

AGENDA

ADDITIONAL COUNCIL MEETING

WARRNAMBOOL CITY COUNCIL

5:45 PM - MONDAY 24 AUGUST 2020



VENUE:

Virtual Meeting – via Zoom

COUNCILLORS

Cr. Tony Herbert (Mayor)

Cr. Robert Anderson

Cr. Sue Cassidy

Cr. Kylie Gaston

Cr. Michael Neoh

Cr. David Owen

Cr. Peter Sycopoulis

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can be obtained online at www.warrnambool.vic.gov.au

Vikki King

ACTING CHIEF EXECUTIVE OFFICER

AUDIO RECORDING OF COUNCIL MEETINGS

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1. OPENING PRAYER & ORIGINAL CUSTODIANS STATEMENT

Almighty God
Grant to this Council
Wisdom, understanding and Sincerity of purpose
For the Good Governance of this City
Amen.

ORIGINAL CUSTODIANS STATEMENT

I wish to acknowledge the traditional owners of the land on which we stand and pay my respects to their Elders past and present.

2. APOLOGIES

3. DECLARATION BY COUNCILLORS AND OFFICERS OF ANY CONFLICT OF INTEREST IN ANY ITEM ON THE AGENDA

Pursuant to Sections 77, 78 and 79 of the Local Government Act 1989 (as amended) direct and indirect conflict of interest must be declared prior to debate on specific items within the agenda; or in writing to the Chief Executive Officer before the meeting. Declaration of indirect interests must also include the classification of the interest (in circumstances where a Councillor has made a Declaration in writing, the classification of the interest must still be declared at the meeting), i.e.

- (a) direct financial interest
- (b) indirect interest by close association
- (c) indirect interest that is an indirect financial interest
- (d) indirect interest because of conflicting duties
- (e) indirect interest because of receipt of an applicable gift
- (f) indirect interest as a consequence of becoming an interested party
- (g) indirect interest as a result of impact on residential amenity
- (h) conflicting personal interest

A Councillor who has declared a conflict of interest, must leave the meeting and remain outside the room while the matter is being considered, or any vote is taken. Councillors are also encouraged to declare circumstances where there may be a perceived conflict of interest.

4. REPORTS

4.1. GOVERNANCE RULES

PURPOSE:

To have Council consider the draft Governance Rules that are a requirement of the new Local Government Act 2020 .

EXECUTIVE SUMMARY

- The Council's Draft Governance Rules are attached for Council's consideration – refer **Attachment 1**.
- Council is required to adopt the Governance Rules by 1 September 2020.
- Council has put these documents out for exhibition and has invited feedback via direct submission or to yoursaywarrnambool.com.au 3 submissions have been received in relation to the draft governance rules.

RECOMMENDATION

That Council adopt the draft Governance Rules attached to be The Governance Rules of Warrnambool City Council, made in accordance with Section 60 of the Local Government Act 2020.

BACKGROUND

Council's New Governance Rules

Council currently operates many of its procedural and meeting operations elements under the powers created with the establishment of a Local Law, the majority of these procedures and powers rest in Warrnambool City Council Local Law No 1 (Meeting Procedures Local Law).

The State Government has legislated that many of these processes should form a set of Governance Rules adopted by Council instead of this Local Law.

This change will enable Councils to be nimbler in responding to changes that may be required in their meeting and operating governance procedures into the future.

A local law required an extensive statutory process to change any element. A governance rule will be able to be changed by resolution of Council. This practicality coupled with greater transparency and participative democracy practices should mean Council's Governance rules evolve to become reflective of both the communities need to participate in the democratic process and the good governance processes that ensures the orderly conduct of Council business at meetings.

Further at Council's ordinary meeting of 2 December 2019 it was resolved:-

NOTICE OF MOTION NO. 2156

MOVED: CR. SUE CASSIDY SECONDED: CR ROBERT ANDERSON

That when setting the new Governance Rules required under the Local Government Bill 2019, Council give consideration to introducing General Business to the agenda at ordinary meetings of Council to comply with Council's mantra of openness and transparency with the following recommendations:

- *All complaints to continue to go through the proper process of the front desk or snap, send, solve app.*
- *All topics that a councillor wishes to speak on be emailed to the Mayor by 4.00pm on the day of the Ordinary Meeting.*
- *A maximum of 3 minutes for all topics to be spoken with no extensions.*

In order to comply with the requirements of this notice of motion a procedure for the inclusion of general business was drafted for consideration of Council and presented at a briefing of Councillors.

A procedure for consideration of the public speaking to Council agenda items is also included.

Upon consideration Council provided direction that whilst a longer-term aspiration they would not include these changes to the current draft of the governance rules. With the utilisation of Governance rules rather than a local law these changes could be introduced by a new Council at a future point quite easily.

Improved processes around deliberative engagement and transparency should provide greater opportunity to gain community feedback at more regular intervals through organisational conduits.

Residual elements of the existing local law not picked up by the new Governance rules are intended to be formed in a standalone Local law. The residual elements not contained in the Governance rules remain valid under the existing Local law which will need to be formally expunged. Council will be governed under the new Governance rules once they come into effect on September 1 2020 for the remainder of the current Council term.

CONSULTATION

Council advertised for submissions to the draft Governance rules through the local paper Councils Notice Board and on Councils website.
Council received three submissions.

These submissions have been considered and changes to the draft have been incorporated in some instances. Other aspects of the submission were felt to be sufficiently dealt with in the draft rules or were more commentary based on the submitters views as such some have not been taken up.

Mr Jim Burke

Comments on New Governance Rules.

Let me start by observing that Notices of Motion 2156 and 2157 were passed unanimously at the 2 December 2019 Ordinary Meeting of Council. With these motions passed, the Council had agreed to consider returning 'General Business' to the agenda of ordinary meeting of Council and to allow the opportunity of members of the community to address Council at ordinary meetings. Were these matters considered when drafting these Governance Rules? Given the emphasis on transparency and community engagement clearly expressed in this new Local Government Act, surely this is the type of activity that Council should be encouraging.

Did you simply forget?

WCC Comment

The December 2019 resolutions were:

“Give consideration to introducing General Business to the agenda at ordinary meetings of Council to comply with Council’s mantra of openness and transparency with the following recommendations:

- All complaints to continue to go through the proper process of the front desk or snap, send, solve app.*
- All topics that a councillor wishes to speak on be emailed to the Mayor by 4.00pm on the day of the Ordinary Meeting.*
- A maximum of 3 minutes for all topics to be spoken with no extensions.*

“When setting the new Governance Rules required under the Local Government Bill 2019, Council give consideration to citizens being given the opportunity at Ordinary Meetings of Council to speak to a given agenda item if it is relevant to them (e.g. planning cases). A maximum of four citizens per agenda item (two in affirmative, two in opposition) with a time limit of 3 minutes each.”

Drafts clauses were prepared for Councils consideration to review that met the requirements of the notice of motion 2156 and 2157. After consideration at a briefing of Councillors, Council chose not to include them in the draft presented for review.

Chapter 1 Governance Framework

1. Context

Strongly suggest that ‘Council’s Community Engagement Policy’ be added here.

WCC Comment

Reasonable suggestion

- Add ‘Community Engagement Policy’ to list

2. Decision Making

- (i) fairly, by giving consideration **to all available information** and making a decision which is ethical and impartial.

Note: what does the drafter mean by balanced. Balanced with what? Is it not sufficient that the decision is made fairly, ethically and impartially based on all of the available information?

WCC Comment

Agree with comment.

Delete (i) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and

Replace with (i) fairly, by giving consideration to all available information and making a decision which is ethical and impartial; and

Note: what is ‘natural justice’? This should be given some clarity, how else will the Council know how it is to be applied?

WCC Comment

There is sufficient commentary in the second paragraph on this:

“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)”

No change.

- (ii) on the merits **of the available information**, free from **preferential treatment** or self-interest and without regard to irrelevant or unauthorised considerations.

WCC Comment

Suggest only change would be from “*on the merits*” to “*on its merits*”.

Therefore, would read “*Council must consider the matter and make a decision on its merits ...*”. A thesaurus check on ‘favouritism’ includes ‘preference and preferential treatment’. No change proposed.

‘Without limiting anything in paragraph (b) of this sub-Rule’

Note: there is no paragraph (b) and this is not a sub-Rule. Looks like a serious editing problem and needs rewrite.

WCC Comment

Change wording paragraph (b) to paragraph (ii).

- (iii) before making a decision that will directly affect the rights of **any community member**, *Council* (including any person action with the delegated authority of *Council*) must identify *those* whose rights may be directly affected, give notice of the decision which *Council* **is considering** and ensure that **the affected parties** have an opportunity to communicate their views and have **had** their interests considered before the decision is made;
- (iv) if an *Officer Report* is to be considered at a *Council Meeting* relates to an issue which **may** directly affect the rights of **any community member**, the *Officer Report* must record whether **those likely to be affected had** been provided with an opportunity to communicate their views and have **had** their interests considered;
- (v) if a report is to be considered at a *Delegated Committee Meeting* concerns an issue which **may** directly affect the rights of **any community member**, the report must record whether **those likely to be affected had** been provided with an opportunity to communicate their views and have **had** their interests considered; and
- (vi) if a *Council Officer* proposes to make a decision under delegation and that decision may directly affect the rights of **any community member**, the *Council Officer* must, when making that decision, ensure that they record that notice of the decision **under consideration** was given to **those affected** and that **they** were provided with an opportunity to communicate their views and have **had** their interests considered.

WCC Comment

Submitter proposes replacing ‘person’ with ‘community member’. Would raise the question on what community? ‘Person’ provides a much broader scope and in this context it should cover anyone who may be affected. Retain current wording.

Chapter 2 Meeting Procedures for Council Meetings

INTRODUCTION

2. Purpose

The purpose of this Chapter is to:

- (1) **provide rules for the election of the Mayor and Temporary Chairs;**
- (2) provide **rules and** procedures governing the conduct of *Meetings*;
- (3) set **rules** with respect to the behaviour of those participating in **or attending** *Meetings*;

WCC Comment

Support some changes

- (2) *provide rules and procedures governing the conduct of Meetings*
- (4) *provide rules for the election of the Mayor and Temporary Chairs*

ELECTION OF MAYOR AND TEMPORARY CHAIRS

5. Procedure for Election of the *Mayor*

(7) If there is more than one nomination:

- (a) each of the candidates shall be invited to speak **to their nomination for no longer than three minutes** in alphabetical order of their surnames. **Where** two or more such candidates' surnames are identical, the order will be determined by the alphabetical order of their first names.
- (b) after each of the candidates has been given an opportunity to speak, a vote must be taken to elect on of the **nominated candidates. Where:**
 - (ii) **where there are more than two candidates, and** no candidate receives an *Absolute Majority*, the candidate with the fewest number of votes is declared a defeated candidate. Where more than one candidate has the same fewest number of votes, the candidate to be eliminated is to be determined by lot.

WCC Comment

Changes not considered necessary. Difference of opinion on grammar.

6. Procedure for the Election of the Deputy Mayor and Temporary Chairs

Note: I suggest this section is superfluous. Warrnambool does not have a Deputy Mayor and has not forecast the need or intention to create one. Temporary Chairs are elected in a manner and in the circumstances provided for in section 7 below.

WCC Comment

The current Council does not have a Deputy Mayor, but a future Council may choose to do so. Retain clause.

ROLE OF THE CHAIR

Note: ROLE OF THE CHAIR was originally drafted as Division 1 of Part D. However, it immediately followed Part B, that is, there appears to be no Part C. Perhaps it was the victim of careless editing.

WCC Comment

Appears to be editing error.
Change PART D to PART C

7. Mayor to take the Chair
- (2) Superfluous, we have no Deputy Mayor and no known intention to have one.
- (3) if the **Mayor is** not in attendance at a *Council Meeting*, the *Council* must elect one (1) of the *Councillors present* as temporary *Chair*.

WCC Comment

Retain. Refer earlier comment on position of Deputy Mayor.

14. Cancellation of Meeting

- (1) The *Chief Executive Officer* may postpone or cancel a *Scheduled Meeting* if, in his or her opinion an emergency situation makes this necessary.

Note: The content of an Agenda can be manipulated, there are routine reports that should be made each month and whenever a Council Meeting is cancelled, the right of the community to ask questions publicly is also cancelled.

WCC Comment

Note on Definitions

- Missing definition for '*Scheduled Council Meeting*'
- Change '*Council Meeting*' definition to '*includes Scheduled Council Meeting and Additional Council Meeting*'

Whether it's in the Rules or not a meeting can and should be postponed if an emergency warrants such.

15. Altering Meeting Dates, Times or Venues

- (1) The Council may, by resolution, alter the day, time **or venue** for a Scheduled Council Meeting. **On these occasions, Council must provide reasonable notice to the public of the change.**

WCC Comment

Changes not considered necessary. Difference of opinion on grammar.

16. **Providing** Notice of Meetings

- (2) Public notice of Scheduled Council Meetings will be provided by:
- (a) a program of *Scheduled Council Meetings*, including the date, time and venue for each *Scheduled Council Meeting*, as updated from time to time, being displayed on the *Council Website* and **as a public notice in the local print media**, and
- (b) See my note at s.17 below.
- (3) Public notice of Additional Council Meetings will be provided by:
- (a) notice of the date, time and place of the *Additional Council Meeting* being displayed on the *Council Website* **and as a public notice in the local print media**, as soon as practicable after the Additional Council Meeting is called under rule 12; and

WCC Comment

No change.

17. Notice of Meetings to Councillors

(1) Note: this provision appears to be at variance from s. 16(2)(b) above where the agenda for a scheduled Council Meeting must be displayed on the Council Website for no less than five days prior to the meeting. I would be surprised that an agenda would be ready five days prior to a meeting and this (aspirational) target has not met in the past.

WCC Comment

Does need to be consistency between the two clauses.

- Public notice on website (clause 16(2)) – changed to 2 days before meeting
- Notice to Councillors (clause 17(1)) – at least 48 hours before meeting.

Change 17(1) to align with public notice requirement.

QUORUMS

22. Call of the Council

Note: you need to cover the eventuality that an excuse may not be accepted by the Council. What happens then? If there are no consequences for a Councillor with an invalid excuse why have this section, if there are possible consequences they should be described here.

WCC Comment

Any action related to a Councillor's breach of the Rules would be covered in behaviours covered in the Code of Conduct.

BUSINESS OF MEETINGS

27. Presentation of Officer Reports

Officer Reports **may** be summarised for the purposes of verbal public presentation by the Chief Executive Officer or his or her delegate at the Council Meeting at which they are to be considered. **Notwithstanding, the full written report must be included in the agenda documents and be available to the public.**

WCC Comment

Support changing 'shall' to 'may' be summarised by the CEO. The CEO may, on some occasions, prefer an Officer to summarise the report.

This clause refers to the presentation of the report at the meeting, not the agenda content.

29. Question Time

(1) There must be a public question time at every *Scheduled Council Meeting* to enable members of the public to submit questions to the *Council*.

Note: I cannot conceive of a situation that would be so dire that public questioning of the Council would be inappropriate.

