

**DRAFT FOR ENGAGEMENT PURPOSES
NOT ADOPTED BY COUNCIL**



Governance Rules

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CONTEXT

The Governance Rules provide for the Council to consider and make decisions on any matter fairly and on the merits and enable a person whose rights are directly affected by a decision to have their views heard and interest considered in the process.

The conduct of Council meetings is at the discretion of Council except as provided in the Act and the Governance Rules. Section 60 of the *Local Government Act 2020* (the Act) requires Council to adopt Governance Rules to:

- (a) manage the conduct of Council meetings, including Delegated Committee meetings;
- (b) detail the form and availability of meeting records;
- (c) establish the process for the election of Mayor and Deputy Mayor
- (d) outline the appointment of an Acting Mayor;
- (e) detail the arrangements during an election period; and
- (f) specify how Councillors, members of Delegated Committees and Council staff disclosure of conflicts of interest in accordance with the Act.

These Governance Rules will replace the Local Law No. 1 Procedures for Council Meetings.

Council may amend its Governance Rules following a process of community engagement. However, under section 60(5) a community engagement process is not required if Council is adopting a good practice guideline issued by the Minister for Local Government.

Governance Rules are not subordinate legislation. The Act provides that the Mayor is responsible promoting good behaviour at Council meetings. The Mayor has the power to direct Councillors and members of the public to leave a meeting if their behaviour is preventing the Council from conducting its business.

The Governance Rules apply to Council meetings and meeting of Delegated Committees and Community Asset Committees. The Governance Rules will be applied to other Council meetings, such as Audit and Risk Committee meetings, as outlined in the relevant terms of reference or charter

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DEFINITIONS

(1) In these Governance Rules:

Act means the *Local Government Act 2020*;

Advisory committee means a committee established by the *Council*, that provides advice to —

(a) the *Council*; or

(b) a member of *Council* staff who has been delegated a power, duty or function of the *Council*;

that is not a Delegated Committee

Agenda means a document containing the date, time and place of a meeting and a list of business to be transacted at the meeting;

Agreement of Council means indicative agreement of all Councillors present, without a vote being conducted. In the event there is any uncertainty about majority of Councillors agreeing, the matter may be put to a vote.

Audit and Risk Committee means the Audit and Risk Committee established by a Council under section 53.

Authorised Officer has the same meaning as in the *Local Government Act 1989* or any other Act;

Chairperson means the Chairperson of a meeting and includes an acting, temporary and substitute Chairperson;

Chamber means any room where the Council holds a Council meeting

Chief Executive Officer means the person occupying the role of Chief Executive Officer of Council, and includes a person acting in that role;

Committee meeting means a meeting of a Delegated Committee;

Council means East Gippsland Shire Council;

Councillor means a Councillor of Council;

Code of Conduct has the same meaning as in section 139 of the Act;

Council meeting means a meeting of the Council convened in accordance with section 61 of the Act and these Governance Rules and includes a scheduled meeting and unscheduled meeting;

Delegate means a member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation;

Delegated Committee has the same meaning as in section 63 of the Act;

Delegated Committee meeting means a meeting of a Delegated Committee;

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Deputy Mayor means the Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor;

Disorder means any disorderly conduct of a member of the gallery or a Councillor and includes:

interjecting when another person is speaking, except, in the case of where a Councillor is raising a point of order;

making comments that are defamatory, malicious, abusive or offensive;

refusing to leave the meeting when requested, ordered or directed to do so by the Chairperson in accordance with section 19 or 318 of the Act and the Governance Rules; and

engaging in any other conduct which prevents the orderly conduct of the meeting;

Emergency As defined by the *Emergency Management Act 1986* an emergency means an actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety of health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger the environment or an element of the environment in Victoria including but not limited to

(a) an earthquake, flood, windstorm or other natural event; and

(b) a fire; and

(c) an explosion; and

(d) a road accident or any other accident; and

(e) a plague or an epidemic or contamination; and

(f) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth; and

(g) a hi-jack, siege or riot; and

(h) a disruption to an essential service;

in respect of which the Chief Executive Officer has declared in writing that an Emergency exists.

Foreshadowed item means a matter raised in the relevant section of the Council meeting that a Councillor intends to submit a notice of motion for the next Council meeting;

General Manager means a senior member of Council staff holding the position of General Manager or another position (however designated) which reports directly to the Chief Executive Officer;

Majority of the votes means a majority of Councillors present at the time of a vote voting in favour of a matter;

Mayor means the Mayor of Council and any person appointed by Council to be acting as Mayor;

Meeting means a Council meeting or a Delegated Committee meeting;

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Member means a member of any committee to which these Governance Rules apply;

Minutes means the official record of the proceedings and decisions of a meeting;

Motion means a proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted;

Notice of motion means a notice setting out the text of a motion which a Councillor proposes to move at a Council meeting;

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

On notice means held or deferred to enable preparation of a response;

Point of order means a procedural point (about how the meeting is being conducted), not involving the substance of a matter before a meeting;

Procedural motion means a motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure;

Resolution means a decision of Council as defined in section 59 of the Act.

Rule or sub-rule means a rule or sub-rule included in these Governance Rules;

Urgent business means a matter that relates to or arises out of a matter which has arisen since distribution of the agenda and cannot safely or conveniently be deferred until the next meeting;

Unscheduled meeting means a meeting of the Council convened for a particular purpose that cannot be effectively dealt with in the schedule of Ordinary Council meetings set by Council

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MEETING PROCEDURE

1. Purpose of Council meetings

- (1) Council holds scheduled meetings and, when required, unscheduled meetings to conduct the business of Council.
- (2) Council is committed to transparency in decision making and, in accordance with the *Local Government Act 2020*, Council and Delegated Committee meetings are open to the public and the community are able to attend.
- (3) Meetings will only be closed to members of the public, in accordance with section 66 of the Act, if:
 - (a) there are clear reasons for particular matters to remain confidential; or
 - (b) a meeting is required to be closed for security reasons; or
 - (c) it is necessary to enable the meeting to proceed in an ordinary manner.
- (4) A meeting closed to the public for the reasons outlined in sub-rule 3(b) or 3(c) will continue to be livestreamed. In the event a livestream is not available:
 - (a) the meeting may be adjourned; or
 - (b) a recording of the proceedings may be available on the Council website.

2. Meeting Roles

Overview: In accordance with Section 61 and 63 of the Act, the Mayor must take the Chair at all Council Meetings at which the Mayor is present. If the Mayor is absent, the Deputy Mayor (if any) must take the Chair and if both are absent, Council must elect one of the Councillors as Chairperson of the meeting.

The way in which Council and Committee meetings are conducted makes a significant contribution to good governance. The Chairperson plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors, members of Delegated Committees and advisory committees have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed appropriately, and statutory requirements are adhered to.

The Chairperson is an independent leader of the meeting and generally does not participate in debate or move or second motions. The Chairperson will vote and provide the casting vote if votes are tied (s61(5)(d)).

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The Act provides for the Mayor to appoint a Councillor as the Chair of a Delegated Committee and any such appointment prevails over any appointment made by Council. While there are no limitations on exercising that power, the Mayor must always act in a way that is consistent with the adopted Councillor Code of Conduct and transparency commitments of the Council.

Additionally, each member of the meeting has an obligation to participate in good decision-making.

Specific duties and discretions of the Chairperson are outlined throughout these Governance Rules.

2.1 Chairperson and Members

- (1) The Chairperson, Councillors and members of Delegated Committees will ensure good council decision-making by endeavouring to ensure:
 - (a) decision making is transparent to members and observers;
 - (b) meeting members have sufficient information to make good decisions;
 - (c) every member is supported to contribute to decisions;
 - (d) any person whose rights are affected has their interests considered;
 - (e) debate and discussion are focussed on the issues at hand;
 - (f) meetings are conducted in an orderly manner.
 - (g) decisions should be made on the merits of the matter.

2.2 Mayor to take the Chair

- (1) The Mayor must take the Chair at all Council Meetings at which the Mayor is present (s61(3)(a)).
- (2) If the Mayor is not in attendance at a Council Meeting, the Deputy Mayor (if one has been elected) must take the Chair (s61(3)(b)).
- (3) If the Mayor and any Deputy Mayor are not in attendance at a Council Meeting, Council must appoint one of the Councillors as Chair of the meeting by resolution (s61(3)(d)).

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2.3 Delegated Committee Chairperson

- (1) At the Meeting at which Council establishes a delegated committee it must also appoint a Chairperson (s63(2)).
- (2) The Chair of a delegated committee must be a councillor (s63(2)(a)).
- (3) For the avoidance of doubt, sub-rule (1) does not intend to limit the powers of the Mayor provided in the Act.

2.4 The Chairperson's duties and discretions

In addition to the specific duties and discretions provided in these Governance Rules, the Chairperson:

- (1) must not accept any motion, question or statement which is:
 - (a) vague or ambiguous;
 - (b) defamatory, malicious, abusive or objectionable in language or substance;
 - (c) is not relevant to the item of business of the agenda and has not been admitted as urgent business;
 - (d) purports to be an amendment but is not; or
 - (e) outside the powers of Council;
- (2) must allow the Chief Executive Officer or delegate the opportunity to correct factual errors or incorrect assertions that arise during the meeting;
- (3) must call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council (s19(1)(b) and s318);
- (4) may direct that a vote be recounted to be satisfied of the result; and
- (5) must decide on all points of order.

2.5 Chief Executive Officer

- (1) The Chief Executive Officer, or delegate, may participate in the meeting to provide support to the Chairperson.
- (2) The Chief Executive Officer should:
 - (a) immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
 - (b) advise if there are operational, legal, financial or other risks, including non-compliance with statutory obligations arising from a proposed resolution;

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- (c) help clarify the intent of any unclear resolution to facilitate implementation;
- (d) on request, assist with procedural issues that may arise.

2.6 Councillors and members of Delegated Committees

- (1) Councillors and members of Delegated Committees contribute to good governance and decision making by:
 - (a) seeking views of community members and reading agenda prior to the meeting;
 - (b) demonstrating due respect and consideration to community views and the professional / expert advice provided in the agenda papers;
 - (c) attending meetings and participating in debate and discussion;
 - (d) demonstrating respect for the role of the Chairperson and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making;
 - (e) being courteous and orderly.

2.7 Community

- (1) Council meetings are decision making forums and it is important that they are open to the community to attend and/or view proceedings.
- (2) Community members may only participate in Council meetings in accordance with Rule 7.
- (3) Community members are encouraged to participate in Council's engagement processes.
- (4) Community members may seek to inform individual Councillors of their views by contacting them directly in advance of Council meetings.

2.8 Apologies and absences

- (1) Councillors and members of Delegated Committees who are unable to attend a meeting may submit an apology:
 - (a) in writing to the Chairperson, who will advise the meeting; or
 - (b) by seeking another Councillor or member of the Delegated Committee to submit it at the meeting on their behalf; or
 - (c) in writing to the Chief Executive Officer or delegate who will advise the Chairperson.

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- (2) An apology submitted to a meeting will be recorded in the minutes.
- (3) A Councillor intending to take a leave of absence (s35(4)) should submit it in writing to the Mayor.
- (4) The Mayor will seek to have any leave of absence request received included in the agenda of the next Council meeting.
- (5) A leave of absence not included in a Council meeting agenda may still be considered by Council if a written request has been received by the Mayor prior to the meeting.
- (6) Council will not unreasonably withhold its approval of a leave of absence request.
- (7) A Councillor who has not submitted an apology or had a leave of absence approved who is not in attendance at a Council or Delegated Committee meeting will be recorded as absent.

3. Notice of meetings and availability of agenda

Overview: Council Meetings are held regularly to conduct the ongoing business of the Council and unscheduled Meetings may be held from time to time.

It is important that the community is made aware of the times, dates and locations of Council and Delegated Committee meetings and the matters Council will consider. The timing of this notice should give the community adequate time to make arrangements to attend the meeting or view via the livestream.

An agenda for each Council Meeting must be provided to Councillors in advance so that they can prepare adequately for the Council Meeting. The Agenda contains the order of business and the professional advice of the organisation, with a recommendation for Council to consider.

The agenda is made available to the public via Council's website and can be accessed online at Customer Service Centres and Council libraries.

3.1 Date, time and place of Council meetings

- (1) At or before the last meeting each calendar year, Council must fix the date, time and place of all Council meetings and any Delegated Committee meetings for the following calendar year.
- (2) Council by resolution, or the Chief Executive Officer, may change the date, time and place of, or cancel, any meeting which has been fixed and must provide notice of the change to the public.

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3.2 Postponement

- (1) In the case of an emergency, the Chief Executive Officer or delegate or, in the absence of both, a Senior Officer, may postpone a Council meeting, provided every reasonable attempt is made to notify every Councillor of the postponement.
- (2) The Chief Executive Officer, Delegate or Senior Officer must submit a full written report of the circumstances requiring his or her action in respect of the emergency postponement at the next ordinary meeting.

3.3 Unscheduled meetings

- (1) Council may by resolution call an unscheduled meeting of the Council.
- (2) The Mayor, or three Councillors may by written notice call an unscheduled meeting of the Council.
- (3) The Chief Executive Officer, following consultation with the Mayor, may call an unscheduled meeting.
- (4) A written notice to call an unscheduled meeting must:
 - (a) specify the business to be transacted;
 - (b) the date and time for the unscheduled meeting
 - (c) be delivered to the Chief Executive Officer or delegate 5 days prior to the date and time specified for the meeting in the written notice.
- (5) The Chief Executive Officer must determine the time and date for the unscheduled meeting, giving consideration to:
 - (a) the urgency of the business to be transacted
 - (b) the availability of Councillors
 - (c) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted
- (6) The Chief Executive Officer must arrange for notice of the meeting on Council's website.
- (7) Any resolution of Council to call an unscheduled meeting must:
 - (a) specify the date and time of the unscheduled meeting; and
 - (b) the business to be transacted.
- (8) The date and time of the unscheduled meeting must not be prior to 6pm on the day following the Council meeting at which the resolution was made.
- (9) The Chief Executive Officer must call an unscheduled meeting to elect a Mayor following a Council election declaration, in accordance with the Act.

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- (10) The unscheduled meeting for the election of a Mayor following an election may also consider the role of Deputy Mayor and any other matters as determined by the Chief Executive Officer.
- (11) Only the business specified in the Council resolution, or written notice, may be considered at an unscheduled meeting, unless all Council, by unanimous resolution determine to admit another matter.

3.4 Notice of meetings

3.4.1 Council Meetings

- (1) A notice of a meeting, that is not an unscheduled meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be sent electronically to every Councillor for all Council meetings at least 5 days before the meeting. A period of less than 5 days may be justified if exceptional circumstances exist.
- (2) An agenda for each Council meeting, that is not an unscheduled meeting, will be made available on Council's website no less than 48 hours before the Council meeting.
- (3) A schedule of Council meetings must be prepared and published.
- (4) The Chief Executive Officer must ensure it is available to a broad section of the community at least once each year and with such greater frequency as the Chief Executive Officer determines.
- (5) The schedule of Council meetings must also be available on the Council's website and can be accessible online at Customer Service Centres and Council libraries.

3.4.2 Unscheduled meetings

- (1) Notice of an unscheduled meeting must be published on Council's website as soon as practicable after the time and date of the meeting has been determined.
- (2) An agenda for an unscheduled meeting must be made available electronically to every Councillor at least 48 hours before the meeting. A period of less than 48 hours may be justified if exceptional circumstances exist.
- (3) An agenda for an unscheduled meeting will be made available on Council's website no less than 24 hours before the Council meeting.

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4. Quorum

Overview: No business can be transacted at a Council meeting or a Delegated Committee meeting unless a majority of the Councillors or members of the Delegated Committee (as the case may be) is present (quorum).

If there is no quorum at the commencement of a meeting or if a quorum cannot be maintained during a meeting, the meeting is to be adjourned to another date and/or time. A quorum is an absolute majority as outline in section 61(7) of the Act.

- (1) Meetings must commence within 30 minutes of the scheduled starting time.
- (2) If, after 30 minutes from the scheduled starting time of any meeting or adjournment, a quorum cannot be obtained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Senior Officer, may adjourn the meeting for a period not exceeding fourteen days from the date of the adjournment.
- (3) If, during any meeting or any adjournment of the meeting, a quorum cannot be maintained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Senior Officer, may adjourn the meeting for a period not exceeding fourteen days from the date of the adjournment.
- (4) The Chairperson may defer an item of business in respect of which there is, or is likely to be, a disclosure of a conflict of interest by one or more Councillors that will cause a quorum to be lost, and direct the Chief Executive Officer to include that item of business on an agenda for a future Council meeting.
- (5) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, Council will:
 - (a) determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
 - (b) determine to make decisions on separate parts of the matter at a meeting where quorum can be maintained, before making a decision on the whole matter at a meeting for which quorum can be maintained.

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- (6) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, and the matter cannot be separated into component parts or prior decisions made, Council will delegate the decision to be made:
 - (a) by the Chief Executive Officer; or
 - (b) by a Delegated Committee, established for the purpose of determining the matter, comprised of all the Councillors who have not disclosed a conflict of interest and any other person(s) the Council considers suitable.
- (7) A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council Meeting.
- (8) The Chief Executive Officer must provide written notice, including by electronic means, to each Councillor of any Council meeting adjourned to another date or time due to an inability to achieve or maintain a quorum.
- (9) Where it is not practicable because time does not permit notice in accordance with clause 8 to occur, then, provided every reasonable attempt is made to contact each Councillor either verbally, or by some other means, it will be sufficient.
- (10) Notice of an adjournment to another date or time due to another date or time must be published on Council's website as soon as practical.

For example, if Council is proposing to include items in the budget that would give rise to conflicts of interest to more than half of the number of Councillors, Council may consider whether to include these items in the budget as individual decisions prior to adopting the budget as a whole.

Table 1: Quorum Calculation

Number of Councillors / Committee members	Number required for a Quorum
11	6
10	6
9	5
8	5
7	4

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5. Election of Mayor

Overview: The role and functions of the Mayor are provided in the Act. The holder of this significant office is the Chairperson at Council meetings, is the leader of the Councillors, acts as the principal spokesperson for Council and carries out civic and ceremonial duties.

This section describes how the Mayor, Deputy Mayor and Acting Mayor are to be elected.

5.1 Chief Executive Officer to set time and date for the election of the Mayor

- (1) The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor.
- (2) The election of Mayor must be held no later than one month after the date of the general election (s26(1)), except that the election of the Mayor must be held in accordance with any provisions contained in the Act.
- (3) The election of the Mayor must be held in accordance with section 25 of the Act and these Governance Rules.
- (4) Where the position of Mayor has become vacant, the Chief Executive Officer will set and date and time within one month of the vacancy,
- (5) Depending on the term of office decided in Rule 5.5 the next election of the Mayor will held a close as possible to the end of the term.

5.2 Role and Election of Mayor

- (1) The Mayor will chair the Council meetings.
- (2) The Mayor will promote behaviour among Councillors that meet the standards established in the Councillor Code of Conduct.
- (3) The Mayor will lead engagement with the community.
- (4) The Mayor may direct a Councillor to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

5.3 Role and Election of Deputy Mayor

- (1) At the Council meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.

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- (2) If the Mayor is not in attendance at a Council meeting the Deputy Mayor must take the Chair.
- (3) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.
- (4) If the Council has not resolved to establish the position of Deputy Mayor, any provisions in these Governance Rules relating to the Deputy Mayor have no effect.

5.4 Method of Voting

- (1) The election of the Mayor must be carried out by a show of hands or following a resolution made in accordance with Rule 8.2(1), an electronic method that enables those observing (in attendance and those watching a livestream broadcast) to see who a Councillor has voted for at the time the vote is taken.

5.5 Determining the Election of Mayor / Deputy Mayor

- (1) The Chief Executive Officer will preside during the election of the Mayor.
- (2) Prior to the election of the Mayor and Deputy Mayor Council must determine by resolution the term of office as 1 year or 2 years.
- (3) The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.
- (4) Where in an election for the Mayor:
 - (a) only one candidate has been nominated, that candidate must be declared elected;
 - (b) two candidates have been nominated, a vote must be taken and the candidate who receives the number of votes equal to or greater than half the Councillors of the Council must be declared elected;
 - (c) two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council, a second vote will be conducted.
 - (d) where, after a second vote, where two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6 pm the following day;

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- (e) more than two candidates have been nominated and no candidate receives a number of votes equal to or greater than half the Councillors of the Council:
 - i) the candidate with the fewest number of votes cast must be eliminated;
 - ii) the names of the remaining candidates must be put to the vote again; and
 - iii) the procedure in (i) and (ii) above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined in sub-rule (b) of this Rule.
 - iv) in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes) then the election must be determined by lot;
- (f) The Chief Executive Officer will conduct a vote for one candidate to be defeated.
- (g) If Council resolves to have the office of Deputy Mayor, the provisions of sub-rules (3) and (4) apply to the election of the Deputy Mayor with all necessary modifications and adaptations.

5.6 Ceremonial Mayoral Speech

- (1) Upon being elected, the Mayor may make a ceremonial speech.
- (2) The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead.

5.7 Acting Mayor

- (1) Council may appoint a Councillor, for a specified period, as the Acting Mayor if the Mayor is unavailable, and no Deputy Mayor has been elected.
- (2) The Acting Mayor will perform the role of Mayor during the specified period.

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6. Business of meetings

Overview: The business to be transacted at a Council meeting is contained in the agenda provided to Councillors and available to the public on Council's website. The Chief Executive Officer oversees preparation of the agenda and determines the content and order of business to facilitate open, efficient and effective processes of government.

The role of the Mayor includes providing advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings.

Council can admit an item of urgent business if it has arisen after distribution of the agenda and cannot be reasonably deferred to the next meeting.

This section also provides time limits for meetings. A Council Meeting must not continue after 3 hours unless a majority of Councillors agree, when up to 2 extensions of 30 minutes can be made.

6.1 Business at meetings

- (1) The Chief Executive Officer may include any matter on the agenda for a Council meeting which he or she thinks should be considered at the meeting to which the agenda relates.
- (2) No business can be dealt with at a meeting unless it is:
 - (a) contained on the agenda; or
 - (b) admitted as urgent business in accordance with Rule 6.4.

6.2 Order of business for Council meetings

- (1) The order of business for Council meetings will proceed in the following manner:
 - (a) Welcome
 - (b) Acknowledgement
 - (c) Apologies/Leaves of absence;
 - (d) Disclosures of conflicts of interest;
 - (e) Confirmation of minutes of previous meetings;
 - (f) Petitions;
 - (g) Public question time;
 - (h) Council reports;
 - (i) Notices of motion;

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- (j) Notices of rescission;
- (k) Foreshadowed Items;
- (l) Urgent business;
- (m) Confidential business.

6.3 Change to order of business

- (1) Once an agenda has been sent to Councillors, the order of business for that meeting may be altered by a resolution of Council.

6.4 Urgent Business

- (1) If the agenda for a meeting makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of Council and only then if:
 - (a) it relates to or arises out of a matter which has arisen since distribution of the agenda; and
 - (b) deferring the item until the next meeting will mean a decision on the item will not have any effect on the matter; or
 - (c) the item involves a matter of urgency as determined by the Chief Executive Officer;
 - (d) it cannot be addressed through an operational service request process.
 - (e) a decision on the matter does not:
 - i) substantially affect the levels of Council service;
 - ii) commit Council to significant expenditure not included in the adopted budget;
 - iii) establish or amend Council Policy; or
 - iv) commit Council to any contractual arrangement.
- (2) A Councillor proposing a matter be admitted as urgent business must lodge it in writing to the Chief Executive Officer no later than 3 pm on the day of the meeting.
- (3) The Chief Executive Officer will advise the Mayor of any matter he or she determines appropriate for Council to consider admitting as urgent business.

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6.5 Time Limits for Meetings

- (1) A meeting must not continue after three (3) hours from the time it commences unless a majority of Councillors/members present vote in favour of its extension in accordance with this Rule.
- (2) Extensions of a meeting will be in block periods of 30 minutes.
- (3) After the initial 30-minute extension the meeting must not continue unless a majority of Councillors present vote in favour of a further extension.
- (4) A meeting may only be continued for a maximum of two 30-minute extensions.
- (5) In the absence of such extensions as provided for in sub-rules (1), (2) and (3), or in the event there is further business to be transacted at the completion of two extensions, the meeting must stand adjourned to 6 pm on the following day.
- (6) Notwithstanding sub-clause (5), the Chairperson may seek the agreement of Council not to adjourn the meeting to the following day, if the Chairperson reasonably believes the remaining business will take less than 10 minutes to transact.

6.6 Chairperson may temporarily adjourn a meeting exceeding three hours

- (1) The Chairperson may adjourn a meeting for a 10-minute break, at an appropriate point in proceedings after two hours has elapsed.
- (2) Notwithstanding sub-rule (1), the Chairperson may seek the agreement of Council not to adjourn the meeting if the Chairperson reasonably believes the remaining business of the meeting will take less than 30 minutes to transact.

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7. Community questions and submissions

Overview: As outlined in the purpose of these Governance Rules, Council meetings are held for Council to make its decisions.

Members of the public do not have a right to address Council, however provisions are made for Council to respond to questions from the community and for the public to make submissions to Council.

At each meeting there is an opportunity for members of the public to ask questions of the Council. Assistance will be available for any community member seeking or requiring support to write their question(s).

Petitioning is a long-established process for members of the community to demonstrate community support for a request or views on a matter, and for that request or view to be presented directly to Council.

This Rule sets out the procedures to be followed to submit a question or petition, the circumstances under which a question or petition may be disallowed and the process for addressing and responding to the question or petition at or after the meeting.

Council meetings are recorded and broadcasted to the public, this includes community questions and submissions.

7.1 Open Forum and Questions of Council Time to be held

- (1) The Council will hold open forum and Questions of Council Time for up to 30 minutes at each meeting to allow public submissions and questions of Council.
- (2) Open forum is an opportunity for the general public to present to Council on a matter listed on the agenda or any other matter.
- (3) Questions of Council are an opportunity for the general public to submit a question prior to the meeting and receive a response from Council in the Questions of Council time.
- (4) Council meetings are recorded and broadcasted to the public, this includes community questions and submissions.

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7.2 Open forum and Questions of Council guidelines

- (1) Questions of Council time and open forum will not apply during any period when the Council has resolved to close the meeting in respect of a matter under section 66 (1) of the Act.
- (2) Submissions as part of open forum and Questions of Council may be on any matter except if it:
 - (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
 - (b) relates to confidential information as defined in section 3(1) of the Act;
 - (c) relates to the personal hardship of any resident or ratepayer; or
 - (d) relates to any other matter which the Council considers would prejudice the Council or any person.
- (3) No more than two questions will be accepted from any person at anyone meeting.
- (4) Where the Chief Executive Officer does not accept a question, the submitter is to be informed of the reason or reasons for which their question was not accepted.
- (5) The Mayor reserves the right to cease a submission as part of open forum if he or she deems the submission inappropriate.
- (6) Copies of all questions allowed by the Chief Executive Officer will be provided in writing to all Councillors.
- (7) A submission or question submitted in writing by a member of the public, which has been disallowed by the Chief Executive Officer will be provided to any Councillor on request.

7.3 Open forum prior notice

- (1) It is preferable for any member of the public who wishes to be heard at open forum to give prior notice.
- (2) Prior notice in writing must:
 - (a) contain the name, address and email or contact telephone number of the person to be heard;

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- (b) be in a form approved or permitted by Council;
 - (c) via a letter or email addressed to the Mayor or Chief Executive Officer; or
 - (d) hand delivered to a Council officer before the meetings published commencement time
- (3) It is preferable for any group or association that wishes to be heard at Open Forum to nominate a spokesperson for an issue upon which the group or association may wish to be heard.

7.4 Open Forum Procedure

- (1) The Chair will allocate a maximum of 5 minutes to each person who wishes to address Council.
- (2) The Chair will first invite any person who has given prior notice to present to Council.
- (3) The Chair will then invite members of the gallery who would like to present to Council.
- (4) The Chair or Chief Executive Officer have the discretion to alter the order of persons to be heard.
- (5) The person in addressing the Council:
 - (a) must confine their address to the 5-minute allocation of time;
 - (b) shall extend due courtesy and respect to the Council and the processes under which it operates; and
 - (c) shall take direction from the Chair whenever called upon to do so.
- (6) Council may suspend standing orders to hear from a community member or representative of an organisation, on matters of significance to the Council, only if prior arrangements have been made by written request to the Mayor or Chief Executive Officer.
- (7) There will be no discussion or debate with the attendees to Open Forum however Councillors may ask questions of clarification of the attendee.
- (8) Standing orders do not need to be suspended to allow discussion for the purposes of clarification.

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7.5 Prior notice of Questions of Council

- (1) Council must receive prior notice of questions to be heard as part of Questions of Council time.
- (2) Questions must be received exactly as intended to be read.
- (3) Questions submitted to the Council in a written form must:
 - (a) contain the name, address and email or contact telephone number of the person submitting the question;
 - (b) be in a form approved or permitted by the Council;
 - (c) addressed to the Mayor or the Chief Executive Officer; and
 - (d) submitted no less than four (4) hours before the meeting's published commencement time; or
 - (e) handed to the Council officer on duty no more than fifteen (15) minutes before the meeting's published commencement time on the day of the meeting.
- (4) Questions submitted to the Council in video must be received by the Council by midday on the day immediately prior to the published day of the meeting

7.6 Response to questions

- (1) Response to a question raised during the open forum may be provided immediately as part of the open forum time at the discretion of the Council.
- (2) The matter will be referred to the relevant Officer for investigation and response if required.
- (3) Council officers will respond acknowledging the question and providing procedural advice and/or the response within 10 working days of the Council meeting.

