderly conduct of a member of the gallery, or a Councillor or anyone else in attendance and includes: <ul style="list-style-type: none"> <li>(a) interjecting when another person is speaking, except, in the case of where a Councillor is raising a Point of Order;</li> <li>(b) making comments that are defamatory, malicious, abusive or offensive;</li> <li>(c) refusing to leave the meeting when requested, ordered or directed to do so by the Chair in accordance with the Act and these Rules; and</li> <li>(d) engaging in any other conduct which prevents the orderly conduct of the meeting</li> </ul>
Majority of the votes	means a majority of Councillors in attendance at the time of a vote voting in favour of a matter
Minutes	means the official record of the proceedings and decisions of a meeting
Minute book	means the collective record of proceedings of Council
Motion	means a proposal framed in a way that will result in the opinion of Council being expressed,

	and a Council decision being made, if the proposal is adopted
Municipal district	means the municipal district of Council
Notice of Motion	means a notice setting out the text of a Motion which a Councillor proposes to move at a Council meeting
Notice of Rescission	means a Notice of Motion to rescind a resolution made by Council
Point of Order	means a procedural point (about how the meeting is being conducted), not involving the substance of a matter before a meeting
Procedural Motion	means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but is used as a formal procedural measure
Quorum	means the minimum number of Councillors or members of a Delegated Committee needed to transact business at a meeting and is an absolute majority.
Rule or sub-Rule	means a rule or sub-rule included in these Rules
Standing Orders	means rules governing the procedure at Council meetings as set out in these Rules
Urgent business	means a matter that relates to or arises out of a matter which has arisen since distribution of the Agenda and cannot safely or conveniently be deferred until the next meeting
Written	includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form, and writing has a corresponding meaning

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

**3. Purpose of Council meetings**

3.1 Council holds meetings to conduct the business of Council. Council is committed to transparency in decision making and, in accordance with the Act, Council and Delegated Committee meetings are open to the public and the community are able to attend.

3.2 Meetings will only be closed to members of the public if:

- (a) there are clear reasons for particular matters to remain confidential;
- (b) a meeting is required to be closed for security reasons; or
- (c) it is necessary to enable the meeting to proceed in an ordinary manner.

3.3 If a meeting is closed to the public for the reasons outlined in sub-Rules 3.2(b) or 3.2(c), the meeting will continue to be livestreamed. In the event a livestream is not available the meeting may be adjourned, or a recording of the proceedings may be available on Council's website following the conclusion of the meeting.

#### **4. Meeting roles**

4.1 The Chair, Councillors and members of Delegated Committees will ensure good council decision-making by endeavouring to ensure:

- (a) decision making is transparent to members and observers;
- (b) meeting members have sufficient information to make good decisions;
- (c) every member is supported to contribute to decisions;
- (d) any person whose rights are affected has their interests considered;
- (e) debate and discussion are focussed on the issues at hand;
- (f) meetings are conducted in an orderly manner;
- (g) decisions should be made on the merits of the matter.

4.2 Councillors and members of Delegated Committees will contribute to good governance and decision making by:

- (a) seeking views of community members and reading Agenda prior to the meeting;
- (b) demonstrating due respect and consideration to community views and the professional / expert advice provided in the Agenda papers;
- (c) attending meetings and participating in debate and discussion;
- (d) demonstrating respect for the role of the Chair and the rights of other Councillors or members of Delegated Committees to contribute to the decision making;
- (e) being courteous and orderly.

4.3 The Mayor must take the Chair at all Council meetings at which the Mayor is in attendance.

4.4 If the Mayor is not in attendance at a Council meeting, the Deputy Mayor (if one has been elected) must take the Chair.

4.5 If the Mayor and any Deputy Mayor are not in attendance at a Council meeting, Council must appoint one of the Councillors in attendance as Chair of the meeting by resolution.

4.6 Attendance or presence at a meeting by the Mayor, Deputy Mayor, Councillor or member of a Delegated Committee as defined in sub-Rules 4.2(c), 4.3, 4.4

or 4.5 and elsewhere throughout these rules, and for the purposes of a Quorum, may include attendance or presence by electronic means provided attendance permits all members can hear and see each other and can be seen and heard by all members in attendance.

- 4.7 The Chief Executive Officer, or Delegate, may participate in the meeting to provide support to the Chair. The Chief Executive Officer should:
- (a) immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
  - (b) immediately correct factual errors or incorrect assertions that arise during the meeting;
  - (c) advise if there are operational, financial or risk implications arising from a proposed resolution;
  - (d) help clarify the intent of any unclear resolution to facilitate implementation;
  - (e) on request, assist with procedural issues that may arise.
- 4.8 Community members may only participate in Council meetings in accordance with Rules 57, 58, 59 and 60.

## **5. Apologies and absences**

- 5.1 Councillors and members of Delegated Committees who are unable to attend a meeting, including by electronic means of communication, may submit an apology:
- (a) in writing to the Chair, who will advise the meeting; or
  - (b) by seeking another Councillor or member of the Delegated Committee to submit it at the meeting on their behalf.
- 5.2 An apology submitted to a meeting will be recorded in the Minutes.
- 5.3 A Councillor intending to take a leave of absence should submit it in writing to the Mayor.
- 5.4 The Mayor will seek to have any leave of absence request received included in the Agenda of the next Council meeting.
- 5.5 A leave of absence not included in a Council meeting Agenda may still be considered by Council if a written request has been received by the Mayor prior to the meeting.
- 5.6 Council will not unreasonably withhold its approval of a leave of absence request.
- 5.7 A Councillor who has not submitted an apology or had a leave of absence approved and who is not in attendance at a Council or Delegated Committee meeting, will be recorded as absent.

## **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.

### **6. Election of the Mayor**

- 6.1 At a meeting at which the Mayor is to be elected, Council must determine by resolution whether the Mayor is to be elected for a one year or a two year term of office. The Chief Executive Officer will submit a report for Council's consideration regarding the proposed term of office of the Mayor.
- 6.2 The Chief Executive Officer must facilitate the election of the Mayor in accordance with the provisions of the Act.

### **7. Method of voting**

- 7.1 The election of the Mayor must be carried out by a show of hands, or following a resolution made in accordance with sub-Rule 62.1, an electronic method that enables those observing (in attendance and those watching a livestream broadcast) to see who a Councillor has voted for at the time the vote is taken.

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

- 8.1 The Chief Executive Officer must open the meeting at which the Mayor is to be elected, and invite nominations for the office of Mayor.
- 8.2 Any nominations for the office of Mayor must be seconded by another Councillor
- 8.3 The Chief Executive Officer must confirm acceptance of the nomination with the nominee.
- 8.4 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 in attendance 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 in attendance at the meeting will then vote for one of the remaining candidates;

- (e) if one of the remaining candidates receives an absolute Majority of the votes, they are 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 two or more candidates having an equality of votes and it is not resolved to conduct a new election at a later date and time (must be within five business days), voting must be repeated for the candidates with equal votes until one candidate receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;
- (g) where it is resolved to conduct a new election at a later date and time (must be within five business days), all currently elected Councillors may be nominated for the Office of Mayor at the new election.

## **9. Ceremonial Mayoral speech**

- 9.1 Upon being elected, the Mayor may make a ceremonial speech.
- 9.2 The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead based on the adopted Council Plan.

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

- 10.1 At the Council meeting at which the Mayor is to be elected, Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.
- 10.2 Any election for any office of Deputy Mayor or the Chair of a Delegated Committee will be regulated by Rules 6 - 8 (inclusive) of this Chapter, as if the reference to the:
  - (a) Chief Executive Officer is a reference to the Mayor; and
  - (b) Mayor is a reference to the Deputy Mayor or the Chair of the Delegated Committee (as the case may be).

## **11. Appointment of Acting Mayor**

- 11.1 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 6 and 8 (inclusive) of this Chapter,at its discretion.

## **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**

#### **12. Dates and times of meetings fixed by Council**

- 12.1 Subject to Rules 13, 15 and 16, Council must from time to time fix the date, time and place (in-person, electronic- including hybrid or parallel) of all Council meetings.
- 12.2 Council must specify any arrangements for hybrid meetings inclusive of a physical and virtual meeting location or a fully virtual meeting where circumstances may require this.
- 12.3 A Council may determine certain meetings that must be held solely as face-to-face (in-person) meetings.

#### **13. Alteration of meeting dates**

- 13.1 Council by resolution, or the Chief Executive Officer following consultation with the Mayor and Councillors and with their agreement, may change the date, time and place (in-person, electronic- including hybrid or parallel) of, or cancel, any Council meeting which has been fixed by Council and must provide reasonable notice of the change to the public.

#### **14. Cancellation or postponement of a meeting**

- 14.1 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.
- 14.2 The Chief Executive Officer must ensure that every reasonable attempt is made to notify every Councillor of the cancellation or postponement.
- 14.3 The Chief Executive Officer must present to the next scheduled Council meeting a written report on any exercise of the power conferred by sub-Rule 14.1.

#### **15. Meetings not fixed by Council**

- 15.1 The Mayor or at least three (3) Councillors may by a written notice call a Council meeting.
- 15.2 The written notice to call a Council meeting must:
  - (a) specify the date and time and place (in-person, electronic- including hybrid or parallel) of the Council meeting and the business to be transacted; and

- (b) be delivered to the Chief Executive Officer in sufficient time to enable notice to be given in accordance with Rule 17.

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

15.4 Unless all Councillors are in attendance and unanimously agree to deal with any other matter, only the business specified in the written notice can be transacted at the Council meeting.

