

# GOVERNANCE RULES



## Introduction

### 1. Nature of Rules

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

### 2. Date of Commencement

These Governance Rules commence on 1 September 2020.

### 3. Contents

These Governance Rules are divided into the following Chapters:

Chapter	Name
Chapter 1	Governance Framework
Chapter 2	Meeting Procedure for Council Meetings
Chapter 3	Meeting Procedure for Delegated Committees
Chapter 4	Meeting Procedure for Community Asset Committees
Chapter 5	Disclosure of Conflicts Of Interest
Chapter 6	Miscellaneous
Chapter 7	Election Period Policy

### 4. Definitions

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

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

*Chief Executive Officer* includes an Acting Chief Executive Officer.

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

*Council* means Whitehorse 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.

## Chapter 1 – Governance Framework

### 5. Key Principles

Driving the governance changes by the State Government, is a concerted effort to reinforce and promote the following four guiding principles:

1. The promotion of natural justice with Council decisions;
2. The promotion of transparency of Council decisions, actions and information;
3. The importance of achieving best outcomes for community, now and in future; and
4. The importance of community engagement.

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.

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.

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.

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.

### 6. Matters Covered

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.

Accordingly, the Governance Rules captures the following information:

- a) The conduct of meetings for Council and delegated Committees;
- 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

### 7. Context

*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*:

**Councillor Code of Conduct and incorporated policies and procedures**

**Public Transparency Policy**

**Community Engagement Policy**

**Other relevant policies**

## 8. Decision Making

- (a) In any matter in which a decision must be made by *Council* (including persons acting with the delegated authority of *Council*), *Council* must consider the matter and make a decision:
  - (i) Fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
  - (ii) On the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- (b) *Council* must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of *Council* is entitled to communicate their views and have their interests considered).
- (c) Without limiting anything in paragraph (b) of this sub-Rule:
  - (i) Before making a decision that will directly affect the rights of a person, *Council* (including any person acting with the delegated authority of *Council*) must identify the person or persons whose rights will be directly affected, give notice of the decision which *Council* must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made;
  - (ii) If a report to be considered at a *Council meeting* concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;
  - (iii) If a report to be considered at a *Delegated Committee* meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
  - (iv) If a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

## Chapter 2 – Meeting Procedure for Council Meetings

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## Part A – Introduction

### 1. Title

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

### 2. Purpose of this Chapter

The purpose of this Chapter is to:

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

### 3. Definitions and Notes

#### 3.1 In this Chapter:

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

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

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

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

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

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

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

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



## **Part B – Election of Mayor**

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

### **4. Election of the Mayor**

- 4.1 Any Councillor is eligible for election or re-election to the office of Mayor.
- 4.2 The agenda for the meeting to elect the Mayor may include:
  - 4.2.1 The taking the oath or affirmation of office by each Councillor, under Section 30 of the Act;
  - 4.2.2 The fixing of allowances for the Mayor and Councillors under Section 39, of the Act; and
  - 4.2.3 The appointment of Councillor representatives to various bodies.
- 4.3 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*.

### **5. Method of Voting**

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

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

- 6.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- 6.2 Any nominations for the office of *Mayor* must be:
  - 6.2.1 Seconded by another Councillor.
  - 6.2.2 Any Councillor nominated may refuse nomination
- 6.3 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:
  - 6.3.1 If there is only one nomination, the candidate nominated must be declared to be duly elected;
  - 6.3.2 If there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;
  - 6.3.3 In the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
  - 6.3.4 In the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;

- 6.3.5 If one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;
- 6.3.6 In the event of two or more candidates having an equality of votes and one of them having to be declared:
- (a) A defeated candidate; and
  - (b) Duly elected
- the declaration will be determined by lot.
- 6.3.7 If a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
- (a) Each candidate will draw one lot;
  - (b) The order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
  - (c) As many identical 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).