7.7 Petitions and joint letters

- (1) Every petition submitted to Council must:
 - (a) be legible and in permanent writing;
 - (b) is clear and on each page the matter and action sought from council is stated;
 - (c) not be derogatory, defamatory or objectionable in language or nature;

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- (d) not relate to matters outside the powers of Council; and
 - (e) include the names, addresses and original signatures of at least 10 people
- (2) Where a petition has been signed by less than 10 people, it will be treated as a joint letter and forwarded directly to the appropriate member of Council staff for action as an operational item.
- (3) Any Councillor presenting a petition is responsible for ensuring that:
- (a) he or she is familiar with the contents and purpose of the petition; and
 - (b) the petition is not derogatory, defamatory or objectionable in language or nature.
- (4) Unless sub-rules (5) or (6) apply, the only motions that may be considered by Council on any petition are:
- (a) that the petition be received; and
 - (b) that the petition be referred to the Chief Executive Officer or relevant General Manager for consideration and response; or
 - (c) that the petition be referred to the Chief Executive Officer or relevant General Manager for a report to a future Council Meeting.
- (5) If a petition relates to an item listed on the agenda for the meeting at which it is submitted, the petition may be dealt with in conjunction with the item.
- (6) If a petition relates to a planning matter or statutory matter which is the subject of a public submissions process in accordance with the relevant legislation the petition will be treated as a joint submission in relation to the planning matter or the statutory matter, as the case may be.
- (7) The Chief Executive Officer may determine that an electronic or online petition will be submitted to a Council meeting.
- (8) The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council meeting.
- (9) An online or electronic petition will not be presented to a Council meeting if it contains signatures that are false or misleading.

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7.8 Display of placards and posters

- (1) Subject to sub-rules (2) and (3), a person can display any placards or posters in the Council Chamber or in any building where a meeting is being, or is about to be, held, including outside the entrance to the building.
- (2) A placard or poster must not:
 - (a) display any offensive, indecent, insulting or objectionable item or words; or
 - (b) obstruct the entrance to the Council Chamber or a building where a meeting is being, or is about to be, held; or
 - (c) obstruct the view or physically impede any person.
- (3) The Chairperson may order and cause the removal of any placard or poster that is deemed by the Chairperson to be objectionable, disrespectful or otherwise inappropriate.

7.9 Chairperson may remove members of the public

- (1) Members of the public present at a Council meeting must not interject during the Council meeting.
- (2) If a person, other than a Councillor, interjects or gesticulating offensively during the Council meeting, the Mayor may direct:
 - (a) the person to stop interjecting or gesticulating offensively; and
 - (b) if the person continues to interject or gesticulate offensively, the removal of the person.
- (3) The Chairperson may cause the removal of any object or material that is deemed by the Chairperson to be objectionable or disrespectful.
- (4) In causing a person's removal under sub-clause (2)(b), or the removal of an object or material under sub—rule (3), the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the person, object or material.
- (5) The Chairperson may cause the removal of members of the public without the need for a Council resolution.

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8. Voting

Overview: At the conclusion of debate on a matter before the meeting, the Chairperson must put the question, motion or amendment to the vote.

Each Councillor is entitled to one vote and voting must be able to be seen by those participating in the meeting and those observing the meeting. The vote is determined by a majority of the Councillors present at the meeting at the time the vote is taken voting in favour of the motion

If a vote is tied, the Chairperson has a casting vote.

Sometimes a Councillor may want his or her vote is recorded. This is provided for in this section, along with the procedure when a Councillor calls for a division on a vote which is when how each Councillor voted is recorded.

Provision is made for the introduction of an electronic voting system as long as Council has resolved to implement the system and all participants in the meeting and those observing a meeting are able to see which way Councillor has voted on a matter at the time the vote is taken.

8.1 How a matter is determined

- (1) To determine a motion at a meeting, the Chairperson 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.
- (2) In the event of a tied vote, the Chairperson must, unless the Act provides otherwise, exercise the casting vote.

8.2 Voting must be seen

- (1) Voting may be by any method resolved by Council that enables those in attendance and those watching a livestream broadcast to clearly see which way a Council has voted at the time a vote is taken.
- (2) In the absence of a Council resolving an alternative method, voting on any matter is by show of hands.

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8.3 When a division is permitted

- (1) A division may be requested by any Councillor on any vote.
- (2) The request must be made to the Chairperson either immediately prior to, or immediately after, the vote has been taken, and may not be made after the meeting has moved to the next item of business.
- (3) When a division is called for the Chairperson must:
 - (a) first ask each Councillor wishing to vote in favour of the motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the minutes;
 - (b) then ask each Councillor wishing to vote against the motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the minutes;
 - (c) next, ask each Councillor abstaining from voting to indicate that they are abstaining and the Chairperson must then state the names of those Councillors to be recorded in the minutes; and
 - (d) finally, declare the result of the division.
- (4) Where a division is requested after the original vote has been taken, the motion is decided on the division. The fact that there may be a difference between the result obtained when the original vote was taken and the result obtained on the division must be disregarded.

8.4 No discussion once a vote has been declared

- (1) Once a vote on a motion has been declared carried or lost by the Chairperson, no further discussion relating to the motion is allowed, unless the discussion:
 - (a) involves a Councillor requesting that his or her opposition to a resolution be recorded in the minutes or calling for a division in accordance with Rule 8.3; or
 - (b) is a Councillor foreshadowing a notice of rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

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9. Addressing the meeting

Overview: This section provides for how the meeting is to be addressed by Councillors and Members of Council Staff.

Members of the Community may only address a meeting in accordance with Section 7 of these rules.

9.1 Councillor allowed to speak uninterrupted

- (1) A Councillor who has the floor must not be interrupted unless called to order or given notice by the Chairperson his speaking time has elapsed or is about to elapse.
- (2) When a point of order is raised a Councillor, who has the floor must sit down and remain silent until the Councillor raising the point of order has been heard and the point of order dealt with.

9.2 Addressing the Meeting

- (1) If the Chairperson so determines:
 - (a) any person addressing the Chairperson must refer to the Chairperson as:
 - Mayor; or
 - Chairperson,
 - (b) all Councillors, other than the Mayor, must be addressed as Cr (surname); and
 - (c) all Council staff must be addressed by their official title.
- (2) Except for the Chairperson and Chief Executive Officer, any person who addresses the meeting must move to the designated position and direct all remarks through the Chairperson.

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10. Motions and Debate

Overview: This Section describes the procedure for introducing a motion or amendment, the rules of debate, foreshadowing a motion or amendment and the duty of the Chairperson in relation to accepting motions and amendments.

It describes the process for a Councillor lodging a notice of motion for consideration and/or indicating they will raise a matter at the next Council Meeting (foreshadowing items).

A Councillor may move any motion related to an item included in the agenda. In the interest of transparency and informed decision making, motions or amendments should not introduce new matters to a debate that have not been the subject of the report or background of the motion being considered by Council. Motions are required to be submitted in writing so they can be displayed to the meeting.

As a resolution must be able to be acted upon, a motion must clearly state what is intended and what its effect will be if it becomes the decision. This provides clarity for the implementation of Council decisions.

This Section also describes the circumstances and procedures under which a Council decision can be rescinded or altered. It also prescribes a procedure under which a Council policy can be altered or varied.

10.1 Moving a motion

The procedure for moving any motion is:

- (1) the mover must outline the motion without speaking in support of it;
- (2) the motion must be seconded by a Councillor other than the mover;
- (3) if a motion is not seconded, the Motion lapses for want of a seconder;
- (4) if there is a seconder, then the Chairperson must call on the mover to speak to the motion;
- (5) after the mover has spoken to the motion, the seconder may also speak to the motion;

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- (6) after the seconder has spoken to the motion (or after the mover has spoken to the motion if the seconder does not speak to the motion), the Chairperson must call on any Councillor who wishes to speak against the motion, then on any Councillor who wishes to speak for the motion, after waiting until all Councillors wishing to speak to the motion have spoken; and
- (7) if no Councillor wishes to speak against the motion, then the Chairperson may put the motion or call on any other member to speak.

10.2 Chairperson's duty

The Chairperson must not accept any motion which:

- (1) is defamatory; or
- (2) is objectionable in language or nature; or
- (3) is vague or unclear in its intention; or
- (4) is outside the powers of Council; or
- (5) is not relevant to an item of business on the agenda and has not been admitted as urgent business; or
- (6) purports to be an amendment but is not.

10.3 Right of reply

- (1) The mover of a motion, which has not been amended, may, once debate has been exhausted, exercise a right of reply to matters raised during debate.
- (2) No new matters may be raised in the right of reply.
- (3) If no Councillor has spoken against a motion, there will be no right of reply.
- (4) After the right of reply has been exercised, the motion must immediately be put to the vote without any further discussion or debate.

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10.4 Moving an amendment

- (1) A motion, which has been moved and seconded, may be amended by leaving out, inserting or adding words, which must be relevant to the subject of the motion.
- (2) An amendment may be proposed or seconded by any Councillor, except the mover and seconder of the original motion.
- (3) If a Councillor proposes an amendment and the original mover and seconder of the motion both indicate their agreement with the amendment, the amended motion becomes the substantive motion without debate or vote.
- (4) If a Councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:
 - (a) the amendment must be moved and seconded;
 - (b) a Councillor may speak on any amendment once, whether or not he or she has spoken to the motion, but debate must be confined to the terms of the amendment;
 - (c) any number of amendments may be proposed to a motion, but only one amendment may be accepted by the Chairperson at any one time. 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 and voted on;
 - (d) if the amendment is carried, the motion as amended then becomes the motion before the meeting (known as the substantive motion); and
 - (e) the mover of an amendment does not have right of reply.

If a proposed amendment is ruled to be the negative of, or substantially contrary to, the motion, it should be treated as an alternative motion to be considered only in the event that the motion before the Chair is lost – see foreshadowing motions.

10.5 Foreshadowing motions

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

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- (2) A motion foreshadowed may be prefaced with a statement that, in the event of a particular motion before the meeting being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- (3) A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the meeting.
- (4) The minutes of the meeting will not include foreshadowed motions unless the foreshadowed motion is subsequently formally moved as a motion.

10.6 Withdrawal of motions

- (1) Before any motion is put to the vote, it may be withdrawn with the agreement of Council.

10.7 Separation of motions

- (1) Where a motion contains more than one part, a Councillor may request the Chairperson to put the motion to the vote in separate parts.
- (2) The Chairperson may decide to put any motion to the vote in separate parts.

10.8 Motions moved in a block

- (1) The Chairperson may allow like motions to be moved, or request Councillors to move like items, in a block (*en bloc*), only if the motions note actions already taken and will not commit Council to further action, spending or changes to policy.

10.9 Motions in writing

- (1) All motions, except procedural motions, must be submitted in writing.
- (2) The Chairperson may adjourn a meeting while a motion is being written or may request Council to defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

10.10 Debate must be relevant to the motion

- (1) Debate must always be relevant to the motion before the meeting, and, if not, the Chairperson must request the speaker to confine debate to the motion.

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- (2) If, after being requested by the Chairperson to confine debate to the motion before the meeting, the speaker continues to debate irrelevant matters, the Chairperson may direct the speaker to not speak further in respect of the motion before the Chairperson. The speaker must immediately comply with any such direction.

10.11 Adequate and sufficient debate

- (1) Adequate debate is required where a matter is contentious in nature. In such a case, every Councillor should be given an opportunity to participate in the debate.
- (2) A motion has been sufficiently debated if opposing views (where they exist) have been sufficiently put, not so much the number of those who have spoken but whether all minority opposing views have been put.
- (3) Once the views put are representative of the views of all Councillors or members the debate would be regarded as sufficient.

10.12 Speaking times

- (1) Unless a motion for an extension of speaking time has been carried, the maximum speaking times are:
 - (a) the mover of a motion or amendment - five minutes;
 - (b) the mover of a motion when exercising his or her right of reply - three minutes; and
 - (c) any other speaker - three minutes.
- (2) A motion for an extension of speaking time must be proposed before the initial speaking time, for that speaker, expires.
- (3) A motion for an extension of speaking time must not be accepted by the Chairperson if another Councillor has commenced speaking.
- (4) Only one extension of speaking time is permitted for each speaker.
- (5) Any extension of speaking time must not be more than two minutes.

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10.13 Procedural motions

- (1) Unless otherwise prohibited, and subject to sub-rule (3), a procedural motion may be moved at any time and must be dealt with immediately by the Chairperson.
- (2) Procedural motions require a seconder.
- (3) The Chairperson may reject a procedural motion if he or she believes the motion on which it is proposed has not been adequately or sufficiently debated.
- (4) Regardless of any other provision in the Governance Rules, a procedural motion must be dealt with in accordance with the table at sub-rule (8).
- (5) A procedural motion may not be moved or seconded by the Chairperson.
- (6) Unless otherwise provided, debate on a procedural motion is not permitted and the mover does not have a right of reply.
- (7) Unless otherwise provided, a procedural motion must not be amended.
- (8) Procedural motions table:

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Motion	Suggested Form	Mover/ Second	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Deferral of a matter (to a future meeting)	'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral) ...'	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of the Mayor/ Deputy Mayor; (b) During the election of a Chairperson; or (c) When another Councillor is speaking	Consideration/ debate on the motion and/or amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future meeting, where a fresh motion may be put and debated	Debate continues unaffected	Yes
Closure (of debate)	'That the motion now be put'	Any Councillor who has not moved or seconded the original motion or spoken for/against the original motion	During nominations for a Chairperson	Motion or amendment is put to the vote immediately without further debate, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
Laying a motion on the table (pausing debate)	'That the motion be laid on the table'	A Councillor who has not spoken for/against the motion	During the election of the Mayor/ Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same meeting	Debate continues unaffected	No
Take a motion from the table (resume debate on a matter)	'That the motion in relation to XX be taken from the table'	Any Councillor	When no motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
Alter the order of business	'That the item listed at XX on the agenda be considered before/after the item listed as XY'	Any Councillor	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the agenda	No

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Motion	Suggested Form	Mover/ Seconder	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Suspension of Standing Orders	'That Standing Orders be suspended to ...' (reason must be provided)	Any Councillor		The rules of the meeting are temporarily suspended for the specific reason given in the motion No debate or decision on any matter, other than a decision to resume Standing Orders, is permitted	The meeting continues unaffected	No
Resumption of Standing Orders	'That Standing Orders be resumed'	Any Councillor	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed	The meeting cannot continue	No
Consideration of confidential matter(s) (Close the meeting to members of the public)	That, in accordance with section 66(2)(a) of the <i>Local Government Act 2020</i> the meeting be closed to members of the public for the consideration of item XX <i>is confidential as it relates to [insert reason]</i>	Any Councillor	During the election of the Mayor/ Deputy Mayor	The meeting is closed to members of the public	The meeting Continues to be open to the public	Yes
Reopen the meeting	'That the meeting be reopened to members of the public'	Any Councillor		The Meeting is reopened to the public	The meeting remains closed to the public	No

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10.14 Notice of motion

- (1) A Councillor can submit to the Chief Executive Officer a notice of motion for inclusion in the agenda for a meeting.
- (2) A notice of motion must be in writing, signed by the Councillor (including by electronic means), and be lodged with the Chief Executive Officer at least five (5) business days prior to the meeting at which it is proposed to be considered.
- (3) The Chief Executive Officer must inform Councillors about the operational, legal, financial and other risks, including non-compliance with statutory obligations of any proposed notice of motion. The Chief Executive Officer may suggest revised wording to the draft notice of motion to facilitate compliance with the requirements for notices of motion under the Governance Rules.
- (4) A notice of motion must relate to the objectives, role and functions of Council as outlined in the Act.
- (5) A notice of motion must call for a Council report if the notice of motion proposes any action that:
 - (a) impacts the levels of Council service;
 - (b) commits Council to expenditure not included in the adopted Council Budget;
 - (c) proposes to establish, amend or extend Council policy;
 - (d) proposes to impact the rights of any person who has not had the opportunity to contribute their views;
 - (e) commits Council to any contractual arrangement; or
 - (f) concerns any litigation in respect of which Council is a party.
- (6) The Chief Executive Officer must reject any notice of motion which:
 - (a) is too vague;
 - (b) is defamatory;
 - (c) may be prejudicial to any person or Council;
 - (d) is objectionable in language or nature;
 - (e) is outside the powers of Council
 - (f) is submitted during election period.

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- (7) The Chief Executive Officer may reject a proposed Notice of Motion that
 - (a) relates to a matter that can be addressed through the operational service request process; or
 - (b) relates to a matter that has been previously resolved by Council or is acted upon.
- (8) If rejecting a notice of motion, the Chief Executive Officer must inform the Councillor who lodged it of that rejection and the reasons for the rejection no later than nine business days before the Meeting at which it is intended to be considered. The Councillor may submit a revised Motion within 24 hours.
- (9) The Chief Executive Officer to advise the Chairperson to consider a notice of motion in a closed meeting of Council if the content/matter of the notice of motion is confidential as defined in section 3(1) of the Act.
- (10) The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda, and outline the policy, financial and resourcing implications if the notice of motion is passed.
- (11) The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the notice of motion being published in the agenda for the relevant Council meeting.
- (12) The Chief Executive Officer must cause all notices of motion to be sequentially numbered, dated and entered in a register.
- (13) Unless Council resolves otherwise, each notice of motion must be considered in the order in which they were received.
- (14) The motion moved must not be substantially different to the motion published in the agenda, however, may be amended by resolution of the Council.
- (15) If a Councillor who has lodged a notice of motion is absent from the meeting or fails to move the motion when called upon by the Chairperson to do so, any other Councillor may move the motion.
- (16) If a notice of motion is not moved at the Council meeting at which it is listed, it lapses.

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10.15 Notice of Rescission

- (1) A notice of rescission is a form of notice of motion. Accordingly, all provisions in the Governance Rules regulating notices of motion equally apply to notices of rescission.
- (2) Motions to rescind or alter a previous resolution of Council can be made by:
 - (a) A notice of rescission delivered by a Councillor in accordance with sub-rule (4); or
 - (b) A recommendation contained in an officer's report included in the agenda.
- (3) Any three Councillors may propose a Motion to rescind or alter a previous resolution of Council provided:
 - (a) the previous resolution has not been acted on;
 - (b) the effect of rescinding the resolution will not place the Council at significant operation, legal, financial or other risk, including non-compliance with statutory obligations; and
 - (c) a notice is delivered to the Chief Executive Officer or delegate setting out:
 - i) the relevant previous resolution to be rescinded or altered; and
 - ii) the meeting and date when the relevant previous resolution was carried.
- (4) A notice of rescission must be:
 - (a) in writing;
 - (b) signed (including by electronic means) by three Councillors; and
 - (c) and be delivered to the Chief Executive Officer or a delegate by 5.00pm of the day two (2) business days after the Council meeting outlining the decision to be rescinded
- (5) The Chief Executive Officer, or a member of Council staff with responsibility for the subject matter of a resolution, may implement a resolution of Council at any time after the close of the meeting at which it was made.

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- (6) A resolution of Council will be deemed to have been acted on if:
- (a) its contents or substance has been formally communicated to a person whose interests are materially affected by it, including by publishing the unconfirmed minutes of a Council meeting on Council's website; or
 - (b) a statutory process has been commenced so as to vest enforceable rights or obligations on Council or any other person; or
 - (c) is practically incapable of being rescinded.
- (7) Notwithstanding sub-rule (6), the Chief Executive Officer or member of Council staff must defer implementing a resolution which:
- (a) has not been acted on; and
 - (b) is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-rule (4), unless deferring implementation of the resolution would have the effect of depriving the resolution of usefulness, giving rise to non-compliance with a legal obligation or placing the Council at legal, financial or other risk.
- (8) If a motion for rescission is lost, a similar motion may not be put before Council for at least three (3) month from the date it was last lost, unless Council resolves that the notice of rescission be re-listed at a future meeting.
- (9) If a motion for rescission is not moved at the meeting for which it is listed, it lapses.
- (10) A notice of rescission listed on an agenda may be moved by any Councillor present but be moved in the form it was listed and must not be amended.

10.16 Change of Council Policy

- (1) Council reviews its policies to ensure they are current and continue to reflect community expectations and the position held by a particular Council.
- (2) It is good practice for Council to review significant policies at least once in each Council term (every 4 years) and such reviews may lead to change in policy position.

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- (3) Subject to sub-rule (4), if Council wishes to change a Council policy, a formal notice of rescission is not required.
- (4) If a policy has been in force in its original or amended form for less than 12 months, any intention to change the policy which may result in a substantial change to the policy's application or operation for members of the public should be communicated to those affected, and their comment sought, prior to the policy being changed.

10.17 Foreshadowed items

- (1) At the time designated in the meeting agenda, a Councillor may foreshadow a notice of motion to be submitted for consideration at the next meeting by indicating, when called on to do so by the Chair, the subject matter of the foreshadowed notice of motion.
- (2) The subject matter, as indicated by the Councillor, of a foreshadowed item will be recorded in the minutes.
- (3) No discussion or debate is allowed on a foreshadowed item.
- (4) A foreshadowed item will have no further formal status at that Council meeting.
- (5) Foreshadowed items are intended to be used to indicate to Council and the community matters of importance that will be raised at the next Council meeting.
- (6) If a Councillor does not submit a notice of motion for the next Council meeting, no further action on a foreshadowed item will occur.

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11. Points of Order

Overview: A point of order is taken when a Councillor draws the attention of the Chairperson to an alleged irregularity in the proceedings. Valid points of order, the process for raising and ruling on a point of order, and the procedure if there is dissent on the Chair's ruling are described in this section.

- (1) A Councillor raising a point of order must state:
 - (a) the point of order; and
 - (b) any section, rule, paragraph or provision relevant to the point of order.
- (2) The Chairperson must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the point of order raised, without entering into any discussion or comment.
- (3) The Chairperson may adjourn the meeting to consider a point of order; otherwise he or she must rule on it as soon as it is raised.
- (4) All other matters before Council are suspended until the point of order is decided.

11.1 Dissent in Chairperson's ruling

- (1) A motion of dissent in the Chairperson's ruling must, if seconded, be given priority to all other items of business and a substitute Chairperson must be elected to preside while the motion is being considered.
- (2) The substitute Chairperson must put questions relative to the ruling to the Chairperson first, and then to the mover of the motion.
- (3) The substitute Chairperson must conduct a debate on the Chairperson's ruling, and the matter must be decided by a majority vote.
- (4) The Chairperson must then resume the Chair for the remainder of the Meeting.

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11.2 Valid points of order

- (1) A point of order may be raised in relation to:
 - (a) a motion which has not been accepted by the Chairperson;
 - (b) a question of procedure;
 - (c) a Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
 - (d) debate that is irrelevant to the matter under consideration;
 - (e) a matter that is outside the powers of Council; or
 - (f) any act of disorder.

11.3 Contradiction or opinion

- (1) Rising to express a mere difference of opinion or to contradict a speaker is not a point of order.

11.4 Disorderly Conduct

- (1) The conduct of Councillors and members at meetings is governed by the Act, these Governance Rules and the Councillor Code of Conduct.

11.5 Chairperson may adjourn disorderly Meeting

- (1) The Chairperson may call a break in a meeting for either a short time, or to resume another day if:
 - (a) the behaviour at the Council table or in the gallery is significantly disrupting the meeting; or
 - (b) when a meeting has been in progress for longer than 2 hours.
- (2) The break referred to in sub-rule (1) is an adjournment.
- (3) Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the meeting, and prevents the conduct of Council business:
 - (a) Council may, by resolution, suspend that Councillor from a portion of the meeting or from the balance of the meeting where the Chairperson has warned the Councillor to cease that behaviour; or

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- (b) The Mayor, under section 19 of the Act, at a Council meeting, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the meeting for a period of time or the balance of the meeting.
- (4) Where Council suspends a Councillor under sub- rule (3)(a), or the Mayor directs a Councillor to leave the meeting under sub-rule (3)(b) the Councillor will take no active part in the portion of the meeting from which he or she has been suspended.
- (5) If a Councillor has been suspended from a meeting or directed to leave in accordance with sub-rule (3) the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the Councillor.

The Act (section 19(1)(b) provides the power to the Mayor to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

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12. Minutes

Overview: The minutes of a meeting must contain details of the proceedings and resolutions made, be clearly expressed, be self-explanatory and incorporate relevant reports or a summary of the relevant reports considered in the decision-making process. The minutes of a Council meeting must be submitted to the next appropriate Council Meeting for confirmation.

12.1 Keeping of Minutes

- (1) The Chief Executive Officer or delegate is responsible for the keeping of minutes on behalf of Council. Those minutes must record:
 - (a) the date, place, time and nature of the Council Meeting;
 - (b) the names of Councillors and whether they are present, an apology, on leave of absence, etc.;
 - (c) the titles of the members of Council staff present who are not part of the gallery;
 - (d) the disclosure of a conflict of interest made by a Councillor in accordance with the Act and rule 18 of these Governance Rules;
 - (e) the arrivals and departures of Councillors, during the course of the meeting (including any temporary departures or arrivals);
 - (f) every motion and amendment moved (including procedural motions),
 - (g) the outcome of every motion moved;
 - (h) where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
 - (i) when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any motion, noting that under s61(5) that a Councillor present at the meeting who does not vote is taken to have voted against the question;
 - (j) details of any failure to achieve or maintain a quorum;
 - (k) a summary of any question asked and the response provided as part of public question time;
 - (l) details of any petitions made to Council;
 - (m) the time and reason for any adjournment of the meeting or suspension of standing orders;
 - (n) any other matter, which the Chief Executive Officer or delegate thinks should be recorded to clarify the intention of the meeting or assist in the reading of the minutes; and

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- (o) the time the Council meeting was opened and closed, including any part of the Council meeting that was closed to members of the public.

12.2 Confirmation of Minutes

- (1) The minutes as recorded by the Chief Executive Officer, or delegate, will be made available as the unconfirmed minutes to:
 - (a) Councillors, within 7 business days;
 - (b) members of the public, by publishing them on Council's website, within 9 business days
 - (c) of the Council meeting they relate to.
- (2) At every Council Meeting the minutes of the preceding Council meeting(s) must be dealt with as follows:
 - (a) a Motion will be moved to confirm the minutes in the following terms:
'That the minutes of the East Gippsland Shire Council meeting held on20.....be confirmed.';
 - (b) if a Councillor indicates opposition to the minutes, the Councillor must specify the particular item or items in the minutes and, after asking any questions to clarify the matter, can only move a motion to rectify the alleged error(s) in the minutes by adding the following words to the motion in sub-rule (2) (a) '...subject to the following alteration(s).....'.
- (3) no debate or discussion is permitted on the confirmation of minutes except as to their accuracy as a record of the proceedings of the Council meeting to which they relate;
- (4) once the minutes are confirmed in their original or amended form, the minutes must, if practicable, be signed by the Chairperson of the meeting at which they have been confirmed; and
- (5) the minutes must be entered in the minute book and each item in the minute book must be entered consecutively.

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12.3 Recording of Proceedings

- (1) A person in the gallery must not operate film, photographic, tape-recording or other equipment to reproduce sound and/or images at any meeting without first obtaining the consent of the Chairperson.
- (2) The consent of the Chairperson may be revoked at any time during the course of a meeting by the Chairperson stating that consent has been revoked and ordering that the recording cease.

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13. Suspension of Standing Orders

Overview: Standing Orders are the rules made to govern the procedure at Council meetings contained in this governance rules. The standing orders cover a range of matters including the order of business, rules of debate, procedural motions and election procedures.

Standing orders can be suspended to facilitate the business of a meeting.

13.1 Suspension of standing orders

- (1) To temporarily remove the constraints of formal meeting procedure and allow full discussion or clarification of an issue, Council may, by resolution, suspend standing orders in accordance with the procedural motion table at Rule 10.13.
- (2) Suspension of standing orders should not be used purely to dispense with the processes and protocol of the governance of Council.
- (3) No motion can be accepted by the Chairperson or lawfully be dealt with during any suspension of standing orders, except a motion to resume standing orders.
- (4) No motion to suspend standing orders can be accepted by the Chairperson during a second extension of time for a Meeting.

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14. Delegated Committees

Overview: Council may establish Delegated Committees and Advisory Committees as part of its governance framework. Delegated Committees can comprise Councillors, members of Council staff and others and must be chaired by a Councillor. As Council may delegate specific powers, duties and functions to Committees, their meeting procedures need to be formal.

- (1) The Governance Rules will apply to Delegated Committee meetings with any necessary modifications.
- (2) For the purpose of sub- rule (1):
 - (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) a reference to the Mayor is to be read as a reference to the Chairperson of the Delegated Committee.
- (3) If Council establishes a Delegated Committee, Council may resolve that a provision of this governance rules do not apply to that Committee.

15. Community Asset Committees

Overview: The Act provides for Council to establish a Community Asset Committee for the management of a community asset such as a hall. Council may appoint members of the community to the committee and delegate to it powers, duties or functions. The powers delegated to a community asset committee must be limited in the amount and purpose of any financial delegation.

- (1) The Governance Rules may apply to any Community Asset Committee established by Council.
- (2) Council may resolve, in establishing a Community Asset Committee which chapters of the Governance Rules apply but as a minimum must include Rule 12 - Minutes.
- (3) A Community Asset Committee must report the minutes of all meetings to the next practicable Council meeting.