## **16. Emergency meetings**

16.1 In the case of an emergency, the Chief Executive Officer may call a Council meeting, without the necessity to comply with Rules 12 and 17, provided that:

- (a) reasonable attempts are made to notify every Councillor;
- (b) such public notice as is practicable has been given; and
- (c) the urgency or extraordinary circumstances are specified in the Minutes of the meeting.

16.2 The Chief Executive Officer must submit a full written report of the circumstances requiring their action, to the next ordinary meeting of the Council.

## **17. Notice of meeting**

17.1 A notice of meeting, incorporating or accompanied by an Agenda, must be delivered or sent electronically to every Councillor for all Council meetings at least 48 hours before the meeting.

17.2 Notwithstanding sub-Rule 17.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting during the period of their absence.

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

- (a) for meetings which it has fixed, by preparing a schedule of meetings annually 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:
  - (i) in an accessible location at each of its Community Links; and/or
  - (ii) in at least one newspaper generally circulating in the Municipal district.



## **Division 2 – Quorums**

### **18. Inability to obtain a Quorum**

- 18.1 *It should be noted that under section 61(6A) of the Local Government Act 2020, for the purposes of these meetings, a Councillor in attendance by electronic means of communication is deemed in attendance for the purposes of a quorum. 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) those Councillors in attendance, or if there are no Councillors in attendance, the Chief Executive Officer (or in their absence, a Delegate), may adjourn the meeting to a date decided by the Councillors in attendance, Chief Executive Officer or Delegate, the Agenda for which will be identical to the Agenda for the lapsed meeting; and
  - (c) the Chief Executive Officer must provide written notice, including by electronic means, to each Councillor of any Council meeting adjourned to another date or time due to an inability to obtain a Quorum.

### **19. Inability to maintain a Quorum**

- 19.1 If during any Council meeting, a Quorum cannot be maintained then Rule 18 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 19.2 Sub-Rule 19.1 does not apply if the inability to maintain a Quorum is because of the number of Councillors who have a conflict of interest in a matter to be considered.
- 19.3 The Chair may defer an item of business if there is, or is likely to be, a disclosure of a conflict of interest by one or more Councillors that will cause a Quorum to be lost, and direct the Chief Executive Officer to include that item of business on an Agenda for a future Council meeting.
- 19.4 If a Quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, Council will:
- (a) determine the matter will be considered in separate parts, if a Quorum can be maintained for each separate part; or
  - (b) determine to make decisions on separate parts of the matter at a meeting where Quorum can be maintained, before making a decision on the whole matter at a meeting for which Quorum can be maintained.
- 19.5 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.

19.6 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.

## **20. Adjourned meetings**

20.1 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.

20.2 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.

20.3 If it is impracticable for the notice given under sub-Rule 20.2 to be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

## **21. Time limits for meetings**

21.1 A Council meeting must not continue after three hours from the time it commences unless a majority of Councillors in attendance vote in favour of it continuing.

21.2 Council may vote to continue a meeting for 30 minutes ("initial extension"). If required, Council may vote to continue the meeting for a further 30 minutes after the initial extension.

21.3 In the absence of such continuance or if there is further business to be transacted at the end of the two extensions, 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 20.2 and 20.3 apply.

21.4 Notwithstanding sub-Rule 21.3, the Chair may seek the Agreement of Council not to adjourn the meeting, if the Chair reasonably believes the remaining business will take less than 10 minutes to transact.

## **Division 3 – Business of meetings**

### **22. Agenda and the order of business**

22.1 The Agenda 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.

22.2 In exceptional circumstances, an item of business may be withdrawn from the Agenda by the Chief Executive Officer after the Agenda has been published but before the meeting commences.

22.3 If the provisions of sub-Rule 22.2 are applied, the Chief Executive Officer must immediately advise the Mayor and Councillors of reason(s) for the withdrawal, with these to be reported at the meeting at which the item of business was to have been considered and recorded in the Minutes.

### **23. Change to order of business**

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

### **24. Urgent business**

24.1 If the Agenda for a Council meeting makes provision for Urgent business, business cannot be admitted as Urgent business other than by resolution of Council and only then if it:

- (a) relates to or arises out of a matter which has arisen since distribution of the Agenda; and
- (b) cannot safely or conveniently be deferred until the next Council meeting.

## **Division 4 – Motions and debate**

### **25. Councillors may propose Notices of Motion**

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

### **26. Notices of Motion**

26.1 A Notice of Motion must be in writing signed by a Councillor (including by electronic means), and be lodged with or sent to the Chief Executive Officer to allow sufficient time for them to include the Notice of Motion in the Agenda papers for a Council meeting and to give each Councillor at least 48 hours' notice of such Notice of Motion.

26.2 The Chief Executive Officer must inform Councillors about the legal and cost implications of any proposed Notice of Motion.

26.3 The Chief Executive Officer may suggest revised wording to a draft Notice of Motion to facilitate compliance with the requirements for Notices of Motion in these Rules.

26.4 A Notice of Motion must relate to the objectives, role and functions of Council as outlined in the Act.

26.5 A Notice of Motion must call for a Council report if the Notice of Motion proposes any action that:

- (a) impacts the levels of Council service;
- (b) commits Council to expenditure that is not included in the adopted Council budget;

- (c) proposes to establish, amend or extend Council policy;
- (d) proposes to impact the rights of any person who has not had the opportunity to contribute their views;
- (e) commits Council to any contractual arrangement; or
- (f) concerns any litigation in respect of which Council is a party.

26.6 The Chief Executive Officer must reject any Notice of Motion which:

- (a) is vague or unclear in intention;
- (b) is defamatory;
- (c) may be prejudicial to any person or Council;
- (d) is objectionable in language or nature;
- (e) is beyond Council's power to pass;
- (f) is submitted during the Election Period (as defined in Chapter 10 of these Rules); or
- (g) if passed would result in Council otherwise acting invalidly.

26.7 The Chief Executive Officer may reject a proposed Notice of Motion that:

- (a) relates to a matter that can be addressed through the operational service request process; or
- (b) relates to a matter that has been previously resolved by Council or is acted upon.

26.8 If rejecting a Notice of Motion, the Chief Executive Officer must inform the Councillor who lodged it of that rejection and the reasons for the rejection and must:

- (a) give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
- (b) notify in writing the Councillor who lodged it of the rejection and reasons for the rejection.

26.9 The Chief Executive Officer may designate a Notice of Motion to be confidential in accordance with relevant grounds as contained in the Act, in which case, the Notice of Motion will be considered in the part of the relevant Council meeting that is closed to members of the public.

26.10 The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the Agenda and outline the policy, financial and resourcing implications if the Notice of Motion is passed.

- 26.11 The Chief Executive Officer may arrange for comments of Council staff members to be provided to Councillors prior to the Notice of Motion being published in the Agenda for the relevant Council meeting.
- 26.12 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.
- 26.13 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.
- 26.14 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.
- 26.15 If a Notice of Motion is not moved at the Council meeting at which it is listed, it lapses.

## **27. Chair's duty**

- 27.1 In addition to the specific duties and discretions provided in these Governance Rules, the Chair must not accept any Motion, question or statement which is:
- (a) defamatory, malicious, abusive or objectionable in language or nature;
  - (b) vague or unclear in intention;
  - (c) outside the powers of Council; or
  - (d) 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.

## **28. Introducing a report**

- 28.1 Before a written report is considered by Council and any Motion moved in relation to such report, a member of Council staff may introduce the report by summarising in not more than 5 minutes:
- (a) its background; or
  - (b) the reasons for any recommendation which appears.

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

## **29. Introducing a Motion or an amendment**

- 29.1 Unless sub-Rule 31.2 applies, the procedure for moving any Motion or amendment is:
- (a) the mover must state the Motion or amendment without speaking to it;

- (b) the Motion or amendment must be seconded and the seconder must be a Councillor other than the mover. If a Motion or amendment is not seconded, the Motion or amendment lapses for want of a seconder;
- (c) if the Motion or amendment is seconded, the mover and seconder may address Council on the Motion. The seconder may (without speaking on the Motion or amendment) reserve their address until later in any debate under sub-Rule 29.1(f);
- (d) the Chair must ask:

"Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"
- (e) if no Councillor indicates opposition or a desire to speak to it, the Chair shall put the Motion or amendment to the vote without further discussion;
- (f) if a Councillor indicates opposition or a desire to speak to it, the Chair must invite debate by calling on any Councillor who wishes to speak to the Motion or amendment;and
- (g) the Chair shall then allow the mover a right of reply under sub-Rule 30. If the mover chooses not to exercise this right, the Motion or amendment shall be put to a vote without further discussion.

### **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 No new matters may be raised in the right of reply.
- 30.3 After the right of reply has been taken, the Motion must immediately be put to the vote without any further discussion or debate.

### **31. Moving an amendment**

- 31.1 Subject to sub-Rule 31.3 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.
- 31.2 If a Councillor proposes an amendment and the original mover and seconder of the Motion both indicate their agreement with the amendment, the Motion as amended becomes the Motion before the meeting (known as the 'Substantive Motion') without debate or vote.
- 31.3 A Motion to confirm a previous resolution of Council cannot be amended.
- 31.4 An amendment must not be directly opposite to the Motion.

### **32. Who may propose an amendment**

- 32.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original Motion.

32.2 Any one Councillor cannot move more than two amendments in succession.

### **33. How many amendments may be proposed**

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

33.2 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.

