



# GOVERNANCE RULES

***Version 2***

***Ratified by Council***

***Effective from 24 August 2022***

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## Governance Rules

*Yarriambiack Shire Council encourages a working environment which promotes gender equality and models non-violent and respectful relationships*

### Introduction

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

Commencement and end dates

These Governance Rules commence on the day following the Council Meeting (24 August 2022) operating throughout the municipality.

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### Definitions

In these Governance Rules, the following words and phrases mean:

WORD	DEFINITION
Act	The <i>Local Government Act 2020</i>
Absolute Majority	The number of Councillors which is greater than half the total number of the Councillors of Council
Agenda	The notice of a meeting setting out the business to be transacted at the meeting
Chairperson	The Chairperson of a meeting and includes an acting, a temporary and a substitute Chairperson
Chief Executive Officer	The person who is the Chief Executive Officer of Council or any person acting in that position
Committee	A delegated committee and a Community Asset Committee

Committee Meeting	A meeting of a Delegated Committee or a Community Asset Committee convened in accordance with these Governance Rules and includes a scheduled or unscheduled meeting (whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) <b>or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance</b> )
Community Asset Committee	A Community Asset Committee established under Section 65 of the Act
Confidential Information	Has the same meaning as in Section 3(1) of the Act
Council	Yarriambiack Shire Council
Council Meeting	A meeting of Council convened in accordance with these Governance Rules and includes a scheduled or unscheduled meeting (whether held as face-to-face (in-person) attendance in a <b>set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance</b> )
Councillor	A person elected as a Councillor of Council
Delegated Committee	A Delegated Committee established under Section 63 of the Act
Delegated Committee Meeting	A meeting of a Delegated Committee
Election Period	The election period preceding a General Election determined in accordance with the Act
Electoral Material	Has the same meaning as in Section 3(1) of the Act
General Election	A general election of Council
Joint Meetings of Council	A joint meeting is to be constituted by the Councillors of the Councils holding the joint meeting
Mayor	Person elected by Councillors as Mayor of Council in accordance with Part A – Election of Mayor
Meeting	A Council Meeting or Delegated Committee Meeting
Member	A member of a Delegated Committee
Minutes	The record of proceedings of a Meeting
Municipality	The municipal district of Council
Notice of Motion	A notice setting out the text of a motion which a Councillor proposes to move at a meeting
Officer	A member of Council staff
Quorum	At a Council Meeting or Delegated Committee Meeting means an Absolute Majority of Councillors or Members, as the case requires

these Rules	These Governance Rules
Standing Orders	The rules set out in these Governance Rules in order to guide the conduct of a Meeting
Urgent Business	means business admitted as urgent business under rule 2.10.2

## CHAPTER 1 GOVERNANCE FRAMEWORK

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### 1.1 Context

The role of Council is to provide good governance in its municipality for the benefit and wellbeing of the municipal community.

Council must in the performance of its role consider:

- a) The Overarching Governance Principles:
  - i. Council decisions are to be made and actions taken in accordance with the relevant law
  - ii. Priority is to be given to achieving the best outcomes for the municipal community, including future generations
  - iii. The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted
  - iv. The municipal community is to be engaged in strategic planning and strategic decision making
  - v. Innovation and continuous improvement are to be pursued
  - vi. Collaboration with other Councils and Governments and statutory bodies is to be sought
  - vii. The ongoing financial viability of the Council is to be ensured
  - viii. Regional, state and national plans and policies are to be considered in strategic planning and decision making
  - ix. The transparency of Council decisions, actions and information is to be ensured.
- b) The Supporting Governance Principles and related policies:
  - i. The community engagement principles and policy
  - ii. The public transparency principles and policy
  - iii. The strategic planning principles
  - iv. The financial management principles
  - v. The service performance principles

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## 1.2 Governance Rules

As per Section 60(1) of the Act, a Council must develop, adopt and keep in force Governance Rules for or with respect to the following:

- a) the conduct of Council Meetings
- b) the conduct of Delegated Committee Meetings
- c) the form and availability of Meeting records
- d) the election of the Mayor and Deputy Mayor
- e) the appointment of an Acting Mayor
- f) an Election Period Policy in accordance with Section 69 of the Act
- g) the procedures for the disclosure of a conflict of interest by a Councillor or a Member under Section 130 of the Act
- h) the procedures for the disclosure of a conflict of interest at other meetings as per Section 131 of the Act
- i) the disclosure of a conflict of interest by an Officer when providing information in respect of a matter within the meaning of Section 126(1) of the Act
- j) any other matters prescribed by the regulations.

### 1.2.1 Council Considerations:

As per Section 60(2) of the Act, Council will:

- a) consider and make decisions on any matter being considered by Council fairly and on the merits; and
- b) institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.

## 1.3 Decision Making

As per Section 59 of the Act, where Council is empowered to do any act, matter or thing, the decision to do the act, matter or thing is to be determined by a resolution of the Council.

A resolution of Council means the following:

- a) a resolution made at a Council Meeting
- b) a resolution made at a Delegated Committee Meeting
- c) the exercise of a power or the performance of a duty or function of Council by an Officer or a Community Asset Committee under delegation.

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 fairly; by giving consideration and making a decision which is balanced, ethical, impartial and on merit; 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 with this recorded in any Council report.

### 1.3.1 Communication of Views

Without limiting anything in rule 1.3:

- a) 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

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the person has or persons have been provided with an opportunity to communicate their views and have their interests considered

- b) if an Officer proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the Officer 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 persons or persons were provided with an opportunity to communicate their views and have their interests considered.

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## CHAPTER 2 MEETING PROCEDURE FOR COUNCIL MEETINGS

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## Purpose

The purpose of Chapter 2 – Meeting Procedure for Council Meetings is to:

- a) provide for the election of the Mayor and any Deputy Mayor;
- b) provide for the procedures governing the conduct of Council Meetings;
- c) set the rules of behaviour for those participating in or present at Council Meetings; and
- d) provide for the peace, order and good government of the Municipality.

## INTRODUCTION

### PART A - ELECTION OF MAYOR

- a) The purpose of Part A is to regulate proceedings for the election of Mayor .
- b) The Chief Executive Officer must facilitate the election of the Mayor in accordance with the provisions of the Act no later than one month after the date of a general election and at such other times as specified by these Rules.

#### 2.1 Method of Voting

Voting for election of the Mayor must be carried out by a show of hands

#### 2.2 Determining the Election of the Mayor

- a) The Chief Executive Officer must open the Meeting at which the Mayor is to be elected and preside until the Meeting elects a Mayor.
- b) Before the election of the Mayor, Council must determine by resolution whether the Mayor is to be elected for a one-year or a two-year term and:
  - i. if the Mayor is elected for a one-year term, the next election of the Mayor must be held on a day to be determined by Council that is as close to the end of the one-year term as is reasonably practicable; and
  - ii. if the Mayor is to be elected for a two-year term, the next election of the Mayor must be held on a day to be determined by Council that is as close to the end of the two-year term as is reasonably practicable.

##### 2.2.1 The Procedure for the Election of the Mayor

- a) The Chief Executive Officer must invite nominations for the office of Mayor (each of which must be seconded). If there is only one nomination, the candidate nominated is to be declared elected.
- b) If there is more than one nomination, a vote of the Councillors present at the meeting will be held.
- c) In the event of a candidate receiving an Absolute Majority of the votes, that candidate is to be declared elected.
- d) In the event that no candidate receives an Absolute Majority of the votes, the candidate with the fewest number of votes is to be declared a defeated candidate. A further vote of the Councillors present at the meeting will be held.

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- e) If one of the remaining candidates receives an Absolute Majority of the votes, he or she is to be declared elected. If none of the remaining candidates receives an Absolute Majority of the votes, the process of declaring the candidate 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 be elected.
- f) In the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate, the declaration will be determined by lot.
- g) If a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:
  - i. each candidate will draw one lot;
  - ii. the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more **such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names;**
  - iii. as many identical pieces of paper as there are Councillors who received an equal **number of votes must be placed in a receptacle and the word 'Defeated' shall be** written on one of the pieces of paper; and
  - iv. **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).
- h) The process under clause 2.2(g) will be repeated until one candidate is declared to be elected.

