



Governance Rules

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GOVERNANCE RULES

Introduction

1. Nature of Rules

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

2. Date of Commencement

These Governance Rules commence on 18 August 2020.

3. Contents

These Governance Rules are divided into the following Chapters:

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

4. Definitions

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

Act means the *Local Government Act 2020*.

Chief Executive Officer includes an Acting Chief Executive Officer.

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

Council means Mitchell Shire Council.

Council meeting has the same meaning as in the Act.

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

Mayor means the Mayor of Council.

These Rules means these Governance Rules.

Chapter 1 – Governance Framework

1. Context

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

- (a) the overarching governance principles specified in section 9(2) of the *Act*; and
- (b) the following documents adopted or approved by *Council*:
 - Audio Recording of Meetings Policy
 - Livestreaming, Virtual Meetings, Recording and Publishing of Council and Committee meetings Policy

2. Decision Making

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

decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

Chapter 2 – Meeting Procedure for Council Meetings

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Part A – Introduction

1. Title

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

2. Purpose of this Chapter

The purpose of this Chapter is to:

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

3. Definitions and Notes

3.1 In this Chapter:

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

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

"*day*" means any day of the week.

"*leave of absence*" means when a Councillor has permission to be absent from council for a period of time.

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

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

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

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

"*objectionable*" means offensive;

"*quorum*" means the majority of elected councillors

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

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

Part B – Election of Mayor

Introduction: This Part is concerned with the election of the *Mayor* and *Deputy Mayor*. It describes how the *Mayor*, *Deputy Mayor* and *Acting Mayor* are to be elected.

4. Election of the *Mayor*

- 4.1 The *Chief Executive Officer* must facilitate the election of the *Mayor* in accordance with the provisions of the *Act*.
- 4.1.1 A *Mayor* is to be elected no later than one month after the date of a general election and can be elected for a 1- or 2-year term.
- 4.1.2 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. The same provision applies to a *Mayor* that is elected for a 2-year period.

5. Method of Voting

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

6. Determining the election of the *Mayor*

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

6.3.5 if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;

6.3.6 in the event of two or more candidates having an equality of votes and one of them having to be declared:

(a) a defeated candidate; and

(b) duly elected

the declaration will be determined by lot.

6.3.7 if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:

(a) each candidate will draw one lot;

(b) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and

(c) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected).

7. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for:

7.1 any office of Deputy Mayor; or

7.2 Chair of a *Delegated Committee* (as appointed by the Mayor)

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

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

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

8. Appointment of Acting Mayor

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

8.1 resolving that a specified Councillor be so appointed; or

8.2 following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter,

at its discretion.

<p><i>The Deputy Mayor takes the role of the Acting Mayor when the Mayor is not available</i></p>

Part C – Meetings Procedure

Introduction: This Part is divided into a number of Divisions. Each Division addresses a distinct aspect of the holding of a meeting. Collectively, the Divisions describe how and when a meeting is convened, when and how business may be transacted at a meeting.

Division 1 – Notices of Meetings and Delivery of Agendas

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

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

10. *Council* May Alter Meeting Dates

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

11. Meetings Not Fixed by *Council*

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

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

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

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

12. Notice of Meeting

12.1 A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for all *Council meetings* at least 3 clear days before the meeting.

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

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

- 12.3.1 for *meetings* which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in a newspaper generally circulating in the *municipal district* either at various times throughout the year, or prior to each such *Council meeting*; and
- 12.3.2 for any meeting by giving notice on its website and:
 - (a) in each of its Customer Service Centres; and/or
 - (b) in at least one newspaper generally circulating in the *municipal district*.

Division 2 – Quorums

13. Inability to Obtain A Quorum

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

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

14. Inability to Maintain A Quorum

- 14.1 If during any *Council meeting*, a *quorum* cannot be maintained then Rule 13 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 14.2 If a quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by one or more Councillors, the Chair may:
 - (a) defer the item of business in respect of which there is or is likely to be a disclosure of a conflict of interest by one or more Councillors, and direct the Chief Executive Officer to include that item of business on an agenda for a future Council meeting; or
 - (b) adjourn the meeting for a length of time sufficient to enable dispensation for the affected Councillors to be obtained from the Minister administering the Act.
- 14.3 Sub-Rule 14.1 does not apply if the inability to maintain a *quorum* is because of the number of Councillors who have a conflict of interest in the matter to be considered.