### **34. An amendment once carried**

34.1 If the amendment is carried, the Motion as amended then becomes the Motion before the meeting (known as the 'Substantive Motion'), and the amended Motion must then be put.

34.2 The mover of the original Motion retains the right of reply to that Motion.

### **35. Foreshadowing Motions**

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

35.2 No discussion or debate is allowed on a foreshadowed Motion.

35.3 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.

35.4 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.

35.5 The Chair is not obliged to accept foreshadowed Motions.

### **36. Withdrawal of Motions**

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

36.2 If the majority of Councillors object to the withdrawal of the Motion, it may not be withdrawn.

### **37. Separation of Motions**

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

### **38. Chair may separate Motions**

38.1 The Chair may decide to put any Motion to the vote in several parts.

### **39. Priority of address**

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

### **40. Motions in writing**

40.1 The Chair may require any Motion to be submitted in writing where it is lengthy, unclear, or for any other reasonable purpose.

40.2 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.

### **41. Repeating Motion and/or amendment**

41.1 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.

### **42. Debate must be relevant to the Motion**

42.1 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.

42.2 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.

42.3 A speaker to whom a direction has been given under sub-Rule 42.2 must comply with that direction.

### **43. Speaking times**

43.1 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 or an amendment: 5 minutes;

(b) any other Councillor: 5 minutes; and

(c) the mover of a Motion exercising a right of reply: 2 minutes.

43.2 Only one extension of speaking time is permitted for each speaker.

43.3 Any extension of speaking time must not be more than 3 minutes.

### **44. Addressing the meeting**

44.1 A Councillor addressing the meeting must not be interrupted unless:

(a) called to order, when he or she must remain silent until the Councillor raising the Point of Order has been heard and the Point of Order dealt with; or



(b) given notice by the Chair that their speaking time has elapsed or is about to elapse.

44.2 Except for the Chair, any person who addresses the meeting must direct all remarks through the Chair.

44.3 If the Chair so determines, any person addressing the Chair must refer to the Chair as:

(a) Mayor; or

(b) Chair.

as the case may be.

44.4 All Councillors, other than the Mayor, must be addressed as

**Councillor** .....(surname);

44.5 All members of Council staff, must be addressed as

Mr or Ms .....(name) as appropriate or by their official title.

**45. Right to ask questions**

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

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

**Division 5 – Procedural Motions**

**46. Procedural Motions**

46.1 Unless otherwise prohibited, a Procedural Motion may be moved at any time and must be dealt with immediately by the Chair.

46.2 Procedural Motions require a seconder.

46.3 A Procedural Motion may not be moved or seconded by the Chair.

46.4 The Chair may reject a Procedural Motion if they believe the Motion on which it is proposed has not been adequately or sufficiently debated.

46.5 Unless otherwise provided, debate on a Procedural Motion is not permitted and the mover does not have a right of reply.

46.6 Unless otherwise provided, a Procedural Motion must not be amended.

46.7 Notwithstanding any other provision in this Chapter, Procedural Motions must be dealt with in accordance with the following table:

Motion	Form	Mover/ Seconded	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Deferral of a matter (to a future meeting)	'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 Chair; 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
Closure (of debate)	'That the motion now be put'	Any Councillor who has not moved or seconded the original Motion or spoken for/against the original Motion	During nominations for a Chair	Motion or amendment is put to the vote immediately without further debate, subject to any Councillor exercising their right to ask any question concerning or arising out of the Motion	Debate continues unaffected	No

<b>Motion</b>	<b>Form</b>	<b>Mover/ Second</b>	<b>When prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted</b>
Laying a Motion on the table (pausing debate)	'That the motion be laid on the table'	A Councillor who has not spoken for/against the Motion	During the election of the Mayor/Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same meeting	Debate continues unaffected	No
Take a Motion from the table (resume debate on a matter)	'That the motion in relation to xx be taken from the table'	Any Councillor	When no Motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
Alter the order of business	'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>Motion</b>	<b>Form</b>	<b>Mover/ Seconder</b>	<b>When prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted</b>
Suspension of Standing Orders	'That Standing Orders 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 Standing Orders, is permitted	The meeting continues unaffected	No
Resumption of Standing Orders	'That Standing Orders be resumed'	Any Councillor	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed	The meeting cannot continue	No

<b>Motion</b>	<b>Form</b>	<b>Mover/ Secunder</b>	<b>When prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted</b>
Consideration of confidential matter(s) (Close the meeting to members of the public)	'That, in accordance with section 66(2)(a) of the Local Government Act 2020 the meeting be closed to members of the public for the consideration of item xx which 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
Reopen the meeting	'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

## **Division 6 – Rescission Motions**

### **47. Notice of Rescission**

47.1 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.

47.2 Motions to rescind or alter a previous resolution of Council can be made by:

- (a) a Notice of Rescission delivered by a Councillor in accordance with sub-Rule 47.3; or
- (b) a recommendation contained in an officer's report included in the Agenda.

47.3 A Councillor may propose a Notice of Rescission provided:

- (a) it has been signed (including by electronic means) and dated by that Councillor;
- (b) the resolution proposed to be rescinded has not been acted on; and
- (c) the Notice of Rescission is delivered to the Chief Executive Officer within 24 hours of the resolution having been made setting out:
  - (i) the resolution to be rescinded; and
  - (ii) the meeting and date when the resolution was carried.

47.4 The Chief Executive Officer, or a member of Council staff with responsibility for the subject matter of a resolution, may implement a resolution of Council at any time after the resolution has been adopted. 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.

47.5 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 sub-Rule 47.3(c),

unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy, giving rise to non-compliance with a legal obligation or placing the Council at legal, financial or other risk.

*By way of example, assume that, on a Monday evening, Council resolves to have legal representation at a planning appeal to be heard on the following Monday. Assume also that, immediately after that resolution is made, a Councillor lodges a Notice of Motion to rescind that resolution. Finally, assume that the Notice of Rescission would not be dealt with until the next Monday evening (being the evening of the day on which the planning appeal is to be heard).*

*In these circumstances, deferring implementation of the resolution would have the effect of depriving the resolution of efficacy. This is because the Notice of Rescission would not be debated until after the very thing contemplated by the resolution had come and gone. In other words, by the time the Notice of Rescission was dealt with the opportunity for legal representation at the planning appeal would have been lost.*

*Sub-Rule 47.5 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.*

#### **48. If lost**

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

#### **49. If not moved**

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

#### **50. May be moved by any Councillor**

50.1 A Motion for rescission listed on an Agenda may be moved by any Councillor in attendance but may not be amended.

#### **51. When not required**

51.1 Unless sub-Rule 51.2 applies, a Motion for rescission is not required where Council wishes to change policy.

51.2 The following standards apply if Council wishes to change policy:

- (a) if the policy has been in force in its original or amended form for less than 12 months, a Notice of Rescission must be presented to Council; and
- (b) 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**

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

52.1 A Councillor raising a Point of Order must:

- (a) state the Point of Order; and
- (b) state any section, Rule, paragraph or provision relevant to the Point of Order.

### **53. Valid Points of Order**

53.1 A Point of Order may be raised in relation to:

- (a) a Motion, which, under Rule 27, or a question which, under Rule 57, should not be accepted by the Chair;
- (b) a question of procedure;
- (c) a Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
- (d) debate that is irrelevant to the matter under consideration;
- (e) a matter that is outside the powers of Council; or
- (f) any act of disorder.

*Expressing a difference of opinion or to contradict a speaker is not a Point of Order.*

### **54. Chair to decide**

54.1 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.

### **55. Chair may adjourn to consider**

55.1 The Chair may adjourn the meeting to consider a Point of Order but otherwise must rule on it as soon as it is raised.

55.2 All other matters before the meeting are suspended until the Point of Order is decided.

### **56. Dissent from Chair's ruling**

56.1 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".

56.2 When a Motion in accordance with this Rule is moved and seconded, the Chair must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not in attendance, temporary Chair elected by the meeting) must take their place.



- 56.3 The Deputy Mayor or temporary Chair must invite the mover to state the reasons for their dissent and the Chair may then reply.
- 56.4 The Deputy Mayor or temporary Chair must put the Motion in the following form:  
"That the Chair's ruling be dissented from."
- 56.5 If the vote is in the negative, the Chair resumes the Chair and the meeting proceeds.
- 56.6 If the vote is in the affirmative, the Chair must then resume the Chair, reverse or vary (as the case may be) their previous ruling and proceed.
- 56.7 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.

