



GOVERNANCE RULES

2022
DRAFT

Commencement Date: 1 September 2022

OVERVIEW

These Governance Rules are divided into an introduction and seven Chapters.

Each Chapter has its own rule.

Each Chapter will commence with Rule 1.

CONTENTS

| | |
|--|----|
| OVERVIEW | 2 |
| CONTENTS | 3 |
| INTRODUCTION | 5 |
| CHAPTER 1 GOVERNANCE FRAMEWORK | 6 |
| CHAPTER 2 – MEETING PROCEDURE FOR COUNCIL MEETINGS PART A – INTRODUCTION | 8 |
| PART B – ELECTION OF MAYOR | 9 |
| PART C – MEETINGS PROCEDURE | 11 |
| DIVISION 1 – NOTICES OF MEETINGS AND DELIVERY OF AGENDAS | 11 |
| DIVISION 2 – QUORUMS | 12 |
| DIVISION 3 – BUSINESS OF MEETINGS | 13 |
| DIVISION 4 – MOTIONS AND DEBATE | 13 |
| DIVISION 5 – PROCEDURAL MOTIONS | 18 |
| DIVISION 6 – RESCISSION MOTIONS | 20 |
| DIVISION 7 – POINTS OF ORDER | 22 |
| DIVISION 8 – PUBLIC QUESTION TIME | 24 |
| DIVISION 9 – PETITIONS AND JOINT LETTERS | 25 |
| DIVISION 10 – VOTING | 27 |
| DIVISION 11 – MINUTES | 29 |
| DIVISION 12 – BEHAVIOUR | 32 |
| DIVISION 13 – ADDITIONAL DUTIES OF <i>CHAIR</i> | 33 |
| DIVISION 14 – SUSPENSION OF STANDING ORDERS | 34 |
| DIVISION 15 – MISCELLANEOUS | 34 |
| DIVISION 16 – COMMON SEAL | 35 |
| CHAPTER 3 – MEETING PROCEDURE FOR DELEGATED COMMITTEES | 37 |
| CHAPTER 4 – MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEES | 38 |
| CHAPTER 5 – DISCLOSURE OF CONFLICTS OF INTEREST | 39 |
| CHAPTER 6 – MISCELLANEOUS | 44 |
| CHAPTER 7 - ELECTION PERIOD POLICY | 46 |
| POLICY | 54 |

INTRODUCTION

1. NATURE OF RULES

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

2. DATE OF COMMENCEMENT & REVIEW

These Governance Rules commence on 1 September 2022 and will be reviewed at least every 4 years.

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 Hepburn Shire Council.

Council meeting has the same meaning as in the Act

Special Council Meeting – means a meeting not fixed by Council and called when required
The Governance rules apply to any Special Council Meeting as would apply to a Council Meeting.

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

Mayor means the Mayor of Council.

these Rules means these Governance Rules.

CHAPTER 1 GOVERNANCE FRAMEWORK

5. CONTEXT

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

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

the following documents adopted or approved by *Council*:

The Council Plan

The Annual Budget

The Councillor Code of Conduct

The Staff Code of Conduct

The Instrument of Delegation from Council to the Chief Executive Officer

The Instrument of Delegation from Council to Members of Council Staff

The Instrument of Sub Delegation from the Chief Executive Officer to Members of Council Staff

The Instrument of Delegation from the Municipal Building Surveyor to Members of Council staff

The Instruments of Delegation to any Delegated Committee of Council

Instruments of Appointment to Authorised Officer as issued and executed

Council's Public Transparency Policy

Council Complaints Policy

Councillor Expenses and Resource Policy

Council Community Engagement Policy

Council Our Commitment to the Human Rights Charter

Councillor and Staff Interaction Policy

And other documents that gives rise to Council's decision making or a document that may be created after the adoption of these Governance Rules that relate to the strategic direction and decision-making framework of Council.

6. 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*) will strive to 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

CHAPTER 2 – MEETING PROCEDURE FOR COUNCIL MEETINGS

PART A – INTRODUCTION

7. TITLE

- 7.1. This chapter will be known as the "meeting procedure chapter".

8. PURPOSE OF THIS CHAPTER

- 8.1. The purpose of this Chapter is to:
- 8.1.1. provide for the election of the Mayor and a Deputy Mayor;
 - 8.1.2. provide for the appointment of an Acting Mayor; and
 - 8.1.3. provide for the procedures governing the conduct of Council meetings.

9. DEFINITIONS AND NOTES

- 9.1. In this Chapter:
- "Council meeting" means a Council meeting or a Special Council meeting.
- "*agenda*" means the notice of a meeting setting out the business to be transacted at the meeting;
- "*Chair*" means the Chairperson of a meeting and includes a Councillor who is appointed by resolution to chair a meeting under section 61(3) of the *Act*;
- "*minute book*" means the collective record of proceedings of *Council*;
- "*municipal district*" means the municipal district of *Council*;
- "*notice of motion*" means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;
- "*notice of rescission*" means a *notice of motion* to rescind a resolution made by *Council*; and
- "*written*" includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form, and *writing* has a corresponding meaning.
- 9.2. Introductions to Parts, headings and notes are explanatory notes and do not form part of this Chapter. They are provided to assist understanding.

PART B – ELECTION OF MAYOR

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

10. ELECTION OF THE MAYOR

- 10.1. The *Chief Executive Officer* must facilitate the election of the *Mayor* in accordance with the provisions of the *Act*.

11. METHOD OF VOTING

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

12. DETERMINING THE ELECTION OF THE MAYOR

- 12.1. The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.

- 12.2. Any nominations for the office of *Mayor* must be
seconded by another Councillor.

- 12.3. Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:

12.3.1. if there is only one nomination, the candidate nominated must be declared to be duly elected;

12.3.2. if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;

12.3.3. in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;

12.3.4. 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;

12.3.5. if one of the remaining candidates receives an absolute majority of the votes, they are duly elected. If none of the remaining candidates receives an absolute majority of the votes and it is not resolved to conduct a new election at a later day and time, 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;

12.3.6. 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

12.4. the declaration will be determined by lot.

12.4.1. 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).

12.4.2. no candidate can be elected unless they receive an absolute majority of the votes.

13. ELECTION OF DEPUTY MAYOR AND CHAIRS OF DELEGATED COMMITTEES

13.1. Any election for:

- a) any office of Deputy Mayor; or
- b) Chair of a Delegated Committee

will be regulated by Rules 10-12 (inclusive) of this Chapter, as if the reference to the:

- a) Chief Executive Officer is a reference to the Mayor; and
- b) Mayor is a reference to the Deputy Mayor or the Chair of the Delegated Committee (as the case may be).

14. APPOINTMENT OF ACTING MAYOR

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

- a) resolving that a specified Councillor be so appointed; or
- b) following the procedure set out in Rules 11 and 12 (inclusive) of this Chapter, at its discretion.

PART C – MEETINGS PROCEDURE

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

DIVISION 1 – NOTICES OF MEETINGS AND DELIVERY OF AGENDAS

15. DATES AND TIMES OF MEETINGS FIXED BY COUNCIL

Subject to Rule 7, *Council* must from time to time fix the date, time and place of all *Council meetings*.

16. 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.

17. SPECIAL COUNCIL MEETING

- 17.1. The *Mayor* or at least 3 Councillors may by a *written* notice call a *Special Council meeting*.
- 17.2. The notice must specify the date and time of the *Special Council meeting* and the business to be transacted.
- 17.3. The *Chief Executive Officer* must convene the *Special Council meeting* as specified in the notice.
- 17.4. Unless all Councillors are present and unanimously agree to deal with any other matter, only the business specified in the *written* notice of the meeting can be transacted at the *Council meeting*.