2.2.2 Procedures for Election of Deputy Mayor, Acting Chairperson or Committee Chairperson

The procedure used for the election of Mayor will be used to elect a deputy Mayor, if Council determines that the position of Deputy Mayor is required.

PART B – MEETING PROCEDURES

The purpose of this Part is to regulate the proceedings of Council Meetings

DIVISION 1 - Notices of meetings and delivery of agendas

2.3 Dates and Times of Meetings

- a) At the Council Meeting to elect the Mayor, Council must fix the date, time and place of all Council Meetings and Delegated Committee Meetings for the following year, which may be amended where the circumstances require.
- b) Council must provide at least seven **days' notice on Council's website of** Council Meetings and Delegated Committee Meetings unless urgent or extraordinary circumstances prevent Council from doing so, in which case, Council must give notice that is practicable in the circumstances, including **the reasons why the seven days' notice of the** Meeting could not be given.

2.3.1 Meetings not fixed by Council

- a) The Mayor or at least three Councillors may by a written notice call a Council Meeting.
- b) The notice must specify the date and time of the Council Meeting and the business to be transacted.
- c) The Chief Executive Officer must convene the Council Meeting as specified in the notice.
- d) 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.

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### 2.3.2 Altering Meeting Dates

- a) Council may change the date, time and place of, or cancel, any Council Meeting or Delegated Committee Meeting which has been fixed.
- b) The Chief Executive Officer may change the date, time and place of, or cancel, any Council Meeting or Delegated Committee Meeting in circumstances where the Chief Executive Officer considers that:
  - i. the content of the Agenda is such that the Meeting is unnecessary; or
  - ii. other circumstances exist which mean that the Meeting cannot be safely or effectively convened.
- c) Where Meeting dates are changed, or Meetings are cancelled, details are to be published **on Council's website.**

### 2.3.3 Roles of Attending Members

The Chairperson, Councillors and Chief Executive Officer will ensure good Council decision-making by endeavouring to ensure:

- a) Decision making is transparent to members and observers.
- b) Meeting members have sufficient information to make good decisions.
- c) Every member is supported to contribute to decisions.
- d) Any person whose rights are affected has their interests considered.
- e) Debate and discussion are focussed on the issues at hand.
- f) Meetings are conducted in an orderly manner; and
- g) Decisions should be made on the merits of the matter.

The role of Chairperson / Mayor, Deputy Mayor, Councillor and Chairperson is detailed in the *Local Government Act 2020* and the Yarriambiack Shire Council Councillor Code of Conduct.

### 2.3.4 Role of Community

- a) Council Meetings are decision making forums and it is important that they are open to the community to attend and / or view proceedings.
- b) Community members are encouraged **to participate in Council's engagement activities** in accordance with the Community Engagement Policy.
- c) Community members may seek to inform individual Councillors of their views by contacting them directly in advance of Meetings.
- d) Community members may only participate in Council Meetings in accordance with Division 8, 2.35 of these Governance Rules that includes how the community can participate if the **meeting is electronic, or a 'hybrid' or 'parallel' style meeting.**

### 2.3.3 Council Meetings

- a) A Council Meeting is a meeting of the Council at which:
  - i. all the Councillors are, subject to the Act, entitled to attend and vote;
  - ii. no other person is entitled to vote; and
  - iii. a decision on an act, matter or thing is made by a resolution of the Council.
- b) Except as provided by the Act and these Rules, the conduct of Council Meetings is at **Council's discretion.**
- c) A Council Meeting must be chaired by:
  - i. the Mayor;

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- ii. if the Mayor is not present at the Council Meeting, the Deputy Mayor; or
- iii. if the Mayor and Deputy Mayor are not present at the Council Meeting, a Councillor who is present at the Meeting and is appointed by a resolution of the Council to chair the Council Meeting.

## 2.4 Conducting Virtual Council Meetings

Section 394 of the *Local Government Act 2020* allows Councillors and members of delegated committees and special committees to participate in meetings remotely by electronic means of communication. The intention is to ensure the normal ordinary business of Council can continue using electronic communication.

### 2.4.1 Requesting Attendance by Electronic Means

As required under the *Local Government Act 2020* the process for requesting and approving attendance by electronic means is:

- a) Councillors / Committee Members who wish to attend a meeting via electronic means may submit a request to the Mayor / Chairperson in writing via email.
- b) The submission must be made stating why the Councillor / Committee Member wishes to attend via electronic means.
- c) The request must state the Meeting(s) that will be attended via electronic means and needs to be received by the Mayor/Chairperson no later than 24 hours before the meeting date in the request.
- d) The Chairperson will provide a response to the request within 6 hours and notify the rest of the members of the meeting of this decision.
- e) It will remain the responsibility of the member attending electronically to ensure that they have the required access and environment suitable for electronic communications.

### 2.4.2 Means for Confirmation of Attendance

A members' attendance can only be recorded as present where the member can confirm that they meet all three of the following;

- a) They can hear proceedings.
- b) They can see other members in attendance and can be seen by other members.
- c) They can be heard (to speak).

### 2.4.3 Technical Difficulties

In the event of a technical issue where there is a loss in connection with the Mayor, Chairperson, Councillor, Chief Executive Officer or Committee Member there must be a process in place to ensure a quorum is present and virtual recognition of a vote is available.

Refer to Division 2, section 2.7 of these Governance Rules if Quorum is not maintained.

- a) Loss of connection with the Chairperson / Mayor – the meeting will stop, and reconnection will be attempted. If after 10 (ten) minutes no connection can be made, the Deputy Chairperson / Mayor will step into the Chairperson / Mayoral position to continue the meeting. If the original Chairperson / Mayor does manage to reconnect during further proceedings he or she may reconvene as Chairperson at the next item in the agenda. (This will avoid any interruptions to the current proceedings of the item being discussed). Any loss and reconnection of communication will be noted in the minutes of the meeting.
- b) Loss of connection with the Chairperson / Mayor and Deputy Mayor - the meeting will stop, and reconnection will be attempted. If after 10 (ten) minutes no connection can be made, the meeting will be recorded as closed, and a public notice will be issued for an unscheduled meeting to occur, to discuss the remaining items in the Agenda. Alternatively, at the discretion of the Mayor the items may be carried forward to the next scheduled meeting.

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- c) Loss of connection with the CEO - the meeting will stop and reconnection will be attempted. If after 5 (five) minutes no connection can be made, a Director (at the request of the Mayor) will step into the role. If the Chief Executive Officer does manage to reconnect during further proceedings, they may reconvene their role at the next item in the agenda. (This will avoid any interruptions to the current proceedings of the item being discussed). Any loss and reconnection of communication will be noted in the minutes of the meeting.
- d) Loss of connection with a Councillor (Quorum) - the meeting will stop and reconnection will be attempted. If after ten minutes no connection can be made and a quorum can still be achieved, the meeting can proceed. The loss of connection with Councillor(s) will be noted in the minutes. If the Councillor does manage to reconnect during further proceedings they may continue with the meeting. Any loss and reconnection of communication will be noted in the minutes of the meeting.
- e) Loss of connection with a Councillor (No Quorum) - the meeting will stop and reconnection will be attempted. If after 10 (ten) minutes no connection can be made and a quorum cannot be achieved the meeting must be stopped.
- d) Remaining Councillors must specify the date and time for the meeting to be reconvened. The Chairperson will notify the rest of the members of the meeting of the new date.

#### 2.4.4 Disclosure of Conflicts of Interest and Removal from Electronic Proceedings

The requirements for disclosure of conflicts of interest are the same as Chapter 5 of these Governance Rules, however there is a need to ensure the Councillor who has declared the conflict and is joining the meeting via electronic means is removed from proceedings where required.