15. Adjourned Meetings

- 15.1 *Council* may adjourn any meeting to another date or time but cannot in the absence of disorder or a threat to the safety of any Councillor or member of Council staff adjourn a meeting in session to another place.
- 15.2 The *Chief Executive Officer* must give *written* notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 15.3 If it is impracticable for the notice given under sub-Rule 15.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.

16. Time limits for Meetings

- 16.1 A *Council meeting* must not continue after 120 minutes unless a majority of Councillors present vote in favour of it continuing.
- 16.2 A meeting cannot be continued for more than 15 minutes (or a further 15 minutes, if a majority of Councillors has already voted to continue it for 15 minutes).
- 16.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of sub-Rules 15.2 and 15.3 apply.

17. Cancellation or Postponement of a Meeting

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

Division 3 – Business of Meetings

18. Agenda and the Order of Business

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

19. Change to Order of Business

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

20. General Business

- 20.1 Unless sub-clause (20.2) applies, business cannot be admitted as General Business without the leave of Council.
- 20.2 An item of General Business can, with the leave of the Chair, be admitted if it is a motion of congratulations or condolence.

21. Urgent Business

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

- 21.1 relates to or arises out of a matter which has arisen since distribution of the *agenda*; and
- 21.2 cannot safely or conveniently be deferred until the next *Council meeting*.

Division 4 – Motions and Debate

22. Councillors May Propose *Notices of Motion*

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

23. Notice of Motion

- 23.1 A *notice of motion* must be in *writing* signed by a Councillor, and be lodged with or sent to the *Chief Executive Officer* to allow sufficient time for him or her to include the *notice of motion* in agenda papers for a *Council meeting* and to give each Councillor at least 7 clear days' notice of such *notice of motion*.
- 23.2 The *Chief Executive Officer* may reject any *notice of motion* which:
 - 23.2.1 is vague or unclear in intention;
 - 23.2.2 identical or substantially similar to a *notice of motion* or other motion that has been considered by *Council* in the preceding six months;
 - 23.2.3 it is beyond *Council's* power to pass; or
 - 23.2.4 if passed would result in *Council* otherwise acting invalidly
but must:
 - 23.2.5 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and

- 23.2.6 notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.
- 23.3 The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.
- 23.4 The *Chief Executive Officer* must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.
- 23.5 Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were entered in the notice of motion register.
- 23.6 If a Councillor who has given a *notice of motion* is absent from the meeting or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- 23.7 If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.

24. Chair's Duty

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

- 24.1 defamatory;
- 24.2 *objectionable* in language or nature;
- 24.3 vague or unclear in intention;
- 24.4 outside the powers of *Council*; or
- 24.5 irrelevant to the item of business on the *agenda* and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the *Chair*.

25. Introducing a Report

- 25.1 Before a *written* report is considered by *Council* and any motion moved in relation to such report, a member of Council staff may introduce the report by indicating in not more than 2 minutes:
- 25.1.1 its background; or
- 25.1.2 the reasons for any recommendation which appears.
- 25.2 Unless *Council* resolves otherwise, a member of Council staff need not read any written report to *Council* in full.

26. Introducing A Motion or an Amendment

The procedure for moving any motion or amendment is:

- 26.1 the mover must state the motion without speaking to it;
- 26.2 the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
- 26.3 if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- 26.4 after the mover has addressed the meeting, the seconder may address the meeting or reserve his or her right to address the meeting;
- 26.5 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
- 26.6 if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

27. Right of Reply

- 27.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
- 27.2 After the 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 immediately be put to the vote without any further discussion or debate.

28. Moving an Amendment

- 28.1 Subject to sub-Rule 27.2 a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- 28.2 The first amendment as received will be considered first and if the 1st Motion put to Council to obtain a Seconder for discussion.
- 28.3 Any other Alternative Motion on the same subject will take its place in line if Received or Required.

