



WHITEHORSE
CITY COUNCIL

Whitehorse City Council

Governance Rules

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GOVERNANCE RULES

Introduction

i) Nature of Rules

These the Governance Rules of Whitehorse City Council, made in accordance with section 60 of the *Local Government Act 2020*.

ii) Date of commencement

These Governance Rules commence on 1 January 2023.

iii) Contents

These Governance Rules are divided into the following Chapters:

Chapter 1	Governance Framework
Chapter 2	Meeting Procedure for Council Meetings
Chapter 3	Meeting Procedure for Community Asset Committees
Chapter 4	Disclosure of Conflicts of Interest
Chapter 5	Miscellaneous
Appendix	Election Period Policy

iv) Definitions

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

Act means the *Local Government Act 2020*.

Attend, attending and in attendance. include attend, attending or in attendance by electronic means

Chief Executive Officer includes an Acting Chief Executive Officer.

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

Council means Whitehorse City Council.

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

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

Mayor means the Mayor of Council.

These Rules means these Governance Rules.

Governance Framework

Chapter 1

Chapter 1 – Governance Framework

1. Key principles

- 1.1 Driving the governance changes by the State Government, is a concerted effort to reinforce and promote the following four guiding principles:
 - a) The promotion of natural justice with Council decisions;
 - b) The promotion of transparency of Council decisions, actions and information;
 - c) The importance of achieving best outcomes for the community, now and in the future; and
 - d) The importance of community engagement.
- 1.2 It has been a longstanding legislative requirement for government to ensure that its decisions are made fairly and on their merits. Further, that persons affected by a Council decision have the opportunity as part of the decision-making process to make their views/interests known. The reconfirmation of this principle seeks to build and enhance community confidence and respect for Council's processes and its decision-making responsibilities.
- 1.3 The second principle relates to engendering community confidence and respect in Council processes, in the level of transparency associated with Council decisions, actions taken and ready to access information.
- 1.4 The third identified principle is for Councils to continue to provide good governance and strive to achieve the best outcomes, in terms of the benefits and wellbeing of its current and future communities.
- 1.5 Finally, there is a renewed effort to reinforce the importance of community engagement. There is a close relationship between community engagement and participation in Council processes and activities, in engendering community satisfaction and confidence with Council.

2. Matters covered

- 2.1 Whitehorse City Council has placed enhanced importance in ensuring that the information contained in its Governance Rules is presented in a clear, concise and complete manner. It is hoped that this approach may produce tangible results in building and strengthening community interest and participation in Council sponsored initiatives and prescribed legislative processes.
- 2.2 Accordingly, the Governance Rules captures the following information:
 - a) The conduct of Council meetings;
 - b) The nature and availability of meeting records;
 - c) Procedure for election of the Mayor and Deputy Mayor;
 - d) Council's Election Period Policy; and
 - e) The disclosure of a Conflict of Interest.

3. Context

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

- 3.1 The overarching governance principles specified in section 9(2) of the *Act*; and
- 3.2 The following documents adopted or approved by *Council*:
 - a) Councillor Code of Conduct and incorporated policies and procedures;
 - b) Public Transparency Policy;
 - c) Community Engagement Policy; and
 - d) Other relevant policies.

4. Decision making

- 4.1 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, ethically and impartially; and
 - b) On the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations.
- 4.2 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).
- 4.3 Without limiting anything in sub-Rule 4.2:
- 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; and
 - 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 has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
 - c) If a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

Meeting Procedure for Council Meetings

Chapter 2

Chapter 2 – Procedure for Council Meetings

Part A – Introduction

5. Title

This Chapter will be known as the "Meeting Procedure Chapter".

6. Purpose of this Chapter

The purpose of this Chapter is to:

- 6.1 Provide for the election of the Mayor and Deputy Mayor;
- 6.2 Provide for the appointment of any Acting Mayor; and
- 6.3 Provide for the procedures governing the conduct of Council meetings.

7. Definitions and notes

7.1 In this Chapter:

Agenda means the notice of a meeting setting out the business to be transacted at the meeting,

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

Minute book means the collective record of proceedings of Council.

Municipal district means the municipal district of Council.

Notice of Motion means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting.

Notice of rescission means a Notice of Motion to rescind a resolution made by Council.