- a) The Councillor/s who has made the conflict of interest declaration will be disconnected from the meeting link by the meeting initiator (Governance Officer) for the duration of the item being discussed or **the Councillor will be placed in the 'Breakout Room'**.
- b) Upon completion of the item, the meeting initiator (Governance Officer) will make contact with the Councillor/s to invite them back into the meeting or will be reintroduced back into **the meeting from the 'Breakout Room'**
- c) All disconnection and reconnection times will be noted in the minutes of the meeting.

#### 2.4.5 Confidentiality

Council must ensure that where necessary, confidential items are dealt with in an electronically secure environment. Councillors must be able to demonstrate to the satisfaction of the Mayor / Chairperson that the location that they are participating from is secure to ensure the deliberations are confidential.

A Councillor is prohibited from attending a confidential meeting of Council via electronic means in a public place or place where matters discussed are not secure; public being library, café, playground etc.

#### 2.4.6 Meeting Type

Meeting Type	Live Streamed	Recording to Internet
Council Meeting	Required for open meetings	Optional
A joint meeting of Councils	Required for open meetings	Optional
A meeting of a delegated committee or joint delegated committee	Required for open meetings if not recorded to internet	Required for open meetings if not live streamed



A meeting of a governing body of a regional library	Not applicable	Not applicable
A meeting of a special committee	Required for open meetings if not recorded to internet	Required for open meetings if not live streamed

## 2.5 Joint Meetings of Council

Two or more Councils may determine to hold a Joint Meeting of Councils in accordance with Section 62 of the Act.

## 2.6 Notice of Meeting and Preparation of Agendas

- a) The Chief Executive Officer must give notice to the public of a Council Meeting.
- b) Council by resolution will determine the proposed or preferred format style of meetings (in-person, electronic-including hybrid or parallel) Refer to section 2.4.1 of this Governance Rules for the process for any member who wishes to request approval to attend by electronic means.
- c) The following meetings must be held solely as face-to-face (in-person) meetings:
  - i. Meeting where election of the Mayor and Deputy Mayor is determined;
  - ii. Meeting where position of CEO is appointed;
  - iii. Meeting to declare the office of Mayor or Deputy Mayor vacant.
- d) The Chief Executive Officer must ensure that notice of, and the Agenda for, any Council Meeting is sent to every Councillor so that it is received at least four days before the Council Meeting.
- e) Where the Chief Executive Officer changes the date, time and place of, or cancels, a Meeting under rule 2.3.2:
  - i. reasonable attempts must be made to notify every Councillor; and
  - ii. such public notice as is practicable must be given.
- f) The Chief Executive Officer must submit a full written report of his or her reasons for changing the date, time and place of, or cancelling, a Council Meeting to the next Council Meeting.
- g) The Chief Executive Officer will consult with the Mayor on the preparation of the Agenda.

### 2.6.1 Leave of Absence and Agenda Delivery

Councillors who are unable to attend a Meeting may submit an apology to the Chairperson who will advise the Meeting. Any leave of absence request received will be included in the Agenda and Minutes of the next Council Meeting.

It is unnecessary for a notice of a Council Meeting or an Agenda to be delivered to any Councillor who has been granted leave of absence, unless the Councillor has requested in writing that the Chief Executive Officer continue to give notice of any Council Meeting to be held during the period of his or her absence.

## DIVISION 2 - QUORUMS

The Quorum for Council Meetings is an Absolute Majority of Councillors.

A meeting being held by electronic requires a quorum still needs to be maintained. Examples of various instances where there is a loss in connection is detailed in section 2.4.3 of this Governance Rules.



## 2.7 Inability to Gain a Quorum

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

- a) those Councillors present; or
- b) if there are no Councillors present, the Chief Executive Officer,

may adjourn the Council Meeting for a period not exceeding seven days from the date of the adjournment.

### 2.7.1 Inability to Maintain a Quorum

If during any Council Meeting or any adjournment of a Council Meeting, a quorum cannot be maintained:

- a) those Councillors present; or
- b) if there are no Councillors present, the Chief Executive Officer,

may adjourn the Council Meeting for a period not exceeding seven days from the date of the adjournment.

### 2.7.2 Inability to Achieve or Maintain a Quorum due to Disclosure of Interests

If Council cannot maintain a Quorum because of the number of Councillors who have a conflict of interest in a matter then Council must consider whether the decision can be made by dealing with the matter in an alternative manner, in accordance with Section 67 of the Act.

## 2.8 Adjournment of Council Meeting by Resolution

In addition to any other mechanism for adjournment of a Council Meeting provided by these Rules, Council may, by resolution, adjourn a Council Meeting to a date, time and place specified in the resolution.

## 2.9 Notice of adjourned Meeting

The Chief Executive Officer must:

- a) if time permits, provide each Councillor written notice of a Council Meeting being adjourned, and the date, time and place to which it is adjourned; and
- b) if time does not permit, provide each Councillor notice of a Council Meeting being adjourned, and the date, time and place to which it is adjourned by way of contact by telephone, email or some other means.

## 2.10 Time limits for Meetings

- a) No Council Meeting will continue longer than 5 hours unless a majority of the Councillors present vote in favour of an extension of time.
- b) An extension of time shall not exceed 30 minutes and no more than two extensions of time will be permitted at a Council Meeting unless Council resolves otherwise.
- c) In the absence of such continuance before expiry of the time provided in this rule 2.10, the Council Meeting must stand adjourned to a time, date and place to be then and there announced by the Chair with the Chief Executive Officer to give notice to each Councillor of the date, time and place to which the Council Meeting stands adjourned and of the business remaining to be considered.
- d) The business to be included on the Agenda for a Council Meeting adjourned under this rule 2.10 will be the business remaining to be considered at the Council Meeting at the expiry of the time provided in this rule 2.10.

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## DIVISION 3 - Business of Council Meetings

## 2.11 The Order of Business

- a) The order of business for a Council Meeting is to be determined by the Chief Executive Officer in consultation with the Mayor so as to facilitate and maintain open, efficient and effective processes of Government.
- b) The order of business, and all items to be considered at a Council Meeting, will be set out in an Agenda prepared by the Chief Executive Officer in consultation with the Mayor.

## 2.11.1 Change to order of business

Once an Agenda has been sent to Councillors, the order of business for that Council Meeting may only be altered by resolution of Council and must be recorded.

## 2.11.2 Urgent Business

- a) 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.
- b) Council must only admit business as Urgent Business if the business:
  - i. cannot safely or conveniently be deferred until the next Council Meeting; or
  - ii. involves a matter of urgency, as determined by the Chief Executive Officer.

## 2.11.3 Confidential Business

- a) No business can be transacted as confidential business unless Council first resolves to close the Council Meeting to members of the public in accordance with the Act.
- b) If, following the conclusion of confidential business, Council so resolves, the Council Meeting will again be open to members of the public.

## 2.11.4 General Business

- a) If the Agenda for a Council Meeting makes provision for general business, only business of a minor or routine nature will be admitted as general business.
- b) Any motion dealing with a matter that is not minor or routine must be rejected by the Chair and must be submitted instead as a Notice of Motion under rule 2.13.
- c) Such motions may be dealt with as Urgent Business under clause 2.11.2.

## 2.12 Meetings to be Open to the Public

Meetings must be open to the public unless the Meeting is closed to the public in accordance with Section 66 of the Act.

## DIVISION 4 - Motions and Debate

## 2.13 Notices of Motion

- a) Councillors may ensure that an issue is listed on an Agenda by submitting a Notice of Motion in accordance with this rule 2.13.
- b) A Notice of Motion must be in writing, signed by the Councillor submitting it and submitted to the Chief Executive Officer at least seven days prior to the Council Meeting at which it is to be considered.
- c) The full text of any such Notice of Motion must be included in the Agenda for the next available Council Meeting.
- d) The Chief Executive Officer may reject any Notice of Motion which is:
  - i. vague or unclear in intention;
  - ii. defamatory, indecent, abusive, offensive or objectionable in language or substance; or

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- iii. outside the duties, functions and powers of Council.
- e) If the Chief Executive Officer rejects a Notice of Motion under rule 2.12(d), he or she must:
  - i. notify the Councillor who lodged it of the rejection and reasons for the rejection; and
  - ii. give the Councillor who lodged it an opportunity to amend it to address the reasons for rejection, if it is practicable to do so.