WCC Comment

No change required.

(9) Questions must be posed as succinctly as is possible and answers to questions should be as complete as is practical under the circumstances. (See 29(11) below).

(11) **Where the answer to a public question is not immediately available, is likely to be lengthy or complex,** the Chair, Chief Executive Officer or Officer to whom a question is directed may take a question on notice. If a question is taken on notice, a *Written* copy of the answer must be sent to the person who asked the question and to all *Councillors* **within eight (8) days of the meeting.**

WCC Comment

Clause (9) suggestion is reasonable. Change clause 29(9) to read
All questions must be asked as succinctly as is possible and answers to questions should be as complete as is practical under the circumstances. Further questions or debate on the response shall not be allowed.

For Clause (11) it would be unreasonable to place a short time limit and the complexity of the question may require more time. However, a minimum response time at least outlining the steps to the party putting the question is reasonable and would be set in Councils customer service charter.

36. Recount of a Vote

The Chair may direct that the vote be re-counted as often as may be necessary **for the result to be clearly understood.**

WCC Comment

It is the Chair's responsibility to declare the result of the vote and therefore he/she must be satisfied as to the result. Retain wording.

37. Declaration of a Vote

WCC Comment

No change necessary.

38. No Discussion **after declaration of the Vote**

WCC Comment

Change heading to '*No discussion once Vote declared*'

MOTIONS AND DEBATE

40. Councillors may Propose Notices of Motion

Note: There appears to be a discrepancy in the sequence of section numbers here. As section 49 relates directly to the matter in section 40, it is likely this is an editing error

WCC Comment

Agree. Need to fix numbering.

69. Interruptions, Interjections and Relevance

Note: This section fails to address interruptions or relevance.

WCC Comment

Inclusion of other aspects updated. **Now 61**

87. Availability of Minutes

Note: There is no reason why the unratified minutes of a scheduled council meeting cannot be provided to Councillors within, say, 72 hours of the end of that meeting. Further, there is equally no reason why they cannot be provided to the public as they are in other local government areas.

WCC Comment

Now 79

No change

89. Deferral of Confirmation of Minutes

Note: This section requires some explanation. What would be appropriate grounds for deferral? When would it be inappropriate to defer. What is the purpose of this section?

WCC Comment now 81

Unchanged Council may wish to defer the adoption of the minutes until review of the minutes is conducted to clarify any conjecture of an incorrect record and that the record is corrected to their satisfaction

90. Recording of Council Meetings

(1) The Chief Executive Officer, or his delegate, **shall make an audio record** on suitable recording equipment of all proceedings of Council Meetings except where the Council Meeting is closed to the public to consider Confidential Information.

WCC Comment now 82

Keep to this comment is 'shall' rather than the current 'may'. Council decision as to whether this is discretionary.

Sub clause (2) refers to the recording being available for viewing or listening. Do not need to reference 'audio record' as this is already covered.

96. Councillor Briefings

Note: There is no information attached to this heading.

WCC Comment

Delete heading. Replaced by Chapter 6.1 informal meetings of Council

Chapter 6 – Miscellaneous

1. Informal Meetings of Councillors

Note: The question arising here is one of definition. That is, when is an 'Informal Meeting of Councillors' not a 'Council Meeting'. Section 61(1) of the Act plainly describes what constitutes a 'Council Meeting'. Section 61(2) of the Act allows a Council to conduct Council meetings in such manner as the Council determines as long as it is consonant with the Act and Councils Governance Rules. In my view, that means that an informal meeting of Councillors is still a Council Meeting.

Note: 'summary of the matters discussed' should not consist solely of a list of headings but some description of the matter should be provided. For example, 'Horses on Beach' could be described as, say, 'Council received a briefing from WRC on their current position in addressing Council objections'. Where community members or groups address an informal meeting of Council, a full record of that address should be made. This last point is important in regard to transparency and

integrity. We cannot have situations where someone or some group asks to address Council, or is invited to address Council, and no record of this is available to the community.

WCC Comment

Assume that this Clause 1 covers Councillor Briefings or what was previously referred to as Assembly of Councillors.

Change clause heading to Councillor Briefings. Continuing the current practice of submitting a list of such meetings and the agenda topics is reasonable. No decisions can be made at Briefings. If a decision is required then a descriptive report will be submitted to a Council meeting.

Governance Rules Submission from Ben Blain

I genuinely believe the draft meeting procedures could be changed to give better transparency to the Warrnambool community.

I understand the meeting procedures have been reviewed historically towards the end of every council term. I find it disappointing that an outgoing council sets the meeting rules for the new incoming council. These procedures should be reviewed as the new council takes office after the general election.

WCC Comment

LGA 2020, sec.60, requires the Council to adopt Governance Rules on or before 1 September 2020. The Act provides that "*a Council may amend its Governance Rules*".

The current Council must adopt Governance Rules and the new Council has the power to amend this is made significantly easier with the adoption of Governance rules rather than the utilisation of a Local law for meeting procedures.

Concerning public question time, I would like to see a time limit placed on questions taken on notice. The council has stated in the past; they have a 14-day time limit on their responses, but many questions that have been asked and taken on notice have either received a delayed response after 14 days or no response at all. By adding the measure of formalising the time frame in the policy, it will create more transparency and accountability between the council and the community.

WCC Comment

For Clause (11) it would be unreasonable to place a short time limit and the complexity of the question may require more time. However, a minimum response time at least outlining the steps to the party putting the question is reasonable and would be set in Councils customer service charter.

The reintroduction of general business has been discussed numerous times over the past few years, but we still have not seen it return. Several councillors were in favour of bringing back general business, and this could be formalised via this policy. This addition could be used by councillors to bring issues from the community to the domain of the main decision-makers of the council to take action on.

WCC Comment

Drafts clauses were prepared for Councils consideration to review that met the requirements of the notice of motion 2156 and 2157. After consideration at a briefing of Councillors, Council chose not to include them in the draft presented for review. The adoption of these governance rules does not preclude the introduction by a new Council at a later date

Concerning the Notice of Motion rules, it would be great to see some changes in the rules limiting the actions taken by the council. It would be beneficial for the \$5000 limit to be scrapped and the cost limit on notices of motion being linked to the delegated authority of the CEO. I believe the delegated authority of the CEO is 350k and that would be the cost limit on notices of motion for the council. Currently, the way this part of the meeting procedure is structured the CEO has more financial power over projects than the councillors.

WCC Comment

There is no cost limit on the impact of Notices of Motion. Notwithstanding, the CEO may require a Notice that commits Council to expenditure in excess of \$5,000 to call for an Officers Report on the matter.

This is a reasonable safeguard for matters that have not been included in the budget, as adopted by the Council. The provision does not provide a power of veto for the CEO.

I would like it included in the policy that all meetings are to be live-streamed with video and audio. This would be a powerful tool to engage the community and also to hold the council accountable for their decisions.

WCC Comment

Live-streaming of open Council meetings is currently happening and is now common practice for most councils.

LGA 2020, sec.66, provides that if a council closes a meeting to the public for security reasons or to enable the meeting to proceed in an orderly manner, it must have arrangements to enable the meeting to be viewed by the public as the meeting is being held. This can include being on the Internet or on closed circuit television.

The Council therefore needs to have arrangements in place for public viewing in case it has to close the meeting as per sec.66.

It makes sense that the Council could commit to having all open meetings available for external viewing.

The arrangements currently in place are an interim measure and funding would be needed to conclude a suitable outcome nothing in the current Governance rules precludes this from happening and could be done administratively. Additional wording to this effect could be included if a new Council wished to enshrine the practice under clause 9 (Meetings Open to the Public).

I believe these measures could make the meeting more transparent and the council more accessible to the community.

It seems councillors during the term have raised concerns around the meeting procedures but have not pushed to introduce any changes.

Governance Rules Submission from Jim Gifford

The first issue is that the process for electing a Mayor or Deputy Mayor has changed in a substantial way under the 2020 Act. It is no longer allowable to resolve a tie by drawing lots as the successful candidate must obtain an absolute majority of the votes. If this is not achieved then a new election is required. See s.25 of the Act.

Secondly, I note that your election period policy is still based on the 1989 Act provisions and doesn't reflect the new requirements.

WCC Comment:

Procedure for election has been updated to reflect legislative requirement modified in part B 3 -5.

Election period policy was adopted and updated online post the submission appropriate reference is included.

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

5 Practice good governance through openness and accountability while balancing aspirations with sound financial management

5.1 Provision of opportunities for the community to actively participate in Council's decision-making through effective promotion, communication and engagement

5.2 Develop policies, strategic plans and processes to address local and regional issues, guide service provision and ensure operational effectiveness

TIMING

The final draft of the Governance rules is presented here for Councils consideration to be adopted before 1 September 2020 in order to meet the legislative requirement as set out in the phased role out of the 2020 Victorian Local Government Act

OFFICERS' DECLARATION OF INTEREST

No conflict.

ATTACHMENTS



GOVERNANCE RULES

Introduction

1. Nature of Rules

These are the Governance Rules of Warrnambool City 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:

Absolute Majority means the number of:

- (a) Councillors which greater than half the total number of Councillors of Council; and
- (b) members of a Delegated Committee which is greater than half the total number of members of the Delegated Committee.

Act means the *Local Government Act 2020*.

Additional Council Meeting means a meeting called in accordance with rule [12].

Agenda means a document containing the date, time and place of a *Meeting* and a list of business to be transacted at the *Meeting*.

Annual (Statutory) Meeting means the *Council Meeting* at which the Mayor is elected.

Authorised Officer means an *Officer* who is authorised by the *Chief Executive Officer* or *Council* under section 224 of the *Local Government Act 1989*.

Call of the Council Meeting means a *Council Meeting* called under rule 22.

“Caretaker period” has the same meaning as ‘election period’ in Section 3(1) of the Act, and means the period that starts on the entitlement date and ends at 6pm on Election Day;

Chair means the:

- (a) *Councillor* elected as Mayor under rule [3];
- (b) person appointed as the Chairperson of a *Delegated Committee*; or
- (c) person taking the chair at a *Meeting* in accordance with *these Rules* in the absence of the Mayor or Chairperson of the *Delegated Committee*,

as the case requires.

Chief Executive Officer means the person occupying the position of Chief Executive Officer of *Council* and includes a person acting that position.

Civic Centre Precinct means 25 Liebig Street Warrnambool.

Committee Meeting means a meeting of a *Delegated Committee* or *Community Asset Committee*.

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

Community Asset Committee Meeting means a meeting of a *Community Asset Committee*.

Community Engagement Policy means the Community Engagement Policy adopted by the Council under section 55 of the Act.

Confidential Information has the same meaning as in section 3(1) of the Act.

Council means the Warrnambool City Council.

Council Chambers means The place where a scheduled meeting of Council is advertised to be held.

Council Meeting ‘includes Scheduled Council meeting and Additional Council Meeting as defined by section 61 of the Act;

Councillor means a *Councillor* of *Council*.

Councillor Code of Conduct means the code of conduct developed and adopted by *Council* under section 76C of the *Local Government Act 1989*.

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

- (a) *Delegated Committee Meeting* means a meeting of a *Delegated Committee*. *Deputy Chair* means the:
- (b) *Councillor* elected as Deputy Mayor under rule 6; or
- (c) person appointed as the Deputy Chair of a *Delegated Committee*

as the case requires.

Division means a formal count of those *Councillors* or members of a *Delegated Committee* who voted for or against, or did not vote in respect of, a motion and the recording of that count and the way each *Councillor* or member of the *Delegated Committee* voted in the minutes of the *Meeting*.

Informal Councillor Meeting means a meeting referred to in Chapter 6(1).

“Leave of absence” means formal leave requested and taken by a Councillor who is not available, or unable, to perform their Council duties for a specified period of time;

Mayor means the Mayor of *Council* or, in the *Mayor’s* absence, the *Deputy Mayor*.

Meeting means a *Scheduled Council Meeting*, an *Additional Council Meeting*, a *Delegated Committee Meeting* and a *Community Asset Committee Meeting*, as the context requires.

Minister means the Victorian State Government Minister responsible for administering the *Act*.

Minutes means the record of proceedings of a *Meeting*.

Municipality means the municipal district of Council.

Notice of Motion means a notice setting out the text of a motion, which a *Councillor* proposes to move at a *Council Meeting*.

Officer means a member of *Council* staff.

Officer Report means a report prepared by a *Council Officer* for consideration by *Council*.

Operational Service Request Process means a request for action through Council’s Customer Request System in use by the Council or request relating to the day to day management of Council operations as defined in Section 94A(1) of the *Act* as the functions of the Chief Executive Officer.

Point of Order means a point of order raised in accordance with rule 77.

Procedural Motion means a motion contained in the Table at Appendix 1 to *these Rules*.

Quorum at a Council Meeting or Delegated Committee Meeting means an Absolute Majority of Councillors or members of the Delegated Committee, as the case requires.

Rescission Motion means a *Notice of Motion* proposing the rescission of a resolution made by Council.

Resumption of Standing Orders means the resumption of the provisions of *these Rules* governing the conduct of *Meetings* to permit decisions to be made.

Senior Officer has the same meaning as in Section 3(1) of the *Local Government Act 1989*.

Significant Expenditure means one (1) percent or more of general rate income of the *Council*.

Suspension of Standing Orders means the suspension of the provisions of *these Rules* governing the conduct of *Meetings* to facilitate full discussion on a matter without formal constraints.

these Rules means these Governance Rules.

Urgent Business means a matter that has arisen since distribution of the Agenda for a Meeting and cannot safely or conveniently be deferred until the next Meeting.

“Visitor” means any person (other than a Councillor or an Officer) present at a Meeting.

Council Website means Council’s website at www.warrnambool.vic.gov.au.

Written or In Writing includes duplicated, photocopied, photographed, printed and typed and extends to both hard copy and soft copy form.

Chapter 1 – Governance Framework

1. Context

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

the overarching governance principles specified in section 9(2) of the *Act*; and

the following documents adopted or approved by *Council*:

- Councils Code of Conduct
- Councils Transparency Policy
- Councils Community Engagement Policy

2. Decision Making

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 to all available information and making a decision which is ethical and impartial; and
- (ii) on its merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations

Council must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (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).

Without limiting anything in paragraph (ii) of this sub-Rule:

- (iii) 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 has or persons have an opportunity to communicate their views and have their interests considered before the decision is made;
- (iv) if an *Officer Report* to be considered at a *Council Meeting* concerns subject-matter which will directly affect the rights of a person or persons, the *Officer Report* must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;
- (v) 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
- (vi) if a *Council Officer* proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the *Council Officer* must, when making that decision, ensure that they record that notice of the decision to be made was given to the person or persons and such person was or persons were provided with an opportunity to communicate their views and have their interests considered.

Chapter 2 – Meeting Procedure for Council Meetings

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PART A - INTRODUCTION

2. Purpose

The purpose of this Chapter is to:

- (1) facilitate good government and provide a process for good decision making of *Council* on matters affecting the *Municipality* and *Community*;
- (2) provide the procedures governing the conduct of *Meetings*;
- (3) set expectations with respect to the behaviour of those participating in, or present at, *Meetings*;
- (4) provide rules for the election of the *Mayor* and *Temporary Chair*.