## **Division 8 – Public Participation**

### **57. Submissions**

- 57.1 A person may make a submission to Council on matters that are not listed on the Agenda. A submission may be on any matter except if it:
- (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
  - (b) is substantially the same as a submission made to a Council meeting in the preceding 12 months;
  - (c) relates to confidential information as defined under the Act;
  - (d) relates to the personal hardship of any resident or ratepayer; or
  - (e) relates to any other matter which the Council considers would prejudice the Council or any person.
- 57.2 Any member of the community who wishes to make a submission must give prior notice in writing at least eleven (11) days before the meeting they wish to attend. The written request:
- (a) can be:
    - (i) delivered by hand to the Council's Office;
    - (ii) submitted online via Council's website; or
    - (iii) emailed to [mail@yarraranges.vic.gov.au](mailto:mail@yarraranges.vic.gov.au)
  - (b) must contain the name, address and email or contact telephone number of the person to be heard;
  - (c) should identify a preferred Council meeting date at which the submission can be made;

- (d) must specify the preferred method of attendance; either in person or via electronic means; and
  - (e) must clearly identify a title to be included on the Agenda for a Council meeting and contain sufficient detail as to what the submission is about.
- 57.3 The Chief Executive Officer will consider the request and schedule this to be heard on the date requested, or at the next available Council meeting if no date has been identified.
- 57.4 The Chair will allocate a maximum of 5 minutes to each person who wishes to address Council.
- 57.5 The person addressing the Council meeting:
- (a) must confine their address to the 5 minute allocation of time;
  - (b) shall extend due courtesy and respect to the Council and the processes under which it operates; and
  - (c) shall take direction from the Chair whenever called upon to do.
- 57.6 There will be no discussion or debate with a person making a submission, however Councillors may ask questions of clarification.
- 57.7 The Mayor reserves the right to cease a submission if they deem the submission inappropriate.
- 57.8 Council may suspend Standing Orders to hear from a member of the community or representative of an organisation on matters of significance to the Council, only if prior arrangements have been made by written request to the Mayor or Chief Executive Officer.
- 58. Speaking to an item listed on the Agenda**
- 58.1 A person may speak to an item of business listed on the Agenda. Any group or association that wishes to be heard should nominate a spokesperson to speak on their behalf.
- 58.2 Sub-Rule 58.1 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.
- 58.3 Members of the gallery, in attendance, who indicate that they would like to speak to an item listed on the Agenda will be invited to come forward by the Chair in the order items are listed on the Agenda.
- 58.4 For planning applications and planning policy matters, the Chair will invite one person to speak on behalf of any objectors and one person to speak on behalf of the applicant.
- 58.5 For all other matters listed on the Agenda, only one person will be invited to address Council, unless there are opposing views.

- 58.6 At the discretion of the Chair, additional speakers may be invited for items of large interest.
- 58.7 The Chair will allocate a maximum of 5 minutes to each person called to speak to an item listed on the Agenda.
- 58.8 The person called to speak:
- (a) must confine their address to the 5 minute allocation of time;
  - (b) shall extend due courtesy and respect to the Council and the processes under which it operates; and
  - (c) shall take direction from the Chair whenever called upon to do.
- 58.9 The person called to speak must not raise any matter that;
- (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
  - (b) relates to confidential information as defined under the Act;
  - (c) relates to the personal hardship of any resident or ratepayer; or
  - (d) relates to any other matter which the Council considers would prejudice the Council or any person.
- 58.10 The Mayor reserves the right to cease a submission if they deem the submission inappropriate.
- 58.11 There will be no discussion or debate with a person speaking, however Councillors may ask questions of clarification.

## **59. Questions to Council**

- 59.1 Members of the community have the opportunity at every Council meeting fixed under Rule 12 to submit questions to Council.
- 59.2 The time allotted for question time will not exceed 15 minutes in duration.
- 59.3 Sub-Rule 59.1 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.
- 59.4 Council must receive prior notice of questions to be asked at each meeting.
- 59.5 Questions submitted to Council must be:
- (a) received exactly as intended to be read;
  - (b) in written form;
  - (c) contain the name, address and email or contact telephone number of the person submitting the question;

- (d) in a form approved or permitted by Council;
- (e) addressed to the Chief Executive Officer; and
- (f) received no later than 5.00pm on the day prior to the next meeting by:
  - (i) submitting online via Council's website;
  - (ii) email to [mail@yarraranges.vic.gov.au](mailto:mail@yarraranges.vic.gov.au); or
  - (iii) hand delivery to the Council's Office.

59.6 A question may be disallowed by the Chief Executive Officer if they determine 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 matters affecting the security of Council property; or
- (l) relates to any other matter which Council considers would prejudice Council or any person.

59.7 Any question which has been disallowed by the Chief Executive Officer must be made available to any Councillor upon request.

59.8 No person may submit more than two questions at any one meeting.

59.9 If a person has submitted two questions to a meeting, the second 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 question time has expired.

59.10 The person who submitted the question, the Chair, the Chief Executive Officer or a member of Council staff nominated by the Chair may read to those in

attendance at the meeting a question which has been submitted in accordance with this Rule.

59.11 Notwithstanding sub-Rule 59.9, the Chair may refrain from reading a question or having a question read if the person who submitted the question is not in attendance in the gallery at the time when the question is due to be read.

59.12 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.

59.13 Like questions may be grouped together and a single answer provided.

59.14 The Chair may nominate the Chief Executive Officer or a member of Council staff to respond to a question.

59.15 The Chair or the Chief Executive Officer may advise Council that it is their opinion that the reply to a question should be given in a meeting closed to members of the public. The Chair 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.

59.16 The question and the response will be included in the Minutes of the Council meeting. A written copy of the answer will be sent to the person who asked the question.

59.17 Council officers will respond acknowledging the question and providing procedural advice and/or the response within 10 working days of the Council meeting. The matter will be referred to the relevant officer for investigation and response if required.

## **Division 9 – Petitions and joint letters**

### **60. Petitions and joint letters**

60.1 Every petition or joint letter submitted to Council must:

- (a) identify a 'Lead Petitioner' who Council can correspond with;
- (b) be legible and in permanent writing;
- (c) be clear and state on each page the matter and action sought from Council. 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;
- (d) not be derogatory, defamatory or objectionable in language or nature;
- (e) not relate to matters outside the powers of Council;
- (f) clearly state the names and addresses of at least seven (7) people who live, work, study or do business in the Municipal district; and
- (g) 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.

- 60.2 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.
- 60.3 The Chief Executive Officer may determine that an electronic or online petition will be submitted to a Council meeting.
- 60.4 The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council meeting.
- 60.5 An online or electronic petition will not be presented to a Council meeting if it contains signatures that are or may be false or misleading.
- 60.6 Petitions submitted to Council for consideration at a particular Council meeting must be:
- (a) addressed to the Chief Executive Officer; and
  - (b) received no later than 5.00pm on the day prior to the next meeting by:
    - (i) email to [mail@yarraranges.vic.gov.au](mailto:mail@yarraranges.vic.gov.au); or
    - (ii) hand delivery to the Council's office.
- 60.7 If a petition relates to a 'statutory matter' or 'planning matter' which is the subject of a public consultation process in accordance with the relevant legislation the petition will be treated as a joint submission in relation to the 'planning matter' or 'statutory matter' (as the case may be). Any such petition will be forwarded directly to the appropriate member of Council staff dealing with the consultation process.
- 60.8 Where a petition has been signed by less than seven (7) people, it will be treated as a joint letter and forwarded directly to the appropriate member of Council staff for action as an operational item.
- 60.9 Unless sub-Rules 60.7 and 60.8 apply, the Lead Petitioner or a Councillor may submit a request to the Chief Executive Officer to present to a meeting a petition or joint letter which has been submitted in accordance with this Rule.
- 60.10 It is incumbent on every person presenting a petition or joint letter to acquaint themselves with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to Council.
- 60.11 Every person presenting a petition or joint letter to Council:
- (a) must specify the preferred method of attendance; either in person or via electronic means; and
  - (b) can speak for up to 5 minutes; and
  - (c) must confine themselves to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of the request.

60.12 If a petition, joint letter or other like application relates to an operational matter, Council must refer it to the Chief Executive Officer for consideration.

60.13 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.

## **Division 10 – Voting**

### **61. How a Motion is determined**

61.1 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.

### **62. Voting must be seen**

62.1 Voting may be by any method resolved by Council that enables those in attendance and those watching a livestream broadcast to clearly see which way a Council has voted at the time a vote is taken (except where a meeting is closed to the public in which case Council voting is not required to be divulged).

62.2 In the absence of a Council resolving an alternative method, voting on any matter is by show of hands.

### **63. Silence**

63.1 Voting must take place in silence.

### **64. Recount**

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

### **65. Casting vote**

65.1 In the event of a tied vote, the Chair must, unless the Act provides otherwise, exercise a casting vote.

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

### **66. Procedure for a division**

66.1 Immediately after any vote has been taken and before the next item of business has commenced, a Councillor may call for a division.

66.2 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.

66.3 When a division is called for, the Chair must:

- (a) first ask each Councillor wishing to vote in favour of the Motion to indicate their vote. The Chair must then state the names of those Councillors to be recorded in the Minutes; and
- (b) then ask each Councillor wishing to vote against the Motion to indicate their vote. The Chair must then state the names of those Councillors to be recorded in the Minutes; and
- (c) declare the result of the division.

## **67. No discussion once declared**

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

- (a) a Councillor requesting, before the next item of business is considered, that their opposition to a resolution be recorded in the Minutes; or
- (b) 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 67 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 67 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 67.1(b), to discussion about a positive Motion where a resolution has just been rescinded.*

## **Division 11 – Minutes**

### **68. Confirmation of Minutes**

68.1 At every Council meeting the Minutes of the preceding meeting(s) must be dealt with as follows:

- (a) a copy of the Minutes must be delivered to each Councillor no later than 48 hours before the meeting;
- (b) if no Councillor indicates opposition, the Minutes must be declared to be confirmed;
- (c) if a Councillor indicates opposition to the Minutes:
  - (i) they must specify the item(s) to which they object;
  - (ii) the objected item(s) must be considered separately and in the order in which they appear in the Minutes;



- (iii) the Councillor objecting must move accordingly without speaking to the Motion;
  - (iv) the Motion must be seconded;
  - (v) the Chair must ask:  
"Is the motion opposed?"
  - (vi) if no Councillor indicates opposition, then the Chair must declare the Motion carried without discussion and then ask :  
"The question is that the minutes, as amended, be confirmed";
  - (vii) if a Councillor indicates opposition, then the Chair must call on the mover to address the meeting;
  - (viii) after the mover has addressed the meeting, the seconder may address the meeting;
  - (ix) 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;
  - (x) 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
  - (xi) 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 they must put the question to the vote accordingly;
- (d) 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;
  - (e) the Minutes must be entered in the Minute book and each item in the Minute book must be entered consecutively; and
  - (f) unless otherwise resolved or required by law, Minutes of a Delegated Committee requiring confirmation by Council must not be available to the public until confirmed by Council.