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

Any election for:

7.1 Any office of Deputy Mayor; or

7.2 Chair of a *Delegated Committee*

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

7.3 *Chief Executive Officer* is a reference to the *Mayor*; and

7.4 *Mayor* is a reference to the Deputy Mayor or the Chair of the *Delegated Committee* (as the case may be).

## **8. 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:

8.1 Resolving that a specified Councillor be so appointed; or

8.2 Following the procedure set out in Rules 5 and 6 (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

#### 9. Dates and Times of Meetings Fixed by Council

Subject to Rule 11, *Council* must from time to time fix the date, time and place of all *Council and any delegated Committee meetings*.

#### 10. Council may Alter Meeting Dates

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

#### 11. Meetings not Fixed by Council

11.1 The *Mayor* or at least 3 Councillors may by a *written* notice call a *Council meeting*.

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

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

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

#### 12. Notice of Meeting

12.1 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 and delegated committee meetings* at least 48 hours before the meeting.

12.2 Notwithstanding sub-Rule 12.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in *writing* to continue to give notice of any meeting during the period of his or her absence.

12.3 Reasonable notice of each *Council and delegated committee meeting* must be provided to the public. *Council* may do this:

12.3.1 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 or other communication mediums in the *municipal district* either at various times throughout the year, or prior to each such *Council and delegated committee meeting*; and

12.3.2 For any meeting by giving notice on its website and:

(a) In each of its Customer Service Centres; and/or

(b) In at least one newspaper generally circulating or other communication mediums in the *municipal district*.

## Division 2 – Quorums

### 13. Inability to Obtain A Quorum

The quorum of the Council is six Councillors

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

- 13.1 the meeting will be deemed to have lapsed;
- 13.2 the *Mayor* must convene another *Council or delegated committee meeting*, the *agenda* for which will be identical to the *agenda* for the lapsed meeting; and
- 13.3 the *Chief Executive Officer* must give all Councillors *written* notice of the meeting convened by the *Mayor*.

### 14. Inability to Maintain A Quorum

- 14.1 If during any *Council or delegated committee meeting*, a quorum cannot be maintained then Rule 13 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 14.2 Sub-Rule 14.1 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.

### 15. Adjourned Meetings

- 15.1 *Council or a delegated Committee* 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.
- 15.2 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.
- 15.3 If it is impracticable for the notice given under sub-Rule 15.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.

### 16. Time limits for Meetings

- 16.1 A *Council meeting or delegated committee* must not continue after 10.30pm unless a majority of Councillors present vote in favour of it continuing.
- 16.2 A meeting can be extended for 30 minutes beyond 10.30pm if resolved by the majority of Councillors at the meeting. There can be a further 30 minute extension or less as resolved by the majority of councillors at the meeting but no further.
- 16.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of sub-Rules 15.2 and 15.3 apply.

### 17. Cancellation or Postponement of a Meeting

- 17.1 The *Chief Executive Officer* may, in the case of an emergency necessitating the cancellation or postponement of a *Council or a delegated committee meeting*, cancel or postpone a *Council meeting*.
- 17.2 The *Chief Executive Officer* must present to immediately following *Council meeting or delegated committee* a *written* report on any exercise of the power conferred by sub-Rule 17.1.

### **Division 3 – Business of Meetings**

#### **18. Agenda and the Order Of Business**

The *agenda* for and the order of business for a *Council meeting or a delegated Committee meeting* is to be determined by the *Chief Executive Officer* so as to facilitate and maintain open, efficient and effective processes of government.

#### **19. Change to Order Of Business**

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

#### **20. Urgent Business**

Urgent business listed on the Council agenda, cannot be admitted as urgent business other than by resolution of *Council* and only then if it:

- 20.1 Relates to or arises out of a matter which has arisen since distribution of the *agenda*; and
- 20.2 Cannot safely or conveniently be deferred until the next *Council meeting*.

### **Division 4 – Motions and Debate**

#### **21. Councillors may Propose *Notices of Motion***

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

#### **22. Notice of Motion**

22.1 A *notice of motion* must be in *writing* signed by a Councillor, and be lodged with or sent to the *Chief Executive Officer* to allow sufficient time for him or her to include the *notice of motion* in agenda papers for a *Council meeting* and to give each Councillor at least 48 hours notice of such *notice of motion*.