18. NOTICE OF MEETING

- 18.1. A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for all *Council meetings* at least 48 hours before the meeting.
- 18.2. Notwithstanding sub-Rule 18.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in *writing* to continue to give notice of any meeting during the period of their absence.
- 18.3. Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this:
 - a) for meetings which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in a newspaper generally circulating in the municipal district either at various times throughout the year, or prior to each such *Council meeting*; and
 - b) for any meeting by giving notice on its website and:
 - c) in each of its Customer Service Centres; and/or

- d) in at least one newspaper generally circulating in the municipal district.

DIVISION 2 – QUORUMS

19. INABILITY TO OBTAIN A QUORUM

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

- 19.1. the meeting will be deemed to have lapsed;
- 19.2. the *Mayor* must convene another *Council meeting*, the *agenda* for which will be identical to the *agenda* for the lapsed meeting; and
- 19.3. the *Chief Executive Officer* must give all Councillors *written* notice of the meeting convened by the *Mayor*.
- 19.4. A quorum at Council meetings is an absolute majority

20. INABILITY TO MAINTAIN A QUORUM

- 20.1. If during any *Council meeting*, a quorum cannot be maintained then Rule 19 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 20.2. Sub-Rule 20.1 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.

21. ADJOURNED MEETINGS

- 21.1. *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.
- 21.2. 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.
- 21.3. If it is impracticable for the notice given under sub-Rule 21.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.

22. TIME LIMITS FOR MEETINGS

- 22.1. A *Council meeting* must not continue after 3 hours unless a majority of Councillors present vote in favour of it continuing.
- 22.2. A meeting cannot be continued for more than 30 minutes (or a further 30 minutes, if a majority of Councillors has already voted to continue it for 30 minutes).
- 22.3. 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 21.2 and 21.3 apply.

23. CANCELLATION OR POSTPONEMENT OF A MEETING

- 23.1. 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.

- 23.2. 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 23.1

DIVISION 3 – BUSINESS OF MEETINGS

24. AGENDA AND THE ORDER OF BUSINESS

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

25. CHANGE TO ORDER OF BUSINESS

- 25.1. Once an *agenda* has been sent to Councillors, the order of business for that *Council meeting* may be altered via a resolution of *Council*.

26. URGENT BUSINESS

- 26.1. 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:
- 26.1.1. relates to or arises out of a matter which has arisen since distribution of the *agenda*; and
 - 26.1.2. cannot safely or conveniently be deferred until the next *Council meeting*.

27. MAYOR AND COUNCILLOR REPORTS

- 27.1. At a Council meeting, the Mayor and Councillors may report to the meeting on issues of importance to Council, notwithstanding that the report is not listed on the Agenda.
- 27.2. The Mayor or Councillor who wishes their written report to be included in the agenda and minutes must submit a copy of that report in writing to the Governance Office by the close of business 7 days before the *Council Meeting* for inclusion in the agenda.
- 27.3. If Councillor reports are not submitted within the timeframes set out in clause 27.2, the agenda and minutes will be distributed without inclusion of the report.
- 27.4. No motion, except a motion to receive any such report, can be accepted by the Chairperson until there is a matter raised in it which is resolved in the manner prescribed by clause 26.1 to urgent business.
- 27.5. The presentation of a report by a Councillor must not exceed three (3) minutes unless the Chairperson allows an extension in any case.

DIVISION 4 – MOTIONS AND DEBATE

28. COUNCILLORS MAY PROPOSE NOTICES OF MOTION

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

29. NOTICE OF MOTION

- 29.1. A *notice of motion* must be in *writing* signed by a Councillor, and be lodged with or sent to the *Chief Executive Officer* not less than eight business days before the *Council Meeting* to

allow for him or her to include the *notice of motion* in agenda papers for a *Council meeting* and to give each Councillor at least 48 hours notice of such *notice of motion*.

- 29.2. The Chief Executive Officer may reject any notice of motion which:
- 29.2.1. is vague or unclear in intention
 - 29.2.2. it is beyond Council's power to pass; or
 - 29.2.3. if passed would result in Council otherwise acting invalidly
 - 29.2.4. but must:
 - 29.2.5. give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - 29.2.6. notify in writing the Councillor who lodged it of the rejection and reasons for the rejection.
- 29.3. The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.
- 29.4. 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.
- 29.5. 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.
- 29.6. 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.
- 29.7. If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.

30. CHAIR'S DUTY

- 30.1. Any motion which is determined by the *Chair* to be:
- a) defamatory;
 - b) objectionable in language or nature;
 - c) vague or unclear in intention;
 - d) outside the powers of *Council*; or
 - e) 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*.

31. INTRODUCING A REPORT

- 31.1. 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;
- 31.1.1. its background; or
 - 31.1.2. the reasons for any recommendation which appears.

- 31.2. Unless *Council* resolves otherwise, a member of Council staff need not read any written report to *Council* in full.

32. INTRODUCING A MOTION OR AN AMENDMENT

The procedure for moving any motion or amendment is:

- 32.1. the mover must state the motion without speaking to it;
- 32.2. 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;
- 32.3. if a motion or an amendment is moved and seconded the *Chair* must ask:
"Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"
- 32.4. if no Councillor indicates opposition or a desire to speak to it, the *Chair* may declare the motion or amendment carried without discussion;
- 32.5. if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- 32.6. after the mover has addressed the meeting, the seconder may address the meeting;
- 32.7. 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
- 32.8. if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

33. RIGHT OF REPLY

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

34. MOVING AN AMENDMENT

- 34.1. Subject to sub-Rule 34.2 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.
- 34.2. A motion to confirm a previous resolution of *Council* cannot be amended.
- 34.3. An amendment must not be directly opposite to the motion.

35. WHO MAY PROPOSE AN AMENDMENT

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

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

36. HOW MANY AMENDMENTS MAY BE PROPOSED

- 36.1. Any number of amendments may be proposed to a motion but only one amendment may be accepted by the *Chair* at any one time.
- 36.2. 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.

37. AN AMENDMENT ONCE CARRIED

- 37.1. If the amendment is carried, the motion as amended then becomes the motion before the meeting, and the amended motion must then be put.
- 37.2. The mover of the original motion retains the right of reply to that motion.

38. FORESHADOWING MOTIONS

- 38.1. At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of their intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 38.2. 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.
- 38.3. 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.
- 38.4. The *Chair* is not obliged to accept foreshadowed motions.
- 38.5. If a motion lapses or is defeated, the *Chair* may still call for a new motion before moving to the next item, even when none has been foreshadowed.

39. WITHDRAWAL OF MOTIONS

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

40. SEPARATION OF MOTIONS

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

41. CHAIR MAY SEPARATE MOTIONS

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

42. PRIORITY OF ADDRESS

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

43. MOTIONS IN WRITING

- 43.1. The *Chair* may require that a complex or detailed motion be in writing.
- 43.2. *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.

44. REPEATING MOTION AND/OR AMENDMENT

- 44.1. 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.

45. DEBATE MUST BE RELEVANT TO THE MOTION

- 45.1. 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.
- 45.2. 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.
- 45.3. A speaker to whom a direction has been given under sub-Rule 45.2 must comply with that direction.

46. SPEAKING TIMES

- 46.1. 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 which has been opposed: 3 minutes;
 - b) any other Councillor: 3 minutes; and
 - c) the mover of a motion exercising a right of reply: 3 minutes.

47. ADDRESSING THE MEETING

- 47.1. If the *Chair* so determines:
 - a) any person addressing the *Chair* must refer to the *Chair* as:
 - b) Mayor...(name); or
 - c) Chair...(name); or

as the case may be;

- 47.2. all Councillors, other than the *Mayor*, must be addressed as
Cr(name).

- 47.3. all members of Council staff, must be addressed by their preferred honorific (Mr, Ms, Mx etc)
.....(name) as appropriate or by their official title.

- 47.4. Any councillor who addresses a Council Meeting must direct all remarks through the Chairperson.