28.4 A motion to confirm a previous resolution of *Council* cannot be amended.

28.5 An amendment must not be directly opposite to the motion.

29. Who May Propose an Amendment

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

29.2 The first amendment as received will be considered first and discussion will occur once seconded.

29.3 Any other amendment on the same subject will take its place in line if received or required.

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

29.5 Any Councillor can debate an amendment irrespective of whether the Councillor has spoken or proposes to speak to the original motion.

29.6 Debate on an amendment must be confined to the terms of the amendment.

30. How Many Amendments May Be Proposed

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

30.2 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.

31. An Amendment Once Carried

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

31.2 The mover of the original motion retains the right of reply to that motion.

32. Foreshadowing Motions

32.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.

32.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chair* being resolved in a certain way, a Councillor intends to move an alternative or additional motion.

32.3 The *Chief Executive Officer* or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.

32.4 A foreshadowed motion has no procedural standing and is merely a means of assisting the flow of a *Council meeting*.

33. Withdrawal of Motions

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

33.2 If the majority of Councillors objects to the withdrawal of the motion, it may not be withdrawn.

34. Separation of Motions

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

35. Chair May Separate Motions

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

36. Priority of address

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

37. Motions in Writing

37.1 The *Chair* must require that a complex or detailed motion be in writing.

37.2 *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.

38. Repeating Motion and/or Amendment

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

39. Debate Must Be Relevant to The Motion

- 39.1 Debate must always be relevant to the motion before the Chair, and, if not, the *Chair* must request the speaker to confine debate to the motion.
- 39.2 If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker to be seated and not speak further in respect of the motion then before the Chair.
- 39.3 A speaker to whom a direction has been given under sub-Rule 38.2 must comply with that direction.

40. Speaking Times

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

- 40.1 the mover and seconder of a motion or an amendment: 3 minutes;
- 40.2 any other Councillor: 3 minutes; and
- 40.3 the mover of a motion exercising a right of reply: 3 minutes.
- 40.4 Only one extension is permitted for each speaker and must not exceed: 3 minutes.
- 40.5 Unless moved immediately before the speaker speaks for the first time, a motion to extend the speaking time cannot be moved.

41. Addressing the Meeting

If the *Chair* so determines:

- 41.1 any person addressing the *Chair* must refer to the *Chair* as:
 - 41.1.1 Madam Mayor; or
 - 41.1.2 Mr Mayor; or
 - 41.1.3 Madam Chair; or
 - 41.1.4 Mr Chair
 as the case may be;
- 41.2 all Councillors, other than the *Mayor*, must be addressed as
Cr(name).
- 41.3 all members of Council staff, must be addressed as Mr or Ms

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

42. Right to Ask Questions

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

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

Division 5 – Procedural Motions

43. Procedural Motions

43.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.

43.2 Procedural motions require a seconder.

43.3 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:

PROCEDURAL MOTIONS TABLE

Procedural Motion	Form	Mover & Secunder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
2. The closure	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for <i>Chair</i>	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

Division 6 – Rescission Motions

44. Notice of Rescission

- 44.1 A Councillor may propose a *notice of rescission* provided:
- 44.1.1 it has been signed and dated by at least two other Councillors;
 - 44.1.2 the resolution proposed to be rescinded has not been acted on; and
 - 44.1.3 the *notice of rescission* is delivered to the *Chief Executive Officer* no later than noon on the first working day immediately following the meeting at which the resolution proposed to be rescinded was made. It must set out -
 - (a) the resolution to be rescinded; and
 - (b) the meeting and date when the resolution was carried.

It should be remembered that a notice of rescission is a form of notice of motion.

Accordingly, all provisions in this Chapter regulating notices of motion equally apply to notices of rescission.

- 44.2 A resolution will be deemed to have been acted on if:
- 44.2.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or
 - 44.2.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- 44.3 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:
- 44.3.1 has not been acted on; and
 - 44.3.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 43.1.3,
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

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

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

Sub-Rule 43.3 would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.

45. If Lost

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

46. If Not Moved

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

47. May Be Moved by Any Councillor

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

48. When Not Required

48.1 Unless sub-Rule 47.2 applies, a motion for rescission is not required where *Council* wishes to change policy.

48.2 The following standards apply if *Council* wishes to change policy:

- 48.2.1 if the policy has been in force in its original or amended form for less than 12 months, a *notice of rescission* must be presented to *Council*; and
- 48.2.2 any intention to change a *Council* policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.