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

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

Part B – Election of Mayor

Introduction

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

8. Election of Mayor

8.1 Any Councillor is eligible for election or re-election to the office of Mayor.

8.2 The agenda for the meeting to elect the Mayor may include:

- a) The taking the oath or affirmation of office by each Councillor, under Section 30 of the *Act*;
- b) The fixing of allowances for the Mayor and Councillors under Section 39 of the *Act*; and
- c) The appointment of Councillor Representatives to various bodies.

8.3 The Chief Executive Officer (CEO) will be the temporary Chairperson (or a Councillor elected/appointed to chair the meeting). The CEO will be the Returning Officer at which the election of Mayor is to be conducted but will have no voting rights. The Chief Executive Officer must facilitate the election of the Mayor in accordance with the provisions of the *Act*.

9. Method of voting

The election of the Mayor must be carried out by a show of hands or such other visual or audible means as the Chief Executive Officer determines.

10. Determining the election of the Mayor

- 10.1 The Chief Executive Officer must open the meeting at which the Mayor is to be elected, and invite nominations for the office of Mayor.
- 10.2 Any nominations for the office of Mayor must be seconded by another Councillor.
- 10.3 Any Councillor nominated may refuse nomination.
- 10.4 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 present at the meeting must vote for one of the candidates;
 - c) In the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
 - d) In the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
 - e) If one of the remaining candidates receives an absolute majority of the votes, 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 one of them having to be declared:
 - i) A defeated candidate; and
 - ii) Duly elected.the declaration will be determined by lot.
 - g) If a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:
 - i) Each candidate will draw one lot;
 - ii) The order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
 - iii) As many identical cards as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the cards, and the Councillor who draws the card with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected).

11. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for office of Deputy Mayor will be regulated by Rules 8-10 (inclusive) of this Chapter, as if the reference to the:

- 11.1 Chief Executive Officer is a reference to the Mayor; and
- 11.2 Mayor is a reference to the Deputy Mayor.

12. Appointment of Acting Mayor

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

- 12.1 Resolving that a specified Councillor be so appointed; or
- 12.2 Following the procedure set out in Rules 9 and 10 (inclusive) of this Chapter, at its discretion.

Part C – Meeting 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 and when and how business may be transacted at a meeting.

Division 1 – Notices of Meetings and Delivery of Agenda

13. Dates and times of meetings fixed by Council

Subject to Rule 15, Council must from time to time fix the date, time and place of all Council meetings.

14. Council may alter meeting dates

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

15. Meetings not fixed by Council (Unscheduled or Special meetings)

- 15.1 The Mayor or at least three Councillors may by a written notice call a Council meeting.
- 15.2 The notice must specify the date and time of the Council meeting and the business to be transacted.
- 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. Notice of meeting

- 16.1 A notice of meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be delivered or sent electronically to every Councillor for all Council meetings at least 48 hours before the meeting.
- 16.2 Notwithstanding sub-Rule 16.1, 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.
- 16.3 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, twice yearly or from time to time, and arranging publication of such schedule in a newspaper generally circulating in the municipal district either at various times throughout the year, or prior to each such Council meeting; and
- b) For any meeting by giving notice on its website, and:
 - i) In each of its Customer Service Centres; and/or
 - ii) In at least one newspaper generally circulating in the municipal district.

Division 2 – Quorums

17. Inability to obtain a quorum

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

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

18. Inability to maintain a quorum

- 18.1 If during any Council meeting, a quorum cannot be maintained then Rule 17 will apply as if the reference to the meeting is a reference to the business remaining to be considered.
- 18.2 Sub-Rule 18.1 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.

19. Adjourned meetings

- 19.1 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.
- 19.2 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.
- 19.3 If it is impracticable for the notice given under sub-Rule 19.2 to be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

20. Time limits for meetings

A Council meeting will progress in two-hour blocks from the time of commencement and allowing for a five minute break after each two-hour block, unless resolved otherwise by the majority of Councillors at the meeting.

21. Cancellation or postponement of a meeting

- 21.1 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.
- 21.2 The Chief Executive Officer must present to the immediately following Council meeting a written report on any exercise of the power conferred by sub-Rule 21.1.