22.2 A Notice of Motion(NOM) must call for a report if the NOM proposes any action that:

- Impacts the level of Council service
- Commits Council to expenditure that is not included in the Council budget
- Proposes to establish, amend or extend Council Policy
- Proposes to impact the rights of any person who has not had the opportunity to contribute their views
- Commits council to contractual arrangement; or
- Concerns any litigation in respect of which council is a party

22.3 The *Chief Executive Officer* may reject any *notice of motion* which:

22.3.1 Is vague or unclear in intention

22.3.2 It is beyond *Council's* power to pass; or

22.3.3 If passed would result in *Council* otherwise acting invalidly

22.3.4 Is an operational service request

22.3.5 Relates to a matter that has been previously resolved by council or is acted on

but must:

22.3.6 Give the Councillor who lodged it an opportunity to amend or withdraw it prior to rejection, if it is practicable to do so; and

22.3.7 Notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.

22.4 The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda.

22.5 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.

22.6 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.

22.7 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

22.8 If a notice of motion is not moved at the Council meeting at which it is listed, it lapses.

## **23. Chair's Duty**

Any motion which is determined by the *Chair* to be:

23.1 Defamatory;

23.2 Objectionable in language or nature;

23.3 Vague or unclear in intention;

23.4 Outside the powers of *Council*; or

23.5 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*.

## **24. Introducing a Report**

- 24.1 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 2 minutes:
- 24.1.1 Its background; or
  - 24.1.2 The reasons for any recommendation which appears.

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

The procedure for moving any motion or amendment is:

- 25.1 The mover must state the motion without speaking to it;
- 25.2 The motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
- 25.3 If a motion or an amendment is moved and seconded the *Chair* must ask:
- "Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"
- 25.4 If no Councillor indicates opposition or a desire to speak to it, the *Chair* may declare the motion or amendment carried without discussion;
- 25.5 If a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- 25.6 After the mover has addressed the meeting (5 min), the seconder (3min) may address the meeting(or choose not to or reserve the right to speak later in the debate);
- 25.7 After the seconder has addressed the meeting (or chosen not to or reserved the right to speak later in the debate,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion(3min), providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
- 25.8 If, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

## **26. Right of Reply**

- 26.1 The mover of a motion, (exclusive of an amendment), has a right of reply(2min) to matters raised during debate.
- 26.2 After the right of reply has been taken, (but that right is lost if an amendment to the motion is carried), the motion must immediately be put to the vote without any further discussion or debate.

## **27. Moving an Amendment**

- 27.1 Subject to sub-Rule 27.2 a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- 27.2 An amendment must not be directly opposite to the motion.

**28. Who may Propose an Amendment**

- 28.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- 28.2 Any one Councillor cannot move more than two amendments in succession.

**29. How Many Amendments may be Proposed**

- 29.1 Any number of amendments may be proposed to a motion but only one amendment may be accepted by the *Chair* at any one time.
- 29.2 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.

**30. An Amendment once Carried**

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

**31. Foreshadowing Motions**

- 31.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* or a *delegated committee* of his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 31.2 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.
- 31.3 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.
- 31.4 The *Chair* is not obliged to accept foreshadowed motions.

**32. Withdrawal of Motions**

- 32.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of *Council*.
- 32.2 If the majority of Councillors objects to the withdrawal of the motion, it may not be withdrawn.

**33. 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.

**34. Chair may Separate Motions**

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

**35. Priority of address**

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



**36. Motions in Writing**

- 36.1 The *Chair* may require that a complex or detailed motion be in writing.
- 36.2 *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.

**37. Repeating Motion and/or Amendment**

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

**38. Debate must be Relevant to the Motion**

- 38.1 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.
- 38.2 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 not speak further in respect of the motion then before the Chair.
- 38.3 A speaker to whom a direction has been given under sub-Rule 38.2 must comply with that direction.