#### 2.14 **Chair's** Duty

The Chair must reject any motion which is:

- a) defamatory;
- b) objectionable in language or nature;
- c) vague or unclear in intention;
- d) outside the powers of Council; or
- e) irrelevant to an item of business on the Agenda and has not been admitted as Urgent Business or general business, or purports to be an amendment but is not.

#### 2.15 Clarifying a Motion

After a Notice of Motion or any other motion is moved but before it is seconded, a Councillor may, with the leave of the Chair, ask for clarification from the Chair or Councillor moving the Notice of Motion or other motion:

- a) the intent; or
- b) some other aspect

of the Notice of Motion or other motion.

#### 2.16 Moving a Motion or an Amendment

- a) The procedure for moving any motion or amendment is as follows:
  - i. the mover must state the motion without speaking to it;
  - ii. 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; and
  - iii. the Chair has the right to second a motion in the interest of facilitating debate on a matter.
- b) If a motion or an amendment is moved and seconded, the Chair must ask:
 

**"Is the motion or amendment opposed?"**
- c) If no Councillor indicates opposition, the Chair may give the mover of the motion or amendment or any other Councillor wishing to do so the opportunity to speak before declaring the motion or amendment carried.
- d) If a Councillor indicates opposition, then the Chair must call on the mover to address the Council Meeting.
- e) After the mover has addressed the Council Meeting, the seconder of the motion may address the Council Meeting.
- f) After the mover or seconder of the motion or amendment has addressed the Council Meeting the Chair must call on any Councillor who wishes to speak to the motion or amendment, alternating between Councillors wanting to speak in favour of and against it.
- g) A Councillor may only speak once to a motion or amendment unless exercising a right of reply.

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- h) After all Councillors wishing to speak to a motion or amendment have spoken, or if no Councillor speaks to the motion or amendment, then the Chair must immediately put the motion to the vote.

#### 2.17 Right of Reply

- a) The mover of a motion or an amendment has, once debate has been exhausted, a right of reply to matters raised during debate.
- b) After the right of reply has been taken, the motion must immediately be put to the vote without any further discussion or debate.

#### 2.18 Moving an Amendment

- a) A motion which has been moved and seconded may be amended by leaving out, inserting or adding words, which words must be relevant to the subject of the motion and not change its intent.
- b) An amendment must not contradict the motion or change the substance of the motion.
- c) A motion to confirm a previous resolution of Council cannot be amended.

#### 2.19 Who May Propose an Amendment

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

#### 2.20 How Many Amendments May be Proposed

- a) Any number of amendments may be proposed to a motion but only one amendment may be accepted by the chairperson at any one time.
- b) 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.

#### 2.21 An Amendment Once Carried

If an amendment is carried, the motion as amended then becomes the motion before the meeting.

#### 2.22 Withdrawal of Motions

- a) Before any motion is put to the vote, it may be withdrawn with leave of Council.
- b) If the majority of Councillors object to the withdrawal of the motion, it may not be withdrawn.

#### 2.23 Separation of Motions

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

#### 2.24 Chair May Separate Motions

The Chair may, in his or her absolute discretion, decide to put any motion to the vote in several parts, even if no request is made under rule 2.23.

#### 2.25 Priority of Address

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

#### 2.26 Motions in Writing

- a) All motions, except procedural motions, should be in writing.
- b) The Chairperson may suspend the Council Meeting while the motion is being written or may request Council to defer the matter until the motion has been written, allowing the Council Meeting to proceed uninterrupted.

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### 2.27 Reading Motion and / or Amendment

The Chair may request the person taking the Minutes of the Council Meeting to read the motion or amendment before the motion or amendment is put to the vote.

### 2.28 Debate Must be Relevant to the Question

- a) Debate must always be relevant to the question before the Council Meeting and, if it is not, the Chair must ask the speaker to confine debate to the question then before the Council Meeting.
- b) If, after being asked to confine debate to the question then be for the Council Meeting, the speaker continues to debate irrelevant matters, the Chair may direct the speaker to not speak further in respect the question.
- c) A speaker to whom a direction has been given under clause 2.28(b) must comply with that direction.

### 2.29 Speaking Times

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

- a) the mover of a motion or an amendment - 3 minutes
- b) any other Councillor - 3 minutes
- c) the mover of a motion or an amendment exercising a right of reply - 2 minutes

### 2.30 Addressing the Meeting

When addressing a Council Meeting:

- a) any person addressing the Chair must refer to the Chairperson as Mayor;
- b) all Councillors, other than the Mayor, must be addressed as Councillor (name); and
- c) all Officers must be addressed as Mr or Ms (name) as appropriate or by their official title, unless the Chair directs otherwise.

### 2.31 Foreshadowing Motions

- a) 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 Council Meeting, but this does not extend any special right to the foreshadowed motion.
- b) A motion foreshadowed may be prefaced with a statement that, in the event of a particular motion before the Council Meeting being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- c) A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the Council Meeting.
- d) The Chief Executive Officer or person taking the Minutes of the Council Meeting will not record foreshadowed motions in the Minutes unless the foreshadowed motion is formally moved.

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## DIVISION 5 - Procedural Motions

## 2.32 Procedural Motions

- a) Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the Chair.
- b) Procedural motions require a seconder.
- c) Notwithstanding any other provision in these Rules, procedural motions must be dealt with in accordance with the following table:

## PROCEDURAL MOTIONS TABLE

Procedural motion	Form and effect	Mover & Secunder	Matter in respect of which motion may be moved	When motion prohibited	Debate permitted on motion
1. Adjournment of debate to later hour and / or date	Form <b>"That this matter be adjourned to</b> *am/pm and/or *date for the <b>following reason..."</b> *insert time/date <i>Effect if carried:</i> motion and amendments postponed to the stated time and/or date <i>Effect if lost:</i> Debate continues unaffected	Any Councillor	Any matter <u>Except:</u> a) Election of the Chair	a) During the election of the Chairperson b) When another Councillor is speaking	Yes
2. Adjournment of debate indefinitely	Form <b>"That this matter be adjourned until further notice"</b> <i>Effect if carried:</i> Motion and any amendment postponed but may be resumed at any later meeting if on the agenda or Council resolves to retrieve it <i>Effect if lost:</i> Debate continues unaffected	Any Councillor	Any matter	a) During the election of the Chair b) When another Councillor is speaking	Yes

Procedural motion	Form and effect	Mover & Seconder	Matter in respect of which motion may be moved	When motion prohibited	Debate permitted on motion
3. The closure	Form <b>"That the motion be now put"</b> <i>Effect if carried:</i> The Chair must call on the mover of the original motion or amendment in respect of which the closure motion is carried to reply to the debate on the original motion or amendment. The Chair must then immediately put the original motion or amendment to the vote. No further debate on, or amendment to, the original motion or amendment is permitted. <i>Effect if lost:</i> Debate continues unaffected.	A Councillor who has not spoken to the motion or any amendment of it	Any matter	During nominations for the Chair	No
4. Laying question on the table	Form <b>"That the question lie on the table"</b> <i>Effect if carried:</i> Motion and amendments not further discussed or voted on until: (a) Council resolves to take the question from the table at the same Council Meeting; or (b) the matter is placed on an Agenda and Council resolves to take the question from the table <i>Effect if lost:</i> Debate continues unaffected	A Councillor who has not spoken to the motion or amendment of it	Any matter	a) During the election of the Chairperson	No

Procedural motion	Form and effect	Mover & Seconder	Matter in respect of which motion may be moved	When motion prohibited	Debate permitted on motion
5. Proceeding to next business	Form <b>"That the meeting proceed to the next business".</b> Note: This Motion: (a) May not be amended (b) May not be debated; (c) Must be put to the vote as soon as seconded <i>Effect if carried:</i> If carried in respect of: (a) an amendment - Council considers the motion without reference to the amendment; or (b) a motion - no vote or further discussion on the motion until it is placed on an Agenda for a later Council Meeting. <i>Effect if lost:</i> Debate continues unaffected	A Councillor who has not spoken to the motion or any amendment of it	Any matter <u>EXCEPT:</u> a) election of the Chair	a) during the election of the Chair b) when another Councillor is speaking	No

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## DIVISION 6 - Rescission Motions

### 2.33 Notice of Rescission

A Councillor may propose that a previous resolution of Council is rescinded or amended by submitting a Notice of Motion in accordance with rule 2.13 provided that the:

- a) resolution has not been acted on; and
- b) Notice of Motion sets out:
  - i. the resolution to be rescinded or amended; and
  - ii. the Council Meeting and date when the resolution was carried.
- c) A resolution is deemed to have been acted on for the purposes of rule 2.33(a) if:
  - i. its contents have, or substance has, been formally communicated to a person whose interests are materially affected by it; or
  - ii. action has been taken to give effect to the resolution which cannot be reversed.