Division 3 – Business of Meetings

22. Agenda and Order of Business

- 22.1 The agenda for and the order of business for a Council meeting is to be determined by the Chief Executive Officer so as to facilitate and maintain open, efficient and effective processes of government.
- 22.2 In doing so the Chief Executive Officer will be guided by the following order of business:
- a) Welcome
 - b) Apologies
 - c) Disclosures of Conflicts of Interest
 - d) Confirmation of Minutes
 - e) Urgent Business
 - f) Public presentations
 - g) Public Question Time
 - h) Petitions and Joint letters
 - i) Notices of Motion
 - j) Council Reports
 - k) Confidential Reports (to be considered in camera)
 - l) Close

23. Change to Order of Business

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 Definition: *Urgent Business* means business that requires the urgent attention of Council in connection with public health or safety, a financial or legal matter of significance to the city.
- 24.2 Urgent Business listed on the Council agenda 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) Is a time sensitive matter which requires Council's immediate and urgent consideration; and
 - c) Cannot safely or conveniently be deferred until the next Council meeting.

Division 4 – Motions and Debate

25. Councillors may propose Notices of Motion

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

26. Notice of Motion

- 26.1 A Notice of Motion must be in writing signed by a Councillor, and be lodged with or sent to the Chief Executive Officer at least 7 days prior to the Council meeting to allow sufficient time for the Chief Executive Officer to include the Notice of Motion in agenda papers for a Council meeting.

- 26.2 A Notice of Motion (NOM) must call for a report if the NOM proposes any action that:
- a) Impacts the level of Council service;
 - b) Commits Council to expenditure that is not included in the Council budget;
 - c) Proposes to establish, amend or extend a 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 a contractual arrangement; or
 - f) Concerns any litigation in respect of which Council is party.
- 26.3 The Chief Executive Officer may reject any Notice of Motion which:
- a) Is vague or unclear in intention;
 - b) It is beyond Council's power to pass;
 - c) If passed would result in Council otherwise acting invalidly;
 - d) Is an operational service request; or
 - e) Relates to a matter that has been previously resolved by Council or is acted on; but must:
 - i) Give the Councillor who lodged it an opportunity to amend or withdraw it prior to rejection, if it is practicable to do so; and
 - ii) Notify in writing the Councillor who lodged it of the rejection and reasons for the rejection.
- 26.4 The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the agenda.
- 26.5 Except by leave of Council, each Notice of Motion before any meeting must be considered in the order in which they were received.
- 26.6 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. Any Notice of Motion can be amended and the mover and seconder of the motion may accept a proposed amendment or amend the motion when first putting it.
- 26.7 If a Notice of Motion is not moved at the Council meeting at which it is listed, it lapses.

27. Duty of Chair

Any motion which is determined by the Chair to be:

- 27.1 Defamatory;
 - 27.2 Objectionable in language or nature;
 - 27.3 Vague or unclear in intention;
 - 27.4 Outside the powers of Council; or
 - 27.5 Irrelevant to the item of business on the agenda and has not been admitted as urgent, or purports to be an amendment but is not,
- must not be accepted by the Chair.

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 indicating in not more than two 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. Moving a motion

The procedure for moving any motion:

- 29.1 The mover must outline the motion without speaking to it;
- 29.2 The motion must be seconded by a Councillor other than the mover;
- 29.3 If a motion is not seconded, the motion lapses for want of a seconder;
- 29.4 After the mover has addressed the meeting (five minutes) (or chooses not to or reserve the right to speak later in the debate), the seconder (three minutes) may address the meeting;
- 29.5 After the seconder has addressed the meeting (or chosen not to) the Chair must invite debate by calling on any Councillor who wishes to speak to the motion (three minutes); and
- 29.6 If after the mover and seconder have addressed the meeting, the Chair has invited debate and no Councillor speaks to the motion, then the chair must put motion to the vote.

30. Right of reply

- 30.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
- 30.2 After the right of reply has been taken but subject to any Councillor exercising their right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

31. Moving an amendment

- 31.1 A motion which has been moved and seconded may be amended by leaving out, inserting or adding words, which must be relevant to the subject of the motion.
- 31.2 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- 31.3 If a Councillor proposes an amendment and the original mover and seconder of the motion both indicate their agreement with the amendment, the amended motion becomes the substantive motion without debate or vote.
- 31.4 If a Councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:
- a) The amendment must be moved and seconded;
 - b) A Councillor may speak on any amendment once, whether or not they have spoken to the motion, but debate must be confined to the terms of the amendment;
 - c) Any number of amendments may be proposed to a motion, but only one amendment may be accepted by the Chairperson at any one time. 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 and voted on;
 - d) If the amendment is carried, the motion as amended then becomes the motion before the meeting (known as the 'substantive motion'); and
 - e) The mover of an amendment does not have right of reply.
- 31.5 An amendment must not be directly opposite to the motion.