Division 7 – Points of Order

49. Chair to Decide

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

50. Chair May Adjourn to Consider

- 50.1 The *Chair* may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.
- 50.2 All other questions before the meeting are suspended until the point of order is decided.

51. Dissent from *Chair's* Ruling

- 51.1 A Councillor may move that the meeting disagree with the *Chair's* ruling on a point of order, by moving:

"That the *Chair's* ruling [setting out that ruling or part of that ruling] be dissented from".
- 51.2 When a motion in accordance with this Rule is moved and seconded, the *Chair* must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present, temporary *Chair* elected by the meeting) must take his or her place.
- 51.3 The Deputy Mayor or temporary *Chair* must invite the mover to state the reasons for his or her dissent and the *Chair* may then reply.
- 51.4 The Deputy Mayor or temporary *Chair* must put the motion in the following form:

"That the *Chair's* ruling be dissented from."
- 51.5 If the vote is in the negative, the *Chair* resumes the Chair and the meeting proceeds.

- 51.6 If the vote is in the affirmative, the *Chair* must then resume the Chair, reverse or vary (as the case may be) his or her previous ruling and proceed.
- 51.7 The defeat of the *Chair's* ruling is in no way a motion of censure or non- confidence in the *Chair* and should not be so regarded by the meeting.

52. Procedure for Point of Order

A Councillor raising a point of order must:

- 52.1 state the point of order; and
- 52.2 state any section, Rule, paragraph or provision relevant to the point of order.

53. Valid Points of Order

A point of order may be raised in relation to:

- 53.1 a motion, which, under Rule 23 and Rule 24, or a question which, under Rule 53, should not be accepted by the *Chair*;
- 53.2 a question of procedure; or
- 53.3 any act of disorder.

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

Division 8 – Public Participation

54. Public Submissions, Questions and Presentations

- 54.1 Members of the public do not have a right to address *Council* at a *Council meeting* and may only do so with the consent of the majority of *Council*.
- 54.2 A committee established to hear submissions and presentations may regulate its own procedure for hearing from members of the public.
- 54.3 *Council* must ensure that adequate provision is made at a *Council meeting* or Committee meeting for a public participation forum at which members of the public can submit questions or make presentations.

Division 9 – Petitions and Joint Letters

55. Petitions and Joint Letters

- 55.1 Unless *Council* determines to consider it in conjunction with a report already listed on the *agenda*, no motion (other than a motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next *Council meeting* after that at which it has been presented.
- 55.2 It is incumbent on every Councillor presenting a petition or joint letter to acquaint himself or herself with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to *Council*.
- 55.3 Every Councillor presenting a petition or joint letter to *Council* must:
- 55.3.1 write or otherwise record his or her name at the beginning of the petition or joint letter; and
- 55.3.2 confine himself or herself to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of the petition or request.
- 55.4 Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 5 people.
- 55.5 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- 55.6 Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- 55.7 Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 55.8 Electronic petitions or joint letters must comply with sub-clause 55.4, 55.5 and 55.6 and include the name and email address of each petitioner (this functions as a 'signature' of a petitioner).

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

Division 10 – Voting

56. How Motion Determined

- 56.1 To determine a motion before a meeting, the *Chair* must first call for those in favour of the motion and then those opposed to the motion and must then declare the result to the meeting.
- 56.2 When the decision is not unanimous, the Mayor will state the names of Councillors voting in the affirmative, negative and/or abstaining from the vote. The CEO or authorised officer will record the names.
- 56.3 An abstention will be counted as a negative vote.

57. Silence

Voting must take place in silence.

58. Recount

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

59. Casting Vote

- 59.1 In the event of a tied vote, the *Chair* must exercise a casting vote.
- 59.2 The *Chair* may briefly adjourn a *Council meeting* to consider how his or her casting vote will be cast.

60. By Show Of Hands

- 60.1 Voting on any matter is by show of hands.
- 60.2 A Councillor who is physically unable to vote by show of hands can vote by stating “I”.

61. Procedure for A Division

- 61.1 Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.