**69. No debate on confirmation of Minutes**

69.1 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.

**70. Deferral of confirmation of Minutes**

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

**71. Form and availability of Minutes**

71.1 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 Councillors and whether they are:
  - (i) in attendance physically or by electronic means of communication;
  - (ii) an apology;
  - (iii) on leave of absence from Council;
- (c) the names and titles of the members of Council staff in attendance, who are not part of the gallery;
- (d) any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 7;
- (e) arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
- (f) every Motion and amendment moved (including Motions and amendments that lapse for the want of a seconder);
- (g) the outcome of every Motion moved.
- (h) the vote cast by each Councillor upon a division;
- (i) the vote cast by any Councillor who has requested that their vote be recorded in the Minutes;
- (j) the failure to achieve or maintain a Quorum;
- (k) a summary of any question asked and the response provided as part of public question time;
- (l) details of any petitions made to Council;

- (m) the time and reason for any adjournment of the meeting or suspension of Standing Orders;
- (n) any other matter, which the Chief Executive Officer or Delegate thinks should be recorded to clarify the intention of the meeting or assist in the reading of the Minutes; and
- (o) the time the meeting was opened and closed, including any part of the meeting that was closed to members of the public.

71.2 The Chief Executive Officer must ensure that the 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.

71.3 Nothing in sub-Rule 71.2 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**

### **72. Disorderly conduct**

72.1 The conduct of Councillors at meetings is governed by the Act, these Rules and the Councillor Code of Conduct.

72.2 Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the meeting, and prevents the conduct of Council business:

- (a) Council may, by resolution, suspend that Councillor from a portion of the meeting or from the balance of the meeting where the Chair has warned the Councillor to cease that behaviour; or
- (b) the Mayor, under section 19 of the Act, at a Council meeting, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the meeting for a period of time or the balance of the meeting.

72.3 Where Council suspends a Councillor under sub-Rule 72.2(a), or the Mayor directs a Councillor to leave the meeting under sub-Rule 72.2(b) the Councillor will take no active part in the portion of the meeting from which they have been suspended.

72.4 If a Councillor has been suspended from a meeting or directed to leave in accordance with sub-Rule 72.2 the Chair may ask the Chief Executive Officer or a member of Victoria Police to remove the Councillor.

### **73. Public addressing the meeting**

- 73.1 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.
- 73.2 Provision is made in Rules 57, 58, 59 and 60 for members of the community to:
- (a) ask questions at a Council meeting;
  - (b) make submissions to a Council meeting;
  - (c) speak to items of business included on the Agenda for a Council meeting; and
  - (d) present petitions to Council.
- 73.3 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.
- 73.4 A member of the public in attendance at a Council meeting must not disrupt the meeting.

### **74. Display of placards and posters**

- 74.1 Subject to sub-Rules 74.2 and 74.3, a person can display any placards or posters in the Chamber or in any building where a meeting is being, or is about to be, held, including outside the entrance to the building.
- 74.2 A placard or poster must not:
- (a) display any offensive, indecent, insulting or objectionable item or words; or
  - (b) obstruct the entrance to the Council Chamber or a building where a meeting is being, or is about to be, held; or
  - (c) obstruct the view or physically impede any person.
- 74.3 The Chair may order and cause the removal of any placard or poster that is deemed by the Chair to be objectionable, disrespectful or otherwise inappropriate.

### **75. Recording of proceedings**

- 75.1 A person in the gallery must not operate film, photographic, tape-recording or other equipment to reproduce sound and/or images at any meeting without first obtaining the consent of the Chair.
- 75.2 The consent of the Chair may be revoked at any time during the course of a meeting by the Chair stating that consent has been revoked and ordering that the recording cease.

## **76. Chair may remove**

- 76.1 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 73.3.

*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 their authority in chairing the meeting.*

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

- 77.1 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, they may adjourn the meeting to a later time on the same day or to some later day as they think proper. In that event, the provisions of sub-Rules 20.2 and 20.3 apply.

## **78. Removal from Chamber**

- 78.1 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 this Chapter and whom the Chair has ordered to be removed from the Chamber under Rule 80.

## **79. Use of mobile phones and other electronic devices**

- 79.1 During Council meetings Councillors should ensure that they actively and openly engage in the decision-making process and must be cognisant of avoiding any perception that they are not acting with care and diligence or may be under undue influence. Councillors will therefore:
- (a) avoid sending, receiving or otherwise accessing any electronic messages or taking phone calls during a Council meeting without leave being sought from the Mayor, except in exceptional circumstances (for example, a family emergency); and
  - (b) only use electronic devices to access Council Agenda papers and other supporting documents relevant to the discussion at hand.

## **Division 13 – Additional duties of Chair**

### **80. The Chair's duties and discretions**

- 80.1 In addition to the duties and discretions provided in this Chapter, 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 and interferes with the conduct of the business of Council.

## **Division 14 – Suspension of Standing Orders**

### **81. Suspension of Standing Orders**

81.1 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.*

81.2 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:

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

81.4 No Motion can be accepted by the Chair or lawfully be dealt with during any suspension of Standing Orders.

81.5 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**

### **82. Mode of Attendance**

82.1 Each notice of meeting must indicate whether the relevant Council meeting is to be conducted:

(a) wholly in person;

(b) wholly by electronic means; or

(c) partially in person and partially by electronic means.

82.2 The indication in the notice of meeting must be consistent with any Resolution of Council that has expressed a preference for, or otherwise specified, when Council meetings are to be conducted:

(a) wholly in person;

(b) wholly by electronic means; or

(c) partially in person and partially by electronic means.

82.3 If a Council meeting is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.

82.4 Any request made under sub-Rule 82.3 must:

- (a) be in writing;
- (b) be given to the Chief Executive Officer no later than 24 hours prior to the commencement of the relevant Council meeting; and
- (c) specify the reasons why the Councillor is unable or does not wish to attend the Council meeting in person.

82.5 The Chief Executive Officer must ensure that any request received in accordance with sub-Rule 82.4 and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant Council meeting.

82.6 Council may approve and must not unreasonably refuse any request.

82.7 A Councillor who is attending a Council meeting by electronic means is responsible for ensuring that they are able to access such equipment and are in such an environment that facilitates participation in the Council meeting.

82.8 Without detracting from anything said in sub-Rule 82.7, a Councillor who is attending a meeting by electronic means must be able to:

- (a) hear the proceedings;
- (b) see all Councillors and members of Council staff who are also attending the Council meeting, at least while a Councillor or member of Council staff is speaking;
- (c) be seen by all Councillors, members of Council staff and members of the public who are physically present at the Council meeting; and
- (d) be heard when they speak.

82.9 If the conditions of sub-Rule 82.8 cannot be met by one or more Councillors attending a Council meeting, whether because of technical difficulties or otherwise:

- (a) the Council meeting will nonetheless proceed as long as a quorum is present; and
- (b) the relevant Councillor (or Councillors) will be treated as being absent from the Council meeting or that part of the Council meeting

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

82.10 Nothing in this Rule 82 prevents a Councillor from joining (or re-joining) a Council meeting at the time that they achieve compliance with sub-Rule 82.8 even if the Council meeting has already commenced or has continued in their absence.

**83. Meetings conducted remotely**

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

**84. Procedure not provided in this Chapter**

84.1 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).

**85. Criticism of members of Council staff**

85.1 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.

85.2 The Chief Executive Officer's statement under sub-Rule 84.1 must be made, through the Chair, as soon as is practicable after the Councillor who made the statement has spoken.



## **Chapter 4 – Meeting procedure for Delegated Committees**

### **1. Meeting procedure generally**

#### 1.1 If Council establishes a Delegated Committee:

- (a) all of the provisions of Chapter 3 apply to meetings of the Delegated Committee; and
- (b) any reference in Chapter 3 to:
  - (i) a Council meeting is to be read as a reference to a Delegated Committee meeting;
  - (ii) a Councillor is to be read as a reference to a member of the Delegated Committee; and
  - (iii) the Mayor is to be read as a reference to the Chair of the Delegated Committee.

### **2. Meeting procedure can be varied**

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

- (a) Council may; or
- (b) the Delegated Committee may, with the approval of Council,

resolve that any or all of the provisions of Chapter 3 are not to apply to a meeting of the Delegated Committee, in which case the provision or those provisions will not apply until Council resolves, or the Delegated Committee with the approval of Council resolves, otherwise.

## **Chapter 5 – Meeting procedure for Community Asset Committees**

### **1. Introduction**

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

### **2. Meeting procedure**

- 2.1 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.

## **Chapter 6 – Joint meetings of councils**

Regional collaboration provides benefits through collective procurement, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it's possible for the participating councils to make their own decisions and determinations, in some circumstances, it may be beneficial to hold joint council meetings as are provided for in the Act.