Note: If a proposed amendment is ruled to be the negative of, or substantially contrary to, the motion, it should be treated as an alternative motion to be considered only in the event that the motion before the Chair is lost – see Rule 35: Foreshadowing motions.

32. How many amendments may be proposed

- 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

If the amendment is carried, the motion as amended then becomes the motion before the meeting and the amended motion must be put.

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 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.
- 35.3 The Chief Executive Officer or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.
- 35.4 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 objects to the withdrawal of the motion, it may not be withdrawn.

37. Separation of motions

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

38. Chair may separate motions

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

39. Priority of address

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 that a complex or detailed motion be in writing.

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

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 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:

43.2 The mover of a motion or an amendment which has been opposed: five minutes;

43.3 Any other Councillor: three minutes; and

43.4 The mover of a motion exercising a right of reply: two minutes.

44. Addressing the meeting

44.1 (New) Councillors and Officers, when speaking, shall address each other by their respective titles of Mayor or Chair, Councillor or Officer as the case may be.

44.2 All members of Council staff must be addressed by their first and last name or by their 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 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:

PROCEDURAL MOTIONS TABLE

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	a) During the election of a Chair; b) When another Councillor is speaking	Motion and any amendment postponed to the stated time and/or date	Debate continues unaffected	Yes
2. Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	a) During the election of a Chair; b) When another Councillor is speaking; c) When the matter is one in respect of which a call of the Council has been made for that meeting in accordance with section 85 of the <i>Act</i> ; or d) When the motion would have the effect of causing Council to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected	Yes
3. The closure	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for Chair	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising their right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

Division 6 – Rescission Motions

47. Notice of Rescission

47.1 A Councillor may propose a Notice of Rescission provided:

- a) It has been signed and dated by at least three Councillors;
- 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.

It should be remembered that a Notice of Rescission is a form of Notice of Motion. Accordingly, all provisions in this Chapter regulating Notices of Motion equally apply to Notices of Rescission.

47.2 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.

47.3 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 47.1 c),

unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

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

48. If lost

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

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

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

A motion for rescission is not required where Council wishes to change policy.

Division 7 – Points of Order

52. Chair to decide

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. Points of Order in regard to a motion, amendment or statement can relate to being contrary to the Governance Rules, defamatory irrelevant, improper or outside Council's legal powers.

53. Chair may adjourn to consider

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

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

54. Dissent from Chair's ruling

54.1 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".

54.2 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.

54.3 The Deputy Mayor or temporary Chair must invite the mover to state the reasons for their dissent and the Chair may then reply.

54.4 The Deputy Mayor or temporary Chair must put the motion in the following form:

"That the Chair's ruling be dissented from."

54.5 If the vote is in the negative, the Chair resumes the Chair and the meeting proceeds.

54.6 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.

54.7 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.

55. Procedure for Point of Order

A Councillor raising a Point of Order must:

55.1 State the Point of Order; and

55.2 State any section, Rule, paragraph or provision relevant to the Point of Order

56. Valid Points of Order

A Point of Order may be raised in relation to:

56.1 A motion, which, under Rule 27, or a question which, under Rule 58, should not be accepted by the Chair;

- 56.2 A question of procedure; or
- 56.3 Any act of disorder.

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

Division 8 – Presentation

57. Public presentations

- 57.1 There must be a public presentation segment at every Council meeting fixed under Rule 13 to enable members of the public to make presentations to Council.
- 57.2 Sub-Rule 57.1 does not apply when a meeting is closed to members of the public in accordance with section 66(2) of the *Act*
- 57.3 Public presentations will not exceed 30 minutes in duration.
- 57.4 A person must register on Council's website by no later than 12 noon on the day of the Council meeting, with a maximum of 10 persons being granted up to three minutes to present their subject matter.
- 57.5 No more than three persons may speak on the same subject matter at any one meeting.
- 57.6 The Chair may use their discretion to allow additional speakers on any item up to a maximum of 10.
- 57.7 The Chair will seek the suspension and subsequent resumption of standing orders to allow for the conduct of the Public Presentations segment at all Council meetings.