**39. Speaking Times**

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

- 39.1 The mover of a motion or an amendment which has been opposed: 5 minutes;
- 39.2 Any other Councillor: 3 minutes; and
- 39.3 The mover of a motion exercising a right of reply: 2 minutes.

**40. Addressing the Meeting**

If the *Chair* so determines:

- 40.1 Any person addressing the *Chair* must refer to the *Chair* as:
  - 40.1.1 Madam Mayor; or
  - 40.1.2 Mr Mayor; or
  - 40.1.3 Madam Chair; or
  - 40.1.4 Mr Chair
 as the case may be;
- 40.2 All Councillors, other than the *Mayor*, must be addressed as  
**Cr .....(name).**
- 40.3 All members of Council staff, must be addressed as Mr or Ms  
 .....(name) as appropriate or by their official title.

**41. Right to Ask Questions**

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

**Division 5 – Procedural Motions**

**42. Procedural Motions**

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

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**PROCEDURAL MOTIONS TABLE**

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<b>Procedural Motion</b>	<b>Form</b>	<b>Mover &amp; Seconder</b>	<b>When Motion Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted on Motion</b>
1. Adjournment of debate and or the meeting to a later hour and/or date	That this matter/meeting 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 <i>Chair</i> ; (b) When another Councillor is speaking	Motion and amendment is 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 <i>Chair</i> ; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the <i>Council</i> has been made for that meeting in accordance with section 85 of the <i>Act</i> ; or (d) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the 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 <i>Chair</i>	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

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## **Division 6 – Rescission Motions**

### **43. Notice of Rescission**

43.1 A Councillor may propose a *notice of rescission* provided:

43.1.1 It has been signed and dated by at least three Councillors;

43.1.2 The resolution proposed to be rescinded has not been acted on; and

43.1.3 The *notice of rescission* is delivered to the *Chief Executive Officer* within 24 hours of the resolution having been made setting out -

(a) The resolution to be rescinded; and

(b) The meeting and date when the resolution was carried.

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

43.2.1 Its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or

43.2.2 A statutory process has been commenced

so as to vest enforceable rights in or obligations on *Council* or any other person.

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

43.3.1 Has not been acted on; and

43.3.2 Is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 43.1.3,

### **44. 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.

### **45. If not Moved**

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

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

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

### **47. When not Required**

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

## **Division 7 – Points of Order**

### **48. Chair to Decide**

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

### **49. Chair may Adjourn to Consider**

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

49.2 All other questions before the meeting are suspended until the point of order is decided.

### **50. Dissent from Chair's Ruling**

50.1 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".

50.2 When a motion in accordance with this Rule is moved and seconded, the *Chair* must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present, temporary *Chair* elected by the meeting) must take his or her place.

50.3 The Deputy Mayor or temporary *Chair* must invite the mover to state the reasons for his or her dissent and the *Chair* may then reply.

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

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

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

50.6 If the vote is in the affirmative, the *Chair* must then resume the Chair, reverse or vary (as the case may be) his or her previous ruling and proceed.

50.7 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.

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

A Councillor raising a point of order must:

51.1 State the point of order; and

51.2 State any section, Rule, paragraph or provision relevant to the point of order

## 52. Valid Points of Order

A point of order may be raised in relation to:

- 52.1 A motion, which, under Rule 23, or a question which, under Rule 53, should not be accepted by the *Chair*;
- 52.2 A question of procedure; or
- 52.3 Any act of disorder.

## Division 8 – Public Question Time

### 53. Question Time

- 53.1 There must be a public question time at every *Council meeting* fixed under Rule 9 to enable members of the public to submit questions to *Council*.
- 53.2 Sub-Rule 53.1 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*.
- 53.3 Public question time will not exceed 15 minutes in duration.
- 53.4 Questions submitted to *Council* must be:
  - 53.4.1 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
  - 53.4.2 Placed in the receptacle designated for the purpose at the place of the meeting prior to 4.00pm on the day of the *Council meeting*, or be lodged electronically at the prescribed email address or Council's web site prior to 4.00pm on the day of the *Council meeting*.
- 53.5 No person may submit more than two questions at any one meeting.
- 53.6 If a person has submitted two questions to a meeting, the second question:
  - 53.6.1 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
  - 53.6.2 May not be asked if the time allotted for public question time has expired.
- 53.7 The Chair or a member of Council staff nominated by the Chair may read to those present at the meeting a question which has been submitted in accordance with this Rule.
- 53.8 Notwithstanding sub-Rule 53.6, the Chair may refrain from reading a question or having a question read if the person who submitted the question is not present in the gallery at the time when the question is due to be read.

- 53.9 A question may be disallowed by the *Chair* if the *Chair* determines that it:
- 53.9.1 Relates to a matter outside the duties, functions and powers of Council;
  - 53.9.2 Is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - 53.9.3 Deals with a subject matter already answered;
  - 53.9.4 Is aimed at embarrassing a Councillor or a member of Council staff;
  - 53.9.5 Relates to personnel matters;
  - 53.9.6 Relates to the personal hardship of any resident or ratepayer;
  - 53.9.7 Relates to industrial matters;
  - 53.9.8 Relates to contractual matters;
  - 53.9.9 Relates to proposed developments;
  - 53.9.10 Relates to legal advice;
  - 53.9.11 Relates to matters affecting the security of Council property; or
  - 53.9.12 Relates to any other matter which Council considers would prejudice *Council* or any person.
- 53.10 Any question which has been disallowed by the Chair must be made available to any other Councillor upon request.
- 53.11 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.
- 53.12 Like questions may be grouped together and a single answer provided.
- 53.13 The Chair may nominate a Councillor or the Chief Executive Officer or an officer to respond to a question.
- 53.14 A Councillor or the Chief Executive Officer may require a question to be put on notice. If a question is put on notice, a written copy of the answer will be sent to the person who asked the question.
- 53.15 A Councillor or the Chief Executive Officer may advise Council that it is his or her opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or *Chief Executive Officer* (as the case may be) must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given.

## **Division 9 – Petitions and Joint Letters**

### **54. Petitions and Joint Letters**

- 54.1 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 Council meeting after that at which it has been presented.
- 54.2 It is incumbent on every Councillor presenting a petition or joint letter to acquaint himself or herself with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to Council.
- 54.3 Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 12 people.
- 54.4 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.
- 54.5 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.
- 54.6 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.
- 54.7 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
- 54.8 Council may admit and consider a petition which is not fully compliant subject to a resolution of council to allow such consideration.
- 54.9 Council may consider electronic petitions similar to the procedure applying to State Government

## **Division 10 – Voting**

### **55. How Motion Determined**

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

### **56. Silence**

Voting must take place in silence.

### **57. Recount**

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

### **58. Casting Vote**

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

### **59. By Show of Hands**

Voting on any matter is by show of hands.



## **60. Procedure for a Division**

- 60.1 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.
- 60.2 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.
- 60.3 When a division is called for, the *Chair* must:
  - 60.3.1 First ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of his or her hands. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the affirmative; and
  - 60.3.2 Then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the negative.

## **61. 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:

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

## **Division 11 – Minutes**

### **62. Confirmation of Minutes**

- 62.1 At every *Council* or a *delegated Committee meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
  - 62.1.1 A copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;
  - 62.1.2 If no Councillor indicates opposition, the minutes must be declared to be confirmed.
  - 62.1.3 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;
  - 62.1.4 The minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively; and

### **63. 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.

**64. Deferral of Confirmation of Minutes**

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

**65. Form and Availability of Minutes**

65.1 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 or delegated Committee meeting*, and those minutes must record:

65.1.1 The date, place, time and nature of the meeting;

65.1.2 The names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;

65.1.3 The names of the members of Council staff present;

65.1.4 Any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5;

65.1.5 Arrivals and departures (including temporary departures) of Councillors during the course of the meeting;

65.1.6 Each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);

65.1.7 The vote cast by each Councillor upon a division;

65.1.8 The vote cast by any Councillor who has requested that his or her vote be recorded in the minutes;

65.1.9 The failure of a quorum;

65.1.10 Any adjournment of the meeting and the reasons for that adjournment; and

65.1.11 The time at which standing orders were suspended and resumed.

65.2 The *Chief Executive Officer* must ensure that the minutes of any *Council or delegated committee meeting* are:

65.2.1 Published on Council's website; and

65.2.2 Available for inspection at *Council's* office during normal business hours.

65.3 Nothing in sub-Rule 65.2 requires *Council* or the *Chief Executive Officer* to make public any minutes relating to a *Council meeting* or delegated committee meeting or part of a *Council or delegated committee meeting* closed to members of the public in accordance with section 66 of the *Act*.

## Division 12 – Behaviour

### 66. Public Addressing the Meeting

- 66.1 Members of the public do not have a right to address *Council* or a *delegated Committee* and may only do so in accordance with adopted procedures and with the consent of the *Chair* or by prior arrangement.
- 66.2 Any member of the public addressing *Council* or a delegated committee must extend due courtesy and respect to *Council* or the delegated committee and the processes under which it operates and must take direction from the *Chair* whenever called on to do so.
- 66.3 A member of the public present at a *Council meeting* must not disrupt the meeting.

### 67. *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 66.2.

### 68. *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* or *delegated committee*, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of sub-Rules 15.2 and 15.3 apply.

### 69. Removal from Chamber

The *Chair*, or *Council* or delegated committee 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 70.

## Division 13 – Additional Duties of *Chair*

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

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

- 70.1 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
- 70.2 Must call to order any person who is disruptive or unruly during any meeting.

## Division 14 – Suspension of Standing Orders

### 71. Suspension of Standing Orders

- 71.1 To expedite the business of a meeting, *Council* or delegated Committee may suspend standing orders.
- 71.2 The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*. An appropriate motion would be:  
"That standing order be suspended to enable discussion on....."
- 71.3 No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.
- 71.4 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 15 – Miscellaneous

### 72. Meetings Conducted Remotely

If:

72.1 By law a meeting may be conducted electronically; and

72.2 *Council or a delegated Committee* decides that a meeting is to be conducted electronically,

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

### 73. 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).

### 74. Criticism of members of Council staff

74.1 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 him or her or any member of Council staff.

74.2 A statement under sub-Rule 74.1 must be made by the *Chief Executive Officer*, through the *Chair*, as soon as it practicable after the Councillor who made the statement has resumed his or her seat.

### 75. Ordering withdrawal of remark

75.1 All Councillors, members and visitors at a meeting must refrain from making any remark which is inappropriate defamatory indecent, abusive, offensive, disorderly or objectionable in language, substance or nature. In the event that such a remark is made, the Chairperson may require a Councillor, member or visitor to withdraw any such remark.

75.2 A Councillor or member required to withdraw a remark must do so immediately without qualification or explanation

### 76. Common Seal

76.1 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.

76.2 The Chief Executive Officer must keep the common seal in safe custody.

76.3 Every document to which the common seal is affixed must be signed by:

76.3.1 A Councillor and the Chief Executive Officer;

76.3.2 The Chief Executive Officer if the document is being sealed under delegation.

76.4 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.

## **Chapter 3 – Meeting Procedure for Delegated Committees**

### **1. Meeting Procedure Generally**

If *Council* establishes a *Delegated Committee*:

- 1.1 All of the provisions of Chapter 2 apply to meetings of the *Delegated Committee*; and
- 1.2 Any reference in Chapter 2 to:
  - 1.2.1 A *Council meeting* is to be read as a reference to a *Delegated Committee* meeting;
  - 1.2.2 A Councillor is to be read as a reference to a member of the *Delegated Committee*; and
  - 1.2.3 The Mayor is to be read as a reference to the Chair of the *Delegated Committee*.

