

# Agenda

Meeting of Council  
Monday, 7 September 2020

To be held in the  
via video conference  
(Zoom)

Commencing at 6:00pm

**Council:**

Cr Rose Hodge (Mayor)  
Cr David Bell  
Cr Martin Duke  
Cr Clive Goldsworthy  
Cr James McIntyre  
Cr Brian McKiterick  
Cr Tony Revell  
Cr Margot Smith  
Cr Heather Wellington

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AGENDA FOR THE COUNCIL MEETING OF SURF COAST SHIRE COUNCIL  
TO BE HELD VIA VIDEO CONFERENCE (ZOOM)  
ON MONDAY 7 SEPTEMBER 2020 COMMENCING AT 6:00PM

**PRESENT:**

**OPENING:**

Council acknowledge the traditional owners of the land where we meet today and pay respect to their elders past and present and Council acknowledges the citizens of the Surf Coast Shire.

**PLEDGE:**

As Councillors we carry out our responsibilities with diligence and integrity and make fair decisions of lasting value for the wellbeing of our community and environment.

**APOLOGIES:**

Nil

**CONFLICTS OF INTEREST:**

**Note to Councillors and Officers**

***Declaration of Interest***

*Councillors and Officers please note that in accordance with Section 77A of the Local Government Act 1989, there is an obligation to declare a conflict of interest in a matter that could come before Council.*

*A conflict of interest can be a direct or indirect interest in a matter.*

*A person has a direct interest if:*

*There is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the person would be directly altered if the matter is decided in a particular way.*

*A person has an indirect interest if the person has:*

- 1. A close association whereby a "family member" of the person has a direct or indirect interest or a "relative" or member of a person's household has a direct interest in a matter;*
- 2. An indirect financial interest in the matter;*
- 3. A conflicting duty;*
- 4. Received an "applicable" gift;*
- 5. Become an interested party in the matter by initiating civil proceedings or becoming a party to civil proceedings in relation to the matter; or*
- 6. A residential amenity affect.*

***Disclosure of Interest***

*A Councillor or Officer must make full disclosure of a conflict of interest by advising the class and nature of the interest immediately before the matter is considered at the meeting. While the matter is being considered or any vote taken, the Councillor with the conflict of interest must leave the room and notify the Chairperson that he or she is doing so.*

**BUSINESS:**

<b>1. GOVERNANCE &amp; INFRASTRUCTURE .....</b>	<b>4</b>
1.1 <i>Resumption of Deferred Item - Governance Rules, Local Law No. 2 and Public Transparency Policy.....</i>	<i>4</i>
1.2 <i>Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy.....</i>	<i>5</i>

## 1. GOVERNANCE & INFRASTRUCTURE

### 1.1 Resumption of Deferred Item - Governance Rules, Local Law No. 2 and Public Transparency Policy

**Author's Title:** Coordinator Governance

**General Manager:** John Bertoldi

**Department:** Governance & Risk

**File No:** F12/647

**Division:** Governance & Infrastructure

**Trim No:** IC20/1302

**Appendix:**

Nil

**Officer Direct or Indirect Conflict of Interest:**

**Status:**

In accordance with Local Government Act 1989 –  
Section 80C:

Defined as confidential information in accordance  
with Local Government Act 2020, Section 3(1):

Yes

No

Yes

No

**Reason:** Nil

**Reason:** Nil

#### Purpose

The purpose of this report is to resolve to continue debate on matter 4.4 from the 25 August 2020 Council Meeting, and the note any changes to the documentation associated with the matter.

#### Summary

At the 25 August 2020 Council Meeting, matter 4.4 of the agenda, Local Government Act 2020 – Governance Rules, Local Law No. 2 – Common Seal and Miscellaneous Penalties, and the Public Transparency Policy, was, by Council Resolution, deferred to a later meeting.

At the 25 August 2020 Council Meeting, at the beginning meeting, Council resolved to accept a tabled version of the Public Transparency Policy and that it was to replace the Appendix 4 of Item 4.4. Appendix 4 has now been replaced in the Local Government Act 2020 - Governance Rules, Local Law No. 2 – Common Seal and Miscellaneous Penalties, and the Public Transparency Policy report found at the next item on this Agenda.

Minor amendments to correct references to provision numbers within the Governance Rules have also been made. These adjustments are administrative only in order to fix number errors, and make no change to the intention of any clauses within the Governance Rules.

An example of the changes to the Governance Rules is as follows:

*13.6 A joint briefing arranged in accordance with subclause ~~11.5~~ 13.5 may be held electronically.*

#### Recommendation

That Council:

1. Resolves to continue debate on deferred matter 4.4 from the 25 August 2020 Council Meeting.
2. Notes the Public Transparency Policy tabled at the 25 August 2020 Council Meeting has now been made Appendix 4 of the Local Government Act 2020 - Governance Rules, Local Law No. 2 – Common Seal and Miscellaneous Penalties, and the Public Transparency Policy report.
3. Notes the minor administrative corrections made to the Governance Rules document.

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy

**Author's Title:** Coordinator Governance

**General Manager:** John Bertoldi

**Department:** Governance & Risk

**File No:** F12/647

**Division:** Governance & Infrastructure

**Trim No:** IC20/1293

### Appendix:

1. Governance Rules 2020 - Track Changes (D20/148355)
2. Governance Rules 2020 (D20/95639)
3. SCS 051 - Public Transparency Policy - Track Changes (D20/148340)
4. SCS 051 - Public Transparency Policy (D20/152693)
5. Local Law No. 2 - Common Seal and Miscellaneous Penalties (D20/98065)

**Officer Direct or Indirect Conflict of Interest:**

**Status:**

In accordance with Local Government Act 1989 –  
Section 80C:

Defined as confidential information in accordance  
with Local Government Act 2020, Section 3(1):

Yes

No

Yes

No

**Reason:** Nil

**Reason:** Nil

### Purpose

The purpose of this report is to present to Council for its consideration the Governance Rules, Local Law No. 2 – Common Seal & Miscellaneous Penalties, and the Public Transparency Policy.

### Summary

In order to achieve compliance with implementation dates set out in the Local Government Act 2020 (the 2020 Act), the following documents are presented to Council for their adoption:

- Governance Rules
- Public Transparency Policy
- Local Law No. 2 – Common Seal and Miscellaneous Penalties

The establishment of the Governance Rules requires a repeal and replacement of Local Law No. 2 to facilitate the removal of Council Meeting procedures (now regulated under the Governance Rules) whilst retaining governance and enforcement of the use of the Common Seal and related penalties.

The documents were placed on public exhibition and a Hearing of Submissions meeting held. Further information regarding the development and public exhibition of each of these documents is detailed in the body of this report. Any changes have now been incorporated and the final documents are now being presented for adoption.

### Recommendation

That Council:

1. Notes that 17 submissions were received in response to the exhibition of the draft Governance Rules, Local Law No. 2 – Common Seal and Miscellaneous Penalties and Public Transparency Policy were exhibited for public submission between 2 July and 30 July.
2. Notes that two submissions were presented in person to the Hearing of Submissions Committee meeting on 4 August 2020.
3. Notes that the draft Governance Rules, Local Law No. 2 – Common Seal and Miscellaneous Penalties and Public Transparency Policy have been updated following consideration of public submissions.
4. Adopts the Governance Rules as attached at Appendix 2.
5. Adopts the amended Council Election Period (Caretaker) Policy SCS-023 as included in the Governance Rules at Appendix 2.
6. Adopts the Public Transparency Policy as attached at Appendix 4.
7. Repeals Local Law No. 2 of 2019 – Council Meeting Procedures & Common Seal.
8. Adopts Local Law No. 2 – Common Seal and Miscellaneous Penalties as attached at Appendix 5.
9. Authorises the Chief Executive Officer to execute the Local Law No. 2 – Common Seal and Miscellaneous Penalties by affixing the Common Seal.

## **1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

### **Motion**

#### **MOVED Cr David Bell, Seconded Cr Margot Smith**

That Council:

1. Notes that 17 submissions were received in response to the exhibition of the draft Governance Rules, Local Law No. 2 – Common Seal and Miscellaneous Penalties and Public Transparency Policy were exhibited for public submission between 2 July and 30 July.
2. Notes that two submissions were presented in person to the Hearing of Submissions Committee meeting on 4 August 2020.
3. Notes that the draft Governance Rules, Local Law No. 2 – Common Seal and Miscellaneous Penalties and Public Transparency Policy have been updated following consideration of public submissions.
4. Adopts the Governance Rules as attached at Appendix 2.
5. Adopts the amended Council Election Period (Caretaker) Policy SCS-023 as included in the Governance Rules at Appendix 2.
6. Adopts the Public Transparency Policy as tabled at this meeting.
7. Repeals Local Law No. 2 of 2019 – Council Meeting Procedures & Common Seal.
8. Adopts Local Law No. 2 – Common Seal and Miscellaneous Penalties as attached at Appendix 5.
9. Authorises the Chief Executive Officer to execute the Local Law No. 2 – Common Seal and Miscellaneous Penalties by affixing the Common Seal.

### **Amendment Motion**

#### **Council Resolution**

#### **MOVED Cr Heather Wellington, Seconded Cr James McIntyre**

That Council:

1. Notes that 17 submissions were received in response to the exhibition of the draft Governance Rules, Local Law No. 2 – Common Seal and Miscellaneous Penalties and Public Transparency Policy were exhibited for public submission between 2 July and 30 July.
2. Notes that two submissions were presented in person to the Hearing of Submissions Committee meeting on 4 August 2020.
3. Notes that the draft Governance Rules, Local Law No. 2 – Common Seal and Miscellaneous Penalties and Public Transparency Policy have been updated following consideration of public submissions.
4. Adopts the Governance Rules as attached at Appendix 2.
  - 4.1 Excluding that part of clause 19.5.8 that prevents members of the public asking questions that the Chair considers relate to proposed developments.
  - 4.2 Excluding clause 19.5.11 that states that questions from members of the public may be disallowed by the Chairperson if they consider the questions are aimed at drawing opinions from Councillors about matters that will be considered at the meeting or a future meeting of Council.
  - 4.3 Excluding clause 19.6 that states that questions from the public at a Council meeting will be subject to a word limit of 200 words (inclusive of supporting documentation).
  - 4.4 Excluding clause 19.8 that states that all questions must be directed to the Council as a whole and not to individual or specific Councillors.
  - 4.5 Excluding that part of clause 19.9 that states that Councillors other than the Chairperson will not be permitted to answer any questions at a Council meeting relating to an item on the agenda for the meeting
  - 4.6 Excluding clause 19.14 that provides that a question shall not be read out unless the person asking the question, or their proxy, is in the gallery at the time it is due to be read.
  - 4.7 Excluding clause 32.1.1 that requires a notice of motion to identify two supporting councillors who are of the opinion that the notice of motion warrants consideration by Council, and replacing it with provision for an individual Councillor to sign and submit a notice of motion for inclusion on the agenda.
  - 4.8 Excluding clause 32.2 insofar as it imposes a limit of 500 words, inclusive of the motion, on supporting documentation for a Councillor's notice of motion.
  - 4.9 Reinstating the clause in the local law that was in force until June 2019, which enabled Councillors intending to move a notice of motion to speak for up to five minutes to explain

**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

the notice of motion.

- 4.10 Excluding clause 29.2.6 that prevents Councillors from asking questions of officers seeking re-iteration of an answer that was provided prior to the meeting.
5. Adopts the amended Council Election Period (Caretaker) Policy SCS-023 as included in the Governance Rules at Appendix 2.
6. Adopts the Public Transparency Policy as tabled at this meeting.
7. Repeals Local Law No. 2 of 2019 – Council Meeting Procedures & Common Seal.
8. Adopts Local Law No. 2 – Common Seal and Miscellaneous Penalties as attached at Appendix 5.
9. Authorises the Chief Executive Officer to execute the Local Law No. 2 – Common Seal and Miscellaneous Penalties by affixing the Common Seal.

**Refer item to another meeting**

**Council Resolution**

**MOVED Cr Heather Wellington, Seconded Cr James McIntyre**

That Council defer item 4.4 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy to a later meeting.

CARRIED 7:2

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy

### Report

#### **Officer Direct or Indirect Interest**

No officer involved in the preparation of this report has any conflicts of interest.

#### **Background**

The 2020 Act was passed by the Victorian Parliament in March 2020, receiving royal assent on 24 March 2020. There are four stages to be proclaimed by July 2021. The first stage of legislative reforms were proclaimed on 6 April 2020, with the second commencing on 1 May 2020. Within the second stage there are several items that need to be completed within a grace period of four months from the 1 May 2020, meaning that these requirements need to be in place by 1 September 2020. These include the Governance Rules and the Public Transparency Policy.

#### **Discussion**

##### **Governance Rules**

The final draft of the Governance Rules is presented to Council as attached. The final draft was informed by public submissions and further internal review by officers. Section 60 of the 2020 Act includes a range of requirements that are addressed in the final draft of the Governance Rules which has received legal review to ensure full compliance with the 2020 Act. This states:

##### *Section 60 – Governance Rules*

- (1) A Council must develop, adopt and keep in force Governance Rules for or with respect to the following—
- (a) the conduct of Council meetings;
  - (b) the conduct of meetings of delegated committees;
  - (c) the form and availability of meeting records;
  - (d) the election of the Mayor and the Deputy Mayor;
  - (da) the appointment of an Acting Mayor;
  - (e) an election period policy in accordance with section 69;
  - (f) the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under section 130;
  - (g) the procedure for the disclosure of a conflict of interest by a Councillor under section 131;
  - (h) the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section 126(1);
  - (i) any other matters prescribed by the regulations.

Council has developed its current meeting procedures over a number of years and they have previously undergone detailed review, public exhibition, comment and formal consideration. In developing the draft Governance Rules it was proposed to maintain the majority of meeting procedures and only make changes as needed to meet the new legislation. Therefore the draft Governance Rules presented to Council at its Ordinary meeting held 23 June 2020 closely resembled the meeting procedures previously established by Council through Local Law No. 2, as adopted in 2019.

Further review of the meeting procedures has led to minor wording amendments for clarity and to adopt non-gendered language to align with our gender equity commitments and the Charter of Human Rights. Re-ordering of some sections has also taken place to reflect Council's current order of business and procedures. Two clauses relating to Community Asset Committees are deleted because these matters are addressed through new Instruments of Delegation.

Local Government Victoria (LGV) provided Councils with a template Governance Rules to assist them in the development of their own Governance Rules document. The template was provided to assist Councils with structure and format rather than prescribe content which is intended to be developed by each Council. The LGV document was reviewed when the draft Governance Rules were developed.

One notable change between the 1989 Act and the 2020 Act is the definition and disclosure of conflicts of interest. Included in the draft Governance Rules are procedures for the disclosure of a conflict of interest made in accordance with section 130 by a Councillor, a member of a delegated committee, or by a Council officer acting under a delegated power or statutory function.



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## **1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

The draft Governance Rules also include the Council Election Period (Caretaker) Policy SCS-023 as this is required under section 60 of the 2020 Act. This policy has been amended slightly and new components incorporated to comply with the requirements imposed by section 69 of the 2020 Act.

The draft Governance Rules were placed on public exhibition for a period of 28 days in accordance with the submissions process set out in section 223 of the Local Government Act 1989. Not all submissions related directly to the exhibited documents, but where they did amendments have been able to be considered and are detailed in the Appendix to this report.

Officers have also been working on other governance requirements of the 2020 Act over recent weeks, including exploring whether Council needs to establish any Delegated Committees by 1 September 2020. The only identified committee that could be replaced by a Delegated Committee is the Hearing of Submissions Committee that has previously heard from submitters in person on behalf of Council. The committee structure has provided Council with greater flexibility about dates and items to be heard. Under the 1989 Act, the process for Council to call meetings to hear submissions was more onerous and needed greater lead time. Under the 2020 Act there is greater opportunity for Council to call a meeting for this purpose if Council includes such matters in its Governance Rules.

Having reviewed the Hearing of Submissions Committee structure, it is considered appropriate to include clauses in Council's Governance Rules to enable Council to hold a Council meeting for the purpose of hearing submissions. The final draft of the Governance Rules therefore includes an additional section to allow for Council to hear submissions at a special meeting specifically for the purpose of hearing submissions.

This process also empowers Council to be able to hear submissions on matters that are not being heard under section 223 of the Local Government Act 1989 or the Planning and Environment Act 1987 processes. Currently the Hearing of Submissions Committee operates under a delegation that only provides the power to hear submissions under those specific provisions. This new type of meeting will also ensure that, where appropriate, matters that must undergo deliberative engagement or a community engagement process under the Community Engagement Policy may include allowing submissions to be able to be heard via a special Council meeting set up for that purpose.

The inclusion of these provisions means there is no immediate need to transition the Hearing of Submissions Committee to a delegated committee under section 63 of the Local Government Act 2020. Council could still consider establishing a Delegated Committee in the future if deemed appropriate.

The draft Governance Rules are designed to be clear and instructive for both Council and those in the community wishing to engage with and understand the Council meeting procedures. They are now being submitted to Council for adoption.

### **The Public Transparency Policy.**

Section 57 of the Local Government Act 2020 requires that Councils adopt and maintain a public transparency policy. The policy was drafted in accordance with section 57 of the Act, including giving effect to the public transparency principles which are set out under section 58 of the Act.

In drafting the Public Transparency Policy, consideration was given to the draft policy provided by Local Government Victoria as part of the co-design process, with that document informing much of Council's draft policy.

The Public Transparency Policy was placed on public exhibition along with the Governance Rules and Local Law No. 2 for community review and submission. A number of submissions were made that did not directly relate to the purpose or content of the draft policy. Having reviewed the submissions that did relate to the policy, amendments were made to the definitions for 'transparency' and 'public interest.' This was carried out to improve clarity and understanding of what these terms mean relative to Council. A further addition was made to the policy to clarify Council's obligations in relation to the Privacy and Data Protection Act 2014, which prohibits Council from releasing certain information.

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy

### Local Law No. 2 – Common Seal and Miscellaneous Penalties.

Local Law No. 2 is currently the guiding document for Council's meeting procedures. As the Governance Rules are proposed to replace much of Local Law No. 2 of 2019, consideration was given to the best process to continue to facilitate the use of the Common Seal and any penalties that were contained within the Local Law as these would not be enforceable under the internal Governance Rules document.

The establishment of a revised Local Law No. 2 for the purposes of maintaining the current procedure and penalties for misuse of the Common Seal and inappropriate behaviours at Council meetings is proposed as the optimal solution.

The proposed Local Law No. 2 was reviewed and approved through a process of legal review to ensure it was in accordance with the 1989 and 2020 Acts and was enforceable by law. It was exhibited along with the Governance Rules and Public Transparency Policy for public comment. No submissions were received in relation to proposed Local Law No. 2.

To ensure ongoing governance and regulation over the use of the Common Seal and the enforceability of offences committed at Council meetings, it is proposed that the Local Law No. 2 - Common Seal and Miscellaneous Penalties be adopted by Council.

### Council Plan

Theme 5 High Performing Council

Objective 5.2 Ensure that Council decision-making is balanced and transparent and the community is involved and informed

### Reporting and Compliance Statements:

Local Government Act 2020 – LGA 2020

<b>Implications</b>	<b>Applicable to this Report</b>
<b>Governance Principles</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
<b>Policy/Relevant Law</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
<b>Environmental/Sustainability Implications</b> (Consideration of the Governance Principles under s.9 of LGA 2020)	No
<b>Community Engagement</b> (Consideration of Community Engagement Principles under s.56 LGA 2020)	Yes
<b>Public Transparency</b> (Consideration of Public Transparency Principles under s.58 of LGA 2020)	Yes
<b>Strategies and Plans</b> (Consideration of Strategic Planning Principles under s.89 of LGA 2020)	No
<b>Financial Management</b> (Consideration of Financial Management Principles under s.101 of LGA 2020)	No
<b>Service Performance</b> (Consideration of Service Performance Principles under s.106 of LGA 2020)	No
Risk Assessment	No
Communication	Yes
Human Rights Charter	Yes

### Governance Principles - Local Government Act 2020 (LGA 2020)

The Governance Rules and Public Transparency Policy have been drafted in support of the overarching governance rules and the transparency principles.

### Policy/Relevant Law

These documents have been developed in consideration of and compliance with the relevant Acts to which they pertain. Relevant sections have been listed throughout this report for referencing purposes.

## **1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

### ***Community Engagement***

In advance of Council finalising its Community Engagement Policy, Council needed to ensure that consultation activities meet existing requirements. The public notice and submissions processes were in accordance with section 223 of the Local Government Act 1989 and documents were placed on public exhibition for 28 days in order to receive submissions from members of the community. These submissions were considered and presented in full to all Councillors for their information and consideration.

### ***Public Transparency***

The Public Transparency Policy is developed in support of the public transparency principles sent out in section 58 of the Act. These are referenced in the document.

### ***Communication***

These documents, once adopted, will be made available to staff and the community for their reference.

### ***Human Rights Charter***

The Human Rights Charter was considered and informed the development of these documents.

### ***Options***

#### Option 1 – Adoption as attached.

This option is recommended by officers as these documents have undergone legal review and are compliant with the Act to support effective meeting procedures and current practice.

#### Option 2 – Do Not Adopt

This option is not recommended by officers as this would result in non-compliance with the Local Government Act 2020.

#### Option 3 – Adopt with Changes

This option is not recommended by officers as it could result in non-compliance or poor governance structures and/or procedures without allow time for a proper review of changes before the 1 September 2020 deadline.

### ***Conclusion***

In accordance with requirements of the 2020 Act, the Governance Rules, Local Law No. 2 – Common Seal and Miscellaneous Penalties, and the Public Transparency Policy are presented to Council and recommended for adoption.

**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

**APPENDIX 1 GOVERNANCE RULES 2020 - TRACK CHANGES**



# **GOVERNANCE RULES**

This document was created in accordance with section 60 of the Local Government Act 2020

Adopted by Council (date to be inserted) 2020

**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**



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## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



### Introduction

These are the Governance Rules of Surf Coast Shire Council, made in accordance with section 60 of the Act .

### Purpose of the Governance Rules

The purpose of these Governance Rules is to facilitate good governance and assist in delivering the overarching governance principles as set out in section 9 of the Act .

### Commencement

The Governance Rules come into operation on 25 August 2020.

### Definitions

Unless the contrary intention appears in these Governance Rules, the following words and phrases are defined to mean:

**'absolute majority'** means the number of Councillors which is greater than half the total number of the Councillors of a Council (s.61(7)).

**'Act'** means the *Local Government Act 2020*;

**'Acting Mayor'** means the Councillor appointed to represent the Mayor in the event of the Mayor and Deputy Mayor's absence or where there is a need to fill the role;

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

**'amendment'** means a proposed alteration to the wording of a motion without being contradictory;

**'authorised officer'** means a person appointed as such by Council under section 224 of the Local Government Act 1989;

**'Chair'** means the Chair of the meeting and includes acting, temporary and a substitute Chairperson;

**'Chief Executive Officer'** means the Chief Executive Officer of Council, and includes a person acting as Chief Executive Officer;

**'clause'** means a clause of these Governance Rules;

**'Council'** means the Surf Coast Shire Council;

**'Councillor'** means a Councillor of Council who has taken the oath of office in accordance with section 30 of the Act;

**'Council meeting'** is a meeting of the Council;

**'day'** means a Council business day;

**'delegated committee'** means a committee established by Council under section 63 of the Act;

**'deliver'** means to hand over or mail to a recipient and includes transmission by electronic means, electronic mail or published on Council's internet site;

**'Deputy Mayor'** means the Councillor elected to represent the Mayor and act in the Mayor's role in the event of the Mayor's absence.;

**'gallery'** means the area set aside in the Council chamber or meeting room for the public;

**'Joint Letter'** means a formal application to Council in the form of a letter which has been signed by at least ten people or executive/committee representatives from ten separate entities whose names and

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



physical addresses also appear on the letter. A letter from a single entity or organisation that is signed by multiple parties from that organisation or entity will not be classed as a joint letter;

**'leave of absence'** means a period, approved through Council resolution, where a Councillor will not perform the duties or functions of a Councillor during the period, that may be inclusive of any Ordinary meeting of Council;

**'Mayor'** means the Mayor of Council and/or any person acting as Mayor;

**'minutes'** mean the collective record of proceedings of Council or a delegated committee (meeting records);

**'Municipal district'** means the municipal district of Council;

**'notice of motion'** means a notice in writing conforming with Chapter 2, clause 30.

**'petition'** means a formal written application addressed to Council, submitted in printed or electronic format without erasure, signed or electronically endorsed by at least ten people whose names and physical addresses also appear, and on which each page of the petition bears the wording of the whole of the petition

**'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.

**'public notice'** means notice provided on either the Council's website and/or social media channels and/or in local newspapers or other means deemed suitable to provide notice to the community of a related information.

**'resident'** means a person who has a place of residence within the Municipal District;

**'resolution'** means a formal determination by a meeting of Council or delegated committee, or by a member of Council staff acting under delegation;

**'visitor'** means any person (other than a Councillor, or member of Council staff) who is in attendance at a meeting of the Council or a delegated committee; and

**'written'** includes duplicated, photocopied, photographed, emailed, faxed, printed and typed.



## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



# Chapter 1 GOVERNANCE FRAMEWORK

## Part 1 – Governance Structure

The Surf Coast Shire Council is governed by the Act.

According to the Act, the role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of that community.

Section 8 of the Act defines 'good governance' as the Council performing its role in accordance with the overarching governance principles, and the Councillors of the Council performing their role by participating in the decision making of Council, representing the interests of the municipal community whilst participating in that decision making, and contributing to the strategic direction of the Council through the development and review of key strategic documents, including the Council Plan.

As set out in section 9 of the Act:

*The overarching governance principles are:-*

- (a) Council decisions are made and actions taken in accordance with relevant law;*
- (b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations;*
- (c) The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;*
- (d) The municipal community is to be engaged in strategic planning and strategic decision making;*
- (e) Innovation and continuous improvement is to be pursued;*
- (f) Collaboration with other Councils and Governments and statutory bodies is to be sought;*
- (g) The ongoing financial viability of the Council is to be ensured;*
- (h) Regional, state and national plans and policies are to be taken into account in strategic planning and decision making;*
- (i) The transparency of Council decisions, action and information is to be ensured.*

A local government consists of two separate but connected components. The Council, which is made up of 9 Councillors, who make decisions through Council meetings including setting the strategic direction through strategic documents such as the Council Plan; and the organisation which carries out the day to day operations, consisting of employees led by the Chief Executive Officer (CEO).

The CEO will ensure the effective and efficient management of the day to day operations of the Council, and support the Mayor and Councillors in performing their roles. The CEO is delegated certain powers and responsibilities either directly under the Act or by Council.

Council may establish delegated committees to make decisions on Council's behalf under delegated power.

The procedures and processes set out in these Governance Rules underpin this governance structure or framework which supports the delivery of good governance by Surf Coast Shire Council.

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### Part 2 – Decision Making

#### 1. Council decision making

Council must consider, and make decisions on, any matter being considered by Council fairly and on the merits.

Any person whose rights will be directly affected by a decision of the Council is entitled to:

- a) communicate their views by written submission;
- b) subsequently speak to their submission or to have a person speak on their behalf; and
- c) have their interests considered.