- 47.5. The Chairperson may address a meeting, however if the Chairperson wishes to debate a particular motion or move any motion or amendment, or address any matter under discussion, the Chairperson must advise Council of that intention and vacate the Chair on such occasion for the duration of the item under discussion.
- 47.6. If the Chairperson vacates the Chair, the Deputy Mayor will fill the position of Chairperson. If the Deputy Mayor wishes to address the motion or move a motion, Councillors will appoint a Councillor to act as a temporary Chairperson until the item has been voted on.
48. RIGHT TO ASK QUESTIONS
- 48.1. A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the Chair.
- 48.2. The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

DIVISION 5 – PROCEDURAL MOTIONS

49. PROCEDURAL MOTIONS

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

PROCEDURAL MOTIONS TABLE

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



DIVISION 6 – RESCISSION MOTIONS

50. NOTICE OF RESCISSION

50.1. A Councillor may propose a *notice of rescission* provided:

- 50.1.1. it has been signed and dated by at least three Councillors;
- 50.1.2. the resolution proposed to be rescinded has not been acted on; and
- 50.1.3. the notice of rescission is delivered to the Chief Executive Officer within 24 hours of the resolution having been made setting out –
 - a) the resolution to be rescinded; and
 - b) the meeting and date when the resolution was carried.

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.

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

- 50.2.1. its contents have or substance has been communicated in writing to a person whose interests are materially affected by it; or
- 50.2.2. a statutory process has been commenced

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

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

- 50.3.1. has not been acted on; and
- 50.3.2. is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-Rule 50.1.2,

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 50.3 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.

51. IF LOST

- 51.1. 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.

52. IF NOT MOVED

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

53. MAY BE MOVED BY ANY COUNCILLOR

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

54. WHEN NOT REQUIRED

- 54.1. Unless sub-Rule 54.2 applies, a motion for rescission is not required where *Council* wishes to change policy.
- 54.2. The following standards apply if *Council* wishes to change policy:
- 54.2.1. 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
- 54.2.2. 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

55. CHAIR TO DECIDE

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

56. CHAIR MAY ADJOURN TO CONSIDER

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

57. DISSENT FROM CHAIR'S RULING

- 57.1. 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".

- 57.2. 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 their place.

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

- 57.4. The Deputy Mayor or temporary *Chair* must put the motion in the following form:

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

- 57.5. If the vote is in the negative, the *Chair* resumes the Chair and the meeting proceeds.
- 57.6. If the vote is in the affirmative, the *Chair* must then resume the Chair, reverse or vary (as the case may be) their previous ruling and proceed.
- 57.7. 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.

58. PROCEDURE FOR POINT OF ORDER

- 58.1. A Councillor raising a point of order must:
- 58.1.1. state the point of order; and



58.1.2. state any section, Rule, paragraph or provision relevant to the point of order

before resuming their seat.

59. VALID POINTS OF ORDER

59.1. A point of order may be raised in relation to:

59.1.1. a motion, which, under Rule 24, or a question which, under Rule 54, should not be accepted by the *Chair*;

59.1.2. a question of procedure; or

59.1.3. any act of disorder.

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



DIVISION 8 – PUBLIC QUESTION TIME

60. QUESTION TIME

- 60.1. There must be a public question time at every *Council meeting* fixed under Rule 1515 to enable members of the public to submit questions to *Council*.
- 60.2. Sub-Rule 60.1 **Error! Reference source not found.** does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the Act.
- 60.3. Public question time will not exceed 30 minutes in duration.
- 60.4. A single 15 minute extension of the time permitted in subclause 60.3 may be allowed subject to approval from the majority of the Councillors present for the purposes of hearing the questions and addresses from community members that have been received.
- 60.5. Questions submitted to *Council* must be:
 - 60.5.1. in writing, state the name and address of the person submitting the question and generally be in a form approved or permitted by Council; and
 - 60.5.2. Presented to a member of Council staff at one of Councils Customer Service Centres prior to 10am on the day before the Council meeting, or be lodged electronically at the designated email address prior to 10am the day before the Council meeting.
- 60.6. No person may submit more than two questions at any one meeting.
- 60.7. If a person has submitted two questions to a meeting, the second question:
 - 60.7.1. may, at the discretion of the Chief Executive Officer or Chair, be deferred until all other persons who have asked a question have had their questions asked and answered; or
 - 60.7.2. may not be asked if the time allotted for public question time has expired.
- 60.8. The *Chair* or a member of Council staff nominated by the *Chair*, or the *questioner*, will read to those present at the meeting a question which has been submitted in accordance with this Rule.
- 60.9. A question may be disallowed by the *Chair* or the Chief Executive Officer if they determine that it:
 - 60.9.1. relates to a matter outside the duties, functions and powers of Council;



- 60.9.2. is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
- 60.9.3. deals with a subject matter already answered;
- 60.9.4. is aimed at embarrassing a Councillor or a member of Council staff;
- 60.9.5. relates to personnel matters;
- 60.9.6. relates to the personal hardship of any resident or ratepayer;
- 60.9.7. relates to industrial matters;
- 60.9.8. relates to contractual matters;
- 60.9.9. relates to proposed developments;
- 60.9.10. relates to legal advice;
- 60.9.11. relates to matters affecting the security of Council property; or
- 60.9.12. relates to any other matter which Council considers would prejudice Council or any person.
- 60.10. Any question which has been disallowed by the Chief Executive Officer or *Chair* must be made available to any other Councillor upon request.
- 60.11. All questions and answers must be as brief as possible, and no discussion may be allowed other than by *Councillors* for the purposes of clarification.
- 60.12. Like questions may be grouped together and a single answer provided.
- 60.13. The *Chair* may nominate a Councillor or *a member of Council staff* to respond to a question.
- 60.14. A councillor or the Chief Executive Officer may require a question to be put on notice. If a question is put on notice, a written copy of the answer will be sent to the person who asked the question.
- 60.15. A question may include an introduction of no more than 200 words.
- 60.16. Council may determine to defer an answer to a later date.
- 60.17. A Councillor or *the Chief Executive Officer* may advise *Council* that it is their opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or *Chief Executive Officer* (as the case may be) must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given

DIVISION 9 – PETITIONS AND JOINT LETTERS

61. PETITIONS AND JOINT LETTERS



- 61.1. Unless *Council* determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next *Council meeting* after that at which it has been presented.
- 61.2. It is incumbent on every Councillor presenting a petition or joint letter to acquaint themselves with the contents of that petition or joint letter, and to ascertain that it does not contain language which is disrespectful towards *Council*.
- 61.3. Every Councillor presenting a petition or joint letter to *Council* must:
 - 61.3.1. write or otherwise record their name at the beginning of the petition or joint letter; and
 - 61.3.2. confine themselves 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 prayer or request.
- 61.4. Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), contain the request of the petitioners or signatories and be signed by at least 20 people.
- 61.5. 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.
- 61.6. 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*.
- 61.7. Every page of a hard-copy petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 61.8. Electronic or online petitions, joint letters, memorials or like applications must contain the name, email address and suburb of each petitioner or signatory, which details will, for the purposes of this Rule 61, qualify as the address and signature of such petitioner or signatory.
- 61.9. 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.
- 61.10. Councillors must submit the petition to the Chief Executive Officer by 10am the day before the Council Meeting for it to be considered at that meeting..



- 61.11. Council may resolve to receive the petition or joint letter and refer the matter for a report or appropriate action as required to the next appropriate Council meeting, unless Council agrees to deal with it earlier.
- 61.12. When a petition relates to an item already on the agenda at the meeting at which the petition is tabled the matter may be dealt with at that meeting.
- 61.13. A petition or joint letter must:
- a) be in legible and permanent writing (other than pencil);
 - b) not be defamatory, indecent, abusive or objectional in language and content;
 - c) not relate to matters beyond the powers of Council;
 - d) bear the wording of the whole of the petition or request upon each page of the petition;
 - e) include the name, email address or phone number, suburb and signatures of petitioners; and
 - f) consist of single pages of paper and must not be pasted, stapled, pinned or otherwise affixed to any other piece of paper
 - g) the petition or joint letter must nominate a person to whom a reply must be sent to, but if no person is nominated or is the obvious contact person, Council may reply to the first signatory which appears on the petition.