PART B - ELECTION OF MAYOR AND TEMPORARY CHAIRS

3. Election of the Mayor

- (1) The *Mayor* must be elected annually at the *Annual (Statutory) Meeting*.
- (2) The *Chief Executive Officer* must facilitate the election of the *Mayor* in accordance with the provisions of the *Act* and *these Rules*.
- (3) The *Mayor* must be elected no later than one month after the date of a General Election.
 - (a) The *Chief Executive Officer* must determine the most appropriate time and date for the election of the *Mayor* following a General Election.
 - (b) Before the election of the *Mayor*, the *Council*, must resolve whether the *Mayor* is to be elected for a 1 year or a 2 year term, in accordance with rule 5(3).
- (4) If the *Mayor* is elected for a 1 year term, the next election of the *Mayor* must be held on a day to be determined by the *Council* that is as close to the end of the 1 year term as is reasonably practicable.
- (5) If the *Mayor* is to be elected for a 2 year term, the next election of the *Mayor* must be held on a day to be determined by the *Council* that is as close to the end of the 2 year term as is reasonably practicable.
- (6) In the event of a vacancy occurring in the office of *Mayor*, a new election for the *Mayor* must be held within one month after the vacancy occurs.
- (7) The order of business at the *Annual (Statutory) Meeting* is to be determined by the *Chief Executive Officer*.
- (8) The *Councillor* elected to the position of *Mayor* may make a commencement speech for up to 10 minutes outlining their vision for their term as *Mayor*.
- (9) The commencement speech must not address matters outside the powers of *Council*, be derogatory, or be prejudicial to any person or *Council*.

4. Method of Voting

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

5. Procedure for Election of the Mayor

- (1) The election of the *Mayor* will be conducted in accordance with the provisions of the *Act* and this rule 5.
- (2) The *Chief Executive Officer* must open the *Annual (Statutory) Meeting* at which the *Mayor* is to be elected.
- (3) Before nominations for the office of *Mayor* are invited by the *Chief Executive Officer*, the Council must resolve if the term of the *Mayor* is to be for one (1) year or two (2) years.
- (4) Any nominations for the office of *Mayor* must be made verbally by *Councillors* present at the *Annual (Statutory) Meeting*.
- (5) A nomination for *Mayor* does not require a seconder.
- (6) If there is only one nomination, the *Councillor* nominated is deemed to be elected.
- (7) If there is more than one nomination:
 - (a) each of the candidates shall be invited to speak for no more than three (3) minutes to their nomination in alphabetical order of their surnames and, where two or more such candidates' surnames are identical, the order will be determined by the alphabetical order of the candidates' first names;
 - (b) after each of the candidates has been given an opportunity to speak, a vote must be taken to elect one of the candidates nominated, where:
 - (i) a candidate receiving an *Absolute Majority* of the votes is declared elected;
 - (ii) if no candidate receives an *Absolute Majority* of the votes, the candidate with the fewest number of votes is declared to be a defeated candidate (and, where more than one of them has the same fewest number of votes, the candidate to be eliminated is to be determined by lot);
 - (iii) a further vote will then be taken for the remaining candidates;
 - (iv) where one of the remaining candidates receives an *Absolute Majority* of the votes, he or she shall be declared elected;
 - (v) where none of the remaining candidates receives an *Absolute Majority* of the votes, the procedure described in rule 5(7)(b)(ii) is repeated;
 - (vi) this process shall continue until one of the candidates has received an *Absolute Majority* of the votes, or the final two candidates have an equal number of votes;
 - (vii) where one of the candidates has received an *Absolute Majority* of the votes, that candidate is declared elected; and
 - (viii) where the remaining candidates have an equal number of votes and one of them needing to be declared elected, the defeated candidate shall be determined by lot.
- (8) The following provisions apply to the conduct of the lot:
 - (a) each candidate will draw one (1) lot;
 - (b) the order of drawing lots will be determined by the alphabetical order of the surnames of the candidates who received an equal number of votes and, where two or more such candidates' surnames are identical, the order will be determined by the alphabetical order of the candidates' first names;
 - (c) as many identical pieces of paper as there are candidates who received an equal number of votes must be placed in a receptacle. The word "Defeated" shall be *Written* on one (1) of the pieces of paper, and the candidate who draws the paper with the word "Defeated" *Written* on it must be declared the defeated candidate;
 - (d) if only one candidate remains, that candidate is deemed to be elected; and
 - (e) if more than one candidate remains, a further vote must be taken on the remaining candidates and the above process repeated if necessary, in which case that candidate will be declared duly elected.
- (9) The *Chief Executive Officer* will declare the result of the election and the successful candidate.

6. Procedure for Election of the Deputy and Temporary Chairs

- (1) At a *Meeting* to elect the *Mayor*, the *Council* may determine to elect a *Deputy Mayor*.
- (2) The procedure used for the election of *Mayor* will be used to elect the *Deputy Mayor* or temporary *Chair* (in cases where the *Mayor* and *Deputy Mayor* are absent from a *Council Meeting*), provided that a reference to the *Mayor* is a reference to the *Deputy Mayor* or to the temporary *Chair*, as the case may be.
- (3) The *Chief Executive Officer* or his/her delegate will conduct the election of the *Deputy Mayor* and temporary *Chair*.

PART C - COUNCIL MEETING PROCEDURES

DIVISION 1 – ROLE OF CHAIR

7. Mayor to take Chair

- (1) The *Mayor* must take the *Chair* at all *Council Meetings* at which the *Mayor* is present.
- (2) If the *Mayor* is not in attendance at a *Council Meeting*, the *Deputy Mayor* (if one has been elected) must take the *Chair*.
- (3) If the *Mayor* and *Deputy Mayor* are not in attendance at a *Council Meeting*, the *Council* must elect one (1) of the *Councillors* as temporary *Chair*.

8. The Chair's Duties and Discretions

In addition to the specific duties and discretions provided in *these Rules*:

- (1) the *Chair* must not accept any motion, question or statement which the *Chair* determines is:
 - (a) is derogatory;
 - (b) defamatory;
 - (c) objectionable in language or nature;
 - (d) vague or unclear in intention;
 - (e) outside the powers of the *Council*; or
 - (f) irrelevant to the item of business on the *Agenda* and has not been admitted as *Urgent Business*, or purports to be an amendment but is not; and
- (2) if the behaviour of a person is disruptive and interferes with the conduct of the business of the *Council*, the *Chair* must call that person to order.

Also see Division 14 – Conduct & Behaviour

DIVISION 2 – NOTICE OF MEETINGS & DELIVERY OF AGENDAS

9. Meetings Open to the Public

- (1) The *Council* may hold:
 - (a) *Scheduled Council Meetings* at which the business of the *Council* may be transacted; and
 - (b) *Additional Council Meetings* at which the business specified in the notice calling the *Additional Council Meeting* may be transacted.
- (2) All *Meetings* will be open to the public unless it is considered necessary to close the *Meeting* to the public in accordance with section 66(2) of the *Act*.

See rule 15 – Meetings Closed to the Public

- (3) The *Council* may hold *Special meetings* to deal with the following:
- (a) Adoption of the *Council* Plan and the Declaration of Rates and Charges;
 - (b) Adoption of the *Council's* Audited Financial Report, Standard Statement and Performance Statement;
 - (c) Election of the *Mayor* and appointment of *Council* representatives;
 - (d) Presentation of the Annual Budget; and
 - (e) Any other matter.

10. Appointment of Council Representatives and Delegates

At a *Council Meeting* held as soon as practicable after the *Annual (Statutory) Meeting*, the *Council* must resolve to:

- (1) appoint *Councillors* as members of, or representatives on, *Delegated Committees*; and
 - (2) appoint *Councillors* as delegates to external committees and organisations,
- for the ensuing year.

11. Date and Times of Scheduled Council Meetings

- (1) The *Council* will fix the dates, times and places of all *Scheduled Council Meetings* for the following 12 months at the first *Council Meeting* following the *Annual (Statutory) Meeting*.
- (2) The dates, times and places of all *Scheduled Council Meetings* are to be made available to the public.

See Rule 21 – Notice of Meeting to the Public

12. Holding Additional Council Meetings

An *Additional Council Meeting* will be held where:

- (1) written notice of the *Additional Council Meeting* is provided to the *Chief Executive Officer* by the *Mayor* or by three or more *Councillors*; and
- (2) the written notice specifies the:
 - (a) date, time and place for the *Additional Council Meeting*;
 - (b) business to be transacted at the *Additional Council Meeting*; and
 - (c) reason that the business to be transacted at the *Additional Council Meeting* cannot be left to be considered at the next *Scheduled Council Meeting*; or
- (3) the *Chief Executive Officer* determines, in his or her absolute discretion, that an *Additional Council Meeting* is necessary or desirable.

13. Meeting Locations

Scheduled Council Meetings will be held:

- (1) in the *Council Chambers* or any building within the *Civic Centre Precinct* as determined by the *Chief Executive Officer*; or
- (2) another location outside the *Civic Centre Precinct* by resolution of the *Council*.

14. Cancellation of Meeting

- (1) The *Chief Executive Officer* may postpone or cancel a *Scheduled Council Meeting* if, in his or her opinion:
 - (a) the content of an *Agenda* is such that the *Scheduled Council Meeting* is unnecessary; or
 - (b) in the case of an emergency.
- (2) Where the *Chief Executive Officer* postpones or cancels a *Scheduled Council Meeting*, he or she must give such notice to *Councillors* and the public as is practicable.
- (3) The *Chief Executive Officer* must submit a *Written* report of the circumstances requiring the postponement or cancellation of a *Scheduled Council Meeting* to the next *Scheduled Council Meeting*.

15. Altering Meeting Dates, Time and Venue

- (1) The *Council* may, by resolution, alter the day, time and/or place at which a *Scheduled Council Meeting* will be held, and must provide reasonable notice of the change to the public.
- (2) In consideration of public interest in *Agenda* items or an emergency arising, the *Chief Executive Officer*, in consultation with the *Mayor*, may, without resolution of *Council*, alter the place at which an *Ordinary meeting* will be held, and must provide reasonable notice of the change to the public.

16. Notice of Meetings to the Public

- (1) Public notice of all *Council Meetings* will be provided by the *Chief Executive Officer* in accordance with this rule 16.
- (2) Public notice of *Scheduled Council Meetings* will be provided by:
 - (a) a schedule of all *Scheduled Council Meetings*, including the date, time and place for each *Scheduled Council Meeting*, as updated from time to time, being displayed on the *Council Website*; and
 - (b) the *Agenda* for a *Scheduled Council Meeting* being displayed on the *Council Website* no less than two (2) days before the *Scheduled Council Meeting*.
- (3) Public notice of *Additional Council Meetings* will be provided by:
 - (a) notice of the date, time and place of the *Additional Council Meeting* being displayed on the *Council Website* as soon as practicable after the *Additional Council Meeting* is called under rule 12; and
 - (b) the *Agenda* for the *Additional Council Meeting* being displayed on the *Council Website* as far in advance of the *Additional Council Meeting* as possible.
- (4) Despite the provisions of this rule 16, the *Chief Executive Officer* may determine to provide shorter public notice of an additional *Council Meeting* where he or she considers it necessary or desirable to do so, in his or her absolute discretion.

17. Notice of Meetings to Councillors

- (1) The notice for a *Council Meeting* must state the date, time and place of the *Council Meeting* and the business to be dealt with, incorporating the *Agenda* for the *Council Meeting*, and must be delivered to each *Councillor* by email, to the *Councillor's* *Council*-provided email address at least forty-eight (48) hours before the *Council Meeting*, unless the *Chief Executive Officer* determines, in his or her absolute discretion, that a shorter time is necessary
- (2) A notice of a *Council Meeting* will be served on a *Councillor* who has been granted *Leave of Absence* unless the *Councillor* has requested *In Writing* to the *Chief Executive Officer* to discontinue the giving of notice of any *Council Meeting* to be held during his or her absence.

DIVISION 3 – QUORUMS

18. Quorum

The *Quorum* for any *Council Meeting* is an *Absolute Majority*.

19. Inability to Obtain a Quorum

If a *Quorum* is not present within thirty (30) minutes of the time appointed for the commencement of any *Council Meeting* or adjournment, those *Councillors* present or, if there are no *Councillors* present, the *Chief Executive Officer* or, in his or her absence, a *Director*, may adjourn the *Council Meeting* for a period not exceeding seven (7) days from the date of the adjournment.

Also see Rule 27.

20. Inability to Maintain a Quorum

If during any *Council Meeting* or adjournment a *Quorum* is lost and cannot be regained within 30 minutes, those *Councillors* present or, if there are no *Councillors* present, the *Chief Executive Officer* or, in his or her absence, a *Senior Officer*, may adjourn the *Council Meeting* for a period not exceeding seven (7) days from the time of adjournment.

21. Inability to Maintain a Quorum due to Conflicts of Interest from Councillors

If a *Quorum* cannot be gained or maintained at a *Council Meeting* or adjournment due to conflicts of interest among the *Councillors*, *Council* will consider whether the decision can be made by dealing with the matter in an alternative manner, in accordance with section 67 of the *Act*.

22. Call of the Council

- (1) If a *Quorum* of *Councillors* cannot be formed and maintained due to the absence of *Councillors*, the *Chief Executive Officer* may require all *Councillors* to attend a *Call of the Council Meeting*.
- (2) A *Call of the Council Meeting* must be treated as an *Additional Council Meeting*.
- (3) If a call of the *Council* has been required, immediately after the opening of the meeting, the *Chief Executive Officer* must call the name of:
 - (a) the *Mayor*; and
 - (b) each *Councillor* in alphabetical order.
- (4) Each person present must answer to his or her name, all excuses for absence must be considered and to each excuse the following question must be put to the vote:

“Is the excuse of Cr _____ a reasonable excuse to the satisfaction of *Council*?”

DIVISION 4 – BUSINESS OF MEETINGS

23. Order of Business

- (1) The order in which business is listed on the *Agenda* shall be determined by the *Chief Executive Officer* so as to facilitate and maintain open, efficient and effective processes of government.
- (2) Subject to any changes made by the *Chief Executive Officer* in his or her absolute discretion, the default order of business is as follows:
 - (a) Welcome and Acknowledgement of Country;
 - (b) *Councillor* Apologies and *Leave of Absence* Applications; (rule 24)
 - (c) (On Notice) *Mayoral* Presentation (rule 30)
 - (d) Disclosure of Conflict of Interest in any item on the *Agenda*; (see chapter 5)
 - (e) Adoption and Confirmation of the *Minutes* of previous *Meetings*; (rule 88)
 - (f) *Officer Reports*; (rule 27)
 - (g) Reports from *Committees*; (rule 16)
 - (h) Informal meeting records; (Chapter 6 (1))
 - (i) *Mayoral & Chief Executive Officer Council* Activities – Summary Report
 - (j) (On Notice) Notices of Motion; (rule 49)
 - (k) (On Notice) Petitions and Joint Letters
 - (l) Public Question Time; (rule 29)
 - (m) Urgent Business. (rule 30)

24. Councillor Apologies and Leave of Absence Applications

- (1) Apologies shall be read out by the *Chair* at the commencement of each *Meeting*.
- (2) All requests for *Leave of Absence* shall be submitted to the *Chief Executive Officer* In Writing and approved by resolution of the *Council*.
- (3) Section 35 of the *Act* states that a *Councillor* ceases to hold office if the *Councillor* is absent from *Council Meetings* for a period of four (4) consecutive months without leave being obtained from the *Council*.