- 61.2 When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.
- 61.3 When a division is called for, the *Chair* must:
- 61.3.1 first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of his or her hands. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the affirmative; and
 - 61.3.2 then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the negative.

62. No Discussion Once Declared

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

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

For example, Rule 61 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.

Equally, Rule 61 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.

Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in sub-Rule 61.2, to discussion about a positive motion were a resolution has just been rescinded.

Division 11 – Minutes

63. Confirmation of Minutes

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

63.1.1 a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;

63.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;

63.1.3 if a Councillor indicates opposition to the minutes:

- (a) he or she must specify the item(s) to which he or she objects;
- (b) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
- (c) the Councillor objecting must move accordingly without speaking to the motion;
- (d) the motion must be seconded;
- (e) the *Chair* must ask:

"Is the motion opposed?"

- (f) if no Councillor indicates opposition, then the *Chair* must declare the motion carried without discussion and then ask the second of the questions described in sub-Rule 62.1.3(k);
- (g) if a Councillor indicates opposition, then the *Chair* must call on the mover to address the meeting;
- (h) after the mover has addressed the meeting, the seconder may address the meeting;
- (i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
- (j) if, after the mover has addressed the meeting, the *Chair* invites debate and no Councillor speaks to the motion, the *Chair* must put the motion; and
- (k) the *Chair* must, after all objections have been dealt with, ultimately ask:
 - "The question is that the minutes be confirmed" or
 - "The question is that the minutes, as amended, be confirmed",
 - and he or she must put the question to the vote accordingly;

63.1.4 a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed;

63.1.5 the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively; and

63.1.6 unless otherwise resolved or required by law, minutes of a *Delegated Committee* requiring confirmation by *Council* must not be available to the public until confirmed by *Council*.

64. No Debate on Confirmation of Minutes

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

65. Deferral of Confirmation of Minutes

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

66. Form and Availability of Minutes

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

66.1.1 the date, place, time and nature of the meeting;

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

66.1.3 the names of the members of Council staff present;

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

66.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;

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

66.1.7 the vote cast by each Councillor upon a division;

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

66.1.9 questions upon notice;

66.1.10 the failure of a *quorum*;

66.1.11 any adjournment of the meeting and the reasons for that adjournment; and

- 66.1.12 the time at which standing orders were suspended and resumed.
- 66.2 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are:
- 66.2.1 published on *Council's* website; and
- 66.2.2 available for inspection at *Council's* office during normal business hours.
- 66.3 Nothing in sub-Rule 66.2 requires *Council* or the *Chief Executive Officer* to make public any minutes relating to a *Council meeting* or part of a *Council meeting* closed to members of the public in accordance with section 66 of the *Act*.

Division 12 – Behaviour

67. Public Addressing the Meeting

- 67.1 Members of the public do not have a right to address *Council* and may only do so with the consent of the *Chair* or by prior arrangement.
- 67.2 Any member of the public addressing *Council* must extend due courtesy and respect to *Council* and the processes under which it operates and must take direction from the *Chair* whenever called on to do so.
- 67.3 A member of the public present at a *Council meeting* must not disrupt the meeting.

68. Chair May Remove

The *Chair* may order and cause the removal of any person who disrupts any meeting or fails to comply with a direction given under sub-Rule 67.2 in accordance with S19(1)(b) of the *Act*. This applies to Councillors if the behaviour of the Councillor is preventing the Council from conducting its business.

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

69. Chair may adjourn disorderly meeting

If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of sub-Rules 15.2 and 15.3 apply.

70. Removal from Chamber

The *Chair*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer* or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the gallery under Rule 68.

Division 13 – Additional Duties of Chair

71. The Chair's Duties and Discretions

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

71.1 must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community; and

71.2 must call to order any person who is disruptive or unruly during any meeting.

Division 14 – Suspension of Standing Orders

72. Suspension of Standing Orders

72.1 To expedite the business of a meeting, *Council* may suspend standing orders.

The suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal meeting procedure.

Its purpose is to enable the formalities of meeting procedure to be temporarily disposed of while an issue is discussed.

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

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

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

72.4 Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:

"That standing orders be resumed."