Division 9 – Public Question Time

58. Question Time

- 58.1 There must be a public question time at every Council meeting fixed under Rule 13 to enable members of the public to submit questions to Council.
- 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 Public question time will not exceed 15 minutes in duration.
- 58.4 Questions submitted to Council must be:
 - a) In writing, state the name and address of the person submitting the question and generally be in a form approved or permitted by Council (per the Council approved form); and
 - b) Lodged electronically or in person at the Nunawading Civic Centre by 12 noon on the day of the Council meeting.
- 58.5 No person may submit more than two questions at any one meeting.
- 58.6 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 public question time has expired.
- 58.7 The Chair 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.
- 58.8 Notwithstanding sub-Rule 58.6, the Chair may refrain from reading a question or having a question read if the person who submitted the question is not in attendance at the time when the question is due to be read.

- 58.9 A question may be disallowed by the Chair if the Chair determines that it:
- a) Relates to a matter outside the duties, functions and powers of Council;
 - b) Is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - c) Deals with a subject matter already answered;
 - d) Is aimed at embarrassing a Councillor or a member of Council staff;
 - e) Relates to personnel matters;
 - f) Relates to the personal hardship of any resident or ratepayer;
 - g) Relates to industrial matters;
 - h) Relates to contractual matters;
 - i) Relates to proposed developments;
 - j) Relates to legal advice;
 - k) Relates to matters affecting the security of Council property; or
 - l) Relates to any other matter which Council considers would prejudice Council or any person.
- 58.10 Any question which has been disallowed by the Chair must be made available to any other Councillor upon request.
- 58.11 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.
- 58.12 Like questions may be grouped together and a single answer provided.
- 58.13 The Chair may nominate a Councillor or the Chief Executive Officer to respond to a question.
- 58.14 A Councillor or the Chief Executive Officer may require a question to be taken on notice. If a question is taken on notice, a written copy of the answer will be sent to the person who asked the question.
- 58.15 A Councillor 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 Councillor or Chief Executive Officer (as the case may be) must state briefly the reason why the reply should be so given and, unless Council resolves to the contrary, the reply to such question must be so given.

Division 10 – Petitions and Joint Letters

59. Petitions and joint letters

- 59.1 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 fixed Council meeting after that at which it has been presented.
- 59.2 It is incumbent on every Councillor 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 which is disrespectful towards Council.
- 59.3 Every petition or joint letter presented to Council must be in writing (other than pencil), contain the request of the petitioners or signatories and be signed by at least 12 people.
- 59.4 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- 59.5 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.

- 59.6 Every page of a hard copy 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.
- 59.7 A petition or joint letter may nominate a person to whom a reply may be sent, but if no person is nominated, Council may reply to the first or any person whose signature appears in the petition or joint letter.
- 59.8 Where a petition or joint letter relates to a current planning application, the petition or joint letter will be considered as an objection in accordance with the *Planning and Environment Act 1987* and will not be tabled at a Council meeting as a separate matter.
- 59.9 If a petition, joint letter, memorial or other like application relates to an operational matter, Council must refer it to the Chief Executive Officer for consideration.
- 59.10 Council may admit and consider a petition which is not fully compliant subject to a resolution of Council to allow such consideration.

Division 11 – Voting

60. Determination of motion

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. Voting by a show of hands is compulsory.

61. Silence

Voting must take place in silence.

62. Recount

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

63. Casting vote

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

64. Voting procedure

Voting on any matter is by show of hands or such other visible or audible means as the Chair determines.

65. Procedure for a division

- 65.1 Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- 65.2 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.
- 65.3 When a division is called for, the Chair must:
- a) First ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of their hands or otherwise signify their support in a manner recognised by the Chair. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the affirmative; and
 - b) Then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of their hands. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the negative.

66. No discussion once declared

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

- 66.1 A Councillor requesting, before the next item of business is considered, that their opposition to a resolution be recorded in the minutes or a register maintained for that purpose; or
- 66.2 Foreshadowing a Notice of Rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

Section 59 of the Act provides:

(5) A question before a Council meeting is to be determined as follows—

(a) each Councillor present at a Council meeting who is entitled to vote is entitled to one vote;

(b) voting at a meeting must not be in secret, but if the meeting is closed to the public, a Councillor is not required to divulge their vote to the public;

(c) the question is determined in the affirmative by a majority of the Councillors present at a meeting at the time the vote is taken voting in favour of the question;

(d) subject to subsection (6), if the number of votes in favour of the question is half the number of Councillors present at the meeting at the time the vote is taken, the chairperson has a second vote;

(e) for the purpose of determining the result of a vote, a Councillor present at the meeting who does not vote is to be taken to have voted against the question.