DIVISION 10 – VOTING

62. HOW MOTION DETERMINED

- 62.1. 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.
- 62.2. A motion is determined in the affirmative by a majority of the Councillors present at a Council meeting at the time the vote is taken voting in favour.
- 62.3. How each Councillor voted for each motion put to the meeting will be recorded in the minutes of the *Council meeting*.

63. SILENCE

- 63.1. Voting must take place in silence.

64. RECOUNT



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

65. CASTING VOTE

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

66. BY SHOW OF HANDS

- 66.1. Voting on any matter is by show of hands.
66.2. Voting at a meeting that is open to members of the public must not be in secret.

67. PROCEDURE FOR A DIVISION

- 67.1. 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.
- 67.2. 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.
- 67.3. When a division is called for, the *Chair* must:
- 67.3.1. 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 their hands. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the affirmative; and
- 67.3.2. 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 their hands. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the negative.

68. NO DISCUSSION ONCE DECLARED

- 68.1. Once a vote on a question has been taken, no further discussion relating to the question is allowed unless the discussion involves:
- 68.1.1. a Councillor requesting, before the next item of business is considered, that their opposition to a resolution be recorded in the minutes or a register maintained for that purpose; or
- 68.1.2. foreshadowing a *notice of rescission* where a resolution has just been made, or a positive motion where a resolution has just been rescinded.



For example, Rule 68 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 68 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 68.1.2, to discussion about a positive motion were a resolution has just been rescinded.

DIVISION 11 – MINUTES

69. CONFIRMATION OF MINUTES

- 69.1. At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
- 69.1.1. a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;
 - 69.1.2. if no Councillor indicates opposition, the minutes must be declared to be confirmed;
 - 69.1.3. if a Councillor indicates opposition to the minutes:
 - a) they must specify the item(s) to which they object;
 - 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:
 - i. "Is the motion opposed?"



- ii. 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 69.1.24vii;
- iii. if a Councillor indicates opposition, then the Chair must call on the mover to address the meeting;
- iv. after the mover has addressed the meeting, the seconder may address the meeting;
- v. 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;
- vi. 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
- vii. the Chair must, after all objections have been dealt with, ultimately ask:
 - (i) "The question is that the minutes be confirmed" or
 - (ii) "The question is that the minutes, as amended, be confirmed",
 - (iii) and they must put the question to the vote accordingly;

69.1.4. 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;

69.1.5. the minutes must be entered in the minute book and each item in the minute book must be entered consecutively; and

69.1.6. 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.

70. NO DEBATE ON CONFIRMATION OF MINUTES

- 70.1. 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.

71. DEFERRAL OF CONFIRMATION OF MINUTES

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

72. FORM AND AVAILABILITY OF MINUTES

- 72.1. 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:
- 72.1.1. the date, place, time and nature of the meeting;
 - 72.1.2. the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
 - 72.1.3. the names of the members of Council staff present;
 - 72.1.4. any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5; and whether the conflict of interest was said by the Councillor to be a general conflict of interest or a material conflict of interest;
 - 72.1.5. arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
 - 72.1.6. each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
 - 72.1.7. the vote cast by each Councillor upon a division and any abstention from voting;
 - 72.1.8. the vote cast by any Councillor who has requested that their vote be recorded in the minutes;
 - 72.1.9. questions upon notice;
 - 72.1.10. the failure of a quorum;
 - 72.1.11. any adjournment of the meeting and the reasons for that adjournment; and
 - 72.1.12. the time at which standing orders were suspended and resumed.
- 72.2. Apart from minutes relating to a Council meeting or part of a Council meeting that is closed to members of the public in accordance with section 66 of the Act,



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

- 72.2.1. published on Council's website;
- 72.2.2. available for inspection at Council's office during normal business hours.

DIVISION 12 – BEHAVIOUR

73. PUBLIC ADDRESSING THE MEETING

- 73.1. 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.
- 73.2. 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.
- 73.3. Any member of the public wishing to address Council must submit a brief synopsis of the address in writing by the Chief Executive Officer by 10am the day before the Council meeting.
- 73.4. A time limit of three minutes of each address will apply but the time may be extended at the discretion of the chairperson.
- 73.5. A person wishing to address Council at a virtual *Council Meeting* must address virtually, but may choose to address virtually or in person at an in-person meeting.
- 73.6. A person will be permitted to address Council if the Chair or the Chief Executive Officer has determined that the relevant address:
 - a) does not relate to a matter beyond or outside the duties, functions and power of Council;
 - b) is not defamatory, indecent, abusive, offensive, irrelevant or objectional in language or content;
 - c) is not a repetitious of an address already presented (whether at the same or an earlier meeting);
 - d) is not aimed to embarrass a Councillor or a member of a Council staff or member of the public; and
 - e) does not relate to a development application before Council.
- 73.7. The Chairperson may decide to defer an address until a later date.

- 73.8. A member of the public present at a *Council meeting* must not disrupt the meeting.

74. PUBLIC SUBMISSIONS UNDER SECTION 223 OF THE 1898 ACT

- 74.1. Where a person is given the right to make a submission under section 223 of the 1989 Act and requests to appear in person (or be represented by a person specified in the submission) at a Council Meeting to be heard in support of their submission, the time limit for such hearing will be three minutes.
- 74.2. The Chairperson may allow the hearing to exceed three minutes.

75. CHAIR MAY REMOVE

- 75.1. The *Chair* may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 73.2.

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

76. CHAIR MAY ADJOURN DISORDERLY MEETING

- 76.1. 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*, they may adjourn the meeting to a later time on the same day or to some later day as they thinks proper. In that event, the provisions of sub-Rules 21.2 and 21.3 apply.

77. REMOVAL FROM CHAMBER

- 77.1. 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 meeting under Rule 75.

DIVISION 13 – ADDITIONAL DUTIES OF CHAIR

78. THE CHAIR'S DUTIES AND DISCRETIONS

- 78.1. In addition to the duties and discretions provided in this Chapter, the *Chair*:
- 78.1.1. 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



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

DIVISION 14 – SUSPENSION OF STANDING ORDERS

79. SUSPENSION OF STANDING ORDERS

79.1. 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.

79.2. 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....."

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

79.4. 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

80. MEETINGS CONDUCTED REMOTELY

80.1. If:

80.1.1. by law a meeting may be conducted electronically; and

80.1.2. *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.

81. HYBRID COUNCIL MEETINGS

81.1. If a councillor is unable to attend a *Council meeting* in-person, they may attend and participate in voting virtually as long as:

81.1.1. They can clearly see and hear, and be seen and heard by, their Councillor colleagues'

81.1.2. They understand that, should electronic connection be lost and not be able to be re-established, the meeting will not be adjourned or postponed unless there is no longer a quorum.

81.2. 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.

81.3. If a member of the public wishing to address Council is unable to attend a *Council meeting* in-person, they may address Council virtually,

Note: when the *Council meeting* is being conducted virtually, members of the public may only address Council virtually.

82. PROCEDURE NOT PROVIDED IN THIS CHAPTER

82.1. 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).

83. CRITICISM OF MEMBERS OF COUNCIL STAFF

83.1. 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.

83.2. A statement under sub-Rule **Error! Reference source not found.** must be made by the Chief Executive Officer, through the Chair, as soon as it practicable after the Councillor who made the statement has resumed their seat.

DIVISION 16 – COMMON SEAL

84. USE OF COMMON SEAL

84.1.1. The common seal may be affixed to a document for the purpose of giving effect to a decision:

84.1.2. made by Council resolution; or

84.1.3. made by the Chief Executive Officer under delegation.

