



# **GOVERNANCE RULES**

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

Adopted by Council 23 August 2022

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## Introduction

These are the Governance Rules of Surf Coast Shire Council, made in accordance with section 60 of the *Local Government Act 2020* (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 the day following the date of adoption by Council.

## 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 in accordance with Rule 33;

**'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;

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

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

**'Council meeting'** means a meeting of the Council convened in accordance with these Governance Rules.

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

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

**'Delegated Committee Meeting'** means a meeting of a Delegated Committee convened in accordance with these Governance Rules.

**'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 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 a period of four consecutive months, that may be inclusive of any 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 Rule 35;

**'open to the public'** means:

- attendance in person by members of the public;
- a meeting that is broadcast live on Council's internet site or any other prescribed means of meeting; or
- In the case of Delegated Committee Meetings or Joint Delegated Committee Meetings only, a meeting that is recorded and published on the Internet site of the Council as soon as practicable after the meeting.

**'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;

**'Rule'** means a Rule within these Governance Rules;

**'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;

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

# Chapter 1

## INTRODUCTION

### 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 the 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 for Surf Coast Shire is made up of nine Councillors, who make decisions at Council and provide the strategic direction, policy guidance and resources through a suite of strategic documents including the Council Plan, Financial Plan and Asset Plan; and the organisation which carries out the day to day operations, consisting of employees led by the Chief Executive Officer (CEO) that implements the strategy and policy, provides professional advice to Councillors and reporting to Council on activities and outcomes.

The CEO will ensure the effective and efficient management of the day to day operations of the organisation, 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.

## **Part 2 – Decision Making**

### **1. Council decision making**

Council must consider, and make decisions on, any matter being considered by Council fairly and on its 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 to Council or a delegated member of Council staff, or to have a person speak on their behalf; and
- c) have their interests considered.

For the purposes of this Rule, 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 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.

#### **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 Rule 22 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.

# Chapter 2

## MEETINGS AND MEETING PROCEDURE

### Council Meetings

Council meetings are held regularly to conduct the ongoing business of the Council.

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 Act)*

1. *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 this Act and subject to the Governance Rules, the conduct of Council meetings is at the Council's discretion.*
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.*

### **ELECTION OF THE MAYOR & DEPUTY MAYOR**

#### **5. Procedure for Election of Mayor**

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

- 5.1 The meeting to elect the Mayor shall be held in accordance with the Act.
- 5.2 Subject to section 167 of the Act, any Councillor is eligible for election or re-election to the office of Mayor.
- 5.3 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.
- 5.4 The Chief Executive Officer shall be responsible for the counting of votes.
- 5.5 The Councillor who receives an absolute majority of votes cast must be declared elected.
- 5.6 For the purposes of this Rule the following will apply:
  - 5.6.1 Nominations must be moved and seconded;
  - 5.6.2 Where only one nomination is received, that Councillor must be declared elected; or
  - 5.6.3 Where there are more than two nominations received:
    - 5.6.3.1 The Councillor who receives an absolute majority at the first round of votes cast must be declared elected; or



- 5.6.3.2 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.
  - 5.6.3.3 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.
  - 5.6.3.4 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.
  - 5.6.3.5 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.
- 5.7 After the election of the Mayor is determined, the Mayor must take the Chair.

## **6 Procedure for Election of Deputy Mayor**

- 6.1 Where the Council has resolved to elect a Deputy Mayor the provisions contained in Rule 5 for the election of the Mayor will apply to the election of the Deputy Mayor save that the Mayor shall preside over the election.

## **7 Procedure for Appointment of an Acting Mayor**

- 7.1 If the Mayor for any reason is incapable of performing the duties of the office of the Mayor, including attending a Council meeting or part of a Council meeting, 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.
- 7.2 Any resolution to appoint an Acting Mayor must include the period for which that Councillor will be Acting Mayor.

## **GENERAL PROVISIONS**

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

## **8 Council Meeting Chair**

- 8.1 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, or in accordance with Rule 42.1.
- 8.2 In the absence of the Mayor, the Deputy Mayor shall take the chair.
- 8.3 In the absence of the Mayor and the Deputy Mayor, an Acting Mayor shall be appointed in accordance with Rule 7.

## **9 Chair's Duties & Responsibilities**

The Chair's duties and responsibilities are to:

- 9.1 Formally declare the meeting open, after ascertaining that a quorum is present and to welcome visitors;
- 9.2 At the start of each Council meeting, to recite the Pledge or allocate this role to another Councillor;
- 9.3 Preside over the meeting, conducting it impartially and according to these Governance Rules;
- 9.4 Present any reports for which they are responsible;
- 9.5 Ensure that debate is conducted in the correct manner;
- 9.6 Declare the results of all votes;
- 9.7 Give rulings on points of order and other questions of procedure;
- 9.8 Preserve order; and
- 9.9 Adjourn (when so resolved) or formally declare the meeting closed when all business has been concluded.

## **10 Quorum**

- 10.1 A quorum is an absolute majority.
- 10.2 In accordance with section 61(6A) of the Act, for the purposes of Council Meetings, a Councillor present by electronic means of communication is deemed present for the purposes of a quorum.
- 10.3 If a quorum is not present within 30 minutes of the time appointed for the commencement of a Council meeting:
  - 10.3.1 The meeting shall be deemed to have lapsed;
  - 10.3.2 The Mayor must convene another Council meeting and ensure that the agenda for the meeting which is deemed to have lapsed is addressed; and
  - 10.3.3 The Chief Executive Officer must give all Councillors notice of the meeting convened by the Mayor.
- 10.4 If a quorum cannot be maintained after a Council meeting has begun due to Councillors having to leave the meeting, the meeting lapses.
- 10.5 If the meeting lapses, the undisposed business must be included in the agenda for the next Council meeting.
- 10.6 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:
  - 10.6.1 Resolving to split the matter into two or more separate parts so that a quorum can be maintained; or
  - 10.6.2 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.
- 10.7 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:
  - 10.7.1 All the Councillors who have not disclosed a conflict of interest in regard to the matter; and
  - 10.7.2 Any other person or persons the Council considers suitable.

## **11 Attendance & Notice of Meetings**

- 11.1 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 via Council's website.
- 11.2 The dates, time and place for all Council meetings shall be fixed by Council resolution from time to time, with the exception of Council meetings not scheduled by Council resolution in accordance with Rule 14.
- 11.3 An electronic agenda will be delivered to Councillors at least 48 hours before a Council meeting.
- 11.4 Despite Rule 11.3, 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.
- 11.5 Members of the public will be requested to sign in before entering the meeting area.
- 11.6 In a circumstance under section 51.3 of the Governance Rules, the Chief Executive Officer is authorised to determine if a meeting of Council is to be conducted wholly by electronic means of communication and will provide reasonable notice to Councillors and the community,

## **12 Time Limit for Meetings**

- 12.1 Council meetings must conclude no later than 10:00pm unless a resolution is carried to extend the meeting.
- 12.2 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.
- 12.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place to be announced by the Chair.
- 12.4 No meeting is to exceed 11:00pm. If a meeting reaches 11:00pm, the Chair must adjourn the meeting.

- 12.5 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, and this information must be published on Council's website.

### **13 Recording of Minutes**

- 13.1 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;
  - the names of each Councillor and the way their vote was cast on each item, 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 for the purposes of determining the result of the vote;
  - 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.

### **14 Council Meetings not scheduled by Council resolution**

- 14.1 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 a Council meeting.
- 14.2 Where it is not possible for the procedure in Rule 14.1 to occur, such as during caretaker period, the Chief Executive Officer may call a Council Meeting at their discretion if it is considered that the matter cannot wait for the meeting to be called in accordance with Rule 14.1.
- 14.3 The notice must specify the date and time of the proposed meeting and the business to be transacted.
- 14.4 The notice must be presented to the Chief Executive Officer at least seven days prior to the meeting date. If the meeting is called under Rule 14.1, the Chief Executive Officer must sign all sections of the notice.
- 14.5 The Chief Executive Officer must call the Council meeting as specified in the notice.
- 14.6 Unless all the Councillors are present at the Council meeting and unanimously agree by resolution to deal with a matter that is not specified on the Council meeting notice, only the business specified is to be transacted.
- 14.7 The Chief Executive Officer must give notice to the public of any 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.

### **15 Special Council Meetings for Hearing Submissions**

- 15.1 Where a Council meeting is required to hear submissions, the Chief Executive Officer must call a Special Council Meeting for Hearing Submissions by preparing a written notice advising of a Special Council Meeting for Hearing Submissions.
- 15.2 Prior to preparing the notice, the Chief Executive Officer must consult with the Mayor as required under section 46(2)(d) of the Act.
- 15.3 The notice must specify the date and time of the proposed meeting and the matter(s) to be heard.
- 15.4 Unless all 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 notice, only the matters specified can be heard.
- 15.5 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.
- 15.6 The following procedures apply at Special Council Meetings for Hearing Submissions:
  - 15.6.1 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 submitter desires to speak at the Special Council Meeting for Hearing Submissions.
  - 15.6.2 Submitters will be allocated a maximum of 5 minutes to speak to their submission, with the exception of planning matters where the applicant will be allocated a maximum of 10 minutes.
  - 15.6.3 Speakers who have submitted a joint written submission must nominate a representative who will be allocated a maximum of 5 minutes to speak to the joint submission.
  - 15.6.4 If three or more submitters who made separate written submissions wish to speak to their submissions together, the speaking time will be capped at 15 minutes.
- 15.7 A submitter may nominate a representative to speak to their submission on their behalf, however Councillors cannot be nominated to speak on behalf of a submitter.
- 15.8 Requests for variations to the process outlined above shall be at the discretion of the Chair.

## **16 Joint Council Meetings**

- 16.1 Council may resolve to participate in a Joint Council meeting to consider:
  - 16.1.1 Matters subject to discussion of the G21 Alliance
  - 16.1.2 Collaborative projects
  - 16.1.3 Collaborative procurement
  - 16.1.4 Emergency Response.
- 16.2 If Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer will agree on Governance Rules with the participating Councils.
- 16.3 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.
- 16.4 At least three Councillors will be appointed to represent Council at a Joint Council meeting.
- 16.5 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.
- 16.6 A joint briefing arranged in accordance with Rule 16 may be held electronically.

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

- 17.1 Draft Minutes of the Council meeting shall be displayed on Council's website no later than 5 business days after the Council meeting.
- 17.2 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.
- 17.3 At the request of a member of the public, a printed copy or an electronic version of the minutes may be made available.

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

### **18 Conduct of Business**

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

### **19 Apologies**

- 19.1 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.
- 19.2 Apologies will be accepted by resolution of Council at the beginning of the meeting.

### **20 Confirmation of Minutes**

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

- 20.1 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.
- 20.2 If the minutes have not been delivered, Council may defer to the next Council meeting if considered appropriate, or where the Chair considers the minutes must be confirmed with urgency, they must be read and a motion must be put for the confirmation of the minutes.
- 20.3 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.
- 20.4 Any changes to the draft minutes must be updated on Council's website as soon as practicable.
- 20.5 Council meeting minutes from meetings that are open to the public will be confirmed in the open section of the agenda.
- 20.6 Council Meeting minutes from closed sections of Council meetings will be confirmed in the closed section of the meeting.

### **21 Councillors Seeking Leave**

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

- 21.1 Any Councillor seeking or requiring leave for a period of 4 consecutive months or greater from Council duties must 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 seek leave and the stated reason prior to the next available Council meeting.
- 21.2 A request for leave will be determined by resolution of Council granting or refusing the leave.
- 21.3 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.
- 21.4 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.

### **22 Public Question Time**

- 22.1 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 scheduled by Council resolution to enable members of the public to submit questions to Council.
- 22.2 Questions with notice must be submitted to Council in writing by 3:00pm on the day before 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, telephone and email contact details of the person submitting the question.
- 22.3 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.
- 22.4 In the event that a Council Meeting is held wholly by electronic means of communication (online), public questions that have been submitted in accordance with 22.2 and 22.5 will be read out and answered during public question time and recorded in the minutes.
- 22.5 Subject to Rule 22.4.1, no person may submit more than two questions at any one meeting.
- 22.5.1 At the discretion of the Chair, a person may ask an additional follow-up question to each Public Question to seek clarification on information provided in response to a Public Question with notice.
- 22.5.2 At the discretion of the Chair, a Councillor may ask a question through the Chair, for the purpose of clarification.
- 22.6 A question may be disallowed by the Chair if it is considered to:
- 22.6.1 Relate to a matter beyond the power or duties of Council;
- 22.6.2 Be defamatory, indecent, offensive, abusive, irrelevant, trivial or objectionable in language or nature;
- 22.6.3 Be confidential in nature or of legal significance;
- 22.6.4 Relate to a Council compliance or enforcement matter, or other legal proceeding;
- 22.6.5 Be generally repetitive of a question already answered (whether at the same or any earlier meeting);
- 22.6.6 Be aimed to embarrass a Councillor, Council staff, or other individuals, parties or government agencies;
- 22.6.7 Relate to personnel matters;
- 22.6.8 Relate to the personal hardship of any resident or ratepayer;
- 22.6.9 Relate to proposed developments or legal advice;
- 22.6.10 Relate to matters affecting the security of Council property;
- 22.6.11 Relate to any other matter which Council considers would prejudice the Council or any person; or
- 22.6.12 Be aimed to drawing opinions from Councillors about matters that will be considered at the meeting or a future meeting of Council.
- 22.7 All questions must be no greater than 200 words in length, inclusive of any supporting or contextual information.
- 22.8 All questions must be directed to Council as a whole and not to individual or specific Councillors, except at the discretion of the Chair where a question is related to a Councillor's area of representation (i.e if a question is related to Council involvement in a committee or organisation where an individual Councillor acts as Council's representative).
- 22.9 The Chair may answer a question or nominate a member of Council staff to briefly answer a question. Subject to Rule 22.8, Councillors, other than the Chair, will not answer any question relating to an item on the agenda.
- 22.10 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 business days.
- 22.11 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.
- 22.12 The question and the name and suburb of the person who asked the question shall be read out and recorded in the minutes.
- 22.13 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.
- 22.14 Questions where the person asking the question, or their proxy, is in the gallery at the time it is due to be read will be heard first. If time permits, questions received with notice where the person or their proxy is not present may also be read out by the Chief Executive Officer or another member of Council staff and responded to in accordance with these Rules.
- 22.15 If the question is not read at the meeting it will not be recorded in the minutes of the meeting.

- 22.16 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.
- 22.17 As an alternative to submitting a question with notice to Council under Rule 22.2, 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 other meeting held under the auspices of Council.
- 22.18 Any submission received in accordance with Rule 22.6 shall be made available to Councillors prior to the meeting in electronic format. These submissions will not be incorporated into the meeting minutes.

### **23 Petitions and Joint Letters**

- 23.1 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 10 business days before the meeting of Council.
- 23.2 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.
- 23.3 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.
- 23.4 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.
- 23.5 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 Rules 23.3 or 23.4.
- 23.6 The Chair may disallow any petition or joint letter which is considered to:
- 23.6.1 Relate to a matter beyond the power or duties of Council;
  - 23.6.2 Be defamatory, indecent, offensive, abusive, irrelevant, trivial or objectionable in language or nature;
  - 23.6.3 Be confidential in nature or of legal significance;
  - 23.6.4 Be repetitive of a question already answered (whether at the same or any earlier meeting);
  - 23.6.5 Be aimed to embarrass a Councillor, a member of Council staff, or other individuals, parties or government agencies;
  - 23.6.6 Relate to personnel matters;
  - 23.6.7 Relate to the personal hardship of any resident or ratepayer;
  - 23.6.8 Relate to proposed developments or legal advice;
  - 23.6.9 Relate to matters affecting the security of Council property;
  - 23.6.10 Relate to a matter which has already been acted on;
  - 23.6.11 Relate to any other matter which Council considers would prejudice the Council or any person; or
  - 23.6.12 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.
- 23.7 An officer report pertaining to any petition or joint letter may be required at a meeting of Council within three months of the date the petition was received (if the petition has not been dealt with in accordance with the provisions of Rule 23.3, 23.4 or 23.5).

### **24 Reports from Officers**

- 24.1 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.

### **25 Urgent Business**

- 25.1 Business must not be admitted as Urgent Business unless:
  - 25.1.1 It relates to or arises out of a matter which has arisen since distribution of the agenda;
  - 25.1.2 It cannot safely or conveniently be deferred until the next Council meeting; and
  - 25.1.3 The Council resolves to admit an item considered to be Urgent Business.
- 25.2 Items of Urgent Business are to be supported by an officer's report.
- 25.3 Notices of motion will not be admitted into Urgent Business and will be dealt with in accordance with Rule 35.

## **26 Meeting Closure to the Public**

*Pursuant to Section 66 of the Act.*

- 26.1 A Council meeting must be open to the public unless it meets the specified circumstances set out in section 66(2) of the Act.
- 26.2 If a meeting report contains confidential information as defined by section 3(1) of the Act, the meeting will be closed to the public in accordance with section 66(2)(a) of the Act while that agenda item is considered. The Chief Executive Officer must ensure that the report includes the grounds under 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.
- 26.3 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.
- 26.4 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.
- 26.5 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.
- 26.6 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.
- 26.7 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.
- 26.8 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.
- 26.9 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 specifying that all or part of the information is no longer confidential.
- 26.10 If an agenda item or resolution deemed to include confidential information is to be moved out of the closed part of the meeting:
  - 26.10.1 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
  - 26.10.2 Council must, by Council resolution, determine that the report or section of the report be included in the minutes of the meeting showing the Council decision that was made in the closed section of the meeting.

## **CONDUCT OF DEBATE AND RULES OF SPEAKING**

### **27 Addressing the Council Meeting**

- 27.1 Councillors and any other person addressing the Chair must refer to them as:



- 27.1.1 'Mayor'; or
- 27.1.2 'Mayor (Cr Surname)'; or
- 27.1.3 'Chair'; or
- 27.1.4 'Chair (Cr Surname)'; -  
as the case may be.
- 27.2 All Councillors other than the Mayor must be addressed as Councillor (surname).
- 27.3 All members of Council staff must be addressed as their position title followed by their surname as appropriate or simply by their official title.

## **28 Priority of Address**

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

## **29 Time Limits**

- 29.1 A Councillor must not speak longer than the time set out below, unless granted an extension by the Chair:
  - 29.1.1 The mover of a motion or an amendment: 5 minutes;
  - 29.1.2 Any other Councillor: 3 minutes; and
  - 29.1.3 The mover of a motion making a closing statement: 2 minutes.

## **30 Motions**

- 30.1 A motion must:
  - 30.1.1 Be within Council's power;
  - 30.1.2 Identify clear action/s required to be taken by Council if the motion is carried. This action may include that Council acts upon, refrains from acting upon, or notes a certain matter;
  - 30.1.3 Be in writing, if requested by the Chairperson;
  - 30.1.4 Except in the case of urgent business, be relevant to an item of business on the agenda; and
  - 30.1.5 Be moved and seconded, otherwise it lapses.
- 30.2 A motion must not contravene Rule 30.1 or be:
  - 30.2.1 Defamatory; or
  - 30.2.2 Objectionable in language or nature.
- 30.3 A motion can only be withdrawn by the mover.

## **31 Debate**

- 31.1 The Chair will summarise the applicable report upon reaching that agenda item during the meeting proceedings.
- 31.2 The Chair will call for a motion to be moved on the agenda item.
- 31.3 If there is no motion moved the item lapses.
- 31.4 If there is no seconder the motion lapses due to want of a seconder.
- 31.5 Debate can only commence once a motion has been moved and seconded.
- 31.6 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.
- 31.7 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 invite other Councillors to speak to the motion without requiring Councillors to identify their support for, or opposition to the motion.
- 31.8 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.
- 31.9 Each Councillor can only speak once to each motion, except for the mover who may make a closing statement immediately before the vote is taken.
- 31.10 Once the each Councillor has been given the opportunity to speak, and the mover has been given an opportunity to make a closing statement, the motion must be put to a vote.

- 31.11 The mover of a motion's right to make a closing statement is lost if an amendment to the motion is carried.
- 31.12 The mover of a motion must not introduce new material when making a closing statement.
- 31.13 If a motion on a matter which has a statutory requirement for an outcome to be reached is lost, or there is no outcome on the matter, the Chair must call for another motion.
- 31.14 If Council is unable to achieve a resolution on an agenda item, and the matter requires a resolution by law, a motion of deferral should be sought by the Chair, and that motion should state what Councillors will need in order to be able to achieve an outcome.
- 31.15 The Councillor acknowledged by the Chair to speak must not be interrupted unless:
  - 31.15.1 They are called to order; or
  - 31.15.2 Their speaking time has expired; or
  - 31.15.3 A point of order is raised; or
  - 31.15.4 A formal motion is moved.
- 31.16 If a Councillor is interrupted by the Chair or upon a point of order they must remain silent until the Chair has ceased speaking, and the point of order has been determined.
- 31.17 A Councillor must not digress from the subject matter of the motion or business under discussion.
- 31.18 Councillors must designate each other by their official titles during debate and throughout the meeting.

### **32 Seeking Clarification or Asking Questions of Officers**

- 32.1 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.
- 32.2 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 must be:
  - 32.2.1 Directed through the Chair;
  - 32.2.2 Relevant to an item on the agenda;
  - 32.2.3 Seeking genuine clarification of a matter that is not already addressed in the officer's report;
  - 32.2.4 Not objectionable in language, nature or tone;
  - 32.2.5 Not intended to draw officers into debating a matter or justifying a recommendation; and
  - 32.2.6 Not seeking re-iteration of an answer that was provided prior to the meeting;
  - 32.2.7 Not designed to canvass matters or disseminate information to the public.
- 32.3 Questions are not to be asked between moving and seconding a motion except to seek clarification on the motion received.

### **33 Amendments**

- 33.1 A motion, which has been moved and seconded, may be amended by leaving out, replacing or inserting words, which must be relevant to the subject of the motion.
- 33.2 An amendment to a motion must:
  - 33.2.1 Propose a substantially similar outcome to the motion upon which it is moved; and
  - 33.2.2 Be relevant to the motion upon which it is moved; and
  - 33.2.3 Not amount to a direct contradiction of the motion.
- 33.3 An amendment may be proposed or seconded by any Councillor, except the mover and seconder of the original motion.
- 33.4 A Councillor proposing an amendment must first present the amendment by stating which words are proposed to be left out, replaced or added, and then move the amendment without speaking to it.
- 33.5 A Councillor that proposes an amendment to a motion should present the amendment before they speak to the substantive motion.
- 33.6 Debate on the substantive motion ceases when an amendment to the motion is moved.
- 33.7 If a Councillor proposes an amendment, and the original mover and seconder of the motion both indicate their agreement with the amendment, the amended motion becomes the substantive motion without debate or vote. An agreement by the mover and seconder to amend a substantive motion must occur before the mover, seconder or any Councillor speaks to the

substantive motion. The Councillor proposing the amendment cannot speak to the proposed amendment when seeking the agreement of the mover and seconder.

- 33.8 If a Councillor proposes an amendment to which either the mover or seconder of the substantive motion does not agree, the following will apply:
  - 33.8.1 The amendment must be moved and seconded. If the amendment is not seconded, the amendment lapses due to want of a seconder and is not recorded in the minutes. If the amendment lapses then debate on the substantive motion is to resume from the point at which it ceased.
  - 33.8.2 Debate on the amendment to the motion must follow the rules set out in Rule 31, with the exception that the mover of an amendment does not have right to make a closing statement.
  - 33.8.3 A Councillor may speak on any amendment once, whether or not he or she has spoken to the motion, but debate must be confined to the terms of the amendment;
  - 33.8.4 Only one amendment to a motion may be accepted by the Chairperson at any one time. No second or subsequent amendment to the motion may be taken into consideration until the previous amendment has been dealt with and voted on.
  - 33.8.5 A single Councillor can't propose more than two amendments to a motion about the one item in the Agenda;
  - 33.8.6 If the amendment is carried, the motion as amended then becomes the motion before the meeting (known as the 'substantive motion') and debate resumes on the substantive motion.

#### **34 Foreshadowed Motions**

- 34.1 A Councillor may foreshadow a motion that the Councillor intends to move after the motion under consideration has been dealt with.
- 34.2 A Councillor may foreshadow a motion when they are speaking to the substantive motion before Council, or advise the Chair that they wish to foreshadow a motion at another time during the debate between other Councillors speaking to the motion.
- 34.3 When foreshadowing a motion, a Councillor should briefly state the nature of the foreshadowed motion but not speak to the foreshadowed motion.
- 34.4 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 Rule 27.
- 34.5 Unless a foreshadowed motion becomes a substantive motion, it will not be recorded in the meeting minutes.

#### **35 Notices of Motion**

- 35.1 A Councillor can submit to the Chief Executive Officer a Notice of Motion for inclusion in the Agenda for a Meeting.
- 35.2 A Notice of Motion must:
  - 35.2.1 Be in writing (including by electronic means), signed by two Councillors who support the inclusion of the notice in the Council meeting agenda, and be lodged with the Chief Executive Officer no later than 12 noon 10 business days before the meeting at which it is intended to be considered to ensure its inclusion in the Agenda.
  - 35.2.2 Briefly explain the rationale for the proposed motion or attach supporting documentation for the motion, but must not be more than 500 words inclusive of the proposed motion; and
  - 35.2.3 Be lodged in the format provided for this purpose as appearing in Schedule B of these Governance Rules.
- 35.3 A Notice of Motion must relate to the objectives, role and functions of Council as outlined in the Act.
- 35.4 The Chief Executive Officer may suggest revised wording to the draft Notice of Motion to facilitate compliance with the requirements for Notices of Motion under these Governance Rules.
- 35.5 The Chief Executive Officer must reject any Notice of Motion which:
  - 35.5.1 Is too vague;
  - 35.5.2 Is defamatory;
  - 35.5.3 May be prejudicial to any person or Council;
  - 35.5.4 Is objectionable in language or nature;
  - 35.5.5 Is outside the powers of Council;

- 35.5.6 Is submitted during Election Period.
- 35.6 The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the Agenda and outline the policy, financial and resourcing implications if the Notice of Motion is passed.
- 35.7 To assist Councillors to make an informed decision regarding the proposed motion, the Chief Executive Officer will include written assessment in the agenda for the meeting where the motion is to be considered. The written assessment will not include a recommendation, but will briefly identify:
- 35.7.1 Impacts to the levels of Council service;
  - 35.7.2 Expenditure where this is not already included in the adopted Council Budget;
  - 35.7.3 Proposals to establish, amend or extend Council policy;
  - 35.7.4 Proposals that impact the rights of any person who has not had the opportunity to contribute their views;
  - 35.7.5 Proposals that commit Council to any contractual arrangement; or
  - 35.7.6 Matters relating to any litigation or legal process in respect of which Council is a party.
- 35.8 The Chief Executive Officer may reject a proposed Notice of Motion that;
- 35.8.1 Relates to a matter that can be addressed through the operational service request process; or
  - 35.8.2 Relates to a matter that has been previously resolved by Council or is acted upon.
- 35.9 If rejecting a Notice of Motion, the Chief Executive Officer must inform the Councillor who lodged it of that rejection and the reasons for the rejection no later than nine business days before the Meeting at which it is intended to be considered. The Councillor may submit a revised motion within 24 hours.
- 35.10 The Chief Executive Officer may designate a Notice of Motion to be confidential in accordance with relevant grounds as contained in the Act, in which case, the Notice of Motion will be considered in the part of the relevant Council Meeting that is closed to members of the public.
- 35.11 The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the Notice of Motion being published in the Agenda for the relevant Council Meeting.
- 35.12 The Chief Executive Officer must cause all Notices of Motion to be sequentially numbered, dated and entered in a register.
- 35.13 Unless Council resolves otherwise, each Notice of Motion must be considered in the order in which they were received.
- 35.14 The motion moved must not be different to the motion published in the Agenda, however, may be amended by resolution of the Council in accordance with Rule 33.
- 35.15 If a Councillor who has lodged a Notice of Motion is absent from the meeting or fails to move the motion when called upon by the Chair to do so, any other Councillor may move the motion.
- 35.16 If a Notice of Motion is not moved and seconded at the Council Meeting at which it is listed, it lapses.

## **36 Rescission or Amendment Notice of Motion**

- 36.1 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.
- 36.2 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.
- 36.3 No action will be taken to implement a resolution on which a notice to rescind or amend the resolution has been given pursuant to Rule 36.1.
- 36.4 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.
- 36.5 A Councillor may not propose a motion to rescind or amend a resolution of the Council which has been acted upon.
- 36.6 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.

- 36.7 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.

### **37 Points of Order**

- 37.1 A point of order is an objection that the motion, amendment, statement made or Chair's ruling is:
- 37.1.1 Contrary to these Governance Rules;
  - 37.1.2 Defamatory;
  - 37.1.3 Irrelevant;
  - 37.1.4 Improper; or
  - 37.1.5 Inconsistent with the Councillor Code of Conduct; or
  - 37.1.6 Outside Council's legal powers
- and may be made despite the fact that the Councillor or Chair is speaking at the time.
- 37.2 A point of order must be taken by stating:
- 37.2.1 The matter complained of; and
  - 37.2.2 The reason constituting the point of order.
- 37.3 The Chair may raise a point of order without it having been made by a Councillor.
- 37.4 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.
- 37.5 The Chair may adjourn the meeting to consider a point of order but must otherwise rule upon it as soon as it is taken.
- 37.6 The Chair must, when ruling on a point of order, give reasons for the ruling.
- 37.7 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.
- 37.8 A motion of dissent must state the provision or practice in substitution for the Chair's ruling.
- 37.9 A motion of dissent that is carried must be acted upon by the Chair.
- 37.10 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.
- 37.11 The Chair is not required to vacate the chair.

### **38 Procedural Motions**

- 38.1 A procedural motion may be moved at any time during a meeting and must be immediately dealt with.
- 38.2 A procedural motion may be refused by the Chair.
- 38.3 A procedural motion requires a seconder.
- 38.4 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.
- 38.5 A Councillor may move a procedural motion that:
- 38.5.1 'a report/document be tabled';
  - 38.5.2 'the Agenda item/s be moved forward';
  - 38.5.3 'the motion be put';
  - 38.5.4 'that a substantive motion be voted on in separate parts';
  - 38.5.5 'the matter be laid on the table';
  - 38.5.6 'the matter be taken from the table';
  - 38.5.7 'the meeting be adjourned';
  - 38.5.8 'standing orders be suspended';
  - 38.5.9 'standing orders be resumed';
  - 38.5.10 'the meeting be closed to the public';
  - 38.5.11 'the meeting be reopened to the public';
  - 38.5.12 'the Chair's ruling be dissented from';
  - 38.5.13 'the debate on the matter be deferred'- which are outlined further in Schedule D.

### **39 Repeating Motion or Amendment**

- 39.1 Before any matter is put to the vote, a Councillor may request that the motion or amendment be read again.
- 39.2 The Chair without being so requested may direct the Councillor moving the motion or amendment, or 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.

#### **40 Voting**

- 40.1 Each Councillor present at a Council meeting who is entitled to vote is entitled to one vote.
- 40.2 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.
- 40.3 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.
- 40.4 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.
- 40.5 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.
- 40.6 Voting must be by a show of hands, unless otherwise determined by Council.
- 40.7 Councillors must remain seated in silence while a vote is being taken.
- 40.8 The Chair may direct that the vote be recounted as often as may be necessary to satisfy themselves of the result.
- 40.9 On motions containing multiple items which can feasibly be implemented separately, these items may be voted upon separately after having been debated as a whole.

#### **41 Suspension of Standing Orders**

- 41.1 The provisions of these meeting procedures, except the quorum requirements applying under Rule 10, 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.
- 41.2 During a suspension of standing orders, Councillors are not to discuss the issue or seek to reach agreement outside a formal debate.
- 41.3 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.
- 41.4 Resumption of standing orders should occur as soon as possible.

#### **42 The Chair's Right to Speak**

- 42.1 If the Chair wishes to address a meeting upon any matter under discussion, the Chair must leave the Chair and speak in their capacity as Councillor.

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

- 43.1 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.

#### **44 Ordering Withdrawal of Remark**

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

#### **45 Adjournment & Resumption of Adjourned Debate**

- 45.1 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.
- 45.2 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.
- 45.3 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.
- 45.4 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.
- 45.5 Except for meetings adjourned to a later time on the same day, the day and time for which the meeting is to resume should be published on Council's website.

## **46 Suspensions**

- 46.1 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.
- 46.2 Subject to Rule 46.1, where seeking a Council resolution is not feasible, 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.

## **47 The Chair may Adjourn Disorderly Meeting**

- 47.1 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.

## **48 Public Behaviour**

- 48.1 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.

## **49 Removal from Chamber or Meeting Room**

- 49.1 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.

## **50 Recording of Proceedings**

- 50.1 Council will record the proceedings at each Council meeting, unless there is a specific resolution not to do so, and may livestream open Council meetings. This will take whatever form the Council has decided.
- 50.2 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.
- 50.3 Council will make the recordings of open Council meetings subsequently available to the public.

## **51 Mode of Attendance**

- 51.1 Each notice of meeting must indicate whether the relevant Council meeting is to be conducted:
- 51.1.1 wholly in person;
  - 51.1.2 wholly by electronic means; or
  - 51.1.3 partially in person and partially by electronic means.
- 51.2 The indication in the notice of meeting must be consistent with any Resolution of Council that has expressed a preference for, or otherwise specified, when Council meetings are to be conducted:
- 51.2.1 wholly in person;
  - 51.2.2 wholly by electronic means; or
  - 51.2.3 partially in person and partially by electronic means.
- 51.3 Despite anything in these Rules, the Chief Executive Officer may determine that a meeting be conducted wholly by electronic means of communication, with consideration to the following, but not limited to, factors;
- 51.3.1 Any health or safety risk to Councillors, staff and the community;
  - 51.3.2 The majority of Councillors have requested to participate by electronic means of communication;
  - 51.3.3 Any other extraordinary circumstances deemed appropriate by the Chief Executive Officer.
- 51.4 If a Council meeting is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.
- 51.5 Any request made under sub-Rule 51.4 must:
- 51.5.1 be in writing;
  - 51.5.2 be given to the Chief Executive Officer no later than 6 hours prior to the commencement of the relevant Council meeting; and
  - 51.5.3 specify the reasons why the Councillor is unable or does not wish to attend the Council meeting in person.
  - 51.5.4 requests to participate by electronic means of communication must be on a per meeting basis.
- 51.6 The Chief Executive Officer must ensure that any request received in accordance with sub-Rule 51.5 and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant Council meeting.
- 51.7 The Chief Executive Officer may approve and must not unreasonably refuse any request received in accordance with Rule 51.4.



- 51.8 A Councillor who is attending a Council meeting by electronic means is responsible for ensuring that they are able to access such equipment and are present in such an environment that facilitates participation in the Council meeting.
- 51.9 Without detracting from anything said in sub-Rule 551.88, a Councillor who is attending a meeting by electronic means must be able to:
- 51.9.1 hear the proceedings;
  - 51.9.2 see all Councillors and members of Council staff who are also attending the Council meeting, at least while a Councillor or member of Council staff is speaking;
  - 51.9.3 be seen by all Councillors, members of Council staff and members of the public who are physically present at the Council meeting; and be heard when they speak.
- 51.10 If the conditions of sub-Rule 551.9 cannot be met by one or more Councillors attending a Council meeting, whether because of technical difficulties or otherwise:
- 51.10.1 the Council meeting will nonetheless proceed as long as a quorum is present; and
  - 51.10.2 the relevant Councillor (or Councillors) will be treated as being absent from the Council meeting or that part of the Council meeting unless the Council meeting has been adjourned in accordance with these Rules.
- 51.11 Nothing in this Rule 51 prevents a Councillor from joining or (re-joining) a Council meeting at the time that they achieve compliance with sub-Rule 551.9 even if the Council meeting has already commenced or has continued in their absence.

## **52 Meetings Conducted Remotely**

- 52.1 If a Council meeting is conducted wholly or partially by electronic means, the Chair may, with the consent of the meeting, modify the application of any of these Rules to facilitate the more efficient and effective transaction of the business of the meeting.
- 52.2 If the Live Stream is disrupted during a Council Meeting that is being conducted wholly by electronic means of communication, the meeting will adjourned for up to 30 minutes. If the technical matter cannot be resolved within 30 minutes, the meeting will be adjourned to a date and time nominated by the Chief Executive Officer.

## **PART 2 – Delegated Committees**

### *Pursuant to section 63 of the Act*

A Delegated Committee is formed by a Council by 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 –DELEGATED COMMITTEES**

### **53 Establishment**

- 51.1 A Delegated Committee can only be established by resolution of Council.
- 51.2 The resolution must include the date from which the Committee will be enacted, and the date it is to be disbanded.
- 51.3 Any extension to the term of a Delegated Committee must be by resolution of Council.
- 51.4 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.
- 51.5 A Delegated Committee must report the minutes of all Committee meetings to the next practicable Council meeting.
- 51.6 A Delegated Committee must act in accordance with its Instrument of Delegation and any Terms of Reference adopted by Council.

### **54 Membership**

- 54.1 Appointment to a Delegated Committee is to be by resolution of Council.
- 54.2 A Councillor must be appointed the position of Chair of a Delegated Committee.
- 54.3 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.
- 54.4 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.

### **55 Quorum**

- 55.1 A quorum is an absolute majority, and must include one Councillor chairing the meeting.
- 55.2 If a quorum is not present within 30 minutes of the time appointed for the commencement of a Committee meeting:
- 55.2.1 The meeting shall be deemed to have lapsed;
  - 55.2.2 The Chair must convene another committee meeting and ensure that the agenda for the meeting which is deemed to have lapsed is addressed; and
  - 55.2.3 Notice of the new meeting convened by the Chair must be provided to committee members as soon as is practicable.
- 55.3 If a quorum cannot be maintained after a meeting has begun the meeting lapses.
- 55.4 If the meeting lapses, the undisposed business must be included in the agenda for the next committee meeting.

- 55.5 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.

## **56 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.

## **57 Voting**

- 57.1 Voting at meetings of a Delegated Committee is to be in accordance with Rule 40 of these Governance Rules, and section 61 of the Act.

## **58 Meeting closure to the public**

- 58.1 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.
- 58.2 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.
- 58.3 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.
- 58.4 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.
- 58.5 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.
- 58.6 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.
- 58.7 The time of any resolution to close a meeting to the public must be recorded in the minutes of the meeting.
- 58.8 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.
- 58.9 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.
- 58.10 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.
- 58.11 If an agenda item or resolution deemed to include confidential information is to be moved out of the closed part of the meeting:
- 58.11.1 Committee must, by resolution, determine to move all or a specified part of the item or items into the open committee meeting; and/or
- 58.11.2 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.

### ***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 applicable Rules within these Governance Rules apply.

## **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.*

### **59 Establishment**

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

### **60 Membership**

- 60.1 Appointment to a Community Asset Committee is to be by resolution of Council.
- 60.2 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.

### **61 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.

# Chapter 3

## CONFLICTS OF INTEREST

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.

## **62 Councillor, committee member and Council officer obligations**

- 62.1 Councillors, committee members and Council officers are required to:
  - 62.1.1 Avoid all situations which may give rise to conflicts of interest;
  - 62.1.2 Identify any conflict of interest; and
  - 62.1.3 Disclose any conflict of interest.

## **63 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**

- 63.1 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 Rule 61.2, and if applicable, Rule 61.3.
- 63.2 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:
  - 63.2.1 The Council or Delegated Committee at the commencement of the meeting, and again immediately before the matter is considered at the meeting; or
  - 63.2.2 The Chief Executive Officer in writing before the meeting (subject to Rule 61.3.1)-whether the interest is a general conflict of interest or a material conflict of interest, and the nature of the interest.
- 63.3 If the Councillor or member advised the Chief Executive Officer of the details under Rule 61.2.2, 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.
  - 63.3.1 A Councillor may only disclose a conflict under Rule 61.2.2 in circumstances where the disclosure of the nature of the interest would be reasonably likely to place the personal safety of any person at risk, or unreasonably expose a business, commercial or financial undertaking to disadvantage.
- 63.4 The Chief Executive Officer must:
  - 63.4.1 Keep written disclosures received under this section 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
  - 63.4.2 Destroy the written disclosure when the 3 year period referred to in 61.4.1 has expired.
- 63.5 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:
  - 63.5.1 Leave the meeting and notify the Mayor or the Chairperson of the Delegated Committee of their departure; and
  - 63.5.2 Remain outside the room and any gallery or other area in view or hearing of the meeting.
- 63.6 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:
  - 63.6.1 Consideration of the matter; and
  - 63.6.2 All votes have been cast on the matter.
- 63.7 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:
  - 63.7.1 The declaration of the conflict of interest; and
  - 63.7.2 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.

#### **64 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**

- 64.1 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—
- the names of all Councillors and members of Council staff attending;
  - the matters considered;
  - any conflict of interest disclosures made by a Councillor attending under Rule 61.3;
  - whether a Councillor who has disclosed a conflict of interest as required by Rule 61.3 leaves the meeting.
- 64.2 The Chief Executive Officer must ensure that the written record of a meeting held under this section is, as soon as practicable:
- 64.2.1 Reported at a meeting of the Council; and
  - 64.2.2 Incorporated in the minutes of that Council meeting.
- 64.3 If a Councillor attending a meeting held under this section 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 Rule 61.2, disclose to the meeting that they have a conflict of interest and leave the meeting whilst the matter is being considered by the meeting.
- 64.4 A Councillor must disclose the conflict of interest either:
- 64.4.1 Immediately before the matter in relation to which the Councillor has a conflict of interest is considered; or
  - 64.4.2 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.

#### **65 Disclosure of a conflict of interest by a member of Council staff (including under Council's Financial Delegations)**

- 65.1 A member of Council staff who has a conflict of interests in relation to:
- a) information to be provided as described in Rule 63.3 of this section; or
  - b) a power, duty or function to be exercised in accordance with Rule 63.5 of this section
- should, wherever possible, declare the conflict and avoid involvement in the matter.
- 65.2 Where the action described in Rule 63.1 is not possible, the measures described in Rules 63.3-63.6 must be applied.
- 65.3 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).
- 65.4 A disclosure made by a person under Rule 63.3 must be recorded:
- a) in the minutes of the applicable meeting referred to in paragraph (a) of Rule 63.3; 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).
- 65.5 A member of Council staff who has a conflict of interest in a matter in which they also have a statutory or delegated power, duty or function must—
- a) not exercise the power or discharge the duty or function;
  - 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.
- 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.

63.6 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.

# 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.

## **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.

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.

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.

# 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

# Schedule A

## SCHEDULE A – PUBLIC QUESTION TIME FORM



Public questions will be considered by Council at an ordinary Council meeting subject to receipt by | 3:00pm on the day before the meeting. Questions can be submitted using the online form on Council's website, or 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 3:00pm on the day before the meeting) will be addressed in accordance with rule 22 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.*

# Schedule B

## SCHEDULE B - NOTICE OF MOTION



*This form lodges a notice of intention to move a motion in accordance with rule 35 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 Council Meeting to be held on \_\_\_\_\_, namely:  
*(Insert wording of motion)*

### Rationale

<i>(To be signed by Councillor lodging this notice and one other Surf Coast Shire Councillor)</i>	
_____	_____
COUNCILLOR	COUNCILLOR

*Chief Executive Officer to complete*

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

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



# Schedule C

## 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 rule 36 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)*

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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)*

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*(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

## Schedule D

### Procedural Motions

Motion	When prohibited	If Carried	Debate
'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 substantive motion be voted on in separate parts'	When the motion cannot be separated into parts which can feasibly be implemented without reliance on the rest of the motion.	The motion is separated into parts at the chairs discretion. The motion will be debated as a whole, but will be voted on in the separated parts.	
'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 Rule 41 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.	Yes