Division 15 – Miscellaneous

73. Meetings Conducted Remotely

If:

73.1 by law a meeting may be conducted electronically; and

73.2 *Council* decides that a meeting is to be conducted electronically,

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

74. Procedure not provided in this Chapter

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

75. Criticism of members of Council staff

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

75.2 A statement under sub-Rule 75.1 must be made by the *Chief Executive Officer*, through the *Chair*, as soon as it practicable after the Councillor who made the statement.

Chapter 3 – Meeting Procedure for Delegated Committees

1. Meeting Procedure Generally

If *Council* establishes a *Delegated Committee*:

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

2. Meeting Procedure Can Be Varied

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

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

resolve that any or all of the provisions of Chapter 2 are not to apply to a meeting of the *Delegated Committee*, in which case the provision or those provisions will not apply until *Council* resolves, or the *Delegated Committee* with the approval of *Council* resolves, otherwise.

Chapter 4 – Meeting Procedure for Community Asset Committees

1. Introduction

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

2. Meeting Procedure

Unless anything in the instrument of delegation provides otherwise, the conduct of a meeting of a *Community Asset Committee* is at 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.¹

2. Definition

In this Chapter:

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

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

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

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

¹ 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.

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

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

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

In the event of a virtual meeting the same process should be followed, however a Councillor should exit the meeting and then reconnect once an officer contacts them to return to the meeting.

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

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

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

and then immediately before the matter is considered at the meeting announcing to those present that he or she has a conflict of interest

and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

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

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

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

- 5.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Community Asset Committee* meeting immediately before the matter is considered; or
- 5.2 intends to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:
 - 5.2.1 advising of the conflict of interest;
 - 5.2.2 explaining the nature of the conflict of interest; and
 - 5.2.3 detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - 5.2.4 nature of that other person's interest in the matter,

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

The Councillor must, in either event, leave the *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:

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

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

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

- 7.1.1 *Council meeting*;
- 7.1.2 *Delegated Committee* meeting;
- 7.1.3 *Community Asset Committee* meeting

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

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

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

- 7.3.1 the written notice referred to in sub-Rule 7.1 must be given to the *Mayor*, and
- 7.3.2 the obligation imposed by sub-Rule 7.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

- 8.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.
- 8.2 If the member of Council staff referred to in sub-Rule 8.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

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

- 9.1 A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.
- 9.2 If the member of Council staff referred to in sub-Rule 9.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

10. Retention of Written Notices

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

Chapter 6 – Miscellaneous

1. Informal Meetings of Councillors

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

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

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

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

2. Confidential Information

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

Election Period ‘Caretaker’ Policy

Policy Owner	Governance and Corporate Performance Governance and Corporate Accountability
Creation Date	November 2019
Revision Date	September 2023

Please check Council’s Intranet to ensure this is the latest Revision

PURPOSE

The Election Period ‘caretaker’ Policy has been developed in order to ensure that the general elections for the Mitchell Shire Council on Saturday 24 October 2020 and subsequent elections are conducted in a manner that is ethical, fair and equitable, and are publicly perceived as such.

This Policy is prepared and endorsed in accordance with section 93B of the *Local Government Act 1989* (“the Act”).

This policy addresses the requirements of the Act regarding the responsibilities, actions and behaviours of the Council in the period leading up to a general election.

SCOPE

The policy applies to Mitchell Shire Council, Councillors and Council Officers to ensure the ordinary business of Council continues in a responsible, transparent and legally compliant manner in the period leading up to an election.

The policy applies only to the actual making of decisions by the Council during the “election period”. It does not apply to announcements of decisions by the Council prior to the commencement of the “election period”.

POLICY

1. CARETAKER PERIOD

The ‘caretaker’ period is taken to mean the “election period” as defined in Section 3 of the *Local Government Act 1989* and starts on the last day on which nominations for an election can be received and ends at 6.00pm on Election Day.

The “election period” for the 2020 Council general elections commences on Tuesday 22 September 2020 and ceases at 6.00pm on Election Day, Saturday 24 October 2020.

2. COUNCIL DECISION MAKING

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 the principle that it will make every endeavour to avoid making significant decisions that bind an incoming Council.

This includes a commitment to comply with the requirements of section 93A of the Act relating to “major policy decisions”.

2.1 Major Policy Decisions

Section 93A of the Act prohibits the Council, a Special Committee or a person acting under delegation from the making of major policy decisions during an election period for a general election.

‘Major Policy Decisions’ are defined in the *Local Government Act 1989* to be decisions:

- (a) Relating to the employment or remuneration of a Chief Executive Officer under section 94 of the Act, other than a decision to appoint an acting Chief Executive Officer;
- (b) To terminate the appointment of a Chief Executive Officer under section 94 of the Act;
- (c) To enter into a contract the total value of which exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 of the Act in the preceding financial year; and
- (d) To exercise any power under section 193 of the Act if the sum assessed under section 193(5A) in respect of the proposal exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 of the Act in the preceding financial year.

For the purposes of the 2020 election period, 1% of revenue from rates and charges of the adopted 2019/2020 budget.

If the Council considers that there are extraordinary circumstances where the municipality or the local community would be significantly disadvantaged by the Council not making a particular major policy decision, the Council will, by resolution, request an exemption from the Minister for Local Government, in accordance with section 93A(2) of the Act.

2.2 Significant Decisions

In addition to major policy decisions as defined, other decisions may be controversial.

The Council will avoid making decisions during an election period that are of a significant nature and which would unnecessarily bind an incoming Council, unless the matter under consideration is Urgent and cannot be deferred without

having a negative impact on the Council, the municipality or the local community.

The Council will avoid the following decision types unless absolutely necessary for council operational purposes or pursuant to a statutory requirement:

1. Allocation of community grants or other direct funding to community organisations;
2. Significant planning scheme amendments;
3. Significant planning permit approvals, or planning permit approvals that present a costs risk to Council;
4. Changes to strategic objectives and strategies in Council Plan.

3. ELECTORAL MATTER

The Council will ensure that it complies with section 55D of the Act which requires that a Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during an election period unless it only contains information about the election process.

In accordance with the Act, **any** advertisement, handbill, pamphlet or notice to be printed, published or distributed during the election period will be certified, in writing, by the Chief Executive Officer.

The power and duty to certify an advertisement, handbill, pamphlet or notice will not be delegated by the Chief Executive Officer.

Definitions

The following definitions from the Act are noted.

Section 3(1) **‘Electoral advertisement, handbill, pamphlet or notice’** means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.

Section 3(1) **‘Publish’** means publish by any means including by publication on the Internet.

Section 3(1A) **‘Electoral matter’** means matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the returning officer for the purposes of conducting an election.

- Section 3 (1B) Without limiting the generality of the definition of ‘**electoral matter**’, matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on—
- (a) the election; or
 - (b) a candidate in the election; or
 - (c) an issue submitted to, or otherwise before, the voters in connection with the election.

4. MEDIA AND PUBLICITY

Communications during an election period will continue to inform the community about Council services and activities but must not include any electoral matter.

To achieve this objective during an election period, all publications including:

- Newsletters, brochures and pamphlets
- Advertisements/advertorials
- Mail outs (including emails to multiple addresses)
- Website and social media
- Media releases

will be reviewed and scrutinised to ensure they do not contain electoral matter.

The Chief Executive Officer will have final sign-off on all media releases or campaigns.

Any communications which the Chief Executive Officer considers contain electoral matter, will be modified, suspended, or withdrawn from display and/or distribution during the election period.

Communications which are cleared to be printed, published or distributed during the election period will be certified in writing by the Chief Executive Officer.

4.1 Social Media

Any publication on Council’s social media sites during the election period must be certified by the Chief Executive Officer.

Council officers responsible for administering Council’s social media sites will monitor these sites during the “caretaker” period and use moderation features where these are available, to ensure that no electoral matter is posted on these sites.

5. DISCRETIONARY FUNDS

The Council will not make any decisions relating to requests for funding to community, business, sponsorship and/or tourism organisation or individual during the “caretaker” period.

6. COUNCILLORS

These *provisions* do not restrict the ability of Councillors to issue media releases or make media comment **in their own name and using their own resources**.