85. SECURITY OF THE COMMON SEAL



85.1.1. A Director nominated by the Chief Executive Officer must keep the common seal in safe custody.

86. SIGNATURES TO ACCOMPANY SEAL

86.1.1. Every document to which the common seal is affixed must be signed by: the Mayor and the Chief Executive Officer; or

86.1.2. in the absence of the Mayor, by two Councillors and the Chief Executive Officer; or

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

87. COMMON SEAL REGISTER

87.1.1. The Chief Executive Officer must ensure that a common seal register is maintained which records the following information each time the common seal is affixed to a document: a description of the document to which the seal was affixed; and the date on which the common seal was affixed.

88. COMMON SEAL – SEALING CLAUSE

The following wording applies to any document to which the common seal is affixed:

The COMMON SEAL of the
HEPBURN SHIRE COUNCIL was affixed on this
.....day of.....20XX
on the authority of the Council and signed by:
..... Mayor
..... Chief Executive Officer



CHAPTER 3 – MEETING PROCEDURE FOR DELEGATED COMMITTEES

89. MEETING PROCEDURE GENERALLY

If Council establishes a Delegated Committee:

89.1. all of the provisions of Chapter 2 apply to meetings of the *Delegated Committee*; and

89.1.1. any reference in Chapter 2 to:

- a) a *Council meeting* is to be read as a reference to a *Delegated Committee* meeting;
- b) a Councillor is to be read as a reference to a member of the *Delegated Committee*; and
- c) the Mayor is to be read as a reference to the Chair of the *Delegated Committee*.

90. MEETING PROCEDURE CAN BE VARIED

90.1. Notwithstanding Rule 89, 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.



CHAPTER 4 – MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEES

91. INTRODUCTION

- 91.1. 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*.

92. MEETING PROCEDURE

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



CHAPTER 5 – DISCLOSURE OF CONFLICTS OF INTEREST

93. DEFINITION

93.1. In this Chapter:

- a) “attend” and “in attendance” include attend or in attendance by electronic means
- b) “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 104 of Chapter 6 (whether such a meeting is known as a ‘Councillor Briefing’ or by some other name); and
- c) a member of a Delegated *Committee* includes a Councillor.

94. DISCLOSURE OF A CONFLICT OF INTEREST AT A COUNCIL MEETING

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

94.1.1. are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the Council meeting immediately before the matter is considered; and indicating whether it is a general conflict of interest or a material conflict of interest; or

94.1.2. intend to be in attendance must disclose that conflict of interest by providing to the Chief Executive *Officer* before the *Council meeting* commences a written notice:

- a) advising of the conflict of interest;
- b) explaining the nature of the conflict of interest; and indicating whether it is a general conflict of interest or a material conflict of interest; and
- c) detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:
 - viii. name of the other person;
 - ix. nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - x. nature of that other person’s interest in the matter,



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

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

95. DISCLOSURE OF CONFLICT OF INTEREST AT A DELEGATED COMMITTEE MEETING

- 95.1. A member of a *Delegated Committee* who has a conflict of interest in a matter being considered at a *Delegated Committee* meeting at which they:

- a) are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the *Delegated Committee* meeting immediately before the matter is considered; and indicating whether it is a general conflict of interest or a material conflict of interest; or
- b) intend to attend must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Delegated Committee* meeting commences a written notice:
 - i. advising of the conflict of interest;
 - ii. explaining the nature of the conflict of interest; and indicating whether it is a general conflict of interest or a material conflict of interest; and
 - iii. detailing, if the nature of the conflict of interest involves a member of a *Delegated Committee's* relationship with or a gift from another person the:
 - (i) name of the other person;
 - (ii) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - (iii) nature of that other person's interest in the matter,

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



- 95.3. 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.
96. DISCLOSURE OF A CONFLICT OF INTEREST AT A COMMUNITY ASSET COMMITTEE MEETING
- 96.1. A Councillor who has a conflict of interest in a matter being considered at a *Community Asset Committee* meeting at which they:
- a) are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the *Community Asset Committee* meeting immediately before the matter is considered; and indicating whether it is a general conflict of interest or a material conflict of interest; or
 - b) intend to attend must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:
 - i. advising of the conflict of interest;
 - ii. explaining the nature of the conflict of interest; and indicating whether it is a general conflict of interest or a material conflict of interest; and
 - iii. detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
 - (i) name of the other person;
 - (ii) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - (iii) nature of that other person's interest in the matter,
- 96.2. and then immediately before the matter is considered at the meeting announcing to those in attendance that they have a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.
- 96.3. The Councillor must, in either event, leave the *Committee Asset Committee* meeting immediately after giving the explanation or making the announcement



(as the case may be) and not return to the meeting until after the matter has been disposed of.

97. DISCLOSURE AT A MEETING CONDUCTED UNDER THE AUSPICES OF COUNCIL

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

- a) disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the meeting immediately before the matter is considered; and indicating whether it is a general conflict of interest or a material conflict of interest;
- b) absent themselves 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 in attendance at the meeting.

98. DISCLOSURE BY MEMBERS OF COUNCIL STAFF PREPARING REPORTS FOR MEETINGS

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

- a) Council meeting;
- b) Delegated Committee meeting;
- c) Community Asset Committee meeting

must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* disclosing the conflict of interest and explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest.

98.2. The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 98.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

98.3. If the member of Council staff referred to in sub-Rule 98.11 is the *Chief Executive Officer*:

98.3.1. the written notice referred to in sub-Rule 98.1.1 must be given to the *Mayor*; and



98.3.2. the obligation imposed by sub-Rule 98.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

99. DISCLOSURE OF CONFLICT OF INTEREST BY MEMBERS OF COUNCIL STAFF IN THE EXERCISE OF DELEGATED POWER

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

99.2. If the member of Council staff referred to in sub-Rule 99.1.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

100. DISCLOSURE BY A MEMBER OF COUNCIL STAFF IN THE EXERCISE OF A STATUTORY FUNCTION

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

100.2. If the member of Council staff referred to in sub-Rule 100.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

101. RETENTION OF WRITTEN NOTICES

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



CHAPTER 6 – MISCELLANEOUS

102. INFORMAL MEETINGS OF COUNCILLORS

102.1. If there is a meeting of Councillors that:

- a) is scheduled or planned for the purpose of discussing the business of *Council* or briefing Councillors;
- b) is attended by at least one member of Council staff; and
- c) 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:

- d) tabled at the next convenient Council meeting; and
- e) recorded in the minutes of that Council meeting.

103. CONFIDENTIAL INFORMATION

- 103.1. The *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the *Act*, they may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 103.2. 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.
- 103.3. Nothing in sub-Rule 103.2 will, without more, mean that information designated by the *Chief Executive Officer* under sub-Rule **Error! Reference source not found.** satisfies the definition of “confidential information” contained in section 3(1) of the *Act*.

104. RECORDING OF MEETINGS

- 104.1. The Chief Executive Officer (or any other person authorised by the Chief Executive Officer) may conduct electronic broadcasting (webcasting) of a council meeting by any means.
- 104.2. A person, including any representative of the media, must not operate photographic, audio or video recording equipment or any other recording device at any Council Meeting without first obtaining the consent of Council or the



Chairperson. Such consent may at any time during the course of such meeting be revoked by Council or the Chairperson (as the case may be).

- 104.3. The Chief Executive Officer must advise the Chairperson before the commencement of the meeting of any approval to record the meeting that has been given and the Chairperson must inform those in attendance at the meeting, that, subject to any relevant legislative provisions, proceedings will be recorded.
- 104.4. The approval to record a meeting is subject to the business of the meeting being able to continue in an orderly and lawful manner and in a way that the rights and responsibilities of all attendees can be appropriately managed.
- 104.5. This clause does not apply to any member of Council staff operating any recording device for the purpose of preparing draft minutes of the meeting.
- 104.6. Recordings made by a member of council staff for the purpose of preparing draft minutes of a meeting will be retained for a period of up to three months from the date of the meeting.