25. Mayoral Presentations

From time to time, the *Mayor*, as the principle spokesperson for Council, may give a short presentation or make a statement relating to his or her civic and ceremonial duties or to issues of interest and/or importance to the *Council*, provided that the presentation is not longer than five (5) minutes.

26. Changes to the Order of Business

Once the *Agenda* for a *Council Meeting* has been prepared and sent to *Councillors*, the order of business for the *Council Meeting* may only be altered by resolution of the *Council*. This includes a request for an item to be brought forward.

27. Presentation of Officer Reports

Officer Reports may be summarised for the purposes of verbal public presentation by the *Chief Executive Officer* or his/her delegate at the *Council Meeting* at which they are to be considered.

28. Petitions and Joint Letters

- (1) A petition or joint letter received by the *Council* or an individual *Councillor* must be lodged with the *Chief Executive Officer* at least five (5) days before *Council Meeting* at which it is to be considered to ensure sufficient time to include the petition or joint letter in the *Agenda*.
- (2) A petition submitted to the *Council* must:
 - (a) be in legible and permanent writing;
 - (b) have the full name, address and signature of all individual signatories;
 - (c) not be defamatory, indecent, abusive or objectionable in language or content;
 - (d) not relate to matters beyond the powers of the *Council*;
 - (e) include the whole of the request of the petitioners or signatories on each page; and
 - (f) consist of single-sided pieces of paper and must not be pasted, stapled, pinned or otherwise affixed to any other piece of paper.
- (3) The *Chief Executive Officer* must arrange for petitions to be submitted to the next practicable Ordinary meeting following their receipt.
- (4) Only the petitioner's request and the number of signatories will be included in the *Agenda* for the *Council Meeting* at which it will be considered.
- (5) If a petition is addressed to an individual *Councillor*, and listed on the *Agenda*, that *Councillor* may read the petition out at the *Council Meeting* without speaking to it. Other petitions will be read by the *Chief Executive Officer* or his or her delegate.
- (6) Unless rule 28(10) applies, the only motions that may be considered for any petitions are:
 - (a) that the petition be received;
 - (b) that the petition be referred to the *Chief Executive Officer* for consideration and response; or
 - (c) that the petition be referred to the *Chief Executive Officer* for an *Officer Report* to a future *Council Meeting*.
- (7) If the petition relates to any item already on the *Agenda* for the *Council Meeting* at which the petition is submitted, the matter may be dealt with in conjunction with that *Agenda* item.
- (8) If the petition relates to an operational matter, the Council must refer it to the *Chief Executive Officer* for consideration.
- (9) If the petition relates to:
 - (a) a planning matter which is the subject of a public notification process under the *Planning and Environment Act 1987*; or
 - (b) a matter which is the subject of a public submission process under Section 223 of the *Local Government Act 1989* or a community engagement process under the *Community Engagement Policy*,the petition will be treated as a joint submission in relation to the matter.
- (10) A petition may nominate a person to whom a reply must be sent, but if no person is nominated or is the obvious intended contact person, the *Council* may reply to the first signatory who appears on the petition.
- (11) Any petitions or joint letters that do not comply with *these Rules* will not be tabled at a *Council Meeting*.
- (12) Nothing in this rule 28 shall prevent the *Chief Executive Officer* from determining that an electronic or online petition will be submitted to a *Council Meeting* or the *Council* resolving to consider a petition as *Urgent Business* under rule 30.

29. Public Question Time

- (1) Unless the *Council* resolves otherwise, there must be a public question time at every *Scheduled Council Meeting* to enable members of the public to submit questions to the *Council*.
- (2) Rule 29(1) does not apply during any period when a *Scheduled Council Meeting* is closed to members of the public or during a *Caretaker Period*.
- (3) Unless the *Chief Executive Officer* determines, in his or her absolute discretion, to permit a question to be submitted in a different way, all questions must be received *In Writing* on the prescribed form available on the *Council Website* and state the name and address of the person submitting the question.
- (4) All questions must be received no later than 15 minutes after the commencement of the *Scheduled Council Meeting* at which the question is to be asked.
- (5) No person may submit more than two (2) questions to any one (1) *Scheduled Council Meeting*. A question may be split into a maximum of two parts only. If more than two parts to a question are received, only the first two parts will be considered. Similarly, if more than two questions are received, only the first two questions will be considered. All parts of a question must be relevant to the same subject of enquiry.
- (6) A question may be disallowed by the *Chair* if the *Chair* has determined that:
 - (a) the person directing the question, or their representative, is not present in the gallery;
 - (b) the question is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - (c) the question deals with a subject matter already answered;
 - (d) the question is aimed at embarrassing a *Councillor* or *Officer* or any other person; or
 - (e) the question relates to *Confidential Information*.
- (7) The *Chair* or *Chief Executive Officer* or his or her delegate must read to the *Scheduled Council Meeting* the name of the person who has submitted a permitted question.
- (8) The *Chief Executive Officer* or his or her delegate must read the text of the question and the *Chair* may then direct that the question to be answered by the *Chief Executive Officer* or a nominated *Officer*.
- (9) All questions must be asked as succinctly as is possible and answers to questions should be as complete as is practical under the circumstances. Further questions or debate on the response shall not be allowed.
- (10) Like questions may be grouped together and a single answer provided.
- (11) The *Chair*, *Chief Executive Officer* or *Officer* to whom a question is directed may take a question on notice. If a question is taken on notice, a *Written* copy of the answer must be sent to the person who asked the question and to all *Councillors*.
- (12) The name of the questioner, the question and the response must be recorded in the *Minutes*, as an official record of the questions submitted to the *Scheduled Council Meeting*.

30. Urgent Business

- (1) Business which has not been listed on the *Agenda* for a *Council Meeting* can only be admitted as *Urgent Business* by resolution of the *Council*, and only then if it:
 - (a) relates to or arises out of a matter which has arisen since distribution of the *Agenda*; and
 - (b) cannot safely or conveniently be deferred until the next *Council Meeting*.

- (2) Notwithstanding anything to the contrary in *these Rules*, a *Councillor* (with the agreement of the *Council Meeting*) may only submit or propose an item of *Urgent Business* if the:
 - (a) matter relates to business that does not:
 - (i) substantially affect the levels of *Council* service;
 - (ii) commit *Council* to *Significant Expenditure* not included in the adopted budget;
 - (iii) establish or amend *Council* Policy;
 - (iv) commit *Council* to any contractual arrangement; or
 - (v) require, pursuant to any other policy determined by *Council* from time to time, the giving of prior notice; and
 - (b) proposed motion(s) is *In Writing* and given to the *Chair* who must seek a resolution of approval from *Council Meeting*.
- (3) A *Councillor* proposing that a matter be admitted as *Urgent Business* must lodge it *In Writing* with the *Chief Executive Officer* no later than 30 minutes prior to commencement of the *Council Meeting* at which it is to be considered.
- (4) The *Chief Executive Officer* will advise the Mayor of any matter that the *Chief Executive Officer* determines appropriate for *Council* to consider admitting as *Urgent Business*.

DIVISION 5 - VOTING

31. Voting – How Determined

To determine a motion before a *Council Meeting*, the *Chair* will:

- (1) first call for those in favour of the motion; and
- (2) then those opposed to the motion,

and will then declare the result to the *Council Meeting*.

32. Casting Vote

In the event of a tied vote, the *Chair* must, unless *the Act* or this Local Law provides otherwise, exercise a casting vote.

33. Voting – By Show of Hands

Voting on any matter will be by show of hands.

34. Vote to be taken in Silence

Except that a *Councillor* may demand a *Division*, *Councillors* must remain seated in silence while a vote is being taken.

35. Motion to be Read Again

- (1) The *Chair* may direct the *Chief Executive Officer* or his or her delegate or the mover of the motion to read the motion or amendment to the *Council Meeting* before the vote is taken.
- (2) Before any matter is put to the vote, a *Councillor* may request the motion or amendment be read again.

36. Recount of Vote

The *Chair* may direct that the vote be re-counted as often as may be necessary to be satisfied of the result.

37. Declaration of Vote

- (1) The *Chair* must declare the result of the vote as soon as it is taken.
- (2) When declaring the vote, the *Chair* shall state the number of votes FOR and the number of votes AGAINST the motion and the surname of each *Councillor* who voted FOR the motion, AGAINST the motion and DID NOT VOTE and whether the motion is carried or lost.

38. No discussion once Vote declared

Once a vote on a motion is taken no further discussion relating to the motion is allowed unless the discussion relates to:

- (1) a *Rescission Motion* which a *Councillor* is proposing to lodge in respect of the motion voted on; or
- (2) follows a resolution having been rescinded.

See Division 9 – Rescission Motions

39. Procedure for a Division

- (1) The request by a *Councillor* for a *Division* must be made to the *Chair* either immediately prior to or immediately after the vote has been taken, but cannot be requested after the *Council* has moved to the next item of business on the *Agenda*.
- (2) No *Councillor* is prevented from changing his or her original vote when voting on the *Division*.
- (3) When a *Division* is called for, the *Chair* will:
 - (a) first ask each *Councillor* wishing to vote FOR the motion to raise a hand and, upon such request being made, each *Councillor* wishing to vote FOR the motion must raise his or her hand. The *Chair* will then state, and the *Chief Executive Officer* (or any person authorised by the *Chief Executive Officer* to attend the *Council Meeting* and take the *Minutes* of such *Council Meeting*) must record in the *Minutes*, the names of those *Councillors* voting FOR the motion;
 - (b) then ask each *Councillor* wishing to vote AGAINST the motion to raise a hand and, upon such request being made, each *Councillor* wishing to vote AGAINST the motion must raise his or her hand. The *Chair* will then state, and the *Chief Executive Officer* (or any person authorised by the *Chief Executive Officer* to attend the *Council Meeting* and take the *Minutes* of such *Council Meeting*) must record in the *Minutes*, the names of those *Councillors* voting AGAINST the motion; and
 - (c) the *Chief Executive Officer* (or any person authorised by the *Chief Executive Officer* to attend the *Council Meeting* and take the *Minutes* of such *Council Meeting*) must record in the *Minutes* the names of those *Councillors* who DID NOT VOTE on the motion.

DIVISION 6 – MOTIONS AND DEBATE

40. Councillors may Propose Notices of Motion

Councillors may propose an issue is listed on the Agenda by lodging a Notice of Motion in accordance with the procedures outlined in this Division.

41. Notices of Motion

- (1) *A Notice of Motion must be In Writing, signed and dated by the Councillor and lodged with the Chief Executive Officer by 12 noon on the Wednesday before the next Scheduled Council Meeting to allow sufficient notice to each Councillor of the matters and inclusion in the Agenda.*
- (2) *The Chief Executive Officer must reject any Notice of Motion which:*
 - (a) *is vague;*
 - (b) *is identical or substantially similar to a Notice of Motion or a Rescission Motion that has been considered by the Council and lost in the preceding six (6) months;*
 - (c) *is defamatory;*
 - (d) *may be prejudicial to any person or Council;*
 - (e) *is objectionable in language or nature;*
 - (f) *is outside the powers of the Council;*
 - (g) *is submitted during the Caretaker Period; or*
 - (h) *is a matter subject to a Council decision-making process which has commenced but is not yet complete.*
- (3) *If the Chief Executive Officer rejects a Notice of Motion under rule 49(2), he or she will inform the Councillor who lodged the Notice of Motion of that rejection and the reasons for it. The Councillor will be provided with 24 hours to lodge a revised Notice of Motion provided that the Council Meeting at which the Notice of Motion is to be considered is more than 24 hours from the time of rejection.*
- (4) *The Chief Executive Officer may reject and refer any Notice of Motion to the Council's Operational Service Request Process if it relates to a matter that he or she determines is more appropriately addressed that way.*
- (5) *In addition to rule 49(2), and subject to rules 49(6) and (7), the Chief Executive Officer may require a Councillor who lodges a Notice of Motion to amend it to call for an Officer Report if the Notice of Motion:*
 - (a) *substantially affects the level of Council services;*
 - (b) *commits the Council to expenditure in excess of \$5,000 that has not been included in the adopted budget;*
 - (c) *establishes or amends a Council policy; or*
 - (d) *commits the Council to any contractual arrangement.*
- (6) *Where a Notice of Motion is likely to commit Council to Significant Expenditure not included in the adopted budget then the Notice of Motion must only call for referral to Council for its consideration as part of its future year's annual budget and public submission process.*
- (7) *The Chief Executive Officer may determine that a Notice of Motion contains Confidential Information and ought to be treated as being confidential unless the Council resolves otherwise.*
- (8) *The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the Agenda.*
- (9) *The Chief Executive Officer must arrange for an Officer Report to be prepared and presented to the Council for the purposes of rule 49(5). Where practicable the Officer Report should be presented to the next Scheduled Council Meeting.*

- (10) The *Chief Executive Officer* must cause all *Notices of Motion* to be sequentially numbered, dated and entered in a register.
- (11) Except by leave of the *Council*, each *Notice of Motion* before any *Council Meeting* must be considered in the order in which it was entered into the register under rule 49(10).
- (12) If a *Councillor* who has lodged a *Notice of Motion* is absent from the *Council Meeting* at which the *Notice of Motion* is to be considered, or fails to move the *Notice of Motion* when called upon to do so by the *Chair*, any other *Councillor* may move the *Notice of Motion*.
- (13) If a *Councillor* moving a *Notice of Motion* wishes to amend it, he or she may do so by seeking leave of the *Council* to amend the *Notice of Motion* prior to it being seconded.
- (14) Another *Councillor* can put forward an amendment to a *Notice of Motion* for consideration, which must be dealt with in accordance with *these Rules*, except that a *Notice of Motion* to confirm a previous resolution of the *Council* cannot be amended.
- (15) The *Chair*, having lodged a *Notice of Motion* in accordance with this rule 49, must vacate the *Chair* of if he or she intends to move the *Notice of Motion*, and the *Council* must appoint a temporary *Chair* for the consideration of the item.
- (16) If a *Notice of Motion* is not moved at the *Council Meeting* at which it is listed, then it lapses.

42. Chair's Duty

Any motion which:

- (1) is defamatory;
- (2) is objectionable in language or nature;
- (3) is vague or unclear in intention;
- (4) is outside the powers of the *Council*;
- (5) is irrelevant to an item of business on the *Agenda* and has not been admitted as *Urgent Business*; or
- (6) purports to be an amendment but is not,

must not be accepted by the *Chair*.

43. Introducing an Officer Report

Before an *Officer Report* is considered by the *Council* and any motion moved in relation to it, the *Chief Executive Officer* or his or her delegate may introduce the report by a short statement of not more than two (2) minutes.

Also see rule 27 – Presentation of Officer Reports

44. Procedure for Introducing a Motion or an Amendment

- (1) The procedure for moving any motion or amendment is:
 - (a) the mover may briefly state the nature of the motion or amendment and then must move it without speaking to it;
 - (b) the motion or amendment must be seconded by a *Councillor* other than the mover. If the motion or amendment is not seconded, the motion or amendment will lapse for want of a seconder;
 - (c) if a motion or amendment is moved and seconded, the *Chair* must call for any *Councillor* questions and then ask whether the motion or amendment is opposed and whether any *Councillor* wishes to speak to the motion or amendment;
 - (d) if no *Councillor* indicates opposition or a desire to speak to the motion or amendment, the *Chair* may declare the motion or amendment carried without discussion;
 - (e) if a *Councillor* indicates opposition or a desire to speak to the motion or amendment, then the *Chair* must invite the mover to address the *Council Meeting*;
 - (f) after the mover has addressed the *Council Meeting*, the seconder may address the *Council Meeting*;
 - (g) after the seconder has addressed the *Council Meeting* (or after the mover has addressed the *Council Meeting* if the seconder does not wish to address the *Council Meeting*), the *Chair* must invite debate by calling on any *Councillor* who wishes to speak to the motion or amendment, providing an opportunity to alternate between those wishing to speak against the motion or amendment and those wishing to speak for it; and
 - (h) after the *Chair* has invited debate on the motion or amendment, and, in the case of a motion, offered the right of reply under rule 53, the *Chair* must put the motion or amendment to the vote.
- (2) If the *Chair* wishes to speak to a motion or amendment, he or she may only do so once all other *Councillors* wishing to speak to it have done so, and just before closure of debate by the mover of the motion or amendment.

45. Right of Reply

- (1) The mover of a motion which has not been amended may, once debate has been exhausted, exercise a right of reply to matters raised during the debate. (Time Limit – two (2) minutes)
- (2) The mover of a motion loses his or her right of reply if an amendment to the motion is carried.
- (3) The mover of an amendment to a motion does not have a right of reply.
- (4) A *Councillor* exercising a right of reply must not introduce any new matter.
- (5) After a right of reply has been taken, but subject to any *Councillor* exercising his or her right to ask any question concerning or arising out of the motion, the motion must be immediately put to the vote without any further discussion or debate.

46. Moving an Amendment

- (1) Subject to rule 54(2), a motion which has been moved and seconded may be amended by leaving out or adding words. Any words must be relevant to the subject of the motion.
- (2) A motion to confirm a previous resolution of the *Council* cannot be amended.
- (3) An amendment cannot be the negative of, or substantially contrary to, the motion.
- (4) Any *Councillor* moving an amendment will be allocated one (1) minute to explain the reasons for the amendment. The statement must be an explanation only and will not entertain the benefits or detriments of the amendment or the substantive motion.
- (5) No notice needs to be given of any amendment, however, if any *Councillor* intends to move an amendment, it must be done prior to the right of reply being exercised.

- (6) An amendment cannot be the negative of, or substantially contrary to, the motion.
- (7) Any *Councillor* moving an amendment will be allocated one (1) minute to explain the reasons for the amendment. The statement must be an explanation only and will not entertain the benefits or detriments of the amendment or the substantive motion.
- (8) No notice needs to be given of any amendment, however, if any *Councillor* intends to move an amendment, it must be done prior to the right of reply being exercised.

47. Agreed Alterations to a Motion or Amendment

- (1) A motion having been moved and seconded may, with the consent of the mover and seconder, be amended by leaving out, inserting or adding words which must be relevant to the original motion or amendment and framed so as to complement it as an intelligible and consistent whole, provided that the amendment is made before the motion or amendment is voted on.
- (2) With the leave of the *Chair*, both the mover and seconder of a motion may agree to an alteration to the original motion proposed by any other *Councillor*. This does not necessitate the recording of an amendment into the *Minutes* of the *Council Meeting* as the alteration would then form part of the substantive motion.

48. Who May Propose an Amendment

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

49. Who May Debate an Amendment

A *Councillor* may address the *Council Meeting* once (1) on any amendment, whether or not they have spoken to the original motion, but their debate must be confined to the terms of the amendment.

50. How Many Amendments May be Proposed

- (1) Any number of amendments may be proposed to a motion but only one (1) amendment may be accepted by the *Chair* at any one (1) time.
- (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.

51. An Amendment once Carried

- (1) If an amendment is carried, the motion as amended becomes the motion before the *Council Meeting*.
- (2) The amended motion will then be dealt with in accordance with *these Rules*.

52. Foreshadowing a Motion

- (1) At any time during debate, a *Councillor* may foreshadow a motion to inform the *Council* of his or her intention to move a motion at a later stage in the *Council Meeting*. This does not extend any special rights to the foreshadowed motion.
- (2) A foreshadowed motion may be prefaced with a statement that in the event a particular motion is resolved in a certain way a *Councillor* intends to move an additional motion.
- (3) A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the *Meeting*.
- (4) The *Chief Executive Officer* or his/her delegate is not expected to record a foreshadowed motion in the *Minutes* until the foreshadowed motion is formally moved.

53. Withdrawal of a Motion

Before any motion is put to the vote, it may be withdrawn by the mover with agreement of the seconder or by resolution of the *Council*.

54. Separation of Motions

Where a motion contains more than one (1) part a *Councillor* may request the *Chair* to put the vote in separate parts.

55. Chair may Separate or Allow Motions to be Moved in a Block

- (1) The *Chair* may decide to put any motion to the vote in separate parts.
- (2) The *Chair* may allow or request *Councillors* to move "like items" in a block.

56. Motions In Writing

- (1) A *Councillor* wishing to move a motion other than a recommendation or alternate motion included in an *Officer Report* (detailed in the *Agenda*) must prepare the motion *In Writing* and either read it out to the *Council Meeting* or submit it to the *Chair*.
- (2) The *Chair* may adjourn the *Council Meeting* while the motion is being *Written* or may request that the *Council* defer the matter until the motion has been *Written*, allowing the *Council Meeting* to proceed uninterrupted.
- (3) The *Chair* may request the *Chief Executive Officer* or the person taking the *Minutes* of the *Council Meeting* to read the motion or amendment to the *Council meeting* before the vote is taken.

57. Debate must be Relevant to the Motion

- (1) Debate must always be relevant to the motion before the *Council Meeting* and, if not, the *Chair* will request the speaker to confine debate to the subject matter.
- (2) If, after being told to confine debate to the motion before the *Council Meeting*, the speaker continues to debate irrelevant matters, the *Chair* may disallow the speaker any further comment in respect of the matter before the *Council Meeting*.
- (3) A speaker to whom a direction has been given under rule 65(2) must comply with that direction.

DIVISION 7 – PROCEDURAL MOTIONS

58. Procedural Motions

- (1) Unless otherwise prohibited, a *Procedural Motion* may be moved at any time and must be dealt with immediately by the *Chair*.
- (2) *Procedural Motions* require a seconder.
- (3) The *Chair* is unable to move or second a *Procedural Motion*.
- (4) Notwithstanding any other provision in *these Rules*, *Procedural Motions* must be dealt with in accordance with the procedures set out in Appendix 1 to *these Rules*.

DIVISION 8 – SPEAKING TO THE MEETING

59. Rising when speaking

- (1) Except in cases of sickness or infirmity, a *Councillor* must rise when speaking at a *Council Meeting*.
- (2) The *Chair* may remain seated when speaking at a *Council Meeting*.
- (3) It is unnecessary to rise when speaking at a *Delegated* or *Community Asset Committee Meeting*.

60. Speaking Times

- (1) A *Councillor* must not speak longer than the times prescribed in this Local Law i.e.:
 - (a) the mover of a motion or amendment – five (5) minutes;
 - (b) the seconder of a motion or amendment – three (3) minutes;
 - (c) any other *Councillor* – three (3) minutes; and
 - (d) the mover of a motion exercising their right of reply – two (2) minutes.
- (2) An extension of speaking time may be granted by the *Chair* but only one (1) extension is permitted for each *Councillor*. Any extension of speaking time must not exceed two (2) minutes.
- (3) A motion for an extension of speaking time must be proposed:
 - (a) immediately before the speaker commences debate;
 - (b) during the speaker's debate; or
 - (c) immediately after the speaker has concluded debate but before the next speaker has commenced.
- (4) A motion for an extension of speaking time cannot be accepted by the *Chair* if another speaker has commenced his or her debate.

61. Interruptions, Interjections and Relevance

A *Councillor* must not be interrupted except by the *Chair* or upon a *Point of Order*. All debate and discussion must be relevant to the item presented and interjections will not be allowed.

See rule 69 - Point of Order.

62. Priority of Address

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

63. Councillors Not to Speak Twice to Same Motion or Amendment

Except that the mover of a motion (other than an amendment) has the right of reply and that any *Councillor* may take a *Point of Order*, a *Councillor* must not speak more than once to the same motion or amendment.

64. Right to Ask Questions

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

DIVISION 9 - RESCISSION MOTIONS

65. Rescission Motion

- (1) Motions to revoke, rescind or alter a previous resolution of the *Council* can only be made in the following ways:
 - (a) *Notice of Motion*; or
 - (b) recommendation contained in an *Officer Report*, included in the *Agenda*,
that a previous decision be altered or revoked.
- (2) A *Notice of Motion* lodged by a *Councillor* and proposing a *Rescission Motion* must:
 - (a) be signed by the *Councillor* and dated;
 - (b) not relate to a resolution that has been acted on;
 - (c) not, in the opinion of the *Chief Executive Officer*, have the effect, if passed, of placing of the *Council* at significant legal, financial or other risk, including non-compliance with statutory obligations; and
 - (d) be delivered or sent electronically to the *Chief Executive Officer* setting out:
 - (i) the resolution to be rescinded; and
 - (ii) the *Council Meeting* at, and date on, which the resolution was made.
- (3) A resolution will be deemed to have been acted on if:
 - (a) its content or substance has been formally communicated *In Writing* by the *Chief Executive Officer* or another *Officer* to a person whose interests are materially affected by it;
 - (b) a statutory process has been commenced; or
 - (c) work has been commenced in respect of it,
so as to vest enforceable rights in or obligations on the *Council* or any other person.
- (4) The *Chief Executive Officer* or an appropriate *Officer* must defer implementing a resolution which:
 - (a) has not been acted on; and
 - (b) is the subject of a *Rescission Motion* which has been delivered or sent to the *Chief Executive Officer* in accordance with rule 73(2)(2)(d),
unless deferring implementation of the resolution would, in the opinion of the *Chief Executive Officer*, have the effect of:
 - (c) depriving the resolution of its usefulness or efficacy; or
 - (d) placing the *Council* at significant legal, financial or other risk.

66. Rescission, If Lost

If a motion to rescind or alter a previous resolution is lost, an identical or similar motion may not be put before the *Council* for at least six (6) months from the date it was last lost, unless:

- (1) the *Council* resolves that the *Rescission Motion* be re-listed at a future *Council Meeting*; or
- (2) an *Officer Report* is included in an *Agenda* for a *Council Meeting*.

67. Rescission, If Not Moved

If a *Rescission Motion* is not moved at the *Council Meeting* at which it is listed, it lapses.

68. Rescission Motion May Be Moved By Any Councillor

A *Rescission Motion* listed on an *Agenda* may be moved by any *Councillor* present at the *Council Meeting* but may not be amended.

DIVISION 10 – POINTS OF ORDER

69. Points of Order

- (1) A *Point of Order* may be raised on the grounds that a matter is:
 - (a) contrary to *these Rules*;
 - (b) an act of disorder or conduct in contravention of the *Councillor Code of Conduct*;
 - (c) defamatory;
 - (d) irrelevant to the matter before *Council*;
 - (e) outside the *Council's* power; or
 - (f) frivolous, vexatious or constitutes improper conduct.
- (2) A *Councillor* expressing a difference of opinion or contradicting a speaker is not grounds for raising a *Point of Order*.

70. Procedure for Point of Order

- (1) The *Councillor* taking the *Point of Order* must nominate the ground under rule 77(1) relied upon to support the *Point of Order* being taken.
- (2) If called to order, the *Councillor* who is speaking must stop and remain silent until the *Point of Order* is decided upon, unless otherwise directed by the *Chair*.
- (3) The *Chair* may request a *Councillor* provide an explanation in respect to the *Point of Order* raised.

71. Chair to Decide Point of Order

- (1) The *Chair* when ruling on a *Point of Order* must state the reason for the ruling.
- (2) The *Chair* may adjourn the *Council Meeting* to consider a *Point of Order* but must otherwise rule upon it as soon as it is raised.
- (3) All other matters before the *Council* are to be suspended until the *Point of Order* is decided.

72. Final Ruling on a Point of Order

- (1) The decision of the *Chair* in respect of a *Point of Order* will not be open for discussion and will be final and conclusive unless the majority of *Councillors* present vote in favour of a motion of dissent.
- (2) A motion of dissent on a *Point of Order* must state the provision, rule, practice or precedent to be substituted for the *Chair's* ruling.
- (3) A motion of dissent in relation to a *Point of Order* is not a motion of dissent in the *Chair* and the *Chair* must at all times remain in the *Chair* and he or she will maintain his or her right to a second vote.
- (4) A motion of dissent on a *Point of Order* will take precedence over all other business and if carried must be acted on instead of the ruling given by the *Chair*.

73. Criticism of Officers

The *Chief Executive Officer* may make a brief statement at a *Council Meeting* in respect of any public statement (whether made at a *Council Meeting* or not) which has been critical of or may adversely affect an *Officer*.

74. Ordering Withdrawal of Remark

- (1) Whenever any *Councillor* at a *Council Meeting* makes use of any expression or remark that is disorderly or capable of being applied offensively to any other *Councillor* or *Officer*, the offending *Councillor* may be required by the *Chair* to withdraw the expression or remark and to make a satisfactory apology to the *Council Meeting*.
- (2) The *Chair* may require a *Councillor* to withdraw any remark that is defamatory, indecent, abusive or offensive in language or substance.
- (3) A *Councillor* required to withdraw a remark must do so immediately without qualification or explanation.

DIVISION 11 – SUSPENSION OF STANDING ORDERS

75. Suspension of Standing Orders for the Purpose of Discussion

- (1) The provisions of *these Rules* may be suspended for a particular purpose by resolution of the *Council*.
- (2) The *Suspension of Standing Orders* will be used to enable full discussion of any issues without the constraints of formal procedures. An appropriate motion would be “*That Standing Orders be suspended to enable discussion on _____*”.
- (3) Once the discussion has taken place and before any motion can be moved the *Resumption of Standing Orders* will be necessary. An appropriate motion would be “*That Standing Orders be resumed*”.
- (4) No motion may be accepted by the *Chair* or be lawfully dealt with during any *Suspension of Standing Orders*.

DIVISION 12 – MEETING ADJOURNMENTS

76. Adjourning the Meeting

- (1) In addition to any procedures for adjourning a *Council Meeting* provided in these Rules, the *Council* may, from time to time, resolve to adjourn a *Council Meeting*:
 - (a) if the *Council Meeting* becomes disorderly and order cannot be restored;
 - (b) to allow for additional information to be presented to the *Council Meeting*; and
 - (c) in any other situation where adjournment is considered by the *Council* to be desirable.
- (2) A *Council Meeting* cannot be adjourned for a period exceeding seven (7) days from the date of the adjournment.
- (3) An appropriate motion would be: “*That the meeting be adjourned until _____*”. (Time and date to be specified which does not exceed seven (7) days.)
- (4) No discussion is allowed on any motion for adjournment of the *Council Meeting*, but if the motion is lost, the substantive matter before the *Council Meeting* must be disposed of before any subsequent motion for adjournment of the *Council Meeting* is moved.

77. Notice for Adjourned Meeting

- (1) If a *Council Meeting* is adjourned, the *Chief Executive Officer* will ensure that the *Agenda* for the continuation of the adjourned *Council Meeting* is identical to the *Agenda* for the *Council Meeting* which was originally adjourned.
- (2) Except where a *Council Meeting* is adjourned until later on the same day, the *Chief Executive Officer* must give all *Councillors Written* notice of a new date for the continuation of the adjourned *Council Meeting* and every reasonable attempt must be made to advise the public of the new *Council Meeting* date.
- (3) Where it is not practical to provide *Written* notice to *Councillors* because time does not permit that to occur then, provided a reasonable attempt is made to contact each *Councillor*, contact by telephone, electronic form, or in person will be sufficient.

DIVISION 13– MINUTES & RECORDING OF MEETINGS

78. Keeping of Minutes

The *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer* to attend the *Council Meeting* and to take the *Minutes* of such *Council Meeting*) must keep *Minutes* of each *Council Meeting* and those *Minutes* must record:

- (1) the date and time the *Council Meeting* was commenced, adjourned, resumed and concluded;
- (2) the names of the *Councillors* and whether they are present, an apology, on *Leave of Absence* or other details as provided;
- (3) the titles of the *Officers* in attendance;
- (4) any disclosure of a conflict of interest made by a *Councillor*;
- (5) arrival and departure times (including temporary departures) of *Councillors* during the course of the *Council Meeting*;
- (6) each motion and amendment moved, including the mover and seconder of the motion or amendment;
- (7) the outcome of every motion or amendment, whether it was put to the vote and the result to indicate whether the motion or amendment was carried, lost, withdrawn, lapsed, amended and the names of every *Councillor* and how they voted (either FOR or AGAINST or DID NOT VOTE);
- (8) where a *Division* is called, the names of every *Councillor* and the way their vote was cast (either FOR or AGAINST or DID NOT VOTE);
- (9) details of a failure to achieve a *Quorum* and any adjournment whether as a result of that or otherwise;
- (10) the time and reason for any adjournment of the *Council Meeting* or *Suspension of Standing Orders*;
- (11) closure of the *Council Meeting* to members of the public and the reason for such closure; and
- (12) any other matter which the *Chief Executive Officer* deems should be recorded to clarify the intention of the *Council Meeting* or the reading of the *Minutes*.

79. Availability of Minutes

Advice that the *Minutes* are available must be provided to all *Councillors* no later than forty-eight (48) hours before the next *Scheduled Council Meeting*.

80. Confirmation of Minutes

At every *Council Meeting* the *Minutes* of the previous *Council Meeting(s)* must be dealt with as follows:

- (1) when confirming the *Minutes* of a *Council Meeting*, the *Chair* shall ask *Councillors* "Are any changes required to the *Minutes*?";
- (2) opposition can only be expressed on the basis that the record contained in the *Minutes* is incorrect (in line with rule 86) or inaccurate and the *Chair* must not allow discussion or motions on any issue other than an alleged omission from, or inaccuracy of, the *Minutes*;
- (3) if a *Councillor* indicates opposition, he or she must specify the particular item or items in the *Minutes* concerned and can, after asking any questions to clarify the matter, only move a motion to rectify the alleged error(s) in the record;
- (4) if no *Councillor* indicates opposition, the *Chair* must, after seeking a mover and seconder, put the matter to the vote and declare the *Minutes* to be confirmed; and
- (5) after the *Minutes* are confirmed, they must be signed by the *Chair* of the *Council Meeting* at which they were confirmed.

81. Deferral of Confirmation of Minutes

The *Council* may resolve to defer the confirmation of *Minutes* until later in the *Council Meeting* or until the next *Scheduled Council Meeting* as appropriate.

82. Recording of Council Meetings

- (1) The *Chief Executive Officer* or his or her delegate shall record on suitable recording equipment all proceedings of *Council Meetings* except where the *Council Meeting* is closed to the public to consider *Confidential Information*.
- (2) Recordings of *Council Meetings* will be retained and available for public for viewing or listening on the *Council Website* for a period of twelve (12) months from the date of the *Council Meeting*.
- (3) *Visitors* are to be advised that the *Council Meeting* is being recorded and will be made available on the *Council Website*.
- (4) *Visitors* will also be advised by appropriate venue signage that, while care is taken through recording and filming to maintain a person's privacy as an attendee in the *Council Chamber*, they may be recorded on audio and film.
- (5) Media representatives may, with the consent of the *Council*, record any part of the *Council Meeting*. The consent of the *Council* must not be unreasonably withheld, and may be revoked any time during the course of the relevant *Council Meeting*. The *Chair* shall provide reasons why permission has been revoked.

DIVISION 14 – CONDUCT AND BEHAVIOUR

83. Conduct of Councillors

During the course of any *Council Meeting*, *Councillors* must comply with the *Councillor Code of Conduct*, a copy of which is available on the *Council Website*, or can be obtained by contacting the *Chief Executive Officer's* office.

84. Conduct of Visitors

- (1) *Visitors* must not interject or take part in the debate at a *Council Meeting*.
- (2) *Visitors* must extend due courtesy and respect to the *Council* and the processes under which it operates and *Councillors* and *Officers* present at the *Council Meeting* and must take direction from the *Chair* whenever called on to do so.
- (3) *Visitors* must not operate photographic audio or video recording equipment or any other recording device at any *Council Meeting* without first obtaining the consent of the *Council*.

85. Chair May Remove

- (1) The *Chair* may order and cause the removal of any person including a *Councillor* who disrupts any *Council Meeting* or fails to comply with a direction.
- (2) A person removed from a *Council Meeting* must leave the *Council Chamber* or move to a public area of the *Council Chamber* where they can no longer disrupt the *Council Meeting*.

86. Removal from the Meeting

If necessary, the *Chair* may ask the *Chief Executive Officer* or Victoria Police to remove from the *Council Meeting* any person who acts inconsistently with *these Rules* and whom the *Chair* has ordered to be removed from the *Council Meeting* under rule 93.

87. Chair may Adjourn Disorderly Meeting

If the *Chair* is of the opinion that disorder at the *Council* table or in the *Council Chamber* makes it desirable to adjourn a *Council Meeting*, the *Chair* may adjourn the *Council Meeting* to a later time on the same day, or to some later day prior to the next *Scheduled Council Meeting*, at a time and date and venue to be fixed.

See Division 12 – Meeting Adjournments

PART F – COUNCILLOR BRIEFINGS, DEPUTATIONS & PRESENTATIONS

88. Deputations and Presentations

- (1) Members of the public may present deputations to the *Council* and these will usually be considered at an *Informal Meeting of Councillors*.
- (2) A person who seeks, or persons who seek, to make a deputation or presentation to the *Council* shall make a *Written* request to do so to the *Chief Executive Officer*.
- (3) The *Chief Executive Officer* shall determine which *Informal Meeting of Councillors* the request shall be referred to for consideration.
- (4) Time limits may be set for speakers and *Councillors* may question the deputation on matters raised for the purpose of clarification.

PART G - MISCELLANEOUS

89. Procedure Not Provided in the Local Law

Where a situation has not been provided for in *these Rules*, the *Council* may determine the matter by resolution.

90. Policies and Guidelines

The *Council* may adopt any policies or guidelines from time to time for the purpose of exercising any discretions provided by *these Rules*.

Appendix 1 – Procedural Motions

Procedural Motions Table:

Procedural Motion	Form	Mover/Seconder	When Prohibited	Motion	Effect if Carried	Effect if Lost	Debate Permitted on a Motion
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to “am/pm” and/or “date”	Any <i>Councillor</i> who has not moved or seconded the motion or otherwise spoken to the motion.	(a) During the election of a <i>Chair</i> ; (b) When another <i>Councillor</i> is speaking		Motion and amendments 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 <i>Councillor</i> who has not moved or seconded the motion or otherwise spoken to the motion.	(a) During the election of a <i>Chair</i> ; (b) When another <i>Councillor</i> is speaking; (c) When the matter is one in respect of which a call of the <i>Council</i> has been made.		Motion and any amendment postponed but may be resumed at any later <i>Meeting</i> if on the <i>Agenda</i>	Debate continues unaffected	Yes
3. The Closure	That the motion be now put.	Any <i>Councillor</i> who has not moved or seconded the motion or otherwise spoken to the 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 <i>Councillor</i> exercising his or her right to ask any question concerning or arising out of the motion.	Debate continues unaffected	No

Procedural Motion	Form	Mover/Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on a Motion
4. Laying question on the table	That the question lie on the table	Any <i>Councillor</i> who has not moved or seconded the motion or otherwise spoken to the motion.	(a) During the election of a <i>Chair</i> ; (b) During a <i>Meeting</i> which is a call of the <i>Council</i> ; (c) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	Motion and amendment is not further discussed or voted on until: (a) the <i>Council</i> resolves to take the question from the table at the same <i>Meeting</i> ; (b) the matter is placed on an <i>Agenda</i> and the <i>Council</i> resolves to take the question from the table.	Debate continues unaffected	No
5. Previous question	That the question be not now put	A <i>Councillor</i> who has spoken to the motion or any amendment of it.	a) During the election of a <i>Chair</i> ; b) When another <i>Councillor</i> is speaking; c) When the matter is one in respect of which a call of the <i>Council</i> has been made. d) When an amendment is before the <i>Council</i> ; or e) When a motion would have the effect of causing the <i>Council</i> to be in breach of a legislative requirement.	a) No vote or further discussion on the motion until it is placed on an <i>Agenda</i> for a later <i>Meeting</i> ; b) Proceed to next business.	Motion (as amended up to that time) put immediately without further amendment or debate.	Yes

Procedural Motion	Form	Mover/Seconder	When Prohibited	Motion	Effect if Carried	Effect if Lost	Debate Permitted on a Motion
6. Proceeding to next business	That the <i>Meeting</i> proceed to the next business. Nb: This Motion a) May not be amended; b) May not be debated; and c) Must be put to the vote as soon as seconded.	A <i>Councillor</i> who has spoken to the motion or any amendment of it.	a) During the election of a <i>Chair</i> ; b) When another <i>Councillor</i> is speaking; c) When the matter is one in respect of which a call of the <i>Council</i> has been		If carried in respect of: a) An amendment, Council consider the motion without reference to the amendment b) A motion – no vote or further discussion on the motion until it is placed on an Agenda for a later <i>Meeting</i> .	Debate continues unaffected	No
7. Alter the order of business	That the item listed as ## on the <i>Agenda</i> be considered before/after the item listed as item ##.	Any <i>Councillor</i> (including the <i>Mayor/Chair</i>)	During debate		Alters the order of business for the <i>Meeting</i> .	Items are considered in the order as listed in the <i>Agenda</i> .	No
8. Suspension of Standing Orders	That Standing Orders be suspended to ##(reason must be provided)	Any <i>Councillor</i> (including the <i>Mayor/Chair</i>)	During any debate		The rules of the <i>Meeting</i> are temporarily suspended for the specific reason given in the motion.	<i>Meeting</i> continues unaffected.	No and no debate or Decision on any matter. Resolution to resume Standing Orders is the only decision permissible.

Procedural Motion	Form	Mover/Second	When Prohibited	Motion	Effect if Carried	Effect if Lost	Debate Permitted on a Motion
9. Resumption of Standing Orders	That the Standing Orders be resumed.	Any <i>Councillor</i> (including the <i>Mayor/Chair</i>)	When Standing Orders have not been suspended.		The temporary suspension of the rules of the <i>Meeting</i> is removed.	The <i>Meeting</i> cannot continue.	No
10. Consideration of confidential matter(s)	That, in accordance with sections 89(2) and 77(2) of <i>the Act</i> , The <i>Meeting</i> be closed to members of the public for the consideration of item ## which has been designated confidential on the grounds it relates to ## (insert <i>grounds</i> from s.77(2))	Any <i>Councillor</i>	N/A		The <i>Meeting</i> is closed to members of the public.	The <i>Meeting</i> continues to be Open to the public.	Yes
11. Reopen the meeting.	That the <i>Meeting</i> be Reopened to Members of the public.	Any <i>Councillor</i>	N/A		The <i>Meeting</i> is reopened to members of the public.	<i>Meeting</i> remains closed to members of the public.	No.

Chapter 3 – Meeting Procedure for Delegated Committees

1. Meeting Procedure Generally

If *Council* establishes a *Delegated Committee*:

all of the provisions of Chapter 2 apply to meetings of the *Delegated Committee*; and
any reference in Chapter 2 to:

a *Council meeting* is to be read as a reference to a *Delegated Committee* meeting;

a Councillor is to be read as a reference to a member of the *Delegated Committee*;
and

the Mayor is to be read as a reference to the Chair of the *Delegated Committee*.

2. Meeting Procedure Can Be Varied

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

Council may; or

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.*

2. 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 1 of Chapter 6 (whether such a meeting is known as a ‘Councillor Briefing’ or by some other name); and

a member of a *Delegated Committee* includes a Councillor.

3. Disclosure of a Conflict of Interest at a Council Meeting

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

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

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:

advising of the conflict of interest;

explaining the nature of the conflict of interest; and

detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:

name of the other person;

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

nature of that other person’s interest in the matter,

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

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:

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

* 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.

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:

advising of the conflict of interest;

explaining the nature of the conflict of interest; and

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:

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 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:

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

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:

advising of the conflict of interest;

explaining the nature of the conflict of interest; and

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:

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 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 *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.

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:

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;

absent himself or herself from any discussion of the matter; and

as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.

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

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:

Council meeting;

Delegated Committee meeting;

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.

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.

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

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

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

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.

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

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.

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 Councillors that:

is scheduled or planned for the purpose of discussing the business of *Council* or briefing Councillors;

is attended by at least one member of Council staff; and

is not a *Council meeting*, *Delegated Committee* meeting or *Community Asset Committee* meeting

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

tabled at the next convenient *Council meeting*; and

recorded in the minutes of that *Council meeting*.

2. Confidential Information

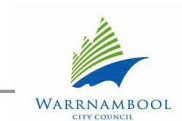
If, after the repeal of section 77(2)(c) of the *Local Government Act 1989*, the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the *Act*, he or she may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.

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



ELECTION PERIOD POLICY



DOCUMENT CONTROL

Document Title:	<i>Election Period Policy</i>
Policy Type:	<i>Council</i>
Responsible Branch:	<i>Executive Services</i>
Responsible Officer:	<i>Manager Governance</i>
Document Status:	<i>23 July 2020</i>
Approved By:	<i>Council</i>
Adopted Date:	<i>August 2020</i>
Review Date:	<i>August 2024</i>

ELECTION PERIOD POLICY



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ELECTION PERIOD POLICY

1.1 PURPOSE

During the period preceding a Council election the Council assumes a “caretaker role”. This period is defined in the Act as the ‘Election Period’.

The purpose of this Policy is to ensure that the business of local government in the City of Warrnambool continues throughout an Election Period in a responsible and transparent manner in accordance with statutory requirements and established “caretaker” conventions.

Councils Procedure and proceedings functions are set out in Part 3 Division 2 of the 2020 Local Government Act the caretaker provisions that Councils must take heed of are contained in section 69.

1.2 SCOPE

This policy applies to all Councillors and staff.

During an Election Period the business of the Council continues, and ordinary matters of administration still need to be addressed. This policy establishes a series of caretaker practices which aim to ensure that actions of the Council do not bind an incoming council and limit its freedom of action.

1.3 DEFINITIONS

Term	Definition/Meaning
Act	Local Government Act 2020
Election Period	The period that: Starts at the time that nominations close on nomination day; and Ends at 6pm on election day
Nomination Day	The last day on which nominations to be a candidate at a Council election may be received in accordance with the Act and the regulations
Publication	includes any means of publication, including letters and electronic information on the Internet
Public Consultation	A process that involves inviting individuals, groups or organisations or the community generally to comment on an issue or proposed action or proposed policy, and which includes discussion of that matter with the public
Council Resources	Includes the financial, human and material resources of Council and includes – offices, vehicles, staff, hospitality, services, property, equipment (phones, computers etc.) and stationery etc.

2. POLICY

2.1 POLICY STATEMENT

This policy commits the Council during an Election Period to:

- not making any major decisions;
- not making decisions that significantly affect the municipality or unreasonably bind the incoming Council;
- ensuring that public resources, including staff resources, are not used for election campaign purposes, or in a way that may improperly influence the result of an election; and
- not publishing or distributing electoral matter, unless it is simply information about the election process.

ELECTION PERIOD POLICY

This policy prescribes the actions and procedures the organisation, Councillors and staff will implement during an Election Period in observance of the statutory requirements and in the interests of good governance and a fair election generally.

2.2 POLICY POSITION

This policy applies during any Council Election Period and covers:

- Major decisions made by the Council;
- Scheduling consideration and announcement of major decisions;
- Use of the Council's resources including staff and materials published by Council;
- Access to information by Councillors and candidates;
- Council's online presence including social media;
- Communications and media services;
- Attendance and participation at Council organised activities and events;
- Public Consultation.

2.3 ROLES AND RESPONSIBILITIES

2.3.1 Councillors

Councillors are bound by sec. 76D and 76E of the Local Government Act 1989 regarding misuse of position and improper direction and improper influence. A breach of sec. 76D attracts serious penalties including possible imprisonment.

During an Election Period, Councillors must not use Council resources for campaigning to increase advantage over other candidates or to influence voters.

2.3.2 Chief Executive Officer

The Chief Executive Officer will ensure, as far as practicable, that all Councillors and staff are informed of the application of this policy at least 30 days prior to the commencement of an Election Period and instructions are provided to staff on the implementation of the procedures detailed in this policy.

During an Election Period the Chief Executive Officer will be the official spokesperson for the Council in relation to all matters.

3. PROCEDURES

3.1 DECISION MAKING PROCESSES DURING AN ELECTION PERIOD

- a) It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an election period. The Council therefore commits to this principle in that it will make every endeavour to avoid making decisions that inappropriately bind the incoming Council. This includes a commitment to not making any "Major Decision" or "Significant Decisions" as specified in this policy.
- c) The Chief Executive Officer will ensure, as far as practicable, that matters of Council business requiring Major Decision or Significant Decision are scheduled for Council to enable resolution prior to the commencement of an Election Period or deferred where appropriate for determination by the incoming Council.
- d) Scope exists for Council to hold a Council meeting but only in the most urgent or extraordinary

ELECTION PERIOD POLICY



circumstances or any statutory circumstances or any statutory processes that may arise. Refer clause 3.1.3

3.1.1 Major Decision

- a) A 'Major Decision means any decision relating to:
 - (i) the employment or remuneration of a Chief Executive Officer, other than a decision to appoint an acting Chief Executive Officer;
 - (ii) termination or the appointment of a Chief Executive Officer;
 - (iii) committing the Council to expenditure exceeding 1% of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; and
 - (iv) enabling the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.
- b) If Council considers that there are extraordinary circumstances where the community would be significantly disadvantaged by the Council not making a particular Major Decision, the Council will, by resolution, request an exemption from the Minister for Local Government.
- c) The prohibitions on Major Decisions apply to Special Committees and a person acting under delegation.

3.1.2 Significant Decisions

- a) Over and above the decisions specified as Major Decisions, the Council will avoid making other decisions during an Election Period that are of a significant nature and which would unnecessarily bind an incoming Council.
- b) "Significant Decisions" include:
 - (i) Irrevocable decisions that commit the Council to substantial expenditure or major actions; and
 - (ii) Irrevocable decisions that will have a major impact on the municipality or the community.
- c) The Council acknowledges that it has an ongoing responsibility to act in the best interests of the community. Therefore, where a delay in making a "Significant Decision" would result in significant detriment to the local community, or the broader community, the Council may make an exception to this procedure. In making an exception to this procedure, the Council will deal with the matter impartially, having regard to the long-term interests of the community and as transparently as possible.
- d) In the case of a decision that significantly affects the municipality or binds the incoming Council, which is not expressly prohibited, a number of factors will be considered, including:
 - (i) The urgency of the issue - could a decision be reasonably deferred until the next Council is in place;
 - (ii) The possibility of financial and/or legal repercussions if it is deferred;
 - (iii) Whether the decision is likely to be controversial; and
 - (iv) The best interests of Council.

3.1.3 Council Meetings

ELECTION PERIOD POLICY

Note: The Council will not hold an ordinary Council Meeting during an Election Period. This section only applies to reports for an unscheduled Council Meeting, if such a meeting is called.

In order to facilitate compliance with its commitment to ensuring appropriate decision-making during elections, Council adopts the following procedure:

- a) During an Election Period, the Chief Executive Officer will ensure that a "Caretaker Statement" is included in every report submitted to a Council meeting (if required) for a decision.
- b) The "Caretaker Statement" will specify one of the following:
 - (i) *"The recommended decision is not a "Major Decision" or a "Significant Decision" within the meaning of this policy"; or*
 - (ii) *"The recommended decision is not a "Major Decision". The recommended decision is a "Significant Decision" within the meaning of this policy, but an exception should be made for the following reasons [insert reasons for making an exemption]"; or*
 - (iii) *"The recommended decision is to seek an exemption from the Minister because the matter requires a "Major Decision"; or*
 - (iv) *"The recommended decision is a "Major Decision", but an extraordinary circumstances exemption was granted by the Minister for Local Government on [insert date]".*
- c) During an Election Period, the Council will not make a decision on any matter or report that does not include one of these Caretaker Statements.

3.1.4 Delegated Committees and Advisory Committees

The operation of all Delegated Committees and Advisory Committees will be suspended upon the commencement of an Election Period.

3.2 PUBLIC CONSULTATION DURING AN ELECTION PERIOD

- a) Public consultations **are best to be avoided** during an Election Period.
- b) This clause does not apply to public consultation required under any statutory provisions, including the Planning and Environment Act 1987.
- c) Consultations may be undertaken during an Election Period to facilitate the day-to-day business of Council, to ensure matters continue to be proactively managed. Consultations will avoid any express or implied links to a Council election.
- d) Consultations under statutory provisions shall only proceed after express agreement by the Chief Executive Officer and then if it relates solely to the normal day-to-day business of Council.

3.3 COUNCIL PUBLICATIONS DURING AN ELECTION PERIOD

3.3.1 Certification of Council publications during an election period

- a) The Council will not publish material with public funds that may influence, or be seen to influence, voting in a Council election.
- b) The Council will not:

ELECTION PERIOD POLICY



- b) Council auspiced social media must not be used for election campaigning.
- c) At the start of an Election Period any online information on Council hosted sites about Councillors who are candidates will be restricted to their name and contact details.
- d) Council agendas and minutes of meetings do not require certification if they are published in the usual way on the website.
- e) Any references on Council's website to the election will only relate to the election process.
- f) Any new material published on Council's website during an Election Period that may be considered an advertisement, handbill, pamphlet or notice must be subject to the certification process.
- g) Any publication on social media sites such as, Facebook, twitter etc. which are auspiced by Council, will require certification by the Chief Executive Officer.
- h) During an Election Period Facebook and twitter posts are to be kept to minimum, normal day-to-day activities only. No launches or announcement of any new projects, policy initiatives, or programs must be made. Where possible, the functions that permit comments and posts by the public on Council social media will be disabled during an Election Period and if so, the Council will provide an explanation via social media on this being necessitated in accordance with this Policy.
- i) No new Council You Tube videos will be uploaded during an Election Period.
- j) Council's Communications unit monitors the Council's corporate website, Facebook site and twitter feeds between the hours of 8.15am and 5.00pm on weekdays (excluding public holidays). During an Election Period monitoring will extend to after hours and weekends and will be undertaken by the Communication unit which will have the editing access to delete any material posted that makes reference to candidates or a Council election.

3.3.3 Council Publications

- a) Any current Council publication which may be potentially affected by this policy will be reviewed by the Communication unit in consultation with the Manager Governance to ensure that any circulated, displayed or otherwise publicly available material during an Election Period does not contain material that may be construed as "electoral matter".
- b) Council's City Assist unit undertake an audit of brochures and pamphlets in all Council's customer service centres and remove any which might contain electoral matter prior to an Election Period.
- c) Any references to Councillors in Council publications printed, published or distributed during an Election Period must not include promotional text.
- d) Emails that are part of the normal conduct of Council business should not require certification. However, emails with multiple addressees, used for broad communication with the community, will be subject to the certification process.
- e) Mass mail outs or identical letters sent to a large number of people by or on behalf of Council must be subject to the certification process.
- f) Council staff should not prepare Councillors' private mail or electoral correspondence and such material must not be printed on Council stationery or using Council equipment.

ELECTION PERIOD POLICY

- g) Councillors may use the title "Councillor" in their election material, as they continue to hold that position during an Election Period. To avoid confusion, Councillors shall ensure that any election publication using the title "Councillor" clearly indicates that it is their own material and does not represent Council.
- h) Material printed or disseminated during an Election Period to publicise a function or event must be subject to the certification process.

3.3.4 Council Annual Report

- a) Council is required to produce an Annual Report and this generally will coincide with an Election Period. This publication is not considered an 'advertisement, handbill, pamphlet or notice' and does not require certification.
- b) The Annual Report must not include material that is electioneering or that publicises the attributes or achievements of individual Councillors.
- c) A summary version of the Annual Report is regarded as a pamphlet and must be subject to the certification process.
- d) Printed copies of the text version of the Annual Report will only be distributed upon request until the expiration of an Election Period.

3.3.5 Electoral Material

Material is definitely an electoral matter if it:

- Publicises the strength or weaknesses of a candidate;
- Advocates the policies of the Council or of a candidate;
- Responds to claims made by a candidate;
- Publicises the achievements of the elected Council;
- Publicises matters that have already been the subject of public debate;
- About matters that are known to be contentious in the community and likely to be the subject of election debate;
- Deals with Election Candidates statements;
- Refers to Councillors or candidates by name or by implicit reference.

3.4 USE OF COUNCIL RESOURCES DURING AN ELECTION PERIOD

- a) Public resources must not be used in a manner that would influence the way people vote in elections. The Council commits to this principle in that it will ensure that Council resources are not used inappropriately during an Election Period. This includes a commitment to comply with the following procedures.
- b) The Council will ensure that due propriety is observed in the use of all Council resources, and staff are required to exercise appropriate discretion in that regard. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice is to be sought from the relevant Director.
- c) Council resources, including offices, support staff, hospitality services, equipment and stationery will be used exclusively for normal Council business during an Election Period and shall not be used in connection with any electioneering activity.
- d) No Council events, logos, letterheads, or other Warrnambool City Council branding can be used

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for, or linked in any way to, a candidate's election campaign.

- e) The Chief Executive Officer or any staff should not be asked to undertake any tasks connected directly or indirectly with electioneering.
- f) Photos or images taken by or provided by the Council are not to be used by Councillors for the purposes of electioneering or in support of their election campaign. This applies equally to images on Council websites that may be able to be copied. *Also refer to clause 3.7*
- g) No election material or active campaigning is to be conducted at Council sponsored events or to be displayed in any Council building.
- h) Staff must not undertake an activity that may affect voting in the election or authorise, use or allocate a Council resource for any purpose that may influence voting in the election.
- i) If staff that feel they are being placed in a compromising situation by a request from a Councillor they should refer the Councillor to the Chief Executive Officer for clarification.
- j) Any staff member who considers that a particular use of Council resources may influence voting in an election or provide an undue advantage for a candidate shall advise the relevant Director before authorising, using or allocating the resource. The Director in consultation with the Chief Executive Officer will decide if the use of Council resources is appropriate or not.
- k) Public events will only be organised and run if it is totally unavoidable to conduct such events during an Election Period and then only with the express permission of the Chief Executive Officer.
- l) Speeches for Councillors will only be prepared by staff in relation to events that are part of the normal services or operation of the Council and such speeches will not be circulated or available for publication.
- m) Neither the Council logo nor Council stationery will be used by Councillors in any way that relates to the election.
- n) Equipment and facilities provided to Councillors for the purpose of conducting normal Council business will not be used for campaigning purposes.
- o) Reimbursement of Councillor expenses incurred during an Election Period should only apply to costs incurred in the performance of normal Council duties, and not for campaigning and not for expenses that could be perceived as supporting or being in connection with a candidate's election campaign.
- p) Where Councillors have Council funded services, such as mobile phones, land lines and internet connections, and where it is impractical for Councillors to discontinue their use of these during the election, then Councillors will either reimburse the Council or not make a Council claim that exceeds normal usage levels for usage of those services during an Election Period.
- q) Councillors with their own private mobile phones may continue to seek reimbursement of telephone expenses incurred in undertaking Council business related calls. Councillors will be required to declare that those expenses were incurred in undertaking normal Council business.
- r) During an Election Period, Councillors shall not participate in any regional and or interstate travel in their capacity as a Councillor. In circumstances where it is imperative that the Mayor

ELECTION PERIOD POLICY

Election Period will only contain general information pertaining to the election process and will not contain any photograph of a Councillor or candidate, or any statement by a Councillor or candidate. Articles will minimise references to specific Councillors and will not identify any Councillor in a manner that could promote a Councillor as an election candidate.