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

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

- 2.1 *Council* may; or
- 2.2 The *Delegated Committee* may, with the approval of *Council*

resolve that any or all of the provisions of Chapter 2 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 4 – Meeting Procedure for Community Asset Committees**

### **1. 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*.

### **2. Meeting Procedure**

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

**Chapter 5 – Disclosure of Conflicts of Interest**

**1. Introduction**

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

**2. Definition**

In this Chapter:

- 2.1 “Meeting conducted under the auspices of *Council*” means a meeting of the kind described in section 131(1) of the Act, and includes a meeting referred to in Rule 1 of Chapter 6 (whether such a meeting is known as a ‘Councillor Briefing’ or by some other name); and
- 2.2 A member of a *Delegated Committee* includes a Councillor.

**3. Disclosure of a Conflict of Interest at a Council or Delegated Committee Meeting**

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

- 3.1 Is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting* immediately before the matter is considered; or
- 3.2 Intends to be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council meeting* commences a written notice:
  - 3.2.1 Advising of the conflict of interest;
  - 3.2.2 Explaining the nature of the conflict of interest; and
  - 3.2.3 Detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:
    - (a) Name of the other person;
    - (b) Nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
    - (c) Nature of that other person’s interest in the matter,

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

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

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

#### 4. Disclosure of Conflict of Interest at a Delegated Committee Meeting

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

- 4.1 Is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Delegated Committee* meeting immediately before the matter is considered; or
- 4.2 Intends to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the Delegated Committee meeting commences a written notice(per the council approved form):
  - 4.2.1 Advising of the conflict of interest;
  - 4.2.2 Explaining the nature of the conflict of interest; and
  - 4.2.3 Detailing, if the nature of the conflict of interest involves a member of a *Delegated Committee's* relationship with or a gift from another person the:
    - (a) Name of the other person;
    - (b) Nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
  - 4.2.4 Nature of that other person's interest in the matter,

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

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 not return to the meeting until after the matter has been disposed of.

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

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

- 5.1 Is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Community Asset Committee* meeting immediately before the matter is considered; or
- 5.2 Intends to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice(as per the form approved by council):
  - 5.2.1 Advising of the conflict of interest;
  - 5.2.2 Explaining the nature of the conflict of interest; and
  - 5.2.3 Detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
    - (a) Name of the other person;
    - (b) Nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and

5.2.4 Nature of that other person's interest in the matter,

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

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

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

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

- 6.1 Disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting immediately before the matter is considered;
- 6.2 Absent himself or herself from any discussion of the matter; and
- 6.3 As soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice(per the council approved from)recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.



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

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

7.1.1 *Council meeting;*

7.1.2 *Delegated Committee meeting;*

7.1.3 *Community Asset Committee meeting*

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

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

7.3 If the member of Council staff referred to in sub-Rule 7.1 is the *Chief Executive Officer*:

7.3.1 The written notice referred to in sub-Rule 7.1 must be given to the *Mayor*; and

7.3.2 The obligation imposed by sub-Rule 7.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

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

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

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

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

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

## **10. Retention of Written Notices**

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

## Chapter 6 – Miscellaneous

### 1. Informal Meetings of Councillors

If there is a meeting of a majority of Councillors that:

- 1.1 Is scheduled or planned for the purpose of discussing the business of *Council* or briefing Councillors which will be subject of a Council decision;
- 1.2 Is attended by at least one member of Council staff; and
- 1.3 Is not a *Council meeting*, *Delegated Committee* meeting or *Community Asset Committee* meeting.

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

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

### 2. Confidential Information

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

## **Chapter 7 – 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 (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**

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.

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**

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.

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**

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.

All documentation prepared for Council or any Delegated committee 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.

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 or a delegated committee of 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**

The Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in 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 Executive Manager Governance and Customer Service.

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.

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.

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.

The Chief Executive Officer and Council staff will not be asked to undertake any tasks connected directly or indirectly with electioneering.

## **8. Public Consultation**

During the Election Period the 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.

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

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.

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.

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.

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

## 11. Publicity

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

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.*

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**

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

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

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

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