The Chairperson does not have a casting vote in the election of Mayor or Deputy Mayor as these positions must be elected by an absolute Majority of Councillors.

Division 12 – Minutes

67. Confirmation of minutes

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

- 67.1 A copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;
- 67.2 If no Councillor indicates opposition, the minutes must be declared to be confirmed;
- 67.3 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; and
- 67.4 The minutes must be entered in the minute book and each item in the minute book must be entered consecutively.

68. No debate on confirmation of minutes

No discussion or debate on the confirmation of minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.

69. Deferral of confirmation of minutes

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

70. Form and availability of minutes

- 70.1 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 in attendance and the names of any Councillors who apologised in advance for their non-attendance;
 - c) The names of members of Council staff in attendance;
 - d) Any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5 and whether the conflict of interest was said by the Councillor to be a general conflict of interest or a material conflict of interest;
 - e) Arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
 - f) Each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
 - g) The vote cast by each Councillor upon a division and any abstention from voting;
 - h) The vote cast by any Councillor who has requested that their vote be recorded in the minutes;
 - i) The failure of a quorum;
 - j) Any adjournment of the meeting and the reasons for that adjournment; and
 - k) The time at which standing orders were suspended and resumed.
- 70.2 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.
- 70.3 Nothing in sub-Rule 70.2 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 13 – Behaviour

71. Public addressing the meeting

- 71.1 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.
- 71.2 Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chair whenever called on to do so.
- 71.3 A member of the public in attendance at a Council meeting must not disrupt the meeting.

72. Chair may remove

The Chair may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 71.2.

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

73. Chair may adjourn disorderly meeting

If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, the Chair 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 19.2 and 19.3 apply.

74. Removal from Chamber

The Chair, or Council in the case of a suspension, may ask the Chief Executive Officer or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the Chair has ordered to be removed from the gallery under Rule 72.

Division 14 – Additional Duties of Chair

75. Chair's duties and discretions

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

- 75.1 Must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community; and
- 75.2 Must call to order any person who is disruptive or unruly during any meeting.

Division 15 – Suspension of Standing Orders

76. Suspension of standing orders

76.1 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.

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

"That standing orders be suspended to enable discussion on....."

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

76.4 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 16 – Physical and Remote Attendance

77. Mode of attendance

77.1 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.

77.2 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.

- 77.3 The preferred mode of attendance for a Council or Special Meeting is wholly in person.
- 77.4 If a Council meeting is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.
- 77.5 Any request made under sub-Rule 77. must:
- a) Be in writing;
 - b) Be given to the Chief Executive Officer no later than 10am on the day of the Council meeting; and
 - c) Specify the reasons why the Councillor is unable or does not wish to attend the Council meeting in person.
- 77.6 The Chief Executive Officer must ensure that any request received in accordance with sub-Rule 77. and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant Council meeting.
- 77.7 Council may approve and must not unreasonably refuse any request.
- 77.8 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.
- 77.9 Without detracting from anything said in sub-Rule 77., 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.
- 77.10 If the conditions of sub-Rule 77. **Error! No bookmark name given.** 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.
- 77.11 Nothing in this Rule prevents a Councillor from joining (or re-joining) a Council meeting at the time that they achieve compliance with sub-Rule 77. even if the Council meeting has already commenced or has continued in their absence.
- 77.12 Any person must not operate any audio and/or visual recording equipment whilst a Confidential Item is being considered; and
- 77.13 A Councillor who is attending a Council meeting by electronic means must ensure when a Confidential Item is being considered that it cannot be seen or heard by others.

78. Meetings conducted remotely

If a Council 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.

Division 17 – Miscellaneous

79. Criticism of members of Council staff

- 79.1 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.
- 79.2 A statement under sub-Rule 79.1 must be made by the Chief Executive Officer, through the Chair, as soon as it is practicable after the Councillor who made the statement has resumed their seat.

80. Common Seal

- 80.1 The common seal of the Council may only be used with the authority of the Council or in accordance with the Instrument of Delegation issued to the Chief Executive Officer.
- 80.2 The Chief Executive Officer must keep the common seal in safe custody.
- 80.3 Every document to which the common seal is affixed must be signed by:
- a) A Councillor and the Chief Executive Officer; or
 - b) The Chief Executive Officer if the document is being sealed under delegation.
- 80.3 A person must not use the common seal or any device resembling the common seal without the authority of the Council or Chief Executive Officer.