- e) In response to media inquiries the Chief Executive Officer, Directors or the Manager Communications will only provide a response and such information should relate only to current services and operations.
- f) During an Election Period, the Council initiated communications shall be restricted to the communication of normal Council activities.
- g) No media advice or assistance will be provided to Councillors in relation to election campaign matters.
- h) No publicity will be provided that involves specific Councillors during an Election Period.
- i) Councillors should not use their position as an elected representative or their access to staff and other Council resources or information in support of an election campaign. This includes photos or images provided by the Council for past Council activities.
- j) Any requests from Councillors for media advice or assistance during an Election Period will be referred to the Chief Executive Officer.
- k) Media releases will not mention or quote any Councillor(s) during an Election Period.
- l) Contact with the local media will be restricted to the communication of normal Council activities and responding to questions not involving an election or possible election outcomes.
- m) Publicity for Council events (if any during an Election Period) will be restricted to the communication of factual material and will not mention or quote any Councillor or candidate.
- n) Councillor participation at Council sponsored events during an Election Period will not be used to gain attention in support of an election campaign.

4. GOVERNANCE

4.1 Policy Owner

- a) The Manager Governance shall be responsible for monitoring the currency of this Policy.
- b) Staff enquiries regarding the implementation of this policy should be directed to either Manager Governance or the relevant Director.
- c) Councillor or candidate enquires should be directed to the Manager Governance or the Chief Executive Officer.

4.2 Policy Review

This policy will be reviewed no later than six (6) months prior a Council General Election.

4.2. CHIEF EXECUTIVE OFFICER'S RECRUITMENT PROCESS 2020/21

PURPOSE:

This report outlines a process and timetable for the recruitment of an ongoing/permanent Chief Executive Officer.

EXECUTIVE SUMMARY

- In July 2020 the Council terminated the appointment and contract of employment of the then CEO, Mr. Peter Schneider.
- Ms. Vikki King was subsequently appointed to the position of Acting CEO, for a period up to 12 months or until the appointment and commencement of employment of an ongoing/permanent CEO.
- The Local Government Act 1989 requires that the Council “*must make a permanent appointment to the position of CEO as soon as is reasonably practicable after a vacancy in the position occurs*”.
- With a new Council due to be elected in less than 4 months the Council resolved, to effectively delay the recruitment process, so that the appointment would be made by the new Council, post the 2020 General Election.
- The legislation further provides that during an Election (Caretaker) Period the Council is prohibited from making any decisions relating to the appointment of a CEO.
- Consequently, the Council would not have been in a position to make an appointment even if had decided to proceed immediately with a recruitment program.
- This report outlines a proposed recruitment process, that includes an indicative timeline for an appointment to be made around the end of March 2021 and a commencement date of early-mid May 2021.
- To achieve these timelines, it is proposed that some preliminary recruitment work needs to commence forthwith – the engagement of a recruitment consultant.
- This initial phase will not bind the new Council on any appointment or remuneration considerations.
- The process proposed is in line with the requirements set out in the Local Government Act 2020. Although these provisions will not be proclaimed until 1 July 2021, it is submitted that it would be appropriate to follow the requirements for this recruitment.

RECOMMENDATION

That the recruitment process for the appointment of an ongoing/permanent Chief Executive Officer, as set out in this report, be approved and that quotations be sought from professional recruitment consultants to assist the Council in the process.

BACKGROUND

On 13 July 2020, the Council resolved to terminate the employment of the Chief Executive Officer, Mr Peter Schneider, effective immediately.

The resolution included the appointment of an Acting CEO and that the Council:

- undertake a recruitment process for the appointment of a Chief Executive Officer post 2020 Warrnambool City Council Election; and

- authorise the Mayor to take such steps as are necessary to initiate the recruitment process for a Chief Executive Officer.

This paper addresses the requirements and steps for the recruitment process.

LEGISLATIVE REQUIREMENTS

Provisions in the Local Government Act 1989 relating to the CEO appointment apply up to 30 June 2021. Thereafter the Local Government Act 2020 applies. Accordingly, this recruitment and appointment process will need to comply with the 1989 Act requirements.

Notwithstanding, it is submitted that it would be appropriate to have regard for the requirements in the 2020 Act for this recruitment, provided they do not conflict the current legislative obligations.

A summary of the relevant provisions from both Acts is included in Attachment 1.

Key requirements include:

Local Government Act 1989

- Invite applications for the position in a notice in a newspaper circulating generally throughout Victoria and has
- Consider all applications received by it that comply with the conditions specified in the notice.
- The CEO may only be employed under a contract.
- The contract must—
 - specify performance criteria for the purpose of reviews of the senior officer's performance; and
 - specify the date on which it expires, which must be a date that is not more than 5 years after the date on which it commences; and
 - include any other matter that is required by the regulations.
- The Chief Executive Officer is responsible for appointing, directing, managing and dismissing Council staff and for all other issues that relate to Council staff.
- The Chief Executive Officer is responsible for managing interactions between Council staff and Councillors

Local Government Act 2020

- Election Period Policy must prohibit any Council decision during the election period for a general election that - relates to the appointment or remuneration of the CEO. (for the 2020 General Election, the Election Period prohibition applies from 22 September to 24 October).
- *The following provisions that will not be in force until July 2021*
- Must be appointed under a contract of employment that does not exceed 5 years.
- Must develop, adopt and keep in force a CEO Employment and Remuneration Policy.
- Policy must provide for:
 - the Council obtaining independent professional advice in relation to the matters dealt with in the Policy;
 - the recruitment and appointment process;
 - provisions to be included in the contract of employment;
 - performance monitoring;
 - an annual review; and
 - any other matters prescribed by the regulations
- The Policy must be consistent with the principles in the Government Policy on Executive Remuneration in Public Entities and any Determination that is currently in effect under sec. 21 of the **Victorian Independent Remuneration Tribunal and Improving Parliamentary**

Standards Act 2019 relating to remuneration bands for executives employed in public service bodies. This is intended to provide for Councils to maintain standards that are consistent with the standards applying to other public bodies.

CEO EMPLOYMENT and REMUNERATION MATTERS POLICY

- The Council currently has a Chief Executive Employment Matters (Performance & Remuneration) Policy', that was due for review in September 2019.
- It also has a Chief Executive Employment Matters Committee (CEEMAC) and similarly its Terms of Reference were due for review at the same time.
- The Policy provides guidance around the recruitment process.
- Given that both the Policy and Terms of Reference were overdue for review, a review was undertaken, on the instruction that the documentation should comply with the provisions in the new LGA 2020.
- Drafts were considered by CEEMAC in June 2020 and will be submitted to the Council's September meeting for approval.
- The advice in this paper complies with the updated Policy proposal.

Principles

The Council will carry out its functions relating to the appointment, remuneration and performance appraisal of the CEO in accordance with a number of leading practice principles:

- Decision-making processes that are fair, accessible and applied consistently in comparable circumstances;
- Decision-making criteria that are relevant, objective and transparent;
- Decisions and actions that are conducive to ongoing good governance;
- Documentation that is sufficiently clear and comprehensive to render decisions transparent and capable of effective review;
- Employment decisions that are based on the proper assessment of an individual's work related qualities, abilities and potential against the genuine requirements of the role; and
- Decisions to appoint new employees that are based on competitive selection, open processes and objective criteria.

The responsibility for assisting the Council with its obligations regarding CEO employment and performance matters will be delivered through the CEO Employment Matters Advisory Committee.

Council Role

The Council shall:

- a. Engage a recognised Recruitment Consultant to run the recruitment process, on Council's behalf, in consultation with the Committee.
- b. Agree on the general framework for the terms of employment of the CEO.
- c. Give final approval for the recruitment process to proceed having considered the advice from the Committee and the Recruitment Consultant.
- d. Identify suitable candidates for appointment and conduct interviews
- e. Decide on the appointment of the CEO
- f. Approve the contract of employment.

Chief Executive Employment Matters Advisory Committee (CEEMAC) Role

The Committee's role is to liaise with the Recruitment Consultant on the recruitment process and recommend the process to the Council.

RECRUITMENT PROCESS

Key factors taken into account in drafting the recruitment process include:

- Recognising the limitations of the Election (Caretaker) Period requirements
- Ensuring that the actual recruitment phase and appointment will be made by the new Council, post the 2020 General Election.
- Ensuring that the components in Phase 1 in the process will not bind the new Council on any appointment or remuneration considerations.

To achieve an appointment to the position of CEO "as soon as is reasonably practicable after a vacancy in the position occurs", the process includes having some preliminary recruitment work commencing forthwith – the engagement of a recruitment consultant.

There is some scope for flexibility in the timelines. It would be possible to shorten the timelines, depending on the decision-making and availability of the Council.

Phase		Key Activities	Timeline
1	Determine Process	Agree on recruitment framework and engage professional recruitment support	Aug - Sept
2	Council Election	Caretaker period and installation of new Council	Sept - Nov
3	Documentation and Recruitment Preparation	Prepare recruitment brief, form of contract of employment	Nov - Dec
4	Initiate Recruitment	Advertising for applications and managing enquiries	Dec - Jan
5	Shortlisting and Preliminary Interviews	Shortlisting applicants for first round interviews, preliminary reference checks, conducting interviews, selecting applicants for final interviews	Jan - Feb
6	Selection and Appointment	Final interviews, selecting preferred candidate, contract negotiation, resolution to appoint, signing contract	Feb- Mar
7	Commence employment	New CEO commences	May

RECRUITMENT CONSULTANT

It is common practice for a recruitment consultant to be engaged to assist a Council with the process to recruit and select a CEO. Under the Local Government Act 2020 it will be a mandatory requirement in the future to "*obtain independent professional advice in relation to the matters dealt with in the Chief Executive Officer Employment and Remuneration (Policy)*".

The scope of the services provided by the consultant can include assisting Council/CEEMAC with:

- Final project framework and timeline
- Developing key messaging and the advertising program
- CEO Recruitment Brief (identifying candidate competencies, including key selection criteria and position description fundamentals)
- Identifying and attracting a pool qualified candidates
- Advising on an assessment and evaluation methodology

- Collecting and interpreting detailed evidence about the candidates
- Initial assessments of candidates and preparation of shortlists for interview
- Reference checking and testing
- Advice on remuneration package arrangements

Selected recruitment consultants will be invited to respond to a Request for Quotation for the performance of this work.

FINANCIAL IMPACT

The cost for consultancy services and advertising, based on the 2018 recruitment experience, is likely to be in the vicinity of \$50,000. This does not include any interview or relocation costs for applicants.

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

Covered earlier in the report.

TIMING

If the framework is followed, the timeline for the appointment of the CEO is around the end of March 2021, with a commencement date early May 2021.

COMMUNITY IMPACT / CONSULTATION

No community consultation undertaken.

LEGAL RISK / IMPACT

Advice on the Contract of Employment for the CEO will be required.

OFFICERS' DECLARATION OF INTEREST

This report has been prepared by Governance Support.

ATTACHMENTS

1. Legislative Provisions Summary [4.2.1 - 3 pages]

Legislation Provisions Summary

Attachment 1 – Legislative Provisions Summary

Local Government Act 1989

Sec. 94 - Appointment

- Council must appoint a natural person to be its CEO.
- Council must make a permanent appointment to the position of CEO as soon as is reasonably practicable after a vacancy in the position occurs.
- Council may only appoint a person to be its CEO after it has invited applications for the position in a notice in a newspaper circulating generally throughout Victoria and has considered all applications received by it that comply with the conditions specified in the notice.

Sec. 95A – Engagement

- The CEO may only be employed under a contract.
- The contract must—
 - specify performance criteria for the purpose of reviews of the senior officer's performance; and
 - specify the date on which it expires, which must be a date that is not more than 5 years after the date on which it commences; and
 - include any other matter that is required by the regulations.

Sec. 94A – Functions

- The CEO is responsible for—
 - establishing and maintaining an appropriate organisational structure for the Council; and
 - ensuring that the decisions of the Council are implemented without undue delay; and
 - the day to day management of the Council's operations in accordance with the Council Plan; and
 - developing, adopting and disseminating a code of conduct for Council staff; and
 - providing timely advice to the Council; and
 - ensuring that the Council receives timely and reliable advice about its legal obligations under this Act and any other Act; and
 - supporting the Mayor in the performance of the Mayor's role as Mayor; and
 - carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the Accident Compensation Act 1985 or the Workplace Injury Rehabilitation and Compensation Act 2013; and
 - performing any other function or duty of the CEO specified in the Act or any other Act.
- The Chief Executive Officer is responsible for appointing, directing, managing and dismissing Council staff and for all other issues that relate to Council staff.
- The Chief Executive Officer is responsible for managing interactions between Council staff and Councillors

Sec. 94C – Employment Principles

- A Council must establish employment processes that will ensure that—
 - employment decisions are based on merit;
 - employees are treated fairly and reasonably;
 - equal employment opportunity is provided;

- employees have a reasonable avenue of redress against unfair or unreasonable treatment.

Local Government Act 2020

Sec. 44 – Chief Executive Officer

- Council must appoint a natural person to be its Chief Executive Officer in accordance with its Chief Executive Officer Employment and Remuneration Policy
- Must be appointed under a contract of employment that does not exceed 5 years.
- Eligible to be re-appointed under a new contract of employment under subsection.
- Is a member of Council staff.
- Must comply with any requirements prescribed by the regulations.

Sec 45 - Chief Executive Officer Employment and Remuneration Policy

- Must develop, adopt and keep in force a Chief Executive Officer Employment and Remuneration Policy.
- Policy must—
 - provide for the Council to obtain independent professional advice in relation to the matters dealt with in the Chief Executive Officer Employment and Remuneration Policy; and
 - provide for the following—
 - the recruitment and appointment process;
 - provisions to be included in the contract of employment;
 - performance monitoring;
 - an annual review; and
 - include any other matters prescribed by the regulations.
- Must have regard to—
 - any statement of policy issued by the Government of Victoria which is in force with respect to its wages policy (or equivalent); and
 - any Determination that is currently in effect under the Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019 in relation to remuneration bands for executives employed in public service bodies
- Must adopt the first Chief Executive Officer Employment and Remuneration Policy by 31 December 2021.

Sec. 46 – Functions of the CEO

- supporting the Mayor and the Councillors in the performance of their roles; and
- ensuring the effective and efficient management of the day to day operations of the Council
- ensuring that the decisions of the Council are implemented without undue delay;
- ensuring that the Council receives timely and reliable advice about its obligations under this Act or any other Act;
- supporting the Mayor in the performance of the Mayor's role as Mayor;
- setting the agenda for Council meetings after consulting the Mayor;
- when requested by the Mayor, reporting to the Council in respect of the implementation of a Council decision;
- carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the Workplace Injury Rehabilitation and Compensation Act 2013.
- establishing and maintaining an organisational structure for the Council;

- being responsible for all staffing matters, including appointing, directing, managing and dismissing members of Council staff;
- managing interactions between members of Council staff and Councillors and ensuring that policies, practices and protocols that support arrangements for interaction between members of Council staff and Councillors are developed and implemented;
- develop and maintain a workforce plan
- performing any other function or duty of the CEO specified in the Act or any other Act.

5. CLOSE OF MEETING