#### 2.33.1 If Rescission Motion is Lost

If a motion to rescind or amend a previous resolution of Council is lost, a similar motion may not be put before Council for at least three months from the date that it was lost, unless Council resolves that the Notice of Motion be re-listed for a future Council Meeting.

#### 2.33.2 If Rescission Motion is Not Moved

If a motion to rescind or amend a previous resolution of Council is not moved at the Council Meeting for which it is listed, it lapses and is deemed to have been lost.

#### 2.33.3 May be Moved by any Councillor

A motion to rescind or amend a previous resolution of Council listed on an Agenda may be moved by any Councillor present but may not be amended.

#### 2.33.4 When not Required

A motion to rescind or amend a previous resolution of Council is not required where Council wishes to change policy unless:

- a) the policy has been in force in its original or amended form for less than 12 months; or
- b) the Chief Executive Officer determines that the proposed change will result in a significant impact on any person and should be communicated to those affected.

## DIVISION 7 - Points of Order

### 2.34 Procedure for Point of Order

A Councillor raising a point of order must:

- a) state the point of order, state the incident objected to and the reasons for the objection; and
- b) state any provision, rule, practice or precedent relevant to the point of order.

#### 2.34.1 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.

#### 2.34.2 Chair may Adjourn to Consider

- a) The Chair may adjourn a Council Meeting to consider a point of order but otherwise must rule on it as soon as it is raised.
- b) All other questions before Council are suspended until the point of order is decided.

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### 2.34.3 Valid Points of Order

A point of order may be raised in relation to:

- a) a motion which, under section 2.16, or a question which, under section 2.35(g), should not be accepted by the Chairperson;
- b) a question of procedure;
- c) a Councillor who is or appears to be out of order; or
- d) any act of disorder.

### 2.34.4 Contradiction or Opinion

Expressing a mere difference of opinion or contradicting a speaker is not a point of order.

### 2.34.5 Dissent from Chairperson's Ruling

- a) A Councillor may move a motion of dissent in the **Chair's ruling on a point of order, without speaking to it, by moving:**  
**"That the Chair's ruling [setting out that ruling or part of that ruling] be dissented from"**
- b) **A motion of dissent in the Chair's ruling shall, if seconded, be given priority.**
- c) When a motion of dissent is moved and seconded, the following process must be followed:
  - i. the Chair must leave the Chair and a temporary Chair must take his or her place;
  - ii. the temporary Chair must invite the mover of the motion of dissent to state the reasons for his or her dissent and the Chair must reply;
  - iii. the mover of the motion of dissent and the Chair must not speak on the motion for a time longer than one minute each;
  - iv. no other speakers are allowed to address a motion of dissent; and
  - v. the temporary Chair must put the motion to the vote.
- d) If the vote is in the negative, the Chair will resume the Chair for the remainder of the Council Meeting and the Council Meeting continues uninterrupted.
- e) If the vote is in the affirmative, the Chair will resume the Chair and must reverse or vary (as the case may be) their previous ruling and proceed.
- f) **The defeat of the Chairperson's ruling is in no way a motion of no-confidence in the Chair and should not be so regarded by the Council Meeting.**

## DIVISION 8 - Public question time

### 2.35 Question Time

- a) There shall be a public question time at every Council Meeting to enable members of the public to submit questions to Council.
- b) Questions submitted to Council must be in writing, state the name and address of the person submitting the question, generally in the form approved or permitted by Council and be submitted before the commencement of the Council Meeting.
- c) Subject to rule 2.35(g) any question submitted to Council will be answered at the relevant Council Meeting if the question has been submitted no less than 24 hours before the commencement of the Council Meeting.
- d) Any question submitted less than 24 hours before the Council Meeting will be answered at that Council Meeting if possible and, if no answer can be given, then a written answer will be given to the person asking the question as soon as practicable after the Council Meeting.
- e) No person may submit more than two questions at any Council Meeting unless permitted by the Chair, in his or her absolute discretion.

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- f) The Chair or Officer nominated by the Chair may read a question to those present.
- g) A question may be disallowed by the Chair if it:
  - i. relates to a matter outside the duties, functions and powers of Council;
  - ii. is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - iii. deals with a subject matter already answered;
  - iv. is aimed at embarrassing a Councillor or an Officer;
  - v. relates to a personnel matter; or
  - vi. contains or refers or relates to Confidential Information.
- h) All questions and answers must be as brief as possible, and no discussion is allowed other than for the purposes of clarification.
- i) The Chair may nominate a Councillor or Officer to respond to a question.
- j) A Councillor or Officer nominated by the Chair under 2.36(i) may require a question to be put on notice until the next council meeting, at which time the question must be answered, or elect to submit a written answer to the person asking the question.
- k) A Councillor or Officer may advise Council that it is his or her opinion that a question should be considered in a Council Meeting closed to the public under Section 66 of the Act because it contains or refers or relates to Confidential Information. The Councillor or Officer must state briefly the reason why the question should be so considered and Council must then resolve that the question must:
  - i. be so considered, in which case the question will be deferred until Council resolves to close the Council Meeting to the public; or
  - ii. not be so considered, in which case the answer will be given as per subsection 2.36 (c) as determined by the Chair in his or her absolute discretion.

#### 2.35.1 Public Appearance Through Virtual Means

Council will allow for members of the Public, Organisations or Business who wish to appear before Council to do so through virtual means. This will only happen if the member of Public, Organisation or Business would like to present to Council or address Council on a topic and through prior approval by the Chief Executive Officer.

- a) The member of Public, Organisation or Business must contact Council no less than 24 hours prior to the meeting to request a link for the meeting.
- b) The member of Public, Organisation or Business must state in writing no less than 24 hours prior to the meeting why they would like to present or address Council.
- c) Questions can be submitted to Council as per Section 2.35 of this Governance Rules. These questions will be read out at the Virtual / Hybrid Council Meeting by the Chairperson.

### DIVISION 9 - Petitions and joint letters

#### 2.36 Petitions and Joint Letters

- a) A written petition or online (electronic) petition or joint letter presented to Council must include at least three signatures for written or three electronic identifications for online in order to be a valid petition or joint letter.
- b) A petition or joint letter presented to Council must clearly indicate the lead petitioner.

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- c) A petition or joint letter presented to Council must lay on the table until a future Council Meeting and no motion, other than to receive the petition or joint letter, may be accepted by the Chair, unless Council resolves to deal with it earlier.
- d) Every written 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. Online (electronic) petitions may be exempt from receipt of addresses if Council so resolves.
- e) For the sake of clarity, a petition and a joint letter have the same meaning and shall be treated as being the same by Council.
- f) A petition or joint letter which deals with a planning application or a Planning Scheme Amendment currently before Council under the *Planning and Environment Act 1987* will be treated as a submission in respect of that planning application or that Planning Scheme Amendment and will not be treated as a petition or joint letter.