Councillors must be careful not to breach the requirements of section 55D of the Act in relation to electoral advertisements, handbills, pamphlet or notices during the election period. Councillors must also be careful not to breach section 76D in relation to improper use of public resources. Serious penalties apply.

There are also a number of other prohibitions in relation to how a candidate conducts himself/herself during an election campaign and again penalties apply. The majority of these are covered in sections 52 to 62B of the *Local Government Act 1989*.

7. COUNCIL RESOURCES

It is an established democratic principle that public resources must not be used in a way that would influence the way people vote in elections, except in regard to supporting the actual election process. The Council therefore commits to the principle that it will ensure that Council resources are not used inappropriately during an election period.

Any staff member who considers that a particular use of Council resources may influence voting in the election must obtain approval as outlined in this policy before authorising, using or allocating the resource.

7.1 Events, Activities and Support Services

In applying this principle, the following will be normal practice during an election period for a general election:

- Public events will only be organised by Council staff if they are part of the normal services or operation of the Council and the scheduling of the event during the election period is deemed to be appropriate.
- Public consultation will only be organised by Council staff if it is part of the normal services or operation of the Council and is a legislative requirement.

- Speeches for Councillors will only be prepared by Council 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.
- Media services, including media releases, will not be provided for individual Councillors by Council staff during the election period.
- Council staff will ensure that action on requests for service will continue to be based on established methods of setting priorities and from existing budget allocations.

7.2 Equipment, Stationery and Facilities

In accordance with current Council policy and practice, Council resources, including office and hospitality facilities, support staff, equipment/services, merchandise and stationery are provided or made available to Councillors for normal Council business and are therefore not to be used in connection with any electoral activities.

Council logos or letterheads, Mitchell Shire Council branding or Council provided photographs will not be used by Councillors in any way that relates to an election.

Similarly, Council funded telephone (mobile)) numbers and email addresses are not to be used by Councillors as contact points in their election campaign material.

Reimbursement of Councillors' out-of-pocket expenses during an election period will apply only to costs that have been incurred in the performance of *duties as a Councillor* as defined and not for expenses that could be perceived as supporting or connected with a candidate's election campaign.

8. INFORMATION

8.1 Council Business

As Councillors must continue to perform their elected role during an election period, they will, as a matter of course, receive all necessary information for them to fulfil that role. Information to be provided to Councillors will include:

- Information that is publicly and freely available – Council Plans, Annual Reports, strategies, policies and the like.
- Information and advice provided by Council staff, as part of Council and Committee meeting agendas.

- Briefing Papers in relation to matters to be decided upon at forthcoming Council meetings. It is likely that the briefing information provided to Councillors during an election period will be of a more routine nature than normal, given the approach to decision making during the election period.

8.2 Requests for Information

All requests received by Council staff for information about Council projects, programs or services, will be responded to in a 'business as usual' manner. This means up to date responses will be provided about progress on Council projects or services to councillors, candidates and members of the community.

A 'business as usual' approach does not include extensive research or analysis involving significant Council resources or providing a level of information which would not normally be available.

Requests for information which require significant resources to be devoted to making a response or which might be perceived to support an election campaign will be referred to the Chief Executive Officer for consideration.

All election related enquiries from candidates or prospective candidates will be referred to the Returning Officer appointed to conduct the election.

Applications for information under Freedom of Information legislation will be dealt with in the normal manner.

DEFINITIONS

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 6.00pm on Election Day.

Publication

Includes any means of publication including letters and information on the Internet.

Public consultation

Means a process that involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy, and includes discussion of that matter with the public.

Significant decision

Means an irrevocable decision that significantly affects the municipality.

Significant planning applications:

- Developments with an estimated value >\$1 million (excluding dwellings)

- Multi-dwelling developments comprising more than 10 dwellings
- Subdivision of more than 10 vacant lots (excluding subdivision of approved or built developments)
- Events such as music festivals
- Uses with potential for amenity impacts (such as gun clubs/ranges, quarries, intensive/extensive animal husbandry or agricultural uses to name a few)

RELATED DOCUMENTS

- *Local Government Act 1989*

MONITORING AND REVIEW

In accordance with section 93B(2b), Council will continue to maintain the election period policy by reviewing and, if required, amending the policy not later than 12 months before the commencement of each subsequent general election period.