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- (4) A Community Asset Committee must act in accordance with its adopted Charter, Instrument of Delegation and any Terms of Reference adopted by Council.

16. Audit and Risk Committee

- (1) The Governance Rules will apply to the Audit and Risk Committee established by Council unless otherwise provided in the Audit and Risk Charter.
- (2) Council may resolve, in establishing an Audit and Risk Committee that the meeting procedure chapter of these Governance Rules does not apply.
- (3) An Audit and Risk Committee must provide a report to Council on all Committee Meetings to the next practicable Council meeting.
- (4) An Audit and Risk Committee must act in accordance with the Charter adopted by Council.

17. Election Period Policy

- (1) Council will have in place an election period policy that:
 - (a) Governs decision making during a local government election period, including what may be considered at a Council meeting;
 - (b) Prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
 - (c) Sets out the conditions for any community engagement required to be undertaken during an election period, including consultations, Civic events, and activities of Advisory Committees established by Council;
 - (d) Sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns;
 - (e) Defines roles and responsibilities in relation to who is the spokesperson for Council during an election period;
- (2) At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its election period policy.

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- (3) The Election Period Policy forms part of these Governance Rules.
- (4) The operation of Council Advisory Committees shall be suspended upon the commencement of the election period ahead of a general Council election.
- (5) Any outstanding Council Reports may still be reported to a meeting of Council during this period.
- (6) Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

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18. Conflict of interest

Overview: The Act defines general and material conflicts of interest and provides exemptions for remoteness and interests in common with a substantial proportion of ratepayers along with other specific circumstances.

The Act also provides Council must include in its Governance Rules procedures for disclosures of Conflicts of interest, including at meetings conducted under the auspices of Council that are not Council meetings.

Meetings conducted under the auspices of Council include those meetings arranged or hosted by Council.

These Rules provide the procedures for disclosures of conflicts of interest.

18.1 Obligations with regard to conflict of interest:

- (1) Councillors, members of Delegated Committees and Council staff are required to:
 - (a) avoid - all situations which may give rise to conflicts of interest;
 - (b) identify - any conflicts of interest; and
 - (c) disclose – or declare all conflicts of interest;

18.2 Councillors and Members of Delegated Committees

- (1) May not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- (2) When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.
- (3) All disclosures of conflicts of interest will be recorded in the minutes of a Council or Delegated Committee meeting.
- (4) Council will maintain a Conflict of Interest Register which will be made available on Council's website.

18.3 Procedure at a Council or Delegated Committee Meeting

- (1) At the time indicated in the agenda, a Councillor with a conflict of interest in an item on that agenda must indicate they have a conflict of interest by clearly stating:
 - (a) the item for which they have a conflict of interest; and
 - (b) whether their conflict of interest is general or material; and

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- (c) the circumstances that give rise to the conflict of interest.
- (2) Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor or member of a Delegated Committee must indicate to the meeting the existence of the conflict of interest and leave the meeting.
- (3) A Councillor who is not present at the designated time in the agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the manner that required for the declarations of conflicts of interest at sub-rule (1) prior to leaving the meeting.
- (4) A Councillor or member of a Delegated Committee who discloses a conflict of interest and leaves a Council meeting must not communicate with any participants in the meeting while the decision is being made.

18.4 Procedure at other meetings organised, hosted or supported by Council

- (1) A Councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.
- (2) At the time indicated on the agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.
- (3) If there is no agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest as soon the matter arises.
- (4) At the time for discussion of that item, the Councillor will leave the discussion and not communicate with any members of the meeting for the duration of the discussion.
- (5) The existence of a conflict of interest will be recorded in the minutes of the meeting.
- (6) If there are no minutes kept of the meeting, the conflict of interest will be recorded in a meeting record and provided to the Governance team for recording in the register of Conflicts of Interest.
- (7) The meeting minutes or record will also record the duration of the discussion and whether the Councillor left the meeting.
- (8) Meeting records and reports will be presented to Council for noting and inclusion on the public record.

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18.5 Council staff

- (1) Must act in accordance with the Employee Code of Conduct.
- (2) Must not exercise a delegation or make a decision on any matter where they have a conflict of interest.
- (3) May be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at Rule 18.6 and the Employee Code of Conduct.

18.6 Procedure for disclosures of conflicts of interest by Council Staff

- (1) Council staff must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.
- (2) All conflicts of interest disclosed by Council staff will be provided to the Governance team for recording in the register of Conflicts of Interest.
- (3) A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:
 - (a) The number and qualifications of other people providing advice regarding the same matter is equal or greater; or
 - (b) The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
 - (c) The staff member's General Manager determines that the conflict of interest has not influenced the advice provided; and
 - (d) The existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.

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19 Joint council meetings

Overview: Regional collaboration provides benefits through collective procurement, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it's possible for the participating Councils to make their own decisions and determinations, in some circumstances, it may be beneficial to hold Joint Council meetings as are provided for in the Act.

- (1) Council may resolve to participate in a Joint Council meeting to consider:
 - (a) Matters subject to discussion of any existing alliance.
 - (b) Collaborative projects
 - (c) Collaborative procurement
 - (d) Emergency response
- (2) If Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer (or delegate) will agree on governance rules with the participating Councils.
- (3) Where East Gippsland Shire Council is the lead Council on a matter to be brought for consideration at a Joint Council meeting, the Mayor will be nominated to Chair the Joint Council meeting
- (4) A majority of Councillors will be appointed to represent Council at a Joint Council meeting.
- (5) Consistent information will be provided to Councillors prior to any Joint meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.
- (6) A joint briefing arranged in accordance with sub-rule (5) may be held electronically.

Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1					

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Election Period Policy 2019

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DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

Purpose

The *Local Government Act 2020* (2020 Act) requires Local Government to adopt Governance Rules (s60) which incorporate an election period policy (s69). The Governance Rules stipulate the requirements for an election period policy.

An election period policy will ensure the conduct of the Local Government election is open and fair to all candidates by setting out procedures and practices to be followed during the election period.

The Policy provides guidance to Councillors, Council staff and candidates in the lead up to a Local Government election, known as the election period', to ensure that the election process remains free from inappropriate electioneering by existing Councillors, and to safeguard the authority of the incoming Council.

The Governance Rules require an Election Period Policy to prohibit Councils from making major policy decisions, using Council resources or publishing and/or distributing electoral matter during an election period. These provisions are intended to assist Councillors and officers to continue to conduct ordinary matters of administration that need to be addressed in the lead up to an election, while maintaining public confidence in an unbiased election process.

East Gippsland Shire Council is committed to the principle of fair and democratic elections and has adopted the practices detailed within this policy to guide the conduct of Councillors and officers throughout the election process.

This policy applies during the election period (see 'Definitions' for explanation) and covers:

- decisions made by Council, Delegated Committees, Community Asset Committees, or Council delegates;
- requirements for a Councillor or member of Council staff that nominates as a candidate
- any material that is published by East Gippsland Shire Council;
- attendance and participation in functions and events;
- use of Council resources;
- access to Council information; and
- media services.

This policy will affect you during the Election Period if you are:

- involved in making a major policy decision;
- involved in making a significant decision that may bind the incoming Council;
- intending to publish any written or electronic material that refers to a candidate (including any current Councillor or member of Council staff); or the municipal election; or an issue before the voters in connection with the election; or could be seen to advantage or disadvantage any candidate for election.
- involved in the creation of any Council publication;
- involved in the planning and/or organisation of any public consultation process;
- involved in the planning and/or organisation of any public Council functions or events;
- asked to supply resources, support or information to Councillors;
- a Councillor who is standing for re-election.

DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

Scope

This policy applies to all current Councillors, all candidates to the general election, the Chief Executive Officer and all Council officers.

Policy Statement

This Policy establishes a series of practices to ensure that actions of the current Council do not bind an incoming Council and limit its freedom of action.

The provisions operate during the election period, which commences at the close of nominations to be a candidate for the Local Government elections – 22 September 2020. The Election Period will conclude at 6.00 pm on Election Day.

1.0 Council Decisions

Council will not make any decision that significantly affects the municipality and will unreasonably bind the incoming Council. This includes decisions at Council meetings, decisions of Delegated Committees or decisions by Council officers as delegates.

Section 69 of the *Local Government Act 2020* requires an election period policy to prohibit a Council from making major policy decisions during the election period. Councils that make decisions in contravention of the 2020 Act may be invalid (69(4)) and a person who suffers a loss or damage as a result of acting in good faith on a Council decision that is invalid may be entitled to compensation from the Council for the loss of damage (s69(5)).

Council will not make major decisions during the election period relative to:

- the remuneration, appointment or dismissal of a Chief Executive Officer;
- entering into any contracts worth more than 1% of the Council's revenue from rates and charges levied under section 158 of the 1989 Act in the previous financial year; and
- the exercise of any entrepreneurial power under section 193 of the 1989 Act if the amount assessed under section 193(5A) of the 1989 Act in respect of the proposal exceeds whichever is greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 of the 1989 Act in the previous financial year.

Council will not make inappropriate decisions, that may affect voting in an election or could reasonably be made after the election.

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During the election period Council will not make significant decisions, i.e. decisions that may:

- have a significant effect on the municipality or the community;
- commit the Council to substantial expenditure or major actions; and/or
- otherwise unreasonably bind the incoming Council.

Election Period Statement – Council Decisions

During the election period the Chief Executive Officer will ensure that an election period statement is included in every report submitted to a Council meeting for decision.

Election Period Policy 2019
Date approved: 18 February 2020
Document owner: General Manager Business Excellence

Version number: 5
Next review date: Not later than 12 months
before the commencement of the next general
municipal election period in 2024

DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

Council will not make a decision on any matter or report that does not include a statement. This will ensure that no agenda item is included that could potentially influence voters' intentions or encourage Councillor candidates to use the item as part of their electioneering campaign.

The election period statement will be one of the following:

- *The recommended decision is not a major policy decision , or a significant decision as defined by Council's Election Period Policy.*

or

- *The recommended decision is not a major policy decision as defined by Council's Election Period Policy. The recommended decision is a significant decision within the meaning of Council's Election Period Policy but an exception should be made for the following reasons: [\[insert reasons\]](#).*

Examples of other decisions that should be avoided during the election period include, but are not limited to:

- allocation of community grants or other direct funding to community organisations;
- allocation of funds from the Capital Quick Response Fund;
- major planning scheme amendments; and
- changes to strategic objectives and strategies in the Council Plan.

2.0 Council Resources

It is an established democratic principle that public resources must not be used in a way that would influence the way people vote in elections.

It is also an offence under section 76D of the 1989 Act for a Councillor to misuse his or her position to gain or attempt to gain an advantage for themselves or others, or to cause or attempt to cause detriment to anyone. The penalty for misuse of position by a Councillor is 600 penalty units, or imprisonment for five years, or both.

While East Gippsland Shire Council is committed to this principle, it is also important that Councillors continue to have access to the resources they need to fulfil their elected roles until the end of their term of office.

The following arrangements will apply during the election period:

- Council resources, including offices, support staff, hospitality, equipment, email, mobile phones and stationery will be used exclusively for normal Council business and will not be used in connection with election campaigning.
- Reimbursements of Councillors' out-of-pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with any candidate's election campaign.

DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

- Council logos, letterhead, or other Council branding must not be used for, or linked in any way to any candidate's election campaign.
- Council owned photographs/images will not be used for any candidate's electioneering purposes.
- Council staff will not be asked or permitted to undertake any tasks connected with any candidate's election campaign.

Where it is impractical for Councillors to discontinue their use of Council funded services/equipment (e.g. mobile phones, computers, vehicles, etc.) Councillors will reimburse East Gippsland Shire Council for any election campaign-related usage of these services during the election period. Councillors may wish to keep logbooks for this purpose, and these will be provided, on request.

Councillors will not use their Council-supplied email account for election campaigning for themselves or any other candidate.

2.2 Travel/Accommodation and Professional Development

Councillors will not participate in any interstate or overseas travel during the election period in their capacity as a Councillor.

In circumstances where it is imperative that the Mayor (or nominee) represent the organisation on a delegation or forum Council may, by resolution, approve such attendance. If consideration by Council is impractical, the Chief Executive Officer may determine the issue.

Allocations of budget for Councillor seminars/training and attendance at events directly relevant to their work as a Councillor will be allocated on a pro-rata basis between the commencement of the relevant financial year and the election date. This will ensure incoming Councillors receive a fair allocation of the budget allocated for this purpose.

No new professional development opportunities will be undertaken or commenced by Councillors during the election period.

2.3 Councillor Expenditure

Claims for the reimbursement of expenses may continue to be lodged by Councillors, provided it conforms to the requirements set out in the Councillors Support and Expenses Policy and this Policy.

3.0 Council Communications and Publicity

Council communications are a legitimate way to promote Council activities and services. It is important that all Councillors have access to the Council's communication resources to enable them to fulfil their roles. However, they will not be developed or used in any way that might influence the outcome of a Council election.

Council will not release pamphlets, notices, advertisements etc. without a written declaration being included from the Chief Executive Officer certifying that the item does not contain electioneering material.

DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

In respect of print and electronic media, during the defined election period:

- Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer. Only the Chief Executive Officer can certify items do not contain electioneering material.

No publication or communication during the election period may be printed, published or distributed unless the following certification – over the Chief Executive Officer's signature – has been applied to the material:

Certified by the Chief Executive Officer that this document does not contain electioneering material.

Although the certification does not need to be printed on published versions, copies of all certifications and certified material must be retained on Council records.

Any publications that cannot be scheduled for before or after the election period, whether by Council or anyone acting on behalf of Council, must be 'certified' by the Chief Executive Officer as not containing electoral material – this includes bulk letters/emails and newsletters issued during the election period.

The following outlines the approaches that will be taken for specific communication and publicity activities:

- Council publicity and communications will be restricted to promoting normal Council activities and services, and for informing residents about the conduct of the election.
- General correspondence addressed to Councillors will be managed in accordance with normal protocols. However, Councillors will sign only the necessary minimum of correspondence during the election period, and correspondence regarding significant, sensitive or controversial matters should be signed by the Chief Executive Officer. Responses will be prepared without political bias.
- Media releases will not mention or quote any Councillor(s) during the election period.
- No media advice or assistance will be provided to Councillors in relation to election campaign matters.
- Councillors will not use their position as an elected representative, or their access to Council staff and other Council resources, to gain media attention in support of any candidate's election campaign.
- Council is required by the *Local Government Act* 1989 to produce an Annual Report, which will be published during the election period. The Annual Report does not require certification. However, it will not contain any material that could be regarded as electioneering or promotion of individual Councillors. Councillor images will be kept to a minimum, and achievements of individual Councillors will not be included. A Council meeting will be conducted at an appropriate time during the election period to finalise the Annual Report process in accordance with the provisions of the *Local Government Act* 1989.

DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

3.1 Social Media and Website

Council's website and social media sites such as Facebook, Twitter, YouTube, Linked In and blogs may continue to be a corporate voice for Council, and will not be used for any electioneering purposes by Councillors or Council officers.

Councillor profiles on the Council website will be limited to a name, portfolio title and contact details. Photographs and profiles will be removed.

Individual Councillors and/or achievements, or any material considered campaign material, will not be published on any of Council's websites.

A statement will be posted on Council website and in all social media channels informing the general public that a notice/comment posted during the election period cannot be responded to, or published, should the post be political in nature.

Council's social media sites will be monitored for electioneering material and any inappropriate posts will be removed as soon as practicable.

No new pages, documents or posts will be uploaded to any East Gippsland Shire Council social media platform during the election period without prior written certification by the Chief Executive Officer.

3.2 Functions and Events / Speeches

Wherever practicable, civic events and functions will not be conducted during the election period.

Where this is not possible, during the election period these will relate only to legitimate Council business and will not be used, or be capable of being seen as being used, to promote the campaign of any candidate.

All speeches prepared for use at events or functions will be reviewed by the Manager Customer Experience and Communication or another officer nominated by the Chief Executive Officer, to ensure the content does not breach this Policy.

Where required and consistent with normal practice, a Councillor may make a speech during an event or function. However, the speech must be approved by the Chief Executive Officer in advance and delivered as written. Speeches will not have any political reference that may be construed as providing any candidate with an advantage.

Council officers may conduct the mandatory candidate training as prescribed in regulation or assist with Council election information sessions.

3.3 Provision of Information

Council recognises that all election candidates have certain rights to information from the Council administration subject to the *Privacy and Data Protection Act 2014* (Vic) which restricts disclosure of certain information.

It is important that current Councillors continue to receive information that is necessary to fulfil their roles. However, Councillors must not request or receive information or advice from

DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

Council officers to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the election period.

Request for Information Register

During the election period a “Request for Information Register” will be maintained by the Chief Executive Officer. This register will be available for inspection by the public and will record all requests relating to electoral matters, and non-routine requests for information by Councillors and election candidates, as well as the responses provided.

3.4 Advice to Candidates

All candidates for the Council election will be treated equally. Any advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.

All election related enquiries from candidates, whether current Councillors or not, will be directed to the Victorian Electoral Commission Returning Officer, or where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer or General Manager Business Excellence (or nominee).

4.0 Community Engagement

For the purposes of this Policy, public engagement is any process that involves inviting individuals, groups or organisations or the community generally to comment on an issue or proposed action or proposed policy. It includes discussion of those matters with members of the public.

Wherever possible, public consultations will be avoided during the election period.

Where public consultation during the election period is essential to maintain the normal day to day business of Council, it may be undertaken only with prior written approval by the responsible General Manager.

The Bang the Table community engagement website – <http://yoursay.eastgippsland.vic.gov.au/your-say> will be disabled for the duration of the election period.

Facilitators of any consultation held during the election period must be able to justify to the community the special circumstances making the session necessary and how the risks of influencing the election will be mitigated or prevented to avoid potential electioneering.

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 to postpone a matter if the issue is likely to affect voting. Council will not continue or commence consultation on any contentious or politically sensitive matter during the election period.

No Council advisory or committee meetings will be held during the election period unless exceptional circumstances apply and the Chief Executive Officer has approved the meeting.

**DRAFT FOR ENGAGEMENT PURPOSES
NOT ADOPTED BY COUNCIL**

5.0 Council Spokesperson

In the event that a spokesperson is required in relation to any publication or communication, the Chief Executive Officer will fulfil that role or nominate an appropriate officer to act as spokesperson.

Council employees must not make any public statement that could be construed as influencing the election. Statements of clarification may be required from time to time and these are to be approved by the Chief Executive Officer.

NOTE:

The Policy is not intended as a substitute for legal advice and individuals should seek their own independent advice if they are unsure about any aspect of the Local Government Acts 1989 and 2020, associated regulations, Governance Rules and this policy in relation to the election period.

**DRAFT FOR ENGAGEMENT PURPOSES
NOT ADOPTED BY COUNCIL**

Roles and Responsibilities

These management positions are responsible for implementation and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive Officer	Ensure that scheduling of significant policy or strategy decisions is made well in advance of the election period or deferred for consideration by the incoming Council. Certify that any published material does not contain electoral matter. Ensure the Election Period Statement is included on Council Reports where applicable.
General Manager Business Excellence	Policy owner. Ensure all Councillors and staff are informed of the requirements of this policy. Provide advice and guidance on the implementation of the policy. Ensure that a copy of this policy is given to each Councillor as soon as practicable after it is adopted; available for inspection by the public at all Council Business, Service and Outreach Centres; and published on Council's website.
Responsible General Managers	Approve in writing, any public consultation that is considered essential to maintain the normal day to day business of Council and must be conducted during the election period.
Manager Customer Experience and Communications	Review all speeches to be delivered by Councillors at Council approved events during the Election Period. Implement an appropriate process to ensure that no material is published without CEO certification.
Executive Leadership Team	Provide support and guidance to staff with implementing this policy.
Manager Governance	Maintain the Request for Information Register and ensure it is available for public inspection on request.
Governance and Compliance Unit	Assist with any day to day queries with respect to the implementation of this policy.
All Councillors and staff	Adhere to the guiding principles as outlined in this policy.

All staff have an obligation to report occurrences of non-compliance with Council policy. Incidents of non-compliance should be reported immediately to the General Manager Business Excellence or the Governance and Compliance Unit.

DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

Where non-compliance has been identified the matter will be investigated by internal review and where applicable further action taken in accordance with Council's Disciplinary Procedures Policy.

References and Supporting Documents

Council Plan 2017-2021 goal 4.1 is to ensure:

"East Gippsland Shire Council is inclusive, engaged and open.."

Applicable Legislation:

- *Local Government Act 2020*
- *Local Government Act 1989*

Other:

- Councillor Code of Conduct
- Councillors Support and Expenses Policy
- East Gippsland Shire Council Staff Code of Conduct

Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council in connection with this policy will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of compliance with the Act. Personal information about an individual held by Council must only be used to carry out the primary or directly related purpose of collection. Furthermore, Council must not collect personal information unless the information is necessary for one or more of its functions.

Individuals have the right to make a complaint to the Victorian Commissioner for Privacy and Data Protection if they believe their privacy has been breached.

The Election Period Policy has been assessed as compliant with the obligations and objectives of the Victorian Charter of the *Human Rights Responsibilities Act 2006*.

**DRAFT FOR ENGAGEMENT PURPOSES
NOT ADOPTED BY COUNCIL**

Definitions

Term	Meaning / Responsibility
<i>Certification by CEO</i>	The certification by the Chief Executive Officer that material for publication or distribution does not contain electoral matter.
<i>Council Officers</i>	East Gippsland Shire Council staff
<i>Election Period</i>	As defined in the Act, commences at the time nominations close on nomination day and ends at 6pm on election day.
<i>Election Period statement</i>	Statement published on all reports submitted to a Council meeting for decision by the Chief Executive Officer.
<i>Electoral material</i>	Defined in the Act 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. It includes any matter that is intended or likely to affect voting in the election.
<i>Inappropriate decision</i>	A decision made by a Council during an Election Period including any of the following— (a) decisions that would affect voting in an election; (b) decisions that could reasonably be made after the election.
<i>Major decision</i>	Means decisions that relate to: <ul style="list-style-type: none"> • the appointment or remuneration of the Chief Executive Officer; or • 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; or • matters that could reasonably be deferred until the next Council is in place; or • the Council considers should not be made during an election period.

**DRAFT FOR ENGAGEMENT PURPOSES
NOT ADOPTED BY COUNCIL**

Term	Meaning / Responsibility
<i>Publication</i>	A broad interpretation should be used to include all documents that are produced for the purpose of communicating with people in the community, including newsletters, advertisements and notices, media releases, leaflets and brochures, emails and mailouts to multiple addresses, electronic information and web based productions including Council's website and social media pages.
<i>Publish</i>	Means publish by any means including by publication on the Internet.
<i>Significant decisions</i>	Include irrevocable decisions that commit the council to substantial expenditure or major actions; or decisions that will have a major impact on the municipality or the community and will unreasonably bind the incoming Council.
<i>The Policy</i>	Election Period Policy

**DRAFT FOR ENGAGEMENT PURPOSES
NOT ADOPTED BY COUNCIL**

Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved	07/08/2012	Council	4897306	
2	Approved	09/04/2013	Council	5167063	Redraft into new template format
3	Approved	01/03/2016	Council	6647876	Merge Policy and Procedure into one Policy document
4	Approved	21/11/2017	Council	7336118	Amended to make dates/times/content generic rather than specific to the timeframes of the previous election
5	Approved	18/02/2020	Council	8326083	Redraft into new template format, update position titles

Election Period Policy 2019
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Next review date: Not later than 12 months before the commencement of the next general municipal election period in 2024



EAST GIPPSLAND SHIRE COUNCIL

LOCAL LAW NO.1

PROCEDURES FOR COUNCIL MEETINGS

*Adopted at the Ordinary Meeting of Council on 8 October 2019
(Item 5.1.2)*

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REVOCATION ENGAGEMENT

EAST GIPPSLAND SHIRE COUNCIL

Local Law No. 1

PART 1

PRELIMINARY

L1.1 TITLE

This local law is East Gippsland Shire Council's Local Law No. 1 (Procedures for Council Meetings), referred to below as 'this local law'.

L1.2 OBJECTIVES OF THIS LOCAL LAW

The objectives of this local law are to:

- (1) provide a mechanism to facilitate the good government of East Gippsland Shire Council through its formal meeting procedure to ensure effective and efficient Council decisions are made in a manner that acknowledges the role of local government within the Australian system of government;
- (2) promote and encourage community participation in the system of local government by providing mechanisms for the Council to ascertain the community's views and expectations;
- (3) regulate and control the election of Mayor and Deputy Mayor;
- (4) regulate and control the procedures governing the conduct of meetings including:
 - (a) the notice required for meetings; and
 - (b) the keeping of minutes
- (5) provide for the administration of Council's powers and functions;
- (6) provide generally for the peace, order and good government of the municipal district;
- (7) revoke Local Law No. 1 (Procedures for Council Meetings) 2017.

L1.3 THE POWER TO MAKE THIS LOCAL LAW

The Council's power to make this local law is contained in sections 91 and 111 of the *Local Government Act 1989*.

LGA91
LGA111

L1.4 OPERATIONAL DATE OF THIS LOCAL LAW

This local law operates from 8 October 2019.

LGA121

L1.5 DATE THIS LOCAL LAW CEASES OPERATION

Unless this local law is revoked sooner, its operation will cease on 8 October 2029.

LGA122

L1.6 SCOPE OF THIS LOCAL LAW

This local law will apply to all Ordinary and Special meetings of Council, and meetings of any Special Committees constituted under the provisions of section 86 of the *Local Government Act 1989*.

L1.7 COMPLIANCE WITH MEETING PROCEDURES

If during a Meeting the Chief Executive Officer or his or her delegate becomes aware of any non-compliance with the Meeting procedures contained in this Local Law or other applicable legislation, rule, custom or practice relating to Meeting procedures, the Chief Executive Officer or his or her Delegate must immediately inform the Chair about the requirements of this Local Law or other applicable legislation, rule, custom or practice relating to Meeting procedures.

The Chair must allow the Chief Executive Officer or his or her Delegate to advise the Meeting of any such breach or likely breach of this Local Law or other applicable legislation, rule, custom or practice, and the Meeting must take account of the advice given.

L1.8 HOW TO READ THIS LOCAL LAW

MARGINAL NOTES

Marginal notes are located against the right-hand margin and contain references to the *Local Government Act 1989*, a local law provision or a Schedule of this local law.

A reference in the margin alerts the reader to the relevant section in a supporting document, e.g., the *Local Government Act 1989* or local law, i.e.

LGA91	Refers to <i>Local Government Act 1989</i> , Section 91
SCH1	Refers to Schedule 1 of this Local Law
L.6.1	Refers to Local Law Clause L.6.1

L1.9 WORDS USED IN THIS LOCAL LAW

WORD	MEANING
Abstain:	To abstain from voting is to formally decline to vote either for or against a motion.
Act:	<i>Local Government Act 1989.</i>
Acted Upon:	a resolution will generally be 'acted upon' if the resolution: <ul style="list-style-type: none">• has been formally communicated to a person who is affected;• had the effect of commencing a statutory process; or• is practically incapable of being rescinded.
Authorised Officer:	A person appointed as an authorised officer in accordance with section 224 of the Act.
Chair:	The person who chairs a meeting of Council.
Chief Executive Officer:	The Chief Executive Officer appointed by Council or the Minister from time to time.
Council:	East Gippsland Shire Council
Councillor:	A person who is a member of Council and so far as practicable extends to any member of any Special Committee of Council.
Council Meeting:	Includes Ordinary and Special meetings of Council.
Debate:	A formal discussion on a particular matter, in which arguments for and against are put forward and which usually ends with a vote.
Deputy Mayor:	Councillor elected as Deputy Mayor.
Business Day:	For the purposes of this Local Law, the calculation of 'day' will start from the beginning of the next business day and conclude at 5.00 pm (e.g. a three-day timeframe commencing at any time on a Tuesday would conclude at 5.00 pm on Friday of that week).
Emergency:	As defined by the <i>Emergency Management Act 1986</i> an emergency means an actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger the

environment or an element of the environment in Victoria including but not limited to:

- (a) an earthquake, flood, wind-storm or other natural event; and
- (b) a fire; and
- (c) an explosion; and
- (d) a road accident or any other accident; and
- (e) a plague or an epidemic or contamination; and
- (f) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth; and
- (g) a hi-jack, siege or riot; and
- (h) a disruption to an essential service;

in respect of which the Chief Executive Officer has declared in writing that an Emergency exists.

Mayor:	Councillor elected as Mayor.
Member:	A person who is entitled to vote at a meeting of Council or a Special Committee of the Council.
Minister:	The Minister responsible for administering the <i>Local Government Act 1989</i> .
Penalty Unit:	Penalty Unit as defined by the <i>Monetary Units Act 2004</i> .
Quorum:	A majority of the elected Councillors unless stated otherwise.
Speak:	To make a verbal comment or statement but not to ask a question or questions.
Statutory Meeting:	Annual meeting of Council held for the purpose of electing a Mayor and Deputy Mayor in accordance with sections 71 and 73 of the Act respectively.
Statutory Year:	The year commencing with the Statutory Meeting of Council.
Suspension of Standing Orders:	Means the suspension of the rules and regulations contained in this local law.

PART 2

ELECTION OF MAYOR AND DEPUTY MAYOR

L2.1 TERM OF OFFICE

Unless otherwise resolved, the term of office of the Mayor will be for a period of one (1) year.

Prior to the election of the Mayor, Council may resolve to elect the Mayor for a period of two (2) years.