### **1. Joint council meetings**

- 1.1 Council may resolve to participate in a joint council meeting to consider:
  - (a) collaborative projects;
  - (b) collaborative procurement;
  - (c) emergency responses.
- 1.2 If Council has resolved to participate in a joint council meeting, the Chief Executive Officer (or Delegate) will agree on governance rules with the participating councils.
- 1.3 Where Yarra Ranges Council is the lead council on a matter to be brought for consideration at a joint council meeting, the Mayor will be nominated to Chair the joint council meeting.
- 1.4 A majority of Councillors will be appointed to represent Council at a joint council meeting.
- 1.5 Consistent information will be provided to Councillors prior to any joint meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.
- 1.6 A joint briefing arranged in accordance with sub-Rule 1.5 may be held electronically.

## **Chapter 7 – Disclosure of conflicts of interest**

### **1. Definition**

#### 1.1 In this Chapter:

- (a) “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 8 (whether such a meeting is known as a ‘Councillor Briefing’ or by some other name);
- (b) a member of a Delegated Committee includes a Councillor;
- (c) “Conflict of Interest” has the same meaning given in the Act.

### **2. Obligations with regard to Conflicts of Interest**

#### 2.1 Councillors, members of Delegated Committees and Council staff are required to:

- (a) avoid all situations which may give rise to Conflicts of Interest;
- (b) identify any Conflicts of Interest; and
- (c) disclose or declare all Conflicts of Interest;

#### 2.2 Councillors and members of Delegated Committees

- (a) must not participate in discussion or decision-making on a matter in which they have a Conflict of Interest;
- (b) must clearly state their connection to the matter when disclosing a Conflict of Interest.

#### 2.3 Council staff must act in accordance with the Employee Code of Conduct and must not exercise a delegation or make a decision on any matter where they have a Conflict of Interest.

#### 2.4 All disclosures of Conflicts of Interest will be recorded in the Minutes of a Council or Delegated Committee meeting.

#### 2.5 Council will maintain a Conflict of Interest Register which will be made available on Council’s website.

### **3. Disclosure at a Council meeting**

#### 3.1 A Councillor who has a Conflict of Interest in a matter being considered at a Council meeting at which they:

- (a) are in attendance, must disclose that Conflict of Interest by explaining the nature of the Conflict of Interest to those in attendance at the Council meeting during any standing agenda item for the disclosure of Conflicts of Interest and immediately before the matter is considered; or

- (b) intend to be in attendance, must disclose that Conflict of Interest by providing to the Chief Executive Officer before the Council meeting commences a written notice:
  - (i) advising of the Conflict of Interest;
  - (ii) explaining the nature of the Conflict of Interest; and
  - (iii) 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, during any standing agenda item for the disclosure of Conflicts of Interest and immediately before the matter is considered at the meeting, announcing to those in attendance that they have a Conflict of Interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule.

- 3.2 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 before the relevant matter is discussed, not communicate with any participants in the meeting while the decision is being made and not return to the meeting until after the matter has been disposed of.

#### **4. Disclosure at a Delegated Committee meeting**

- 4.1 A member of a Delegated Committee who has a Conflict of Interest in a matter being considered at a Delegated Committee meeting at which they:
  - (a) are in attendance, must disclose that Conflict of Interest by explaining the nature of the Conflict of Interest to those in attendance at the Delegated Committee during any standing agenda item for the disclosure of Conflicts of Interest and meeting immediately before the matter is considered; or
  - (b) intend to attend, must disclose that Conflict of Interest by providing to the Chief Executive Officer before the Delegated Committee meeting commences a written notice:
    - (i) advising of the Conflict of Interest;
    - (ii) explaining the nature of the Conflict of Interest; and
    - (iii) detailing, if the nature of the Conflict of Interest involves a member of a Delegated Committee's relationship with or a gift from another person the:
      - (A) name of the other person;

(B) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and

(C) nature of that other person's interest in the matter,

and then, during any standing agenda item for the disclosure of Conflicts of Interest and immediately before the matter is considered at the meeting, announcing to those in attendance 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.

4.2 The member of a Delegated Committee must, in either event, leave the Delegated Committee meeting immediately after giving the explanation or making the announcement (as the case may be) and before the matter is discussed, not communicate with any participants in the meeting while the decision is being made and not return to the meeting until after the matter has been disposed of.

## **5. Disclosure at a Community Asset Committee meeting**

5.1 A Councillor who has a Conflict of Interest in a matter being considered at a Community Asset Committee meeting at which they:

(a) are in attendance, must disclose that Conflict of Interest by explaining the nature of the Conflict of Interest to those in attendance at the Community Asset Committee meeting during any standing agenda item for the disclosure of Conflicts of Interest and immediately before the matter is considered; or

(b) intend to attend, must disclose that Conflict of Interest by providing to the Chief Executive Officer before the Community Asset Committee meeting commences a written notice:

(i) advising of the Conflict of Interest;

(ii) explaining the nature of the Conflict of Interest; and

(iii) 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

(C) nature of that other person's interest in the matter,

and then, during any standing agenda item for the disclosure of Conflicts of Interest and immediately before the matter is considered at the meeting, announcing to those in attendance that they have a Conflict of Interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule.

5.2 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 before the matter is discussed, not communicate with any participants in the meeting while the decision is being made 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**

6.1 A Councillor who has a Conflict of Interest in a matter being considered by a meeting held under the auspices of Council at which they are in attendance must:

- (a) disclose that Conflict of Interest by explaining the nature of the Conflict of Interest to those in attendance at the meeting immediately before the matter is considered;
- (b) absent themselves from any discussion of the matter and not communicate with any members of the meeting for the duration of the discussion; and
- (c) as soon as practicable after the meeting concludes provide to the Chief Executive Officer a written notice recording that the disclosure was made and accurately summarising the explanation given to those in attendance at the meeting.

## **7. Disclosure by Council staff preparing reports for meetings**

7.1 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 he or she is preparing or contributing to the preparation of a report for consideration at a:

- (a) Council meeting;
- (b) Delegated Committee meeting; or
- (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.

7.2 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.

7.3 If the member of Council staff referred to in sub-Rule 8.1 is the Chief Executive Officer:

- (a) the written notice referred to in sub-Rule 8.1 must be given to the Mayor; and
- (b) the obligation imposed by sub-Rule 8.2 may be discharged by any other member of Council staff responsible for the preparation of the report.

**8. Disclosure by 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 9.1 is the Chief Executive Officer the written notice must be given to the Mayor.

**9. Disclosure by 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 any applicable legislation 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 10.1 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.

**11. Conflicts of Interest Policy**

- 11.1 Council may adopt a Conflicts of Interest Policy and other guidance materials for Councillors and Council staff regarding identifying and managing Conflicts of Interest.



## **Chapter 8 – Miscellaneous**

### **1. Informal meetings of Councillors**

1.1 If there is a meeting of Councillors that:

- (a) is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- (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:

- (i) tabled at the next convenient Council meeting; and
- (ii) recorded in the Minutes of that Council meeting.

### **2. Audit and Risk Management Committee**

- 2.1 The Act provides for Council to establish an Audit and Risk Committee to provide oversight.
- 2.2 These Rules will apply to the Audit and Risk Management Committee established by Council unless otherwise provided in the Audit and Risk Management Committee Charter.
- 2.3 Council may resolve, in establishing an Audit and Risk Management Committee, that Chapter 3 of these Rules does not apply.
- 2.4 The Audit and Risk Management Committee must act in accordance with its Charter as adopted by Council.

### **3. Confidential Information**

- 3.1 If the Chief Executive Officer is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, they may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 3.2 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 9 – Use of the Common Seal**

The purpose of this Chapter is to provide for the security and proper use of the Common Seal. The Common Seal is the corporate signature of Council and evidences Council's corporate will and authenticates decisions taken and acts performed by Council.

### **1. Keeping the Common Seal**

1.1 The Chief Executive Officer must ensure the security of the Council's common seal at all times.

### **2. Authority for Use**

2.1 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 a senior officer authorised by the Chief Executive Officer.

2.2 Any person who uses the Council's common seal without authority is guilty of an offence.

2.3 Any person who uses any replica of the council's seal without authority is guilty of an offence.

### **3. Guidelines for the Use of the Common Seal**

3.1 The Seal shall be appended to any of the following documents:

- (a) contract for sale or purchase of land;
- (b) contracts that have been endorsed by Council;
- (c) tenders that have been endorsed by Council;
- (d) any contract documentation (supplied by a tender) which includes terms and conditions of trade, and any formal deed;
- (e) ceremonial documents;
- (f) where the funding body/agreement requires the Council Seal;
- (g) any document that changes Council's legal position including:
  - (i) borrowings (including changes to overdraft facilities); or
  - (ii) significant contract variations;
- (h) delegations from Council to the Chief Executive Officer, Delegate or to officers where required by other legislative authorities (i.e. on certification of residency for overseas pension);
- (i) any other legal document Council is required to affix the Seal to from time to time.

## Chapter 10 – Election Period Policy

### 1. Introduction

1.1 This Policy is made in accordance with the section 69 of the Act, which requires Council to adopt an election period policy in relation to procedures to be applied by Council during the Election Period for a General Election and by-election.

#### Purpose of the Policy

1.2 The purpose of this Policy is to ensure that:

- (a) elections are conducted in an environment that is open and fair to all candidates;
- (b) the ordinary business of Council can continue throughout the election period in a responsible and transparent manner, and in accordance with statutory requirements;
- (c) Council avoids making decisions prohibited by section 69 of the Act;
- (d) the community understand that Council's resources will not be used in any election campaign.