For the purposes of this clause, a decision of Council means the following—

- a) a resolution made at a Council meeting;
- b) a resolution made at a meeting of a Delegated Committee; or
- c) the exercise of a power or the performance of a duty or function of Council by a member of Council staff or a Community Asset Committee under delegation.

#### 2. Role of the Chair

The way in which Council and Delegated Committee meetings are conducted makes a significant contribution to good governance.

The Chair plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors and members of delegated committees have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed appropriately, and statutory requirements are adhered to.

The Chair is an independent leader of meetings and generally does not participate in debate or move or second motions.

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.

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

#### 3. Responsibilities of Chair, Councillors, Committee Members and Council Officers

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

The Chair, Councillors, members of delegated committees and Council officers will ensure good Council decision-making by endeavouring to ensure:

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

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### 4. Community

Council meetings form a significant part of the organisation's decision making, and are therefore open for the community to attend in person or view proceedings via Council's website.

Community members may participate in Council meeting through public question time in accordance with clause 17 in Chapter 2 of these Governance Rules, allowing the community to communicate their views and have their interests considered.

Community members are encouraged to participate in Council's community engagement processes which are conducted in accordance with Council's Community Engagement Policy.

Community members may seek to inform individual Councillors of their views by contacting them directly in advance of meetings.

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# Chapter 2 MEETINGS AND MEETING PROCEDURE

## PART 1 – Council Meetings

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

The community will be made aware of the times, dates and locations of Council and delegated committee meetings and the matters Council will consider.

An agenda for each Council meeting will 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 must also be placed on Council's website except for confidential items of the agenda.

*(Pursuant to section 61 of the LGA)*

*A Council meeting is a meeting of the Council at which—*

- a. all the Councillors are, subject to this Act, entitled to attend and vote; and*
  - b. no other person is entitled to vote; and*
  - c. a decision to do an act, matter or thing is made by a resolution of the Council.*
- 2. Except as provided in the Act, the conduct of Council meetings are subject to these Governance Rules.*
  - 3. A Council meeting must be chaired by—*
    - a. the Mayor; or*
    - b. if the Mayor is not present at the Council meeting, the Deputy Mayor; or*
    - c. if the Mayor and the Deputy Mayor are not present at the meeting, a Councillor who is present at the Council meeting and is appointed by a resolution of the Council to chair the meeting.*
  - 4. A quorum at a Council meeting is an absolute majority.*

## SECTION 1 – ELECTION OF THE MAYOR & DEPUTY MAYOR

### 1. Procedure for Election of Mayor

*(Pursuant to Section 25 of the Act – Election of Mayor)*

- 1.1 The meeting to elect the Mayor shall be held in accordance with the Act.
- 1.2 Subject to section 167 of the Act, any Councillor is eligible for election or re-election to the office of Mayor
- 1.3 The election of the Mayor must be chaired by the Chief Executive Officer at a Council meeting that is open to the public, however the Chief Executive Officer will have no voting rights.
- 1.4 The Chief Executive Officer shall be responsible for the counting of votes.
- 1.5 The Councillor who receives an absolute majority of votes cast must be declared elected.
- 1.6 For the purposes of this clause the following will apply:
  - 1.6.1 Nominations must be moved and seconded;
  - 1.6.2 Where only one nomination is received, that Councillor must be declared elected; or
  - 1.6.3 Where there are more than two nominations received:
    - 1.6.3.1 the Councillor who receives an absolute majority at the first round of votes cast must be declared elected; or

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- 1.6.3.2 if no candidate receives an absolute majority of votes, the candidate with the least number of votes must be eliminated as a candidate and a further vote conducted between the remaining candidates.
  - 1.6.3.3 If there are several candidates, this procedure must be repeated until a candidate receives an absolute majority of votes and that candidate shall be declared elected.
  - 1.6.3.4 If for the purpose of eliminating the candidate with the least number of votes, two or more candidates have the same least number of votes, the candidate to be eliminated shall be determined by simple majority vote.
  - 1.6.3.5 If there is an equality of votes with respect to the candidate to be eliminated, the candidate to be eliminated shall then be determined by lot conducted by the Chief Executive Officer in presence of the meeting.
  - 1.6.3.6 Or, if an absolute majority of the Councillors cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date.
- 1.7 After the election of the Mayor is determined, the Mayor must take the Chair.

### 2 Procedure for Election of Deputy Mayor

- 2.1 Where the Council has resolved to elect a Deputy Mayor the provisions contained in clause 1 for the election of the Mayor will apply to the election of the Deputy Mayor save that the Mayor shall preside over the election.

### 3 Procedure for Appointment of an Acting Mayor

- 3.1 If the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting, and the Deputy Mayor cannot take over for the Mayor, Council must, by resolution of Council, appoint a Councillor to be the Acting Mayor.
- 3.2 If the Mayor for any reason is incapable of performing the duties of the office of the Mayor, and the Deputy Mayor cannot take on the responsibility of the office of the Mayor, Council must, by resolution of Council, appoint a Councillor to be the Acting Mayor.
- 3.3 If the office of the Mayor is vacant for any reason, Council must, by resolution of Council, appoint a Councillor to be the Acting Mayor.
- 3.4 Any resolution to appoint an Acting Mayor, must include the period for which that Councillor will be Acting Mayor.

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### SECTION 2 – GENERAL PROVISIONS

*The purpose of this Part is to regulate proceedings at all meetings of the Council.*

#### 4 Council Meeting Chair

- 4.1 The Mayor must take the chair at all Council meetings at which they are present unless precluded from doing so because of a conflict of interest.
- 4.2 In the absence of the Mayor, the Deputy Mayor shall take the chair.
- 4.3 In the absence of the Mayor and the Deputy Mayor, an Acting Mayor shall be appointed in accordance with clause 3.
- 4.4 If a Mayor and the Deputy Mayor are temporarily unable to Chair the meeting, a Councillor shall be elected to take the chair by resolution of Council, or in accordance with the election process in clause 1 if a decision cannot be immediately reached.

#### 5 Chair's Duties & Responsibilities

The Chair's duties and responsibilities are to:

- 5.1 Formally declare the meeting open, after ascertaining that a quorum is present and to welcome, and visitors;
- 5.2 At the start of each Council meeting, to recite the Pledge or allocate this role to another Councillor;
- 5.3 Preside over the meeting, conducting it impartially and according to these Governance Rules
- 5.4 Sign minutes of meetings as correct when they have been confirmed;
- 5.5 Present any reports for which they are responsible;
- 5.6 Ensure that debate is conducted in the correct manner;
- 5.7 Declare the results of all votes;
- 5.8 Give rulings on points of order and other questions of procedure;
- 5.9 Preserve order; and
- 5.10 Adjourn (when so resolved) or formally declare the meeting closed when all business has been concluded.

#### 6 Quorum

- 6.1 A quorum is an absolute majority.
- 6.2 If a quorum is not present within 30 minutes of the time appointed for the commencement of a Council meeting:
  - 6.2.1 The meeting shall be deemed to have lapsed;
  - 6.2.2 The Mayor must convene another Council meeting and ensure that the agenda for the meeting which is deemed to have lapsed is addressed; and
  - 6.2.3 The Chief Executive Officer must give all Councillors notice of the meeting convened by the Mayor.
- 6.3 If a quorum cannot be maintained after a Council meeting has begun due to Councillors having to leave the meeting, the meeting lapses.
- 6.4 If the meeting lapses, the undisposed business must be included in the agenda for the next Council meeting.
- 6.5 If a quorum cannot be maintained because of the number of Councillors who have a conflict of interest in a matter, the Council must consider whether the decision can be made by an alternative manner including:
  - 6.5.1 Resolving to split the matter into two or more separate parts so that a quorum can be maintained; or
  - 6.5.2 making prior decisions on component parts of the matter at a meeting for which a quorum can be maintained before deciding the overall matter at a meeting for which a quorum can be maintained.
- 6.6 If unable to establish a quorum using an alternative manner, the Council must, in accordance with section 67(4) of the Act, establish a delegated committee to make the decision in regard to the matter. The delegated committee must consist of:
  - 6.6.1 All the Councillors who have not disclosed a conflict of interest in regard to the matter; and
  - 6.6.2 Any other person or persons the Council considers suitable.

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### 7 Attendance & Notice of Meetings

- 7.1 The Chief Executive Officer must give notice to the public of any meeting of the Council by public notice at least seven days prior to the meeting and via Council's website.
- 7.2 The dates, time and place for all Council meetings shall be fixed by Council resolution from time to time, with the exception of unscheduled Council meetings in accordance with clause 10.
- 7.3 An electronic agenda will be delivered to Councillors at least 48 hours before a Council meeting.
- 7.4 Despite subclause 7.3, the Chief Executive Officer may deliver an agenda for a Council meeting to Councillors less than 48 hours prior to the meeting, if the Chief Executive Officer considers that in view of the urgency of the matter(s) this should occur.
- 7.5 Members of the public will be requested to sign in before entering the meeting area.

### 8 Time Limit for Meetings

- 8.1 Council meetings must conclude no later than 10pm unless a resolution is carried to extend the meeting.
- 8.2 Any resolution to extend a meeting will be for no longer than 30 minutes. Once the meeting reaches the conclusion of the 30 minute extension, a further resolution to extend the meeting must be carried.
- 8.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place to be announced by the Chair.
- 8.4 No meeting is to exceed 11pm. If a meeting reaches 11pm, the Chair must adjourn the meeting.
- 8.5 The Chief Executive Officer must give notice to each Councillor of the date, time and venue to which the meeting stands adjourned and of the business remaining to be considered.

### 9 Recording of Minutes

- 9.1 The Chief Executive Officer is responsible for the keeping of Minutes on behalf of Council. Those Minutes must record:
- the date, place, time and nature of the Council Meeting;
  - the names of Councillors and whether they are present, an apology, or on leave;
  - the titles of the members of Council staff present who are not part of the gallery;
  - the disclosure of a conflict of interest made by a Councillor in accordance with the Act;
  - the arrivals and departures of Councillors, during the course of the Meeting (including any temporary departures or arrivals);
  - every Motion and amendment moved (including procedural Motions),
  - the outcome of every Motion moved;
  - where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
  - when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any Motion, noting that under section 61(5) of the Act that a Councillor present at the meeting who does not vote is taken to have voted against the question;
  - details of any failure to achieve or maintain a quorum;
  - details of any petitions made to Council;
  - the time and reason for any adjournment of the Meeting or suspension of standing orders;
  - any other matter, which the Chief Executive Officer thinks should be recorded to clarify the intention of the Meeting or assist in the reading of the Minutes; and
  - the time the Council Meeting was opened and closed, including any part of the Council Meeting that was closed to members of the public.

### 10 Unscheduled Council Meetings

- 10.1 Where a Council meeting is required urgently, or to deal with a specific matter in a timely manner that cannot wait for a Council meeting scheduled by Council resolution, the Mayor, or at least three Councillors may by written notice call an unscheduled Council meeting.

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- 10.2 The notice must specify the date and time of the proposed meeting and the business to be transacted.
- 10.3 The notice must be presented to the Chief Executive Officer at least seven days prior to the meeting date.
- 10.4 The Chief Executive Officer must call the unscheduled Council meeting as specified in the notice.
- 10.5 Unless all the Councillors are present at the unscheduled Council meeting and unanimously agree by resolution to deal with a matter that is not specified on the unscheduled Council meeting notice, only the business specified is to be transacted.
- 10.6 The Chief Executive Officer must give notice to the public of any unscheduled Council meeting via Council's website at least five days prior to the meeting and by public notice, where possible, as soon as is practicable.

### 11 Special Council Meetings for Hearing Submissions

- 11.1 Where a Council meeting is required to hear submissions, as in accordance with section 223(b) of the 1989 Act and the Planning and Environment Act 1987, Council may schedule a Special Council Meeting for Hearing Submissions by Council resolution, or by written notice from the Mayor, or at least three Councillors submitting written notice requesting a Special Council Meeting for Hearing Submissions.
- 11.2 The resolution or notice must specify the date and time of the proposed meeting and the matter(s) to be heard.
- 11.3 The notice must be presented to the Chief Executive Officer at least seven days prior to the meeting date.
- 11.4 The Chief Executive Officer must call the Special Council Meeting as specified in the notice.
- 11.5 Unless all the Councillors are present at the Special Council Meeting and unanimously agree by resolution to hear a matter that is not specified on the Special Council Meeting resolution or notice, only the matters specified can be heard.
- 11.6 The Chief Executive Officer must give notice to the public of any Special Council Meeting via Council's website at least five days prior to the meeting and by public notice, where possible, as soon as is practicable.

### 12 Procedures at Special Council Meetings for Hearing Submissions

- 12.1 Where Council has scheduled a Special Council Meeting for Hearing Submissions, the following procedures apply:
- 12.2 Written submissions must be provided by the deadline specified in the public notice/advertisement and relate to the matter/s listed in the resolution or notice scheduling the meeting, and the submission must indicate whether the submitters desire to speak at the Special Council Meeting for Hearing Submissions.
- 12.3 Submitters will be allocated a maximum of 5 minutes to speak to their submission, and, where a planning matter, the applicant will be allocated a maximum of 10 minutes.
- 12.4 Joint submitters who wish to speak must nominate a representative who will be allocated a maximum of 5 minutes to speak to the joint submission.
- 12.5 Requests for variations to the process outlined above shall be at the discretion of the Chair.

### 13 **Joint Council Meetings**

- 13.1 Council may resolve to participate in a Joint Council meeting to consider:
  - 13.1.1 Matters subject to discussion of the G21 Alliance
  - 13.1.2 Collaborative projects
  - 13.1.3 Collaborative procurement
  - 13.1.4 Emergency Response.
- 13.2 If Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer will agree on governance rules with the participating Councils.
- 13.3 Where Surf Coast 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.
- 13.4 At least three Councillors will be appointed to represent Council at a Joint Council meeting.
- 13.5 Consistent information will be provided to Councillors prior to any Joint Council Meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.



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13.6 A joint briefing arranged in accordance with subclause 11.5 may be held electronically.

### 14 Form and Availability of Meeting Records

14.1 Draft Minutes of the Council meeting shall be displayed on Council's website no later than 5 business days after the Council meeting.

14.2 Any recording of the meeting will also be made available via Council's website no later than 5 business days after the Council meeting, however the recording must be in accordance with Council's Live Streaming Policy, and Council reserves the right to choose to record and/or share any recording made.

14.3 At the request of a member of the public, a printed copy or an electronic version of the minutes may be made available.

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### **SECTION 3 – ORDER OF BUSINESS (Including Description & Procedure of Each Business Item)**

#### **15 Conduct of Business**

- 15.1 The order of business will be determined by the Chief Executive Officer
- 15.2 Once an agenda has been sent to Councillors the order of business for that meeting may only be altered by resolution of the Council.
- 15.3 The Chief Executive Officer is responsible for setting the agenda for a Council meeting, after consulting with the Mayor.

#### **16 Apologies**

- 16.1 Where a Councillor is aware they are unable to attend a Council meeting, they are to notify the Mayor, or the office of the Mayor as soon as is practicable.
- 16.2 Apologies will be accepted by resolution of Council at the beginning of the meeting.

#### **17 Confirmation of Minutes**

At every meeting of Council the minutes of the preceding meeting(s) must be dealt with as set out below:

- 17.1 If the minutes have been delivered to each Councillor at least 48 hours before the meeting, a motion must be put for the confirmation of the minutes.
- 17.2 If the minutes have not been delivered, they must be read and a motion must be put for the confirmation of the minutes.
- 17.3 The minutes must be signed by the Chair of the meeting at which they have been confirmed.
- 17.4 The minutes shall record the business of the meeting and in particular:
  - 17.4.1 The date, place, time and nature of the meeting;
  - 17.4.2 The names of the Councillors present and those who have submitted apologies or are on granted leave;
  - 17.4.3 The disclosure of conflicts of interest made by a Councillor and the type and nature of such interest;
  - 17.4.4 Arrivals and departures of Councillors during the course of the meeting;
  - 17.4.5 Each motion and amendment moved and seconded;
  - 17.4.6 The vote cast by each Councillor upon a division;
  - 17.4.7 The total numbers of Councillors voting for, against and abstaining
  - 17.4.8 The failure of a quorum;
  - 17.4.9 When requested by a Councillor, a record of their support or opposition to any motion; and
  - 17.4.10 Closure of the meeting to members of the public and the reasons for such closure.
- 17.5 No discussion or debate on the confirmation of minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.
- 17.6 Council may defer the confirmation of minutes until later in the Council meeting or until the next Council meeting if considered appropriate.
- 17.7 Council meeting minutes from meetings that are open to the public will be confirmed in the open section of the agenda.
- 17.8 Minutes from closed sections of Council meetings will be confirmed in the closed section of the meeting.
- 17.9 Confirmed minutes must be displayed on Council's website except for minutes confirmed in the closed section of a meeting.

#### **18 Councillors Seeking Leave**

*(Pursuant to section 35(4) of the Act)*

- 18.1 Any Councillor seeking or requiring leave for a period of 4 consecutive months or greater from Council duties must do so and provide the reason for the leave at a Council meeting as soon as practicable, or, if this is not practicable, the Councillor must give the Chief Executive Officer written notice of their intention to do so and the stated reason prior to the next available Council meeting.

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- 18.2 A request for leave will be determined by resolution of Council granting or refusing the leave.
- 18.3 A Councillor who will be absent from a Council meeting but who does not intend to seek leave, should convey their apology to the Mayor's office beforehand to enable the apology to be disclosed to the meeting.
- 18.4 In the event that a Councillor is incapacitated or unable to provide written notice of their intention to seek leave from Council, the Mayor shall provide this written notice to the Chief Executive Officer including the stated reason, prior to the Council meeting.

### 19 Public Question Time

- 19.1 There shall be a public question time of up to 30 minutes, unless extended at the discretion of the Chair, at every Meeting of Council to enable members of the public to submit questions to Council.
- 19.2 Questions with notice must be submitted to Council in writing by 10am on the day of the meeting generally in accordance with Schedule A, or via the Public Question Time online form available on Council's website, stating the name, address, and telephone and email contact details of the person submitting the question.
- 19.3 Questions without notice may be asked at the meeting with a written copy of the question to be tabled in a form approved or permitted by Council (in accordance with Schedule A) stating the name and address of the person asking the question, however questions without notice being accepted is at the discretion of the Chair.
- 19.4 No person may submit more than two questions at any one meeting.
- 19.5 A question may be disallowed by the Chair if it is considered to:
  - 19.5.1 Relate to a matter beyond the power or duties of Council;
  - 19.5.2 Be defamatory, indecent, offensive, abusive, irrelevant, trivial or objectionable in language or nature;
  - 19.5.3 Be confidential in nature or of legal significance;
  - 19.5.4 Be generally repetitive of a question already answered (whether at the same or any earlier meeting);
  - 19.5.5 Be aimed to embarrass a Councillor or member of Council staff;
  - 19.5.6 Relate to personnel matters;
  - 19.5.7 Relate to the personal hardship of any resident or ratepayer;
  - 19.5.8 Relate to proposed developments or legal advice;
  - 19.5.9 Relate to matters affecting the security of Council property;
  - 19.5.10 Relate to any other matter which Council considers would prejudice the Council or any person; or
  - 19.5.11 Be aimed to drawing opinions from Councillors about matters that will be considered at the meeting or a future meeting of Council.
- 19.6 All questions must be as brief as possible and no greater than 200 words in length, inclusive of any supporting or contextual information.
- 19.7 No discussion shall be entered into in asking or responding to questions, other than through a request from a Councillor, directed through the Chair, for the purposes of clarification.
- 19.8 All questions must be directed to Council as a whole and not to individual or specific Councillors.
- 19.9 The Chair may answer a question or nominate a member of Council staff to briefly answer a question. Councillors, other than the Chair, will not answer any question relating to an item on the agenda.
- 19.10 Every reasonable attempt will be made to substantively answer a question with notice at the meeting unless the person asking the question has been contacted beforehand and advised of the reason for the question not being answered at the meeting in which case the answer will be provided within five days.
- 19.11 If the nominated member of Council staff advises Council that it is their opinion that the reply to a question should be given in a meeting closed to the public, they must state briefly the reason why the reply should be given in a closed meeting and, unless Council resolves to the contrary, the reply to such question shall be so given.
- 19.12 The question and the name and suburb address of the person who asked the question shall be read out and recorded in the minutes.
- 19.13 The name of the member of Council staff who responded to the question received with notice and their response, if provided at the meeting, shall be recorded in the minutes.
- 19.14 A question shall not be read out unless the person asking the question, or their proxy, is in the gallery at the time it is due to be read.

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- 19.15 If the question is not read at the meeting because the person submitting the question or their proxy is not present, it will not be recorded in the minutes of the meeting.
- 19.16 Where multiple questions requiring broadly similar responses have been received, the Chair may read out one statement that answers the matters raised, without the need for each question to be read out individually. The questions and statement shall be recorded in the minutes.
- 19.17 As an alternative to submitting a question with notice to Council under subclause 17.2, a person may lodge a submission not exceeding 200 words, on a matter listed on the agenda, by 10am on the day of the meeting provided that a prior opportunity to make a submission concerning the matter has not been afforded to the person at a Council meeting, Delegated Committee meeting or Assembly of Councillors.
- 19.18 Any submission received in accordance with subclause 17.16 shall be made available to Councillors prior to the meeting in electronic format. These submissions will not be incorporated into the meeting minutes.

### 20 Petitions and Joint Letters

- 20.1 A petition or joint letter must be presented to the next available meeting of Council where the petition or joint letter is received at least seven business days before the meeting of Council.
- 20.2 A petition or joint letter shall not be presented at a meeting of Council or received by Council unless it meets the definition under these Governance Rules, unless it is specifically resolved by Council to receive the petition or joint letter in a non-conforming format.
- 20.3 When a petition or joint letter presented to a meeting of the Council relates to a planning application, it will be received by Council at the next available Council meeting and subsequently considered as a formal submission to the planning application whether the application is determined by Council or under delegation.
- 20.4 When a petition or joint letter presented to a meeting of the Council relates to an item of business on the agenda, the submission is to be considered by Council as part of its deliberations on such item.
- 20.5 Unless Council determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition or joint letter, until the next meeting of Council after that at which the petition or joint letter has been presented, unless it is addressed under subclauses 18.3 or 18.4.
- 20.6 The Chair may disallow any petition or joint letter which is considered to:
  - 20.6.1 Relate to a matter beyond the power or duties of Council;
  - 20.6.2 Be defamatory, indecent, offensive, abusive, irrelevant, trivial or objectionable in language or nature;
  - 20.6.3 Be confidential in nature or of legal significance;
  - 20.6.4 Be repetitive of a question already answered (whether at the same or any earlier meeting);
  - 20.6.5 Be aimed to embarrass a Councillor or member of Council staff;
  - 20.6.6 Relate to personnel matters;
  - 20.6.7 Relate to the personal hardship of any resident or ratepayer;
  - 20.6.8 Relate to proposed developments or legal advice;
  - 20.6.9 Relate to matters affecting the security of Council property;
  - 20.6.10 Relate to a matter which has already been acted on;
  - 20.6.11 Relate to any other matter which Council considers would prejudice the Council or any person; or
  - 20.6.12 Relate to a matter for which there is already a primary avenue of redress such as planning permits or amendments which will be addressed through the planning submissions process.
- 20.7 An officer report pertaining to any petition or joint letter may be required at the next Meeting of Council (if the petition has not been dealt with in accordance with the provisions of subclauses 18.3, 18.4 or 18.5).

### 21 Reports from Officers

- 21.1 Any report(s) by Officers to a Council meeting must contain a recommendation except for a report responding to a notice of motion, and be in the appropriate report style format.
- 21.2 When Officer reports are before a Council meeting the Chair must ask a Councillor to move an appropriate motion.

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### 22 Urgent Business

- 22.1 Business must not be admitted as urgent business unless:
- 22.1.1 It relates to or arises out of a matter which has arisen since distribution of the agenda; and
  - 22.1.2 It cannot safely or conveniently be deferred until the next Council meeting; and
  - 22.1.3 The Council resolves to admit an item considered to be urgent business.
- 22.2 Items of Urgent Business are to be supported by an officer's report.
- 22.3 Notices of Motion will not be admitted into urgent business and will be dealt with in accordance with clause 30.
- 22.4 Unless a majority of Councillors present resolve to deal with another matter as Urgent Business, no business can be transacted at a Council meeting unless it appears on the agenda.

### 23 Meeting Closure to the Public

*Pursuant to Section 66 of the Act.*

- 23.1 A Council meeting must be open to the public unless it meets the specified circumstances set out in section 66(2) of the Act.
- 23.2 The Chief Executive Officer must ensure that any Council meeting report containing confidential information as defined by section 3(1) of the Act and which is expected to be the subject of a resolution under section 66(2)(a) of the Act to close the Council meeting to the public, includes the ground(s) as specified in section 3(1) of the Act under which the report is deemed to contain confidential information and an explanation of why the specified grounds apply.
- 23.3 The Chair must call for a motion to close the meeting to the public and this motion must be carried prior to commencing any business pertaining to reports containing confidential information.
- 23.4 If a meeting will be closed to the public due to security reasons (section 66(2)(b)) and this is known prior to the meeting, the meeting closure must be posted on the Council website as soon as is practicable to notify the public of the closure. This meeting must be livestreamed on the Council website, and the minutes of the meeting must detail the meeting closure to the public under section 66.
- 23.5 If during meeting proceedings the Chair believes that the meeting must be closed to the public for either security reasons (section 66(2)(b)) or to enable the meeting to proceed in an orderly manner (section 66(2)(c)), the Chair must ensure that livestreaming is occurring and available for the public to view the meeting, before calling for a motion to close the meeting to the public.
- 23.6 A motion to close the meeting due to confidential information under section 66(2)(a) must contain the grounds for determining to close the meeting to the public by reference to the grounds specified in section 3(1) of the Act, and an explanation of why the specified grounds apply.
- 23.7 The time of any resolution to close a meeting to the public must be recorded in the minutes of the meeting.
- 23.8 Upon a resolution to close a meeting to the public being passed, the Chair must advise those present in the public gallery that they must vacate the meeting while the meeting remains closed.
- 23.9 The Chair must call for a motion to re-open the meeting to the public. This motion must be carried and the time recorded in the minutes of the meeting.
- 23.10 All items that are considered confidential pursuant to section 3(1) of the Act remain confidential, inclusive of report content, recommendations, motions, and resolutions until Council has passed a resolution that specifying that all or part of the information is no longer confidential.
- 23.11 If an agenda item or resolution deemed to include confidential information is to be moved out of the closed part of the meeting:
- 23.11.1 Council must, by Council resolution, determine to move all or a specified part of the item or items into the open Council meeting; and/or
  - 23.11.2 Council must, by Council resolution, determine that report or section be included in the minutes of the meeting showing the Council decision that was made in the closed section of the meeting.

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### SECTION 4 - CONDUCT OF DEBATE AND RULES OF SPEAKING

#### 24 Addressing the Council Meeting

- 24.1 Councillors and any other person addressing the Chair must refer to them as:
- 24.1.1 'Mayor'; or
  - 24.1.2 'Mayor (Cr Surname)'; or
  - 24.1.3 'Chair'; or
  - 24.1.4 'Chair (Cr Surname)'; -  
as the case may be.
- 24.2 All Councillors other than the Mayor must be addressed as Councillor (surname).
- 24.3 All members of Council staff must be addressed as their position title followed by their surname as appropriate or simply by their official title.