L2.2 TIMEFRAME FOR ELECTION

The meeting to fill the vacancy of Mayor will be held:

LGA71
LGA72

- (1) where the Council conducts general elections, as soon as possible after the declaration of the result of the general election but no later than 30 November; or
- (2) after the fourth Saturday in October but not later than 30 November in each year; or
- (3) where the position of Mayor becomes vacant, as soon as practicable after the vacancy has occurred; or
- (4) d) if the Mayor is elected for a term of two (2) years, the next election of Mayor will be held in the second year after the election, after the fourth Saturday in October but not later than 30 November in that year.

In the event that the Mayor is elected after 30 November this does not invalidate the election result. LGA71(4)

L2.3 SETTING MEETING TIME FOR ELECTION OF MAYOR

Subject to Clause L2.2 the Chief Executive Officer will determine the most appropriate time and date for the election of Mayor.

L2.4 SETTING MEETING TIME FOR ELECTION OF MAYOR LESS THAN ONE YEAR

If the term of appointment of the Mayor is for less than one (1) year the Council may fix the date for the election of a future Mayor to ensure continuity of the office.

L2.5 TEMPORARY CHAIR

At any meeting to elect the Mayor, the Chief Executive Officer (or, in the absence of the Chief Executive Officer, another senior officer) may act as a temporary Chair to deal with:

LGA71

- (1) the receipt of nominations for the election of Mayor; and
- (2) the election of Mayor.

L2.6 DETERMINING THE ELECTION OF MAYOR

LGA90

- (1) The Councillor who receives the majority of votes cast must be declared elected as Mayor.
- (2) For the purpose of sub-clause (1), the following will apply:
 - a) where only one (1) nomination is received, that Councillor must be declared elected as Mayor; or
 - b) where two (2) nominations are received, the Councillor with the majority of votes cast must be declared elected as Mayor; or
 - c) where there are more than two (2) nominations received, the candidate with the fewest number of votes cast must be eliminated (and if more than one of them, the candidate determined by lot. i.e. by random or chance selection) and the names of the remaining candidates must be put to the vote again. This procedure must continue until there are only two (2) candidates remaining and when only two (2) candidates remain, then paragraph (b) applies;
 - d) if at any time during the process of electing the Mayor there is an equal number of votes cast then the election must be determined by lot.

L2.7 ELECTION OF DEPUTY MAYOR

When Council appoints a Deputy Mayor the provisions contained in this Part for the election of the Mayor will apply to the election of the Deputy Mayor.

LGA73

This position will also perform the role of Acting Mayor as required from time to time as provided for under the *Local Government Act 1989*. The position will deputise for the Mayor as required from time to time when the Mayor's other duties prevent his or her attendance at specific activities or functions.

PART 3

COUNCIL MEETINGS

DIVISION 1 - NOTICES AND AGENDAS

L3.1 DATES, TIMES AND PLACES OF MEETINGS

The date, time and place of all Council Meetings are to be fixed by the Chief Executive Officer in collaboration with the Mayor and Councillors from time to time.

LGA89

Public notice must be given at least seven (7) days before the holding of:

- an ordinary or special council meeting; or
- a meeting of a special committee comprised solely of Councillors;

unless urgent or extraordinary circumstances prevent this.

In this case Council must give notice as soon as practicable and must specify the urgent and extraordinary circumstances in the meeting minutes.

LGA89

L3.2 COUNCIL MAY ALTER MEETING DATES, TIMES AND PLACES

The Chief Executive Officer, in collaboration with the Mayor and Councillors, may change the date, time and place of any Council Meeting that has been determined previously and must provide public notice as per L3.1.

LGA84

L3.3 SPECIAL COUNCIL MEETINGS

The Mayor or at least three (3) Councillors may by a written notice call a special meeting of the Council.

The Council may by a resolution call a special meeting of the Council.

The notice necessary to call a meeting in accordance with section 84 of the Act must be delivered by the Chief Executive Officer at least five (5) business days prior to the date and time specified for the meeting in the written notice or resolution.

Unless all Councillors are present and unanimously agree to deal with another matter, only the business specified in the notice or resolution is to be transacted.

L3.4 NOTICE OF MEETING

A notice of meeting incorporating or accompanied by an agenda of the business to be dealt with must be delivered to every Councillor at least five (5) days before an Ordinary meeting, a Special meeting, or a Special Committee meeting of Council.

Agendas for Council meetings are available for inspection at Council Service Centres and on the Council web site.

L3.5 LEAVE OF ABSENCE

Councillors may take leave of absence with the permission of Council enacted through formal resolution. Council must not withhold its consent unreasonably.

LGA66B
and 69

While on leave of absence, the councillor remains eligible to be paid their allowance, although not to perform the role of councillor. A Councillor taking extended leave of absence is to return Council-supplied equipment.

Councillors are not required to request a formal leave of absence in instances when they cannot attend a given Council meeting. In this case an apology will suffice.

Notices of meeting and/or agenda will continue to be delivered to any Councillor who has been granted leave of absence, unless the Councillor has requested the Chief Executive Officer in writing not to do so during the period of his or her absence.

L3.6 SPECIAL (EMERGENCY) MEETINGS

- (1) In the case of an emergency, the Chief Executive Officer or, in the absence of the Chief Executive Officer a senior officer, may call or postpone a meeting of Council, without the necessity to comply with clause L3.4 provided reasonable attempts are made to notify every Councillor.
- (2) The Chief Executive Officer or senior officer must submit a full written report of the circumstances requiring his or her action under clause L3.6 (1) to the next Ordinary meeting of Council.

DIVISION 2 - QUORUMS

L3.7 NUMBERS FOR QUORUM

A quorum shall be a majority of the elected Councillors.

L3.8 INABILITY TO GAIN A QUORUM

If a quorum is not present within thirty (30) minutes of the time appointed for the commencement of a Council meeting:

- The meeting lapses;
- The Chair or in his/her absence the Chief Executive Officer must convene another Council meeting to be held within fourteen (14) days of the adjourned meeting and ensure that the Agenda for it is identical to the Agenda for the meeting which has lapsed; and
- The CEO must give all Councillors notice of the reconvened meeting.

This requirement does not apply in respect of any Councillor who has been granted leave of absence pursuant to section 69 of the Act and who has requested the CEO in writing, not to continue to give notice of meetings to be held during the period of leave of absence.

L3.9 INABILITY TO MAINTAIN A QUORUM

If a quorum cannot be maintained after a Council meeting has commenced the Chair must adjourn the meeting, and then reconvene the meeting within thirty (30) minutes after it was adjourned, in which case:

- If a quorum is then present the meeting must resume; or
- If a quorum is not then present and if, after using his or her best endeavours to restore a quorum, the Chair is unsuccessful, the Chair must announce that the meeting has lapsed, whereupon the meeting lapses.

If the meeting lapses the undisposed business must, unless it has already been disposed of at a Special Meeting, be included in the Agenda for the next Ordinary Meeting.

Despite the loss of a quorum in the circumstances set out in this clause, the business transacted at the meeting to that point will remain valid and be capable of being acted upon.

L3.10 INABILITY TO ACHIEVE OR MAINTAIN A QUORUM DUE TO CONFLICTS OF INTEREST OF COUNCILLORS

If during any meeting or adjournment a quorum cannot be achieved or maintained due to the declaration of conflicts of interest by the majority of Councillors, the Chief Executive Officer, or in his or her absence a senior officer, may adjourn the meeting for a length of time sufficient to enable special dispensation for the affected Councillors to be sought from the Minister.

L3.12

DIVISION 3 – ADJOURNMENT OF DEBATE OR MEETING

L3.11 ADJOURNMENT OF DEBATE

The Chair or Council may move a motion to adjourn debate on an item:

- while another motion is put and resolved upon;
- to a later hour on the same day; or
- to a later date.

L3.12 ADJOURNMENT AND RESUMPTION OF MEETING

- (1) The Chair or Council may adjourn any meeting until a time and place to be determined at the time of the adjournment.
- (2) For the purpose of stating the time to which the meeting is adjourned, it is in order for the time to be indicated as at the adjournment or conclusion of another meeting or event.

L3.10

L3.13 NOTICE FOR ADJOURNED MEETING

The Chief Executive Officer may provide written notice of an adjourned meeting. Where time does not permit that to occur, provided a reasonable attempt is made to contact each member, notice by telephone, email, in person or by some other means will be sufficient.

PART 4

MINUTES

L4.1 KEEPING OF MINUTES

The Council must keep minutes of each meeting of the Council. The Chief Executive Officer is responsible for the keeping of minutes on behalf of Council.

LGA93

- (1) In keeping the minutes of any meeting, the Chief Executive Officer must record:
 - a) the names of Councillors and whether they are present, an apology, on leave of absence, etc;
 - b) the name and organisational title of officers in attendance;
 - c) the name of any other person participant in the business of the meeting and the organisation they represent or the capacity of their attendance;
 - d) the arrival and departure time of Councillors, and participating officers during the course of the meeting (including any temporary departures or arrivals);
 - e) every motion and amendment moved, including the mover (and seconder, if relevant) of any motion or amendment;
 - f) the outcome of every motion, that is, whether it was put to the vote and the result of either carried, lost, withdrawn, lapsed or amended;
 - g) identification of those motions voted on during a closed session of a meeting of Council; and
 - h) the manner in which each Councillor votes, either abstained or for or against a motion or amendment (unless carried unanimously or when voting is in a closed session of a meeting of Council);
 - i) where a valid Division is called, a table of the names of every Councillor and the way their vote was cast; either for or against or abstained (and the Councillor's stated reason for any abstained vote);
 - j) details of failure to achieve or maintain a quorum;
 - k) details of any question directed or taken upon notice;
 - l) details of any deputations made to Council;

- m) the time and reason for any adjournment of the meeting or suspension of standing orders;
- n) disclosure of a conflict of interest of a Councillor, member or officer; and
- o) any other matter the Chief Executive Officer believes should be recorded to clarify the intention of the meeting or the reading of the Minutes.

(2) In addition, the Minutes should:

- a) be consecutively page numbered;
- b) record the business of the meeting in the order it actually happened; and
- c) contain consecutive item numbers that are clearly headed with a subject title and where appropriate, sub-titles and file references.

L4.2 NO DEBATE ON CONFIRMATION OF MINUTES

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

L4.3 OBJECTION OF CONFIRMATION OF MINUTES

If a Councillor is dissatisfied with the accuracy of the minutes, he or she must:

- (1) state the item or items with which they are dissatisfied; and
- (2) propose a motion clearly outlining the alternative wording to amend the minutes.

L4.4 DEFERRAL OF CONFIRMATION OF MINUTES

The Council may defer the confirmation of minutes until later in the meeting or until the next meeting as appropriate.

PART 5

BUSINESS OF MEETINGS

L5.1 THE ORDER OF BUSINESS

The order of business will be determined by the Chief Executive Officer to facilitate and maintain open, efficient and effective processes of government.

L5.3

L5.2 CHANGE TO ORDER OF BUSINESS

Once an agenda has been sent to Councillors the order of business for that meeting may only be altered by resolution of Council.

L5.3 CHIEF EXECUTIVE OFFICER MAY INCLUDE ITEMS ON AN AGENDA

The Chief Executive Officer may include any matter on an agenda that he or she thinks should be considered by the meeting.

L5.4 COUNCILLORS' REPORTS

A Councillor may report on any interaction with citizens, organisations or groups external to the Council that has occurred since the previous Council Meeting. As a general rule, these reports will be presented for Council's information, but may result in a request for the preparation of a report by Council Officers for consideration at a subsequent Council Meeting.

L5.5 URGENT AND OTHER BUSINESS

Business that has not been listed on the agenda may only be considered as urgent or other business following a brief outline of the issue and the reason for it being raised, and a resolution of Council carried by the majority of votes cast to admit the business as an item to be considered.

PART 6

SUSPENSION OF STANDING ORDERS

L6.1 SUSPENSION OF STANDING ORDERS

Any one (1) or more of the rules and regulations contained in this local law may be suspended for a particular purpose by resolution of Council.

L6.2

The purpose of suspension of standing orders is to enable the formalities of meeting procedure to be temporarily set aside where deemed necessary.

L6.2 NO MOTIONS MAY BE ACCEPTED DURING SUSPENSION OF STANDING ORDERS

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

PART 7

OTHER MEETING PROCEDURES

DIVISION 1 - MATTERS NOT PROVIDED FOR

L7.1 MATTERS NOT PROVIDED FOR

Where a situation has not been provided for or cannot be dealt with under this local law, Council may determine the matter by resolution.

DIVISION 2 - MOTIONS

L7.2 CHAIR'S DUTY

Any motion or amendment which:

- (1) is objectionable in language or nature; or
- (2) is outside the powers of the Council; or
- (3) is not relevant to the item of business of the agenda and has not been admitted as urgent business; or

- (4) purports to be an amendment but is not,
must not be accepted by the Chair.

L7.3 MOVING A MOTION

The procedure for any motion is:

- (1) the mover must state the motion without speaking to it;
- (2) the motion must be seconded by a Councillor other than the mover;
- (3) if a motion is not seconded it will lapse for want of a seconder;
 - a) the mover addresses Council on the motion;
 - b) the seconder addresses Council on the motion;
 - c) the Chair must then ask, "Is the motion opposed?";
 - d) where any Councillor indicates opposition, the Chair will invite Councillors to debate the motion, commencing with those opposed and following with those in support of the motion;
 - e) where no Councillor indicates opposition, the Chair must provide an opportunity for Councillors to speak in turn as they desire.

L7.4 RIGHT OF REPLY

- (1) The mover of an original motion that has not been amended has a right of reply to matters raised during debate once debate has been exhausted.
- (2) After the right of reply has been taken, the motion must be put to the vote immediately without any further discussion or debate.

L7.17

L7.5 NO RIGHT OF REPLY FOR AMENDMENTS

No right of reply is available where an amendment is before Council.

L7.6 MOVING AN AMENDMENT

A motion having been moved and seconded may be amended by leaving out, inserting or adding words that must be consistent with the intent of the original motion and framed so as to complement it as an intelligible and consistent whole.

An amendment should only seek to make the original motion clearer to the meeting and must not change the intent of the original motion. The Chair may offer to treat a proposed amendment which changes the intent of the original motion as a foreshadowed motion.

A motion to confirm a previous Resolution of Council cannot be amended.

An amendment must not be the negative of, or substantially contrary to, the motion.

The wording of amendments will be displayed publicly (where practicable) before a vote is taken. Where this is not possible, the amendment will be circulated to Councillors electronically or by whatever alternative means are available at the time.

Any Councillor may request an adjournment while the wording of an amendment is clarified as stipulated in this clause.

L7.7 WHO MAY PROPOSE AN AMENDMENT

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

L7.8 WHO MAY DEBATE AN AMENDMENT

A Councillor may address the meeting once on any amendment, whether or not they have spoken to the original motion. However, debate must be confined to the terms of the amendment.

L7.17

L7.9 HOW MANY AMENDMENTS MAY BE PROPOSED

Any number of amendments may be proposed to a motion but the Chair may accept only one amendment at any one time. No second or subsequent amendment, whether to the original motion or an amendment of it, can be taken into consideration until the previous amendment has been dealt with.

L7.10 AN AMENDMENT ONCE CARRIED

If the amended motion is carried, it then becomes the substantive motion before the Chair.

L7.11 FORESHADOWING MOTIONS

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

L7.12 WITHDRAWAL OF MOTIONS

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

L7.13 SEPARATION OF MOTIONS

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

L7.14 CHAIR MAY SEPARATE MOTIONS

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

L7.15 MOTIONS IN WRITING

In the interests of clarity, the Chair may require any motion to be submitted in writing.

L7.16 DEBATE MUST BE RELEVANT TO THE MOTION

- (1) Debate must always be relevant to the question before the Chair.
- (2) Where debate is not relevant, the Chair will request the speaker to confine debate to the subject motion.
- (3) If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may require the speaker to not speak further in respect of the matter then before the Chair.

L7.17 COUNCILLOR SPEAKING TIMES

Unless a motion for an extension of time has been carried, the maximum speaking times for ordinary and special meetings will be:

L7.4
L7.8
L7.18

- (1) the mover of a motion five (5) minutes;
- (2) the mover of a motion when exercising their right of reply three (3) minutes;
- (3) any other Councillor three (3) minutes.

DIVISION 3 - EXTENSION OF SPEAKING TIME

L7.18 BY RESOLUTION OF COUNCIL

An extension of speaking time may be granted by resolution of the Council but only one (1) extension for each speaker on any question is permitted.

L7.17

DIVISION 4 - VOTING

L7.19 HOW DETERMINED

To determine a question before a meeting, the Chair will first call for those in favour of the motion, then those opposed to the motion and, if necessary, those abstaining and will declare the result to the meeting.

In the event of a tied vote of the Councillors in attendance at the meeting the Chair has a casting vote.

LGA90

L7.20 RECORDING THE VOTE

The nature of the vote of each Councillor (i.e. whether abstaining or for or against the motion or amendment) will be recorded in the minutes of the Council meeting unless: -

- (1) the outcome of the vote is unanimous, in which case the minutes will record that result; or
- (2) voting is in a closed session of a meeting of Council.

L7.21 BY SHOW OF HANDS

Unless the Council resolves otherwise, voting on any matter will be by show of hands, in a manner that ensures each Councillor's action is clearly visible to the Chair.

LGA90

L7.22 BY SECRET BALLOT

In any closed session of Council, the Council may resolve to deal with a matter by secret ballot.

L7.23 SYSTEM OF VOTING BY SECRET BALLOT

The Chief Executive Officer must establish and administer a system for voting by secret ballot in a closed session of a meeting of Council to ensure that the privacy of the vote is maintained.

L7.24 WHEN A DIVISION PERMITTED

- (1) Subject to Clause L7.27 a division may be requested by any Councillor on any matter, in order to clarify the accuracy of the Chair's determination of the vote.
- (2) The request must be made to the Chair immediately after the vote has been taken but cannot be requested after the next item of business has commenced.

L7.27

L7.25 PROCEDURE FOR A DIVISION

Once a division has been requested the Chair will call for a show of hands by those Councillors voting for the motion and then those Councillors opposed to the motion and then, if relevant, those Councillors abstaining from the vote.

L7.27

L7.26 BETWEEN THE ORIGINAL VOTE AND THE DIVISION

Where a division is requested after the original vote has been taken, the question will be decided on the division and the fact that there may be a difference between the result obtained when the original vote was taken and the result obtained on the division will be disregarded.

L7.27 DIVISION NOT ALLOWABLE IF VOTING BY SECRET BALLOT

If the question on any matter is determined by secret ballot in a closed session of a meeting of Council, a request to the Chair for a Division must not be accepted.

L7.28 NO DISCUSSION ONCE DECLARED

Once a vote on a motion has been taken, no further discussion relating to the motion will be allowed.

DIVISION 5 - POINTS OF ORDER

L7.29 PROCEDURE FOR POINT OF ORDER

A Councillor raising a point of order must:

- (1) state the point of order; and
- (2) the section, clause, paragraph or provision constituting the point of order.

L7.30 VALID POINTS OF ORDER

A point of order may be raised in relation to:

- (1) a procedural matter;
- (2) a Councillor who is or appears to be out of order; or
- (3) any act of disorder.

L7.31 CONTRADICTION OR OPINION

Expressing a difference of opinion or contradicting a speaker will not be treated as a point of order.

L7.32 INTERRUPTION FOR POINT OF ORDER

- (1) A Councillor who has the floor must not be interrupted unless called to order.

- (2) If called to order, a Councillor must remain silent until the Councillor raising the point of order has been heard and the point of order decided.

L7.33 CHAIR TO DECIDE

The Chair will decide all points of order by stating the provision or rule that he or she considers applicable to the point raised without entering into any discussion or comment.

L7.34 CHAIR MAY ADJOURN TO CONSIDER

- (1) As soon as a point of order is raised, the Chair must rule on the point of order or adjourn the meeting to consider it.
- (2) All other matters before Council will be suspended until the point of order is decided.

L7.35 FINAL RULING ON A POINT OF ORDER

- (1) The decision of the Chair in respect to a point of order raised will not be open for discussion and will be final and conclusive unless the majority of Councillors present move a motion of dissent on the point of order.
- (2) A motion of dissent on a point of order must contain the provision, rule or practice in substitution for the Chair's ruling.
- (3) A motion of dissent in relation to a point of order is not a motion of dissent in the Chair and the Chair must at all times remain in the Chair. He or she will retain his or her right to a second vote.
- (4) A motion of dissent on a point of order will take precedence over all other business and if carried must be acted on instead of the ruling given by the Chair.

DIVISION 6 - NOTICE OF MOTION

L7.36 MUST BE LISTED ON AGENDA

A notice of motion cannot be considered unless it has been listed on the agenda for the meeting at which it is proposed to be moved.

L7.37 PROCEDURE

A Councillor may give notice of motion on any matter he or she wants discussed at a meeting by delivering a notice of motion to the Chief Executive Officer at least five (5) business days prior to the meeting at which it is proposed to be considered.

Any notice of motion must comprise the subject, the motion proposed and supporting rationale.

L7.38 REJECTION OF A VAGUE NOTICE

The Chief Executive Officer:

- (1) may reject any notice of motion that is too vague, but must give the Councillor delivering the notice an opportunity to amend it prior to its rejection; and
- (2) must notify the relevant Councillor of any notice of motion that has been rejected and give the reasons for its rejection.

L7.39 LISTING NOTICE ON AGENDA

Unless the notice specifies a particular meeting date, the Chief Executive Officer will list the notice of motion on the next appropriate meeting agenda.

L7.36

If more than one (1) notice of motion is received, the Chief Executive Officer will list the notices of motion in the order they were received.

L7.40 REGISTER OF NOTICES

The Chief Executive Officer must sequentially number every notice of motion received and maintain them in a register.

L7.41 MAY BE MOVED BY ANY COUNCILLOR AND AMENDED

A notice of motion listed on a meeting agenda may be moved by any Councillor present and may be amended.

L7.42 IF LOST

If a notice of motion is lost, a similar motion cannot again be put before the Council for at least three (3) months from the date it was last lost, unless the Council resolves for the notice to be re-listed at a specific future

meeting. To be clear, with respect to the statement “at least three (3) months from the date it was last lost”, ‘month’ should start the day after the motion is lost and be calculated as three (3) months from that date.

DIVISION 7 - NOTICE OF AMENDMENT OR RESCISSION

L7.43 PROCEDURE TO RESCIND A DECISION

Any three Councillors may propose a motion to rescind a decision of Council provided:

- (1) a notice is delivered to the Chief Executive Officer by 5.00 pm of the day two (2) business days after the Council Meeting outlining the decision to be rescinded; and
- (2) the motion has not been acted upon.

On receipt of a compliant Notice of Rescission, the Chief Executive Officer will instruct Council officers, in writing, to take no action on the matter that is the subject of the Notice of Rescission until the Notice has been considered by Council.

L7.44 PROCEDURE TO AMEND A DECISION

Any three (3) Councillors may propose a motion to amend a decision of Council provided:

- (1) the previous motion has not been acted upon; and
- (2) a notice is delivered to the Chief Executive Officer outlining:
 - a) the decision to be amended; and
 - b) the meeting and date when the decision was made.

L7.45 LISTING NOTICE ON AGENDA

The Chief Executive Officer will list the notice of amendment or rescission on the next appropriate meeting agenda, together with a brief report outlining the criteria required for the motion to be amended or rescinded.

If more than one (1) notice of amendment or rescission is received, the Chief Executive Officer will list the notices in the order they were received.

L7.46 CRITERIA TO AMEND OR RESCIND A DECISION

For a decision of Council to be amended or rescinded, the motion for amendment or rescission must be carried by the majority of the elected Councillors.

L7.47 IF LOST

If a notice of amendment or rescission is lost, a similar motion cannot be put before the Council for at least three (3) months from the date it was last lost. To be clear, with respect to the statement “at least three (3) months from the date it was last lost”, ‘month’ should start the day after the motion is lost and be calculated as three (3) months from that date.

L7.48 IF NOT MOVED

If a notice of amendment or rescission is not moved at the meeting for which it is listed, it will lapse.

L7.49 MAY BE MOVED BY ANY COUNCILLOR

A notice of amendment or rescission listed on a meeting agenda may be moved by any Councillor present but cannot be amended.

L7.50 WHEN NOT REQUIRED

A notice of amendment or rescission is not required where the Council wishes to change a previous decision relating to policy of Council.

L7.51 REGISTER OF NOTICES

The Chief Executive Officer must sequentially number every notice of amendment or rescission received and maintain the notices in a register.

DIVISION 8 - PUBLIC PARTICIPATION

L7.52 REQUEST TO SPEAK ON AGENDA ITEM

- (1) Citizens may be allowed to speak on a specific item or items listed on the agenda for the current Ordinary or Special meeting of Council provided they relate to:

- a) Notices of Motion and/or Rescission;
- b) Deferred Business; or
- c) Officer's Reports.

except those items pertaining to:

- a) planning applications that have been the subject of a prior Planning Consultation Meeting;
 - b) an item previously subject to a section 223 process in accordance with the *Local Government Act 1989* where no substantial or material changes have been recommended from the section 223 process.
- (2) Requests to speak on an agenda item will be heard immediately prior to Council considering the relevant agenda item.
 - (3) Citizens will request to speak by completing the relevant form, giving details of their name and address and the item on which they wish to speak, and submitting the form to the Council officer on duty before the meeting's published commencement time on the day of the Council meeting.
 - (4) Citizens will be heard only. Under this clause no questions will be considered by the Chair, Councillors or officers, and no debate will be entered into. At the discretion of the Chair, questions from Councillors seeking clarification or additional detail may be permitted.
 - (5) Unless determined otherwise by the Chair prior to any speaker addressing Council on a particular item, each speaker on that item will be allowed no more than five (5) minutes.
 - (6) Management of all aspects of the Request to Speak on Agenda Item process will be at the discretion of the Chair.

L7.53 REQUESTS TO SPEAK ON INITIATIVES TO FURTHER COUNCIL'S VISION

- (1) At Ordinary meetings of Council community groups and registered businesses may be allowed to speak on initiatives they are seeking to implement that will further Council's vision for East Gippsland as specified in its four-year Council Plan.

Presentations on the following matters are excluded:

- a) planning applications that have been or are scheduled to be the subject of a Planning Consultation Meeting;

- b) matters that have been or are scheduled to be subject to a section 223 process in accordance with the *Local Government Act 1989*;
 - c) matters that have already been the subject of a Council resolution;
 - d) matters of a confidential or sensitive nature.
- (2) Properly constituted organisations will request to address Council by completing the relevant form, giving details of the organisation's name and address, explaining the initiative on which they wish to speak and how it relates to Council's vision, and submitting the form to the Chief Executive Officer or delegate at least eight (8) business days prior to the Council meeting at which they wish to speak.
 - (3) Applicants will be contacted by a Council officer at least five (5) business days prior to the Council meeting to confirm whether or not their request to speak has been approved by the Chief Executive Officer or delegate.
 - (4) The presenting organisation will be heard only. Under this clause no questions from the organisation will be considered by the Chair, Councillors or officers and no debate will be entered into. At the discretion of the Chair, questions from Councillors seeking clarification or additional detail may be permitted.
 - (5) The total duration of this agenda item will be at the discretion of the Chair but will generally not exceed fifteen (15) minutes.
 - (6) A maximum of three (3) representatives from any properly constituted organisation may address Council on the group's initiative.
 - (7) The name of the organisation, the description of the initiative as provided in the relevant form and the name of all presenters must be recorded in the minutes as an official record of presentations made to Council.

L7.54 PUBLIC QUESTION TIME

- (1) At every Ordinary meeting of Council an opportunity will be provided for written questions to be submitted by members of the community who are present, or have a representative present, at the meeting and to have a response provided.
- (2) In cases where members of the community are unable to attend they may pre-record their question in a video format and submit it electronically.

- (3) Only questions which have been submitted in accordance with the provisions of this clause will be eligible to be presented during Public Question Time.
- (4) The duration of Public Question Time will be at the discretion of the Chair. Individual speakers will have between three (3) to five (5) minutes at the discretion of the Chair.
- (5) To ensure the *bona fide* of the person asking a question of Council or the relevance of the question to Council business, questions submitted to Council must be in writing or spoken (in the case of video), state the name and address of the person submitting the question and generally be in the format prescribed by Council. In the case of video, the face of the person asking the question must be clearly visible in the recording.
- (6) Written questions must be received at Council's Corporate Centre via hand delivery, postal delivery or email no less than four (4) hours before the meeting's published commencement time on the day of the Ordinary meeting; or handed to the Council officer on duty no later than fifteen (15) minutes before the meeting's published commencement time on the day of the Ordinary meeting.
- (7) Questions submitted by video must be received by Council by midday of the day immediately prior to the published day of the Ordinary meeting.
- (8) A question may be split into a maximum of two (2) parts and all parts of the question must be relevant to the same subject of enquiry. If more than two (2) parts to a question are received, only the first two (2) parts will be considered.
- (9) No person may submit more than two (2) questions at any meeting. If more than two (2) questions are received, only the first two (2) questions received will be considered.
- (10) The Mayor will invite submitters in attendance to read out their question. The submitter must read their question as written. If the submitter does not wish to read their question the Chief Executive Officer will read it to those present at the meeting on their behalf. Questions submitted by video will be played to those present at the meeting.
- (11) The Chief Executive Officer or at the Chief Executive Officer's discretion, another senior officer present at the meeting will respond to questions.
- (12) The Chair or the Chief Executive Officer may require a question to be put on notice. If a question is put on notice, a written response must be sent to the person who asked the question and a copy of the answer included in the adopted minutes of the meeting at which the question was put.

- (13) A question may be disallowed by the Chair if the Chair determines that it:
- a) relates to a matter outside the duties, functions and powers of Council;
 - b) is indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - c) deals with a question that has been put and answered previously at the same Ordinary meeting; or a matter that has been the subject of a question submitted to two earlier Ordinary meetings of Council;
 - d) is intended to embarrass a Councillor or a Council Officer;
 - e) relates to any matter that is subject to the provisions of section 89(2) of the Act, as per L7.55 below.
- (14) Any question that has been disallowed by the Chair must be made available to any other Councillor upon request.
- (15) All questions and answers must be as brief as possible, and no further questions arising out of anything said will be allowed.
- (16) Like questions may be grouped together and a single answer provided.
- (17) The name of the person submitting the question, the wording of the question and the response must be recorded in the minutes, as an official record of the questions submitted to the meeting.
- (18) Sub-clause (1) does not apply where Council has resolved to close the meeting in accordance with section 89(2) of the Act, as detailed as L7.55 below.
- (19) Management of all aspects of the Public Question Time process will be at the discretion of the Chair.

L7.55 MEETING CLOSED TO MEMBERS OF THE PUBLIC

A Council or special committee may resolve that the meeting be closed to members of the public if the meeting is discussing any of the following:

LGA89(2)

- a) personnel matters;
- b) the personal hardship of any resident or ratepayer;
- c) industrial matters;

- d) contractual matters;
- e) proposed developments;
- f) legal advice;
- g) matters affecting the security of Council property;
- h) any other matter which the Council or special committee considers would prejudice the Council or any person;
- i) a resolution to close the meeting to members of the public.

If a Council or special committee resolves to close a meeting to members of the public the reason must be recorded in the minutes of the meeting.

L7.56 MEMBERS OF THE PUBLIC IN ATTENDANCE

Unless in closed session, any meeting of a Council or a special committee must be open to members of the public.

LGA89

The Chair will manage the process of members of the public addressing Council to ensure that due courtesy and respect to the Council and the processes under which it operates is extended.

Any member of the public in attendance at the Council Meeting must take direction from the Chair whenever called upon to do so.

L7.57 RECORDING OF PROCEEDINGS

East Gippsland Shire Council live streams, records and publishes its council meetings to enhance the accessibility of its meetings to the broader East Gippsland community. These recordings are also archived and available for viewing by the public or used for publicity or information purposes. At the appropriate times during the meeting, any members of the gallery who are addressing the council will have their image, comments or submissions recorded.

Council reserves the right to record, broadcast and photograph Council meetings. No other person has the right to record Council meetings unless approval has been granted by the Chair.

At the commencement of each council meeting, the Chair (or Council Officer nominated by the Chair) shall read a statement in reference to the above.

The audio-visual recording equipment will be configured in a way which avoids coverage of the public gallery area and Council will endeavour to ensure images in this area are not streamed. However, Council expressly provides no assurances to this effect and in the event that an individual's image is webcast, by remaining in the public gallery area, it is assumed that the individual has given Council consent to broadcast their image.

The opinions or statements made during the meeting are those of the individuals, and not necessarily the opinions or statements of Council. Council does not necessarily endorse or support the views, opinions, standards, or information contained in the live streaming/recording of the Council meetings.

L7.58 CHAIR MAY REMOVE

- (1) Any person who has been called to order, including a Councillor, who fails to comply with the Chair's direction, will be guilty of an offence.

LGA238

Penalty: 5 Units

- (2) The Chair has discretion to cause the removal of any person, including a Councillor, who disrupts any meeting or fails to comply with a direction.

L7.59 PETITIONS

- (1) A petition addressed to Council will be presented formally to the next practicable Ordinary meeting of Council provided the petition: -

- a) includes the request of the petitioners on each page of the petition;
- b) includes the name, address and signature of all petitioners; and
- c) has been assessed by the Chief Executive Officer as meaningful and appropriate for formal presentation.

- (2) Notwithstanding clause (1) above, petitions lodged with Council with respect of development applications will be formally notified to Council through the relevant Planning Officer's report to Council on the application.

L7.60 SIGNING PETITIONS - OFFENCE

Any person who fraudulently signs a petition that is presented to Council is guilty of an offence.

Penalty: 2 Units

L7.61 COUNCILLOR PRESENTING PETITION - OBLIGATIONS

Any Councillor presenting a petition will be responsible for ensuring that:

L7.55

- (1) the petition satisfies the criteria outlined in L7.59;
- (2) they are familiar with the contents and purpose of the petition; and
- (3) the petition is not derogatory or objectionable in language or nature.

DIVISION 9 - ADDITIONAL DUTIES OF CHAIR

L7.62 THE CHAIR'S DUTIES AND DISCRETIONS

In addition to the duties and discretions provided in the local law, the Chair or anyone acting in that capacity:

L7.2
LGA238

- (1) must not accept any motion, question or statement that is derogatory, objectionable or embarrassing to any Councillor, member of staff, ratepayer or member of the public; and
- (2) must call to order any person who is disruptive or unruly during any meeting.

PART 8

ENFORCEMENT AND PENALTIES

L8.1 OFFENCES

- (1) Where any provision in this local law requires that something may not be done, any person who does that act is guilty of an offence.
- (2) Where any provision in this local law requires that something may not be done between specified hours of the day or night, during specified month of the year, on days meeting a recognised category or in or at specified locations or specified parts of those locations, any person who does that act between the hours, during the months, on the days, in or at the location or a specified part, is guilty of an offence.
- (3) Where any provision in this local law requires that something must be done, any person who fails to do that act is guilty of an offence.

L8.2 PENALTIES

Schedule 1 of this local law sets out penalties for infringement notice purposes that may be issued as an alternative to prosecution in respect of offences against this local law where the Council or its authorised officers determine to proceed by infringement notice.

SCH1

L8.3 INFRINGEMENT NOTICE

- (1) An authorised officer may serve a local law infringement notice in a form that complies with Section 12 of the *Infringements Act 2006* on a person that the authorised officer believes has committed an infringement referred to in Schedule 1 requiring the person to pay the penalty for that infringement within twenty-eight (28) days of the issue of the infringement notice.
- (2) If the infringement notice is not withdrawn and the person pays to Council the amount referred to in the infringement notice within the period of twenty-eight (28) days or such further period as the Council or an authorised officer may allow, no conviction will be recorded against that person for the alleged infringement.
- (3) If a person issued with an infringement notice makes a written representation to the Council within twenty-eight (28) days of the issue of the infringement notice, the representation must be brought to the attention of the Chief Executive Officer.
- (4) The Chief Executive Officer may consider any written representations and any other relevant information and must consider any such material brought to his or her attention within twenty-eight (28) days of the issue of the infringement notice to which it relates.
- (5) The Chief Executive Officer may at any time withdraw an infringement notice either as a result of consideration of any representations made or with a view to prosecuting for an offence under this local law.
- (6) Subject to sub-clause (11), the decision of the Chief Executive Officer on any representations received will be final.
- (7) Where an infringement notice is withdrawn, the person upon whom it was served is entitled to a refund of any payment that person has made on the infringement notice.
- (8) If the penalty referred to in an infringement notice has been paid within twenty-eight (28) days of its issue, and no representation has been received by the Council or its officers, no decision may be made to withdraw the infringement notice and prosecute the offence.

- (9) Any withdrawal of an infringement notice may be served in accordance with section 234 of the Act.
- (10) In the event of the failure of a person served with an infringement notice to pay the amount specified within twenty-eight (28) days of the issue of the notice or such further time as the Council or the authorised officer may permit, Council or the authorised officer may pursue the matter by prosecuting for an offence or by taking any steps which may be available for enforcing penalties by registration of infringement notices.
- (11) Any person served with a local law infringement notice is entitled to disregard the notice and defend the prosecution in Court.

REVOCATION ENGAGEMENT

EAST GIPPSLAND SHIRE COUNCIL

MEETING PROCEDURE LOCAL LAW

SCHEDULE 1

PENALTIES FOR INFRINGEMENT NOTICE PURPOSES IN RESPECT OF OFFENCES AGAINST THIS LOCAL LAW

OFFENCES AGAINST LOCAL LAW NO. 1

	PENALTY UNITS
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L7.60 Fraudulently signing a petition	2

**DRAFT FOR ENGAGEMENT PURPOSES
NOT ADOPTED BY COUNCIL**



Governance Rules

**DRAFT FOR ENGAGEMENT PURPOSES
NOT ADOPTED BY COUNCIL**

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DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

CONTEXT

The Governance Rules provide for the Council to consider and make decisions on any matter fairly and on the merits and enable a person whose rights are directly affected by a decision to have their views heard and interest considered in the process.

The conduct of Council meetings is at the discretion of Council except as provided in the Act and the Governance Rules. Section 60 of the *Local Government Act 2020* (the Act) requires Council to adopt Governance Rules to:

- (a) manage the conduct of Council meetings, including Delegated Committee meetings;
- (b) detail the form and availability of meeting records;
- (c) establish the process for the election of Mayor and Deputy Mayor
- (d) outline the appointment of an Acting Mayor;
- (e) detail the arrangements during an election period; and
- (f) specify how Councillors, members of Delegated Committees and Council staff disclosure of conflicts of interest in accordance with the Act.

These Governance Rules will replace the Local Law No. 1 Procedures for Council Meetings.

Council may amend its Governance Rules following a process of community engagement. However, under section 60(5) a community engagement process is not required if Council is adopting a good practice guideline issued by the Minister for Local Government.

Governance Rules are not subordinate legislation. The Act provides that the Mayor is responsible promoting good behaviour at Council meetings. The Mayor has the power to direct Councillors and members of the public to leave a meeting if their behaviour is preventing the Council from conducting its business.

The Governance Rules apply to Council meetings and meeting of Delegated Committees and Community Asset Committees. The Governance Rules will be applied to other Council meetings, such as Audit and Risk Committee meetings, as outlined in the relevant terms of reference or charter

SCOPE

DEFINITIONS

- (1) In these Governance Rules:

Act means the *Local Government Act 2020*;

Advisory committee means a committee established by the *Council*, that provides advice to —

(a) the *Council*; or

(b) a member of *Council* staff who has been delegated a power, duty or function of the *Council*;

that is not a Delegated Committee

Agenda means a document containing the date, time and place of a meeting and a list of business to be transacted at the meeting;

DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

Agreement of Council means indicative agreement of all Councillors present, without a vote being conducted. In the event there is any uncertainty about majority of Councillors agreeing, the matter may be put to a vote.

Audit and Risk Committee means the Audit and Risk Committee established by a Council under section 53.

Authorised Officer has the same meaning as in the *Local Government Act* 1989 or any other Act;

Chairperson means the Chairperson of a meeting and includes an acting, temporary and substitute Chairperson;

Chamber means any room where the Council holds a Council meeting

Chief Executive Officer means the person occupying the role of Chief Executive Officer of Council, and includes a person acting in that role;

Rule or sub-rule means a rule or sub-rule included in these Governance Rules;

Committee meeting means a meeting of a Delegated Committee;

~~*Common Seal* means the common seal of Council;~~

Council means East Gippsland Shire Council;

Councillor means a Councillor of Council;

Code of Conduct has the same meaning as in [section 139 of the Act](#);

Council meeting means a meeting of the Council convened in accordance with [section 61 of the Act](#) and these Governance Rules and includes a scheduled meeting and unscheduled meeting;

Delegate means a member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation;

Delegated Committee has the same meaning as in [section 63 of the Act](#);

Delegated Committee meeting means a meeting of a Delegated Committee;

Deputy Mayor means the Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor;

~~*Director* means a senior member of Council staff holding the position of Director or another position (however designated) which reports directly to the Chief Executive Officer;~~

Disorder means any disorderly conduct of a member of the gallery or a Councillor and includes:

- interjecting when another person is speaking, except, in the case of -where a Councillor is raising a point of order;
- making comments that are defamatory, malicious, abusive or offensive;

DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

refusing to leave the meeting when requested, ordered or directed to do so by the Chairperson in accordance with section 19 or 318 of the Act and the Governance Rules; and

engaging in any other conduct which prevents the orderly conduct of the meeting;

Emergency As defined by the *Emergency Management Act 1986* an emergency means an actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety of health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger the environment or an element of the environment in Victoria including but not limited to

(a) an earthquake, flood, wind-storm or other natural event; and

(b) a fire; and

(c) an explosion; and

(d) a road accident or any other accident; and

(e) a plague or an epidemic or contamination; and

(f) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth; and

(g) a hi-jack, siege or riot; and

(h) a disruption to an essential service;

in respect of which the Chief Executive Officer has declared in writing that an Emergency exists.

Foreshadowed item means a matter raised in the relevant section of the Council meeting that a Councillor intends to submit a notice of motion for the next Council meeting;

General Manager means a senior member of Council staff holding the position of General Manager or another position (however designated) which reports directly to the Chief Executive Officer;

Majority of the votes means a majority of Councillors present at the time of a vote voting in favour of a matter;

Mayor means the Mayor of Council and any person appointed by Council to be acting as Mayor;

Meeting means a Council meeting or a Delegated Committee meeting;

Member means a member of any committee to which these Governance Rules apply;

Minister means the Minister for Local Government;

Minutes means the official record of the proceedings and decisions of a meeting;

Motion means a proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted;

DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

Notice of motion means a notice setting out the text of a motion which a Councillor proposes to move at a Council meeting;

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

On notice means held or deferred to enable preparation of a response;

Point of order means a procedural point (about how the meeting is being conducted), not involving the substance of a matter before a meeting;

Procedural motion means a motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure;

Resolution means a decision of Council as defined in section 59 of the Act.

Urgent business means a matter that relates to or arises out of a matter which has arisen since distribution of the agenda and cannot safely or conveniently be deferred until the next meeting;

Unscheduled meeting means a meeting of the Council convened for a particular purpose that cannot be effectively dealt with in the schedule of Ordinary Council meetings set by Council

MEETING PROCEDURE

1. Purpose of Council meetings

- (1) Council holds scheduled meetings and, when required, unscheduled meetings to conduct the business of Council.
- (2) Council is committed to transparency in decision making and, in accordance with the *Local Government Act 2020*, Council and Delegated Committee meetings are open to the public and the community are able to attend.
- (3) Meetings will only be closed to members of the public in accordance with section 66 of the Act, if:
 - (a) there are clear reasons for particular matters to remain confidential; or
 - (b) a meeting is required to be closed for security reasons; or
 - (c) it is necessary to enable the meeting to proceed in an ordinary manner.
- (4) A meeting closed to the public for the reasons outlined in sub-rule 3(b) or 3(c) will continue to be livestreamed. In the event a livestream is not available:
 - (a) the meeting may be adjourned; or
 - (b) a recording of the proceedings may be available on the Council website.

2. Meeting Roles

Overview: In accordance with Section 61 and 63 of the Act, the Mayor must take the Chair at all Council Meetings at which the Mayor is present. If the Mayor is absent, the Deputy Mayor (if any) must take the Chair and if both are absent, Council must elect one of the Councillors as Chairperson of the meeting.

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The way in which Council and Committee meetings are conducted makes a significant contribution to good governance. The Chairperson plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors, members of Delegated Committees and advisory committees have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed appropriately, and statutory requirements are adhered to.

The Chairperson is an independent leader of the meeting and generally does not participate in debate or move or second motions. The Chairperson will vote and provide the casting vote if votes are tied (s61(5)(d)).

The Act provides for the Mayor to appoint a Councillor as the Chair of a Delegated Committee and any such appointment prevails over any appointment made by Council. While there are no limitations on exercising that power, the Mayor must always act in a way that is consistent with the adopted Councillor Code of Conduct and transparency commitments of the Council.

Additionally, each member of the meeting has an obligation to participate in good decision-making.

Specific duties and discretions of the Chairperson are outlined throughout these Governance Rules.

2.1 Chairperson and Members

- (1) The Chairperson, Councillors and members of Delegated Committees will ensure good council decision-making by endeavouring to ensure:
 - (a) decision making is transparent to members and observers;
 - (b) meeting members have sufficient information to make good decisions;
 - (c) every member is supported to contribute to decisions;
 - (d) any person whose rights are affected has their interests considered;
 - (e) debate and discussion are focussed on the issues at hand;
 - (f) meetings are conducted in an orderly manner.
 - (g) decisions should be made on the merits of the matter.

2.2 Mayor to take the Chair

- (1) The Mayor must take the Chair at all Council Meetings at which the Mayor is present (s61(3)(a)).
- (2) If the Mayor is not in attendance at a Council Meeting, the Deputy Mayor (if one has been elected) must take the Chair (s61(3)(b)).
- (3) If the Mayor and any Deputy Mayor are not in attendance at a Council Meeting, Council must appoint one of the Councillors as Chair of the meeting by resolution (s61(3)(d)).

2.3 Delegated Committee Chairperson

- (1) At the Meeting at which Council establishes a delegated committee it must also appoint a Chairperson (s63(2)).
- (2) The Chair of a delegated committee must be a councillor (s63(2)(a)).
- (3) For the avoidance of doubt, sub-rule (1) does not intend to limit the powers of the Mayor provided in the Act.

2.4 The Chairperson's duties and discretions

In addition to the specific duties and discretions provided in these Governance Rules, the Chairperson:

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- (1) must not accept any motion, question or statement which is:
 - (a) vague or ambiguous;
 - ~~(b)~~ defamatory, malicious, abusive or objectionable in language or substance;
 - ~~(c)~~ is not relevant to the item of business of the agenda and has not been admitted as urgent business;
 - ~~(b)~~~~(d)~~ purports to be an amendment but is not; or
 - ~~(e)~~~~(e)~~ outside the powers of Council;
- (2) must allow the Chief Executive Officer or delegate the opportunity to correct factual errors or incorrect assertions that arise during the meeting;
- (3) must call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council (s19(1)(b) and s318);
- (4) may direct that a vote be recounted to be satisfied of the result; and
- (5) must decide on all points of order.

2.5 Chief Executive Officer

- (1) The Chief Executive Officer, or delegate, may participate in the meeting to provide support to the Chairperson.
- (2) The Chief Executive Officer should:
 - (a) immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
 - (b) advise if there are operational, legal, financial or other risks, including non-compliance with statutory obligations-implications arising from a proposed resolution;
 - (c) help clarify the intent of any unclear resolution to facilitate implementation;
 - (d) on request, assist with procedural issues that may arise.

2.6 Councillors and members of Delegated Committees

- (1) Councillors and members of Delegated Committees contribute to good governance and decision making by:
 - (a) seeking views of community members and reading agenda prior to the meeting;
 - (b) demonstrating due respect and consideration to community views and the professional / expert advice provided in the agenda papers;
 - (c) attending meetings and participating in debate and discussion;
 - (d) demonstrating respect for the role of the Chairperson and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making;
 - (e) being courteous and orderly.

2.7 Community

- (1) Council meetings are decision making forums and it is important that they are open to the community to attend and/or view proceedings.
- (2) Community members may only participate in Council meetings in accordance with Rule 7.
- (3) Community members are encouraged to participate in Council's engagement processes

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- (4) Community members may seek to inform individual Councillors of their views by contacting them directly in advance of Council meetings.

2.8 Apologies and absences

- (1) Councillors and members of Delegated Committees who are unable to attend a meeting may submit an apology:
- (a) in writing to the Chairperson, who will advise the meeting; or
 - (b) by seeking another Councillor or member of the Delegated Committee to submit it at the meeting on their behalf; or
 - ~~(b)(c)~~ (c) in writing to the Chief Executive Officer or delegate who will advise the Chairperson.
- (2) An apology submitted to a meeting will be recorded in the minutes.
- (3) A Councillor intending to take a leave of absence (s35(4)) should submit it in writing to the Mayor.
- (4) The Mayor will seek to have any leave of absence request received included in the agenda of the next Council meeting.
- (5) A leave of absence not included in a Council meeting agenda may still be considered by Council if a written request has been received by the Mayor prior to the meeting.
- (6) Council will not unreasonably withhold its approval of a leave of absence request.
- (7) A Councillor who has not submitted an apology or had a leave of absence approved who is not in attendance at a Council or Delegated Committee meeting will be recorded as absent.

3. Notice of meetings and availability of agenda

Overview: Council Meetings are held regularly to conduct the ongoing business of the Council and unscheduled Meetings may be held from time to time.

It is important that the community is made aware of the times, dates and locations of Council and Delegated Committee meetings and the matters Council will consider. The timing of this notice should give the community adequate time to make arrangements to attend the meeting or view via the livestream.

An agenda for each Council Meeting must be provided to Councillors in advance so that they can prepare adequately for the Council Meeting. The Agenda contains the order of business and the professional advice of the organisation, with a recommendation for Council to consider.

The agenda is made available to the public via Council's website and can be accessed online at Customer Service Centres and Council libraries.

3.1 Date, time and place of Council meetings

- (1) At or before the last meeting each calendar year, Council must fix the date, time and place of all Council meetings and any Delegated Committee meetings for the following calendar year.
- (2) Council by resolution, or the Chief Executive Officer, may change the date, time and place of, or cancel, any meeting which has been fixed and must provide notice of the change to the public.

3.2 Postponement

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- (1) In the case of an emergency, the Chief Executive Officer or delegate or, in the absence of both, a Senior Officer, may postpone a Council meeting, provided every reasonable attempt is made to notify every Councillor of the postponement.
- (2) The Chief Executive Officer, Delegate or Senior Officer must submit a full written report of the circumstances requiring his or her action in respect of the emergency postponement at the next ordinary meeting.

3.3 Unscheduled meetings

- (1) Council may by resolution call an unscheduled meeting of the Council.
- (2) The Mayor, or three Councillors may by written notice call an unscheduled meeting of the Council.
- (3) The Chief Executive Officer, following consultation with the Mayor, may call an unscheduled meeting.
- (4) A written notice to call an unscheduled meeting must:
 - (a) specify the business to be transacted;
 - ~~(a)~~(b) the date and time for the unscheduled meeting
 - ~~(b)~~(c) be delivered to the Chief Executive Officer or delegate in sufficient time to enable notice to be given in accordance with 3.4 above 5 days prior to the date and time specified for the meeting in the written notice.
- (5) The Chief Executive Officer must determine the time and date for the unscheduled meeting, giving consideration to:
 - (a) the urgency of the business to be transacted
 - (b) the availability of Councillors
 - (c) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted
- (6) The Chief Executive Officer must arrange for notice of the meeting on Council's website.
- ~~(7)~~ Any resolution of Council to call an unscheduled meeting must:
 - (a) specify the date and time of the unscheduled meeting; and
 - ~~(b)~~ the business to be transacted.
- ~~(7)~~(8) The date and time of the unscheduled meeting must not be prior to 6pm on the day following the Council meeting at which the resolution was made.
- ~~(8)~~(9) The Chief Executive Officer must call an unscheduled meeting to elect a Mayor following a Council election declaration, in accordance with the Act.
- ~~(9)~~(10) The unscheduled meeting for the election of a Mayor following an election may also consider the role of Deputy Mayor and any other matters as determined by the Chief Executive Officer.
- ~~(10)~~(11) Only the business specified in the Council resolution, or written notice, may be considered at an unscheduled meeting, unless all Council, by unanimous resolution determine to admit another matter.

3.4 Notice of meetings

3.4.1 Council Meetings

- (1) A notice of a meeting, that is not an unscheduled meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be sent electronically to every Councillor for all Council meetings, at least 5 business

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days before the meeting. A period of less than 5 ~~business~~ days may be justified if exceptional circumstances exist.

- (2) An agenda for each Council meeting, that is not an unscheduled meeting, will be made available on Council's website no less than 48 hours before the Council meeting.

~~(3)~~ A schedule of Council meetings must be prepared and published.

~~(4)~~ The Chief Executive Officer must ensure it is available to a broad section of the community, including on Council's website at least once each year and with such greater frequency as the Chief Executive Officer determines.

~~(3)(5)~~ The schedule of Council meetings must also be available on the Council's website and can be accessible online at Customer Service Centres and Council libraries from Council's Customer Service Centres.

3.4.2 Unscheduled meetings

~~(4)(6)~~ Notice of an unscheduled meeting must be published on Council's website as soon as practicable after the time and date of the meeting has been determined.

~~(5)(7)~~ An agenda for an unscheduled meeting must be made available electronically to every Councillor at least 48 hours before the meeting. A period of less than 48 hours may be justified if exceptional circumstances exist.

~~(6)(8)~~ An agenda for an unscheduled meeting will be made available on Council's website no less than 24 hours before the Council meeting.

4. Quorum

Overview: No business can be transacted at a Council meeting or a Delegated Committee meeting unless a majority of the Councillors or members of the Delegated Committee (as the case may be) is present (quorum).

If there is no quorum at the commencement of a meeting or if a quorum cannot be maintained during a meeting, the meeting is to be adjourned to another date and/or time. A quorum is an absolute majority as outline in section 61(7) of the Act.

- (1) Meetings must commence within 30 minutes of the scheduled starting time.
- (2) If, after 30 minutes from the scheduled starting time of any meeting or adjournment, a quorum cannot be obtained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Senior Officer, may adjourn the meeting for a period not exceeding ~~seven~~ fourteen days from the date of the adjournment.
- (3) If, during any meeting or any adjournment of the meeting, a quorum cannot be maintained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Senior Officer, may adjourn the meeting for a period not exceeding ~~seven~~ fourteen days from the date of the adjournment.
- (4) The Chairperson may defer an item of business in respect of which there is, or is likely to be, a disclosure of a conflict of interest by one or more Councillors that will cause a quorum to be lost, and direct the Chief Executive Officer to include that item of business on an agenda for a future Council meeting.

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- (5) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, Council will:
 - (a) determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
 - (b) determine to make decisions on separate parts of the matter at a meeting where quorum can be maintained, before making a decision on the whole matter at a meeting for which quorum can be maintained.
- (6) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, and the matter cannot be separated into component parts or prior decisions made, Council will delegate the decision to be made:
 - (a) by the Chief Executive Officer; or
 - (b) by a Delegated Committee, established for the purpose of determining the matter, comprised of all the Councillors who have not disclosed a conflict of interest and any other person(s) the Council considers suitable.
- (7) A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council Meeting.
- (8) The Chief Executive Officer must provide written notice, including by electronic means, to each Councillor of any Council meeting adjourned to another date or time due to an inability to achieve or maintain a quorum.
- (9) Where it is not practicable because time does not permit notice in accordance with clause 4(8) to occur, then, provided every reasonable attempt is made to contact each Councillor either verbally, or by some other means, it will be sufficient.
- (10) Notice of an adjournment to another date or time due to another date or time must be published on Council's website as soon as practical.

For example, if Council is proposing to include items in the budget that would give rise to conflicts of interest to more than half of the number of Councillors, Council may consider whether to include these items in the budget as individual decisions prior to adopting the budget as a whole.

Table 1: Quorum Calculation

<u>Number of Councillors / Committee members</u>	<u>Number required for a Quorum</u>
<u>11</u>	<u>6</u>
<u>10</u>	<u>6</u>
<u>9</u>	<u>5</u>
<u>8</u>	<u>5</u>
<u>7</u>	<u>4</u>

5. Election of Mayor

Overview: The role and functions of the Mayor are provided in the Act. The holder of this significant office is the Chairperson at Council meetings, is the leader of the Councillors, acts as the principal spokesperson for Council and carries out civic and ceremonial duties.

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This section describes how the Mayor, a Deputy Mayor and Acting Mayor are to be elected.

5.1 Chief Executive Officer to set time and date for the election of the Mayor

- (1) The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor.
- (2) The election of Mayor must be held no later than one month after the date of the general election (s26(1)), except that the election of the Mayor must be held in accordance with any provisions contained in the Act.
- (3) The election of the Mayor must be held in accordance with section 25 of the Act and these Governance Rules.
- (4) Where the position of Mayor has become vacant, the Chief Executive Officer will set and date and time within one month of the vacancy.
- ~~(4)~~(5) Depending on the term of office decided in Rule 5.5 the next election of the Mayor will held a close as possible to the end of the term.

5.2 Role and Election of Mayor

- (1) The Mayor will chair the Council meetings.
- (2) The Mayor will promote behaviour among Councillors that meet the standards established in the Councillor Code of Conduct.
- (3) The Mayor will lead engagement with the community.
- (4) The Mayor may direct a Councillor to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

5.3 Role and Election of Deputy Mayor

- (1) At the Council meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.
- (2) If the Mayor is not in attendance at a Council meeting the Deputy Mayor must take the Chair.
- (3) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.
- (4) If the Council has not resolved to establish the position of Deputy Mayor, any provisions in this these Governance Rules relating to the Deputy Mayor have no effect.

5.4 Method of Voting

- (1) The election of the Mayor must be carried out by a show of hands or following a resolution made in accordance with Rule 8.2(1), an electronic method that enables those observing (in attendance and those watching a livestream broadcast) to see who a Councillor has voted for at the time the vote is taken.

5.5 Determining the Election of Mayor / Deputy Mayor

- (1) The Chief Executive Officer will preside during the election of the Mayor.

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(2) Prior to the election of the Mayor and Deputy Mayor Council must determine by resolution the term of office as 1 year or 2 years.

(2)(3) The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.

(3)(4) Where in an election for the Mayor:

- (a) only one candidate has been nominated, that candidate must be declared elected;
- (b) two candidates have been nominated, a vote must be taken and the candidate who receives the number of votes equal to or greater than half the Councillors of the Council must be declared elected;
- (c) two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council, a second vote will be conducted.
- (d) where, after a second vote, where two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6 pm the following day;
- (e) more than two candidates have been nominated and no candidate receives a number of votes equal to or greater than half the Councillors of the Council:
 - i) the candidate with the fewest number of votes cast must be eliminated;
 - ii) the names of the remaining candidates must be put to the vote again; and
 - iii) the procedure in i)(i) and ii)(ii) above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined in sub-rule (b) of this Rule.
 - iv) in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes) then the election must be determined by lot;
- (f) The Chief Executive Officer will conduct a vote for one candidate to be defeated.
- (g) If Council resolves to have the office of Deputy Mayor, the provisions of sub-rules (2)(3) and (4)(4) apply to the election of the Deputy Mayor with all necessary modifications and adaptations.

5.6 Ceremonial Mayoral Speech

(1) Upon being elected, the Mayor may make a ceremonial speech.

(2) The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead; based on the adopted Council Plan.

5.7 Acting Mayor

(1) Council may appoint a Councillor, for a specified period, as the Acting Mayor if the Mayor is unavailable, and no Deputy Mayor has been elected.

(2) The Acting Mayor will perform the role of Mayor during the specified period

Commented [PC1]: Act requires appointment of Acting Mayor in the Governance Rules

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6. Business of meetings

Overview: The business to be transacted at a Council meeting is contained in the agenda provided to Councillors and available to the public on Council's website. The Chief Executive Officer oversees preparation of the agenda and determines the content and order of business to facilitate open, efficient and effective processes of government.

The role of the Mayor includes providing advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings.

Council can admit an item of urgent business if it has arisen after distribution of the agenda and cannot be reasonably deferred to the next meeting.

This section also provides time limits for meetings. A Council Meeting must not continue after 3 hours unless a majority of Councillors agree, when up to 2 extensions of 30 minutes can be made.

6.1 Business at meetings

- (1) The Chief Executive Officer may include any matter on the agenda for a Council meeting which he or she thinks should be considered at the meeting to which the agenda relates.
- (2) No business can be dealt with at a meeting unless it is:
 - (a) contained on the agenda; or
 - (b) admitted as urgent business in accordance with Rule 6.4.

6.2 Order of business for Council meetings

- (1) The order of business for Council meetings will proceed in the following manner:
 - (a) Welcome;
 - ~~(a)~~(b) Acknowledgement
 - ~~(b)~~(c) Apologies/Leaves of absence;
 - ~~(c)~~(d) Disclosures of conflicts of interest;
 - ~~(d)~~(e) Confirmation of minutes of previous meetings;
 - ~~(e)~~(f) Petitions;
 - ~~(f)~~(g) Public question time;
 - ~~(g)~~(h) Council reports;
 - ~~(h)~~(i) Notices of motion;
 - ~~(i)~~(j) Notices of rescission;
 - ~~(j)~~(k) Foreshadowed Items;
 - ~~(k)~~(l) Urgent business;
 - ~~(l)~~(m) Confidential business.

6.3 Change to order of business

- (1) Once an agenda has been sent to Councillors, the order of business for that meeting may be altered by a resolution of Council.

6.4 Urgent Business

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

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- (c) it relates to or arises out of a matter which has arisen since distribution of the agenda; and
 - (d) deferring the item until the next meeting will mean a decision on the item will not have any effect on the matter; or
 - (e) the item involves a matter of urgency as determined by the Chief Executive Officer;
 - (f) it cannot be addressed through an operational service request process.
 - (g) a decision on the matter does not:
 - i) substantially affect the levels of Council service;
 - ii) commit Council to significant expenditure not included in the adopted budget;
 - iii) establish or amend Council Policy; or
 - iv) commit Council to any contractual arrangement.
- (2) A Councillor proposing a matter be admitted as urgent business must lodge it in writing to the Chief Executive Officer no later than 3 pm on the day of the meeting.
- (3) The Chief Executive Officer will advise the Mayor of any matter he or she determines appropriate for Council to consider admitting as urgent business.

6.5 Time Limits for Meetings

- (1) A meeting must not continue after three hours from the time it commences unless a majority of Councillors/members present vote in favour of its extension in accordance with this Rule.
- (2) Extensions of a meeting will be in block periods of 30 minutes.
- (3) After the initial 30-minute extension the meeting must not continue unless a majority of Councillors present vote in favour of a further extension.
- (4) A meeting may only be continued for a maximum of two 30-minute extensions.
- (5) In the absence of such extensions as provided for in sub-rule (1), (2) and (3), or in the event there is further business to be transacted at the completion of two extensions, the meeting must stand adjourned to 6 pm on the following day.
- (6) Notwithstanding sub-clause (5), the Chairperson may seek the agreement of Council not to adjourn the meeting to the following day, if the Chairperson reasonably believes the remaining business will take less than 10 minutes to transact.

Commented [PC2]: Template governance rules provided by LGV. For consideration by Councillors.

6.6 Chairperson may temporarily adjourn a meeting exceeding two hours

- (1) The Chairperson may adjourn a meeting for a 10-minute break, at an appropriate point in proceedings after two hours has elapsed.
- (2) Notwithstanding sub-rule (1), the Chairperson may seek the agreement of Council not to adjourn the meeting if the Chairperson reasonably believes the remaining business of the meeting will take less than 30 minutes to transact.

7. Community questions and submissions

Overview: As outlined in the purpose of these Governance Rules, Council meetings are held for Council to make its decisions.

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Members of the public do not have a right to address Council, however provisions are made for Council to respond to questions from the community and for the public to make submissions to Council.

At each meeting there is an opportunity for members of the public to ask questions of the Council. Assistance will be available for any community member seeking or requiring support to write their question(s).

Petitioning is a long-established process for members of the community to demonstrate community support for a request or views on a matter, and for that request or view to be presented directly to Council.

This Rule sets out the procedures to be followed to submit a question or petition, the circumstances under which a question or petition may be disallowed and the process for addressing and responding to the question or petition at or after the meeting.

Council meetings are recorded and broadcasted to the public, this includes community questions and submissions.

7.1 Open Forum and Questions Of Council Time To Be Held

~~7.2(1)~~ The Council will hold open forum and Questions of Council Time for up to 30 minutes ~~duration at the beginning of at each meeting~~ to allow public submissions and questions of Council. ~~Extension of time may be granted by resolution of Council.~~

~~7.3 (2)~~ Open forum is an opportunity for the general public to present to Council on a matter listed on the agenda or any other matter.

~~7.4(3)~~ Questions of Council are an opportunity for the general public to submit a question prior to the meeting and receive a response from Council in the Questions of Council time.

~~7.5 (4)~~ Council meetings are recorded and broadcasted to the public, this includes community questions and submissions.

7.2 Open forum and questions of council guidelines

~~7.6(1)~~ Questions of Council time and open forum will not apply during any period when the Council has resolved to close the meeting in respect of a matter under section 66 (1) of the Act.

~~7.7(2)~~ Submissions as part of open forum and Questions of Council may be on any matter except if it:

- (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
- (b) relates to confidential information as defined in section 3(1) of the Act;
- (c) relates to the personal hardship of any resident or ratepayer; or
- (d) relates to any other matter which the Council considers would prejudice the Council or any person.

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~~7.8(3)~~ No more than two questions will be accepted from any person at any one meeting.

~~7.9(4)~~ Where the Chief Executive Officer does not accept a question, the submitter is to be informed of the reason or reasons for which their question was not accepted.

~~7.10(5)~~ The Mayor reserves the right to cease a submission as part of open forum if he or she deems the submission inappropriate.

~~7.11 (6)~~ Copies of all questions allowed by the Chief Executive Officer will be provided in writing to all Councillors.

~~7.12(7)~~ A submission or question submitted in writing by a member of the public, which has been disallowed by the Chief Executive Officer will be provided to any Councillor on request.

7.3 Open forum prior notice

~~(1)~~ It is preferable for any member of the public who wishes to be heard at open forum to give prior notice.

~~(2) Prior notice in writing must:~~

~~(a) in written form;~~

~~(a) contain the name, address and email or contact telephone number of the person to be heard;~~

~~(b) be in a form approved or permitted by Council;~~

~~(c) via a letter or email addressed to the Mayor or Chief Executive Officer;~~

~~or~~

~~(d) hand delivered to a Council officer before the meetings published commencement time~~

~~(e) by online request (Council's website);~~

~~(d) in a letter to the Chief Executive Office, [insert address]; or~~

~~(e) in an email [insert council email address]; or~~

~~(f) hand delivery to the Council's Office [insert locations].~~

~~7.15(2)~~ It is preferable for any group or association that wishes to be heard at Open Forum to nominate a spokesperson for an issue upon which the group or association may wish to be heard.

7.4 Open Forum Procedure

~~7.16 Public addressing the Meeting~~

~~(a) 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 Chairperson whenever called on to do so.~~

~~Council may suspend standing orders to hear from a community member or representative of an organisation, on matters of significance to the Council, only if prior arrangements have been made by written request to the Mayor or Chief Executive Officer.~~

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7.17(1) The Chair will allocate a maximum of 5 minutes to each person who wishes to address Council.

7.18(2) The Chair ~~or Chief Executive Officer~~ will first invite any person who has given prior notice to present to Council.

7.19(3) The Chair ~~or Chief Executive Officer~~ will then invite members of the gallery who would like to present to Council.

7.20(4) The Chair or Chief Executive Officer have the discretion to alter the order of persons to be heard.

7.21(5) The person in addressing the Council:

- (a) must confine their address to the 5-minute allocation of time;
- (b) shall extend due courtesy and respect to the Council and the processes under which it operates; and
- (c) shall take direction from the Chair whenever called upon to do so.

(6) Council may suspend standing orders to hear from a community member or representative of an organisation, on matters of significance to the Council, only if prior arrangements have been made by written request to the Mayor or Chief Executive Officer.

(7) There will be no discussion or debate with the attendees to Open Forum however Councillors may ask questions of clarification of the attendee.

(8) Standing orders do not need to be suspended to allow discussion for the purposes of clarification.

7.5 Prior notice of Questions of Council

7.22(1) Council must receive prior notice of questions to be heard as part of Questions of Council time.

7.23(2) Questions must be received exactly as intended to be read.

7.24(3) Questions submitted to the Council in a written form must be:

- ~~(a) in written form;~~
- ~~(b)(a)~~ contain the name, address and email or contact telephone number of the person submitting the question;
- ~~(c)(b)~~ be in a form approved or permitted by the Council; ~~(Template available on Council's website);~~
- ~~(d)(c)~~ addressed to the Mayor or the Chief Executive Officer; and
- ~~(d)~~ submitted no later than 4:00pm on the day prior to the no less than four (4) hours before the meeting's published commencement time; or
- ~~(e)~~ handed to the Council officer on duty no more than fifteen (15) minutes before the meeting's published commencement time on the day of the meeting, next Meeting by:
 - ~~letter to the Chief Executive Office, [insert Council address] (letter must be with Council by 4:00pm on the day prior to the Council meeting); or~~
 - ~~email to [insert council email address]; or~~
 - ~~hand delivery to the Council's Office at [insert address(s)].~~

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(4) Questions submitted to the Council in video must be received by the Council by midday on the day immediately prior to the published day of the meeting

7.6 Response to questions

7.25(1) Response to a ~~submission or~~ question raised during ~~the submission in~~ the open forum may be provided immediately as part of the open forum time at the discretion of the Council.

7.26(2) The matter will be referred to the relevant Officer for investigation and response if required.

7.27(3) Council officers will respond acknowledging the question and providing procedural advice and/or the response within 10 working days of the Council meeting.

7.28 7.7 Petitions and joint letters

- (1) Every petition submitted to Council must:
 - (a) be legible and in permanent writing;
 - (b) is clear and on each page the matter and action sought from council is stated;
 - (c) not be derogatory, defamatory or objectionable in language or nature;
 - (d) not relate to matters outside the powers of Council; and
 - (e) include the names, addresses and original signatures of at least 10 people
- (2) Where a petition has been signed by less than 10 people, it will be treated as a joint letter and forwarded directly to the appropriate member of Council staff for action as an operational item.
- (3) Any Councillor presenting a petition is responsible for ensuring that:
 - (a) he or she is familiar with the contents and purpose of the petition; and
 - (b) the petition is not derogatory, defamatory or objectionable in language or nature.
- (4) Unless sub-rules (5) or (6) apply, the only motions that may be considered by Council on any petition are:
 - (a) that the petition be received; and
 - (b) that the petition be referred to the Chief Executive Officer or relevant General Manager for consideration and response; or
 - (c) that the petition be referred to the Chief Executive Officer or relevant General Manager for a report to a future Council Meeting.
- (5) If a petition relates to an item listed on the agenda for the meeting at which it is submitted, the petition may be dealt with in conjunction with the item.
- (6) If a petition relates to a planning matter or 'statutory matter' which is the subject of a public submissions process in accordance with the relevant legislation the

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petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' ~~1~~ (as the case may be).

- (7) The Chief Executive Officer may determine that an electronic or online petition will be submitted to a Council meeting. ~~An online or electronic petition may be submitted to a Council meeting.~~
- (8) The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council meeting.
- (9) An online or electronic petition will not be presented to a Council meeting if it contains signatures that are false or misleading.

7.278 Display of placards and posters

- (10) Subject to sub-rules (2) and ~~(12)(3)~~, a person can display any placards or posters in the Council Chamber or in any building where a meeting is being, or is about to be, held, including outside the entrance to the building.
- (11) A placard or poster must not:
 - (a) display any offensive, indecent, insulting or objectionable item or words; or
 - (b) obstruct the entrance to the Council Chamber or a building where a meeting is being, or is about to be, held; or
 - (c) obstruct the view or physically impede any person.
- (12) The Chairperson may order and cause the removal of any placard or poster that is deemed by the Chairperson to be objectionable, disrespectful or otherwise inappropriate.

7.299 Chairperson may remove members of the public

- (13) Members of the public present at a Council meeting must not interject during the Council meeting.
- (14) If a person, other than a Councillor, interjects or gesticulating offensively during the Council meeting, the Mayor may direct:
 - (a) the person to stop interjecting or gesticulating offensively; and
 - (b) if the person continues to interject or gesticulate offensively, the removal of the person.
- (15) The Chairperson may cause the removal of any object or material that is deemed by the Chairperson to be objectionable or disrespectful.
- (16) In causing a person's removal under sub-clause ~~(b)(2)(b)~~, or the removal of an object or material under sub-rule ~~(15)(3)~~, the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the person, object or material.

~~(16)~~ (17) The Chairperson may cause the removal of members of the public without the need for a Council resolution.

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8. Voting

Overview: At the conclusion of debate on a matter before the meeting, the Chairperson must put the question, motion or amendment to the vote.

Each Councillor is entitled to one vote and voting must be able to be seen by those participating in the meeting and those observing the meeting. The vote is determined by a majority of the Councillors present at the meeting at the time the vote is taken voting in favour of the motion.

If a vote is tied, the Chairperson has a casting vote.

Sometimes a Councillor may want his or her vote is recorded. This is provided for in this section, along with the procedure when a Councillor calls for a division on a vote which is when how each Councillor voted is recorded.

Provision is made for the introduction of an electronic voting system as long as Council has resolved to implement the system and all participants in the meeting and those observing a meeting are able to see which way Councillor has voted on a matter at the time the vote is taken.

8.1 How a matter is determined

~~(17)~~(18) To determine a motion at a meeting, the Chairperson 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.

~~(18)~~(19) In the event of a tied vote, the Chairperson must, unless the Act provides otherwise, exercise the casting vote.

8.2 Voting must be seen

~~(19)~~(20) Voting may be by any method resolved by Council that enables those in attendance and those watching a livestream broadcast to clearly see which way a Council has voted at the time a vote is taken.

~~(20)~~(21) In the absence of a Council resolving an alternative method, voting on any matter is by show of hands.

8.3 When a division is permitted

~~(24)~~(22) A division may be requested by any Councillor on any vote.

~~(22)~~(23) The request must be made to the Chairperson either immediately prior to, or immediately after, the vote has been taken, and may not be made after the meeting has moved to the next item of business.

~~(23)~~(24) When a division is called for the Chairperson must:

- (a) first ask each Councillor wishing to vote in favour of the motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the minutes;
- (b) then ask each Councillor wishing to vote against the motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the minutes;

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- (c) next, ask each Councillor abstaining from voting to indicate their vote that they are abstaining and the Chairperson must then state the names of those Councillors to be recorded in the minutes; and
- (d) finally, declare the result of the division.

~~(24)~~(25) Where a division is requested after the original vote has been taken, the motion is decided on the division. The fact that there may be a difference between the result obtained when the original vote was taken and the result obtained on the division must be disregarded.

8.4 No discussion once a vote has been declared

~~(25)~~(26) Once a vote on a motion has been declared carried or lost by the Chairperson, no further discussion relating to the motion is allowed, unless the discussion:

- (a) involves a Councillor requesting that his or her opposition to a resolution be recorded in the minutes or calling for a division in accordance with Rule 8.3; or
- (b) is a Councillor foreshadowing a notice of rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

9. Addressing the meeting

Overview: This section provides for how the meeting is to be addressed by Councillors and Members of Council Staff.

Members of the Community may only address a meeting in accordance with Section 7 of these rules.

9.1 Councillor allowed to speak uninterrupted

~~(27)~~ A Councillor who has the floor must not be interrupted unless called to order or given notice by the Chairperson his speaking time has elapsed or is about to elapse.

~~(26)~~(28) When a point of order is raised a Councillor who has the floor when he or she must sit down and remain silent until the Councillor raising the point of order has been heard and the point of order dealt with.

9.2 Addressing the Meeting

(1) If the Chairperson so determines:

- (a) any person addressing the Chairperson must refer to the Chairperson as:
 - Mayor; or
 - Chairperson,

as the case may be;

- (b) all Councillors, other than the Mayor, must be addressed as Cr (surname); and
- (c) all Council staff, must be addressed by their official title.

(2) Except for the Chairperson and Chief Executive Officer, any person who addresses the meeting must stand-move to the designated position and direct all remarks through the Chairperson.

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- (3) ~~The Chairperson may permit any Councillor or person to remain seated while addressing the Chairperson.~~

10. ___ Motions and Debate

Overview: This Section describes the procedure for introducing a motion or amendment, the rules of debate, foreshadowing a motion or amendment and the duty of the Chairperson in relation to accepting motions and amendments.

It describes the process for a Councillor lodging a notice of motion for consideration and/or indicating they will raise a matter at the next Council Meeting (foreshadowing items).

A Councillor may move any motion related to an item included in the agenda. In the interest of transparency and informed decision making, motions or amendments should not introduce new matters to a debate that have not been the subject of the report or background of the motion being considered by Council. Motions are required to be submitted in writing so they can be displayed to the meeting.

As a resolution must be able to be acted upon, a motion must clearly state what is intended and what its effect will be if it becomes the decision. This provides clarity for the implementation of Council decisions.

This Section also describes the circumstances and procedures under which a Council decision can be rescinded or altered. It also prescribes a procedure under which a Council policy can be altered or varied.

10.1 Moving a motion

The procedure for moving any motion is:

- ~~(27)~~(29) the mover must outline the motion without speaking in support of it;
- ~~(28)~~(30) the motion must be seconded by a Councillor other than the mover;
- ~~(29)~~(31) if a motion is not seconded, the Motion lapses for want of a seconder;
- ~~(30)~~(32) if there is a seconder, then the Chairperson must call on the mover to speak to the motion;
- ~~(31)~~(33) after the mover has spoken to the motion, the seconder may also speak to the motion;
- ~~(32)~~(34) after the seconder has spoken to the motion (or after the mover has spoken to the motion if the seconder does not speak to the motion), the Chairperson must call on any Councillor who wishes to speak against the motion, then on any Councillor who wishes to speak for the motion, after waiting until all Councillors wishing to speak to the motion have spoken; and
- ~~(33)~~(35) if no Councillor wishes to speak against the motion, then the Chairperson may put the motion or call on any other member to speak.

10.2 Chairperson's duty

The Chairperson must not accept any motion which:

- ~~(34)~~(36) is defamatory; or

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~~(35)~~~~(37)~~ is objectionable in language or nature; or

~~(36)~~~~(38)~~ is vague or unclear in its intention; or

~~(37)~~~~(39)~~ is outside the powers of Council; or

~~(38)~~~~(40)~~ is not relevant to an item of business on the agenda and has not been admitted as urgent business; or

~~(39)~~~~(41)~~ purports to be an amendment but is not.

10.3 Right of reply

~~(40)~~~~(42)~~ The mover of a motion, which has not been amended, may, once debate has been exhausted, exercise a right of reply to matters raised during debate.

~~(41)~~~~(43)~~ No new matters may be raised in the right of reply.

~~(42)~~~~(44)~~ If no Councillor has spoken against a motion, there will be no right of reply.

~~(43)~~~~(45)~~ After the right of reply has been exercised, the motion must immediately be put to the vote without any further discussion or debate.

10.4 Moving an amendment

~~(44)~~~~(46)~~ A motion, which has been moved and seconded, may be amended by leaving out, inserting or adding words, which must be relevant to the subject of the motion.

~~(45)~~~~(47)~~ An amendment may be proposed or seconded by any Councillor, except the mover and seconder of the original motion.

~~(46)~~~~(48)~~ If a Councillor proposes an amendment and the original mover and seconder of the motion both indicate their agreement with the amendment, the amended motion becomes the substantive motion without debate or vote.

~~(47)~~~~(49)~~ If a Councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:

- (a) the amendment must be moved and seconded;
- (b) a Councillor may speak on any amendment once, whether or not he or she has spoken to the motion, but debate must be confined to the terms of the amendment;
- (c) any number of amendments may be proposed to a motion, but only one amendment may be accepted by the Chairperson at any one time. 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 and voted on;
- (d) if the amendment is carried, the motion as amended then becomes the motion before the meeting (known as the substantive motion); and
- (e) the mover of an amendment does not have right of reply.

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If a proposed amendment is ruled to be the negative of, or substantially contrary to, the motion, it should be treated as an alternative motion to be considered only in the event that the motion before the Chair is lost – see foreshadowing motions.

10.5 Foreshadowing motions

~~(48)~~(50) At any time during debate a Councillor may foreshadow a motion so as to inform Council of his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.

~~(49)~~(51) A motion foreshadowed may be prefaced with a statement that, in the event of a particular motion before the meeting being resolved in a certain way, a Councillor intends to move an alternative or additional motion.

~~(50)~~(52) A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the meeting.

~~(54)~~(53) The minutes of the meeting will not include foreshadowed motions unless the foreshadowed motion is subsequently formally moved as a motion.

10.6 Withdrawal of motions

~~(1)~~ Before any motion is put to the vote, it may be withdrawn with the agreement of Council.

10.7 Separation of motions

~~(52)~~(54) Where a motion contains more than one part, a Councillor may request the Chairperson to put the motion to the vote in separate parts.

~~(53)~~(55) The Chairperson may decide to put any motion to the vote in separate parts.

10.8 Motions moved in a block

~~(1)~~ The Chairperson may allow like motions to be moved, or request Councillors to move like items, in a block (*en bloc*), only if the motions note actions already taken and will not commit Council to further action, spending or changes to policy.

10.9 Motions in writing

~~(54)~~(56) All motions, except procedural motions, must be submitted in writing.

~~(55)~~(57) The Chairperson may adjourn a meeting while a motion is being written or may request Council to defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

10.10 Debate must be relevant to the motion

~~(56)~~(58) Debate must always be relevant to the motion before the meeting, and, if not, the Chairperson must request the speaker to confine debate to the motion.

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~~(57)~~~~(59)~~ If, after being requested by the Chairperson to confine debate to the motion before the meeting, the speaker continues to debate irrelevant matters, the Chairperson may direct the speaker to **be-seated and** not speak further in respect of the motion before the Chairperson. The speaker must immediately comply with any such direction.

10.11 Adequate and sufficient debate

~~(58)~~~~(60)~~ Adequate debate is required where a matter is contentious in nature. In such a case, every Councillor should be given an opportunity to participate in the debate.

~~(59)~~~~(61)~~ A motion has been sufficiently debated if opposing views (where they exist) have been sufficiently put, not so much the number of those who have spoken but whether all minority opposing views have been put.

~~(60)~~~~(62)~~ Once the views put are representative of the views of all Councillors or members the debate would be regarded as sufficient.

10.12 Speaking times

~~(61)~~~~(63)~~ Unless a motion for an extension of speaking time has been carried, the maximum speaking times are:

- (a) the mover of a motion or amendment - **three-five** minutes;
- (b) the mover of a motion when exercising his or her right of reply - **two-three** minutes; and
- (c) any other speaker - three minutes.

~~(62)~~~~(64)~~ A motion for an extension of speaking time must be proposed before the initial speaking time, for that speaker, expires.

~~(63)~~~~(65)~~ A motion for an extension of speaking time must not be accepted by the Chairperson if another Councillor has commenced speaking.

~~(64)~~~~(66)~~ Only one extension of speaking time is permitted for each speaker.

~~(65)~~~~(67)~~ Any extension of speaking time must not be more than two minutes.

10.13 Procedural motions

~~(66)~~~~(68)~~ Unless otherwise prohibited, and subject to sub—rule ~~(70)~~~~(3)~~, a procedural motion may be moved at any time and must be dealt with immediately by the Chairperson.

~~(67)~~~~(69)~~ Procedural motions require a seconder.

~~(68)~~~~(70)~~ The Chairperson may reject a procedural motion if he or she believes the motion on which it is proposed has not been adequately or sufficiently debated.

~~(69)~~~~(71)~~ Regardless of any other provision in the Governance Rules, a procedural motion must be dealt with in accordance with the table at sub-rule **Error! Reference source not found.**~~(8)~~.

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~~(70)~~(72) A procedural motion may not be moved or seconded by the Chairperson.

~~(74)~~(73) Unless otherwise provided, debate on a procedural motion is not permitted and the mover does not have a right of reply.

~~(72)~~(74) Unless otherwise provided, a procedural motion must not be amended.

~~(73)~~(75) Procedural motions table:

Motion	Suggested Form	Mover/ Second	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Deferral of a matter (to a future meeting)	'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral)'...	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of the Mayor/ Deputy Mayor; (b) During the election of a Chairperson; or (c) When another Councillor is speaking	Consideration/ debate on the motion and/or amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future meeting, where a fresh motion may be put and debated	Debate continues unaffected	Yes
Closure (of debate)	'That the motion now be put'	Any Councillor who has not moved or seconded the original motion or spoken for/against the original motion	During nominations for a Chairperson	Motion or amendment is put to the vote immediately without further debate, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
Laying a motion on the table (pausing debate)	'That the motion be laid on the table'	A Councillor who has not spoken for/against the motion	During the election of the Mayor/ Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same meeting	Debate continues unaffected	No
Take a motion from the table (resume debate on a matter)	'That the motion in relation to XX be taken from the table'	Any Councillor	When no motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
Alter the order of business	'That the item listed at XX on the agenda be considered before/after the item listed as XY'	Any Councillor	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the agenda	No

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Motion	Suggested Form	Mover/ Second	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Suspension of Standing Orders	'That Standing Orders be suspended to ...' (reason must be provided)	Any Councillor		The rules of the meeting are temporarily suspended for the specific reason given in the motion No debate or decision on any matter, other than a decision to resume Standing Orders, is permitted	The meeting continues unaffected	No
Resumption of Standing Orders	'That Standing Orders be resumed'	Any Councillor	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed	The meeting cannot continue	No
Consideration of confidential matter(s) (Close the meeting to members of the public)	That, in accordance with section 66(2)(a) of the <i>Local Government Act 2020</i> the meeting be closed to members of the public for the consideration of item XX <i>is confidential as it relates to [insert reason]</i>	Any Councillor	During the election of the Mayor/ Deputy Mayor	The meeting is closed to members of the public	The meeting Continues to be open to the public	Yes
Reopen the meeting	'That the meeting be reopened to members of the public'	Any Councillor		The Meeting is reopened to the public	The meeting remains closed to the public	No

10.14 Notices of motion

~~(74)~~(76) A Councillor can submit to the Chief Executive Officer a notice of motion for inclusion in the agenda for a meeting.

~~(75)~~(77) A notice of motion must be in writing, signed by the Councillor (including by electronic means), and be lodged with the Chief Executive Officer at least five (5) business days prior to the meeting at which it is proposed to be considered, no later than 12 noon 10 business days before the Meeting at which it is intended to be considered to ensure its inclusion in the Agenda.

~~(76)~~(78) The Chief Executive Officer must inform Councillors about the operational, legal, financial and other risks, including non-compliance with statutory obligations and cost implications of any proposed notice of motion. The Chief Executive Officer may suggest revised wording to the draft notice of motion to facilitate compliance with the requirements for notices of motion under the Governance Rules.

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~~(77)~~(79) A notice of motion must relate to the objectives, role and functions of Council as outlined in the Act.

~~(78)~~(80) A notice of motion must call for a Council report if the notice of motion proposes any action that:

- (a) impacts the levels of Council service;
- (b) commits Council to expenditure ~~greater than [insert council's upper limit] that is not included in the adopted Council Budget;~~
- (c) proposes to establish, amend or extend Council policy;
- (d) proposes to impact the rights of any person who has not had the opportunity to contribute their views;
- (e) commits Council to any contractual arrangement; or
- (f) concerns any litigation in respect of which Council is a party.

~~(79)~~(81) The Chief Executive Officer must reject any notice of motion which:

- (a) is too vague;
- (b) is defamatory;
- (c) may be prejudicial to any person or Council;
- (d) is objectionable in language or nature;
- (e) is outside the powers of Council
- (f) is submitted during election period.

~~(80)~~(82) The Chief Executive Officer may reject a proposed Notice of Motion that

- (a) relates to a matter that can be addressed through the operational service request process; or
- (b) relates to a matter that has been previously resolved by Council or is acted upon.

~~(81)~~(83) If rejecting a notice of motion, the Chief Executive Officer must inform the Councillor who lodged it of that rejection and the reasons for the rejection no later than nine business days before the Meeting at which it is intended to be considered. The Councillor may submit a revised Motion within 24 hours.

Commented [PC3]: This is a suggestion from LGV that was not previously in the LL1

~~(82)~~(84) ~~The Chief Executive Officer may designate a Notice of Motion to be confidential in accordance with relevant grounds as contained in the Act, in which case, the Notice of Motion will be considered in the part of the relevant Council Meeting that is closed to members of the public. The Chief Executive Officer to advise the Chairperson to consider a notice of motion in a closed meeting of Council if the content/matter of the notice of motion is confidential as defined in section 3(1) of the Act.~~

~~(83)~~(85) The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda, and outline the policy, financial and resourcing implications if the notice of motion is passed.

~~(84)~~(86) The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the notice of motion being published in the agenda for the relevant Council meeting.

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~~(85)~~(87) The Chief Executive Officer must cause all notices of motion to be sequentially numbered, dated and entered in a register.

~~(86)~~(88) Unless Council resolves otherwise, each notice of motion must be considered in the order in which they were received.

~~(87)~~(89) The motion moved must not be substantially different to the motion published in the agenda, however, may be amended by resolution of the Council.

~~(88)~~(90) If a Councillor who has lodged a notice of motion is absent from the meeting or fails to move the motion when called upon by the Chairperson to do so, any other Councillor may move the motion.

~~(89)~~(91) If a notice of motion is not moved at the Council meeting at which it is listed, it lapses.

10.15 Notices of Rescission

~~(90)~~(92) A notice of rescission is a form of notice of motion. Accordingly, all provisions in the Governance Rules regulating notices of motion equally apply to notices of rescission.

~~(94)~~(93) Motions to rescind or alter a previous resolution of Council can be made by:

- (a) A notice of rescission delivered by a Councillor in accordance with sub-rule (4); or
- (b) A recommendation contained in an officer's report included in the agenda.

~~(92)~~(94) Any three Councillors may propose a Motion to rescind or alter a previous resolution of Council provided:

- (a) the previous resolution has not been acted on;
- ~~(a)~~(b) the effect of rescinding the resolution will not place the Council at significant operation, legal, financial or other risk, including non-compliance with statutory obligations; and
- ~~(b)~~(c) a notice is delivered to the Chief Executive Officer or delegate setting out:
 - i) the relevant previous resolution to be rescinded or altered; and
 - ii) the meeting and date when the relevant previous resolution was carried.

(95) A notice of rescission must be:

- (a) in writing;
- (b) signed (including by electronic means) by a-three Councillors; and
- ~~(a)~~(c) and be delivered to the Chief Executive Officer or an Delegate-delegate by 12 noon at least 10 business days prior to the next Ordinary Meeting by 5.00pm of the day two (2) business days after the Council meeting outlining the decision to be rescinded

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~~(96)~~ The Chief Executive Officer, or a member of Council staff with responsibility for the subject matter of a resolution, may implement a resolution of Council at any time after the close of the meeting at which it was made.

~~(93)~~~~(97)~~ A resolution of Council will be deemed to have been acted on if:

- (a) its contents or substance has been formally communicated to a person whose interests are materially affected by it, including by publishing the ~~proposed-unconfirmed~~ minutes of a Council meeting on Council's website; or
- ~~(b)~~ a statutory process has been commenced so as to vest enforceable rights or obligations on Council or any other person; or
- ~~(b)~~~~(c)~~ is practically incapable of being rescinded.

~~(94)~~~~(98)~~ Notwithstanding sub-rule (6), the Chief Executive Officer or member of Council staff must defer implementing a resolution which:

- (a) has not been acted on; and
- (b) is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-rule (4), unless deferring implementation of the resolution would have the effect of depriving the resolution of usefulness, giving rise to non-compliance with a legal obligation or placing the Council at legal, financial or other risk.

~~(95)~~~~(99)~~ If a motion for rescission is lost, a similar motion may not be put before Council for at least ~~one-three~~ (3) month from the date it was last lost, unless Council resolves that the notice of rescission be re-listed at a future meeting.

~~(96)~~~~(100)~~ If a motion for rescission is not moved at the meeting for which it is listed, it lapses.

~~(97)~~~~(101)~~ A notice of rescission listed on an agenda may be moved by any Councillor present but be moved in the form it was listed and must not be amended.

10.16 Change of Council Policy

~~(98)~~~~(102)~~ Council reviews its policies to ensure they are current and continue to reflect community expectations and the position held by a particular Council.

~~(99)~~~~(103)~~ It is good practice for Council to review significant policies at least once in each Council term (every 4 years) and such reviews may lead to change in policy position.

~~(100)~~~~(104)~~ Subject to sub-rule (4), if Council wishes to change a Council policy, a formal notice of rescission is not required.

~~(101)~~~~(105)~~ If a policy has been in force in its original or amended form for less than 12 months, any intention to change the policy which may result in a substantial change to the policy's application or operation for members of the public should be communicated to those affected, and their comment sought, prior to the policy being changed.

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10.17 Foreshadowed items

~~(102)~~(106) At the time designated in the meeting agenda, a Councillor may foreshadow a notice of motion to be submitted for consideration at the next meeting by indicating, when called on to do so by the Chair, the subject matter of the foreshadowed notice of motion.

~~(103)~~(107) The subject matter, as indicated by the Councillor, of a foreshadowed item will be recorded in the minutes.

~~(104)~~(108) No discussion or debate is allowed on a foreshadowed item.

~~(105)~~(109) A foreshadowed item will have no further formal status at that Council meeting.

~~(106)~~(110) Foreshadowed items are intended to be used to indicate to Council and the community matters of importance that will be raised at the next Council meeting.

~~(107)~~(111) If a Councillor does not submit a notice of motion for the next Council meeting, no further action on a foreshadowed item will occur.

11. Points of Order

Overview: A point of order is taken when a Councillor draws the attention of the Chairperson to an alleged irregularity in the proceedings. Valid points of order, the process for raising and ruling on a point of order, and the procedure if there is dissent on the Chair's ruling are described in this section.

~~(108)~~(112) A Councillor raising a point of order must state:

- (a) the point of order; and
- (b) any section, rule, paragraph or provision relevant to the point of order.

~~(109)~~(113) The Chairperson must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the point of order raised, without entering into any discussion or comment.

~~(110)~~(114) The Chairperson may adjourn the meeting to consider a point of order; otherwise he or she must rule on it as soon as it is raised.

~~(111)~~(115) All other matters before Council are suspended until the point of order is decided.

11.1 Dissent in Chairperson's ruling

~~(112)~~(116) A motion of dissent in the Chairperson's ruling must, if seconded, be given priority to all other items of business and a substitute Chairperson must be elected to preside while the motion is being considered.

~~(113)~~(117) The substitute Chairperson must put questions relative to the ruling to the Chairperson first, and then to the mover of the motion.

~~(114)~~(118) The substitute Chairperson must conduct a debate on the Chairperson's ruling, and the matter must be decided by a majority vote.

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~~(115)~~(119) The Chairperson must then resume the Chair for the remainder of the Meeting.

11.2 Valid points of order

~~(116)~~(120) A point of order may be raised in relation to:

- (a) a motion which has not been accepted by the Chairperson;
- (b) a question of procedure;
- (c) a Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
- (d) debate that is irrelevant to the matter under consideration;
- (e) a matter that is outside the powers of Council; or
- (f) any act of disorder.

11.3 Contradiction or opinion

~~(117)~~(121) Rising to express a mere difference of opinion or to contradict a speaker is not a point of order.

11.4 Disorderly Conduct

- (1) The conduct of Councillors and members at meetings is governed by the Act, these Governance Rules and the Councillor Code of Conduct.

11.5 Chairperson may adjourn disorderly Meeting

~~(118)~~(122) The Chairperson may call a break in a meeting for either a short time, or to resume another day if:

- (a) the behaviour at the Council table or in the gallery is significantly disrupting the meeting; or
- (b) when a meeting has been in progress for longer than 2 hours.

~~(119)~~(123) The break referred to in sub-rule ~~(122)~~(4) is an adjournment.

~~(120)~~(124) Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the meeting, and prevents the conduct of Council business:

- (a) Council may, by resolution, suspend that Councillor from a portion of the meeting or from the balance of the meeting where the Chairperson has warned the Councillor to cease that behaviour; or
- (b) The Mayor, under section 19 of the Act, at a Council meeting, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the meeting for a period of time or the balance of the meeting.

~~(121)~~(125) Where Council suspends a Councillor under sub- rule (3)(a), or the Mayor directs a Councillor to leave the meeting under sub-rule (3)(b) the Councillor will take no active part in the portion of the meeting from which he or she has been suspended.

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~~(122)~~(126) If a Councillor has been suspended from a meeting or directed to leave in accordance with sub-rule (3) the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the Councillor.

The Act (section 19(1)(b) provides the power to the Mayor to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

12. Minutes

Overview: The minutes of a meeting must contain details of the proceedings and resolutions made, be clearly expressed, be self-explanatory and incorporate relevant reports or a summary of the relevant reports considered in the decision-making process. The minutes of a Council meeting must be submitted to the next appropriate Council Meeting for confirmation.

12.1 Keeping of Minutes

~~(123)~~(127) The Chief Executive Officer or delegate is responsible for the keeping of minutes on behalf of Council. Those minutes must record:

- (a) the date, place, time and nature of the Council Meeting;
- (b) the names of Councillors and whether they are present, an apology, on leave of absence, etc.;
- (c) the titles of the members of Council staff present who are not part of the gallery;
- (d) the disclosure of a conflict of interest made by a Councillor in accordance with the Act and rule 18 of these Governance Rules;
- (e) the arrivals and departures of Councillors, during the course of the meeting (including any temporary departures or arrivals);
- (f) every motion and amendment moved (including procedural motions),
- (g) the outcome of every motion moved;
- (h) where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
- (i) when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any motion, noting that under s61(5) that a Councillor present at the meeting who does not vote is taken to have voted against the question;
- (j) details of any failure to achieve or maintain a quorum;
- (k) a summary of any question asked and the response provided as part of public question time;
- (l) details of any petitions made to Council;
- (m) the time and reason for any adjournment of the meeting or suspension of standing orders;
- (n) any other matter, which the Chief Executive Officer or delegate thinks should be recorded to clarify the intention of the meeting or assist in the reading of the minutes; and
- (o) the time the Council meeting was opened and closed, including any part of the Council meeting that was closed to members of the public.

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12.2 Confirmation of Minutes

~~(124)~~(128) The minutes as recorded by the Chief Executive Officer, or delegate, will be made available as the unconfirmed minutes to:

- (a) Councillors, within 7 business days;
- (b) members of the public, by publishing them on Council's website, within 9 business days
- (c) of the Council meeting they relate to.

~~(125)~~(129) At every Council Meeting the minutes of the preceding Council meeting(s) must be dealt with as follows:

- (a) a Motion will be moved to confirm the minutes in the following terms: 'That the minutes of the East Gippsland Shire Council meeting held on20.....be confirmed.';
- (b) if a Councillor indicates opposition to the minutes, the Councillor must specify the particular item or items in the minutes and, after asking any questions to clarify the matter, can only move a motion to rectify the alleged error(s) in the minutes by adding the following words to the motion in sub-rule (2) (a) '...subject to the following alteration(s).....'.

~~(126)~~(130) no debate or discussion is permitted on the confirmation of minutes except as to their accuracy as a record of the proceedings of the Council meeting to which they relate;

~~(127)~~(131) once the minutes are confirmed in their original or amended form, the minutes must, if practicable, be signed by the Chairperson of the meeting at which they have been confirmed; and

~~(128)~~(132) the minutes must be entered in the minute book and each item in the minute book must be entered consecutively.

12.3 Recording of Proceedings

- (1) A person in the gallery must not operate film, photographic, tape-recording or other equipment to reproduce sound and/or images at any meeting without first obtaining the consent of the Chairperson.
- (2) The consent of the Chairperson may be revoked at any time during the course of a meeting by the Chairperson stating that consent has been revoked and ordering that the recording cease.

13. Suspension of Standing Orders

Overview: Standing Orders are the rules made to govern the procedure at Council meetings contained in this governance rules. The standing orders cover a range of matters including the order of business, rules of debate, procedural motions and election procedures.

Standing orders can be suspended to facilitate the business of a meeting.

13.1 Suspension of standing orders

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~~(129)~~(133) To temporarily remove the constraints of formal meeting procedure and allow full discussion or clarification of an issue, Council may, by resolution, suspend standing orders in accordance with the procedural motion table at Rule 10.13.

~~(130)~~(134) Suspension of standing orders should not be used purely to dispense with the processes and protocol of the governance of Council.

~~(131)~~(135) No motion can be accepted by the Chairperson or lawfully be dealt with during any suspension of standing orders, except a motion to resume standing orders.

~~(132)~~(136) No motion to suspend standing orders can be accepted by the Chairperson during a second extension of time for a Meeting.

14. Delegated Committees

Overview: Council may establish Delegated Committees and Advisory Committees as part of its governance framework. Delegated Committees can comprise Councillors, members of Council staff and others and must be chaired by a Councillor. As Council may delegate specific powers, duties and functions to Committees, their meeting procedures need to be formal.

- (1) The Governance Rules will apply to Delegated Committee meetings with any necessary modifications.
- (2) For the purpose of sub- rule (1):
 - (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) a reference to the Mayor is to be read as a reference to the Chairperson of the Delegated Committee.
- (3) If Council establishes a Delegated Committee, Council may resolve that a provision of this governance rules do not apply to that Committee.

15. Community Asset Committees

Overview: The Act provides for Council to establish a Community Asset Committee for the management of a community asset such as a hall. Council may appoint members of the community to the committee and delegate to it powers, duties or functions. The powers delegated to a community asset committee must be limited in the amount and purpose of any financial delegation.

- (1) The Governance Rules may apply to any Community Asset Committee established by Council.
- (2) Council may resolve, in establishing a Community Asset Committee which chapters of the Governance Rules apply but as a minimum must include Rule 12 - Minutes.
- (3) A Community Asset Committee must report the minutes of all meetings to the next practicable Council meeting.

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- (4) A Community Asset Committee must act in accordance with its adopted Charter, Instrument of Delegation and any Terms of Reference adopted by Council.

16. Audit and Risk Committee

Overview Notes:

~~The Act provides for Council to establish an Audit and Risk committee to provide oversight.~~

- (1) The Governance Rules will apply to the Audit and Risk Committee established by Council unless otherwise provided in the Audit and Risk Charter.
- (2) Council may resolve, in establishing an Audit and Risk Committee that the meeting procedure chapter of these Governance Rules does not apply.
- (3) An Audit and Risk Committee must ~~report the minutes~~ provide a report to Council on ~~of~~ all Committee Meetings to the next practicable Council meeting.
- (4) An Audit and Risk Committee must act in accordance with ~~its adopted~~ the Charter adopted by Council.

17. Election Period Policy

- (1) Council will have in place an election period policy that:
 - (a) Governs decision making during a local government election period, including what may be considered at a Council meeting
 - (b) Prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
 - (c) Sets out the conditions for any community engagement required to be undertaken during an election period, including consultations, Civic events, and activities of Advisory Committees established by Council
 - (d) Sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns
 - (e) Defines roles and responsibilities in relation to who is the spokesperson for Council during an election period
 - ~~(f) Sets out the requirements for a Councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.~~
- (2) At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its election period policy.
- (3) The Election Period Policy forms part of these Governance Rules.
- (4) The operation of Council Advisory Committees shall be suspended upon the commencement of the election period ahead of a general Council election.
- (5) Any outstanding Council Reports may still be reported to a meeting of Council during this period.

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- (6) Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

18. Conflict of interest

Overview: The Act defines general and material conflicts of interest and provides exemptions for remoteness and interests in common with a substantial proportion of ratepayers along with other specific circumstances.

The Act also provides Council must include in its Governance Rules procedures for disclosures of Conflicts of interest, including at meetings conducted under the auspices of Council that are not Council meetings.

Meetings conducted under the auspices of Council include those meetings arranged or hosted by Council.

These Rules provide the procedures for disclosures of conflicts of interest.

18.1 Obligations with regard to conflict of interest:

- (1) Councillors, members of Delegated Committees and Council staff are required to:
- (a) avoid - all situations which may give rise to conflicts of interest;
 - (b) identify - any conflicts of interest; and
 - (c) disclose – or declare all conflicts of interest;

18.2 Councillors and Members of Delegated Committees

- (1) May not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- (2) When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.
- (3) All disclosures of conflicts of interest will be recorded in the minutes of a Council or Delegated Committee meeting.
- (4) Council will maintain a Conflict of Interest Register which will be made available on Council's website.

18.3 Procedure at a Council or Delegated Committee Meeting

- (1) At the time indicated in the agenda, a Councillor with a conflict of interest in an item on that agenda must indicate they have a conflict of interest by clearly stating:
 - (a) the item for which they have a conflict of interest; and
 - (b) whether their conflict of interest is general or material; and
 - (c) the circumstances that give rise to the conflict of interest.
- (2) Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor or member of a Delegated Committee must indicate to the meeting the existence of the conflict of interest and leave the meeting.
- (3) A Councillor who is not present at the designated time in the agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the manner that required for the declarations of conflicts of interest at sub-rule (1) prior to leaving the meeting.
- (4) A Councillor or member of a Delegated Committee who discloses a conflict of interest and leaves a Council meeting must not communicate with any participants in the meeting while the decision is being made.

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NOT ADOPTED BY COUNCIL**

18.4 Procedure at other meetings organised, hosted or supported by Council

- (1) A Councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.
- (2) At the time indicated on the agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.
- (3) If there is no agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest as soon the matter arises.
- (4) At the time for discussion of that item, the Councillor will leave the discussion and not communicate with any members of the meeting for the duration of the discussion.
- (5) The existence of a conflict of interest will be recorded in the minutes of the meeting.
- (6) If there are no minutes kept of the meeting, the conflict of interest will be recorded in a meeting record and provided to the Governance team for recording in the register of Conflicts of Interest.
- (7) The meeting minutes or record will also record the duration of the discussion and whether the Councillor left the meeting.
- (8) Meeting records and reports will be presented to Council for noting and inclusion on the public record.

18.5 Council staff

- (1) Must act in accordance with the Employee Code of Conduct.
- (2) Must not exercise a delegation or make a decision on any matter where they have a conflict of interest.
- (3) May be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at Rule 18.6 and the Employee Code of Conduct.

18.6 Procedure for disclosures of conflicts of interest by Council Staff

- (1) Council staff must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.
- (2) All conflicts of interest disclosed by Council staff will be provided to the Governance team for recording in the register of Conflicts of Interest.
- (3) A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:
 - (a) The number and qualifications of other people providing advice regarding the same matter is equal or greater; or
 - (b) The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
 - (c) The staff member's General Manager determines that the conflict of interest has not influenced the advice provided; and
 - (d) The existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.

**DRAFT FOR ENGAGEMENT PURPOSES
NOT ADOPTED BY COUNCIL**

19 Joint council meetings

Overview: Regional collaboration provides benefits through collective procurement, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it's possible for the participating Councils to make their own decisions and determinations, in some circumstances, it may be beneficial to hold Joint Council meetings as are provided for in the Act.

- (1) Council may resolve to participate in a Joint Council meeting to consider:
 - (a) Matters subject to discussion of any existing alliance.
 - (b) Collaborative projects
 - (c) Collaborative procurement
 - (d) Emergency response
- (2) If Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer (or delegate) will agree on governance rules with the participating Councils.
- (3) Where East Gippsland Shire Council is the lead Council on a matter to be brought for consideration at a Joint Council meeting, the Mayor will be nominated to Chair the Joint Council meeting
- (4) A majority of Councillors will be appointed to represent Council at a Joint Council meeting.
- (5) Consistent information will be provided to Councillors prior to any Joint meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.
- (6) A joint briefing arranged in accordance with sub-rule (5) may be held electronically.

Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes

Attachment 2: Comparison of Local Law 1 with Governance Rules

Local Law 1	Governance Rules	Comments
L1.1 Title	Governance Rule is the title	
L1.2 Objective of this Local Law	Context has been provided on the purpose of the Governance Rules.	
L1.3 The power to make this Local Law	Outlined in the context	
L1.4 Operational date of this Local Law	Not specified	Governance Rules are not subordinate legislation. The Rules will commence on the date approved by Council and will not cease. The Rules will be amended by Council from time to time.
L1.5 Date this Local Law ceases operation	Not required	
L1.6 Scope of the Local Law	Outlined in the context	
L1.7 Compliance with meeting procedures	<p>2.5 Role of the CEO or delegate to advise the Chairperson of procedural matters, compliance with the Act and Governance Rules and implications (operational, financial or risk)</p> <p>2.4(2) – Chairperson must allow the CEO or delegate to correct factual errors or incorrect assertions that arise during the meeting</p>	
L1.8 How to read this Local Law	not required	
Definitions	Definitions appropriate to the Governance Rules	
Part 2: Election of Mayor and Deputy Mayor	5 Election of Mayor	
L2.1 Term of office	5.5 Determining the election of Mayor/ Deputy Mayor	Section 26 requires that Council passes a resolution prior to the election of the Mayor to determine the term of office (1 year or 2 years)
L2.2 Timeframe for Election	5.1 Chief Executive to set the time and date for the election of the Mayor	

Local Law 1	Governance Rules	Comments
L2.3 Setting meeting time for election of Mayor	5.1 Chief Executive to set the time and date for the election of the Mayor	Previously referred to as Statutory meeting
L2.4 Setting meeting time for election of Mayor less than one year		No provision – could make provision
L2.5 Temporary Chair	5.5 CEO to be temporary Mayor	
L2.6 Determining the election of Mayor	5.5 Determining the election of Mayor / Deputy Mayor	
L2.7 Election of Deputy Mayor	5.5 Determining the election of Mayor / Deputy Mayor	
Part 3: Council meetings		
Division 1: Notices of agenda		
L3.1 Dates, times and places of meetings	3.1 Date, time and place of Council meetings	
L3.2 Council may alter meeting dates, times and places	3.1 Date, time and place of Council meetings	
L3.3 Special council meetings	3.3 Unscheduled meetings	The Act no longer provides for Special meetings
L3.4 Notice of meeting	3.4 Notice of meeting	
L3.5 Leave of absence		No provisions. Leave of absence is granted under section 35. Expenses policy should address the issues relating to allowances and equipment. Delivery of notices and agendas to Councillors on leave not addressed in the Governance Rules
L3.6 Special (emergency) meetings	3.2 Postponement	Included a definition for emergency that was previously in the LL1
Division 2: Quorums		
L3.7 Numbers for quorum	4 Quorum	section 61(7) of the Act
L3.8 Inability to gain a quorum	4(2)	
L3.9 Inability to maintain a quorum	4(3)	
L3.10 Inability to achieve or maintain a quorum due to conflicts of interest of Councillors	4(5-7)	Previously when a quorum could not be maintained by the Council the question

Local Law 1	Governance Rules	Comments
		was referred to the Minister. This is now the CEO or a Delegated Committee
Division 3: Adjournment of debate		
L3.11 Adjournment of debate	<p>6.6 Chairperson may temporarily adjourn a meeting exceeding 2 hours</p> <p>11(4) The chairman may adjourn a meeting to consider a point of order</p> <p>4 The chairman may adjourn a meeting if a quorum is not meet</p> <p>10.9 chairman may adjourn the meeting while a motion is being written or may request Council to defer the matter until it has been writtten</p>	
L3.12 Adjournment and resumption of meeting		
L3.13 Notice for adjourned meeting		
Part 4: Minutes		
L4.1 Keeping of minutes	12 .1 Keeping of minutes	
L4.2 No debate on confirmation of minutes	12.1 (3)	
L4.3 objection of confirmation of minutes	12.1(2)(b)	
L4.4 Deferral of confirmation of minutes		No provision
Part 5: Business of the meeting		
L5.1 Order of business	6.1 Business at meetings	
L5.2 Change to order of business	6.3 Change to order of business	
L5.3 Chief Executive Officer may include items on an agenda	6.1 (1)	
L5.4 Councillor's reports		No provision
L5.5 Urgent and other business	6.4 Urgent business	
Part 6: Suspension of standing orders		
L6.1 Suspension of standing orders	10.13 Procedural motions	Refer to table 10.13 (8)

Local Law 1	Governance Rules	Comments
	13 Standing orders can be suspended to facilitate business of a meeting	
L6.2 No motion may be accepted during suspension of standing orders	10.13 Procedural motions 13 Standing orders can be suspended to facilitate business of a meeting	Refer to table 10.13 (8)
Part 7: Other meeting procedures		
Division 1: Matters not provided for		
L7.1 Matters not provided for		No provision
Division 2: Motions		
L7.2 Chair's duty	10.2 Chairperson's duty	Governance Rule 2.4(2)
L7.3 Moving a motion	10.1 Moving a motion	
L7.4 Right of reply	10.3 Right of reply	
L7.5 No right of reply for amendments	10.4 – a mover does not have right of reply to points raised in debate	
L7.6 Moving an amendment	10.4 Moving an amendment	
L7.7 Who may propose an amendment	10.4(2)	
L7.8 Who may debate an amendment	10.4(3) &(4)	
L7.9 How many amendments may be proposed	10.4(4)	
L7.10 An amendment once carried	10.4	
L7.11 Foreshadowing motions	10.5 Foreshadowing motions	
L7.12 Withdrawal of motions	10.6 Withdrawal of motions	
L7.13 Separation of motions	10.7 Separation of motions	
L7.14 Chair may separate motions	10.7 Separation of motions	
L7.15 Motions in writing	10.9 Motions in writing	
L7.16 Debate must be relevant to the motion	10.10 Debate must be relevant to the motion	
L7.17 Councillor speaking times	10.12 Speaking times	
Division 3: Extension of speaking time		
L7.18 By resolution of Council	10.12 (2) extension of speaking time by resolution	
Division 4: Voting		

Local Law 1	Governance Rules	Comments
L7.19 How determined	8.1 How a matter is determined	
L7.20 Recording the vote	12.1 Minutes – the minutes are required to record the votes	Closed meeting is not addressed in the Governance Rules
L7.21 By show of hands	8.2 Voting must be seen	
L7.22 By secret ballot		No provision for secret ballot
L7.23 System of voting by secret ballot		
L7.24 When a division is permitted	8.3 When a division is permitted	
L7.25 Procedure for a division	8.3 When a division is permitted	
L7.26 Between the original vote and the division	8.3(4)	
L7.27 Division is not allowable if voting by secret ballot		No provision for secret ballot
L7.28 No discussion once declared	8.4 No discussion once a vote has been declared	
Division 5: Points of order		
L7.29 Procedure for points of order	11 Points of order	
L7.30 Valid points of order	11.2 Valid points of order	
L7.31 Contradiction or opinion	11.3 Contradiction or opinion	
L7.32 Interruption for point of order	9.1 Councillor is allowed to speak uninterrupted	
L7.33 Chair to decide	11(2)	
L7.34 Chair may adjourn to consider	11(3)	
L7.35 Final ruling on point of order	11.1 Dissent in Chairperson's ruling	
Division 6: Notice of motion		
L7.36 Must be listed on agenda	10.14 Notice of motion	Governance Rules don't specifically say it can not be considered unless list on the agenda as per the Local Law 7.36
L7.37 Procedure	10.4 (2)	
L7.38 Rejection of a vague notice	10.4(6)	
L7.39 Listing notice on agenda	6.1 (2) no business can be dealt with at a meeting unless it is on the agenda	Not specifically addressed – though 10.14(13) relates to the requirement to list in order the notices were received
L7.40 Register of notices	10.4(12)	

Local Law 1	Governance Rules	Comments
L7.41 May be moved by any Councillor and amended	10.4(15)	
L7.42 If lost		10.15(7) refers to a motion for rescission is lost not being able to be put forward again for 3 months but not referred to for a notice of motion specifically
Division 7: Notice of amendment or rescission		
L7.43 Procedure to rescind a decision	10.15 Notice of rescission 10.15(4)	
L7.44 Procedure to amend a decision	10.15(3)	
L7.45 Listing notice on agenda	6.1 (2) no business can be dealt with at a meeting unless it is on the agenda	Not specifically addressed – though 10.14(13) relates to the component to list in order the notices were received
L7.46 Criteria to amend or rescind a decision		No provision
L7.47 If lost	10.15(8)	
L7.48 If not moved	10.15(9)	
L7.49 May be moved by any Councillor	10.15(10)	
L7.50 When not required	10.16(3)	
L7.51 Register of notices	10.14(12)	
Division 8: Public participation		
L7.52 Request to speak on agenda item	L7.3 Open forum	The section for open forum allows for the public to speak on any matter. Does not differentiate between speaking on an agenda item and speaking on furthering Council's vision.
L7.53 Requests to speak on initiatives to further Council's vision	L7.3 Open forum	
L7.54 Public question time	7.2 Open forum and questions of Council guidelines	
L7.55 Meeting closed to members of the public		Section 66(2)(a) to discuss confidential matters as defined in section 3(1) Not specific meeting procedures outlined for closed meetings
L7.56 Members of the public in attendance	1 Purpose of meeting (3) meetings are open unless closed under section 66	

Local Law 1	Governance Rules	Comments
L7.57 Recording of proceedings	12.3 Recording of proceedings – refers to person in gallery	<p>Governance Rules do not mention Council livestreaming, recording or publishing Council meetings.</p> <p>Mention in 1 Purpose of meeting in relation to closing a meeting due to potential threats.</p> <p>Livestream is mention in passing – election of Mayor, voting</p> <p>Not specific as in the Local Law</p>
L7.58 Chair may remove		s19 and s318
L7.59 Petitions	7.7 Petitions and joint letters	
L7.60 Signing petitions - offence		No provision for offences in Governance Rules
L7.61 Councillor presenting petition - obligations	7.7 (3)	
Division 9: Additional duties of chair		
L7.62 Chair's duties and discretions	2.4(3)	This is repeated several times through the Governance Rules
Part 8 Enforcement and penalties		
L8.1 Offences		No provision for offences in Governance Rules.
L8.2 Penalties		Only 2 offences listed:
L8.3 Infringement notice		<p>L7.58 Failure to comply with Chair's direction</p> <p>L7.60 Fraudulently signing a petition</p> <p>If a Councillor fails to comply with the Chair, there are remedies in the Act – referring to other conduct bodies</p> <p>If member of the public fails to comply with the Chair subject to 318 that includes penalty of 60 penalty units</p>

Local Law 1	Governance Rules	Comments
		If someone fraudulently signs a petition appropriate measures exist under other legislation.

**DRAFT FOR ENGAGEMENT PURPOSES
NOT ADOPTED BY COUNCIL**



Election Period Policy 2019

**DRAFT FOR ENGAGEMENT PURPOSES
NOT ADOPTED BY COUNCIL**

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DRAFT FOR ENGAGEMENT PURPOSES NOT ADOPTED BY COUNCIL

Purpose

The Local Government Act 2020 (2020 Act) requires Local Government to adopt Governance Rules (s60) which incorporate an election period policy (s69). The Governance Rules stipulate the requirements for an election period policy.

Section 93B of the Victorian Local Government Act 1989 (the Act) requires Local Government Authorities to adopt an 'Election Period Policy'. An election period policy This policy will ensure the conduct of the Local Government election is conducted in an environment that is open and fair to all candidates by setting out procedures and practices to be followed during the pre-election period.

The Policy provides guidance to Councillors, Council staff and candidates in the lead up to a Council General Election Local Government election, otherwise known as the election Period'period', provisions apply to the Local Government sector to ensure that the election process remains free from inappropriate electioneering by existing Councillors, and to safeguard the authority of the incoming Council.

The Governance Rules require an Specific provisions are incorporated into the Act that prohibit Election Period Policy to prohibit Councils from making major policy decisions, using Council resources or publishing and/or distributing electoral matter during an election period. These provisions are intended to assist Councillors and officers to continue to conduct ordinary matters of administration that need to be addressed in the lead up to an election, while maintaining public confidence in an unbiased election process.

East Gippsland Shire Council is committed to the principle of fair and democratic elections and has adopted the practices detailed within this policy to guide the conduct of Councillors and officers throughout the election process.

This policy applies during the election period (see 'Definitions' for explanation) and covers:

- decisions made by Council, Special Committees of Council Delegated Committees, Community Asset Committees, or Council delegates;
- requirements for a Councillor or member of Council staff that nominates as a candidate
- any material that is published by East Gippsland Shire Council;
- attendance and participation in functions and events;
- use of Council resources;
- access to Council information; and
- media services.

This policy will affect you during the Election Period if you are:

- involved in making a major policy decision;
- involved in making a significant decision that may bind the incoming Council;
- intending to publish any written or electronic material that refers to a candidate (including any current Councillor or member of Council staff); or the municipal election; or an issue before the voters in connection with the election; or could be seen to advantage or disadvantage any candidate for election.
- involved in the creation of any Council publication;
- involved in the planning and/or organisation of any public consultation process;
- involved in the planning and/or organisation of any public Council functions s or events s;

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- asked to supply resources, support or information to Councillors;
- a Councillor who is standing for re-election.

Scope

This policy applies to all current Councillors, all candidates to the general election, the Chief Executive Officer and all Council officers.

Policy Statement

This Policy establishes a series of practices to ensure that actions of the current Council do not bind an incoming Council and limit its freedom of action.

The provisions operate during the election period, which commences at the close of nominations to be a candidate for the Local Government elections – 22 September 2020. The Election Period will conclude at 6.00 pm on Election Day.

Policy Context

1.40 Council Decisions

Council will not make any decision that significantly affects the municipality and will unreasonably bind the incoming Council. This includes decisions at Council meetings, decisions by Special of Delegated Committees or decisions by Council officers as delegates.

Section 69 of the Local Government Act 2020 requires an election period policy to prohibit Section 93A of the Local Government Act 1989 (the Act) prohibits a Council from making major policy decisions during the election period. Section 93B prohibits Council from making inappropriate decisions. Councils that make decisions in contravention of the 2020 Act may be invalid (69(4)) and a person who suffers a loss or damage as a result of acting in good faith on a Council decision that is invalid may be entitled to compensation from the Council for the loss of damage (s69(5)).

In accordance with the Act, Council will not make major decisions during the election period relative to:

- the remuneration, appointment or dismissal of a Chief Executive Officer;
- entering into any contracts worth more than 1% of the Council's revenue from rates and charges levied under section 158 of the 1989 Act in the previous financial year; and
- the exercise of any entrepreneurial power under section 193 of the 1989 Act if the amount assessed under section 193(5A) of the 1989 Act in respect of the proposal exceeds whichever is greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 of the 1989 Act in the previous financial year.

Council will not make inappropriate decisions, which are defined under the Act as decisions that would may affect voting in an election or could reasonably be made after the election.

In the event of exceptional circumstances requiring a Council decision, an application may be made to the Minister in accordance with section 93A of the Act.

During the election period Council will not make significant decisions, i.e. decisions that may:

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- have a significant effect on the municipality or the community;
- commit the Council to substantial expenditure or major actions; and/or
- otherwise unreasonably bind the incoming Council.

Election Period Statement – Council Decisions

During the election period the Chief Executive Officer will ensure that an election period statement is included in every report submitted to a Council meeting ~~or Special Council Meeting~~ for decision.

Council will not make a decision on any matter or report that does not include a statement. This will ensure that no agenda item is included that could potentially influence voters' intentions or encourage Councillor candidates to use the item as part of their electioneering campaign.

~~Unless the report recommends that a Ministerial exemption be sought, t~~The election period statement will be one of the following:

- ~~The recommended decision is not a major policy decision~~ ~~as defined in section 93A of the Local Government Act 1989~~, or a significant decision as defined by Council's Election Period Policy.

or

- ~~The recommended decision is not a major policy decision~~ ~~as defined in section 93A of the Local Government Act 1989~~ as defined by Council's Election Period Policy. The recommended decision is a significant decision within the meaning of Council's Election Period Policy but an exception should be made for the following reasons: [insert reasons].

Examples of other decisions that should be avoided during the election period include, but are not limited to:

- allocation of community grants or other direct funding to community organisations;
- allocation of funds from the Capital Quick Response Fund;
- major planning scheme amendments; and
- changes to strategic objectives and strategies in the Council Plan.

12.20 Council Resources

It is an established democratic principle that public resources must not be used in a way that would influence the way people vote in elections.

It is also an offence under section 76D of the 1989 Act for a Councillor to misuse his or her position to gain or attempt to gain an advantage for themselves or others, or to cause or attempt to cause detriment to anyone. The penalty for misuse of position by a Councillor is 600 penalty units, or imprisonment for five years, or both.

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While East Gippsland Shire Council is committed to this principle, it is also important that Councillors continue to have access to the resources they need to fulfil their elected roles until the end of their term of office.

The following arrangements will apply during the election period:

- Council resources, including offices, support staff, hospitality, equipment, email, mobile phones and stationery will be used exclusively for normal Council business and will not be used in connection with election campaigning.
- Reimbursements of Councillors' out-of-pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with any candidate's election campaign.
- Council logos, letterhead, or other Council branding must not be used for, or linked in any way to any candidate's election campaign.
- Council owned photographs/images will not be used for any candidate's electioneering purposes.
- Council ~~support~~ staff will not be asked or permitted to undertake any tasks connected with any candidate's election campaign.

Where it is impractical for Councillors to discontinue their use of Council funded services/equipment (e.g. mobile phones, computers, vehicles, etc.) Councillors will reimburse East Gippsland Shire Council for any election campaign-related usage of these services during the election period. Councillors may wish to keep logbooks for this purpose, and these will be provided, on request.

Councillors will not use their Council-supplied email account for election campaigning for themselves or any other candidate.

2.2 Travel/Accommodation and Professional Development

Councillors will not participate in any interstate or overseas travel during the election period in their capacity as a Councillor.

In circumstances where it is imperative that the Mayor (or nominee) represent the organisation on a delegation or forum Council may, by resolution, approve such attendance. If consideration by Council is impractical, the Chief Executive Officer may determine the issue.

Allocations of budget for Councillor seminars/training and attendance at events directly relevant to their work as a Councillor will be allocated on a pro-rata basis between the commencement of the relevant financial year and the election date. This will ensure incoming Councillors receive a fair allocation of the budget allocated for this purpose.

No new professional development opportunities will be undertaken or commenced by Councillors during the election period.

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2.3 Councillor Expenditure

Claims for the reimbursement of expenses may continue to be lodged by Councillors, provided it conforms to the requirements set out in the Councillors Support and Expenses Policy and this Policy.

3.0 Council Communications and Publicity

Council communications are a legitimate way to promote Council activities and services. It is important that all Councillors have access to the Council's communication resources to enable them to fulfil their roles. However, they will not be developed or used in any way that might influence the outcome of a Council election.

Section 55D of the Act prevents Council from ~~will not~~ releasing pamphlets, notices, advertisements etc. without a written declaration being included from the Chief Executive Officer (CEO) certifying that the item does not contain electioneering material.

Interpretation of section 55D is extremely broad. For the purposes of this Policy, it has been interpreted as referring to any mechanism or means employed by Council to communicate with the community.

In respect of print and electronic media, during the defined election period:

- Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer. This power to approve cannot be delegated to another staff member. Only the Chief Executive Officer can certify items do not contain electioneering material.

No publication or communication during the election period may be printed, published or distributed unless the following certification – over the Chief Executive Officer's signature – has been applied to the material:

Certified by the Chief Executive Officer that this document does not contain electioneering material. "Certified by the Chief Executive Officer in accordance with section 55D of the Local Government Act 1989"

Although the certification does not need to be printed on published versions, copies of all certifications and certified material must be retained on Council records.

Any publications that cannot be scheduled for before or after the election period, whether by Council or anyone acting on behalf of Council, must be 'certified' by the Chief Executive Officer as not containing electoral material – this includes bulk letters/emails and newsletters issued during the election period.

The following outlines the approaches that will be taken for specific communication and publicity activities:

- Council publicity and communications will be restricted to promoting normal Council activities and services, and for informing residents about the conduct of the election.

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- General correspondence addressed to Councillors will be managed in accordance with normal protocols. However, Councillors will sign only the necessary minimum of correspondence during the election period, and correspondence regarding significant, sensitive or controversial matters should be signed by the Chief Executive Officer. Responses will be prepared without political bias.
- Media releases will not mention or quote any Councillor(s) during the election period.
- No media advice or assistance will be provided to Councillors in relation to election campaign matters.
- Councillors will not use their position as an elected representative, or their access to Council staff and other Council resources, to gain media attention in support of any candidate's election campaign.
- Council is required by the *Local Government Act 1989* to produce an Annual Report, which will be published during the election period. The Annual Report does not require certification. However, it will not contain any material that could be regarded as electioneering or promotion of individual Councillors. Councillor images will be kept to a minimum, and achievements of individual Councillors will not be included. ~~A Special Council~~ Council meeting will be conducted at an appropriate time during the election period to finalise the Annual Report process in accordance with the provisions of the *Local Government Act 1989*.

1.43.1 Social Media and Website

Council's website and social media sites such as Facebook, Twitter, YouTube, Linked In and blogs may continue to be a corporate voice for Council, and will not be used for any electioneering purposes by Councillors or Council officers.

Councillor profiles on the Council website will be limited to a name, portfolio title and contact details. Photographs and profiles will be removed.

Individual Councillors and/or achievements, or any material considered campaign material, will not be published on any of Council's websites.

~~During the Election Period a~~ statement will be posted on ~~all~~ Council websites and ~~in all~~ social media ~~sites-channels~~ informing the general public that ~~posting~~ a notice/~~comment posted~~ during the election period cannot be responded to, or published, should the ~~posting-post~~ be political in nature.

Council's social media sites will be monitored for electioneering material and any inappropriate posts will be removed as soon as practicable.

No new pages, documents or posts will be uploaded to any East Gippsland Shire Council social media platform during the election period without prior written certification by the Chief Executive Officer.

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1.53.2 Functions and Events / Speeches

Wherever practicable, civic events and functions will not be conducted during the election period.

Where this is not possible, during the election period these will relate only to legitimate Council business and will not be used, or be capable of being seen as being used, to promote the campaign of any candidate.

All speeches prepared for use at events or functions will be reviewed by the Manager Customer Experience and Communication or another officer nominated by the Chief Executive Officer, to ensure the content does not breach this Policy ~~or the Act~~.

Where required and consistent with normal practice, a Councillor may make a speech during an event or function. However, the speech must be approved by the Chief Executive Officer in advance and delivered as written. Speeches will not have any political reference that may be construed as providing any candidate with an advantage.

Council officers may conduct the mandatory candidate training as prescribed in regulation or assist with Council election information sessions.

1.63.3 Provision of Information

Council recognises that all election candidates have certain rights to information from the Council administration subject to the *Privacy and Data Protection Act 2014* (Vic) which restricts disclosure of certain information.

It is important that current Councillors continue to receive information that is necessary to fulfil their roles. However, Councillors must not request or receive information or advice from Council officers to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the election period.

Request for Information Register

During the election period a "Request for Information Register" will be maintained by the ~~Office of the~~ Chief Executive Officer. This register will be available for inspection by the public and will record all requests relating to electoral matters, and non-routine requests for information by Councillors and election candidates, as well as the responses provided.

1.73.4 Advice to Candidates

All candidates for the Council election will be treated equally. Any advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.

All election related enquiries from candidates, whether current Councillors or not, will be directed to the Victorian Electoral Commission Returning Officer, or where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer or General Manager Business Excellence (or nominee).

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1.84.0 Public ConsultationCommunity Engagement

For the purposes of this Policy, public consultation-engagement is any process that involves inviting individuals, groups or organisations or the community generally to comment on an issue or proposed action or proposed policy. It includes discussion of those matters with members of the public.

Wherever possible, public consultations will be avoided during the election period.

Where public consultation during the election period is essential to maintain the normal day to day business of Council, it may be undertaken only with prior written approval by the responsible General Manager.

The Bang the Table community engagement website – <http://yoursay.eastgippsland.vic.gov.au/your-say> will be disabled for the duration of the election period.

Facilitators of any consultation held during the election period must be able to justify to the community the special circumstances making the session necessary and how the risks of influencing the election will be mitigated or prevented to avoid potential electioneering.

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 to postpone a matter if the issue is likely to affect voting. Council will not continue or commence consultation on any contentious or politically sensitive matter during the election period.

No Council advisory board or consultative committee meetings will be held during the election period unless exceptional circumstances apply and the Chief Executive Officer has approved the meeting.

5.0 Council Spokesperson

In the event that a spokesperson is required in relation to any publication or communication, the Chief Executive Officer will fulfil that role or nominate an appropriate officer to act as spokesperson.

Council employees must not make any public statement that could be construed as influencing the election. Statements of clarification may be required from time to time and these are to be approved by the Chief Executive Officer.

NOTE:

~~This Policy is intended to supplement rather than reproduce Council's legislative requirements, and to guide rather than replace a common-sense approach to fair and equitable Council elections.~~

The Policy is not intended as a substitute for legal advice and individuals should seek their own independent advice if they are unsure about any aspect of the Local Government Acts 1989 and 2020, associated regulations, Governance Rules and this policy in relation to the election period.

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DRAFT

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Roles and Responsibilities

These management positions are responsible for implementation and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive Officer	Ensure that scheduling of significant policy or strategy decisions is made well in advance of the election period or deferred for consideration by the incoming Council. Certify that any published material does not contain electoral matter. Ensure the Election Period Statement is included on Council Reports where applicable.
General Manager Business Excellence	Policy owner. Ensure all Councillors and staff are informed of the requirements of this policy. Provide advice and guidance on the implementation of the policy. Ensure that a copy of this policy is given to each Councillor as soon as practicable after it is adopted; available for inspection by the public at all Council Business, Service and Outreach Centres; and published on Council's website.
Responsible General Managers	Approve in writing, any public consultation that is considered essential to maintain the normal day to day business of Council and must be conducted during the election period.
Manager Customer Experience and Communications	Review all speeches to be delivered by Councillors at Council approved events during the Election Period. Implement an appropriate process to ensure that no material covered by section 55D of the Act is published without CEO certification.
Executive Leadership Team	Provide support and guidance to staff with implementing this policy.
<u>Office of the CEO Manager Governance</u>	Maintain the Request for Information Register and ensure it is available for public inspection on request.
Governance and Compliance Unit	Assist with any day to day queries with respect to the implementation of this policy.
All Councillors and staff	Adhere to the guiding principles as outlined in this policy.

All staff have an obligation to report occurrences of non-compliance with Council policy. Incidents of non-compliance should be reported immediately to the General Manager Business Excellence or the Governance and Compliance Unit.

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Where non-compliance has been identified the matter will be investigated by internal review and where applicable further action taken in accordance with Council's Disciplinary Procedures Policy.

References and Supporting Documents

Council Plan 2017-2021 goal 4.1 is to ensure:

"East Gippsland Shire Council is inclusive, engaged and open.."

Applicable Legislation:

- ~~Local Government Act 2020~~
- ~~Local Government Act 1989~~
- ~~Local Government (Electoral) Regulations 2005~~
- ~~Local Government Amendment (Improved Governance) Act 2015~~

Other:

- Councillor Code of Conduct
- Councillors Support and Expenses Policy
- East Gippsland Shire Council Staff Code of Conduct

Supporting Procedures and Guidelines

~~Relevant extracts of the Local Government Act 1989 are provided at Attachment 1.~~

Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council in connection with this policy will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of compliance with the Act. Personal information about an individual held by Council must only be used to carry out the primary or directly related purpose of collection. Furthermore, Council must not collect personal information unless the information is necessary for one or more of its functions.

Individuals have the right to make a complaint to the Victorian Commissioner for Privacy and Data Protection if they believe their privacy has been breached.

The Election Period Policy has been assessed as compliant with the obligations and objectives of the Victorian Charter of the *Human Rights Responsibilities Act 2006*.

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Definitions

Term	Meaning / Responsibility
<i>Certification by CEO</i>	The certification by the Chief Executive Officer that material for publication or distribution does not contain electoral matter, as defined under section 55D of the Act.
<i>Council Officers</i>	Members of East Gippsland Shire Council staff
<i>Election Period</i>	As defined in the Act, commences at the time nominations close on nomination day and ends at 6pm on election day. Section 3(1) of the Act defines the Election Period to be the 32-day period that starts at midnight on the last day of nominations and ends at 6.00 pm on Election Day.
<i>Election Period statement</i>	Statement published on all reports submitted to a Council meeting or a Special Council Meeting for decision by the Chief Executive Officer.
<i>Electoral material</i>	Defined in the Act 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. It includes as any matter that is intended or likely to affect voting in the election. Material that contains an express or implicit reference to or comment on: the election a candidate in the election an issue submitted to or otherwise before the voters in connection with the election (or issues of considerable public contention) any other material that is likely to affect voting at the election. Electoral matter includes material which; 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.
<i>Inappropriate decision</i>	A decision made by a Council during an Election Period including any of the following— (a) decisions that would affect voting in an election; (b) decisions that could reasonably be made after the election.

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Term	Meaning / Responsibility
Major decision	<p>Defined in the Act as being a decision:</p> <ul style="list-style-type: none"> In relation to the employment, remuneration or termination of the CEO (other than a decision to appoint an acting CEO) To enter a contract the total value of which exceeds either \$100,000 or 1% of council revenue from rates in the preceding financial year (whichever is the greater) <p>To exercise any power under section 193 if the sum assessed exceeds either \$100,000 or 1% of council revenue from rates for the preceding financial year (whichever is the greater)</p> <p>Means decisions that relate to:</p> <ul style="list-style-type: none"> the appointment or remuneration of the Chief Executive Officer; or 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; or matters that could reasonably be deferred until the next Council is in place; or the Council considers should not be made during an election period. -
Publication	A broad interpretation should be used to include all documents that are produced for the purpose of communicating with people in the community, including newsletters, advertisements and notices, media releases, leaflets and brochures, emails and mailouts to multiple addresses, electronic information and web based productions including Council's website and social media pages.
Publish	Means publish by any means including by publication on the Internet.
Significant decisions	Include irrevocable decisions that commit the council to substantial expenditure or major actions; or decisions that will have a major impact on the municipality or the community and will unreasonably bind the incoming Council.
The Policy	Election Period Policy

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Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved	07/08/2012	Council	4897306	
2	Approved	09/04/2013	Council	5167063	Redraft into new template format
3	Approved	01/03/2016	Council	6647876	Merge Policy and Procedure into one Policy document
4	Approved	21/11/2017	Council	7336118	Amended to make dates/times/content generic rather than specific to the timeframes of the previous election
5	Approved	18/02/2020	Council	8326083	Redraft into new template format, update position titles

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ATTACHMENT 1 – Extracts *Local Government Act 1989*

~~Section 3(1) of the Act defines the election period to be the 32-day period that starts at midnight on the last day of nominations and ends at 6.00 pm on Election Day.~~

~~Section 55D of the Act imposes limitations on Council publications during the election period.~~

~~Section 76D of the Act imposes serious penalties for the misuse of the position of Councillor.~~

~~Section 93A of the Act defines decisions as major policy decisions that must not be made during an election period. The decisions include:~~

- ~~• The employment or remuneration of the CEO.~~
- ~~• Contracts exceeding specified values.~~
- ~~• Entrepreneurial ventures exceeding specified values.~~
- ~~• Major policy decisions.~~
- ~~• Significant decisions.~~
- ~~• Decisions which unreasonably commit the incoming Council.~~

55D Prohibition on Council

~~(1) A Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer.~~

~~(2) The Chief Executive Officer must not intentionally or recklessly certify an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process.~~

~~Penalty: 60 penalty units.~~

~~(3) Despite section 98(2), the Chief Executive Officer must not delegate the power to certify any advertisement, handbill, pamphlet or notice under this section to a member of Council staff.~~

~~(4) A Councillor or member of Council staff must not intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period on behalf of, or in the name of, the Council or on behalf of, or in the name of, a Councillor using Council resources if the electoral advertisement, handbill, pamphlet or notice has not been certified by the Chief Executive Officer under this section.~~

~~Penalty: 60 penalty units.~~

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76B Primary principle of Councillor Conduct

It is a primary principle of Councillor conduct that, in performing the role of a Councillor, a Councillor must—

- (a) —act with integrity; and
- (b) —impartially exercise his or her responsibilities in the interests of the local community; and
- (c) —not improperly seek to confer an advantage or disadvantage on any person.

76BA General Councillor Conduct principles

In addition to acting in accordance with the primary principle of Councillor conduct specified in section 76B, in performing the role of a Councillor, a Councillor must—

- (a) —avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- (b) —act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- (c) —treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;
- (d) —exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- (e) —endeavour to ensure that public resources are used prudently and solely in the public interest;
- (f) —act lawfully and in accordance with the trust placed in him or her as an elected representative;
- (g) —support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

76C Councillor Code of Conduct

- (1) —A Council must develop and approve a Councillor Code of Conduct for the Council within 12 months after the commencement of section 15 of the *Local Government Amendment (Councillor Conduct and Other Matters) Act 2008*.
- (2) —A Council must review the Councillor Code of Conduct within the period of 12 months after a general election.
- (3) —A Councillor Code of Conduct—
 - (a) —must include the Councillor conduct principles;
 - (b) —may set out processes for the purpose of resolving an internal dispute between Councillors;
- *****
- (c) —must include provisions in respect of any matter prescribed for the purpose of this section;
- (d) —may include any other matters relating to the conduct of Councillors which the Council considers appropriate.
- (4) —A Councillor Code of Conduct must not be inconsistent with any Act or regulation.
- (5) —A Councillor Code of Conduct is inoperative to the extent that it is inconsistent with any Act or regulation.

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- ~~(6) — A copy of the current Councillor Code of Conduct must be—~~
- ~~(a) — given to each Councillor;~~
 - ~~(b) — available for inspection by the public at the Council office and any district offices.~~
- ~~(7) — On and from the commencement of section 15 of the *Local Government Amendment (Councillor Conduct and Other Matters) Act 2008*, a Councillor Code of Conduct is taken to include the Councillor conduct principles.~~

~~76D Misuse of position~~

- ~~(1) — A person who is, or has been, a Councillor or member of a special committee must not misuse his or her position—~~
- ~~(a) — to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or~~
 - ~~(b) — to cause, or attempt to cause, detriment to the Council or another person.~~

~~Penalty: 600 penalty units or imprisonment for 5 years or both.~~

- ~~(2) — For the purposes of this section, circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a special committee include—~~
- ~~(a) — making improper use of information acquired as a result of the position he or she held or holds; or~~
 - ~~(b) — disclosing information that is confidential information within the meaning of section 77(2); or~~
 - ~~(c) — directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E; or~~
 - ~~(d) — exercising or performing, or purporting to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform; or~~
 - ~~(e) — using public funds or resources in a manner that is improper or unauthorised; or~~
 - ~~(f) — failing to disclose a conflict of interest as required under this Division.~~
- ~~(3) — This section—~~
- ~~(a) — has effect in addition to, and not in derogation from, any Act or law relating to the criminal or civil liability of Councillors or members of special committees; and~~
 - ~~(b) — does not prevent the institution of any criminal or civil proceedings in respect of that liability.~~

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76E Improper direction and improper influence

- (1) ~~A Councillor must not improperly direct or improperly influence, or seek to improperly direct or improperly influence, a member of Council staff in the exercise of any power or in the performance of any duty or function by the member.~~
- (2) ~~A Councillor must not direct, or seek to direct, a member of Council staff—
 - (a) ~~in the exercise of a delegated power, or the performance of a delegated duty or function of the Council; or~~
 - (b) ~~in the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under this Act or any other Act; or~~
 - (c) ~~in the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under another Act; or~~
 - (d) ~~in relation to advice provided to the Council or a special committee, including advice in a report to the Council or special committee.~~~~
- (3) ~~This section does not apply to a decision of the Council or a special committee that is made within the powers, duties or functions conferred under this or any other Act.~~

77 Confidential information

- (1) ~~A person who is, or has been, a Councillor or a member of a special committee, must not release information that the person knows, or should reasonably know, is confidential information.~~
- (2) ~~.....~~

93A Conduct of Council during election period

- (1) ~~Subject to this section, a Council, a special Committee or a person acting under a delegation given by the Council must not make a major policy decision during the election period for a general election.~~
- (2) ~~If a Council considers that there are extraordinary circumstances which require the making of a major policy decision during the election period, the Council may apply in writing to the Minister for an exemption from the application of this section to the major policy decision specified in the application.~~
- (3) ~~If the Minister is satisfied that there are extraordinary circumstances, the Minister may grant an exemption from the application of this section to the major policy decision specified in the application subject to any conditions or limitations that the Minister considers appropriate.~~
- (4) ~~A major policy decision made in contravention of this section is invalid.~~
- (5) ~~Any person who suffers any loss or damage as a result of acting in good faith on a major policy decision made in contravention of this section is loss or damage.~~
- (6) ~~In this section, a major policy decision means any decision—
 - (a) ~~relating to the employment or remuneration of a Chief Executive Officer under section 94, other than a decision to appoint an acting Chief Executive Officer;~~
 - (b) ~~to terminate the appointment of a Chief Executive Officer under section 94;~~
 - (c) ~~to enter into a contract the total value of which exceeds whichever is the greater of—~~~~

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- ~~— (i) \$100 000 or such higher amount as may be fixed by Order in Council under section 486(1); or~~
- ~~— (ii) 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year;~~
- ~~(d) to exercise any power under section 193 if the sum assessed under section 193(5A) in respect of the proposal exceeds whichever is the greater of \$100 000 or 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year.~~

93B Council to adopt an election period policy

- ~~(1) A Council must prepare, adopt and maintain an election period policy in relation to procedures to be applied by Council during the election period for a general election.~~
- ~~(2) A Council must prepare and adopt an election period policy as required by subsection (1)—~~
 - ~~(a) by 31 March 2016; and~~
 - ~~(b) following the general election on 22 October 2016, continue to maintain the election period policy by reviewing and, if required, amending the policy not later than 12 months before the commencement of each subsequent general election period.~~
- ~~(3) An election period policy must include the following—~~
 - ~~(a) procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election;~~
 - ~~(b) limits on public consultation and the scheduling of Council events;~~
 - ~~(c) procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.~~
- ~~(4) A copy of the election period policy must—~~
 - ~~(a) be given to each Councillor as soon as practicable after it is adopted; and~~
 - ~~(b) be available for inspection by the public at the Council office and any district offices; and~~
 - ~~(c) be published on the Council's Internet website maintained under section 82A.~~
- ~~(5) In this section ***inappropriate decisions*** made by a Council during an election period includes any of the following—~~
 - ~~(a) decisions that would affect voting in an election;~~
 - ~~(b) decisions that could reasonably be made after the election.~~