1.3 The Policy applies to all Councillors, candidates in an election and all staff employed or engaged by Council.

### 2. Definitions

2.1 In this Chapter:

Candidate	means a person who is nominated to stand for election to Council and includes an incumbent Councillor
Consultation	means a process organised by the Council that involves an invitation to individuals, groups or organisations to comment on an issue that relates to any proposed action or policy
Election Day	has the same meaning as in the Act
Election Period	means the period that: (a) starts at the time that nominations close on nomination day (as defined in the Act); and (b) ends at 6 p.m. on Election Day. This can also be referred to as the 'Caretaker Period'
Electoral Material	has the same meaning as in the Act
Electoral Matter	has the same meaning as in the Act

Election Manager	has the same meaning as in the Act
General Election	means the election of all councillors, held every four years on the fourth Saturday in October
Incumbent councillor	means a current Councillor who has nominated, or is considering nominating, for election in a General Election
Publication	means: (a) any document that is published by the Council, including information on the Internet; (b) the act of publishing
Publish	means publish by any means, including by publication on the Internet
Social media	means websites and applications that enable users to create and share content or to participate in social networking and includes Facebook, Twitter, Instagram, YouTube, LinkedIn, Flickr and Pinterest
VEC	means Victorian Electoral Commission

### **3. Requirements placed on Council and the Chief Executive Officer**

#### **Council**

3.1 Council will function in accordance with this Policy during the Election Period.

#### **Chief Executive Officer**

3.2 Before the Election Period commences, the Chief Executive Officer should ensure that:

- (a) all Councillors and members of staff are made aware of this Policy and the restrictions on decision making during the Election Period;
- (b) arrangements are in place to avoid significant interruptions to the normal business of the Council due to the prohibition on making major policy and significant decisions. This may include, for example, programming major tender processes outside the election period;
- (c) guidance is issued to members of Council staff outlining changes to normal business practices, the restrictions and other issues to be considered by staff during this period;
- (d) all items listed for consideration on an Agenda for a Council meeting are checked for compliance with the Act and this Policy.

#### **4. Council staff standing as a Candidate in a Council election**

- 4.1 A member of Council staff is incapable of becoming a Councillor in Yarra Ranges unless they take leave to contest the election, and if elected, resign as a member of Council staff immediately after being declared elected.
- 4.2 The period of leave required to contest the election would commence, at the latest, at the time the staff member is nominated as a Candidate.

#### **5. Involvement of staff in the campaign of any Candidate**

- 5.1 Where a member of staff wishes to be involved in a private capacity in the campaign of any Candidate, they must ensure that all election related activity is undertaken outside of working hours.
- 5.2 Any member of staff involved privately in the campaign of any Candidate must:
- (a) inform their manager of their involvement;
  - (b) take necessary action to clearly separate their working and private activities;
  - (c) avoid any Conflict of Interest that may arise between their support of a particular candidate and their employment by the Council; and
  - (d) declare a Conflict of Interest if one arises.

#### **6. Assistance to Candidates**

- 6.1 All Candidates will be treated equally. Neither incumbent Councillors nor other Candidates will receive information or advice from Council staff that might be perceived to support election campaigns.
- 6.2 All queries from Candidates relating to the election process are to be directed to the Election Manager . Matters outside the responsibilities of the Election Manager are to be directed to the Director Corporate Services or their Delegate.

#### **Provision of information to Councillors and candidates**

- 6.3 Council recognises that all election candidates have rights to information from the Council administration. Staff will only provide information to a candidate or prospective candidate that is available to the community.
- 6.4 This Policy aims to ensure that incumbent Councillors do not gain any inappropriate advantage. Throughout the election period staff will, at all times, ensure that incumbent Councillors have the support, information and resources they require to fulfil their role as Councillors. This will not relate to new 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.

### **Register of requests for information from candidates**

- 6.5 During the election period a register will be kept to record requests by persons who identify themselves as candidates when seeking information relating to Electoral Matters or when making other general enquiries. The register will also record the responses provided.
- 6.6 Any request for information from an incumbent Councillor or other Candidate that falls outside of what is permitted under this Policy should be referred to the Director Corporate Services.
- 6.7 The register will be maintained by the Governance Coordinator, made available for inspection by the public and published on Council's website.
- 6.8 The Governance Coordinator may, at their discretion, circulate to all Candidates the response to any request recorded in the register.

### **7. Use of Council resources**

- 7.1 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.

#### **Staff**

- 7.2 Council staff must not be asked to undertake any tasks indirectly or directly connected with the election campaign of an incumbent Councillor.

#### **Equipment provided to Councillors**

- 7.3 Councillors may continue to use any equipment provided to them by the Council to facilitate the performance of their normal duties as a councillor.
- 7.4 Council resources, including the use of photocopiers, stationery, computer equipment, mobile phones, email accounts or any vehicles provided must not be used for any election campaign activities, or in a manner that could be perceived as supporting or being connected with a Candidate's election campaign.
- 7.5 Councillors must not use email signatures or their Council email account to promote theirs or another person's candidature in the election.
- 7.6 Councillors must not use portraits, or other photos taken by or held by Council not otherwise in the public domain, to promote theirs or another person's candidature in an election.

### **Council premises**

- 7.7 Electoral Matter will not be visible or available at any Council premises during the Election Period.
- 7.8 Material issued by the Election Manager for the purpose of conducting the election may be displayed at Council premises.

### **8. Electoral advertising and signage**

- 8.1 Council acknowledges the rights to freedom of expression, as set out in the Charter of Human Rights and Responsibilities Act 2006. All candidates are entitled to a fair opportunity to conduct their election campaign within the Municipal district. However, these rights must be balanced against the need for Council to ensure that election signs do not unduly compromise public amenity or safety.

#### **Signs on private land**

- 8.2 Election signs are allowed to be displayed on private land, with the permission of the owner of the land. Any such signage is subject to the provisions set out in clauses 22.04 and 52.05 of the Yarra Ranges Planning Scheme.

#### **Signs on Council land**

- 8.3 Electoral advertising on any Council land (including road reserve) or public place is not permitted without permission first being obtained from Council.
- 8.4 Candidates are strongly advised to check with Council's Safer Communities Team in respect of any requirements contained in Council's Neighbourhood Amenity Local Law 2020 before placing any sign, banner or advertising material on any Council land (including road reserve) or public place.
- 8.5 Authorised officers of Council will respond to breaches of Council's Neighbourhood Amenity Local Law 2020 and may:
- (a) remove any election sign placed contrary to the Local Law;
  - (b) issue an infringement, as appropriate, in accordance with applicable laws.

#### **Signs on vehicles and trailers**

- 8.6 Portable or moveable election signs that are attached to a vehicle, trailer or similar may be displayed on a road provided that:
- (a) the sign does not unreasonably restrict the use of the road, or endanger the safety of members of the public; and
  - (b) the relevant parking restrictions and requirements are observed.

## **9. Council business and decision-making**

- 9.1 Ordinary, day-to-day business of Council must continue throughout the Election Period and this will be conducted in a responsible and transparent manner, in accordance with statutory requirements.
- 9.2 A 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 an election is prohibited.
- 9.3 Section 69 of the Act prohibits any Council decision during the Election Period for a General Election that:
- (a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
  - (b) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
  - (c) Council considers could be reasonably deferred until the next Council is in place; or
  - (d) Council considers should not be made during an Election Period.
- 9.4 If Council considers that there are extraordinary circumstances where the municipality or the local community would be significantly disadvantaged by Council not making a particular decision, the Chief Executive Officer may make an application to the Minister for a compliance exemption in accordance with section 177 of the Act.
- 9.5 During an election period, it shall be the ultimate responsibility of the Chief Executive Officer, having consulted with the Mayor, to determine if a matter is to be presented to Council for decision.

### **Guidance on Decisions**

- 9.6 Council will avoid making decisions that is intended to influence, or is likely to influence, voting at an election or decisions that may unreasonably bind an incoming Council and could be deferred until after the election. Examples of inappropriate decisions include:
- (a) Allocating community grants or other direct funding to community organisations;
  - (b) Major planning scheme amendments;
  - (c) Changes to strategic objectives and strategies identified in the Council Plan;



- (d) Adopting policy;
- (e) Setting advocacy positions.

9.7 While there are no legal restrictions on Council making statutory planning decisions under the Planning and Environment Act 1987 during an election period, certain planning matters can generate a great deal of community interest and can become campaign issues for candidates. At a Council Meeting designated to consider planning and related matters, only permit applications that:

- (a) fall within the category of major development (i.e. over \$3million in value) and have received no objections from members of the community; or
- (b) which may otherwise be subject of an application to VCAT on the grounds Council has failed to determine within the prescribed time

may be considered.

### **Delegated decisions**

- 9.8 As decision making power is delegated to staff through formal Instruments of Delegation, a decision of a Delegate is deemed to be a decision by Council.
- 9.9 Restrictions that apply to decisions made in Council and Delegated Committee meetings also apply to staff when using delegated powers. Staff should carefully consider the use of delegated powers to make decisions during the Election Period and must satisfy themselves beforehand that any decision is not an inappropriate decision.

## **10. Publications and the media**

### **Prohibition on publishing material during the Election Period**

- 10.1 Council must take care when publishing documents during the Election Period to ensure they do not contain Electoral Matter or could be construed as influencing the outcome of an election. Section 304 of the Act states:

*“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.”*

### **Certification of publications**

10.2 The Chief Executive Officer must:

- (a) certify, in writing, all new documents published during the Election Period;
- (b) not certify any publication that contains Electoral Matter.