81. Procedure not provided in this Chapter

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

Meeting Procedure for Community Asset Committees

Chapter 3

Chapter 3 – Meeting Procedure for Community Asset Committees

82. Introduction

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*.

83. Meeting procedure

Unless anything in the Instrument of Delegation provides otherwise, the conduct of a meeting of a Community Asset Committee is in the discretion of the Community Asset Committee.

Disclosure of Conflicts of Interest

Chapter 4

Chapter 4– Disclosure of Conflicts of Interest

84. Definition

In this Chapter, “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 92 (whether such a meeting is known as a ‘Councillor Briefing’ or by some other name);

85. Disclosure of conflict of interest at a Council meeting

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

- a) Are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Council meeting immediately before the matter is considered; or
- b) Intend to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Council meeting commences a written notice:
 - 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:
 - Name of the other person;
 - Nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - Nature of that other person’s interest in the matter;

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

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

86. Disclosure of a conflict of interest at a Community Asset Committee meeting

86.1 A Councillor who has a conflict of interest in a matter being considered at a Community Asset Committee meeting at which they:

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

- b) Intend to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Community Asset Committee meeting commences a written notice (as per the form approved by Council):
 - i) Advising of the conflict of interest;
 - ii Explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material 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:
 - Name of the other person;
 - Nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - Nature of that other person’s interest in the matter;

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

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

87. Disclosure at a meeting conducted under the auspices of Council

A Councillor who has a conflict of interest in a matter being considered by a meeting conducted under the auspices of Council at which they are in attendance must:

- 87.1 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 and indicating whether it is a general conflict of interest or a material conflict of interest;
- 87.2 Absent themselves from any discussion of the matter; and
- 87.3 As soon as practicable after the meeting concludes provide to the Chief Executive Officer a written notice recording that the disclosure was made and accurately summarising the explanation given to those in attendance at the meeting.

88. Disclosure by members of Council staff preparing reports for meetings

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

- a) Council meeting;
- b) 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 and indicating whether it is a general conflict of interest or a material conflict of interest.

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

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

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

89. Disclosure of conflict of interest by members of Council staff in the exercise of delegated power

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

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

90. Disclosure by a member of Council staff in the exercise of a statutory function

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

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

91. Retention of written notices

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

Miscellaneous

Chapter 5

Chapter 5 – Miscellaneous

92. Informal Meetings of Councillors

If there is a meeting of Councillors that:

- 92.1 Is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- 92.2 Is attended by at least one member of Council staff; and
- 92.3 Is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting

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

- 92.4 Tabled at the next convenient Council meeting; and
- 92.5 Recorded in the minutes of that Council meeting.

93. Confidential information

- 93.1 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.
- 93.2 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.

Election Period Policy

Chapter 6

Chapter 6 – Election Period Policy

1. Status of policy

This policy has been adopted by Council in compliance with the requirements of sections 60 and 69 of the *Local Government Act 2020* (the Act).

2. Purpose

In order to ensure that general elections for the Whitehorse City Council are conducted in a manner that is fair and equitable, and is publicly perceived as such, the Council affirms the following policy principles.

3. Election Period

- 3.1 The "Election Period" starts on the last day on which nominations for that election can be received and ends at 6.00pm on election day.
- 3.2 As soon as possible, and no later than 30 days prior to the commencement of the election period, the Chief Executive Officer will ensure that:
 - a) All Councillors, Managers and staff are informed of the requirements of this policy; and
 - b) A copy of this policy is given to all Councillors.

4. Council decisions

- 4.1 During the Election Period this policy prohibits a Council decision:
 - a) Relating to the employment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive officer;
 - b) That commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges, service rates and charges in the preceding financial year;
 - c) That could reasonably be deferred until the next Council is in place;
 - d) That would enable the use of Council's resources in a way that is intended to influence, or likely to influence voting at an election; or
 - e) That the Council considers should not be made during an Election Period.
- 4.2 Where possible, the Chief Executive Officer will schedule matters for the Council to ensure that Council decisions are made either prior to the commencement, or after the conclusion, of the Election Period.