CHAPTER 7 - ELECTION PERIOD POLICY

| | | |
|-----|--|----|
| 1. | INTRODUCTION | 46 |
| 2. | PURPOSE | 46 |
| 3. | SCOPE | 47 |
| 4. | DEFINITIONS | 47 |
| 5. | ELECTION PERIOD | 52 |
| 6. | DECISION MAKING – ACCOUNTABILITY | 52 |
| 7. | PUBLIC CONSULTATION | 54 |
| 8. | COUNCIL PUBLICATIONS | 54 |
| 9. | COUNCIL EVENTS | 56 |
| 10. | COUNCIL RESOURCES | 57 |
| 11. | MEDIA SERVICES | 58 |
| 12. | EXTRAORDINARY CIRCUMSTANCES | 59 |
| 13. | COUNCIL MEETINGS | 59 |
| 14. | INFORMATION | 59 |
| 15. | ASSISTANCE TO CANDIDATES | 60 |
| 16. | ADVERTISING SIGNAGE ON COUNCIL-CONTROLLED LAND | 61 |
| 17. | BREACHES | 61 |
| 18. | COUNCILLOR CODE OF CONDUCT | 62 |
| 19. | FURTHER INFORMATION | 62 |
| 20. | IMPLEMENTATION | 62 |
| 21. | REVIEW | 62 |



1. INTRODUCTION

The Local Government Act 2020 requires Council to include and adopt an Election Period Policy (Policy) in its Governance Rules.

This Policy forms Chapter 7 of the Hepburn Shire Council Governance Rules.

This Policy provides a framework for decisions prohibited by Council during the election period in accordance with the Act, and the procedures to be applied by Council during the election period for.

The 'election period' as defined by the Act for the 2020 local government elections will commence on 22 September 2020 and end at 6pm on election day, 24 October 2020.

This policy replaces the Election Period Policy adopted by Council on 17 December 2019.

Hepburn Shire Council is committed to good governance and to fair and democratic elections. The purpose of Council's caretaker policy is to ensure that the ordinary business of local government at Hepburn Shire Council continues throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established caretaker conventions.

2. PURPOSE

This policy has been developed in accordance with the Act and to ensure the Hepburn Shire Council elections 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.

The policy sets out how Council will:

- avoid making decisions which would affect voting in the election or could reasonably be made after the election;
- not use resources inappropriately during the election period prior to the election;
- limit public consultation and the scheduling of Council events;
- ensure that access to information held by Council is made equally available and accessible to all candidates during the election.



DRAFT ELECTION PERIOD POLICY – Attachment to Governance Rules (Chapter 7)

3. SCOPE

This policy applies to Hepburn Shire Council councillors, 2020 general election candidates and all employees of Hepburn Shire Council (whether permanent, temporary, casual, part-time or contract) up to and during the election period.

4. DEFINITIONS

| TERM | DEFINITION | SOURCE |
|-------------------------------|--|------------------------------|
| Candidate | <p>Means a person:</p> <ol style="list-style-type: none"> 1. Who has nominated as a candidate for an election under section 256 of the Act. 2. Who has: <ol style="list-style-type: none"> a) publicly expressed an intention to run as a candidate in the election; and or b) a person who has formally nominated as a candidate in the election with the Returning Officer. <p>A candidate is a “known candidate” when a person has actual knowledge of the candidate’s identity and that they meet the above definition.</p> | <p>Act s.3</p> <p>Policy</p> |
| Chief Executive Officer (CEO) | <p>Means:</p> <ol style="list-style-type: none"> a) The person appointed by a Council to be its Chief Executive Officer under section 44 of the Act or any person acting in that position; and/or b) The Chief Executive Officer's delegate <p>Such other person that the Chief Executive Officer selects for the purpose of giving effect to this Policy.</p> | <p>Act s.3</p> <p>Policy</p> |
| Council | Means the Hepburn Shire Council, whether constituted before or after the commencement of this Policy. | Policy |


**DRAFT ELECTION PERIOD POLICY – Attachment to Governance Rules
(Chapter 7)**

| TERM | DEFINITION | SOURCE |
|-------------------------|--|-----------------|
| Council-controlled land | Means any land which Council, owns, occupies, manages, has leased or licensed to another person or is otherwise under Council's control and management, other than a road. | Local Law no. 2 |
| Councillor-Candidate | Means a current Councillor who has nominated, or is considering nominating for election in the 24 October 2020 Council elections. | Policy |
| Electioneering | Means any action, statement and or publication that contains material directly related to, or likely to influence, a Councillor's re-election or a candidate's election. | Policy |
| Electoral material | Means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting. | Act s.3 |
| Electoral matter | <p>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.</p> <p>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 -</p> <ul style="list-style-type: none"> (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. <p>Electoral matter includes material which:</p> | Policy |


**DRAFT ELECTION PERIOD POLICY – Attachment to Governance Rules
 (Chapter 7)**

| TERM | DEFINITION | SOURCE |
|---------------------|--|-------------------------------|
| | <ul style="list-style-type: none"> Publicises the strengths or weaknesses of a candidate Advocates the policies of the Council or of a candidate Responds to claims made by a candidate Publicises the achievements of the elected Council. | |
| Election Period | <p>Means the period that:</p> <ul style="list-style-type: none"> a) starts at the time that nominations close on nomination day; and b) ends at 6 p.m. on election day; | Act s.3 |
| Nomination Day | Means the last day on which nominations to be a candidate at a Council election may be received in accordance with this Act and the regulations. | Act s.3 |
| Prohibited decision | <p>Means any decision -</p> <ul style="list-style-type: none"> a) relating to the appointment or remuneration of a Chief Executive Officer, but not to the appointment or remuneration of an Acting Chief Executive Officer; or b) commits the Council to expenditure exceeding 1% of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or c) the Council considered could be reasonably deferred until the next Council is in place; or d) that Council considered should not be made during an election period; or | <p>Act s.69</p> <p>Policy</p> |


**DRAFT ELECTION PERIOD POLICY – Attachment to Governance Rules
 (Chapter 7)**

| TERM | DEFINITION | SOURCE |
|---------------------|--|---------|
| | e) that would enable the use of Council's resources in a way that is intended to influence voting at an election. f) Means an irrevocable decision that significantly affects the municipality. | |
| Publication | Means: a) a published work in any form (e.g. hardcopy or digital) including but not limited to brochures, articles, letters, posters, policies, strategies, papers, letters, commentary. b) the act or process of publishing. | Policy |
| Publish | Means publish by any means including by publication on the Internet. | Act s.3 |
| Public consultation | Means a process which 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. | Policy |
| Returning Officer | Means: a) the Electoral Commissioner; or b) a person appointed in writing by the Electoral Commissioner; | Policy |



**DRAFT ELECTION PERIOD POLICY – Attachment to Governance Rules
(Chapter 7)**

| TERM | DEFINITION | SOURCE |
|--------------------------------------|--|--------|
| Road | <p>Road includes:</p> <ul style="list-style-type: none"> a) a street; and b) a right of way; and c) a public highway; and d) any land reserved or proclaimed as a street or road under the Crown Land (Reserves) e) Act 1978 or the Land Act 1958; and f) a public road under the Road Management Act 2004; and g) a passage; and h) a cul de sac; and i) a by-pass; and j) a bridge or ford; and k) a footpath, bicycle path or nature strip; and l) any culvert or kerbing or other land; and m) works forming part of the Road | Policy |
| Staff, Council staff or Staff member | Means any employee of Council whether permanent or temporary or casual, and includes contractors, and volunteers carrying out work for or on behalf of Hepburn Shire Council. | Policy |



POLICY

5. ELECTION PERIOD

The Local Government Act 2020 the (“Act”) defines the election period to be the period that:

- starts on the last day on which nominations for that election can be received; and
- ends at 6.00 pm on election day.