10.3 Publications which require certification may include:

- (a) brochures, pamphlets, handbills, flyers, magazines and books;
- (b) reports (other than those included in an Agenda for a Council or Delegated Committee meeting);
- (c) advertisements and notices, except notices of meetings in newspapers;
- (d) new website material;
- (e) social media publications;
- (f) emails with multiple addresses, used for broad communication with the community;
- (g) mass mail outs or identical letters sent to a large number of people by or on behalf of Council;
- (h) media releases;
- (i) material to publicise a function or event;
- (j) any publication or distribution of Councillors' speeches.

10.4 Correspondence to individuals, invoices, permits and rates reminder notices generated in the course of normal business does not need to be certified.

10.5 Agenda and Minutes of Council and Delegated Committee meetings do not require certification by the Chief Executive Officer unless they are printed or published for a wider distribution than normal.

### **Press releases and statements**

10.6 Press releases or other such media statements must not feature any photograph, quote or name of incumbent Councillors. These will require certification by the Chief Executive Officer.

10.7 Official media statements will only be made by or in the name of the Chief Executive Officer. Requests directed to staff for comment on sensitive or political issues are to be referred to the Director Corporate Services.

10.8 Any member of staff authorised by the Chief Executive Officer to make a public statement must ensure that it cannot be interpreted as a political

comment and will refrain from comment on Candidates or any issues relating to the election. Any statements of clarification made during the Election Period must first be approved by the Director Corporate Services

### **Publicity**

10.9 Publicity campaigns will only be undertaken if they relate to the process of conducting the election, as agreed with the VEC, or are deemed necessary for the conduct of a normal Council service or function.

10.10 All publicity campaigns must be:

- (a) approved in writing by both the relevant Director and Director Corporate Services before being implemented; and
- (b) certified by the Chief Executive Officer.

### **Use of the Council logo and branding**

10.11 The Yarra Ranges Council logo, or any other logo or branding developed by Council, must not be used in any Candidate material.

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

10.12 Council is required by the Act to:

- (a) give public notice of Council meetings and Delegated Committee meetings; and
- (b) produce and make available Agendas and Minutes of Council meetings and Delegated Committee meetings.

10.13 All reports to be considered at a meeting of the Council, or by a Delegated Committee, are to be checked by the Director Corporate Services for compliance with section 304 of the Act.

10.14 Items of business submitted by members of the community in accordance with Rules 57, 58, 59 and 60 will be reviewed by the Director Corporate Services to ensure compliance with the Act and this Policy, and may be rejected or amended accordingly before publication.

### **The Annual Report**

10.15 If the Annual Report is required to be published during the Election Period, it will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.

10.16 The Annual Report is not required to be certified by the Chief Executive Officer, however any subsequent publication of an extract or summary of the Annual Report will require certification.

## **Councillors and the media**

- 10.17 Incumbent Councillors may make statements as Candidates provided they are clearly communicated as personal opinions and do not undermine the standing of Council or the community. Such statements must not be prepared by Council staff.
- 10.18 Incumbent Councillors may refer to adopted Council policies or decisions but there should be a clear distinction between the adopted Council position and any political commentary the Candidate may wish to make. No media advice or assistance will be provided to incumbent Councillors on election campaign matters or in regard to publicity that involves specific Councillors.
- 10.19 Incumbent Councillors shall not participate in any radio or other broadcast program conducted by Council, or on which any member of council staff has been authorised by the Chief Executive Officer to appear.

## **11. Council website and social media**

### **Website**

- 11.1 Council's website, together with any other website administered by a member of Council staff in the course of their duties, may contain information about the election process but will not be used to convey information that could be regarded as electoral matter.
- 11.2 Websites will be checked at the start of the Election Period to ensure that any information prominently displayed that might be regarded as likely to influence how people vote will be removed.
- 11.3 Websites should not refer to incumbent Councillors, apart from containing identification photographs and contact details of all Councillors.
- 11.4 Existing material published on websites in advance of the Election Period, is not subject to certification requirements.
- 11.5 New material should not be published to websites during the Election Period unless it complies with the requirements of section 304 of the Act.

### **Social media**

- 11.6 Section 304 of the Act applies to social media operated by Council. Any publication on social media sites operated by Council during the Election Period should be restricted to normal day-to-day activities only and must be certified in writing by the Chief Executive Officer.
- 11.7 Hosting or responding to political content is not permitted.
- 11.8 Where possible, the public's ability to post comments on social media pages operated by Council should be disabled for the duration of the Election Period. If this is not possible, staff responsible for administering individual social

media accounts will monitor their respective accounts during the Election Period and use moderation, where available, to ensure no Electoral Matter is posted.

## **12. Functions and events**

- 12.1 Where possible, functions and events organised by Council should be scheduled for outside the Election Period. A function or event should only go ahead during the Election Period if it is:
- (a) routinely held at the same time of year;
  - (b) a commemorative or anniversary event held on or near the anniversary date; or
  - (c) it is necessary in order to ensure the effective and smooth running of the organisation, in which case approval must be gained from the Chief Executive Officer.
- 12.2 Where the Chief Executive Officer is required to determine if a function or event is to be held, they should consider:
- (a) whether the content of the event is likely to be controversial;
  - (b) whether the event could wait until after the election;
  - (c) the implications (i.e., financial, reputational) if the event was held during the election period or deferred until after the election; or
  - (d) the best interests of the Council.
- 12.3 Invitations to functions and events will be issued by Council and not in the name of the Mayor or individual Councillors.
- 12.4 Functions and events held during the Election Period must not be used, or be able to be construed to be used, in connection with any political purpose or election activity. Council reserves the right to direct any person who is conducting election campaign activities at a Council function or event to cease those activities or to leave the event.
- 12.5 Staff should discuss any queries regarding the conduct or management of a function or event with their manager. Clarification can be sought from the Director Corporate Services.

### **Speeches**

- 12.6 While Councillors are permitted to attend public events during the Election Period, they may only make a speech if expressly authorised by the Chief Executive Officer. Any speech must not include any political reference or mention of the fact that a Councillor is a Candidate for the election.

12.7 Speeches for Councillors will only be prepared by staff under the direction of the Chief Executive Officer.

12.8 All speeches at functions or events must be reviewed by the Director Corporate Services to ensure that the content is appropriate and cannot be construed to breach the Act or this Policy.

### **Public meetings**

12.9 Council is able to advertise meetings during the Election Period, however, the content of the meetings must first be approved by the Director Corporate Services to ensure there is no breach of the Act or this Policy.

### **Interstate or overseas conferences**

12.10 During the Election Period, an incumbent Councillor should not attend any interstate or overseas conference, or similar function, unless it is unavoidable and has been approved unanimously by a resolution of Council.

## **13. Consultation with the community**

13.1 No consultation processes should be undertaken during the Election Period, unless they are:

- (a) required by section 223 of the Local Government Act 1989;
- (b) required by the Planning and Environment Act 1987; or
- (c) approved in writing by the Chief Executive Officer.

13.2 The Chief Executive Officer may approve consultation being undertaken during the Election Period, but must first consider:

- (a) whether the consultation process is likely to be controversial;
- (b) whether the consultation process is significant;
- (c) whether the consultation process could wait until after the election;
- (d) the implications (i.e., financial, reputational) if the consultation was undertaken during the Election Period or deferred until after the election; and
- (e) the best interests of the Council.

13.3 Where consultation is approved to be undertaken during the Election Period the results of that consultation should not be reported to Council until after the Election Period, except where approved by the Chief Executive Officer.

#### **14. Appointment of Councillors to bodies or authorities**

14.1 Councillors are not to be appointed to positions where tenure extends beyond Election Day or any internal or external bodies or authorities unless:

- (a) it is impractical to defer the appointment until after the election; or
- (b) the appointment needs to be made for reasons of continuity and the appointment of a Councillor to the position is to be reviewed at the meeting of Council following the election at which the appointment of Council representatives is made.

#### **15. Reimbursement of Councillor expenditure**

15.1 Claims for the reimbursement of expenses must be made in accordance with the Councillor Expenditure Policy adopted by Council. Such claims must not relate to election activities or election material.

15.2 Any queries related to the reimbursement of expenses must be referred to the Director Corporate Services.

#### **16. Breach of the Election Period Policy**

16.1 Should a Councillor or staff member believe there has been a possible breach of this Policy, the matter must first be referred to the Director Corporate Services. Any such allegation must be handled with confidentiality and be based on tangible evidence so that further investigation may be made.

16.2 Once the Director Corporate Services has investigated the matter, an outline of the issue and the suggested course of action shall be referred to the Chief Executive Officer for approval. The Director Corporate Services shall then institute any approved action.

16.3 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 section 69(4) of the Act is entitled to compensation from the Council for that loss or damage.

16.4 A breach of section 304 of the Act can be prosecuted in Court and a person found guilty may be fined up to 60 penalty units.

#### **17. Administrative amendments**

17.1 From time to time, circumstance may require minor amendments be made to this Policy. Where this does not materially alter the Policy, such amendments may be made administratively by the Chief Executive Officer.

17.2 Any amendment which materially alters the Policy must be approved by resolution of Council.

#### **18. Distribution**

18.1 As soon as possible after it is adopted by Council, a copy of this Policy will be:

- (a) given to each Councillor;
- (b) available for inspection by the public at Council offices; and
- (c) published on Council's website.

**19. Review**

- 19.1 Following adoption, the Policy will be subject to further review no later than 12 months before the commencement of each subsequent general election period.