#### DIVISION 10 - Deputations

##### 2.37 Deputation to be Referred to the Mayor

A deputation wishing to be heard by Council may make a written request to the Chief Executive Officer who must refer the request to the Mayor who will determine whether the deputation will be heard.

##### 2.38 Consideration of Request

The Mayor may direct the Chief Executive Officer as to the Council Meeting at which the deputation will be heard or, alternatively, ask the Chief Executive Officer to place a request before Council, to resolve whether the deputation will be heard.

##### 2.39 Notification of Hearing

If the Mayor directs that a deputation be heard, the Chief Executive Officer must notify all Councillors of that direction, and also notify a member of the deputation of the date, time, and place at which the deputation will be heard.

##### 2.40 Written Submissions

A deputation must lodge with the Chief Executive Officer a written submission detailing the subject matter of the deputation prior to the deputation addressing Council at least 24 hours before the commencement of the relevant Council Meeting.

##### 2.41 Limitation on Speakers

Council will not hear more than two speakers on behalf of any deputation, and may, from time to time by resolution, set time limits on the length of address of each speaker.

##### 2.42 Questions but no Discussion

Councillors and Officers may question the deputation on matters raised by it for purposes of clarification only.

##### 2.43 Matter to be Determined upon a Subsequent Meeting

No motion will be allowed on any deputation until the next meeting of Council after the deputation has been heard unless Council, by resolution, decides otherwise.

#### DIVISION 11 - Voting

##### 2.44 How a Motion will be Determined

To determine a motion before a Council Meeting, the Chairperson must first call for those in favour of the motion, then those opposed to the motion, and then those abstaining from voting on the motion, and must then declare the result to the Council Meeting.

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A Councillor who abstains from the vote is taken to have voted against the motion. Note table examples

7 Councillors Present			
Example 1			
3 Vote Yes	3 Vote No	1 Abstains	Vote is Lost
Example 2			
4 Vote Yes	2 Vote No	1 Abstains	Vote is won

#### 2.44.1 By Show of Hands

Voting on any matter is to be by show of hands.

#### 2.44.2 Procedure for a Division

- a) Immediately after any question is put to a Council Meeting and before the next item of business has commenced, a Councillor may call for a division.
- b) When a division is called for, the vote already taken must be treated as a nullity and the division shall decide the question, motion or amendment.
- c) When a division is called for, the Chair must:
  - i. first, ask each Councillor wishing to vote in the affirmative to raise a hand. The Chief Executive Officer will record the names of those Councillors voting in the affirmative;
  - ii. second, ask each Councillor wishing to vote in the negative to raise a hand. The Chief Executive Officer will record the names of those Councillors voting in the negative;
  - iii. third, ask each Councillor wishing to abstain from the vote to raise a hand. The Chief Executive Officer will record the names of those Councillors abstaining from voting; and
  - iv. finally, declare the result of the division.

#### 2.44.3 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 a Councillor:

- a) requesting, before the Council Meeting moves to the next item of business, that his or her opposition to a resolution be recorded in the Minutes of the Council Meeting;
- b) calling for a division under rule 2.44.2; or
- c) foreshadowing their submission of a Notice of Motion to rescind or amend a resolution where it has just been made, or a positive motion where a resolution has just been rescinded.

### DIVISION 12 - Minutes

#### 2.45 Keeping Minutes

The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend a Council Meeting and to take the Minutes of such meeting) must keep Minutes of each Council Meeting, and within those Minutes must be recorded:

- a) the date, place, time and nature of the Council Meeting;
- b) the names of the Councillors and whether they were PRESENT, an APOLOGY, or on LEAVE OF ABSENCE;

- c) the names of all Council Officers present in an official capacity;
- d) any disclosure of a conflict of interest made by a Councillor
- e) arrivals and departures (including temporary departures) of Councillors during the course of the Council Meeting. The time the member left the room and the time the member returned to the room;
- f) each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
- g) whether a motion or amendment was seconded, carried or lost;
- h) the vote cast by each Councillor upon a division;
- i) **when requested by a Councillor, a record of that Councillor's support** for or opposition to any motion;
- j) the failure of a Quorum;
- k) the time and reason for any adjournment of the Meeting or suspension of standing orders

#### 2.45.1 Confirmation of minutes

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

- a) a copy of the Minutes must be delivered to each Councillor no later than four days before the next Council Meeting. This shall not apply in respect of a Councillor who has been granted leave of absence and who has not requested the Chief Executive Officer, in writing, to continue to give notice of Council Meetings to be held during the period of leave of absence;
- b) the Minutes must be tabled at the next Council Meeting and the Chair must ask if any Councillors oppose confirmation of the Minutes;
- c) if no Councillor indicates opposition, the Minutes must be declared to be confirmed;
- d) if a Councillor indicates opposition to the Minutes:
  - i. he or she must specify the item(s) to which he or she objects and propose the amended wording;
  - ii. the objected item(s) must be considered separately and in the order in which they appear in the Minutes;
  - iii. the Councillor objecting must move accordingly without speaking to the motion and await a seconder;
  - iv. the mover of the motion of objection may then speak to it; and
  - v. when all objections to the Minutes have been determined, the Chairperson must 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;
- e) a resolution of Council must confirm the Minutes and the Minutes must, if practicable, be signed by the Chair of the Council Meeting at which they have been confirmed;
- f) the Decisions of Council Minutes must be entered into Electronic Report for Decision Register and each item in the register must be entered consecutively according to the Decision Item within the Minutes; and
- g) 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.

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#### 2.45.2 Deferral of Confirmation of Minutes

Council may defer the confirmation of Minutes until later in the Council Meeting or until the next Council Meeting as appropriate.

#### 2.45.3 Recording of Meeting and Live Streaming

- a) A person 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 Chair.
- b) Requests must be made in writing prior to the commencement of a Council Meeting and approved by the Chair.
- c) Such consent may at any time during the course of a Council Meeting be revoked by the Chair and a person who is recording the Council Meeting must immediately cease recording.
- d) A Meeting of Council or Delegated Committee must be live streamed on Council Youtube site and a link provided on the official Council website.
- e) Delegated Committees and Special Committees can elect to either stream their virtual meetings live or make a recording available **on the Councils' website following** the meeting.
- f) Confidential Council Meetings or confidential/closed sections of Council Meetings are not required to be streamed live and will not need to be electronically recorded.
- g) Where the Council experiences technical difficulties in being able to broadcast a meeting to the public the meeting must be adjourned until the issue is resolved or postponed to **another time and date in accordance with Council's** Governance Rules.
- h) It may be prudent for the Chairperson to indicate at the commencement of a meeting that if technical problems are encountered by the Council then the meeting will be adjourned until resolution or postponed.

### DIVISION 13 - Behaviour

#### 2.46 Public Addressing the Meeting

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.

#### 2.47 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 Council Meeting to a later time on the same day or to some later day as he or she thinks proper.

#### 2.48 Suspensions

Council may, by resolution, suspend from a Council Meeting, and for the balance of the Council Meeting, any Councillor whose actions have disrupted the business of Council, and have impeded its orderly conduct.

#### 2.49 Removal from Chamber

The Chair may order and cause the removal of any person, including a Councillor who has been suspended under rule 2.47, who disrupts any Council Meeting or fails to comply with a direction, including by asking the Chief Executive Officer or a member of the Victoria Police to remove the person or Councillor from the Chamber.

### DIVISION 14 - Additional Duties of Chairperson

#### 2.50 **The Chairperson's** Duties and Discretions

In addition to the duties and discretions provided in these Rules, the Chair must:

- a) reject any motion, question or statement which is derogatory or defamatory of any Councillor, Officer or member of the community; and

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b) call to order any person who is disruptive or unruly during any Council Meeting.

#### DIVISION 15 - Suspension of Standing Orders

##### 2.51 Suspension of Standing Orders

- a) To expedite the business of a Council Meeting, Council may resolve to suspend Standing Orders.
- b) The suspension of Standing Orders:
- i. should be used to enable full discussion of any issue without the constraints of formal meeting procedure;
  - ii. enables the formalities of meeting procedure to be temporarily disposed of while an issue is discussed; and
  - iii. should not be used purely to dispense with the processes and protocol of the government of Council.
- c) A motion to suspend Standing Order must take the following form:  
**"That standing orders be suspended to enable discussion on....."**
- d) Once the discussion has taken place and before any motions can be put, Standing Orders must be resumed by moving a motion in the following form:  
"That standing orders be resumed."
- f) No business may be transacted while Standing Orders are suspended.

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## CHAPTER 3 MEETING PROCEDURE FOR DELEGATED COMMITTEES

### 3.1 Meeting Procedure Generally

If Council establishes a Delegated Committee:

- a) all of the provisions of Chapter 2 of these Rules apply to meetings of the Delegated Committee; and
- b) any reference in Chapter 2 to:
  - i. a Council Meeting is to be read as a reference to a Delegated Committee Meeting;
  - ii. a Councillor is to be read as a reference to a Member; and
  - iii. the Mayor or the Chair is to be read as a reference to the Chair of the Delegated Committee.

### 3.2 Meeting Procedure can be Varied

Notwithstanding rule 3.1, if Council establishes a Delegated Committee that is not composed solely of Councillors:

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

resolve that any or all of the provisions of Chapter 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.

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## CHAPTER 4 MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEES

### 4.1 Introduction

In this Chapter 4, “Instrument of Delegation” means an instrument of delegation made by the Chief Executive Officer under Section 47(1)(b) of the Act.

### 4.2 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.

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## CHAPTER 5 DISCLOSURE OF CONFLICT OF INTEREST AT COUNCIL MEETINGS

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### 5.1 Introduction

The following rules set out the procedure for disclosures of conflicts of interest and apply only upon Division 1A of Part 4 of the *Local Government Act 1989* being repealed.

### 5.2 Disclosure of Conflict of Interest at a Council Meeting or Delegated Committee Meeting

a) A Councillor or Member who has a conflict of interest in a matter which is to be considered or discussed at a Meeting at which he or she:

i. 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; or

ii. intends to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Meeting commences a written notice:

A. advising of the conflict of interest;

B. explaining the nature of the conflict of interest; and

C. **detailing, if the nature of the conflict of interest involves a Councillor's or Member's relationship with or a gift from another person, the:**

1. name of the other person;

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

3. **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 rule.

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

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5.3 Disclosure of a conflict of interest at a Community Asset Committee Meeting

- a) A Councillor who has a conflict of interest in a matter which is to be considered or discussed at a meeting of a Community Asset Committee at which he or she:
- i. 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
  - ii. intends to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Community Asset Committee meeting commences a written notice:
    - A. advising of the conflict of interest;
    - B. explaining the nature of the conflict of interest; and
    - C. **detailing, if the nature of the conflict of interest involves a Councillor's** relationship with or a gift from another person, the:
      - 1. name of the other person;
      - 2. nature of the relationship with the that other person or the date of receipt, value and type of gift received from the other person; and
      - 3. **nature of that other person's interest in the matter,**

and then immediately before the matter is considered at the Community Asset Committee 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 rule.

- b) 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 Community Asset Committee meeting until after the matter has been disposed of.

5.4 Disclosure of Conflict of Interest at a Meeting under the Auspices of Council

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

- a) 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;
- b) absent himself or herself from any discussion of the matter; and
- c) as soon as practicable after the meeting concludes provide to the Chief Executive Officer a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.

5.5 Disclosure of a Conflict of Interest by an Officer

- a) An Officer who is providing information to:
- i. a Council Meeting, a Delegated Committee Meeting or a Community Asset Committee meeting; or
  - ii. another Officer exercising a power of delegation or performing a statutory function, must disclose a conflict of interest.
- b) A disclosure made by an Officer must be recorded:
- i. in the Minutes of the relevant Meeting; and
  - ii. in a conflict of interest disclosure register maintained by the Executive Assistant.
- c) An Officer who has a conflict of interest in a matter in which they also have delegated

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power, duty or function must not exercise the power or discharge the duty or function.

- d) If the Officer with the conflict of interest is the Chief Executive Officer, he or she must disclose the type of interest and the nature of the interest to:
  - i. the Mayor, in writing, as soon as they become aware of the conflict of interest in the matter; and
  - ii. the Council by no later than the next Council Meeting after the conflict of interest arose.
- e) In the case of any other Officer with a conflict of interest, he or she must disclose the type of interest and the nature of the interest to the Chief Executive Officer, in writing, as soon as they become aware of the conflict of interest in the matter.

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## CHAPTER 6 ELECTION PERIOD POLICY

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### 6.1 Introduction & Background

Section 69 of the Act requires all Councils to adopt and maintain an Election Period Policy, to be included in its Governance Rules, to explain to their communities how they will conduct their business during an Election Period. This policy will ensure Council Elections are not compromised by inappropriate electioneering by existing Councillors, actions and decisions which could be perceived as influencing voters are avoided and the authority of the incoming Council is safeguarded.

### 6.2 Purpose and Objectives

- a) This policy provides a framework for Councillors and Officers and outlines expected behaviours for the conduct of Council business during the lead-up to a General Election. The policy will ensure that the election is conducted in a transparent and accountable manner, the highest standard of governance is achieved, and the statutory requirements of the Act are met. The policy will achieve greater consistency and rigour in Council procedures and reduce ambiguity and confusion surrounding caretaker arrangements in the 32 days leading up to the conduct of a General Election.
- b) This policy applies to individual Councillors, the Council as a Body Corporate, Delegated Committees, the Chief Executive Officer, all other Officers and any person acting on behalf of Council under delegation.
- c) Council is committed to:
  - i. avoiding making significant new policies or major decisions that could unreasonably bind a future Council;
  - ii. ensuring that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election;

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- iii. ensuring that the ordinary business of Council continues throughout an Election Period in a responsible and transparent manner and in accordance with statutory requirements and established caretaker conventions;
- iv. ensuring that the ongoing ordinary business of Council is kept separate from Councillors' activities which relate to the election; and
- v. ensuring that, in the lead-up to an election, Council does not make decisions which inappropriately bind the next Council.

### 6.3 Prohibited Decisions

- a) Section 69(2) of the Act prohibits the making of the following categories of decision during the Election Period for a General Election (the period starting at the time nominations close on nomination day and ending at 6:00pm on election day):
  - i. relating to the employment or remuneration of a Chief Executive Officer, other than a decision to appoint or remunerate an acting Chief Executive Officer;
  - ii. committing **Council to expenditure exceeding one per cent of Council's income from general rates, municipal charges and service rates and charges in the preceding financial year;**
  - iii. which Council considers could be reasonably deferred until the next Council is in place; and
  - iv. which Council considers should not be made during an Election Period.
- b) Council must prohibit any Council decision during the election period for a General Election or a by-election **that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.**
- c) A Council decision of a kind described in clauses 5.3(a)(i) or (ii) above made during the Election Period is invalid and any person who suffers any loss or damage as a result of acting in good faith on such a decision is entitled to compensation from Council for that loss or damage.
- d) If Council considers that the Municipality or the local community would be significantly disadvantaged by delaying a prohibited decision, Council will, by resolution, request a compliance exemption under Section 177 of the Act from the Minister for Local Government.

### 6.4 Use of Council Provided Resources to Councillors

- a) Councillors must not use any Council resource for campaign purposes during the Election Period or seek reimbursement from Council for costs incurred for a campaign-related purpose.
- b) Incidental use of Council-provided resources (such as a vehicle in the case of the Mayor, mobile phone or other device) in connection with any campaign-related purpose and as part of the ordinary course of that Councillor's daily and typical use of such a resource will be acceptable. Council considers that the provision of such resources and their continued use during the Election Period, including their incidental use in respect of any campaign purpose, does not confer any particular, unreasonable or unfair electoral advantage on a Councillor-candidate as compared to other candidates.
- c) In reaching this position, Council notes the position expressed in its Expense Entitlement Policy that it is reasonable for Councillors to use these resources for both Council- and incidental non-Council-related purposes, and that any out of pocket costs arising from such use for non-Council-related purposes should not be claimed as reimbursement from Council.
- d) Council has also considered that the use of mobile phones, computers and cars is almost universal in the wider community today and that there is no unique or special advantage

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conferred on a Councillor-candidate by merely continuing to have access to one or more of these resources during the Election Period.

- e) Council considers that it would be impractical for a Councillor to have to operate two mobile phones or two of any of the other resources merely to avoid use of any one of those Council-provided resources in connection with a campaign purpose.
- f) Council further notes that there is no cost or other impact for Council if a Councillor uses one of these resources for non-Council purposes. Moreover, Council's Expense Entitlement Policy expressly contemplates this sort of arrangement in relation to mobile phone use and deals with the process for attributing the out of pocket costs of the phone calls between Council-related calls and non-Council-related calls. However, during the Election Period, Councillors should be especially mindful not to seek reimbursement for any out of pocket costs which arise from a campaign-related purpose.
- g) Accordingly, Council has formed the view that it is impractical and unnecessary for current Councillors who are seeking re-election to have to go out and purchase their own devices merely for use during the election period. In fact, it is considered that it would be an unreasonable and unnecessary imposition on Councillor-candidates, who for the past four years of their term have had these resources provided by Council, and who if re-elected, would have the reasonable expectation that these resources will continue to be provided to them, if they were forced to have to purchase such resources personally for the purposes of only a matter of a few weeks for use during the Election Period.
- h) Council further notes that this approach is consistent with the approach adopted in the Victorian Parliament and the Australian Parliament for Members of those places.
- i) Councillors will continue to automatically access Council-held documents during the election period, but only as necessary for them to perform their current roles and functions.

#### 6.5 Prohibition on Councillors or Member of Council Staff

- a) Council commits to the principle that it will ensure that Council resources are not used inappropriately during a Council election.
- b) The Chief Executive Officer will ensure that Council complies with Section 304 of the Act, which requires that a Council does not print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, media release, newsletter, pamphlet, leaflet, mail-out or notice during the election period unless it only contains information about the election process.
- c) The Chief Executive Officer will review all publications prior to the commencement and during the Election Period to ensure that any such publications comply with the requirements of Section 304 of the Act.
- d) The Chief Executive Officer will be familiar with the requirements of the Act, and any other requirements, with respect to the printing, publishing and/or distribution of electoral publications.
- e) In accordance with the Act:
  - i. a Councillor or Officer must not use Council resources in a way that is intended, or is likely, to affect the result of an election under the Act; and
  - ii. a Councillor or Officer must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet, notice or any other electoral material during the election period on behalf of, or purporting to be on behalf of the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

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- f) The requirements above do not apply to the publication of any document published prior to the commencement of the Election Period and to the publication of any document required to be published in accordance with, or under, any Act or regulation
- g) Official media statements will only be made by the Chief Executive Officer during the Election Period, including radio and television interviews. As much as possible throughout the Election Period, Council publicity and communications will be restricted to promoting normal Council activities and services and informing residents and ratepayers about the election process.

#### 6.6 Public Consultation

- a) Consultation forms an integral part of policy development and operations, however consultation undertaken close to a General Election may become an election issue in itself and influence voting. Issues raised during the consultation and decisions that follow may also unreasonably bind the incoming Council.
- b) If the Chief Executive Officer determines that consultation must be undertaken during the Election Period, the Chief Executive Officer (on behalf of Council) must record the special circumstances making it necessary and how risks over influencing the election will be mitigated or prevented.
- c) In any event, public consultation will only be undertaken during an Election Period if the consultation is mandated by legislation.
- d) Where consultation is discretionary, the consultation can occur during an Election Period only after the Chief Executive Officer determines whether or not the consultation will, or is likely to, influence the outcome of the election. If the matter subject to the consultation is likely to be closely associated in the minds of the voters with a particular candidate or a group of candidates, then the Chief Executive Officer will seek to delay the consultation until after the Election Period, if practicable.

#### 6.7 Events

The scheduling of Council events in the lead-up to elections frequently raises concerns over the potential use by sitting Councillors for electioneering purposes. Events and functions can take many and various forms, including conferences, workshops, forums, launches/openings, promotional activities, and social occasions (such as dinners, receptions and balls). Any scheduling of Council events during the Election Period will be reviewed by the Chief Executive Officer who may determine that an individual activity or event is:

- a) not permitted to proceed; or
- b) permitted to proceed but subject to any restrictions which the Chief Executive Officer may impose (e.g. restricting Councillors from making speeches).

#### 6.8 Equitable Access to Council Information

- a) This policy must include procedures to ensure that access to information held by Council is made equally available and accessible to all candidates during the Election Period.
- b) Council recognises that all candidates have the right to access information held by Council, subject to the *Privacy and Data Protection Act 2014*.
- c) Neither Councillors nor candidates will receive information or advice from Officers that might be perceived to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the Election Period.
- d) Councillors will continue to receive information that is necessary to fulfil their elected roles, particularly in regard to information relating to Council Agenda and Briefing items currently under consideration.

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#### 6.9 Provisions of Council Information to Councillors and Candidates

- a) Information and briefing material prepared by Officers for Councillors during the Election Period will relate only to factual matters or existing Council services. Such information will not relate to policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.
- b) When a Councillor wishes to request information for their use as a Councillor (e.g. a briefing from Officers, access to information on Council files), the Councillor must make the request through the Chief Executive Officer. This allows the relevance of the information requested to be determined in relation to current Council business.
- c) Officers will not directly provide Councillors or candidates with information but will refer any direct requests for information to the Chief Executive Officer during the Election Period.
- d) An Information Request Register will be maintained during the Election Period. This Register will be a public document that records all requests relating to electoral matters and non-routine requests for information by Councillors and candidates, and the responses given to those requests.

#### 6.10 Officer Activities During an Election Period

- a) Officers should not undertake any activity that may influence the outcome of an election, except where the activity relates to the election process and is authorised by the Chief Executive Officer.
- b) Officers should not authorise or allocate a Council resource for any purpose which may influence voting in the election, except where it relates to the election process and is authorised by the Chief Executive Officer. This includes making Council resources available to Councillors for campaign purposes.
- c) Officers must not assist any Councillor with their election campaign at any time, including outside work hours.
- d) Where the use of Council resources could be construed as being related to a candidate's election campaign, the incident must be reported to the Chief Executive Officer.

#### 6.11 Responsibilities

The Chief Executive Officer is responsible for overseeing adherence to this Election Period Policy. Councillors Officers are responsible for reporting any breach or suspected breach of this policy to the Chief Executive Officer.

#### 6.12 Access of Policy

A copy of the Governance Rules which include this Election Period Policy will:

- a) be given to each Councillor as soon as practicable after its adoption; and
- b) made available for inspection by the public at Council's offices and via Council's website.

#### 6.13 References

*Local Government Act 2020*

*Privacy and Data Collection Act 2014*

*Victorian Electoral Act 2002*

Yarriambiack Shire Council Councillor Code of Conduct

Local Government Investigations & Inspectorate Election Policy Review 2016

Yarriambiack Shire Council Expense Policy

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## CHAPTER 7 CERTIFICATION

The following key information is set down in order to facilitate the management of this Yarriambiack Shire Council Governance Rules.

Date to be Resolved by Council 24 August 2022

Commencement Date 24 August 2022

The Common Seal is affixed to signify the authenticity of this Governance Rules.



The COMMON SEAL of )  
YARRIAMBIACK SHIRE COUNCIL )  
was affixed on 24 August 2022 )  
in the presence of: )

.....  
Tammy Smith

**Chief Executive Officer of the Yarriambiack  
Shire Council**

.....  
**Councillor of the Yarriambiack Shire Council**

.....  
**Councillor of the Yarriambiack Shire Council**

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