6. DECISION MAKING – ACCOUNTABILITY

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.

6.1. COUNCIL WILL FUNCTION IN ACCORDANCE WITH THIS ELECTION PERIOD POLICY DURING THE ELECTION PERIOD.

In addition, the Chief Executive Officer’s statutory responsibilities, the Chief Executive Officer will:

- Ensure as far as possible, that all councillors and officers are informed of the application of this policy 30 days prior to the commencement of the election period.
- Ensure as far as possible, that matters of Council business requiring prohibited decisions are scheduled for Council to consider prior to the commencement of the election period, or deferred where appropriate for determination by the incoming Council.
- Not include in the order of business for any Council meeting scheduled during the election period, any matters requiring prohibited decisions or matters that could be considered prohibited decisions.

The Chief Executive Officer may issue guidelines to staff on the role and responsibilities of staff in the implementation of this policy.

The Chief Executive Officer may also issue guidelines to councillors to inform them about changes to services, processes and procedures that may impact them in their role during the election period.

6.2. DECISIONS – COUNCIL AND DELEGATED COMMITTEE MEETINGS



During the election period reports to Council and any Delegated Committees of Council meetings will be carefully vetted to avoid listing matters on the Agenda which could foreseeably influence voters' intentions at the forthcoming election; or encourage Councillor- candidates to use the matter as part of their election platform.

Councillors commit to refrain from moving motions on, or raising matters at Council or Delegated Committee meetings that could potentially influence voting at the election

6.3. DECISIONS - DELEGATES

The ordinary, day-to-day business of local government must continue throughout the election period. That business will be conducted by Council, its delegates and staff in a responsible and transparent manner, in accordance with statutory requirements.

Most Council decisions are not made at meetings of the Council. Significant decision-making power is formally delegated to staff and the decision of a delegate is 'deemed' to be a decision by Council. Because a delegate's decision is the same as a Council decision, the same constraints that apply to decisions made in Council and Delegated Committee meetings apply when delegates make decisions. Delegates should therefore give careful consideration to the exercise of their powers during the election period.

Should a delegate be required to make a decision(s) under delegation in the ordinary course of Council business during the election period, the delegate must satisfy themselves beforehand that the decision is not a prohibited decision.

The following matters may also be considered a prohibited decision during the election period:

- Allocation of community grants;
- Direct funding to community organisations;
- Major planning scheme amendments; or
- Changes to strategic objectives and strategies in the Council Plan.

6.4. INVALID DECISIONS

In accordance with section 69(4) of the Act, if the following decision are made during the election period, the decisions are invalid:

- relating to the appointment or remuneration of the Chief Executive Officer, but not the appointment or remuneration of an Acting Chief Executive Officer; and
- committing the Council to expenditure exceeding 1% of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year.

6.5. COMPENSATION



In accordance with section 69(5) of the Act, any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is an invalid decision, is entitled to compensation from the Council for that loss or damage.

7. PUBLIC CONSULTATION

Consultation is an integral part of Council's policy development process and operations.

Surveys, blogs, invitations to put forward submissions, and other community engagement activities should be avoided during the election period.

Council will not continue or commence public consultation on prohibited decisions, contentious or politically sensitive matters after the commencement of the election period.

However, some public consultation activities may be necessary during the election period to facilitate the day-to-day business of Council.

Public consultation associated with activities and decisions which are the subject of statutory processes, for example:

- Applications under the Planning and Environment Act 1987 can be expected to continue through the election period to ensure Council does not breach its statutory obligations.

Public consultation not associated with activities and decisions which are the subject of statutory processes shall only proceed if prior approval is given by the Chief Executive Officer.

Where community engagement has occurred prior to the election period but the report has not yet proceeded to a Council or Delegated Committee meeting, results of the consultation will also not be provided to a Council or Delegated Committee meeting until the election period has concluded.

Any public consultation that does proceed during the election period will be vetted for electoral matter and express or implicit links to the election.

7.1. POSTPONING CONSULTATION

In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the election period, Council reserves the right where possible and practicable, to postpone public consultation and any associated decisions where the matter is considered likely to affect voting in the election.

8. COUNCIL PUBLICATIONS

8.1. PROHIBITION ON PUBLISHING MATERIAL DURING THE ELECTION PERIOD



Council must not publish electoral material that contains electoral matter. The words “advertisement, handbill, pamphlet or notice” are to be interpreted broadly and will include, amongst other things:

- Brochures, pamphlets, handbills, flyers, magazines and books
- Newsletters and other circulars (hardcopy and/or electronic)
- New website material and social media posts
- Mass mail outs or letters to a large number of people
- Media releases
- Material to publicise a function or event
- Notices or posters placed on Council controlled property, including walls, noticeboards, and electronic noticeboards and screens

This does not apply to the publishing of any document published before the commencement of the election period or publication of any document required to be published in accordance with, or under, any Act or regulation.

8.2. COUNCIL PUBLICATIONS INCLUDING COUNCILLOR INFORMATION

References to councillors who are standing for re-election in Council publications printed, published or distributed during the election period could be considered electoral matter and will be carefully vetted during the certification process.

8.3. EXISTING PUBLICATIONS

Existing publications will be reviewed at the start of the election period. Publications or material which is prominently displayed and might be regarded as likely to influence how people vote may be temporarily removed from display. Any material so removed may still be provided to members of the community upon request.

In the context of Council’s website, prominently displayed means content visible on the Hepburn Shire Council’s website: www.hepburn.vic.gov.au and all pages contained within.

During the election period Councillor profile pages will be limited to names, contact details, date elected and councillor assignments. There will be no biographies or policy statements.

8.4. ANNUAL REPORT

Council is required by the Act to produce its Annual Report. The 2020-21 Annual Report will be published during the election period. The Annual Report will not contain any



material that could be regarded as overt electioneering or that inappropriately promotes individual councillors.

Any publication of an extract or summary of the Annual Report should not contain information that could be considered electoral matter.

8.5. COUNCIL AND DELEGATED COMMITTEE MEETINGS

Council is required by the Governance Rules to:

- Give public notice of Council meetings and Delegated Committee meetings; and
- Produce and make available agendas and minutes of Council meetings and Delegated Committee meetings.

8.6. SOCIAL MEDIA

At the start of the election period a message will be posted on Council's social media channels and website stating these channels will have no new content added until after the election period unless it relates to existing Council services.

Any new publication on social media sites including Facebook, Twitter, Instagram, blogs and wiki pages created by Council during the election period should not contain information that could be considered electoral matter.

As public comments posted on Council's social media sites could be considered electoral matter, staff responsible for administering social media sites will, where possible, disable public commenting. Where public commenting cannot be disabled, staff will monitor their respective sites during the election period and where possible, remove information that could be considered electoral matter as soon as reasonably practicable after it is posted.

9. COUNCIL EVENTS

Where practicable, civic and ceremonial Council events should not be scheduled during the election period. Civic and ceremonial events do not include routine events and programs conducted as part of Council's day-to-day activities (e.g. library programs).

Any civic or ceremonial council event held during the election period should meet one or more of the following criteria:

- It is a planned event endorsed by the current Council Plan;
- It is routinely held at the same time of year;
- It is a commemorative or anniversary event held on or near the anniversary date;



- It demonstrates a clear community benefit, or serves an educational or welfare purpose; or
- It contributes to cultural development, social awareness or sense of community identity.

Councillors may attend events as required by their Council duties, but are not permitted to use these appearances for electioneering.

10. COUNCIL RESOURCES

10.1. APPLICATION OF RESOURCES

Council resources, including offices, staff, hospitality, services (including phone, internet and email), property, equipment and stationary must be used exclusively for normal Council business during the election period and must not be used in connection with any election campaign or issue.

Councillor-candidates must not use Council resources in connection with any activities associated with their election campaigns, regardless of any entitlement to "reasonable personal use" of Council equipment under any other policy, protocol or terms of use.