#### 25 Priority of Address

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

#### 26 Time Limits

- 26.1 A Councillor must not speak longer than the time set out below, unless granted an extension by the Chair:
- 26.1.1 The mover of a motion or an amendment: 5 minutes;
  - 26.1.2 Any other Councillor: 3 minutes; and
  - 26.1.3 The mover of a motion exercising a right of reply: 2 minutes.

#### 27 Motions and Amendments

- 27.1 A motion or an amendment to a motion must:
- 27.1.1 Not be defamatory;
  - 27.1.2 Not be objectionable in language or nature;
  - 27.1.3 Relate to the powers or functions of Council;
  - 27.1.4 Be in writing, if requested by the Chairperson;
  - 27.1.5 Except in the case of urgent business, be relevant to an item of business on the agenda; and
  - 27.1.6 Be moved and seconded, otherwise it lapses.
- 27.2 The Chair may refuse to accept any motion or amendment which contravenes subclause 25.1 or which:
- 27.2.1 Is not relevant to the item of business on the Agenda and has not been admitted as urgent business; or;
  - 27.2.2 Purports to be an amendment but is not consistent with clause 28 and relevant subclauses.
- 27.3 A substantive motion may be altered if the mover and the seconder of the motion both agree to the change. This change cannot be significant or contradictory to the motion's intent.
- 27.4 If a mover of a motion is agreeable to significant changes to the substantive motion, the mover may withdraw the motion, and a new motion be moved to recommence debate on the new motion.
- 27.5 A motion or amendment can only be withdrawn by the mover.

#### 28 Debate

- 28.1 The Chair will summarise the applicable report upon reaching that agenda item during the meeting proceedings.
- 28.2 The Chair will call for a motion to be moved on that agenda item.
- 28.3 If there is no motion moved the item lapses.
- 28.4 If there is no seconder the motion lapses due to want of a seconder.
- 28.5 Debate can only commence once a motion has been moved and seconded.
- 28.6 The mover of the motion, followed by the seconder then has the right to speak to the motion, commencing debate, or the mover can reserve their right to speak until a time later in the debate.

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- 28.7 The Chair shall ask immediately after the mover and seconder have spoken to the motion (or deferred speaking), whether the motion is opposed. If no Councillor wishes to speak against the motion the Chair may then put it to the vote without debate.
- 28.8 If a Councillor has spoken against the motion, the Chair will then ask if any Councillor wishes to speak for the motion. If no Councillor wishes to speak in support of the motion, the motion is to be put to the vote.
- 28.9 The Chair will continue to alternately call for Councillors wishing to speak either for or against a motion until debate ceases upon which the motion will be put to a vote.
- 28.10 If the mover reserved their right to speak at the beginning of debate, they are to be provided with an opportunity to speak to the motion to conclude the debate prior to the motion being put to a vote.
- 28.11 Each Councillor can only speak once to each motion, with the exception of the mover who has the right of reply immediately before the vote is taken.
- 28.12 The mover of a motion's right of reply is lost if an amendment to the motion is carried.
- 28.13 The mover of a motion must not introduce new material when exercising any right of reply.
- 28.14 If a substantive motion is lost and there is no outcome on a matter, the Chair should call for another motion.
- 28.15 If Council is unable to achieve a resolution on an agenda item, a motion requesting what Councillors will need in order to be able to achieve an outcome, or a motion for this item to come back to the Chamber at a later meeting, should be put.
- 28.16 A Councillor acknowledged by the Chair to speak must not be interrupted unless:
- 28.16.1 they are called to order; or
  - 28.16.2 their speaking time has expired; or
  - 28.16.3 a point of order is raised; or
  - 28.16.4 a formal motion is moved.
- 28.17 If a Councillor is interrupted by the Chair or upon a point of order they must remain silent until the Chair has ceased speaking, or the point of order has been determined.
- 28.18 A Councillor must not digress from the subject matter of the motion or business under discussion.
- 28.19 Councillors must designate each other by their official titles during debate and throughout the meeting.

### 29 Seeking Clarification or Asking Questions of Officers

- 29.1 Officers will support the meeting process through provision of reports for the agenda and Councillors should make every effort to seek clarification from officers in advance of the meeting.
- 29.2 Where Councillors need to seek clarification by asking questions of officers during the meeting, that were not able to be asked prior to the meeting, such questions need to be:
- 29.2.1 Directed through the Chair;
  - 29.2.2 Relevant to an item on the agenda;
  - 29.2.3 Seeking genuine clarification of a matter that is not already addressed in the officer's report;
  - 29.2.4 Not objectionable in language, nature or tone;
  - 29.2.5 Not intended to draw officers into debating a matter or justifying a recommendation; and
  - 29.2.6 Not seeking re-iteration of an answer that was provided prior to the meeting;
  - 29.2.7 Not designed to canvass matters or disseminate information to the public.
- 29.3 Questions are not to be asked between moving and seconding a motion except to seek clarification on the motion received.

### 30 Amendments

- 30.1 Once a motion has been moved and seconded, a Councillor can move an amendment to that motion.
- 30.2 The mover or seconder of the substantive motion cannot move an amendment to it.
- 30.3 Debate on the substantive motion ceases when an amendment to the motion is moved.
- 30.4 The amendment motion must be seconded. If the amendment is not seconded, the amendment lapses due to want of a seconder and debate on the substantive motion is to resume from the point at which it ceased.
- 30.5 An amendment must be relevant to the motion upon which it is moved.
- 30.6 An amendment must not amount to a direct contradiction of the motion.

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- 30.7 Amendments must be dealt with one at a time.
- 30.8 A second or subsequent amendment cannot be moved until the immediately preceding amendment is disposed of.
- 30.9 A Councillor proposing an amendment must first state briefly the nature of the amendment and then move it, without speaking to it.
- 30.10 The Chair is to ask for a seconder.
- 30.11 If the amendment is not seconded the amendment lapses for want of a seconder.
- 30.12 After the amendment has been seconded, the Chair must follow the debate rules set out in clause 26.
- 30.13 After debate has concluded, the Chair must put the amendment to the vote.
- 30.14 If an amendment is adopted it becomes part of the substantive motion.
- 30.15 It can then be subject to further amendment.
- 30.16 A Councillor cannot move more than 2 amendments on the same matter in succession.
- 30.17 A Councillor can only speak once on the amendment.

### 31 Foreshadowed Motions

- 31.1 During debate on a motion, a Councillor may foreshadow a motion that the Councillor intends to move after the motion under consideration has been dealt with.
- 31.2 If a proposed amendment effectively negates the substance of the substantive motion before the Chair, it is to be ruled a foreshadowed motion and shall only be considered in the event that the motion is lost.
- 31.3 If the substantive motion during which a Councillor foreshadowed a motion is lost, the Chair shall call on that Councillor to move their foreshadowed motion. If seconded, the motion shall then be the substantive motion and is subject to the debate rules outlined in clause 26.
- 31.4 Unless a foreshadowed motion becomes a substantive motion, it will not be recorded in the meeting minutes.

### 32 Notice of Motion

- 32.1 A notice of motion must:
  - 32.1.1 identify two supporting Councillors who are not obliged to move, second or vote in favour of the motion but are of the opinion that the proposed motion relates to a matter sufficiently important that it warrants formal consideration by Council;
  - 32.1.2 briefly explain the rationale for the proposed motion; and
  - 32.1.3 be lodged in the format provided for this purpose as appearing in Schedule B of these Governance Rules, either electronically or in writing, with the Chief Executive Officer by 5pm on the seventh working day prior to the date of the meeting to allow sufficient time for the notice of motion to be included in the Agenda for the next Council meeting.
- 32.2 Any supporting documentation must be attached to the notice of motion for inclusion in the agenda, but must not be more than 500 words inclusive of the proposed motion.
- 32.3 The Chief Executive Officer must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.
- 32.4 Any notice of motion which in the opinion of the Chief Executive Officer or the Chair is:
  - 32.4.1 defamatory; or
  - 32.4.2 objectionable in language or nature; or
  - 32.4.3 outside the powers of the Council,must not be accepted by the Chief Executive Officer or by the Chair.
- 32.5 Except by resolution of Council, notices of motion before any Council meeting must be considered in the order in which they were recorded in the notice of motion register.
- 32.6 To assist Councillors to make an informed decision regarding a notice of motion, the Chief Executive Officer must provide a written report prior to the meeting at which the notice of motion is to be considered, however the report is not to contain a recommendation.
- 32.7 If both Councillors who have given a notice of motion:
  - 32.7.1 are absent from the Council meeting; or
  - 32.7.2 fail to move the motion when called upon by the Chair;any other Councillor may move the notice of motion.
- 32.8 If a notice of motion is not moved and seconded at the Council meeting for which it was included on the agenda, it lapses.



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32.9 Before the notice of motion is put to the vote, it may be withdrawn by the two supporting Councillors.

### 33 Rescission or Amendment Notice of Motion

33.1 A Councillor may propose a motion to amend or rescind a previous resolution of Council provided the notice of motion is signed by three Councillors and delivered to the Chief Executive Officer no later than 72 hours following the meeting of Council at which the resolution proposed to be rescinded or amended was adopted.

33.2 Notices of Motion to rescind or amend a previous resolution of Council are to be lodged in the format provided for this purpose as appearing in Schedule C.

33.3 No action will be taken to implement a resolution on which a notice to rescind or amend the resolution has been given pursuant to clause 31.1.

33.4 A notice of motion to rescind or amend a previous resolution of Council shall be deemed to have been withdrawn if not moved at the next meeting at which such business may be transacted.

33.5 A Councillor may not propose a motion to rescind or amend a resolution of the Council which has been acted upon.

33.6 A resolution will be considered as having been acted upon once its details have been formally communicated to persons affected by or reliant on the resolution or where a statutory procedure has commenced or been carried out.

33.7 A second or subsequent notice to rescind or amend an earlier resolution must not be accepted by the Chief Executive Officer until a period of three months has elapsed since the date of the meeting at which the previous motion of rescission or amendment was dealt with.

### 34 Points of Order

34.1 A point of order is an objection that the motion, amendment or statement made is:

34.1.1 Contrary to these Governance Rules;

34.1.2 Defamatory;

34.1.3 Irrelevant;

34.1.4 Improper; or

34.1.5 Outside Council's legal powers and may be made despite the fact that the Councillor or Chair is speaking at the time.

34.2 A point of order must be taken by stating:

34.2.1 The matter complained of; and

34.2.2 The reason constituting the point of order;

34.3 The Chair may raise a point of order without it having been made by a Councillor.

34.4 When called to order, a Councillor must remain silent until the point of order is decided unless they are requested by the Chair to provide an explanation.

34.5 The Chair may adjourn the meeting to consider a point of order but must otherwise rule upon it as soon as it is taken.

34.6 The Chair must, when ruling on a point of order, give reasons for the ruling.

34.7 The Chair's ruling shall be final unless the majority of Councillors present at the meeting vote in favour of a motion of dissent that is moved and seconded immediately after the Chair's ruling is given.

34.8 A motion of dissent must state the provision or practice in substitution for the Chair's ruling.

34.9 A motion of dissent that is carried must be acted upon by the Chair.

34.10 Only the mover of a motion of dissent and the Chair can speak to the motion before it is put. The mover of the motion does not have a right of reply.

34.11 The Chair is not required to vacate the chair.

### 35 Procedural Motions

35.1 A procedural motion may be moved at any time during a meeting and must be immediately dealt with.

35.2 A procedural motion may be refused by the Chair.

35.3 A procedural motion requires a seconder.

35.4 Debate on a procedural motion is not permitted with the exception of a meeting closure under section 66(2)(a) of the Act, or that debate on a matter be deferred until a later meeting.

35.5 A Councillor may move a procedural motion that:

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- 35.5.1 'a report/document be tabled';
- 35.5.2 'the Agenda item/s be moved forward';
- 35.5.3 'the motion be put';
- 35.5.4 'the matter be laid on the table';
- 35.5.5 'the matter be taken from the table';
- 35.5.6 'the meeting be adjourned';
- 35.5.7 'standing orders be suspended';
- 35.5.8 'standing orders be resumed';
- 35.5.9 'the meeting be closed to the public';
- 35.5.10 'the meeting be reopened to the public';
- 35.5.11 'the Chair's ruling be dissented from';
- 35.5.12 'the debate on the matter be deferred'-  
which are outlined further in Schedule D.

### 36 Repeating Motion or Amendment

- 36.1 Before any matter is put to the vote, a Councillor may request that the motion or amendment be read again.
- 36.2 The Chair without being so requested may direct the Chief Executive Officer (or other person authorised by the Chief Executive Officer) to read the motion or amendment to the meeting before the vote is taken.

### 37 Voting

*(Pursuant to Section 90 of the Act.)*

- 37.1 Each Councillor present at a Council meeting who is entitled to vote is entitled to one vote.
- 37.2 Voting at a meeting must not be in secret, but if the meeting is closed to the public, a Councillor is not required to divulge their vote to the public.
- 37.3 The question is determined in the affirmative by a majority of the Councillors present at a meeting at the time the vote is taken voting in favour of the question.
- 37.4 If the number of votes in favour of the question is half the number of Councillors present at the meeting at the time the vote is taken, the chairperson has a second vote, with the exception of the election of a Mayor or a Deputy Mayor, and a vote to declare the office of Mayor or Deputy Mayor vacant.
- 37.5 For the purpose of determining the result of a vote, a Councillor present at the meeting who does not vote is to be taken to have voted against the question.
- 37.6 Voting must be by a show of hands, unless otherwise determined by Council.
- 37.7 Except where a Councillor may call for a division, Councillors must remain seated in silence while a vote is being taken.
- 37.8 The Chair may direct that the vote be recounted as often as may be necessary to satisfy themselves of the result.
- 37.9 Any Councillor may request that their opposition to, or support for, a resolution be recorded in the minutes of the meeting.

### 38 Division

- 38.1 Immediately after any motion or amendment is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- 38.2 When a division is called, the Chair must:
  - 38.2.1 First ask each Councillor wishing to vote for the motion to indicate their vote by raise of hand or a method as determined by the Chair. The Chair must then state, and the Chief Executive Officer (or person authorised by the Chief Executive Officer to take the minutes of the meeting) must record the names of those Councillors voting for the motion;
  - 38.2.2 Then ask each Councillor wishing to vote against the motion to indicate their vote by raise of hand or a method as determined by the Chair. The Chair must then state, and the Chief Executive Officer (or person authorised by the Chief Executive Officer to take the minutes of the meeting) must record the names of those Councillors voting against the motion.

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- 38.2.3 Then if not all Councillors have declared either for or against the motion, ask each Councillor wishing to abstain to indicate their abstention by raise of hand or a method as determined by the Chair. The Chair must then state, and the Chief Executive Officer (or person authorised by the Chief Executive Officer to take the minutes of the meeting) must record the names of those Councillors abstaining from voting.
- 38.3 The Chair must declare the result of the vote or division as soon as it is taken.

### 39 Suspension of Standing Orders

- 39.1 The provisions of these meeting procedures, except the quorum requirements applying under clause 6, may be suspended for any part of a meeting at the Chair's discretion. The Chair can accept a motion to suspend standing orders where they believe it is necessary to do so, such as to seek technical advice. Such suspension would normally be for five minutes or less.
- 39.2 During a suspension of standing orders, Councillors are not to discuss the issue or seek to reach agreement outside a formal debate.
- 39.3 No motion, except one which proposes the resumption of standing orders, may be accepted by the Chair or be lawfully dealt with during any suspension of standing orders.
- 39.4 Resumption of standing orders should occur as soon as possible.

### 40 The Chair's Right to Speak

- 40.1 The Chair may address a meeting upon any matter under discussion, following presentations by all Councillors, and is not deemed to have left the Chair on such occasions.
- 40.2 If the Chair chooses to vacate the Chair for any reason, the Deputy Mayor will assume the Chair, or if the Deputy Mayor is not available, another Councillor elected by the meeting through resolution shall take the Chair until such time as the Mayor can resume the Chair at the conclusion of the item currently under debate.

### 41 Clarification by Chief Executive Officer or another member of Council staff

- 41.1 With the consent of, or at the request of the Chair, the Chief Executive Officer or a member of Council staff may address any item to clarify a statement made by a Councillor during the course of debate.

### 42 Ordering Withdrawal of Remark

- 42.1 The Chair may require a Councillor to withdraw any remark which is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature.
- 42.2 A Councillor required to withdraw a remark must do so immediately without qualification or explanation.

### 43 Adjournment & Resumption of Adjourned Debate

- 43.1 The Council may by resolution adjourn a meeting to a later time on the day for which the meeting was called or for a period not exceeding 7 days.
- 43.2 When a motion to adjourn a meeting is before the Council, the Chair must not allow discussion on the motion to adjourn. If the Council fails to pass the motion to adjourn, the Chair must resume the meeting at the item of business under consideration.
- 43.3 The Chief Executive Officer must deliver written notice of an adjourned meeting to all Councillors, except when the meeting is adjourned to a later time on the same day, in which case any form of notice may be given to all Councillors.
- 43.4 If a debate is adjourned by motion, the Councillor moving the adjournment has the right to be the first speaker upon the resumption of debate unless they have already spoken to the motion or amendment.

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### 44 Suspensions

- 44.1 Council may by resolution, suspend from a meeting, and for the balance of the meeting, any Councillor whose actions have disrupted the business of Council, and have impeded its orderly conduct, provided the Councillor in question has received an initial warning from the Chair that their conduct is, in the Chair's opinion, impeding the orderly conduct of the meeting.
- 44.2 Subject to subclause 42.1, where seeking a Council resolution is not feasible, the Mayor, and only the Mayor (not another Councillor who has taken the Chair), can direct a Councillor to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

### 45 The Chair may Adjourn Disorderly Meeting

- 45.1 If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the meeting, they may adjourn the meeting to a later time on the same day or to some later day as they think proper.

### 46 Public Behaviour

- 46.1 Any member of the public addressing Council must extend courtesy and respect to the Council and the processes under which it operates and must take direction from the Chair whenever called on to do so.

### 47 Removal from Chamber or Meeting Room

- 47.1 The Chair, may ask any member of the Police Force or person appointed by Council to maintain security, to remove from the Chamber or meeting room any person who acts in breach of these Governance Rules.

### 48 Recording of Proceedings

- 48.1 Council will record the proceedings at each Council meeting, unless there is a specific resolution not to do so, and may livestream recordings of open Council meetings. This will take whatever form the Council has decided.
- 48.2 Except where Council conducts the recording, no video or audio recording of proceedings of Council meetings shall be permitted without specific approval by resolution of the meeting.
- 48.3 Council will make the recordings of open Council meetings subsequently available to the public.

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### **PART 2 – Delegated Committees**

*Pursuant to section 63 of the Act*

A delegated committee is formed by a Council and which Council delegates “any power, duty or function of a Council under this Act or any other Act...” (s 11(1)). In effect, a delegated committee may exercise a power or undertake a duty or function as if it is the Council. Under the Act, the formation of, appointment to, and administration of delegated committees is to be strongly controlled given a delegated committee’s ability to exercise statutory functions and powers on behalf of the Council.

#### **63 Delegated Committees**

(1) A delegated committee established by a Council—

- (a) must include at least 2 Councillors; and
- (b) may include any other persons appointed to the delegated committee by the Council who are entitled to vote.

(2) A meeting of a delegated committee established by a Council must be chaired by—

- (a) a Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee; or
- (b) if the Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee is not present at the meeting, a Councillor who is present at the meeting and is appointed by the members of the delegated committee who are present at the meeting.

(3) Section 61 applies to a meeting of a delegated committee as if the members were Councillors.

#### **SECTION 1 –DELEGATE COMMITTEES**

##### **1. Establishment**

- 1.1. A delegated committee can only be established by resolution of Council.
- 1.2. The resolution must include the date from which the committee will be enacted, and the date it is to be disbanded.
- 1.3. Any extension to the term of a delegated committee must be by resolution of Council.
- 1.4. A delegated committee’s instrument of delegation must be approved by resolution of Council, and it must specifically outline the powers and functions of the committee.
- 1.5. A delegated committee must report the minutes of all Committee meetings to the next practicable Council meeting.
- 1.6. A delegated committee must act in accordance with its Instrument of Delegation and any Terms of Reference adopted by Council.

##### **2. Membership**

- 2.1. Appointment to a delegated committee is to be by resolution of Council.
- 2.2. A Councillor must be appointed the position of Chair of a delegated committee.
- 2.3. Appointment of the Chair of a delegated committee is to be by Council resolution, however, the Mayor may choose to invoke their power under section 19(1)(a) of the Act and make the appointment without a Council resolution.
- 2.4. If the Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee is not present at the meeting, a Councillor who is present at the meeting is to chair the meeting.

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### 3. Quorum

- 3.1. A quorum is an absolute majority, and must include one Councillor chairing the meeting.
- 3.2. If a quorum is not present within 30 minutes of the time appointed for the commencement of a Committee meeting:
  - 3.2.1. The meeting shall be deemed to have lapsed;
  - 3.2.2. The Chair must convene another committee meeting and ensure that the agenda for the meeting which is deemed to have lapsed is addressed; and
  - 3.2.3. Notice of the new meeting convened by the Chair must be provided to committee members as soon as is practicable.
- 3.3. If a quorum cannot be maintained after a meeting has begun the meeting lapses.
- 3.4. If the meeting lapses, the undisposed business must be included in the agenda for the next committee meeting.
- 3.5. If a quorum cannot be maintained because of the number of committee members who have a conflict of interest in a matter, the committee must seek for the Council to make the decision at next practicable Council meeting.

### 4. Recording of Minutes

The Committee Chair or a delegate is responsible for the keeping of Minutes on behalf of the committee. Those Minutes must record:

- the date, place, time and nature of the meeting;
- the names of committee members and whether they are present, or an apology;
- members of Council staff present who were involved in the meeting;
- the disclosure of a conflict of interest made by a committee member or Council officer in accordance with the Act;
- the arrivals and departures of committee members, during the course of the meeting (including any temporary departures such as for a conflict of interest);
- every Motion and amendment moved (including procedural Motions),
- the outcome of every Motion moved;
- where a division is called, the names of every committee member and the way their vote was cast (and if they abstained);
- when requested by a committee member, a record of their support of, opposition to, or abstention from voting on any Motion, noting that those who do not vote are taken to have voted against the question;
- details of any failure to achieve or maintain a quorum;
- any other matter, which the committee chair or delegate thinks should be recorded to clarify the intention of the meeting or assist in the reading of the Minutes; and
- the time the meeting was commenced and concluded.

### 5. Voting

- 5.1. Voting at meetings of a delegated committee is to be in accordance with clause 35 (Voting) of Chapter 2, Part 1 - Council Meetings, of these Governance Rules, and section 61 of the Act.

### 6. Meeting closure to the public

- 6.1. A delegated committee meeting must be open to the public unless it meets the specified circumstances set out in section 66(2) of the Act.
- 6.2. The Chief Executive Officer must ensure that any delegated committee meeting report containing confidential information as defined by section 3(1) of the Act and which is expected to be the subject of a resolution under section 66(2)(a) of the Act to close the committee meeting to the public, includes the ground(s) as specified in section 3(1) of the Act under which the report is deemed to contain confidential information and an explanation of why the specified grounds apply.

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- 6.3. The Chair must call for a motion to close the meeting to the public and this motion must be carried prior to commencing any business pertaining to reports containing confidential information.
- 6.4. If a meeting will be closed the public due to security reasons (section 66(2)(b)) and this is known prior to the meeting, the meeting closure must be posted on the Council website as soon as is practicable to notify the public of the closure. This meeting must be livestreamed on the Council website, and the minutes of the meeting must detail the meeting closure to the public under section 66.
- 6.5. If during meeting proceedings the Chair believes that the meeting must be closed to the public for either security reasons (section 66(2)(b)) or to enable the meeting to proceed in an orderly manner (section 66(2)(c)), the Chair must ensure that live streaming is occurring and available for the public to view the meeting, before calling for a motion to close the meeting to the public.
- 6.6. A motion to close the meeting due to confidential information under section 66(2)(a) must contain the grounds for determining to close the meeting to the public by reference to the grounds specified in section 3(1) of the Act, and an explanation of why the specified grounds apply.
- 6.7. The time of any resolution to close a meeting to the public must be recorded in the minutes of the meeting.
- 6.8. Upon a resolution to close a meeting to the public being passed the Chair must advise those present in the public gallery that they must vacate the meeting while the meeting remains closed.
- 6.9. The Chair must call for a motion to re-open the meeting to the public. This motion must be carried and the time recorded in the minutes of the meeting.
- 6.10. All items that are considered confidential pursuant to Section 3(1) of the Act remain confidential, inclusive of report content, recommendations, motions, and resolutions until Council has passed a resolution that specifying that all or part of the information is no longer confidential.
- 6.11. If an agenda item or resolution deemed to include confidential information is to be moved out of the closed part of the meeting:
  - 6.11.1. committee must, by resolution, determine to move all or a specified part of the item or items into the open committee meeting; and/or
  - 6.11.2. Committee must, by resolution, determine that report or section be included in the minutes of the meeting showing the Committee decision that was made in the closed section of the meeting.

### **SECTION 2 – JOINT DELEGATED MEETINGS**

A joint delegated committee is formed by resolution of two or more Councils and consists of a delegated committee from each Council, including at least one Councillor from each Council present at the meeting. This is not, in effect, a different committee as it is established by existing delegated committees.

The resolution forming the joint delegated committee will stipulate which Council's governance rules are to be followed for conduct of the joint delegated committee meeting. Where Council's Governance Rules apply, all of section 2 and section 4, Part 2, Chapter 2 of these Governance Rules apply.

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### PART 3 – Community Asset Committees

*Pursuant to Section 65 of Act*

A Community Asset Committee is a committee with powers of the Council, established by and with members appointed by Council, with powers delegated by the Chief Executive Officer (CEO) and subject to any terms and conditions specified by the CEO, for the purpose of managing a community asset such as community hall.

#### **65 Community Asset Committee**

- 1) *A Council may establish a Community Asset Committee and appoint as many members to the Community Asset Committee as the Council considers necessary to enable the Community Asset Committee to achieve the purpose specified in subsection (2).*
- 2) *A Council may only establish a Community Asset Committee for the purpose of managing a community asset in the municipal district.*

#### **1. Establishment**

- 1.1. A Community Asset Committee can only be established by resolution of Council.
- 1.2. Council may resolve, in establishing a Community Asset Committee, which clauses of these Governance Rules apply.
- ~~1.3. A Community Asset Committee must report the minutes of all Committee meetings to the next practicable Council meeting.~~
- ~~1.4. A Community Asset Committee must act in accordance with any Terms of Reference adopted by Council.~~

#### **2. Membership**

- 2.1. Appointment to a Community Asset Committee is to be by resolution of Council.
- 2.2. Delegations from the CEO will be made directly to members of the Community Asset Committee and members must each act in accordance with the delegations.

#### **3. Recording of Minutes**

The committee Chair or a delegate is responsible for the keeping of Minutes on behalf of the committee. Those Minutes must record:

- the date, place, time and nature of the meeting;
- the names of committee members and whether they are present, or an apology;
- members of Council staff present who were involved in the meeting;
- the disclosure of a conflict of interest made by a committee member or Council officer in accordance with the Act;
- the arrivals and departures of committee members, during the course of the meeting (including any temporary departures such as for a conflict of interest);
- every Motion and amendment moved (including procedural Motions),
- the outcome of every Motion moved;
- where a division is called, the names of every committee member and the way their vote was cast (and if they abstained);
- when requested by a committee member, a record of their support of, opposition to, or abstention from voting on any Motion, noting that those who do not vote are taken to have voted against the question;
- details of any failure to achieve or maintain a quorum;
- any other matter, which the committee chair or delegate thinks should be recorded to clarify the intention of the meeting or assist in the reading of the Minutes; and
- the time the meeting was commenced and concluded.



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### PART 4 – Audit & Risk Committee

Council must establish an Audit and Risk Committee. This committee is **not** a delegated committee and cannot exercise statutory functions and powers of the Council. The roles and functions of the Audit and Risk Committee are set out under the Act, and are specific only to the Audit and Risk Committee (s 53-54). This section of the Governance Rules deals with the establishment, statutory requirements and meeting procedures of the Audit and Risk Committee. The role and functions of the Audit and Risk Committee are dealt with in the Audit and Risk Committee Charter.

#### **53 Council must establish an Audit and Risk Committee**

- (1) A Council must establish an Audit and Risk Committee.
- (2) An Audit and Risk Committee is not a delegated committee.
- (3) An Audit and Risk Committee must—
  - (a) include members who are Councillors of the Council; and
  - (b) consist of a majority of members who are not Councillors of the Council and who collectively have—
    - (i) expertise in financial management and risk; and
    - (ii) experience in public sector management; and
  - (c) not include any person who is a member of Council staff of the Council.
- (4) The chairperson of an Audit and Risk Committee must not be a Councillor of the Council.
- (5) Sections 123 and 125 and Division 2 of Part 6 apply to a member of the Audit and Risk Committee who is not a Councillor as if the member were a member of a delegated committee.
- (6) A Council may pay a fee to a member of an Audit and Risk Committee who is not a Councillor of the Council.

#### **1. Establishment**

- 1.1. The Audit & Risk Committee's Charter must be approved by resolution of Council, and it must specifically outline the functions and responsibilities of the committee. The Charter must be reviewed and approved annually.

#### **2. Membership**

- 2.1. Appointment to the Audit and Risk Committee is to be by resolution of Council.
- 2.2. The resolution appointing a member of the Audit and Risk Committee is to include the term of that appointment.
- 2.3. An independent member must be appointed to the position of Chair of the Audit and Risk Committee.
- 2.4. The appointment of the Chair is to be by Council resolution.
- 2.5. Council, by Council resolution, can terminate a member's appointment to the committee at any time.

#### **3. Meetings**

- 3.1. The Audit and Risk Committee is to meet at least 4 times in a financial year, unless determined otherwise by Council resolution.
- 3.2. All Audit and Risk Committee meetings are to be closed to the public.
- 3.3. Any recommendations agreed to be made by the committee (majority vote) are to be recorded in the minutes of the committee meeting.
- 3.4. All recommendations made by the committee under subclause 3.3 will be provided in a report to Council.
- 3.5. Minutes of Audit and Risk Committee meetings will be provided to Councillors when they are provided to committee members.

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**4. Other**

- 4.1. The Audit and Risk Committee Charter is to be reviewed and adopted by Council annually.
- 4.2. The Audit and Risk Committee must provide a report to a Council meeting at least bi-annually including a description of the activities of the committee, and any findings and recommendations reached under subsection 3.3.

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### Chapter 3 CONFLICTS OF INTEREST

This section of the Governance Rules comes into force on 24 October 2020.

The two types of conflicts of interest applicable to Councillors, committee members and Council officers for the purposes of this section are (as extracted from the Act):

#### 127 General conflict of interest

- (1) Subject to section 129, a relevant person has a **general conflict of interest** in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.
- (2) For the purposes of subsection (1)—  
**private interests** means any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief;  
**public duty** means the responsibilities and obligations that a relevant person has to members of the public in their role as a relevant person.

#### 128 Material conflict of interest

- (1) Subject to section 129, a relevant person has a **material conflict of interest** in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.
- (2) The benefit may arise or the loss incurred—
  - (a) directly or indirectly; or
  - (b) in a pecuniary or non-pecuniary form.
- (3) For the purposes of this section, any of the following is an **affected person**—
  - (a) the relevant person;
  - (b) a family member of the relevant person;
  - (c) a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body;
  - (d) an employer of the relevant person, unless the employer is a public body;
  - (e) a business partner of the relevant person;
  - (f) a person for whom the relevant person is a consultant, contractor or agent;
  - (g) a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee;
  - (h) a person from whom the relevant person has received a disclosable gift.
- (4) For the purposes of subsection (3)(h), **disclosable gift** means one or more gifts with a total value of, or more than, \$500 or if an amount is prescribed for the purposes of this subsection, the prescribed amount, received from a person in the 5 years preceding the decision on the matter—
  - (a) if the relevant person held the office of Councillor, was a member of Council staff or was a member of a delegated committee at the time the gift was received; or
  - (b) if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation—  
but does not include the value of any reasonable hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a Councillor, member of Council staff or member of a delegated committee.

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### 1. Councillor, committee member and Council officer obligations

- 1.1. Councillor, committee member and Council officers are required to:
  - 1.1.1. Avoid all situations which may give rise to conflicts of interest;
  - 1.1.2. Identify any conflict of interest; and
  - 1.1.3. Disclose any conflict of interest.

### 2. Procedures for the Disclosure of Conflict of Interest by a Councillor or a member of a Delegated Committee at a meeting of the Council or a Delegated Committee

- 2.1. If a Councillor or member of a delegated committee has a conflict of interest in a matter which is to be considered or discussed at a meeting of the Council or the delegated committee, the Councillor or member must, if they are attending the meeting, disclose the conflict of interest in accordance with subclause 2.2, and if applicable, subclause 2.3.
- 2.2. A Councillor or member of a delegated committee who has a conflict of interest and is attending the meeting of the Council or delegated committee must make a full disclosure of that interest by either advising:
  - a) the Council or delegated committee at the meeting immediately before the matter is considered at the meeting; or
  - b) the Chief Executive Officer in writing before the meeting-whether the interest is a general conflict of interest or a material conflict of interest, and the nature of the interest.
- 2.3. If the Councillor or member advised the Chief Executive Officer of the details under paragraph (b) of subclause 2.2, the Councillor or member must make a disclosure of the class of interest only to the meeting immediately before the matter is considered at the meeting.
- 2.4. The Chief Executive Officer must—
  - a) keep written disclosures received under this clause in a secure place for 3 years after the date the Councillor or member of a delegated committee who made the disclosure ceases to be a Councillor or member of a committee; and
  - b) destroy the written disclosure when the 3 year period referred to in paragraph (a) has expired.
- 2.5. While the matter is being considered or any vote is taken in relation to the matter, the Councillor or member of a delegated committee must—
  - a) leave the meeting and notify the Mayor or the Chairperson of the delegated committee of their departure; and
  - b) remain outside the room and any gallery or other area in view or hearing of the meeting.
- 2.6. The Mayor or the Chairperson of the delegated committee must cause the Councillor or member of a delegated committee to be notified that they may return to the meeting after—
  - a) consideration of the matter; and
  - b) all votes have been cast on the matter.
- 2.7. If a Councillor or member of a delegated committee discloses a conflict of interest, the Chief Executive Officer or the Chairperson must record in the minutes of the meeting—
  - a) the declaration of the conflict of interest; and
  - b) the classification of the interest that has given rise to the conflict, and if the Councillor or member has disclosed the nature of the interest to the meeting, the nature of the interest.

### 3. Procedure for the disclosure of a conflict of interest by a Councillor at a meeting under the auspices of Council that is not a meeting of the Council or a Delegated Committee

- 3.1. At a meeting under the auspices of Council that is not a meeting of the Council or delegated committee, the Chief Executive Officer must ensure that a written record is kept of—
  - a) the names of all Councillors and members of Council staff attending;
  - b) the matters considered;

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- c) any conflict of interest disclosures made by a Councillor attending under subclause 3.3;
  - d) whether a Councillor who has disclosed a conflict of interest as required by subclause 3.3 leaves the meeting.
- 3.2. The Chief Executive Officer must ensure that the written record of a meeting held under this clause is, as soon as practicable—
- a) reported at a meeting of the Council; and
  - b) incorporated in the minutes of that Council meeting.
- 3.3. If a Councillor attending a meeting held under this clause knows, or would reasonably be expected to know, that a matter being considered by the meeting is a matter that, were the matter to be considered and decided by Council, the Councillor would have to disclose a conflict of interest, the Councillor must, at the time set out in subclause 3.4, disclose to the meeting that they have a conflict of interest and leave the meeting whilst the matter is being considered by the meeting.
- 3.4. A Councillor must disclose the conflict of interest either—
- a) immediately before the matter in relation to which the Councillor has a conflict of interest is considered; or
  - b) if the Councillor realises that they have a conflict of interest after consideration of the matter has begun, as soon as the Councillor becomes aware that they have a conflict of interest.
- 4. Disclosure of a conflict of interest by a member of Council staff (including under Council's Financial Delegations)**
- 4.1. A member of Council staff who is providing information to:
- a) a meeting of the Council, a delegated committee or a community asset committee; or
  - b) another member of Council staff exercising a power of delegation or performing a statutory function –
- and who has a conflict of interest in a matter to which the information relates, must disclose the conflict of interest when providing the information and before the information is considered by the applicable meeting referred to in paragraph (a) or another member of staff referred to in paragraph (b).
- 4.2. A disclosure made by a person under subclause 4.1 must be recorded:
- a) in the minutes of the applicable meeting referred to in paragraph (a); or
  - b) in a conflict of interest disclosure register maintained by the Chief Executive Officer if the information is provided to another member of Council staff referred to in paragraph (b).
- 4.3. A member of Council staff who has a conflict of interest in a matter in which they also have delegated power, duty or function must—
- a) not exercise the power or discharge the duty or function; and
  - b) in the case of the Chief Executive Officer, disclose the type of interest and the nature of the interest to—
    - (i) the Mayor, in writing, as soon as they become aware of the conflict of interest in the matter; and
    - (ii) the Council by no later than the next meeting of the Council; and
  - c) in the case of any other member of staff, disclose the type of interest and the nature of the interest to the Chief Executive Officer, in writing, as soon as they become aware of the conflict of interest in the matter.
- 4.4. The Chief Executive Officer does not have a conflict of interest in a matter if the matter only relates to—
- a) the adoption or amendment of a policy relating to Council staff generally;
  - b) the adoption of a code of conduct for Council staff; or
  - c) a decision to delegate a power, duty or function to a member of Council staff.

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### Chapter 4 ELECTION PERIOD POLICY

#### **Purpose**

The purpose of this policy is to provide clear procedures and practices that explain how Council business will be conducted in the period leading up to a Council election i.e. during the election period. This is to ensure that Council elections are not compromised by inappropriate electioneering by existing Councillors and to safeguard the authority of the incoming Council.

#### **Scope**

During the election period, the business of Council still needs to continue and ordinary matters of administration still need to be addressed. This policy establishes a series of practices applicable during the election period.

#### **Application**

This policy applies to Council, Councillors, delegated committees, Council officers and contracted service providers.

#### **Election Period**

The election period means the period that:

- (a) starts at the time that nominations close on nomination day; and
- (b) ends at 6 p.m. on election day.

As soon as possible, and no later than 30 days prior to the commencement of the Election Period, the Chief Executive Officer will ensure that:

- (a) all Councillors and members of Council staff are informed of the requirements of this policy, and
- (b) a copy of this policy is given to all Councillors.

#### **Policy**

Council will ensure that, during the election period, its business is conducted in a way which does not compromise the election process and which safeguards the authority of the incoming Council. It will ensure that candidates are treated equally, fairly and transparently, with no advantage being provided to sitting Councillor candidates.

This policy is compliant with the legislative requirement under section 69 of the *Local Government Act 2020*.

The policy should be reviewed and, if required, amended not later than 12 months before the commencement of each subsequent election period.

#### **Prohibited decisions**

Council is prohibited from making any Council decision:

- (a) during the election period for a general election that:
  - (i) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
  - (ii) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
  - (iii) the Council considers could be reasonably deferred until the next Council is in place; or
  - (iv) the Council considers should not be made during an election period; or
- (b) during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

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### What is a Council decision?

For the purposes of this policy, **Council decision** means the following:

- a) a resolution made at a Council meeting;
- b) a resolution made at a meeting of a delegated committee; or
- c) the exercise of a power or the performance of a duty or function of Council by a member of Council staff (which includes the Chief Executive Officer) or a Community Asset Committee under delegation.

### Required consideration

Careful consideration should be given regarding decisions that are being made at Council or delegated committee meetings in the election period, to ensure that the authority of the incoming Council is not unreasonably compromised. Council will make every effort to either reschedule most decisions until after the new Council commences its term, or if that is not appropriate, bring decisions forward so they are determined before the election period starts.

Examples of decisions that will be avoided during the election period include allocating community grants or other direct funding to community organisations, major planning scheme amendments and changes to strategic objectives and strategies in the Council Plan. During the election period, any other decision will be considered by Council or delegated committees only if absolutely necessary for Council operational purposes or pursuant to a statutory requirement.

Papers prepared for Council or delegated committee meetings during the election period will be carefully vetted to ensure that no agenda matter is included that could potentially influence voters' intentions at the forthcoming election or could encourage Councillor candidates to use the matter as part of their campaign platform.

Councillors will refrain from moving motions on or raising matters at a meeting that could potentially influence voting at the election.

### Council Publications

Council is to limit publications during the election period. This is to ensure that Council does not publish material with public funds that may influence, or be seen to influence, people's voting decisions.

Council publications refers to documents that are produced for the purpose of communicating with people in the community including:

- Council newsletters
- Advertisements and notices
- Media release
- Leaflets and brochures
- Mail outs to multiple addressees
- Council's social media accounts
- Council's website

This section provides that the restriction on publication of a document does not include any document published before the election period and any document required to be published under the Act, such as rate notices, food premises registrations and parking fines, which may continue to be disseminated during the election period without limitation.

The Annual Report that is compiled during the election period will not contain any material that could be regarded as electioneering or that inappropriately promotes individual Councillors. Information about Councillors will be restricted to names, contact details, titles, membership of delegated committees and other bodies to which they have been appointed by the Council.

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Council staff will check existing publications and online information before the election period commences and, where appropriate, temporarily withdraw any material that might reasonably influence the election.

### **Certification Process**

Relevant Council publications must be certified by the CEO before they may be printed, published or distributed during the election period, whether by the Council or by anyone acting for the Council. This may require certification before the election period for some material to be issued in the election period.

The CEO must not certify a publication that contains electoral matter, unless that material is about the election process only.

The CEO's certification must be in writing and cannot be delegated to anyone.

### **Council Communications**

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 fulfill their elected roles. However, they will not be developed or used in support of a candidate's election campaign.

During the election period:

- A Council employee 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 made in consultation with the Community Relations department.
- In the event that a spokesperson is required for any publication or communication, the Mayor or the Chief Executive Officer shall fulfill that role.
- 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 specifically in support of an election campaign.
- Councillor profiles on the Council website will be limited to a photograph and contact details. All other communication from a Councillor via the Council website will be removed.

### **Council Resources**

It is essential that due propriety is observed in the use of all Council resources. It is also important that all Councillors have access to the resources necessary to fulfill their elected roles. In order to ensure the proper use of Council resources during the election period the following will apply:

- Council resources, including offices, staff, hospitality, equipment, email, mobile phone 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 in 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 a candidate's election campaign, in accordance with Councillors Entitlements, Expenses and Facilities Policy (SCS-001).
- Council logos, letterheads, or other Council branding should not be used for, or linked in any way to, a candidate's election campaign.
- Council staff will not be asked to undertake any tasks connected with a candidate's election campaign.

### **Information**

Access to information held by Council will be made equally available and accessible to all candidates during the election period. Council recognises that all election candidates have the right to receive information from the Council administration, subject to the *Privacy and Data Protection Act 2014* which may prevent the disclosure of certain information. However, it is important that Councillors continue to receive the information that is necessary to fulfill their elected roles. Councillors shall not request or receive information or advice from Council staff to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the election period.



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A process will be instigated whereby information requested by any candidate will be made available to all candidates in a timely manner, having regard to the reasonableness of the request. This will be achieved via a dedicated candidate information page on Council's website or a group email, as appropriate.

Requests for clarification relating to provision of information should be directed to the Governance and Risk Department who may refer the request to the Chief Executive Officer or appropriate senior management.

### **Functions, Public Consultation and Events**

Public consultation and Council events will not take place during the election period unless the CEO can justify to the community the special circumstances making it necessary to conduct these activities and how risks related to influencing the election will be mitigated or prevented. Any event, public consultation or function that is held during the election period shall relate only to legitimate Council business and shall not be used, or be able to be construed to be used, in connection with any election activity.

All speeches prepared for use at events or functions shall be reviewed by the Manager Governance and Risk in conjunction with the Coordinator Communications and Community Engagement to ensure the content does not breach this Policy or the Act.

Where deemed appropriate Councillors may make speeches during events or functions however the speech must not have any political reference which may be construed as giving a sitting Councillor any advantage during the election period.

### **Travel and Accommodation**

During the election period Councillors shall not undertake any interstate or overseas travel in their capacity as a Councillor. In circumstances where it is imperative that the Mayor (or nominee) represents Council 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.

### **Advice to Candidates about the election process**

All candidates for the Council election will be treated equally. Towards this outcome:

- Any advice to be provided to candidates as part of the conduct of the Council election should be provided equally to all candidates.
- All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer (or appropriate senior management).

### **Monitoring the Policy**

The Chief Executive Officer is responsible for determining the outcome of any issues that arise in relation to the implementation of this policy.

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## **Appendix**

Schedule A – Public Question Time Form

Schedule B – Notice of Motion

Schedule C – Notice of Motion to Rescind or Amend

Schedule D – Procedural Motions Table

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### Schedule A



#### PUBLIC QUESTION TIME FORM

Public questions will be considered by Council at a Council meeting subject to receipt by 10am on the day of the meeting. Questions can be emailed to [info@surfcoast.vic.gov.au](mailto:info@surfcoast.vic.gov.au), faxed to 5261 0525 or hand delivered to Council's Offices, 1 Merrijig Drive, Torquay.

All questions must be as brief as possible and no greater than 200 words in length, inclusive of any supporting or contextual information.

Public question time runs for up to 30 minutes prior to consideration of the formal Agenda by Council. Questions will be considered in the following order:

1. Questions with Notice that relate to items on the agenda coming before Council on the night.
2. Questions with Notice that relate to other matters not relating to the agenda.

Questions received without notice (i.e. received after 10am on the day of the meeting) will be addressed in accordance with clause 17.3 of the Governance Rules.

#### Personal Information

Date:

Surname:

First Name:

Postal address:

Suburb:

Post Code:

Phone:

Mobile:

Email:

Suburb to be disclosed:      Yes    No

**IMPORTANT INFORMATION:** Please note that as required by Council's Governance Rules, your name and locale will be read out in a public meeting and form part of the minutes of the Council meeting. If you desire that only your name, and not your locale, is to be called, please indicate this above.

#### Questions

Date of Council meeting:

Subject:

Question(s)      (Please note: There is a limit of two questions per person, per meeting)

*Surf Coast Shire Council considers that the responsible handling of personal information is a key aspect of democratic governance, and is strongly committed to protecting an individual's right to privacy. Council will comply with the Information Privacy Principles as set out in the Privacy and Data Protection Act 2014. The information will be used for the primary purpose it was collected or any related purpose for which the individual would reasonably expect Council to use or disclose the information. The information will not be disclosed to any other party unless Council is required to do so by law.*

**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

**Schedule B**



**NOTICE OF MOTION**

*This form lodges a notice of intention to move a motion in accordance with clause 30 of the Governance Rules.*

*Note – Proposed motion and rationale not to exceed 500 words*

I, Councillor \_\_\_\_\_ give notice of my intention to move the following motion at the Ordinary Meeting of Council to be held on \_\_\_ / \_\_\_ / \_\_\_\_\_, namely:  
*(Insert wording of motion)*

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**Rationale**

*(To be signed by Councillor lodging this notice and one other Surf Coast Shire Councillor)*

\_\_\_\_\_  
**COUNCILLOR**

\_\_\_\_\_  
**COUNCILLOR**

*Chief Executive Officer to complete*

This notice was received by me at \_\_\_\_\_ am/pm on \_\_\_\_\_

\_\_\_\_\_  
**CHIEF EXECUTIVE OFFICER**

**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

**Schedule C**



**NOTICE OF MOTION TO RESCIND OR AMEND**

*This form lodges a notice of intention to move that a resolution passed by Council be rescinded or amended in accordance with clause 31 of the Governance Rules.*

I, Councillor \_\_\_\_\_ give notice of my intention to move at the Ordinary Meeting of Council to be held on \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_ that the resolution of Council passed on \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_, namely:

*(Wording of resolution proposed to be amended/rescinded)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

be rescinded  OR amended  *(Please tick one box)*

and subject to that motion being carried, in its place, Cr \_\_\_\_\_ proposes to move that Council:

*(Wording of proposed motion to replace/amend above)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(To be signed by Councillor lodging this notice and two other Surf Coast Shire Councillors)*

\_\_\_\_\_  
COUNCILLOR                      COUNCILLOR                      COUNCILLOR  
-----

*Chief Executive Officer to complete*

This notice was received by me at \_\_\_\_\_ am/pm on \_\_\_\_\_

\_\_\_\_\_  
**CHIEF EXECUTIVE OFFICER**

**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

**Schedule D**



**Procedural Motions**

<b>Motion</b>	<b>When prohibited</b>	<b>If Carried</b>	<b>Debate</b>
'That a report/document be tabled'		The item is tabled, can be considered as part of debate as will be included in the minutes of the meeting	No
'That the item listed at xx on the agenda be moved forward'	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the meeting	No
'That the motion be put'	During nominations for a <i>Chair</i>	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	No
'That the matter be laid on the table'	During the election of the Mayor/Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the item from the table at the same meeting	No
'That the matter be taken from the table'	When no motion is on the table	Debate of the item resumes	No
'That the meeting be adjourned'		The meeting adjourns until a designated time for recommencement	No
'That Standing Orders be suspended to ...' (reason must be provided)		The rules of the meeting are temporarily suspended in accordance with clause 37 for the specific reason given in the motion	No
'That Standing Orders be resumed'	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed	No
That, in accordance with section 66 of the Act, the meeting be closed to members of the public	During the election of the Mayor/Deputy Mayor	The meeting is closed to members of the public	Yes
'That the meeting be reopened to members of the public'		The Meeting is reopened to the public	No
'That the Chair's ruling be dissented from'	Anytime where the Chair has not just made a ruling on a point of order	The point of order decision made by the Chair is overturned and the meeting must proceed accordingly. The Chair should have the opportunity to speak to their ruling.	Yes
'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral) ...'	(a) During the election of the Mayor/Deputy Mayor; (b) During the election of a Chair; 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	Yes

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**APPENDIX 2 GOVERNANCE RULES 2020**



# GOVERNANCE RULES

This document was created in accordance with section 60 of the Local Government Act 2020

Adopted by Council (date to be inserted) 2020



**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**



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### Introduction

These are the Governance Rules of Surf Coast Shire Council, made in accordance with section 60 of the Act.

### Purpose of the Governance Rules

The purpose of these Governance Rules is to facilitate good governance and assist in delivering the overarching governance principles as set out in section 9 of the Act.

### Commencement

The Governance Rules come into operation on 7 September 2020.

### Definitions

Unless the contrary intention appears in these Governance Rules, the following words and phrases are defined to mean:

**'absolute majority'** means the number of Councillors which is greater than half the total number of the Councillors of a Council (s.61(7)).

**'Act'** means the *Local Government Act 2020*;

**'Acting Mayor'** means the Councillor appointed to represent the Mayor in the event of the Mayor and Deputy Mayor's absence or where there is a need to fill the role;

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

**'amendment'** means a proposed alteration to the wording of a motion without being contradictory;

**'authorised officer'** means a person appointed as such by Council under section 224 of the Local Government Act 1989;

**'Chair'** means the Chair of the meeting and includes acting, temporary and a substitute Chairperson;

**'Chief Executive Officer'** means the Chief Executive Officer of Council, and includes a person acting as Chief Executive Officer;

**'clause'** means a clause of these Governance Rules;

**'Council'** means the Surf Coast Shire Council;

**'Councillor'** means a Councillor of Council who has taken the oath of office in accordance with section 30 of the Act;

**'Council meeting'** is a meeting of the Council;

**'day'** means a Council business day;

**'delegated committee'** means a committee established by Council under section 63 of the Act;

**'deliver'** means to hand over or mail to a recipient and includes transmission by electronic means, electronic mail or published on Council's internet site;

**'Deputy Mayor'** means the Councillor elected to represent the Mayor and act in the Mayor's role in the event of the Mayor's absence.;

**'gallery'** means the area set aside in the Council chamber or meeting room for the public;

**'Joint Letter'** means a formal application to Council in the form of a letter which has been signed by at least ten people or executive/committee representatives from ten separate entities whose names and

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physical addresses also appear on the letter. A letter from a single entity or organisation that is signed by multiple parties from that organisation or entity will not be classed as a joint letter;

**'leave of absence'** means a period, approved through Council resolution, where a Councillor will not perform the duties or functions of a Councillor during the period, that may be inclusive of any Ordinary meeting of Council;

**'Mayor'** means the Mayor of Council and/or any person acting as Mayor;

**'minutes'** mean the collective record of proceedings of Council or a delegated committee (meeting records);

**'Municipal district'** means the municipal district of Council;

**'notice of motion'** means a notice in writing conforming with Chapter 2, clause 30.

**'petition'** means a formal written application addressed to Council, submitted in printed or electronic format without erasure, signed or electronically endorsed by at least ten people whose names and physical addresses also appear, and on which each page of the petition bears the wording of the whole of the petition

**'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.

**'public notice'** means notice provided on either the Council's website and/or social media channels and/or in local newspapers or other means deemed suitable to provide notice to the community of a related information.

**'resident'** means a person who has a place of residence within the Municipal District;

**'resolution'** means a formal determination by a meeting of Council or delegated committee, or by a member of Council staff acting under delegation;

**'visitor'** means any person (other than a Councillor, or member of Council staff) who is in attendance at a meeting of the Council or a delegated committee; and

**'written'** includes duplicated, photocopied, photographed, emailed, faxed, printed and typed.

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# Chapter 1

## GOVERNANCE FRAMEWORK

### Part 1 – Governance Structure

The Surf Coast Shire Council is governed by the Act.

According to the Act, the role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of that community.

Section 8 of the Act defines 'good governance' as the Council performing its role in accordance with the overarching governance principles, and the Councillors of the Council performing their role by participating in the decision making of Council, representing the interests of the municipal community whilst participating in that decision making, and contributing to the strategic direction of the Council through the development and review of key strategic documents, including the Council Plan.

As set out in section 9 of the Act:

*The overarching governance principles are:-*

- (a) Council decisions are made and actions taken in accordance with relevant law;*
- (b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations;*
- (c) The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;*
- (d) The municipal community is to be engaged in strategic planning and strategic decision making;*
- (e) Innovation and continuous improvement is to be pursued;*
- (f) Collaboration with other Councils and Governments and statutory bodies is to be sought;*
- (g) The ongoing financial viability of the Council is to be ensured;*
- (h) Regional, state and national plans and policies are to be taken into account in strategic planning and decision making;*
- (i) The transparency of Council decisions, action and information is to be ensured.*

A local government consists of two separate but connected components. The Council, which is made up of nine Councillors, who make decisions through Council meetings including setting the strategic direction through strategic documents such as the Council Plan; and the organisation which carries out the day to day operations, consisting of employees led by the Chief Executive Officer (CEO).

The CEO will ensure the effective and efficient management of the day to day operations of the Council, and support the Mayor and Councillors in performing their roles. The CEO is delegated certain powers and responsibilities either directly under the Act or by Council.

Council may establish delegated committees to make decisions on Council's behalf under delegated power.

The procedures and processes set out in these Governance Rules underpin this governance structure or framework which supports the delivery of good governance by Surf Coast Shire Council.

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### Part 2 – Decision Making

#### 1. Council decision making

Council must consider, and make decisions on, any matter being considered by Council fairly and on the merits.

Any person whose rights will be directly affected by a decision of the Council is entitled to:

- a) communicate their views by written submission;
- b) subsequently speak to their submission or to have a person speak on their behalf; and
- c) have their interests considered.

For the purposes of this clause, a decision of Council means the following—

- a) a resolution made at a Council meeting;
- b) a resolution made at a meeting of a Delegated Committee; or
- c) the exercise of a power or the performance of a duty or function of Council by a member of Council staff or a Community Asset Committee under delegation.

#### 2. Role of the Chair

The way in which Council and Delegated Committee meetings are conducted makes a significant contribution to good governance.

The Chair plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors and members of delegated committees have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed appropriately, and statutory requirements are adhered to.

The Chair is an independent leader of meetings and generally does not participate in debate or move or second motions.

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.

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

#### 3. Responsibilities of Chair, Councillors, Committee Members and Council Officers

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

The Chair, Councillors, members of delegated committees and Council officers will ensure good Council decision-making by endeavouring to ensure:

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

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### 4. Community

Council meetings form a significant part of the organisation's decision making and are therefore open for the community to attend in person or view proceedings via Council's website.

Community members may participate in Council meetings through public question time in accordance with clause 17 in Chapter 2 of these Governance Rules, allowing the community to communicate their views and have their interests considered.

Community members are encouraged to participate in Council's community engagement processes which are conducted in accordance with Council's Community Engagement Policy.

Community members may seek to inform individual Councillors of their views by contacting them directly in advance of meetings.

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# Chapter 2 MEETINGS AND MEETING PROCEDURE

## PART 1 – Council Meetings

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

The community will be made aware of the times, dates and locations of Council and delegated committee meetings and the matters Council will consider.

An agenda for each Council meeting will 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 recommendations for Council to consider.

The agenda must also be placed on Council's website except for confidential items of the agenda.

*(Pursuant to section 61 of the LGA)*

*A Council meeting is a meeting of the Council at which—*

- a. all the Councillors are, subject to this Act, entitled to attend and vote; and*
  - b. no other person is entitled to vote; and*
  - c. a decision to do an act, matter or thing is made by a resolution of the Council.*
2. *Except as provided in the Act, the conduct of Council meetings are subject to these Governance Rules.*
3. *A Council meeting must be chaired by—*
- a. the Mayor; or*
  - b. if the Mayor is not present at the Council meeting, the Deputy Mayor; or*
  - c. if the Mayor and the Deputy Mayor are not present at the meeting, a Councillor who is present at the Council meeting and is appointed by a resolution of the Council to chair the meeting.*
4. *A quorum at a Council meeting is an absolute majority.*

## SECTION 1 – ELECTION OF THE MAYOR & DEPUTY MAYOR

### 1. Procedure for Election of Mayor

*(Pursuant to Section 25 of the Act – Election of Mayor)*

- 1.1 The meeting to elect the Mayor shall be held in accordance with the Act.
- 1.2 Subject to section 167 of the Act, any Councillor is eligible for election or re-election to the office of Mayor
- 1.3 The election of the Mayor must be chaired by the Chief Executive Officer at a Council meeting that is open to the public, however the Chief Executive Officer will have no voting rights.
- 1.4 The Chief Executive Officer shall be responsible for the counting of votes.
- 1.5 The Councillor who receives an absolute majority of votes cast must be declared elected.
- 1.6 For the purposes of this clause the following will apply:
  - 1.6.1 Nominations must be moved and seconded;
  - 1.6.2 Where only one nomination is received, that Councillor must be declared elected; or
  - 1.6.3 Where there are more than two nominations received:
    - 1.6.3.1 the Councillor who receives an absolute majority at the first round of votes cast must be declared elected; or

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- 1.6.3.2 If no candidate receives an absolute majority of votes, the candidate with the least number of votes must be eliminated as a candidate and a further vote conducted between the remaining candidates.
  - 1.6.3.3 If there are several candidates, this procedure must be repeated until a candidate receives an absolute majority of votes and that candidate shall be declared elected.
  - 1.6.3.4 If for the purpose of eliminating the candidate with the least number of votes, two or more candidates have the same least number of votes, the candidate to be eliminated shall be determined by simple majority vote.
  - 1.6.3.5 If there is an equality of votes with respect to the candidate to be eliminated, the candidate to be eliminated shall then be determined by lot conducted by the Chief Executive Officer in presence of the meeting.
  - 1.6.3.6 Or, if an absolute majority of the Councillors cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date.
- 1.7 After the election of the Mayor is determined, the Mayor must take the Chair.
- 2 Procedure for Election of Deputy Mayor**
- 2.1 Where the Council has resolved to elect a Deputy Mayor the provisions contained in clause 1 for the election of the Mayor will apply to the election of the Deputy Mayor save that the Mayor shall preside over the election.
- 3 Procedure for Appointment of an Acting Mayor**
- 3.1 If the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting, and the Deputy Mayor cannot take over for the Mayor, Council must, by resolution of Council, appoint a Councillor to be the Acting Mayor.
- 3.2 If the Mayor for any reason is incapable of performing the duties of the office of the Mayor, and the Deputy Mayor cannot take on the responsibility of the office of the Mayor, Council must, by resolution of Council, appoint a Councillor to be the Acting Mayor.
- 3.3 If the office of the Mayor is vacant for any reason, Council must, by resolution of Council, appoint a Councillor to be the Acting Mayor.
- 3.4 Any resolution to appoint an Acting Mayor, must include the period for which that Councillor will be Acting Mayor.



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### SECTION 2 – GENERAL PROVISIONS

*The purpose of this Part is to regulate proceedings at all meetings of the Council.*

#### 4 Council Meeting Chair

- 4.1 The Mayor must take the chair at all Council meetings at which they are present unless precluded from doing so because of a conflict of interest.
- 4.2 In the absence of the Mayor, the Deputy Mayor shall take the chair.
- 4.3 In the absence of the Mayor and the Deputy Mayor, an Acting Mayor shall be appointed in accordance with clause 3.
- 4.4 If a Mayor and the Deputy Mayor are temporarily unable to Chair the meeting, a Councillor shall be elected to take the chair by resolution of Council, or in accordance with the election process in clause 1 if a decision cannot be immediately reached.

#### 5 Chair's Duties & Responsibilities

The Chair's duties and responsibilities are to:

- 5.1 Formally declare the meeting open, after ascertaining that a quorum is present and to welcome, and visitors;
- 5.2 At the start of each Council meeting, to recite the Pledge or allocate this role to another Councillor;
- 5.3 Preside over the meeting, conducting it impartially and according to these Governance Rules
- 5.4 Sign minutes of meetings as correct when they have been confirmed;
- 5.5 Present any reports for which they are responsible;
- 5.6 Ensure that debate is conducted in the correct manner;
- 5.7 Declare the results of all votes;
- 5.8 Give rulings on points of order and other questions of procedure;
- 5.9 Preserve order; and
- 5.10 Adjourn (when so resolved) or formally declare the meeting closed when all business has been concluded.

#### 6 Quorum

- 6.1 A quorum is an absolute majority.
- 6.2 If a quorum is not present within 30 minutes of the time appointed for the commencement of a Council meeting:
  - 6.2.1 The meeting shall be deemed to have lapsed;
  - 6.2.2 The Mayor must convene another Council meeting and ensure that the agenda for the meeting which is deemed to have lapsed is addressed; and
  - 6.2.3 The Chief Executive Officer must give all Councillors notice of the meeting convened by the Mayor.
- 6.3 If a quorum cannot be maintained after a Council meeting has begun due to Councillors having to leave the meeting, the meeting lapses.
- 6.4 If the meeting lapses, the undisposed business must be included in the agenda for the next Council meeting.
- 6.5 If a quorum cannot be maintained because of the number of Councillors who have a conflict of interest in a matter, the Council must consider whether the decision can be made by an alternative manner including:
  - 6.5.1 Resolving to split the matter into two or more separate parts so that a quorum can be maintained; or
  - 6.5.2 making prior decisions on component parts of the matter at a meeting for which a quorum can be maintained before deciding the overall matter at a meeting for which a quorum can be maintained.
- 6.6 If unable to establish a quorum using an alternative manner, the Council must, in accordance with section 67(4) of the Act, establish a delegated committee to make the decision in regard to the matter. The delegated committee must consist of:
  - 6.6.1 All the Councillors who have not disclosed a conflict of interest in regard to the matter; and
  - 6.6.2 Any other person or persons the Council considers suitable.

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### 7 Attendance & Notice of Meetings

- 7.1 The Chief Executive Officer must give notice to the public of any meeting of the Council by public notice at least seven days prior to the meeting and via Council's website.
- 7.2 The dates, time and place for all Council meetings shall be fixed by Council resolution from time to time, with the exception of unscheduled Council meetings in accordance with clause 10.
- 7.3 An electronic agenda will be delivered to Councillors at least 48 hours before a Council meeting.
- 7.4 Despite subclause 7.3, the Chief Executive Officer may deliver an agenda for a Council meeting to Councillors less than 48 hours prior to the meeting, if the Chief Executive Officer considers that in view of the urgency of the matter(s) this should occur.
- 7.5 Members of the public will be requested to sign in before entering the meeting area.

### 8 Time Limit for Meetings

- 8.1 Council meetings must conclude no later than 10pm unless a resolution is carried to extend the meeting.
- 8.2 Any resolution to extend a meeting will be for no longer than 30 minutes. Once the meeting reaches the conclusion of the 30 minute extension, a further resolution to extend the meeting must be carried.
- 8.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place to be announced by the Chair.
- 8.4 No meeting is to exceed 11pm. If a meeting reaches 11pm, the Chair must adjourn the meeting.
- 8.5 The Chief Executive Officer must give notice to each Councillor of the date, time and venue to which the meeting stands adjourned and of the business remaining to be considered.

### 9 Recording of Minutes

- 9.1 The Chief Executive Officer is responsible for the keeping of Minutes on behalf of Council. Those Minutes must record:
  - the date, place, time and nature of the Council Meeting;
  - the names of Councillors and whether they are present, an apology, or on leave;
  - the titles of the members of Council staff present who are not part of the gallery;
  - the disclosure of a conflict of interest made by a Councillor in accordance with the Act;
  - the arrivals and departures of Councillors, during the course of the Meeting (including any temporary departures or arrivals);
  - every Motion and amendment moved (including procedural Motions),
  - the outcome of every Motion moved;
  - where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
  - when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any Motion, noting that under section 61(5) of the Act that a Councillor present at the meeting who does not vote is taken to have voted against the question;
  - details of any failure to achieve or maintain a quorum;
  - details of any petitions made to Council;
  - the time and reason for any adjournment of the Meeting or suspension of standing orders;
  - any other matter, which the Chief Executive Officer thinks should be recorded to clarify the intention of the Meeting or assist in the reading of the Minutes; and
  - the time the Council Meeting was opened and closed, including any part of the Council Meeting that was closed to members of the public.

### 10 Unscheduled Council Meetings

- 10.1 Where a Council meeting is required urgently, or to deal with a specific matter in a timely manner that cannot wait for a Council meeting scheduled by Council resolution, the Mayor, or at least three Councillors may by written notice call an unscheduled Council meeting.

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- 10.2 The notice must specify the date and time of the proposed meeting and the business to be transacted.
- 10.3 The notice must be presented to the Chief Executive Officer at least seven days prior to the meeting date.
- 10.4 The Chief Executive Officer must call the unscheduled Council meeting as specified in the notice.
- 10.5 Unless all the Councillors are present at the unscheduled Council meeting and unanimously agree by resolution to deal with a matter that is not specified on the unscheduled Council meeting notice, only the business specified is to be transacted.
- 10.6 The Chief Executive Officer must give notice to the public of any unscheduled Council meeting via Council's website at least five days prior to the meeting and by public notice, where possible, as soon as is practicable.

### 11 Special Council Meetings for Hearing Submissions

- 11.1 Where a Council meeting is required to hear submissions, as in accordance with section 223(b) of the 1989 Act and the Planning and Environment Act 1987, Council may schedule a Special Council Meeting for Hearing Submissions by Council resolution, or by written notice from the Mayor, or at least three Councillors submitting written notice requesting a Special Council Meeting for Hearing Submissions.
- 11.2 The resolution or notice must specify the date and time of the proposed meeting and the matter(s) to be heard.
- 11.3 The notice must be presented to the Chief Executive Officer at least seven days prior to the meeting date.
- 11.4 The Chief Executive Officer must call the Special Council Meeting as specified in the notice.
- 11.5 Unless all the Councillors are present at the Special Council Meeting and unanimously agree by resolution to hear a matter that is not specified on the Special Council Meeting resolution or notice, only the matters specified can be heard.
- 11.6 The Chief Executive Officer must give notice to the public of any Special Council Meeting via Council's website at least five days prior to the meeting and by public notice, where possible, as soon as is practicable.

### 12 Procedures at Special Council Meetings for Hearing Submissions

- 12.1 Where Council has scheduled a Special Council Meeting for Hearing Submissions, the following procedures apply:
- 12.2 Written submissions must be provided by the deadline specified in the public notice/advertisement and relate to the matter/s listed in the resolution or notice scheduling the meeting, and the submission must indicate whether the submitters desire to speak at the Special Council Meeting for Hearing Submissions.
- 12.3 Submitters will be allocated a maximum of 5 minutes to speak to their submission, and, where a planning matter, the applicant will be allocated a maximum of 10 minutes.
- 12.4 Joint submitters who wish to speak must nominate a representative who will be allocated a maximum of 5 minutes to speak to the joint submission.
- 12.5 Requests for variations to the process outlined above shall be at the discretion of the Chair.

### 13 Joint Council Meetings

- 13.1 Council may resolve to participate in a Joint Council meeting to consider:
  - 13.1.1 Matters subject to discussion of the G21 Alliance
  - 13.1.2 Collaborative projects
  - 13.1.3 Collaborative procurement
  - 13.1.4 Emergency Response.
- 13.2 If Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer will agree on governance rules with the participating Councils.
- 13.3 Where Surf Coast 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.
- 13.4 At least three Councillors will be appointed to represent Council at a Joint Council meeting.
- 13.5 Consistent information will be provided to Councillors prior to any Joint Council Meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.

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13.6 A joint briefing arranged in accordance with subclause 11.5 may be held electronically.

### **14 Form and Availability of Meeting Records**

14.1 Draft Minutes of the Council meeting shall be displayed on Council's website no later than 5 business days after the Council meeting.

14.2 Any recording of the meeting will also be made available via Council's website no later than 5 business days after the Council meeting, however the recording must be in accordance with Council's Live Streaming Policy, and Council reserves the right to choose to record and/or share any recording made.

14.3 At the request of a member of the public, a printed copy or an electronic version of the minutes may be made available.

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### **SECTION 3 – ORDER OF BUSINESS (Including Description & Procedure of Each Business Item)**

#### **15 Conduct of Business**

- 15.1 The order of business will be determined by the Chief Executive Officer
- 15.2 Once an agenda has been sent to Councillors the order of business for that meeting may only be altered by resolution of the Council.
- 15.3 The Chief Executive Officer is responsible for setting the agenda for a Council meeting, after consulting with the Mayor.

#### **16 Apologies**

- 16.1 Where a Councillor is aware they are unable to attend a Council meeting, they are to notify the Mayor, or the office of the Mayor as soon as is practicable.
- 16.2 Apologies will be accepted by resolution of Council at the beginning of the meeting.

#### **17 Confirmation of Minutes**

At every meeting of Council the minutes of the preceding meeting(s) must be dealt with as set out below:

- 17.1 If the minutes have been delivered to each Councillor at least 48 hours before the meeting, a motion must be put for the confirmation of the minutes.
- 17.2 If the minutes have not been delivered, they must be read and a motion must be put for the confirmation of the minutes.
- 17.3 The minutes must be signed by the Chair of the meeting at which they have been confirmed.
- 17.4 The minutes shall record the business of the meeting and in particular:
  - 17.4.1 The date, place, time and nature of the meeting;
  - 17.4.2 The names of the Councillors present and those who have submitted apologies or are on granted leave;
  - 17.4.3 The disclosure of conflicts of interest made by a Councillor and the type and nature of such interest;
  - 17.4.4 Arrivals and departures of Councillors during the course of the meeting;
  - 17.4.5 Each motion and amendment moved and seconded;
  - 17.4.6 The vote cast by each Councillor upon a division;
  - 17.4.7 The total numbers of Councillors voting for, against and abstaining
  - 17.4.8 The failure of a quorum;
  - 17.4.9 When requested by a Councillor, a record of their support or opposition to any motion; and
  - 17.4.10 Closure of the meeting to members of the public and the reasons for such closure.
- 17.5 No discussion or debate on the confirmation of minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.
- 17.6 Council may defer the confirmation of minutes until later in the Council meeting or until the next Council meeting if considered appropriate.
- 17.7 Council meeting minutes from meetings that are open to the public will be confirmed in the open section of the agenda.
- 17.8 Minutes from closed sections of Council meetings will be confirmed in the closed section of the meeting.
- 17.9 Confirmed minutes must be displayed on Council's website except for minutes confirmed in the closed section of a meeting.

#### **18 Councillors Seeking Leave**

*(Pursuant to section 35(4) of the Act)*

- 18.1 Any Councillor seeking or requiring leave for a period of 4 consecutive months or greater from Council duties must do so and provide the reason for the leave at a Council meeting as soon as practicable, or, if this is not practicable, the Councillor must give the Chief Executive Officer written notice of their intention to do so and the stated reason prior to the next available Council meeting.

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- 18.2 A request for leave will be determined by resolution of Council granting or refusing the leave.
- 18.3 A Councillor who will be absent from a Council meeting but who does not intend to seek leave, should convey their apology to the Mayor's office beforehand to enable the apology to be disclosed to the meeting.
- 18.4 In the event that a Councillor is incapacitated or unable to provide written notice of their intention to seek leave from Council, the Mayor shall provide this written notice to the Chief Executive Officer including the stated reason, prior to the Council meeting.

### 19 Public Question Time

- 19.1 There shall be a public question time of up to 30 minutes, unless extended at the discretion of the Chair, at every Meeting of Council to enable members of the public to submit questions to Council.
- 19.2 Questions with notice must be submitted to Council in writing by 10am on the day of the meeting generally in accordance with Schedule A, or via the Public Question Time online form available on Council's website, stating the name, address, and telephone and email contact details of the person submitting the question.
- 19.3 Questions without notice may be asked at the meeting with a written copy of the question to be tabled in a form approved or permitted by Council (in accordance with Schedule A) stating the name and address of the person asking the question, however questions without notice being accepted is at the discretion of the Chair.
- 19.4 No person may submit more than two questions at any one meeting.
- 19.5 A question may be disallowed by the Chair if it is considered to:
  - 19.5.1 Relate to a matter beyond the power or duties of Council;
  - 19.5.2 Be defamatory, indecent, offensive, abusive, irrelevant, trivial or objectionable in language or nature;
  - 19.5.3 Be confidential in nature or of legal significance;
  - 19.5.4 Be generally repetitive of a question already answered (whether at the same or any earlier meeting);
  - 19.5.5 Be aimed to embarrass a Councillor or member of Council staff;
  - 19.5.6 Relate to personnel matters;
  - 19.5.7 Relate to the personal hardship of any resident or ratepayer;
  - 19.5.8 Relate to proposed developments or legal advice;
  - 19.5.9 Relate to matters affecting the security of Council property;
  - 19.5.10 Relate to any other matter which Council considers would prejudice the Council or any person; or
  - 19.5.11 Be aimed to drawing opinions from Councillors about matters that will be considered at the meeting or a future meeting of Council.
- 19.6 All questions must be as brief as possible and no greater than 200 words in length, inclusive of any supporting or contextual information.
- 19.7 No discussion shall be entered into in asking or responding to questions, other than through a request from a Councillor, directed through the Chair, for the purposes of clarification.
- 19.8 All questions must be directed to Council as a whole and not to individual or specific Councillors.
- 19.9 The Chair may answer a question or nominate a member of Council staff to briefly answer a question. Councillors, other than the Chair, will not answer any question relating to an item on the agenda.
- 19.10 Every reasonable attempt will be made to substantively answer a question with notice at the meeting unless the person asking the question has been contacted beforehand and advised of the reason for the question not being answered at the meeting in which case the answer will be provided within five days.
- 19.11 If the nominated member of Council staff advises Council that it is their opinion that the reply to a question should be given in a meeting closed to the public, they must state briefly the reason why the reply should be given in a closed meeting and, unless Council resolves to the contrary, the reply to such question shall be so given.
- 19.12 The question and the name and suburb address of the person who asked the question shall be read out and recorded in the minutes.
- 19.13 The name of the member of Council staff who responded to the question received with notice and their response, if provided at the meeting, shall be recorded in the minutes.
- 19.14 A question shall not be read out unless the person asking the question, or their proxy, is in the gallery at the time it is due to be read.

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- 19.15 If the question is not read at the meeting because the person submitting the question or their proxy is not present, it will not be recorded in the minutes of the meeting.
- 19.16 Where multiple questions requiring broadly similar responses have been received, the Chair may read out one statement that answers the matters raised, without the need for each question to be read out individually. The questions and statement shall be recorded in the minutes.
- 19.17 As an alternative to submitting a question with notice to Council under subclause 19.2, a person may lodge a submission not exceeding 200 words, on a matter listed on the agenda, by 10am on the day of the meeting provided that a prior opportunity to make a submission concerning the matter has not been afforded to the person at a Council meeting, Delegated Committee meeting or Assembly of Councillors.
- 19.18 Any submission received in accordance with subclause 19.16 shall be made available to Councillors prior to the meeting in electronic format. These submissions will not be incorporated into the meeting minutes.

### 20 Petitions and Joint Letters

- 20.1 A petition or joint letter must be presented to the next available meeting of Council where the petition or joint letter is received at least seven business days before the meeting of Council.
- 20.2 A petition or joint letter shall not be presented at a meeting of Council or received by Council unless it meets the definition under these Governance Rules, unless it is specifically resolved by Council to receive the petition or joint letter in a non-conforming format.
- 20.3 When a petition or joint letter presented to a meeting of the Council relates to a planning application, it will be received by Council at the next available Council meeting and subsequently considered as a formal submission to the planning application whether the application is determined by Council or under delegation.
- 20.4 When a petition or joint letter presented to a meeting of the Council relates to an item of business on the agenda, the submission is to be considered by Council as part of its deliberations on such item.
- 20.5 Unless Council determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition or joint letter, until the next meeting of Council after that at which the petition or joint letter has been presented, unless it is addressed under subclauses 20.3 or 20.4.
- 20.6 The Chair may disallow any petition or joint letter which is considered to:
  - 20.6.1 Relate to a matter beyond the power or duties of Council;
  - 20.6.2 Be defamatory, indecent, offensive, abusive, irrelevant, trivial or objectionable in language or nature;
  - 20.6.3 Be confidential in nature or of legal significance;
  - 20.6.4 Be repetitive of a question already answered (whether at the same or any earlier meeting);
  - 20.6.5 Be aimed to embarrass a Councillor or member of Council staff;
  - 20.6.6 Relate to personnel matters;
  - 20.6.7 Relate to the personal hardship of any resident or ratepayer;
  - 20.6.8 Relate to proposed developments or legal advice;
  - 20.6.9 Relate to matters affecting the security of Council property;
  - 20.6.10 Relate to a matter which has already been acted on;
  - 20.6.11 Relate to any other matter which Council considers would prejudice the Council or any person; or
  - 20.6.12 Relate to a matter for which there is already a primary avenue of redress such as planning permits or amendments which will be addressed through the planning submissions process.
- 20.7 An officer report pertaining to any petition or joint letter may be required at the next Meeting of Council (if the petition has not been dealt with in accordance with the provisions of subclauses 20.3, 20.4 or 20.5).

### 21 Reports from Officers

- 21.1 Any report(s) by Officers to a Council meeting must contain a recommendation except for a report responding to a notice of motion, and be in the appropriate report style format.
- 21.2 When Officer reports are before a Council meeting the Chair must ask a Councillor to move an appropriate motion.

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### 22 Urgent Business

- 22.1 Business must not be admitted as urgent business unless:
- 22.1.1 It relates to or arises out of a matter which has arisen since distribution of the agenda; and
  - 22.1.2 It cannot safely or conveniently be deferred until the next Council meeting; and
  - 22.1.3 The Council resolves to admit an item considered to be urgent business.
- 22.2 Items of Urgent Business are to be supported by an officer's report.
- 22.3 Notices of Motion will not be admitted into urgent business and will be dealt with in accordance with clause 32.
- 22.4 Unless a majority of Councillors present resolve to deal with another matter as Urgent Business, no business can be transacted at a Council meeting unless it appears on the agenda.

### 23 Meeting Closure to the Public

*Pursuant to Section 66 of the Act.*

- 23.1 A Council meeting must be open to the public unless it meets the specified circumstances set out in section 66(2) of the Act.
- 23.2 The Chief Executive Officer must ensure that any Council meeting report containing confidential information as defined by section 3(1) of the Act and which is expected to be the subject of a resolution under section 66(2)(a) of the Act to close the Council meeting to the public, includes the ground(s) as specified in section 3(1) of the Act under which the report is deemed to contain confidential information and an explanation of why the specified grounds apply.
- 23.3 The Chair must call for a motion to close the meeting to the public and this motion must be carried prior to commencing any business pertaining to reports containing confidential information.
- 23.4 If a meeting will be closed the public due to security reasons (section 66(2)(b)) and this is known prior to the meeting, the meeting closure must be posted on the Council website as soon as is practicable to notify the public of the closure. This meeting must be livestreamed on the Council website, and the minutes of the meeting must detail the meeting closure to the public under section 66.
- 23.5 If during meeting proceedings the Chair believes that the meeting must be closed to the public for either security reasons (section 66(2)(b)) or to enable the meeting to proceed in an orderly manner (section 66(2)(c)), the Chair must ensure that livestreaming is occurring and available for the public to view the meeting, before calling for a motion to close the meeting to the public.
- 23.6 A motion to close the meeting due to confidential information under section 66(2)(a) must contain the grounds for determining to close the meeting to the public by reference to the grounds specified in section 3(1) of the Act, and an explanation of why the specified grounds apply.
- 23.7 The time of any resolution to close a meeting to the public must be recorded in the minutes of the meeting.
- 23.8 Upon a resolution to close a meeting to the public being passed, the Chair must advise those present in the public gallery that they must vacate the meeting while the meeting remains closed.
- 23.9 The Chair must call for a motion to re-open the meeting to the public. This motion must be carried and the time recorded in the minutes of the meeting.
- 23.10 All items that are considered confidential pursuant to section 3(1) of the Act remain confidential, inclusive of report content, recommendations, motions, and resolutions until Council has passed a resolution that specifying that all or part of the information is no longer confidential.
- 23.11 If an agenda item or resolution deemed to include confidential information is to be moved out of the closed part of the meeting:
- 23.11.1 Council must, by Council resolution, determine to move all or a specified part of the item or items into the open Council meeting; and/or
  - 23.11.2 Council must, by Council resolution, determine that report or section be included in the minutes of the meeting showing the Council decision that was made in the closed section of the meeting.



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### SECTION 4 - CONDUCT OF DEBATE AND RULES OF SPEAKING

#### 24 Addressing the Council Meeting

- 24.1 Councillors and any other person addressing the Chair must refer to them as:
- 24.1.1 'Mayor'; or
  - 24.1.2 'Mayor (Cr Surname)'; or
  - 24.1.3 'Chair'; or
  - 24.1.4 'Chair (Cr Surname)'; - as the case may be.
- 24.2 All Councillors other than the Mayor must be addressed as Councillor (surname).
- 24.3 All members of Council staff must be addressed as their position title followed by their surname as appropriate or simply by their official title.

#### 25 Priority of Address

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

#### 26 Time Limits

- 26.1 A Councillor must not speak longer than the time set out below, unless granted an extension by the Chair:
- 26.1.1 The mover of a motion or an amendment: 5 minutes;
  - 26.1.2 Any other Councillor: 3 minutes; and
  - 26.1.3 The mover of a motion exercising a right of reply: 2 minutes.

#### 27 Motions and Amendments

- 27.1 A motion or an amendment to a motion must:
- 27.1.1 Not be defamatory;
  - 27.1.2 Not be objectionable in language or nature;
  - 27.1.3 Relate to the powers or functions of Council;
  - 27.1.4 Be in writing, if requested by the Chairperson;
  - 27.1.5 Except in the case of urgent business, be relevant to an item of business on the agenda; and
  - 27.1.6 Be moved and seconded, otherwise it lapses.
- 27.2 The Chair may refuse to accept any motion or amendment which contravenes subclause 27.1 or which:
- 27.2.1 Is not relevant to the item of business on the Agenda and has not been admitted as urgent business; or;
  - 27.2.2 Purports to be an amendment but is not consistent with clause 30 and relevant subclauses.
- 27.3 A substantive motion may be altered if the mover and the seconder of the motion both agree to the change. This change cannot be significant or contradictory to the motion's intent.
- 27.4 If a mover of a motion is agreeable to significant changes to the substantive motion, the mover may withdraw the motion, and a new motion be moved to recommence debate on the new motion.
- 27.5 A motion or amendment can only be withdrawn by the mover.

#### 28 Debate

- 28.1 The Chair will summarise the applicable report upon reaching that agenda item during the meeting proceedings.
- 28.2 The Chair will call for a motion to be moved on that agenda item.
- 28.3 If there is no motion moved the item lapses.
- 28.4 If there is no seconder the motion lapses due to want of a seconder.
- 28.5 Debate can only commence once a motion has been moved and seconded.
- 28.6 The mover of the motion, followed by the seconder then has the right to speak to the motion, commencing debate, or the mover can reserve their right to speak until a time later in the debate.

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- 28.7 The Chair shall ask immediately after the mover and seconder have spoken to the motion (or deferred speaking), whether the motion is opposed. If no Councillor wishes to speak against the motion the Chair may then put it to the vote without debate.
- 28.8 If a Councillor has spoken against the motion, the Chair will then ask if any Councillor wishes to speak for the motion. If no Councillor wishes to speak in support of the motion, the motion is to be put to the vote.
- 28.9 The Chair will continue to alternately call for Councillors wishing to speak either for or against a motion until debate ceases upon which the motion will be put to a vote.
- 28.10 If the mover reserved their right to speak at the beginning of debate, they are to be provided with an opportunity to speak to the motion to conclude the debate prior to the motion being put to a vote.
- 28.11 Each Councillor can only speak once to each motion, with the exception of the mover who has the right of reply immediately before the vote is taken.
- 28.12 The mover of a motion's right of reply is lost if an amendment to the motion is carried.
- 28.13 The mover of a motion must not introduce new material when exercising any right of reply.
- 28.14 If a substantive motion is lost and there is no outcome on a matter, the Chair should call for another motion.
- 28.15 If Council is unable to achieve a resolution on an agenda item, a motion requesting what Councillors will need in order to be able to achieve an outcome, or a motion for this item to come back to the Chamber at a later meeting, should be put.
- 28.16 The Councillor acknowledged by the Chair to speak must not be interrupted unless:
  - 28.16.1 they are called to order; or
  - 28.16.2 their speaking time has expired; or
  - 28.16.3 a point of order is raised; or
  - 28.16.4 a formal motion is moved.
- 28.17 If a Councillor is interrupted by the Chair or upon a point of order they must remain silent until the Chair has ceased speaking, or the point of order has been determined.
- 28.18 A Councillor must not digress from the subject matter of the motion or business under discussion.
- 28.19 Councillors must designate each other by their official titles during debate and throughout the meeting.

### 29 Seeking Clarification or Asking Questions of Officers

- 29.1 Officers will support the meeting process through provision of reports for the agenda and Councillors should make every effort to seek clarification from officers in advance of the meeting.
- 29.2 Where Councillors need to seek clarification by asking questions of officers during the meeting, that were not able to be asked prior to the meeting, such questions need to be:
  - 29.2.1 Directed through the Chair;
  - 29.2.2 Relevant to an item on the agenda;
  - 29.2.3 Seeking genuine clarification of a matter that is not already addressed in the officer's report;
  - 29.2.4 Not objectionable in language, nature or tone;
  - 29.2.5 Not intended to draw officers into debating a matter or justifying a recommendation; and
  - 29.2.6 Not seeking re-iteration of an answer that was provided prior to the meeting;
  - 29.2.7 Not designed to canvass matters or disseminate information to the public.
- 29.3 Questions are not to be asked between moving and seconding a motion except to seek clarification on the motion received.

### 30 Amendments

- 30.1 Once a motion has been moved and seconded, a Councillor can move an amendment to that motion.
- 30.2 The mover or seconder of the substantive motion cannot move an amendment to it.
- 30.3 Debate on the substantive motion ceases when an amendment to the motion is moved.
- 30.4 The amending motion must be seconded. If the amendment is not seconded, the amendment lapses due to want of a seconder and debate on the substantive motion is to resume from the point at which it ceased.
- 30.5 An amendment must be relevant to the motion upon which it is moved.
- 30.6 An amendment must not amount to a direct contradiction of the motion.

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- 30.7 Amendments must be dealt with one at a time.
- 30.8 A second or subsequent amendment cannot be moved until the immediately preceding amendment is disposed of.
- 30.9 A Councillor proposing an amendment must first state briefly the nature of the amendment and then move it, without speaking to it.
- 30.10 The Chair is to ask for a seconder.
- 30.11 If the amendment is not seconded the amendment lapses for want of a seconder.
- 30.12 After the amendment has been seconded, the Chair must follow the debate rules set out in clause 28.
- 30.13 After debate has concluded, the Chair must put the amendment to the vote.
- 30.14 If an amendment is adopted it becomes part of the substantive motion.
- 30.15 It can then be subject to further amendment.
- 30.16 A Councillor cannot move more than 2 amendments on the same matter in succession.
- 30.17 A Councillor can only speak once on the amendment.

### 31 Foreshadowed Motions

- 31.1 During debate on a motion, a Councillor may foreshadow a motion that the Councillor intends to move after the motion under consideration has been dealt with.
- 31.2 If a proposed amendment effectively negates the substance of the substantive motion before the Chair, it is to be ruled a foreshadowed motion and shall only be considered in the event that the motion is lost.
- 31.3 If the substantive motion during which a Councillor foreshadowed a motion is lost, the Chair shall call on that Councillor to move their foreshadowed motion. If seconded, the motion shall then be the substantive motion and is subject to the debate rules outlined in clause 28.
- 31.4 Unless a foreshadowed motion becomes a substantive motion, it will not be recorded in the meeting minutes.

### 32 Notice of Motion

- 32.1 A notice of motion must:
  - 32.1.1 identify two supporting Councillors who are not obliged to move, second or vote in favour of the motion but are of the opinion that the proposed motion relates to a matter sufficiently important that it warrants formal consideration by Council;
  - 32.1.2 briefly explain the rationale for the proposed motion; and
  - 32.1.3 be lodged in the format provided for this purpose as appearing in Schedule B of these Governance Rules, either electronically or in writing, with the Chief Executive Officer by 5pm on the seventh working day prior to the date of the meeting to allow sufficient time for the notice of motion to be included in the Agenda for the next Council meeting.
- 32.2 Any supporting documentation must be attached to the notice of motion for inclusion in the agenda, but must not be more than 500 words inclusive of the proposed motion.
- 32.3 The Chief Executive Officer must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.
- 32.4 Any notice of motion which in the opinion of the Chief Executive Officer or the Chair is:
  - 32.4.1 defamatory; or
  - 32.4.2 objectionable in language or nature; or
  - 32.4.3 outside the powers of the Council,must not be accepted by the Chief Executive Officer or by the Chair.
- 32.5 Except by resolution of Council, notices of motion before any Council meeting must be considered in the order in which they were recorded in the notice of motion register.
- 32.6 To assist Councillors to make an informed decision regarding a notice of motion, the Chief Executive Officer must provide a written report prior to the meeting at which the notice of motion is to be considered, however the report is not to contain a recommendation.
- 32.7 If both Councillors who have given a notice of motion:
  - 32.7.1 are absent from the Council meeting; or
  - 32.7.2 fail to move the motion when called upon by the Chair;any other Councillor may move the notice of motion.
- 32.8 If a notice of motion is not moved and seconded at the Council meeting for which it was included on the agenda, it lapses.

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32.9 Before the notice of motion is put to the vote, it may be withdrawn by the two supporting Councillors.

### 33 Rescission or Amendment Notice of Motion

33.1 A Councillor may propose a motion to amend or rescind a previous resolution of Council provided the notice of motion is signed by three Councillors and delivered to the Chief Executive Officer no later than 72 hours following the meeting of Council at which the resolution proposed to be rescinded or amended was adopted.

33.2 Notices of Motion to rescind or amend a previous resolution of Council are to be lodged in the format provided for this purpose as appearing in Schedule C.

33.3 No action will be taken to implement a resolution on which a notice to rescind or amend the resolution has been given pursuant to clause 33.1.

33.4 A notice of motion to rescind or amend a previous resolution of Council shall be deemed to have been withdrawn if not moved at the next meeting at which such business may be transacted.

33.5 A Councillor may not propose a motion to rescind or amend a resolution of the Council which has been acted upon.

33.6 A resolution will be considered as having been acted upon once its details have been formally communicated to persons affected by or reliant on the resolution or where a statutory procedure has commenced or been carried out.

33.7 A second or subsequent notice to rescind or amend an earlier resolution must not be accepted by the Chief Executive Officer until a period of three months has elapsed since the date of the meeting at which the previous motion of rescission or amendment was dealt with.

### 34 Points of Order

34.1 A point of order is an objection that the motion, amendment or statement made is:

34.1.1 Contrary to these Governance Rules;

34.1.2 Defamatory;

34.1.3 Irrelevant;

34.1.4 Improper; or

34.1.5 Outside Council's legal powers and may be made despite the fact that the Councillor or Chair is speaking at the time.

34.2 A point of order must be taken by stating:

34.2.1 The matter complained of; and

34.2.2 The reason constituting the point of order;

34.3 The Chair may raise a point of order without it having been made by a Councillor.

34.4 When called to order, a Councillor must remain silent until the point of order is decided unless they are requested by the Chair to provide an explanation.

34.5 The Chair may adjourn the meeting to consider a point of order but must otherwise rule upon it as soon as it is taken.

34.6 The Chair must, when ruling on a point of order, give reasons for the ruling.

34.7 The Chair's ruling shall be final unless the majority of Councillors present at the meeting vote in favour of a motion of dissent that is moved and seconded immediately after the Chair's ruling is given.

34.8 A motion of dissent must state the provision or practice in substitution for the Chair's ruling.

34.9 A motion of dissent that is carried must be acted upon by the Chair.

34.10 Only the mover of a motion of dissent and the Chair can speak to the motion before it is put. The mover of the motion does not have a right of reply.

34.11 The Chair is not required to vacate the chair.

### 35 Procedural Motions

35.1 A procedural motion may be moved at any time during a meeting and must be immediately dealt with.

35.2 A procedural motion may be refused by the Chair.

35.3 A procedural motion requires a seconder.

35.4 Debate on a procedural motion is not permitted with the exception of a meeting closure under section 66(2)(a) of the Act, or that debate on a matter be deferred until a later meeting.

35.5 A Councillor may move a procedural motion that:

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- 35.5.1 'a report/document be tabled';
- 35.5.2 'the Agenda item/s be moved forward';
- 35.5.3 'the motion be put';
- 35.5.4 'the matter be laid on the table';
- 35.5.5 'the matter be taken from the table';
- 35.5.6 'the meeting be adjourned';
- 35.5.7 'standing orders be suspended';
- 35.5.8 'standing orders be resumed';
- 35.5.9 'the meeting be closed to the public';
- 35.5.10 'the meeting be reopened to the public';
- 35.5.11 'the Chair's ruling be dissented from';
- 35.5.12 'the debate on the matter be deferred'-  
which are outlined further in Schedule D.

### 36 Repeating Motion or Amendment

- 36.1 Before any matter is put to the vote, a Councillor may request that the motion or amendment be read again.
- 36.2 The Chair without being so requested may direct the Chief Executive Officer (or other person authorised by the Chief Executive Officer) to read the motion or amendment to the meeting before the vote is taken.

### 37 Voting

*(Pursuant to Section 90 of the Act.)*

- 37.1 Each Councillor present at a Council meeting who is entitled to vote is entitled to one vote.
- 37.2 Voting at a meeting must not be in secret, but if the meeting is closed to the public, a Councillor is not required to divulge their vote to the public.
- 37.3 The question is determined in the affirmative by a majority of the Councillors present at a meeting at the time the vote is taken voting in favour of the question.
- 37.4 If the number of votes in favour of the question is half the number of Councillors present at the meeting at the time the vote is taken, the chairperson has a second vote, with the exception of the election of a Mayor or a Deputy Mayor, and a vote to declare the office of Mayor or Deputy Mayor vacant.
- 37.5 For the purpose of determining the result of a vote, a Councillor present at the meeting who does not vote is to be taken to have voted against the question.
- 37.6 Voting must be by a show of hands, unless otherwise determined by Council.
- 37.7 Except where a Councillor may call for a division, Councillors must remain seated in silence while a vote is being taken.
- 37.8 The Chair may direct that the vote be recounted as often as may be necessary to satisfy themselves of the result.
- 37.9 Any Councillor may request that their opposition to, or support for, a resolution be recorded in the minutes of the meeting.

### 38 Division

- 38.1 Immediately after any motion or amendment is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- 38.2 When a division is called, the Chair must:
  - 38.2.1 First ask each Councillor wishing to vote for the motion to indicate their vote by raise of hand or a method as determined by the Chair. The Chair must then state, and the Chief Executive Officer (or person authorised by the Chief Executive Officer to take the minutes of the meeting) must record the names of those Councillors voting for the motion;
  - 38.2.2 Then ask each Councillor wishing to vote against the motion to indicate their vote by raise of hand or a method as determined by the Chair. The Chair must then state, and the Chief Executive Officer (or person authorised by the Chief Executive Officer to take the minutes of the meeting) must record the names of those Councillors voting against the motion.

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38.2.3 Then if not all Councillors have declared either for or against the motion, ask each Councillor wishing to abstain to indicate their abstention by raise of hand or a method as determined by the Chair. The Chair must then state, and the Chief Executive Officer (or person authorised by the Chief Executive Officer to take the minutes of the meeting) must record the names of those Councillors abstaining from voting.

38.3 The Chair must declare the result of the vote or division as soon as it is taken.

### 39 Suspension of Standing Orders

39.1 The provisions of these meeting procedures, except the quorum requirements applying under clause 6, may be suspended for any part of a meeting at the Chair's discretion. The Chair can accept a motion to suspend standing orders where they believe it is necessary to do so, such as to seek technical advice. Such suspension would normally be for five minutes or less.

39.2 During a suspension of standing orders, Councillors are not to discuss the issue or seek to reach agreement outside a formal debate.

39.3 No motion, except one which proposes the resumption of standing orders, may be accepted by the Chair or be lawfully dealt with during any suspension of standing orders.

39.4 Resumption of standing orders should occur as soon as possible.

### 40 The Chair's Right to Speak

40.1 The Chair may address a meeting upon any matter under discussion, following presentations by all Councillors, and is not deemed to have left the Chair on such occasions.

40.2 If the Chair chooses to vacate the Chair for any reason, the Deputy Mayor will assume the Chair, or if the Deputy Mayor is not available, another Councillor elected by the meeting through resolution shall take the Chair until such time as the Mayor can resume the Chair at the conclusion of the item currently under debate.

### 41 Clarification by Chief Executive Officer or another member of Council staff

41.1 With the consent of, or at the request of the Chair, the Chief Executive Officer or a member of Council staff may address any item to clarify a statement made by a Councillor during the course of debate.

### 42 Ordering Withdrawal of Remark

42.1 The Chair may require a Councillor to withdraw any remark which is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature.

42.2 A Councillor required to withdraw a remark must do so immediately without qualification or explanation.

### 43 Adjournment & Resumption of Adjourned Debate

43.1 The Council may by resolution adjourn a meeting to a later time on the day for which the meeting was called or for a period not exceeding 7 days.

43.2 When a motion to adjourn a meeting is before the Council, the Chair must not allow discussion on the motion to adjourn. If the Council fails to pass the motion to adjourn, the Chair must resume the meeting at the item of business under consideration.

43.3 The Chief Executive Officer must deliver written notice of an adjourned meeting to all Councillors, except when the meeting is adjourned to a later time on the same day, in which case any form of notice may be given to all Councillors.

43.4 If a debate is adjourned by motion, the Councillor moving the adjournment has the right to be the first speaker upon the resumption of debate unless they have already spoken to the motion or amendment.

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### 44 Suspensions

- 44.1 Council may by resolution, suspend from a meeting, and for the balance of the meeting, any Councillor whose actions have disrupted the business of Council, and have impeded its orderly conduct, provided the Councillor in question has received an initial warning from the Chair that their conduct is, in the Chair's opinion, impeding the orderly conduct of the meeting.
- 44.2 Subject to subclause 44.1, where seeking a Council resolution is not feasible, the Mayor, and only the Mayor (not another Councillor who has taken the Chair), can direct a Councillor to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

### 45 The Chair may Adjourn Disorderly Meeting

- 45.1 If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the meeting, they may adjourn the meeting to a later time on the same day or to some later day as they think proper.

### 46 Public Behaviour

- 46.1 Any member of the public addressing Council must extend courtesy and respect to the Council and the processes under which it operates and must take direction from the Chair whenever called on to do so.

### 47 Removal from Chamber or Meeting Room

- 47.1 The Chair, may ask any member of the Police Force or person appointed by Council to maintain security, to remove from the Chamber or meeting room any person who acts in breach of these Governance Rules.

### 48 Recording of Proceedings

- 48.1 Council will record the proceedings at each Council meeting, unless there is a specific resolution not to do so, and may livestream recordings of open Council meetings. This will take whatever form the Council has decided.
- 48.2 Except where Council conducts the recording, no video or audio recording of proceedings of Council meetings shall be permitted without specific approval by resolution of the meeting.
- 48.3 Council will make the recordings of open Council meetings subsequently available to the public.

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### PART 2 – Delegated Committees

*Pursuant to section 63 of the Act*

A delegated committee is formed by a Council and which Council delegates “any power, duty or function of a Council under this Act or any other Act...” (s 11(1)). In effect, a delegated committee may exercise a power or undertake a duty or function as if it is the Council. Under the Act, the formation of, appointment to, and administration of delegated committees is to be strongly controlled given a delegated committee’s ability to exercise statutory functions and powers on behalf of the Council.

#### **63 Delegated Committees**

- (1) *A delegated committee established by a Council—*
  - (a) *must include at least 2 Councillors; and*
  - (b) *may include any other persons appointed to the delegated committee by the Council who are entitled to vote.*
- (2) *A meeting of a delegated committee established by a Council must be chaired by—*
  - (a) *a Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee; or*
  - (b) *if the Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee is not present at the meeting, a Councillor who is present at the meeting and is appointed by the members of the delegated committee who are present at the meeting.*
- (3) *Section 61 applies to a meeting of a delegated committee as if the members were Councillors.*

#### **SECTION 1 –DELEGATE COMMITTEES**

##### **1. Establishment**

- 1.1. A delegated committee can only be established by resolution of Council.
- 1.2. The resolution must include the date from which the committee will be enacted, and the date it is to be disbanded.
- 1.3. Any extension to the term of a delegated committee must be by resolution of Council.
- 1.4. A delegated committee’s instrument of delegation must be approved by resolution of Council, and it must specifically outline the powers and functions of the committee.
- 1.5. A delegated committee must report the minutes of all Committee meetings to the next practicable Council meeting.
- 1.6. A delegated committee must act in accordance with its Instrument of Delegation and any Terms of Reference adopted by Council.

##### **2. Membership**

- 2.1. Appointment to a delegated committee is to be by resolution of Council.
- 2.2. A Councillor must be appointed the position of Chair of a delegated committee.
- 2.3. Appointment of the Chair of a delegated committee is to be by Council resolution, however, the Mayor may choose to invoke their power under section 19(1)(a) of the Act and make the appointment without a Council resolution.
- 2.4. If the Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee is not present at the meeting, a Councillor who is present at the meeting is to chair the meeting.



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### 3. Quorum

- 3.1. A quorum is an absolute majority, and must include one Councillor chairing the meeting.
- 3.2. If a quorum is not present within 30 minutes of the time appointed for the commencement of a Committee meeting:
  - 3.2.1. The meeting shall be deemed to have lapsed;
  - 3.2.2. The Chair must convene another committee meeting and ensure that the agenda for the meeting which is deemed to have lapsed is addressed; and
  - 3.2.3. Notice of the new meeting convened by the Chair must be provided to committee members as soon as is practicable.
- 3.3. If a quorum cannot be maintained after a meeting has begun the meeting lapses.
- 3.4. If the meeting lapses, the undisposed business must be included in the agenda for the next committee meeting.
- 3.5. If a quorum cannot be maintained because of the number of committee members who have a conflict of interest in a matter, the committee must seek for the Council to make the decision at next practicable Council meeting.

### 4. Recording of Minutes

The Committee Chair or a delegate is responsible for the keeping of Minutes on behalf of the committee. Those Minutes must record:

- the date, place, time and nature of the meeting;
- the names of committee members and whether they are present, or an apology;
- members of Council staff present who were involved in the meeting;
- the disclosure of a conflict of interest made by a committee member or Council officer in accordance with the Act;
- the arrivals and departures of committee members, during the course of the meeting (including any temporary departures such as for a conflict of interest);
- every Motion and amendment moved (including procedural Motions),
- the outcome of every Motion moved;
- where a division is called, the names of every committee member and the way their vote was cast (and if they abstained);
- when requested by a committee member, a record of their support of, opposition to, or abstention from voting on any Motion, noting that those who do not vote are taken to have voted against the question;
- details of any failure to achieve or maintain a quorum;
- any other matter, which the committee chair or delegate thinks should be recorded to clarify the intention of the meeting or assist in the reading of the Minutes; and
- the time the meeting was commenced and concluded.

### 5. Voting

- 5.1. Voting at meetings of a delegated committee is to be in accordance with clause 35 (Voting) of Chapter 2, Part 1 - Council Meetings, of these Governance Rules, and section 61 of the Act.

### 6. Meeting closure to the public

- 6.1. A delegated committee meeting must be open to the public unless it meets the specified circumstances set out in section 66(2) of the Act.
- 6.2. The Chief Executive Officer must ensure that any delegated committee meeting report containing confidential information as defined by section 3(1) of the Act and which is expected to be the subject of a resolution under section 66(2)(a) of the Act to close the committee meeting to the public, includes the ground(s) as specified in section 3(1) of the Act under which the report is deemed to contain confidential information and an explanation of why the specified grounds apply.

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- 6.3. The Chair must call for a motion to close the meeting to the public and this motion must be carried prior to commencing any business pertaining to reports containing confidential information.
- 6.4. If a meeting will be closed the public due to security reasons (section 66(2)(b)) and this is known prior to the meeting, the meeting closure must be posted on the Council website as soon as is practicable to notify the public of the closure. This meeting must be livestreamed on the Council website, and the minutes of the meeting must detail the meeting closure to the public under section 66.
- 6.5. If during meeting proceedings the Chair believes that the meeting must be closed to the public for either security reasons (section 66(2)(b)) or to enable the meeting to proceed in an orderly manner (section 66(2)(c)), the Chair must ensure that live streaming is occurring and available for the public to view the meeting, before calling for a motion to close the meeting to the public.
- 6.6. A motion to close the meeting due to confidential information under section 66(2)(a) must contain the grounds for determining to close the meeting to the public by reference to the grounds specified in section 3(1) of the Act, and an explanation of why the specified grounds apply.
- 6.7. The time of any resolution to close a meeting to the public must be recorded in the minutes of the meeting.
- 6.8. Upon a resolution to close a meeting to the public being passed the Chair must advise those present in the public gallery that they must vacate the meeting while the meeting remains closed.
- 6.9. The Chair must call for a motion to re-open the meeting to the public. This motion must be carried and the time recorded in the minutes of the meeting.
- 6.10. All items that are considered confidential pursuant to Section 3(1) of the Act remain confidential, inclusive of report content, recommendations, motions, and resolutions until Council has passed a resolution that specifying that all or part of the information is no longer confidential.
- 6.11. If an agenda item or resolution deemed to include confidential information is to be moved out of the closed part of the meeting:
  - 6.11.1. committee must, by resolution, determine to move all or a specified part of the item or items into the open committee meeting; and/or
  - 6.11.2. Committee must, by resolution, determine that report or section be included in the minutes of the meeting showing the Committee decision that was made in the closed section of the meeting.

### **SECTION 2 – JOINT DELEGATED MEETINGS**

A joint delegated committee is formed by resolution of two or more Councils and consists of a delegated committee from each Council, including at least one Councillor from each Council present at the meeting. This is not, in effect, a different committee as it is established by existing delegated committees.

The resolution forming the joint delegated committee will stipulate which Council's governance rules are to be followed for conduct of the joint delegated committee meeting. Where Council's Governance Rules apply, all of section 2 and section 4, Part 2, Chapter 2 of these Governance Rules apply.

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### PART 3 – Community Asset Committees

*Pursuant to Section 65 of Act*

A Community Asset Committee is a committee with powers of the Council, established by and with members appointed by Council, with powers delegated by the Chief Executive Officer (CEO) and subject to any terms and conditions specified by the CEO, for the purpose of managing a community asset such as community hall.

#### **65 Community Asset Committee**

- 1) *A Council may establish a Community Asset Committee and appoint as many members to the Community Asset Committee as the Council considers necessary to enable the Community Asset Committee to achieve the purpose specified in subsection (2).*
- 2) *A Council may only establish a Community Asset Committee for the purpose of managing a community asset in the municipal district.*

#### **1. Establishment**

- 1.1. A Community Asset Committee can only be established by resolution of Council.
- 1.2. Council may resolve, in establishing a Community Asset Committee, which clauses of these Governance Rules apply.

#### **2. Membership**

- 2.1. Appointment to a Community Asset Committee is to be by resolution of Council.
- 2.2. Delegations from the CEO will be made directly to members of the Community Asset Committee and members must each act in accordance with the delegations.

#### **3. Recording of Minutes**

The committee Chair or a delegate is responsible for the keeping of Minutes on behalf of the committee. Those Minutes must record:

- the date, place, time and nature of the meeting;
- the names of committee members and whether they are present, or an apology;
- members of Council staff present who were involved in the meeting;
- the disclosure of a conflict of interest made by a committee member or Council officer in accordance with the Act;
- the arrivals and departures of committee members, during the course of the meeting (including any temporary departures such as for a conflict of interest);
- every Motion and amendment moved (including procedural Motions),
- the outcome of every Motion moved;
- where a division is called, the names of every committee member and the way their vote was cast (and if they abstained);
- when requested by a committee member, a record of their support of, opposition to, or abstention from voting on any Motion, noting that those who do not vote are taken to have voted against the question;
- details of any failure to achieve or maintain a quorum;
- any other matter, which the committee chair or delegate thinks should be recorded to clarify the intention of the meeting or assist in the reading of the Minutes; and
- the time the meeting was commenced and concluded.

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### PART 4 – Audit & Risk Committee

Council must establish an Audit and Risk Committee. This committee is **not** a delegated committee and cannot exercise statutory functions and powers of the Council. The roles and functions of the Audit and Risk Committee are set out under the Act, and are specific only to the Audit and Risk Committee (s 53-54). This section of the Governance Rules deals with the establishment, statutory requirements and meeting procedures of the Audit and Risk Committee. The role and functions of the Audit and Risk Committee are dealt with in the Audit and Risk Committee Charter.

#### **53 Council must establish an Audit and Risk Committee**

- (1) A Council must establish an Audit and Risk Committee.
- (2) An Audit and Risk Committee is not a delegated committee.
- (3) An Audit and Risk Committee must—
  - (a) include members who are Councillors of the Council; and
  - (b) consist of a majority of members who are not Councillors of the Council and who collectively have—
    - (i) expertise in financial management and risk; and
    - (ii) experience in public sector management; and
  - (c) not include any person who is a member of Council staff of the Council.
- (4) The chairperson of an Audit and Risk Committee must not be a Councillor of the Council.
- (5) Sections 123 and 125 and Division 2 of Part 6 apply to a member of the Audit and Risk Committee who is not a Councillor as if the member were a member of a delegated committee.
- (6) A Council may pay a fee to a member of an Audit and Risk Committee who is not a Councillor of the Council.

#### **1. Establishment**

- 1.1. The Audit & Risk Committee's Charter must be approved by resolution of Council, and it must specifically outline the functions and responsibilities of the committee. The Charter must be reviewed and approved annually.

#### **2. Membership**

- 2.1. Appointment to the Audit and Risk Committee is to be by resolution of Council.
- 2.2. The resolution appointing a member of the Audit and Risk Committee is to include the term of that appointment.
- 2.3. An independent member must be appointed to the position of Chair of the Audit and Risk Committee.
- 2.4. The appointment of the Chair is to be by Council resolution.
- 2.5. Council, by Council resolution, can terminate a member's appointment to the committee at any time.

#### **3. Meetings**

- 3.1. The Audit and Risk Committee is to meet at least 4 times in a financial year, unless determined otherwise by Council resolution.
- 3.2. All Audit and Risk Committee meetings are to be closed to the public.
- 3.3. Any recommendations agreed to be made by the committee (majority vote) are to be recorded in the minutes of the committee meeting.
- 3.4. All recommendations made by the committee under subclause 3.3 will be provided in a report to Council.
- 3.5. Minutes of Audit and Risk Committee meetings will be provided to Councillors when they are provided to committee members.

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**4. Other**

- 4.1. The Audit and Risk Committee Charter is to be reviewed and adopted by Council annually.
- 4.2. The Audit and Risk Committee must provide a report to a Council meeting at least bi-annually including a description of the activities of the committee, and any findings and recommendations reached under subsection 3.3.

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# Chapter 3 CONFLICTS OF INTEREST

This section of the Governance Rules comes into force on 24 October 2020.

The two types of conflicts of interest applicable to Councillors, committee members and Council officers for the purposes of this section are (as extracted from the Act):

### 127 General conflict of interest

- (1) Subject to section 129, a relevant person has a **general conflict of interest** in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.
- (2) For the purposes of subsection (1)—  
**private interests** means any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief;  
**public duty** means the responsibilities and obligations that a relevant person has to members of the public in their role as a relevant person.

### 128 Material conflict of interest

- (1) Subject to section 129, a relevant person has a **material conflict of interest** in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.
- (2) The benefit may arise or the loss incurred—
  - (a) directly or indirectly; or
  - (b) in a pecuniary or non-pecuniary form.
- (3) For the purposes of this section, any of the following is an **affected person**—
  - (a) the relevant person;
  - (b) a family member of the relevant person;
  - (c) a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body;
  - (d) an employer of the relevant person, unless the employer is a public body;
  - (e) a business partner of the relevant person;
  - (f) a person for whom the relevant person is a consultant, contractor or agent;
  - (g) a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee;
  - (h) a person from whom the relevant person has received a disclosable gift.
- (4) For the purposes of subsection (3)(h), **disclosable gift** means one or more gifts with a total value of, or more than, \$500 or if an amount is prescribed for the purposes of this subsection, the prescribed amount, received from a person in the 5 years preceding the decision on the matter—
  - (a) if the relevant person held the office of Councillor, was a member of Council staff or was a member of a delegated committee at the time the gift was received; or
  - (b) if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation—  
but does not include the value of any reasonable hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a Councillor, member of Council staff or member of a delegated committee.

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### 1. Councillor, committee member and Council officer obligations

- 1.1. Councillor, committee members and Council officers are required to:
  - 1.1.1. Avoid all situations which may give rise to conflicts of interest;
  - 1.1.2. Identify any conflict of interest; and
  - 1.1.3. Disclose any conflict of interest.

### 2. Procedures for the Disclosure of Conflict of Interest by a Councillor or a member of a Delegated Committee at a meeting of the Council or a Delegated Committee

- 2.1. If a Councillor or member of a delegated committee has a conflict of interest in a matter which is to be considered or discussed at a meeting of the Council or the delegated committee, the Councillor or member must, if they are attending the meeting, disclose the conflict of interest in accordance with subclause 2.2, and if applicable, subclause 2.3.
- 2.2. A Councillor or member of a delegated committee who has a conflict of interest and is attending the meeting of the Council or delegated committee must make a full disclosure of that interest by either advising:
  - a) the Council or delegated committee at the meeting immediately before the matter is considered at the meeting; or
  - b) the Chief Executive Officer in writing before the meeting-whether the interest is a general conflict of interest or a material conflict of interest, and the nature of the interest.
- 2.3. If the Councillor or member advised the Chief Executive Officer of the details under paragraph (b) of subclause 2.2, the Councillor or member must make a disclosure of the class of interest only to the meeting immediately before the matter is considered at the meeting.
- 2.4. The Chief Executive Officer must—
  - a) keep written disclosures received under this clause in a secure place for 3 years after the date the Councillor or member of a delegated committee who made the disclosure ceases to be a Councillor or member of a committee; and
  - b) destroy the written disclosure when the 3 year period referred to in paragraph (a) has expired.
- 2.5. While the matter is being considered or any vote is taken in relation to the matter, the Councillor or member of a delegated committee must—
  - a) leave the meeting and notify the Mayor or the Chairperson of the delegated committee of their departure; and
  - b) remain outside the room and any gallery or other area in view or hearing of the meeting.
- 2.6. The Mayor or the Chairperson of the delegated committee must cause the Councillor or member of a delegated committee to be notified that they may return to the meeting after—
  - a) consideration of the matter; and
  - b) all votes have been cast on the matter.
- 2.7. If a Councillor or member of a delegated committee discloses a conflict of interest, the Chief Executive Officer or the Chairperson must record in the minutes of the meeting—
  - a) the declaration of the conflict of interest; and
  - b) the classification of the interest that has given rise to the conflict, and if the Councillor or member has disclosed the nature of the interest to the meeting, the nature of the interest.

### 3. Procedure for the disclosure of a conflict of interest by a Councillor at a meeting under the auspices of Council that is not a meeting of the Council or a Delegated Committee

- 3.1. At a meeting under the auspices of Council that is not a meeting of the Council or delegated committee, the Chief Executive Officer must ensure that a written record is kept of—
  - a) the names of all Councillors and members of Council staff attending;
  - b) the matters considered;

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- c) any conflict of interest disclosures made by a Councillor attending under subclause 3.3;
  - d) whether a Councillor who has disclosed a conflict of interest as required by subclause 3.3 leaves the meeting.
- 3.2. The Chief Executive Officer must ensure that the written record of a meeting held under this clause is, as soon as practicable—
  - a) reported at a meeting of the Council; and
  - b) incorporated in the minutes of that Council meeting.
- 3.3. If a Councillor attending a meeting held under this clause knows, or would reasonably be expected to know, that a matter being considered by the meeting is a matter that, were the matter to be considered and decided by Council, the Councillor would have to disclose a conflict of interest, the Councillor must, at the time set out in subclause 3.4, disclose to the meeting that they have a conflict of interest and leave the meeting whilst the matter is being considered by the meeting.
- 3.4. A Councillor must disclose the conflict of interest either—
  - a) immediately before the matter in relation to which the Councillor has a conflict of interest is considered; or
  - b) if the Councillor realises that they have a conflict of interest after consideration of the matter has begun, as soon as the Councillor becomes aware that they have a conflict of interest.
- 4. Disclosure of a conflict of interest by a member of Council staff (including under Council's Financial Delegations)**
- 4.1. A member of Council staff who is providing information to:
  - a) a meeting of the Council, a delegated committee or a community asset committee; or
  - b) another member of Council staff exercising a power of delegation or performing a statutory function –and who has a conflict of interest in a matter to which the information relates, must disclose the conflict of interest when providing the information and before the information is considered by the applicable meeting referred to in paragraph (a) or another member of staff referred to in paragraph (b).
- 4.2. A disclosure made by a person under subclause 4.1 must be recorded:
  - a) in the minutes of the applicable meeting referred to in paragraph (a); or
  - b) in a conflict of interest disclosure register maintained by the Chief Executive Officer if the information is provided to another member of Council staff referred to in paragraph (b).
- 4.3. A member of Council staff who has a conflict of interest in a matter in which they also have delegated power, duty or function must—
  - a) not exercise the power or discharge the duty or function; and
  - b) in the case of the Chief Executive Officer, disclose the type of interest and the nature of the interest to—
    - (i) the Mayor, in writing, as soon as they become aware of the conflict of interest in the matter; and
    - (ii) the Council by no later than the next meeting of the Council; and
  - c) in the case of any other member of staff, disclose the type of interest and the nature of the interest to the Chief Executive Officer, in writing, as soon as they become aware of the conflict of interest in the matter.
- 4.4. The Chief Executive Officer does not have a conflict of interest in a matter if the matter only relates to—
  - a) the adoption or amendment of a policy relating to Council staff generally;
  - b) the adoption of a code of conduct for Council staff; or
  - c) a decision to delegate a power, duty or function to a member of Council staff.



## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



# Chapter 4

## ELECTION PERIOD POLICY

### Purpose

The purpose of this policy is to provide clear procedures and practices that explain how Council business will be conducted in the period leading up to a Council election i.e. during the election period. This is to ensure that Council elections are not compromised by inappropriate electioneering by existing Councillors and to safeguard the authority of the incoming Council.

### Scope

During the election period, the business of Council still needs to continue and ordinary matters of administration still need to be addressed. This policy establishes a series of practices applicable during the election period.

### Application

This policy applies to Council, Councillors, delegated committees, Council officers and contracted service providers.

### Election Period

The election period means the period that:

- (a) starts at the time that nominations close on nomination day; and
- (b) ends at 6 p.m. on election day.

As soon as possible, and no later than 30 days prior to the commencement of the Election Period, the Chief Executive Officer will ensure that:

- (a) all Councillors and members of Council staff are informed of the requirements of this policy, and
- (b) a copy of this policy is given to all Councillors.

### Policy

Council will ensure that, during the election period, its business is conducted in a way which does not compromise the election process and which safeguards the authority of the incoming Council. It will ensure that candidates are treated equally, fairly and transparently, with no advantage being provided to sitting Councillor candidates.

This policy is compliant with the legislative requirement under section 69 of the *Local Government Act 2020*.

The policy should be reviewed and, if required, amended not later than 12 months before the commencement of each subsequent election period.

### Prohibited decisions

Council is prohibited from making any Council decision:

- (a) during the election period for a general election that:
  - (i) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
  - (ii) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
  - (iii) the Council considers could be reasonably deferred until the next Council is in place; or
  - (iv) the Council considers should not be made during an election period; or
- (b) during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



### What is a Council decision?

For the purposes of this policy, **Council decision** means the following:

- a) a resolution made at a Council meeting;
- b) a resolution made at a meeting of a delegated committee; or
- c) the exercise of a power or the performance of a duty or function of Council by a member of Council staff (which includes the Chief Executive Officer) or a Community Asset Committee under delegation.

### Required consideration

Careful consideration should be given regarding decisions that are being made at Council or delegated committee meetings in the election period, to ensure that the authority of the incoming Council is not unreasonably compromised. Council will make every effort to either reschedule most decisions until after the new Council commences its term, or if that is not appropriate, bring decisions forward so they are determined before the election period starts.

Examples of decisions that will be avoided during the election period include allocating community grants or other direct funding to community organisations, major planning scheme amendments and changes to strategic objectives and strategies in the Council Plan. During the election period, any other decision will be considered by Council or delegated committees only if absolutely necessary for Council operational purposes or pursuant to a statutory requirement.

Papers prepared for Council or delegated committee meetings during the election period will be carefully vetted to ensure that no agenda matter is included that could potentially influence voters' intentions at the forthcoming election or could encourage Councillor candidates to use the matter as part of their campaign platform.

Councillors will refrain from moving motions on or raising matters at a meeting that could potentially influence voting at the election. **Council Publications**

Council is to limit publications during the election period. This is to ensure that Council does not publish material with public funds that may influence, or be seen to influence, people's voting decisions.

Council publications refers to documents that are produced for the purpose of communicating with people in the community including:

- Council newsletters
- Advertisements and notices
- Media release
- Leaflets and brochures
- Mail outs to multiple addressees
- Council's social media accounts
- Council's website

This section provides that the restriction on publication of a document does not include any document published before the election period and any document required to be published under the Act, such as rate notices, food premises registrations and parking fines, which may continue to be disseminated during the election period without limitation.

The Annual Report that is compiled during the election period will not contain any material that could be regarded as electioneering or that inappropriately promotes individual Councillors. Information about Councillors will be restricted to names, contact details, titles, membership of delegated committees and other bodies to which they have been appointed by the Council.

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



Council staff will check existing publications and online information before the election period commences and, where appropriate, temporarily withdraw any material that might reasonably influence the election.

### **Certification Process**

Relevant Council publications must be certified by the CEO before they may be printed, published or distributed during the election period, whether by the Council or by anyone acting for the Council. This may require certification before the election period for some material to be issued in the election period.

The CEO must not certify a publication that contains electoral matter, unless that material is about the election process only.

The CEO's certification must be in writing and cannot be delegated to anyone.

### **Council Communications**

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 fulfill their elected roles. However, they will not be developed or used in support of a candidate's election campaign. During the election period:

- A Council employee 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 made in consultation with the Community Relations department.
- In the event that a spokesperson is required for any publication or communication, the Mayor or the Chief Executive Officer shall fulfill that role.
- 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 specifically in support of an election campaign.
- Councillor profiles on the Council website will be limited to a photograph and contact details. All other communication from a Councillor via the Council website will be removed.

### **Council Resources**

It is essential that due propriety is observed in the use of all Council resources. It is also important that all Councillors have access to the resources necessary to fulfill their elected roles. In order to ensure the proper use of Council resources during the election period the following will apply:

- Council resources, including offices, staff, hospitality, equipment, email, mobile phone 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 in 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 a candidate's election campaign, in accordance with Councillors Entitlements, Expenses and Facilities Policy (SCS-001).
- Council logos, letterheads, or other Council branding should not be used for, or linked in any way to, a candidate's election campaign.
- Council staff will not be asked to undertake any tasks connected with a candidate's election campaign.

### **Information**

Access to information held by Council will be made equally available and accessible to all candidates during the election period. Council recognises that all election candidates have the right to receive information from the Council administration, subject to the *Privacy and Data Protection Act 2014* which may prevent the disclosure of certain information. However, it is important that Councillors continue to receive the information that is necessary to fulfill their elected roles. Councillors shall not request or receive information or advice from Council staff to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the election period.

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



A process will be instigated whereby information requested by any candidate will be made available to all candidates in a timely manner, having regard to the reasonableness of the request. This will be achieved via a dedicated candidate information page on Council's website or a group email, as appropriate.

Requests for clarification relating to provision of information should be directed to the Governance and Risk Department who may refer the request to the Chief Executive Officer or appropriate senior management.

### **Functions, Public Consultation and Events**

Public consultation and Council events will not take place during the election period unless the CEO can justify to the community the special circumstances making it necessary to conduct these activities and how risks related to influencing the election will be mitigated or prevented. Any event, public consultation or function that is held during the election period shall relate only to legitimate Council business and shall not be used, or be able to be construed to be used, in connection with any election activity.

All speeches prepared for use at events or functions shall be reviewed by the Manager Governance and Risk in conjunction with the Coordinator Communications and Community Engagement to ensure the content does not breach this Policy or the Act.

Where deemed appropriate Councillors may make speeches during events or functions however the speech must not have any political reference which may be construed as giving a sitting Councillor any advantage during the election period.

### **Travel and Accommodation**

During the election period Councillors shall not undertake any interstate or overseas travel in their capacity as a Councillor. In circumstances where it is imperative that the Mayor (or nominee) represents Council 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.

### **Advice to Candidates about the election process**

All candidates for the Council election will be treated equally. Towards this outcome:

- Any advice to be provided to candidates as part of the conduct of the Council election should be provided equally to all candidates.
- All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer (or appropriate senior management).

### **Monitoring the Policy**

The Chief Executive Officer is responsible for determining the outcome of any issues that arise in relation to the implementation of this policy.

**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**



## **Appendix**

Schedule A – Public Question Time Form

Schedule B – Notice of Motion

Schedule C – Notice of Motion to Rescind or Amend

Schedule D – Procedural Motions Table

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy

### Schedule A



#### PUBLIC QUESTION TIME FORM

Public questions will be considered by Council at a Council meeting subject to receipt by 10am on the day of the meeting. Questions can be emailed to [info@surfcoast.vic.gov.au](mailto:info@surfcoast.vic.gov.au), faxed to 5261 0525 or hand delivered to Council's Offices, 1 Merrijig Drive, Torquay.

All questions must be as brief as possible and no greater than 200 words in length, inclusive of any supporting or contextual information.

Public question time runs for up to 30 minutes prior to consideration of the formal Agenda by Council. Questions will be considered in the following order:

1. Questions with Notice that relate to items on the agenda coming before Council on the night.
2. Questions with Notice that relate to other matters not relating to the agenda.

Questions received without notice (i.e. received after 10am on the day of the meeting) will be addressed in accordance with clause 17.3 of the Governance Rules.

#### Personal Information

Date:

Surname: First Name:

Postal address:

Suburb: Post Code:

Phone: Mobile:

Email:

Suburb to be disclosed: Yes No

**IMPORTANT INFORMATION:** Please note that as required by Council's Governance Rules, your name and locale will be read out in a public meeting and form part of the minutes of the Council meeting. If you desire that only your name, and not your locale, is to be called, please indicate this above.

#### Questions

Date of Council meeting:

Subject:

Question(s) (Please note: There is a limit of two questions per person, per meeting)

*Surf Coast Shire Council considers that the responsible handling of personal information is a key aspect of democratic governance, and is strongly committed to protecting an individual's right to privacy. Council will comply with the information Privacy Principles as set out in the Privacy and Data Protection Act 2014. The information will be used for the primary purpose it was collected, or any related purpose for which the individual would reasonably expect Council to use or disclose the information. The information will not be disclosed to any other party unless Council is required to do so by law.*

**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

**Schedule B**



**NOTICE OF MOTION**

*This form lodges a notice of intention to move a motion in accordance with clause 30 of the Governance Rules.*

*Note – Proposed motion and rationale not to exceed 500 words*

I, Councillor \_\_\_\_\_ give notice of my intention to move the following motion at the Ordinary Meeting of Council to be held on \_\_\_ / \_\_\_ / \_\_\_\_\_, namely:  
*(Insert wording of motion)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Rationale**

*(To be signed by Councillor lodging this notice and one other Surf Coast Shire Councillor)*

\_\_\_\_\_  
**COUNCILLOR**

\_\_\_\_\_  
**COUNCILLOR**

*Chief Executive Officer to complete*

This notice was received by me at \_\_\_\_\_ am/pm on \_\_\_\_\_

\_\_\_\_\_  
**CHIEF EXECUTIVE OFFICER**

**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

**Schedule C**



**NOTICE OF MOTION TO RESCIND OR AMEND**

*This form lodges a notice of intention to move that a resolution passed by Council be rescinded or amended in accordance with clause 31 of the Governance Rules.*

I, Councillor \_\_\_\_\_ give notice of my intention to move at the Ordinary Meeting of Council to be held on \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_ that the resolution of Council passed on \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_, namely:

*(Wording of resolution proposed to be amended/rescinded)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

be rescinded  OR amended  *(Please tick one box)*

and subject to that motion being carried, in its place, Cr \_\_\_\_\_ proposes to move that Council:

*(Wording of proposed motion to replace/amend above)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(To be signed by Councillor lodging this notice and two other Surf Coast Shire Councillors)*

\_\_\_\_\_  
COUNCILLOR                      COUNCILLOR                      COUNCILLOR  
-----  
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*Chief Executive Officer to complete*

This notice was received by me at \_\_\_\_\_ am/pm on \_\_\_\_\_

\_\_\_\_\_  
**CHIEF EXECUTIVE OFFICER**



**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

**Schedule D**



**Procedural Motions**

<b>Motion</b>	<b>When prohibited</b>	<b>If Carried</b>	<b>Debate</b>
'That a report/document be tabled'		The item is tabled, can be considered as part of debate as will be included in the minutes of the meeting	No
'That the item listed at xx on the agenda be moved forward'	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the meeting	No
'That the motion be put'	During nominations for a <i>Chair</i>	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	No
'That the matter be laid on the table'	During the election of the Mayor/Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the item from the table at the same meeting	No
'That the matter be taken from the table'	When no motion is on the table	Debate of the item resumes	No
'That the meeting be adjourned'		The meeting adjourns until a designated time for recommencement	No
'That Standing Orders be suspended to ...' (reason must be provided)		The rules of the meeting are temporarily suspended in accordance with clause 37 for the specific reason given in the motion	No
'That Standing Orders be resumed'	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed	No
That, in accordance with section 66 of the Act, the meeting be closed to members of the public	During the election of the Mayor/Deputy Mayor	The meeting is closed to members of the public	Yes
'That the meeting be reopened to members of the public'		The Meeting is reopened to the public	No
'That the Chair's ruling be dissented from'	Anytime where the Chair has not just made a ruling on a point of order	The point of order decision made by the Chair is overturned and the meeting must proceed accordingly. The Chair should have the opportunity to speak to their ruling.	Yes
'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral) ...'	(a) During the election of the Mayor/Deputy Mayor; (b) During the election of a Chair; 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	Yes

**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

**APPENDIX 3 SCS 051 - PUBLIC TRANSPARENCY POLICY - TRACK CHANGES**



*We exist to help our community and environment to thrive*

COUNCIL POLICY

## SCS 051 Public Transparency Policy

TRIM Reference: D20/069093 Due for Review: September 2022  
Responsible Officer: Manager Governance & Risk

### 1.0 Purpose

This Policy supports Council in its ongoing drive for good governance and the importance of open and accountable conduct, and sets out how Council information is to be made publicly available. Council must adopt and maintain a public transparency policy under section 57 of the Local Government Act 2020 (the Act).

### 2.0 Policy Principles

This policy supports the Overarching Governance Principles and the supporting Public Transparency Principles listed in section 58 of the Act as follows:

- Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of the Act or any other Act;
- Council information must be publicly available unless—
  - i. the information is confidential by virtue of this Act or any other Act; or
  - ii. public availability of the information would be contrary to the public interest;
- Council information must be understandable and accessible to members of the municipal community.
- Public awareness of the availability of Council information must be facilitated.

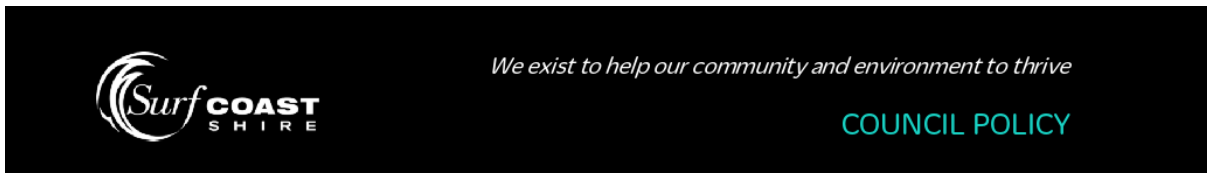
### 3.0 Scope

This policy applies to Councillors, Delegated Committee members, and Council staff.

### 4.0 Definitions

Closed meetings	Where Council resolves to close the meeting to the general public in <u>accordance with section 66 of the Act</u> , in order to consider a confidential matter as defined in S.3 of the Act, for example issues of a legal, contractual or personal nature and other issues deemed not to be in the public interest.
Community	People of the municipality, including individuals or groups who live, work, play, study, visit, invest in or pass through the municipality.
Confidential information	As described at section 3(1) of the Local Government Act 2020 or any other Act.
Public interest	<u>Public interest envelops the functioning of government, including the services and instruments of government, and that which is acknowledged to be for the good order and wellbeing of a society and its members. The public interest is therefore the interest (welfare and or wellbeing) of the general public as a whole, as distinct from the interest of an individual or a minority, and distinct from being of interest, i.e. satisfying a curiosity.</u> <u>To be considered contrary to the public interest would be where public interest considerations against release are, on balance, outweighed by the public interest considerations in favour of release. Council may refuse to release information if it determines that the harm likely to be created by releasing the information will exceed the public benefit in being transparent. When considering possible harm</u>

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



	<p><del>from releasing information, the Council will only concern itself with harm to the community or members of the community. Potential harm to the Council will only be a factor if it would also damage the community, such as where it involves a loss of public funds or prevents the council from performing its functions.</del></p>
Transparency	<p><del>A process of being open, honest and straightforward about Council decisions and decision making processes, financial performance, corporate strategies and their implementation, Council policies and procedures, and other activities of the Council that are not considered confidential under section 3 of the Act, or any other Act, considered to be contrary to the public interest, or considered to be personal information under the Privacy and Data Protection Act 2014.</del></p> <p><del>A lack of hidden agendas or conditions and the availability of all information needed in order to collaborate, cooperate and make decisions effectively. "Transparency" is also human rights issue e.g. the right to have the opportunity, without discrimination, to participate in public affairs.</del></p>

### 5.0 Policy

This Policy formalises Council's support for transparency in decision-making processes and public awareness of the availability of Council information. Council is committed to promoting:

- Greater clarity in Council's decision-making processes;
- Increased confidence and trust in the community through greater understanding and awareness;
- Enhanced decision making by the community;
- Improve Council's performance;
- Access to information that is current, easily accessible and disseminated in a timely manner;
- Reassurance to the community that Council is spending public monies wisely.

### 5.1 What Council Will Be Transparent With

#### Decision Making at Council Meetings

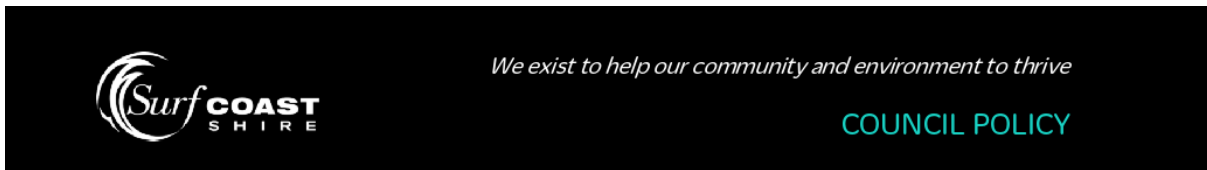
- Will be undertaken in accordance with the Act and the Governance Rules.
- Will be conducted in an open and transparent forum, unless in accordance with the provisions in ~~accordance with section 66 of the Act, the meeting is closed to the public to discuss confidential matters, and Governance Rules.~~
- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.
- Will be made fairly and on the merits, and where any person whose rights will be directly affected by a decision of the Council, that person will be entitled to communicate their views and have their interests considered.

#### Council Information

This information includes but is not limited to:

Type	Description
Council Records	Agendas, minutes, live stream and video recordings of Council Meetings
	Reporting from Committees to Council <ul style="list-style-type: none"> <li>• Delegated Committees</li> <li>• Community Asset Committees</li> </ul>
	Terms of Reference or Charters for Council committees
Local Laws	Community Amenity Local Law
	<del>Meeting Procedure and Common Seal</del> <u>and Miscellaneous Penalties</u> Local Law
	Governance Rules
Policies, Strategies, Reports	Council Plan, Annual Report, Strategies, Council Policies, Budget

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



Organisation	Organisation chart
Councillors	Councillor payment summaries
	Councillor profiles
Council Elections	Election Campaign Donation Returns
	Candidate Information (during elections)
Donations & Grants	Grant programs
Planning	Development plans, reference and incorporated docs
	Development contributions
Property	Current planning applications
	How rates are calculated
	Current planning applications
Businesses	Development contributions
	Council's Terms and Conditions
Council operations	Awarded Tenders
	Events information
Registers	Waste management and recycling information
	Information relating to families, positive ageing, childcare and pets
	Tourism and local area – variety of information
	Parks and reserves - listing
	Register of Building Occupancy Permits
Process/Other Information	Register of Authorised Officers
	Register of Instruments of Delegations
	Register of Personal Interests (Register of Interests until 24 October 2020)
	Register of Leases
	Register of Overseas or Interstate Travel
	Register of Gifts, Benefits and Hospitality (Councillors' and Staff)
	Application processes for approvals, permits, grants, access to Council services
Community engagement processes	
Complaints handling processes	
Practice notes	
Online payments and applications	
Employment with Council	
Lodging a request/complaint	
Economic and population profiles	
Information relating to access (maps and guides)	

Members of the public are also able to connect with Council via the following media:

- [Facebook](#)
- [Twitter](#)
- [Instagram](#)
- [LinkedIn](#)
- [YouTube](#)

Information and access to some documents is available on the Council's website [www.surfcoast.vic.gov.au](http://www.surfcoast.vic.gov.au).

Council publishes a range of reports handbooks and newsletters (e.g. *Groundswell*), for residents, businesses and visitors to Council. You can download them from the website or call Council for a copy. Some of these publications are available at council libraries.

### 5.2 Access to Information

- Information will be made available on the Council website, at Council offices, or by request.

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



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### COUNCIL POLICY

- Consideration will be given to accessibility and cultural requirements in accordance with the Charter of Human Rights and Responsibilities Act 2006.
- Consideration will be given to confidentiality in accordance with the Act and public interest test where appropriate.
- Council will respond to requests for information in alignment with the Act including the Public Transparency Principles, and this policy.

If you are interested in viewing a document but have been unable to locate it on Council's website you can contact Council using one of the following methods:

1. Phoning Customer Service on 03 5261 0600.
2. Emailing [info@surfcoast.vic.gov.au](mailto:info@surfcoast.vic.gov.au).
3. Via Council's website using the 'Lodge a Request', 'Make a Complaint' or Freedom of Information application online forms at <https://www.surfcoast.vic.gov.au/About-us/Contact-Us>
4. The *Freedom of Information Act 1982* gives you right of access to documents that Council holds. If you cannot find the document you require, call us before you make an FOI application as we may be able to make it available.
5. Please note that Council's website is not available to view in other languages however a translation service is available only at customer service through TIS (Translating and Interpreting Service).

Council will respond to requests for information in alignment with the Act, the Public Transparency Principles, and this policy. Council officers will continue to explore opportunities to make further documents available on Council's website or on request.

### 5.3 Information not Available

Some Council information may not be made publicly available. This will only occur if the information is confidential information by virtue of the Local Government Act 2020 or any other Act; or if its release would be contrary to the public interest.

"Confidential information" is defined in section 3 of the Local Government Act 2020. It includes the types of information listed in the following table.

Type	Description
Council business information	Information that would prejudice the Council's position in commercial negotiations if prematurely released.
Security information	Information that is likely to endanger the security of Council property or the safety of any person if released.
Land use planning information	Information that is likely to encourage speculation in land values if prematurely released.
Law enforcement information	Information which would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person if released.
Legal privileged information	Information to which legal professional privilege or client legal privilege applies.
Personal information	Information which would result in the unreasonable disclosure of information about any person or their personal affairs if released.
Private commercial information	Information provided by a business, commercial or financial undertaking that relates to trade secrets or that would unreasonably expose the business, commercial or financial undertaking to disadvantage if released.
Confidential meeting information	Records of a Council and delegated committee meetings that are closed to the public to consider confidential information
Internal arbitration information	Confidential information relating internal arbitration about an alleged breach of the councillor code of conduct.
Councillor Conduct Panel confidential information	Confidential information relating to a Councillor Conduct Panel matter

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



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Confidential information under the 1989 Act	Information that was confidential information for the purposes of section 77 of the Local Government Act 1989
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Council may decide, in the interests of transparency, to release information to the public even though it is confidential under the Act. However, this will not happen if release is contrary to law, in breach of contractual requirements or if releasing the information is likely to cause harm to any person or is not in the public interest to do so.

### Public Interest Test

Information that might be withheld because it is contrary to the public interest may include:

- internal working documents that have not been approved or submitted to Council, especially where their release may mislead the public;
- directions to Council staff regarding negotiations in contractual or civil liability matters, where release may damage the Council's capacity to negotiate the best outcome for the community,
- correspondence with members of the community, where release may inappropriately expose a person's private dealings.

### Privacy and Data Protection Act 2014

Council is required to comply with the Privacy and Data Protection Act, in particular Part 3 – Information Privacy – which provides for the responsible handling of person information by Victorian public sector organisations. Where Council collects, holds, uses or discloses personal information, it must comply with the Information Privacy Principles listed in Schedule 1 of the Privacy and Data Protection Act.

This may therefore result in precluding Council from sharing certain information in such cases.

## 6.0 Roles and Responsibilities

Specific responsibilities include:

Roles and responsibilities	
Council and Councillors	Champion the commitment and principles of public transparency through leadership, modelling practice and decision-making.
Executive Management Team	Champion behaviours that foster transparency and drive the principles through policy, process and leadership.  Monitor implementation of this policy.
Leadership Group	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.
All Staff	Public transparency is the responsibility of all employees as appropriate to their role and function.  All staff respond to requests for information and facilitate provision of information in consultation with their manager and in alignment with the Policy.
Manager Governance & Risk	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.

It is important to note the confidentiality/privacy requirements of the Local Government Act and Privacy/Health Records Acts, and obligations under Council's staff and Councillor codes of conduct, and to seek advice if unsure whether to release a document. Penalties may apply for unauthorised release of confidential information.

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



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### 7.0 Human Rights Charter

This policy has been reviewed against and complies with section 13 of the Charter of Human Rights and Responsibilities Act 2006, as it aligns with and provides for the protection of an individual's right not to have their privacy unlawfully or arbitrarily interfered with. It is also in line with section 18 of that Act which recognises a person's right to participate in the conduct of public affairs.

### 8.0 Non-Compliance with this Policy

If a member of the community wishes to question a decision about the release of information, this should be raised directly with the officer handling the matter in the first instance. If you are not satisfied and would like to contest the decision Council's complaints process should be followed – refer <https://www.surfcoast.vic.gov.au/About-us/Contact-Us/Make-a-complaint>.

If you are still not satisfied with Council's response, your concern can be raised directly with the Victorian Ombudsman's office on (03) 9613 6222 or via their website [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au).

### 9.0 Other Ways to Access Information

The *Freedom of Information Act 1982* gives you right of access to documents that Council hold. Council is committed to, where possible, proactive and informal release of information in accordance with the Freedom of Information Professional Standards issued by the Victorian Information Commissioner. Read more at [www.ovic.vic.gov.au](http://www.ovic.vic.gov.au).

A list of available information is provided in the Part II Statement (Statement) published on Council's website in accordance the *Freedom of Information Act 1982*. This Statement requires government agencies and local councils to publish a number of statements designed to assist members of the public in accessing the information it holds.

If you can't find the information you require, call us directly so we may assist you.

Applications can be made by completing the form at <https://www.surfcoast.vic.gov.au/About-us/Council/Policies-plans-strategies-and-reports/Freedom-of-Information> and paying an application fee.

### 10.0 Monitoring, Evaluation and Review

A periodic review of this policy will be undertaken to ensure any changes required to strengthen or update the policy are made in a timely manner.

### 11.0 Related Procedures

- MPP 043 Freedom of Information Policy
- MPP 005 Privacy & Data Protection Policy
- Governance Rules

### 12.0 References

- Local Government Act 2020
- Freedom of Information Act 1982
- Privacy & Data Protection Act 2014
- Health Records Act 2001
- Charter of Human Rights and Responsibilities Act 2006
- Equal Opportunity Act 2010
- Local Government Act 2020 – Public Transparency Principles Guidelines; DEWLP
- Local Government Victoria's – Draft Public Transparency Policy

### 13.0 Document History

Version	Document History	Approved by – Date
1	Initial development	Council Resolution –



**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**



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**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

**APPENDIX 4 SCS 051 - PUBLIC TRANSPARENCY POLICY**



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COUNCIL POLICY

## SCS 051 Public Transparency Policy

TRIM Reference: D20/069093 Due for Review: September 2022  
Responsible Officer: Manager Governance & Risk

### 1.0 Purpose

This Policy supports Council in its ongoing drive for good governance and open and accountable conduct, and sets out how Council information is to be made publicly available. Council must adopt and maintain a public transparency policy under section 57 of the Local Government Act 2020 (the Act).

### 2.0 Policy Principles

This policy supports the Overarching Governance Principles and the supporting Public Transparency Principles listed in section 58 of the Act as follows:

- Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of the Act or any other Act;
- Council information must be publicly available unless—
  - i. the information is confidential by virtue of this Act or any other Act; or
  - ii. public availability of the information would be contrary to the public interest;
- Council information must be understandable and accessible to members of the municipal community.
- Public awareness of the availability of Council information must be facilitated.

### 3.0 Scope

This policy applies to Councillors, Delegated Committee members, and Council staff.

### 4.0 Definitions

Closed meetings	Where Council resolves to close the meeting to the general public in accordance with section 66 of the Act, in order to consider a confidential matter as defined in S.3 of the Act, for example issues of a legal, contractual or personal nature and other issues deemed not to be in the public interest.
Community	People of the municipality, including individuals or groups who live, work, play, study, visit, invest in or pass through the municipality.
Confidential information	As described at section 3(1) of the Local Government Act 2020 or any other Act.
Public interest	Public interest is the interest (welfare or wellbeing) of the general public as a whole, as distinct from the interest of an individual or a minority. The public interest is distinguishable from the curiosity or interest of members of the public. For release to be considered contrary to the public interest, public interest considerations against release need to outweigh public interest considerations in favour of release.
Transparency	A process of being open, honest and straightforward about Council decisions and decision making processes, financial performance, corporate strategies and their implementation, Council policies and procedures, and other activities of the Council that are not considered confidential under section 3 of the Act, or any other Act, considered to be contrary to the public interest, or considered to be personal information under the Privacy and Data Protection Act 2014.

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



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### 5.0 Policy

This Policy formalises Council's support for transparency in decision-making processes and public awareness of the availability of Council information. Council is committed to promoting:

- Greater clarity in Council's decision-making processes;
- Promoting increased community confidence and trust in Council;
- Enhanced decision making by the community;
- Improve Council's performance;
- Access to information that is current, easily accessible and disseminated in a timely manner;
- Reassurance to the community that Council is spending public monies wisely.

### 5.1 What Council Will Be Transparent With

#### Decision Making at Council Meetings

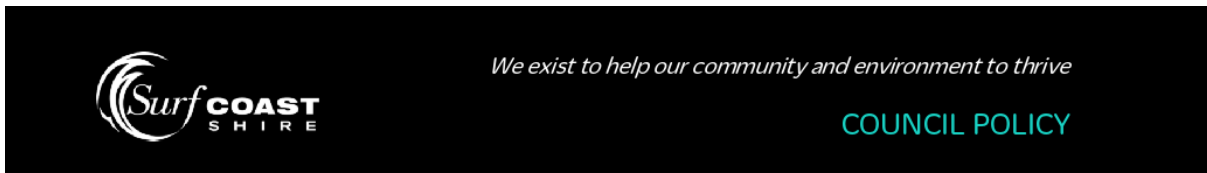
- Will be undertaken in accordance with the Act and the Governance Rules.
- Will be conducted in an open and transparent forum, unless, in accordance with section 66 of the Act, the meeting is closed to the public to discuss confidential matters.
- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.
- Will be made fairly and on the merits, and where any person whose rights will be directly affected by a decision of the Council, that person will be entitled to communicate their views and have their interests considered.

#### Council Information

This information includes but is not limited to:

Type	Description
Council Records	Agendas, minutes, live stream and video recordings of Council Meetings
	Reporting from Committees to Council <ul style="list-style-type: none"> <li>• Delegated Committees</li> <li>• Community Asset Committees</li> </ul>
	Terms of Reference or Charters for Council committees
Local Laws	Community Amenity Local Law
	Common Seal and Miscellaneous Penalties Local Law
	Governance Rules
Policies, Strategies, Reports	Council Plan, Annual Report, Strategies, Council Policies, Budget
Organisation	Organisation chart
Councillors	Councillor payment summaries
	Councillor profiles
Council Elections	Election Campaign Donation Returns
	Candidate Information (during elections)
Donations & Grants	Grant programs
Planning	Development plans, reference and incorporated docs
	Development contributions
	Current planning applications
Property	How rates are calculated
	Current planning applications
	Development contributions
Businesses	Council's Terms and Conditions
	Awarded Tenders
Council operations	Events information
	Waste management and recycling information
	Information relating to families, positive ageing, childcare and pets
	Tourism and local area – variety of information
	Parks and reserves - listing

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



Registers	Register of Building Occupancy Permits
	Register of Authorised Officers
	Register of Instruments of Delegations
	Register of Personal Interests (Register of Interests until 24 October 2020)
	Register of Leases
	Register of Overseas or Interstate Travel
Process/Other Information	Register of Gifts, Benefits and Hospitality (Councillors' and Staff)
	Application processes for approvals, permits, grants, access to Council services
	Community engagement processes
	Complaints handling processes
	Practice notes
	Online payments and applications
	Employment with Council
	Lodging a request/complaint
	Economic and population profiles
	Information relating to access (maps and guides)

Members of the public are also able to connect with Council via the following media:

- [Facebook](#)
- [Twitter](#)
- [Instagram](#)
- [LinkedIn](#)
- [YouTube](#)

Information and access to some documents is available on the Council's website [www.surfcoast.vic.gov.au](http://www.surfcoast.vic.gov.au).

Council publishes a range of reports handbooks and newsletters (e.g. *Groundswell*), for residents, businesses and visitors to Council. You can download them from the website or call Council for a copy. Some of these publications are available at council libraries.

### 5.2 Access to Information

- Information will be made available on the Council website, at Council offices, or by request.
- Consideration will be given to accessibility and cultural requirements in accordance with the Charter of Human Rights and Responsibilities Act 2006.
- Consideration will be given to confidentiality in accordance with the Act and public interest test where appropriate.
- Council will respond to requests for information in alignment with the Act including the Public Transparency Principles, and this policy.

A person may request information in the following ways:

Online	<a href="http://www.surfcoast.vic.gov.au">www.surfcoast.vic.gov.au</a>
Email	<a href="mailto:info@surfcoast.vic.gov.au">info@surfcoast.vic.gov.au</a>
Mail	PO Box 350, Torquay, VIC, 3228
Telephone	5261 0600
In person	1 Merrijig Drive, Torquay, VIC, 3228

Council will respond to requests for information in alignment with the Act, the Public Transparency Principles, and this policy. Council officers will continue to explore opportunities to make further documents available on Council's website or on request.

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



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### 5.3 Information not Available

Some Council information may not be made publicly available. This will only occur if the information is confidential information by virtue of the Local Government Act 2020 or any other Act; or if its release would be contrary to the public interest.

“Confidential information” is defined in section 3 of the Local Government Act 2020. It includes the types of information listed in the following table.

Type	Description
Council business information	Information that would prejudice the Council's position in commercial negotiations if prematurely released.
Security information	Information that is likely to endanger the security of Council property or the safety of any person if released.
Land use planning information	Information that is likely to encourage speculation in land values if prematurely released.
Law enforcement information	Information which would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person if released.
Legal privileged information	Information to which legal professional privilege or client legal privilege applies.
Personal information	Information which would result in the unreasonable disclosure of information about any person or their personal affairs if released.
Private commercial information	Information provided by a business, commercial or financial undertaking that relates to trade secrets or that would unreasonably expose the business, commercial or financial undertaking to disadvantage if released.
Confidential meeting information	Records of a Council and delegated committee meetings that are closed to the public to consider confidential information
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Council may decide, in the interests of transparency, to release information to the public even though it is confidential under the Act. However, this will not happen if release is contrary to law, in breach of contractual requirements or if releasing the information is likely to cause harm to any person or is not in the public interest to do so.

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## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



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This may therefore result in precluding Council from sharing certain information in such cases.

### 6.0 Roles and Responsibilities

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Roles and responsibilities	
Council and Councillors	Champion the commitment and principles of public transparency through leadership, modelling practice and decision-making.
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It is important to note the confidentiality/privacy requirements of the Local Government Act and Privacy/Health Records Acts, and obligations under Council's staff and Councillor codes of conduct, and to seek advice if unsure whether to release a document. Penalties may apply for unauthorised release of confidential information.

### 7.0 Human Rights Charter

This policy has been reviewed against and complies with section 13 of the Charter of Human Rights and Responsibilities Act 2006, as it aligns with and provides for the protection of an individual's right not to have their privacy unlawfully or arbitrarily interfered with. It is also in line with section 18 of that Act which recognises a person's right to participate in the conduct of public affairs.

### 8.0 Non-Compliance with this Policy

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### 9.0 Other Ways to Access Information

The *Freedom of Information Act 1982* gives you right of access to documents that Council hold. Council is committed to, where possible, proactive and informal release of information in accordance with the Freedom of Information Professional Standards issued by the Victorian Information Commissioner. Read more at [www.ovic.vic.gov.au](http://www.ovic.vic.gov.au).

A list of available information is provided in the Part II Statement (Statement) published on Council's website in accordance the *Freedom of Information Act 1982*. This Statement requires government agencies and local councils to publish a number of statements designed to assist members of the public in accessing the information it holds.

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy



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Applications can be made by completing the form at <https://www.surfcoast.vic.gov.au/About-us/Council/Policies-plans-strategies-and-reports/Freedom-of-Information> and paying an application fee.

### 10.0 Monitoring, Evaluation and Review

A periodic review of this policy will be undertaken to ensure any changes required to strengthen or update the policy are made in a timely manner.

### 11.0 Related Procedures

- MPP 043 Freedom of Information Policy
- MPP 005 Privacy & Data Protection Policy
- Governance Rules

### 12.0 References

- Local Government Act 2020
- Freedom of Information Act 1982
- Privacy & Data Protection Act 2014
- Health Records Act 2001
- Charter of Human Rights and Responsibilities Act 2006
- Equal Opportunity Act 2010
- Local Government Act 2020 – Public Transparency Principles Guidelines; DEWLP
- Local Government Victoria's – Draft Public Transparency Policy

### 13.0 Document History

Version	Document History	Approved by – Date
1	Initial development	Council Resolution – 25 August 2020



**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

**APPENDIX 5 LOCAL LAW NO. 2 - COMMON SEAL AND MISCELLANEOUS PENALTIES**



**Local Law No. 2 – Common Seal and Miscellaneous Penalties**

*(Adopted by Council (to be inserted) 2020)*

**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

**Local Law No. 2 – Common Seal and Miscellaneous Penalties**

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## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy

### PART 1 - PRELIMINARY PROVISIONS

#### 1 Title

- 1.1 This Local Law is titled Local Law No.2 of 2020 – Common Seal and Miscellaneous Penalties.

#### 2 Purpose of Local Law

- 2.1 The purpose of this Local Law is to:
- 2.1.1 Regulate and control the use of Council's Common Seal;
  - 2.1.2 Regulate the types of offences and penalties applicable at Council meetings; and
  - 2.1.3 Repeal Local Law No. 2 of 2019 – Council Meeting Procedures & Common Seal.

#### 3 Power for Making this Local Law

- This Local Law:
- 3.1 Is made under Section 14 of the 2020 Act, and Part 5, in particular Section 111(1) of the 1989 Act, and
  - 3.2 Was prepared following due consideration of the Charter of Human Rights and Responsibilities Act 2006.

#### 4 Revocation

- 4.1 Local Law No. 2 of 2019 – Council Meeting Procedures and Common Seal is revoked on the day this Local Law comes into operation, save that any notice or consent given or any business, matter or thing commenced, made or done under the repealed local law is not affected.

#### 5 Sunset Provision

- 5.1 This Local Law ceases to operate on the tenth anniversary of its commencement, unless earlier revoked.

#### 6 Commencement

- 6.1 This Local Law comes into operation on (date to be inserted) 2020.

#### 7 Definitions

Unless the contrary intention appears in this Local Law, the following words and phrases are defined to mean:

**'1989 Act'** means the *Local Government Act 1989*;

**'2020 Act'** means the *Local Government Act 2020*;

**'Chief Executive Officer'** means the Chief Executive Officer of Council, and includes a person acting as Chief Executive Officer;

**'clause'** means a clause of this Local Law;

**'Common Seal'** means the Common Seal of Council;

**'Council'** means the Surf Coast Shire Council;

**'Deputy Mayor'** means the Councillor appointed to the role of Deputy Mayor to represent the Mayor and act in the Mayor's role in the event of the Mayor's absence, and elected in accordance with the Governance Rules;

**'Mayor'** means the Mayor of Council and/or any person acting as Mayor;

**'offence'** means an act or default contrary to this Local Law;

**'penalty unit'** means penalty units as prescribed in the *Sentencing Act 1992*;

**'resolution'** means a formal determination by a meeting of Council or delegated committee;

**'written'** includes duplicated, photocopied, photographed, emailed, faxed, printed and typed.

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy

### PART 2 – COMMON SEAL

The purpose of this Part is to;

- regulate the use of the Common Seal, which is a device which formally and solemnly records the collective will of the Council; and
- prohibit the use of the Common Seal or any device resembling the Common Seal, as required by section 14 of the 2020 Act.

#### 8 Common Seal

- 8.1 The Council must authorise the use of the Common Seal by resolution.
- 8.2 The Common Seal and words to be used accompanying it on any document to which it is affixed are as follows:

The COMMON SEAL of SURF COAST )  
SHIRE COUNCIL was affixed in the ) [Affix common seal here]  
presence of: )

.....  
Chief Executive Officer

.....  
Mayor/Deputy Mayor

- 8.3 The Chief Executive Officer and, either the Mayor or Deputy Mayor, must sign every document to which the Common Seal is affixed.
- 8.4 The Common Seal may only be used to sign, seal, issue, revoke or cancel any notice, document, order or agreement pursuant to a decision of Council.
- 8.5 It is an offence for a person to use the Common Seal or any device or representation resembling the Common Seal without authority given by resolution of the Council.
- 8.6 In accordance with section 14(2)(b) of the 2020 Act, the Common Seal must be kept at the Council office.

## 1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy

### PART 3 – OFFENCES AND PENALTIES

#### 9 Offences

It is an offence at a meeting of the Council:

- 9.1 For a Councillor to not withdraw an expression which is considered by the Chair to be defamatory, indecent, abusive, offensive, disorderly or objectionable, and to not satisfactorily apologise when called upon twice by the Chair to do so.  
Infringement Notice Penalty: 2 units  
Penalty: 5 penalty units
- 9.2 For any person, not being a Councillor, who is guilty of any improper or disorderly conduct to not leave the meeting when requested by the Chair to do so.  
Infringement Notice Penalty: 2 units  
Penalty: 5 penalty units
- 9.3 For any person, not being a Councillor, who is guilty of any improper or disorderly conduct at the meeting.  
Infringement Notice Penalty: 2 units  
Penalty: 5 penalty units
- 9.4 For any person to fail to obey a direction of the Chair relating to the conduct of the meeting and the maintenance of order.  
Infringement Notice Penalty: 2 units  
Penalty: 5 Penalty Units
- 9.5 For a Councillor to refuse to leave the chamber on suspension.  
Infringement Notice Penalty: 2 units  
Penalty: 5 Penalty Units
- 9.6 For any person to use the Common Seal of Council or any device resembling the Common Seal without the authority of Council.  
Infringement Notice Penalty: 10 units  
Penalty: 20 penalty units

#### 10 Infringement Penalties

- 10.1 If an offence is committed against this Local Law, the Chair shall request the Chief Executive Officer to issue to the offender an infringement notice in a form approved by Council for the relevant number of penalty units as an alternative to a prosecution for the offence.
- 10.2 To avoid prosecution, a person to whom an infringement notice has been issued must pay to Council the amount specified in the notice within 28 days.
- 10.3 A person in receipt of an infringement notice is entitled to disregard the notice and defend a prosecution in court.

**1.2 Local Government Act 2020 - Governance Rules, Local Law No. 2 - Common Seal and Miscellaneous Penalties, and Public Transparency Policy**

This Local Law was made by resolution of the Surf Coast Shire Council on ..... 2020.

*The COMMON SEAL of SURF COAST )  
SHIRE COUNCIL was affixed in the ) [Affix common seal here]  
presence of: )*

.....  
*Chief Executive Officer*

.....  
*Mayor/Deputy Mayor*

**Close:** There being no further items of business the meeting closed at pm