5. Inappropriate decisions

- 5.1 During the Election Period the Council will follow procedures intended to prevent the making of inappropriate decisions which include decisions that:
 - a) Would affect voting in an election; or
 - b) Could reasonably be made after the election.
- 5.2 All documentation prepared for Council meetings will be carefully vetted by the Chief Executive Officer to ensure that no agenda item is included that could potentially influence voters' intentions at the general election or could encourage Councillor candidates to use the item as part of their electioneering.
- 5.3 Councillors commit to refraining from moving motions or raising matters at a meeting that could potentially influence voting at the election.

6. Election Period/Caretaker Statement

During the Election Period, the Chief Executive Officer will ensure that a Caretaker Statement is included in every agenda submitted to the Council for a decision. The Caretaker Statement will appear at the start of the agenda and will state that:

"The recommended decisions on all reports on this agenda do not prohibit Council making a Council decision in accordance with section 69 of the Local Government Act 2020".

7. Council resources

- 7.1 Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in this regard. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice will be sought from the Chief Executive Officer or the Director Corporate Services.
- 7.2 Council resources, including offices, support staff, mayoral vehicle, meeting facilities, hospitality, equipment photocopying and stationery will be used exclusively for normal Council business during the Election Period and will not be used in connection with any election.
- 7.3 Reimbursements of Councillors' out-of-pocket expenses during the Election Period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.
- 7.4 No Council logos, letterheads, or other Whitehorse City Council logos or associated Council material will be used for, or linked in any way to, a candidate's election campaign.
- 7.5 The Chief Executive Officer and Council staff will not be asked to undertake any tasks connected directly or indirectly with electioneering.

8. Public consultation

- 8.1 During the Election Period, Council will undertake procedures to limit public consultation. Whilst consultation is an integral part of Council's policy development process and operations, Council is concerned to ensure that consultation is not undertaken close to a general election so as to possibly become an election issue in itself and influence voting. Councillors acknowledge that issues raised through the consultation and decisions that follow may also unreasonably bind the incoming Council.
- 8.2 No public consultation will be undertaken during the Election Period unless authorised by a Council decision that acknowledges the application of this policy and justifies to the Whitehorse community the special circumstances making it necessary and how the risks of influencing the election will be mitigated or prevented.

9. Council events

Councillors acknowledge that the scheduling of Council events in the lead up to elections may raise concerns over their potential use by sitting Councillors for electioneering purposes. To this end the Chief Executive Officer will ensure that no Council events will be scheduled during the Election Period unless there are special/exceptional circumstances making it necessary and justifying how the risks of influencing the election will be mitigated or prevented.

10. Information

- 10.1 The Council recognises that all election candidates have rights to information from the Council administration. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the Election Period.
- 10.2 Information and briefing material prepared by staff for Councillors during the Election Period will relate only to factual matters or to existing Council services. Such information will not relate to policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.
- 10.3 An Information Request Register will be maintained by the Team Leader Governance during the Election Period. This Register will be a public document that records all requests for information by Councillors and candidates, and the responses given to those requests.

10.4 All requests for information are to be directed to the Chief Executive Officer in written format.

11. Publicity

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

11.2 Council is required to comply with Section 287 of the Act which states:

“A person must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any electoral material unless the name and address of the person who authorised the electoral material is clearly displayed on its face.” Penalty: 10 penalty units for a natural person, 50 penalty units for a body corporate.

11.3 In addition:

- a) During the Election Period, no Council employee may make any public statement that could be construed as influencing the election;
- b) During the Election Period, publicity campaigns, other than for the purpose of conducting the election, will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council service or function, it must be approved by the Chief Executive Officer. Council publicity during the Election Period will be restricted to promoting normal Council activities;
- c) Any requests for media advice or assistance from Councillors during the Election Period will be channelled through the Chief Executive Officer. In any event, no media advice or assistance will be provided in relation to election campaign matters, or in regard to publicity that involves specific Councillors;
- d) Councillors will not use their position as an elected representative to access Council staff and other Council resources to gain media attention in support of an election campaign; and
- e) All Council media releases (which exclude electoral material) in the Election Period will be issued in the name of the Chief Executive Officer as appropriate.

12. Assistance to candidates

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

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

12.3 All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer.

13. Social media

During the Election Period, Councillors standing for re-election must not include in their official Councillor emails any reference to their personal social media accounts such as Facebook and must comply with Council's Social Media Policy.

14. Public availability of this policy

A copy of this policy is:

- 14.1 Available for inspection by the public at the Council's customer service centres; and
- 14.2 Published on the Council's Internet website.