Councillor-candidates should also be mindful to manage any perceived conflicts even where a direct expense isn't incurred, this may include for example:

- Where campaign-related emails are received in a Council email account, send any responses from a private email and encourage the correspondent to use that account in future.
- Where campaign-related calls are received on a Council device, provide and encourage the caller to use a non-council number for future calls.

10.2. ROLE OF COUNCIL STAFF

The Executive Assistant to the CEO & Councillors, and other Governance staff, will not be asked to undertake any tasks connected directly or indirectly with the election campaign of a councillor standing for re-election.

10.3. USE OF COUNCIL EQUIPMENT BY COUNCILLORS

Councillors may continue to use any Council equipment provided to them to facilitate their performance of normal Council duties during the election period, subject to existing protocols and terms of use.

10.4. COUNCILLORS' ENTITLEMENT TO REIMBURSEMENT



Reimbursements of councillors' out-of-pocket expenses during the election period will only apply to expenses incurred in the performance of normal Council duties, and not for expenses that support or are connected with a candidate's election campaign.

10.5. COUNCIL BRANDING

No Council logos, letterheads, Council taken photos or other Hepburn Shire Council branding may be used for, or linked in any way to, a candidate's election campaign.

10.6. COUNCILLOR CORRESPONDENCE

While the routine business of Council must continue, it is important that the administration is not perceived as providing Councillor-candidates any undue advantage whilst campaigning.

During the election period, any responses prepared by the administration in response to correspondence addressed to a Councillor-candidate, will therefore be signed by the Chief Executive Officer or relevant Director or Manager as appropriate. Such responses will acknowledge the administration is responding due to limitations imposed upon councillors during the election period.

10.7. OFFICERS DISCRETION

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

Where the use of Council resources appears to relate to the election campaign of a councillor standing for re-election, the matter must be referred to the Chief Executive Officer.

11. MEDIA SERVICES

11.1. RESTRICTION ON SERVICES

During the election period, Council resources must not be used in any way that might promote a councillor as an election candidate.

New Council publicity during the election period will be restricted to communicating normal Council activities and initiatives and subject to approval by the Chief Executive Officer.

11.2. MEDIA RELEASES/SPOKESPERSONS

Media releases during the election period will minimise references to specific councillors and will not identify any councillor in a manner that could promote a councillor as an



election candidate. Where it is necessary to identify a spokesperson, the Chief Executive Officer or his delegate will be consulted.

11.3. COUNCILLORS

Councillors must not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention during the election period in support of an election campaign.

11.4. COUNCIL EMPLOYEES

During the election period no Council employee may make any public statement that relates to an election issue unless prior approval from the Chief Executive Officer has been obtained.

12. EXTRAORDINARY CIRCUMSTANCES

If the Council considers that there are extraordinary circumstances which require the making of a decision during the Election Period that in doing so would breach the Act, the Council may apply in writing to the Minister for Local Government for an exemption from the application of this prohibition.

13. COUNCIL MEETINGS

Ordinary Council Meetings will continue to take place during the Election Period. However, the following adjustments will be made to the Agenda:

- 104.6.1. Public Question Time will be suspended;
- 104.6.2. General Business and Notice of Motion will not be allowed where the matter is an Electoral Matter;
- 104.6.3. Councillors will limit their discussion during debate to the topic under consideration and will avoid raising Electoral Matter; and
- 104.6.4. Reports for the consideration of Council will be referred to the CEO for approval before inclusion on the meeting agenda.

14. INFORMATION

14.1. CANDIDATES' ACCESS TO INFORMATION

Council recognises that all election candidates have certain rights to information relevant to their election campaigns from the Council administration subject to legislative constraints such as:



- Sections 123 of the Act which prohibit Councillor candidates from misusing or inappropriately making use of their position; and
- the *Privacy and Data Protection Act 2014*.

Councillors will continue to receive information that is necessary to fulfil their existing elected roles. Beyond that, only information that is readily available to any member of the community will be provided to any candidate.

14.2. INFORMATION REQUEST REGISTER

An Information Request Register will be maintained by the Manager Governance and Risk during the election period. This Register will be a public document and record requests by persons who identify themselves as candidates when seeking information relating to electoral matters or when making other general enquiries.

The register will also record the responses provided.

Any candidate may, upon request, obtain information about the recorded requests made by another candidate as recorded in the Information Request Register and a copy of information given in response to the request.

The Manager Governance and Risk may, at their discretion, automatically circulate to all candidates, the response to any request recorded in the Information Request Register.

15. ASSISTANCE TO CANDIDATES

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

15.1. CANDIDATE INFORMATION

Council will provide candidates with a Councillor Candidate Information Kit to assist them in running and nominating for Council.

The Councillor Candidate Information Kit may include:

- Information about this policy;
- Information about nominating as a candidate;
- Information about other sources of information, including from the Victorian Electoral Commission and the Returning Officer; or
- Information about election campaign donation returns.

15.2. COUNCIL STAFF



Upon becoming a candidate in a Hepburn Shire Council election, the Council staff member must:

- Inform the Chief Executive Officer;
- Take leave from their duties at least for the duration of the election period in accordance with sections 34 and 256 the Act;
- Return any Council equipment (including, but not limited to, motor vehicles, telephones and computers), documents or information that is not available to the public at least for the duration of the election period; and
- If elected, immediately resign from their employed position at Council, in accordance with sections 34 and 256 Act.

15.3. MEMBER OF COUNCIL DELEGATED OR ADVISORY COMMITTEES

Upon becoming a candidate, any person who is a member of one of Council's Delegated committees or Advisory committees is expected to:

- Comply with this policy;
- Inform the Chief Executive Officer;
- Take leave from the Delegated committee or Advisory committee
- Return any council equipment, documents or information which is not available to the public for the duration of their candidacy and/or the election period; and
- If elected, immediately resign from the Delegated committee or Advisory committee.

16. ADVERTISING SIGNAGE ON COUNCIL-CONTROLLED LAND

Candidates and their supporters are not permitted to affix, attach or place advertising signs on Council-controlled land or a Council road during election campaigns including during the election period.

17. BREACHES

Sections 123 of the Act prohibits Councillors from misusing or inappropriately making use of their position. A breach of section 123 attracts serious penalties, including possible imprisonment. Allegations of breaches of the Act are independently received and investigated by the Local Government Inspectorate.

Section 304 of the Act prohibits Councillors or a member of Council staff from using resources in a way that is intended to or likely to affect the result of an election.



In addition, section 304 of the Act also prohibits Councillors or a member of Council staff from using Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any 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.

18. COUNCILLOR CODE OF CONDUCT

Allegations of breaches of this Policy will be dealt with under the Dispute Resolution Procedures in the Hepburn Shire Council – Councillor Code of Conduct. The Chief Executive Officer will take the place of the Mayor in managing complaints received under the Election Period (Caretaker) Policy.

Complaints must be directed to the Chief Executive Officer in writing, providing details of the alleged contravention, when it occurred and who it involved. The Chief Executive Officer will assess the information and follow the provisions of the Dispute Resolution Procedures in the Hepburn Shire Council – Councillor Code of Conduct including, where necessary, the appointment of an external arbiter.

19. FURTHER INFORMATION

Any enquiries about the Election Period Policy should be directed to Council's Manager Governance and Risk or Director Organisational Services.

20. IMPLEMENTATION

A copy of this policy will:

- a) be given to each councillor as soon as practicable after it is adopted; and
- b) be available for inspection by the public at Council's customer service centres in Daylesford, Creswick and Clunes; and
- c) be published on the Council's Internet website

The policy and the related certification processes will be communicated to all Council staff in the lead up to the election period.

21. REVIEW

The Election Period Policy will be formally reviewed and updated at least one year prior to each Hepburn Shire general election in accordance with the Act, or as required by legislative changes.

The officer responsible for the review of this policy is the Manager Governance and Risk and the Director Organisational Services

Date Register sent to Governance: