

Mansfield Shire Council

# Governance Rules

2022



Mansfield Shire

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## Introduction

### 1. Nature of Rules

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

*Council* recognises that integrity, transparency and accountability to the community are of fundamental importance in all of its undertakings.

In accordance with s60(2) of the *Act*, the purpose of these *Rules* is to ensure that *Council's* governance practices:

- ▶ Are undertaken in a fair, transparent, orderly and consistent manner;
- ▶ Are conducted in accordance with relevant laws;
- ▶ Withstand scrutiny;
- ▶ Provide means for inappropriate behaviours to be identified and addressed;
- ▶ Promote good community engagement;
- ▶ Promote adherence to the overarching governance principles of the *Act*.

*Council* must, in the performance of its role, give effect to the overarching governance principles outlined in the *Act*. These principles are:

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

### 2. Date of Commencement

These Governance Rules commence on 1 September 2022.

### 3. Contents

These Governance Rules are divided into the following Chapters:

Chapter	Name
Chapter 1	Governance Framework
Chapter 2	Meeting Procedure for Council meetings
Chapter 3	Meeting Procedure for Delegated Committees
Chapter 4	Meeting Procedure for Community Asset Committees
Chapter 5	Disclosure of Conflicts of Interest
Chapter 6	Miscellaneous
Chapter 7	Election Period Policy

### 4. Definitions

In these Governance Rules, unless the context suggests otherwise the following words and phrases mean:

<i>Act</i>	means the <i>Local Government Act 2020</i> .
<i>Attend, attending and in attendance</i>	include <i>attend, attending</i> or <i>in attendance</i> by electronic means.
<i>Chief Executive Officer</i>	includes an <i>Acting Chief Executive Officer</i> .
<i>Community Asset Committee</i>	means a <i>Community Asset Committee</i> established under section 65 of the <i>Act</i> .
<i>Council</i>	means Mansfield Shire Council.
<i>Council meeting</i>	has the same meaning as in the <i>Act</i> .
<i>Delegated Committee</i>	means a <i>Delegated Committee</i> established under section 63 of the <i>Act</i> .
<i>General conflict of Interest</i>	means a <i>general conflict of interest</i> as defined within section 127 of the <i>Act</i> which states that a relevant person has a <i>general conflict of interest</i> 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
<i>Material conflict of interest</i>	means a <i>material conflict of interest</i> as defined within section 128 of the <i>Act</i> which states that a relevant person has a <i>material conflict of interest</i> in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.
<i>Mayor</i>	means the <i>Mayor of Council</i> .
<i>these Rules</i>	means these Governance Rules.

## Chapter 1 – Governance Framework

### 1. Context

These *Rules* should be read in the context of and in conjunction with the overarching governance principles specified in section 9(2) of the *Act*, and the following documents adopted or approved by *Council*:

- ▶ *Councillor Code of Conduct*
- ▶ Risk Management Framework
- ▶ *Council Policies*

### 2. Decision Making

2.1 In any matter in which a decision must be made by *Council* (including persons acting with the *delegated* authority of *Council*), *Council* must consider the matter and make a decision:

- i. fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
- ii. on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations

2.2 *Council* must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of *Council* is entitled to communicate their views and have their interests considered).

2.3 Without limiting anything in paragraph (b) of this sub-rule:

- i. before making a decision that will directly affect the rights of a person, *Council* (including any person acting with the *delegated* authority of *Council*) must identify the person or persons whose rights will be directly affected, give notice of the decision which *Council* must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made;
- ii. if a report to be considered at a *Council* meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;
- iii. if a report to be considered at a *Delegated Committee meeting* concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
- iv. if a member of *Council* staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of *Council* staff must, when making that decision, complete a *Delegate Report* that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

## **Chapter 2 – Meeting Procedure for Council meetings**

### **Part A – Introduction**

#### **1. Title**

This Chapter will be known as the "Meeting Procedure Chapter".

#### **2. Purpose of this Chapter**

The purpose of this Chapter is to:

- ▶ Provide for the election of the *Mayor* and any *Deputy Mayor*;
- ▶ Provide for the appointment of any *Acting Mayor*; and
- ▶ Provide for the procedures governing the conduct of *Council meetings*.

#### **3. Definitions and Notes**

3.1 In this Chapter:

- ▶ *Act* means the *Local Government Act 2020*;
- ▶ *Advisory committee* means a committee established by the *Council*, that provides advice to —
  - a) the *Council*; or
  - b) a member of *Council* staff who has been *delegated* a power, duty or function of the *Council*; that is not a *Delegated Committee*;
- ▶ *Agenda* means a document containing the date, time and place of a meeting and a list of business to be transacted at the meeting;
- ▶ *Agreement of Council* means indicative agreement of all of the *Councillors* present, without a vote being conducted. In the event there is any uncertainty about majority of *Councillors* agreeing, the matter may be put to a vote;
- ▶ *Authorised Officer* has the same meaning as in the 1989 *Act* or any other *Act*;
- ▶ *Chair* means the Chairperson of a *Meeting* and includes any *Councillor* who is appointed by resolution to *Chair* the meeting under section 61(3) of the *Act* and includes an acting, temporary and substitute Chairperson;
- ▶ *Chamber* means any room where the *Council* holds a *Council meeting*;
- ▶ *Chief Executive Officer* means the person occupying the office of *Chief Executive Officer* of *Council* and includes a person acting in that office;
- ▶ *Committee meeting* means a meeting of a *Delegated Committee*;
- ▶ *Common seal* means the *common seal* of *Council*;
- ▶ *Council* means Mansfield Shire Council;
- ▶ *Councillor* means a Councillor of *Council*;
- ▶ *Code of conduct* has the same meaning as in the *Act*;
- ▶ *Council meeting* means a meeting of the *Council* convened in accordance with these



Governance Rules and includes a scheduled *meeting* and *unscheduled meeting*;

- ▶ *Delegate* means a *member* of *Council* staff to whom powers, functions and duties have been *delegated* by an instrument of delegation;
- ▶ *Delegated Committee* has the same meaning as in the *Act*;
- ▶ *Delegated Committee meeting* means a *meeting* of a *Delegated Committee*;
- ▶ *Deputy Mayor* means the *Deputy Mayor* of *Council* and any person appointed by *Council* to *Act as Deputy Mayor*;
- ▶ *Disorder* means any *disorderly* conduct of a member of the Gallery or a *Councillor* and includes:
  - interjecting when another person is speaking, except, in the case of where a *Councillor* is raising a *Point of Order*;
  - making comments that are defamatory, malicious, abusive or offensive;
  - refusing to leave the *Meeting* when requested, ordered or directed to do so by the *Chairperson* in accordance with the *Act* and the Governance Rules; and
  - engaging in any other conduct which prevents the orderly conduct of the *meeting*;
- ▶ *Foreshadowed item* means a matter raised in the relevant section of the *Council meeting* that a *Councillor* intends to submit a *Notice of motion* for the next *Council meeting*;
- ▶ *Majority of the Votes* means a majority of *Councillors* present at the time of a vote voting in favour of a matter;
- ▶ *Mayor* means the *Mayor* of *Council* and any person appointed by *Council* to be acting as *Mayor*;
- ▶ *Meeting* means a *Council meeting* or a *Delegated Committee meeting*;
- ▶ *Member* means a *member* of any committee to which these governance *rules* apply;
- ▶ *Minister* means the Minister for Local Government;
- ▶ *Minute book* means the collective record of proceedings of *Council*;
- ▶ *Minutes* means the official record of the proceedings and decisions of a *Meeting*;
- ▶ *Motion* means a proposal framed in a way that will result in the opinion of *Council* being expressed, and a *Council* decision being made, if the proposal is adopted;
- ▶ *Municipal district* means the *Municipal district* of *Council*;
- ▶ *Notice of motion* means a notice setting out the text of a *motion* which a *Councillor* proposes to move at a *Council meeting*;
- ▶ *Notice of rescission* means a *Notice of motion* to rescind a resolution made by *Council*;
- ▶ *On notice* means held or deferred to enable preparation of a response;
- ▶ *Point of Order* means a procedural point (about how the *Meeting* is being conducted), not involving the substance of a matter before a *Meeting*;
- ▶ *Procedural Motion* means a *Motion* that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure;

- ▶ *Rule or Sub-rule* means a *rule* or *sub-rule* included in these *Governance Rules*;
  - ▶ *Urgent business* means a matter that relates to or arises out of a matter which has arisen since distribution of the *agenda* and cannot safely or conveniently be deferred until the next *meeting*;
  - ▶ *Unscheduled meeting* means a *meeting* of the *Council* convened for a particular purpose that cannot be effectively dealt with in the schedule of *Ordinary Council meetings* set by *Council*;
- ▶ *Written* includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form, and writing has a corresponding meaning.

3.2 Introductions to Parts, headings and notes are explanatory notes and do not form part of this Chapter. They are provided to assist understanding.

## **Part B – Election of Mayor**

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

### **4. Election of the Mayor s25**

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

### **5. Method of Voting**

The election of the *Mayor* must be carried out by a show of hands or such other visual or audible means as the *Chief Executive Officer* determines.

### **6. Determining the Election of the Mayor**

- 6.1 The *Chief Executive Officer* must open the *meeting* at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- 6.2 Any nominations for the office of *Mayor* must be:
  - 6.2.1 in a form prescribed by the *Chief Executive Officer*; and
  - 6.2.2 seconded by another *Councillor*.
- 6.3 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:

#### ***Single Nomination***

- 6.4 If there is only one nomination, the candidate nominated must be declared to be duly elected;

#### ***Multiple Nominations and Candidate Elected on First Vote***

- 6.5 If there is more than one nomination, the *Councillors* in *attendance* at the *meeting* must vote for one of the candidates;
- 6.6 In the event of a candidate receiving the votes of an absolute majority of *Councillors*, that candidate is declared to have been elected;

***Three or More Nominations and No Candidate Obtaining Absolute Majority on First Vote***

- 6.7 In the event that:
- 6.7.1 there are three or more candidates;
  - 6.7.2 no candidate receives the votes of an absolute majority of *Councillors*; and
  - 6.7.3 it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The *Councillors* in *attendance* at the *meeting* will then vote for one of the remaining candidates;
- 6.8 If one of the remaining candidates receives the votes of an absolute majority of *Councillors* votes, that candidate is duly elected. If none of the remaining candidates receives the votes of an absolute majority of *Councillors* and it is not resolved to conduct a new election at a later day and time, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives the votes of an absolute majority of *Councillors*. That candidate must then be declared to have been duly elected;
- 6.9 For the purposes of *sub -rule* s 6.7 and 6.8 if no candidate can be determined to have the fewest number of votes due to two or more candidates having an equality of votes then the candidate who is to be declared a defeated candidate will be determined by lot.
- a) *a defeated candidate*; and
  - b) *duly elected*
- the declaration will be determined by lot.
- 6.10 If a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
- 6.10.1 each candidate who has an equal number of votes with another candidate or candidates will draw one lot;
  - 6.10.2 the order of drawing lots will be determined by the alphabetical order of the surnames of the *Councillors* who received an equal number of votes except that if two or more such *Councillors*' surnames are identical, the order will be determined by the alphabetical order of the *Councillors*' first names; and
  - 6.10.3 as many identical pieces of paper as there are *Councillors* who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be *written* on one of the pieces of paper, and the *Councillor* who draws the paper with the word "Defeated" *written* on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates until one of those candidates receives the votes of an absolute majority of *Councillors*).

***Two Nominations or Two Remaining Candidates and No Candidate Obtaining an Absolute Majority on First Vote***

6.11 In the event of two candidates being nominated or remaining, and neither candidate receiving the votes of an absolute majority of *Councillors*, the *Councillors* in *attendance* at the *meeting* will consider whether to resolve to conduct a new election at a later date and time. If:

6.11.1 it is resolved to conduct a new election at a later date and time a new election will take place at the date and at the time resolved upon. In that event the provisions of *Rule 6* will continue to govern the election of the *Mayor*, and ultimately any candidate whose nomination is the sole nomination or any candidate who receives the votes of an absolute majority of *Councillors* will be declared duly elected; and

6.11.2 it is not resolved to conduct a new election at a later date and time *Councillors* must continue to vote until one of the candidates receives the votes of an absolute majority of *Councillors*, at which point that candidate will be declared duly elected. If, after two or more further votes are taken neither candidate receives the votes of an absolute majority of *Councillors*, the provisions of *sub-rule 6.11* and this *sub-rule 6.12* must again be followed.

**7. Election of Deputy Mayor and Chairs of Delegated**

**Committees** Any election for:

7.1 any office of *Deputy Mayor*; or

7.2 *Chair* of a *Delegated Committee*

will be regulated by *Rules 4-6* (inclusive) of this Chapter, as if the reference to the: 7.3 *Chief Executive Officer* is a reference to the *Mayor*; and

7.4 *Mayor* is a reference to the *Deputy Mayor* or the *Chair* of the *Delegated Committee* (as the case may be).

**8. Appointment of Acting Mayor**

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

8.1 resolving that a specified *Councillor* be so appointed; or

8.2 following the procedure set out in *Rules 5 and 6* (inclusive) of this Chapter, at its discretion.



## **Part C – Meetings Procedure**

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

### **Division 1 – Notices of Meetings and Delivery of Agendas**

#### **9. Dates and Times of Meetings Fixed by Council**

Subject to Rule 11, *Council* must from time to time fix the date, time and place of all *Council meetings*.

#### **10. Council May Alter Meeting Dates**

*Council* may change the date, time and place of any *Council meeting* which has been fixed by it and must provide reasonable notice of the change to the public.

#### **11. Meetings Not Fixed by Council (Unscheduled or Special Meetings)**

- 11.1 The *Mayor* or at least three *Councillors* may by a *written* notice call a *Council meeting*.
- 11.2 The notice must specify the date and time of the *Council meeting* and the business to be transacted.
- 11.3 The *Chief Executive Officer* must convene the *Council meeting* as specified in the notice.
- 11.4 Unless all *Councillors* are *in attendance* and unanimously agree to deal with any other matter, only the business specified in the *written* notice can be transacted at the *Council meeting*.

#### **12. Notice of Meeting**

- 12.1 A notice of *meeting*, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every *Councillor* for all *Council meetings* at least 48 hours before the *meeting*.
- 12.2 Notwithstanding *sub -rule* 12.1, a notice of *meeting* need not be delivered or sent electronically to any *Councillor* who has been granted leave of absence unless the *Councillor* has requested the *Chief Executive Officer* in writing to continue to give notice of any *meeting* during the period of their absence.
- 12.3 Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this:
  - 12.3.1 for *meetings* which it has fixed by preparing a schedule of *meetings* annually, twice yearly or from time to time, by arranging publication of such schedule on its website and may further publish the notice by any other means including in a newspaper generally circulating in the *Municipal district* either at various times throughout the year, or prior to each such *Council meeting*; and
  - 12.3.2 for any *meeting*, by arranging publication of the notice on its website and may further publish the notice by any other means including publication on social media, at the Municipal Office and/or in a newspaper generally circulating in the Municipal district.

## **Division 2 – Quorums**

### **13. Inability to Obtain a Quorum**

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

- 13.1 the *meeting* will be deemed to have lapsed;
- 13.2 the *Mayor* must convene another *Council meeting*, the *agenda* for which will be identical to the *agenda* for the lapsed *meeting*; and
- 13.3 the *Chief Executive Officer* must give all *Councillors* *written* notice of the *meeting* convened by the *Mayor*.

### **14. Inability to Maintain a Quorum**

- 14.1 If during any *Council meeting*, a quorum cannot be maintained then *Rule 13* will apply as if the reference to the *meeting* is a reference to so much of the *meeting* as remains.
- 14.2 *Sub-rule 14.1* does not apply if the inability to maintain a quorum is because of the number of *Councillors* who have a conflict of interest in the matter to be considered.

### **15. Adjourned Meetings**

- 15.1 *Council* may adjourn any *meeting* to another date or time but cannot in the absence of *disorder* or a threat to the safety of any *Councillor* or *member* of *Council* staff adjourn a *meeting* in session to another place.
- 15.2 The *Chief Executive Officer* must give *written* notice to each *Councillor* of the date, time and place to which the *meeting* stands adjourned and of the business remaining to be considered.
- 15.3 If it is impracticable for the notice given under *sub-rule 15.2* to be in *writing*, the *Chief Executive Officer* must give notice to each *Councillor* by telephone or in person.

### **16. Time Limits for Meetings**

- 16.1 A *Council meeting* must not continue longer than four hours unless a majority of *Councillors* who are *in attendance* vote in favour of it continuing.
- 16.2 A *meeting* cannot be continued for more than 30 minutes (or a further 30 minutes if a majority of *Councillors* has already voted to continue it for 30 minutes).
- 16.3 In the absence of such continuance, the *meeting* must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the *meeting* standing adjourned. In that event, the provisions of *sub-rules 15.2* and *15.3* apply.

### **17. Cancellation or Postponement of a Meeting**

- 17.1 The *Chief Executive Officer* may, in the case of an emergency necessitating the cancellation or postponement of a *Council meeting*, cancel or postpone a *Council meeting*.
- 17.2 The *Chief Executive Officer* must present to the immediately following *Council meeting* a *written* report on any exercise of the power conferred by *sub-rule 17.1*.

## **Division 3 – Business of Meetings**

### **18. Agenda and the Order of Business**

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

### **19. Change to Order of Business**

Once an *agenda* has been sent to *Councillors*, the order of business for that *Council meeting* may be altered with the consent of *Council*.

### **20. Urgent business**

If the *agenda* for a *Council meeting* makes provision for *Urgent business*, business cannot be admitted as *Urgent business* other than by resolution of *Council* and only then if it:

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

## **Division 4 – Motions and Debate**

### **21. Councillors May Propose Notices of Motion**

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

### **22. Notice of motion**

22.1 A *Notice of motion* must be in *writing* on the prescribed form, signed by a *Councillor*, and be lodged with or sent to the *Chief Executive Officer* at least five business days prior to the *agenda* being finalised for distribution allowing sufficient time for the *Chief Executive Officer* to include the *Notice of motion* in *agenda* papers for a *Council meeting* and to give each *Councillor* at least 48 hours notice of such *Notice of motion*.

22.2 The *Chief Executive Officer* may reject any *Notice of motion* which:

- 22.2.1 is vague or unclear in intention
- 22.2.2 it is beyond *Council's* power to pass; or
- 22.2.3 if passed would result in *Council* otherwise acting invalidly

but must:

- 22.2.4 give the *Councillor* who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
- 22.2.5 notify in *writing* the *Councillor* who lodged it of the rejection and reasons for the rejection.

22.3 The full text of any *Notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.

22.4 The *Chief Executive Officer* must cause all *notices of motion* to be numbered, dated and entered in the *Notice of motion* register in the order in which they were received.

- 22.5 Except by leave of *Council*, each *Notice of motion* before any *meeting* must be considered in the order in which they were entered in the *Notice of motion* register.
- 22.6 If a *Councillor* who has given a *Notice of motion* is absent from the *meeting* or fails to move the *motion* when called upon by the *Chair*, any other *Councillor* may move the *motion*.
- 22.7 If a *Notice of motion* is not moved and seconded at the *Council meeting* at which it is listed, it lapses.

### **23. Chair's Duty**

Any *motion* which is determined by the *Chair* to be:

- 23.1 defamatory.
- 23.2 objectionable in language or nature;
- 23.3 vague or unclear in intention;
- 23.4 outside the powers of *Council*; or
- 23.5 irrelevant to the item of business on the *agenda* and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the *Chair*.

### **24. Introducing a Motion or an Amendment**

The procedure for moving any *motion* or amendment is;

- 24.1 the mover must state the *motion* without speaking to it.
- 24.2 the *motion* must be seconded, and the seconder must be a *Councillor* other than the mover. If a *motion* is not seconded, the *motion* lapses for want of a seconder.
- 24.3 if a *motion* or an amendment is moved and seconded the *Chair* must ask the mover to speak to the *motion*.
- 24.4 after the mover has spoken to the *motion*, the seconder may also speak to the *motion*.
- 24.5 after the seconder has spoken to the *motion* (or after the mover has spoken to the *motion* if the seconder does not wish to speak to the *motion*), the *Chair* must call on any *Councillor* who wishes to speak against the *motion*, then on any *Councillor* who wishes to speak for the *motion*, after waiting until all *Councillors* wishing to speak to the *motion* have spoken; and
- 24.6 if no *Councillor* wishes to speak against the *motion*, then the *Chair* may put the *motion* or call on any other *Councillor* to speak.
- 24.7 if no *Councillor* indicates a desire to speak to the *motion*, the *Chair* will put the *motion* to a vote.



## **25. Right of Reply**

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

## **26. Moving an Amendment**

- 26.1 Subject to *sub -rule* 26.2 a *motion* which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the *motion*.
- 26.2 A *motion* to confirm a previous resolution of *Council* cannot be amended.
- 26.3 An amendment must not be directly opposite to the *motion*.

## **27. Who May Propose an Amendment**

- 27.1 An amendment may be proposed or seconded by any *Councillor*, except the mover or seconder of the original *motion*.
- 27.2 Any one *Councillor* cannot move more than two amendments in succession.

## **28. How Many Amendments May be Proposed?**

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

## **29. An Amendment Once Carried**

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

## **30. Foreshadowing Motions**

- 30.1 At any time during debate a *Councillor* may foreshadow a *motion* to inform *Council* of their intention to move a *motion* at a later stage in the *meeting*, but this does not extend any special right to the *foreshadowed motion*.
- 30.2 A *motion foreshadowed* may be prefaced with a statement that in the event of a particular *motion* before the *Chair* being resolved in a certain way, a *Councillor* intends to move an alternative or additional *motion*.
- 30.3 The *Chief Executive Officer* or person taking the *minutes* of the *meeting* is not expected to record *foreshadowed motions* in the *minutes* until the *foreshadowed motion* is formally moved.
- 30.4 The *Chair* is not obliged to accept *foreshadowed motions*.

## **31. Withdrawal of Motions**

- 31.1 Before any *motion* is put to the vote, it may be withdrawn by the mover and seconder with

the leave of *Council*.

- 31.2 If the majority of *Councillors* objects to the withdrawal of the *motion*, it may not be withdrawn.

### **32. Separation of Motions**

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

### **33. Chair May Separate Motions**

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

### **34. Priority of Address**

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

### **35. Motions In Writing**

- 35.1 The *Chair* may require that a complex or detailed *motion* be in writing.
- 35.2 *Council* may adjourn the *meeting* while the *motion* is being *written* or *Council* may defer the matter until the *motion* has been *written*, allowing the *meeting* to proceed uninterrupted.

### **36. Repeating Motion and/or Amendment**

The *Chair* may request the person taking the *minutes* of the *Council meeting* to read the *motion* or amendment to the *meeting* before the vote is taken.

### **37. Debate Must Be Relevant to The *Motion***

- 37.1 Debate must always be relevant to the *motion* before the *Chair*, and, if not, the *Chair* must request the speaker to confine debate to the *motion*.
- 37.2 If after being requested to confine debate to the *motion* before the *Chair*, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker to be seated and not speak further in respect of the *motion* then before the *Chair*.
- 37.3 A speaker to whom a direction has been given under *sub-rule* 37.2 must comply with that direction.

### **38. Speaking Times**

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

- 38.1 the mover of a *motion* or an amendment which has been opposed: three minutes.
- 38.2 any other *Councillor*: three minutes; and
- 38.3 the mover of a *motion* exercising a right of reply: three minutes.

### **39. Addressing the Meeting**

If the *Chair* so determines:

- 39.1 any person addressing the *Chair* must refer to the *Chair* as:

39.1.1 Madam *Mayor*; or

39.1.2 Mr. *Mayor*; or

39.1.3 Madam *Chair*; or

39.1.4 Mr. *Chair*

as the case may be.

39.2 all *Councillors*, other than the *Mayor*, must be addressed as

**Cr \_\_\_\_\_ (name).**

39.3 all *members* of *Council* staff, must be addressed as Mr. or Miss, Mrs. or Ms. (surname) as appropriate or by their official title.

#### **40. Right to Ask Questions**

40.1 A *Councillor* may, when no other *Councillor* is speaking, ask any question concerning or arising out of the *motion* or amendment before the *Chair*.

40.2 The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

### **Division 5 – Procedural Motions**

#### **41. Procedural Motions**

41.1 Unless otherwise prohibited, a *Procedural Motion* may be moved at any time and must be dealt with immediately by the *Chair*.

41.2 *Procedural Motions* require a seconder.

41.3 Notwithstanding any other provision in this Chapter, *Procedural Motions* must be dealt with in accordance with the following table:

**Procedural Motions Table**

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



## **Division 6 – Rescission Motions**

*It should be remembered that a Notice of rescission is a form of Notice of motion.*

*Accordingly, all provisions in this Chapter regulating notices of motion equally apply to notices of rescission.*

### **42. Notice of rescission**

42.1 A Councillor may propose a *Notice of rescission* provided:

42.1.1 it has been signed and dated by at least three *Councillors*.

42.1.2 the resolution proposed to be rescinded has not been acted on; and

42.1.3 the *Notice of rescission* is delivered to the *Chief Executive Officer* within 48 hours of the resolution having been made setting out -

a) the resolution to be rescinded; and

b) the *meeting* and date when the resolution was carried.

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

42.2.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or

42.2.2 a statutory process has been commenced

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

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

42.3.1 has not been acted on; and

42.3.2 is the subject of a *Notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with *sub-rule* 42.1.3,

unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

*By way of example, assume that, on a Monday evening, Council resolves to have legal representation at a planning appeal to be heard on the following Monday. Also assume that, immediately after that resolution is made, a Councillor lodges a Notice of motion to rescind that resolution. Finally, assume that the Notice of rescission would not be dealt with until the next Monday evening (being the evening of the day on which the planning appeal is to be heard). In these circumstances, deferring implementation of the resolution would have the effect of depriving the resolution of efficacy. This is because the Notice of rescission would not be debated until after the very thing contemplated by the resolution had come and gone. In other words, by the time the Notice of rescission was dealt with the opportunity for legal representation at the planning appeal would have been lost.*

*Sub-rule 42.3 would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.*

### **43. If Lost**

If a *motion* for rescission is lost, a similar *motion* may not be put before *Council* for at least six months from the date it was last lost, unless *Council* resolves that the *Notice of motion* be re-listed at a future *meeting*.

### **44. If Not Moved**

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

### **45. May Be Moved by Any Councillor**

A *motion* for rescission listed on an *agenda* may be moved by any *Councillor in attendance* but may not be amended.

### **46. When Not Required**

46.1 Unless *sub-rule* 46.2 applies, a *motion* for rescission is not required where *Council* wishes to change policy.

46.2 The following standards apply if *Council* wishes to change policy:

46.2.1 if the policy has been in force in its original or amended form for less than 12 months, a *Notice of rescission* must be presented to *Council*; and

46.2.2 any intention to change a *Council* policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.

## **Division 7 – Points of Order**

### **47. Chair To Decide**

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

### **48. Chair May Adjourn to Consider**

48.1 The *Chair* may adjourn the *meeting* to consider a *point of order* but otherwise must *rule* on it as soon as it is raised.

48.2 All other questions before the *meeting* are suspended until the *point of order* is decided.

### **49. Dissent from Chair's Ruling**

49.1 A *Councillor* may move that the *meeting* disagree with the *Chair's* ruling on a *point of order*, by moving:

"That the *Chair's* ruling [setting out that ruling or part of that ruling] be dissented from".

49.2 When a *motion* in accordance with this *Rule* is moved and seconded, the *Chair* must leave the *Chair* and the *Deputy Mayor* (or, if there is no *Deputy Mayor* or the *Deputy Mayor* is not in *attendance*, temporary *Chair* elected by the *meeting*) must take their place.

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

49.4 The *Deputy Mayor* or temporary *Chair* must put the *motion* in the following form:

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

49.5 If the vote is in the negative, the *Chair* resumes the *Chair* and the *meeting* proceeds.

49.6 If the vote is in the affirmative, the *Chair* must then resume the *Chair*, reverse, or vary (as the case may be) their previous ruling and proceed.

49.7 The defeat of the *Chair's* ruling is in no way a *motion* of censure or non-confidence in the *Chair* and should not be so regarded by the *meeting*.

## **50. Procedure For Point of order**

A *Councillor* raising a *point of order* must:

50.1 state the *point of order*; and

50.2 state any section, *Rule*, paragraph, or provision relevant to the *point of order* before resuming their seat.

## **51. Valid Points of Order**

A *point of order* may be raised in relation to:

51.1 a *motion*, which, under *Rule 23*, or a question which, under *Rule 52*, should not be accepted by the *Chair*;

51.2 a question of procedure; or

51.3 any *Act of disorder*.

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

## **Division 8 – Public Participation**

### **52. Public Question Time**

52.1 There must be a public question time at every *Council meeting* fixed under *Rule 9* to enable *members* of the public to submit questions to *Council*.

52.2 *Sub-rule 52.1* does not apply during any period when a *meeting* is closed to *members* of the public in accordance with section 66(2) of the *Act*.

52.3 Public question time will not exceed 30 minutes in duration.

52.4 Questions submitted to *Council* must be:

52.4.1 in writing, state the name, email address and phone of the person submitting the question and generally be in a form approved or permitted by *Council*, accessible on *Council's* website; and

52.4.2 be received by *Council* by 12pm on the day prior to the *Council meeting*.

52.5 No person may submit more than two questions at any one *meeting*.

- 52.6 If a person has submitted two questions to a *meeting*, the second question:
- 52.6.1 may at the discretion of the *Chair*, be deferred until all other persons who have asked a question to have had their questions asked and answered; or
  - 52.6.2 may not be asked if the time allotted for public question time has expired.
- 52.7 The *Chair* will read to those *in attendance* at the *meeting* a question which has been submitted in accordance with this *Rule*.
- 52.8 Notwithstanding *sub-rule* 52.6, the *Chair* may refrain from reading a question or having a question read if the person who submitted the question is not present at the time when the question is due to be read. If a person is not *in attendance* at the *meeting*, their question will be responded to in writing.
- 52.9 A question may be disallowed by the *Chair* if the *Chair* determines that it:
- 52.9.1 relates to a matter outside the duties, functions and powers of *Council*.
  - 52.9.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance.
  - 52.9.3 deals with a subject matter already answered.
  - 52.9.4 is aimed at embarrassing a *Councillor* or a *member of Council* staff.
  - 52.9.5 relates to personnel matters.
  - 52.9.6 relates to the personal hardship of any resident or ratepayer.
  - 52.9.7 relates to industrial matters.
  - 52.9.8 relates to contractual matters.
  - 52.9.9 relates to proposed developments.
  - 52.9.10 relates to legal advice.
  - 52.9.11 relates to matters affecting the security of *Council* property; or
  - 52.9.12 relates to any other matter which *Council* considers would prejudice *Council* or any person.
- 52.10 Any question which has been disallowed by the *Chair* must be made available to any other *Councillor* upon request.
- 52.11 All questions and answers must be as brief as possible, and no discussion may be allowed other than by *Councillors* for the purposes of clarification.
- 52.12 Like questions may be grouped together and a single answer provided.
- 52.13 The *Chair* will respond to a question.
- 52.14 A *Councillor* or the *Chief Executive Officer* may require a question to be put *on notice*. If a question is put *on notice*, a *written* copy of the answer will be sent to the person who asked the question.
- 52.15 A *Councillor* or the *Chief Executive Officer* may advise *Council* that it is their opinion that the reply to a question should be given in a *meeting* closed to *members* of the public. The *Councillor* or *Chief Executive Officer* (as the case may be) must briefly state



the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given.

### **53. Deputations to an Item on the Agenda**

- 53.1 Deputations from *members* of the community relating to an item on the *agenda* will be heard immediately prior to the item as listed on the *agenda*.
- 53.2 The person making the deputation will be requested to come forward, state their name and make a brief presentation on the item. *Councillors* may ask questions of the speaker at the end of their presentation.
- 53.3 Speaking times for each deputation shall be three minutes unless an extension is approved by the *Chair*.
- 53.4 Deputation requests submitted to *Council* must be:
  - 53.4.1 in writing, state the name, email address and phone of the person requesting to speak, and identify which item on the *agenda* they will be addressing; and
  - 53.4.2 be received by *Council* by 12pm on the day prior to the *Council meeting*.

## **Division 9 – Petitions and Joint Letters**

### **54. Petitions and Joint Letters**

- 54.1 Unless *Council* determines to consider it as an item of *Urgent business*, no *motion* (other than a *motion* to receive the same) may be made on any petition, joint letter, memorial, or other like application until the next fixed *Council meeting* after that at which it has been presented and a report has been received on the matter.
- 54.2 It is incumbent on every *Councillor* presenting a petition or joint letter to acquaint themselves with the contents of that petition or joint letter, and to ascertain that it does not contain language which is disrespectful towards *Council*.
- 54.3 Every *Councillor* presenting a petition or joint letter to *Council* must:
  - 54.3.1 write or otherwise record their name at the beginning of the petition or joint letter; and
  - 54.3.2 confine themselves to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of the prayer or request.
- 54.4 Every petition or joint letter presented to *Council* must be in writing (other than pencil), contain the request of the petitioners or signatories and be signed by at least 20 people.
- 54.5 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- 54.6 Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- 54.7 Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned, or otherwise affixed or attached to any piece of paper other

than another page of the petition or joint letter.

54.8 Electronic or online petitions, joint letters, memorials or like applications must contain the name and email address of each petitioner or signatory, which details will, for the purposes of this *Rule 54*, qualify as the address and signature of such petitioner or signatory.

54.9 If a petition, joint letter, memorial, or other like application relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.

## **Division 10 – Voting**

### **55. How Motion Determined**

To determine a *motion* before a *meeting*, the *Chair* must first call for those in favor of the *motion* and then those opposed to the *motion* and must then declare the result to the *meeting*.

### **56. Silence**

Subject to *Rule 59* voting must take place in silence.

### **57. Recount**

The *Chair* may direct that a vote be recounted to satisfy themselves of the result.

### **58. Casting Vote**

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

58.1 The *Chair* may adjourn a *meeting* to consider how their casting vote will be cast.

### **59. How Votes Are Cast**

Voting on any matter is by show of hands or such other visible or audible means as the *Chair* determines.

### **60. Procedure For a Division**

60.1 Immediately prior to, or immediately after the vote has been taken, and before the next item of business has commenced, a *Councillor* may call for a division.

60.2 When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, *motion*, or amendment.

60.3 When a division is called for, the *Chair* must:

60.3.1 first ask each *Councillor* wishing to vote in the affirmative to raise a hand and, upon such request being made, each *Councillor* wishing to vote in the affirmative must raise one of their hands or otherwise signify their support in a manner recognised by the *Chair*. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those *Councillors* voting in the affirmative; and

60.3.2 then ask each *Councillor* wishing to vote in the negative to raise a hand and, upon such request being made, each *Councillor* wishing to vote in the negative must raise one of their hands or otherwise signify their support in a manner recognised

by the *Chair*. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those *Councillors* voting in the negative.

### **61. No Discussion Once Declared**

Once a vote on a *motion* has been taken, no further discussion relating to the *motion* is allowed unless the discussion involves:

- 61.1 a *Councillor* requesting, before the next item of business is considered, that their opposition to a resolution be recorded in the *minutes* or a register maintained for that purpose; or
- 61.2 foreshadowing a *Notice of rescission* where a resolution has just been made, or a positive *motion* where a resolution has just been rescinded.

*For example, Rule 61 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a Notice of rescission to rescind that resolution. Equally, Rule 61 would permit discussion about a matter which would otherwise be left in limbo because a Notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.*

*Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in sub-rule 61.2, to discussion about a positive motion where a resolution has just been rescinded.*

## **Division 11 – Minutes**

### **62. Confirmation of Minutes**

At every *Council meeting* the *minutes* of the preceding *meeting(s)* must be dealt with as follows:

- 62.1 a copy of the *minutes* must be delivered to each *Councillor* no later than 48 hours before the *meeting*;
- 62.2 if no *Councillor* indicates opposition, the *minutes* must be declared to be confirmed;
- 62.3 if a *Councillor* indicates opposition to the *minutes*:
  - a) they must specify the item(s) to which they object;
  - b) the objected item(s) must be considered separately and in the order in which they appear in the *minutes*;
  - c) the *Councillor* objecting must move accordingly without speaking to the *motion*;
  - d) the *motion* must be seconded;
  - e) the *Chair* must ask:
    - "Is the *motion* opposed?"
  - f) if no *Councillor* indicates opposition, then the *Chair* must declare the *motion* carried without discussion and then ask the second of the questions described in *sub-rule*

62.3k);

- g) if a *Councillor* indicates opposition, then the *Chair* must call on the mover to address the *meeting*;
- h) after the mover has addressed the *meeting*, the seconder may address the *meeting*;
- i) after the seconder has addressed the *meeting* (or after the mover has addressed the *meeting* if the seconder does not address the *meeting*), the *Chair* must invite debate by calling on any *Councillor* who wishes to speak to the *motion*, providing an opportunity to alternate between those wishing to speak against the *motion* and those wishing to speak for the *motion*;
- j) if, after the mover has addressed the *meeting*, the *Chair* invites debate and no *Councillor* speaks to the *motion*, the *Chair* must put the *motion*; and
- k) the *Chair* must, after all objections have been dealt with, ultimately ask:
  - "The question is that the *minutes* be confirmed" or
  - "The question is that the *minutes*, as amended, be confirmed", and then put the question to the vote accordingly;

62.4 a resolution of *Council* must confirm the *minutes* and the *minutes* must, if practicable, be signed by the *Chair* of the *meeting* at which they have been confirmed;

62.5 the *minutes* must be entered in the *minute book* and each item in the *minute book* must be entered consecutively; and

62.6 unless otherwise resolved or required by law, *minutes* of a *Delegated Committee* requiring confirmation by *Council* must not be available to the public until confirmed by *Council*.

### **63. No Debate on Confirmation of Minutes**

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.

### **64. Deferral Of Confirmation of Minutes**

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

### **65. Form and Availability of Minutes**

65.1 The *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer* to attend the *meeting* and to take the *minutes* of such *meeting*) must keep *minutes* of each *Council meeting*, and those *minutes* must record:

- a) the date, place, time and nature of the *meeting*;
- b) the names of the *Councillors in attendance* and the names of any *Councillors* who apologised in advance for their non-attendance;
- c) the names of the *members of Council staff in attendance*;
- d) any disclosure of a conflict of interest made by a *Councillor*, including the explanation given by the *Councillor* under Chapter 5; and whether the conflict of interest was said by the *Councillor* to be a *general conflict of interest* or a *material*

*conflict of interest;*

- e) arrivals and departures (including temporary departures) of *Councillors* during the course of the *meeting*;
- f) each *motion* and amendment moved (including *motions* and amendments that lapse for the want of a seconder);
- g) the vote cast by each *Councillor* upon a division and any abstention from voting;
- h) the vote cast by any *Councillor* who has requested that their vote be recorded in the *minutes*;
- i) questions upon notice;
- j) the failure of a quorum;
- k) any adjournment of the *meeting* and the reasons for that adjournment; and
- l) the time at which standing orders were suspended and resumed.

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

- a) published on *Council's* website; and
- b) available for inspection at *Council's* office during normal business hours.

65.3 Nothing in *sub-rule* 65.2 requires *Council* or the *Chief Executive Officer* to make public any *minutes* relating to a *Council meeting* or part of a *Council meeting* closed to *members* of the public in accordance with section 66 of the *Act*.

## **Division 12 – Behaviour**

### **66. Public Addressing the Meeting**

- 66.1 *Members* of the public do not have a right to address *Council* and may only do so with the consent of the *Chair* or by prior arrangement.
- 66.2 Any *member* of the public addressing *Council* must extend due courtesy and respect to *Council* and the processes under which it operates and must take direction from the *Chair* whenever called on to do so.
- 66.3 A *member* of the public in *attendance* at a *Council meeting* must not disrupt the *meeting*.

### **67. Chair May Remove**

The *Chair* may order and cause the removal of any person, other than a *Councillor*, who disrupts any *meeting* or fails to comply with a direction given under *sub-rule* 66.2.

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



## **68. Chair may adjourn disorderly meeting**

If the *Chair* is of the opinion that *disorder* at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, the *Chair* may adjourn the *meeting* to a later time on the same day or to some later day as they think proper. In that event, the provisions of *sub-rules* 15.2 and 15.3 apply.

## **69. Removal from Chamber**

The *Chair*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer* or a *member* of the Victoria Police to remove from the *Chamber* any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the gallery under *Rule* 67.

## **Division 13 – Additional Duties of Chair**

### **70. The Chair's Duties and Discretions**

In addition to the duties and discretions provided in this Chapter, the *Chair*:

- 70.1 must not accept any *motion*, question or statement which is derogatory, or defamatory of any *Councillor*, *member* of *Council* staff, or *member* of the community; and
- 70.2 must call to order any person who is disruptive or unruly during any *meeting*.

## **Division 14 – Suspension of Standing Orders**

### **71. Suspension of Standing Orders**

- 71.1 To expedite the business of a *meeting*, *Council* may suspend standing orders.

*The suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal meeting procedure.*

*Its purpose is to enable the formalities of meeting procedure to be temporarily disposed of while an issue is discussed.*

- 71.2 The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*. An appropriate *motion* would be:  
"That standing order be suspended to enable discussion on....."
- 71.3 No *motion* can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.
- 71.4 Once the discussion has taken place and before any *motions* can be put, the resumption of standing orders will be necessary. An appropriate *motion* would be:  
"That standing orders be resumed."

## **Division 15 – Physical and Remote Attendance**

### **72. Mode of Attendance**

- 72.1 Each notice of *meeting* must indicate whether the relevant *Council meeting* is to be conducted:
- 72.1.1 wholly in person;
  - 72.1.2 wholly by electronic means; or
  - 72.1.3 partially in person and partially by electronic means.
- 72.2 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:
- 72.2.1 wholly in person;
  - 72.2.2 wholly by electronic means; or
  - 72.2.3 partially in person and partially by electronic means.
- 72.3 If a *Council meeting* is to be conducted wholly in person a *Councillor* may nonetheless request to *attend* by electronic means.
- 72.4 Any request made under *sub-rule 72.3* must:
- 72.4.1 be in writing;
  - 72.4.2 be given to the *Chief Executive Officer* no later than 24 hours prior to the commencement of the relevant *Council meeting*; and
  - 72.4.3 specify the reasons why the *Councillor* is unable or does not wish to *attend* the *Council meeting* in person.
- 72.5 The *Chief Executive Officer* must ensure that any request received in accordance with *sub-rule 72.4* and any other request received from a *Councillor* to *attend* by electronic means is made known at the commencement of the relevant *Council meeting*.
- 72.6 *Council* may approve and must not unreasonably refuse any request.
- 72.7 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 in such an environment that facilitates participation in the *Council meeting*.
- 72.8 Without detracting from anything said in *sub-rule 72.7*, a *Councillor* who is *attending* a *meeting* by electronic means must be able to:
- 72.8.1 hear the proceedings;
  - 72.8.2 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;
  - 72.8.3 be seen by all *Councillors*, *members* of *Council* staff and *members* of the public who are physically present at the *Council meeting*; and
  - 72.8.4 be heard when they speak.
- 72.9 If the conditions of *sub-rule 72.8* cannot be met by one or more *Councillors* *attending* a *Council meeting*, whether because of technical difficulties or otherwise:

72.9.1 the *Council meeting* will nonetheless proceed as long as a quorum is present; and

72.9.2 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*.

72.10 Nothing in this *Rule 72* prevents a *Councillor* from joining (or re-joining) a *Council meeting* at the time that they achieve compliance with *sub-rule 72.8* even if the *Council meeting* has already commenced or has continued in their absence.

### **73. Meetings Conducted Remotely**

73.1 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 the *Rules* in this Chapter to facilitate the more efficient and effective transaction of the business of the *meeting*.

## **Division 16 – Miscellaneous**

### **74. Criticism of members of Council staff**

74.1 The *Chief Executive Officer* may make a brief statement at a *Council meeting* in respect of any statement by a *Councillor* made at the *Council meeting* criticising them or any *member* of Council staff.

74.2 A statement under *sub-rule 74.1* must be made by the *Chief Executive Officer*, through the *Chair*, as soon as is practicable after the *Councillor* who made the statement has resumed their seat.

### **75. Procedure not provided in this Chapter**

In all cases not specifically provided for by this Chapter, resort must be had to the Standing Orders and *Rules of Practice* of the Upper House of the Victorian Parliament (so far as the same are capable of being applied to *Council* proceedings).

## **Chapter 3 – Meeting Procedure for Delegated Committees**

### **1. Meeting Procedure Generally**

If *Council* establishes a *Delegated Committee*:

- 1.1 all of the provisions of Chapter 2 apply to *meetings* of the *Delegated Committee*; and
- 1.2 any reference in Chapter 2 to:
  - 1.2.1 a *Council meeting* is to be read as a reference to a *Delegated Committee meeting*;
  - 1.2.2 a *Councillor* is to be read as a reference to a *member* of the *Delegated Committee*; and
  - 1.2.3 the *Mayor* is to be read as a reference to the *Chair* of the *Delegated Committee*.

### **2. Meeting Procedure Can Be Varied**

Notwithstanding *Rule 1*, if *Council* establishes a *Delegated Committee* that is not composed solely of *Councillors*:

- 75.1 *Council may; or*
- 75.2 *the Delegated Committee may, with the approval of Council*

resolve that any or all of the provisions of Chapter 2 are not to apply to a *meeting* of the *Delegated Committee*, in which case the provision or those provisions will not apply until *Council* resolves, or the *Delegated Committee* with the approval of *Council* resolves, otherwise.

## **Chapter 4 – Meeting Procedure for Community Asset Committees**

### **1. Introduction**

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

### **2. Meeting Procedure**

Unless anything in the *Instrument of Delegation* provides otherwise, the conduct of a *meeting* of a *Community Asset Committee* is in the discretion of the *Community Asset Committee*.



## **Chapter 5 – Disclosure of Conflicts of Interest s126 – s131**

### **1. Definition**

In this Chapter:

- 1.1 “*meeting* conducted under the auspices of *Council*” means a *meeting* of the kind described in section 131(1) of the *Act*, and includes a *meeting* referred to in *Rule 1* of Chapter 6 (whether such a *meeting* is known as a ‘*Councillor Briefing*’ or by some other name); and
- 1.2 a *member* of a *Delegated Committee* includes a *Councillor*.

### **2. Disclosure of a Conflict of Interest at a Council meeting**

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

- 2.1 are in *attendance* must disclose that conflict of interest by explaining the nature of the conflict of interest to those in *attendance* at the *Council meeting* immediately before the matter is considered; and indicating whether it is a *general conflict of interest* or a *material conflict of interest*; or
- 2.2 intend to *attend* must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council meeting* commences a *written notice*:
  - 2.1.1 advising of the conflict of interest;
  - 2.1.2 explaining the nature of the conflict of interest; and indicating whether it is a *general conflict of interest* or a *material conflict of interest*, and
  - 2.1.3 detailing, if the nature of the conflict of interest involves a *Councillor’s* relationship with or a gift from another person, the:
    - a) name of the other person;
    - b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
    - c) nature of that other person’s interest in the matter,

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

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

### **3. Disclosure of Conflict of Interest at a Delegated Committee meeting**

A *member* of a *Delegated Committee* who has a conflict of interest in a matter being considered at a *Delegated Committee meeting* at which he or she:

- 3.1 is in *attendance* must disclose that conflict of interest by explaining the nature of the conflict of interest to those in *attendance* at the *Delegated Committee meeting* immediately before the matter is considered; and indicating whether it is a *general conflict of interest* or a *material conflict of interest*; or

- 3.2 intend to *attend* must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Delegated Committee meeting* commences a *written* notice:
- 3.2.1 advising of the conflict of interest;
  - 3.2.2 explaining the nature of the conflict of interest; and indicating whether it is a *general conflict of interest* or a *material conflict of interest*; and
  - 3.2.3 detailing, if the nature of the conflict of interest involves a *member* of a *Delegated Committee's* relationship with or a gift from another person the:
    - name of the other person;
    - nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
  - 3.2.4 nature of that other person's interest in the matter,
  - 3.2.5 and then immediately before the matter is considered at the *meeting* announcing to those in *attendance* that they have a conflict of interest and that a *written* notice has been given to the *Chief Executive Officer* under this sub-rule.

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

#### **4. Disclosure of a Conflict of Interest at a Community Asset Committee meeting**

A *Councillor* who has a conflict of interest in a matter being considered at a *Community Asset Committee meeting* at which they:

- 4.1 are in *attendance* must disclose that conflict of interest by explaining the nature of the conflict of interest to those in *attendance* at the *Community Asset Committee meeting* immediately before the matter is considered; and indicating whether it is a *general conflict of interest* or a *material conflict of interest* or
- 4.2 intend to *attend* must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee meeting* commences a *written* notice:
  - 4.2.1 advising of the conflict of interest;
  - 4.2.2 explaining the nature of the conflict of interest; and indicating whether it is a *general conflict of interest* or a *material conflict of interest*; and
  - 4.2.3 detailing, if the nature of the conflict of interest involves a *member* of a *Councillor's* relationship with or a gift from another person the:
    - name of the other person;
    - nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
  - 4.2.4 nature of that other person's interest in the matter,and then immediately before the matter is considered at the *meeting* announcing to those in *attendance* that they have a conflict of interest and that a *written* notice has been given to the *Chief Executive Officer* under this *sub-rule*.

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

## **5. Disclosure at a Meeting Conducted Under the Auspices of Council**

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

- 5.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those in *attendance* at the *meeting* immediately before the matter is considered and indicating whether it is a *general conflict of interest* or a *material conflict of interest*;
- 5.2 absent themselves from any discussion of the matter; and
- 5.3 as soon as practicable after the *meeting* concludes provide to the *Chief Executive Officer* a *written* notice recording that the disclosure was made and accurately summarising the explanation given to those in *attendance* at the *meeting*.

## **6. Disclosure by Members of Council Staff Preparing Reports for Meetings**

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

- 6.1.1 *Council meeting*;
- 6.1.2 *Delegated Committee meeting*;
- 6.1.3 *Community Asset Committee meeting*

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

- 6.2 The *Chief Executive Officer* must ensure that the Report referred to in *sub-rule 7.1* records the fact that a member of *Council* staff disclosed a conflict of interest in the subject-matter of the Report.
- 6.3 If the member of *Council* staff referred to in *sub-rule 7.1* is the *Chief Executive Officer*:
  - 6.3.1 the *written* notice referred to in *sub-rule 7.1* must be given to the *Mayor*; and
  - 6.3.2 the obligation imposed by *sub-rule 7.2* may be discharged by any other member of *Council* staff responsible for the preparation of the Report.

## **7. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power**

- 7.1 A member of *Council* staff who has a conflict of interest in a matter requiring a decision to be made by the member of *Council* staff as *delegate* must, immediately upon becoming aware of the conflict of interest, provide a *written* notice to the *Chief Executive Officer* explaining the nature of the conflict of interest and indicating whether it is a *general conflict of interest* or a *material conflict of interest*.
- 7.2 If the member of *Council* staff referred to in *sub-rule 8.1* is the *Chief Executive Officer*

the *written* notice must be given to the *Mayor*.

**8. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function**

- 8.1 A member of *Council* staff who has a conflict of interest in a matter requiring a statutory function to be performed under an *Act* by the member of *Council* staff must, upon becoming aware of the conflict of interest, immediately provide a *written* notice to the *Chief Executive Officer* explaining the nature of the conflict of interest and indicating whether it is a *general conflict of interest* or a *material conflict of interest*.
- 8.2 If the member of *Council* staff referred to in *sub-rule* 9.1 is the *Chief Executive Officer* the *written* notice must be given to the *Mayor*.

**9. Retention of Written Notices**

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

## Chapter 6 – Miscellaneous

### 1. Confidential Information

- 1.1 If, the *Chief Executive Officer* is of the opinion that information relating to a *meeting* is confidential information within the meaning of the *Act*, they may designate the information as confidential and advise *Councillors* and/or *members* of *Council* staff in writing accordingly.
- 1.2 Information which has been designated by the *Chief Executive Officer* as confidential information within the meaning of the *Act*, and in respect of which advice has been given to *Councillors* and/or *members* of *Council* staff in writing accordingly, will be presumed to be confidential information.
- 1.3 Nothing in *sub-rule* 1.2 will, without more, mean that information designated by the *Chief Executive Officer* under *sub-rule* 1.1 satisfies the definition of “confidential information” contained in section 3(1) of the *Act*.

### 2. Joint Council meetings

- 2.1 *Council* may resolve to participate in a *Joint Council meeting* to consider:
  - a) Matters subject to discussion of the Lower North East Councils;
  - b) Collaborative projects;
  - c) Collaborative procurement; and
  - d) Emergency Response
- 2.2 If *Council* has resolved to participate in a *Joint Council meeting*, the *Chief Executive Officer* (or *delegate*) will agree on governance rules with the participating *Councils*.
- 2.3 Where Mansfield 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*.
- 2.4 A majority of *Councillors* will be appointed to represent *Council* at a *Joint Council meeting*.
- 2.5 Consistent information will be provided to *Councillors* prior to any *Joint Meeting* and every endeavour will be made by the *Chief Executive Officer* to facilitate a joint briefing.
- 2.6 A joint briefing arranged in accordance with *sub-rule* (3.5) may be held electronically.



## **Chapter 7 – Election Period Policy s69**

### **Council Policy**





OFFICIAL

## Election Period (Caretaker) Policy

Department/Unit	Governance & Risk	First Implemented	17 July 2012	Review Date	August 2027
Origin	Coordinator Governance & Risk	Reviewed	October 2023	Version	4
Authorising Officer	Endorsement by Council	Effective From	17 October 2023	TRIM Reference	E513/2

### Purpose/Objective

The conduct of municipal elections is governed by the *Local Government Act 2020* (“the Act”). This Policy is prepared and endorsed in accordance with section 69 of the Act.

The Election Period Policy has been developed in order to ensure that the general election for the Mansfield Shire Council is conducted in a manner that is ethical, fair and equitable, and is publicly perceived as such.

This policy addresses the requirements of the Act regarding the responsibilities, actions and behaviours of the Council in the period leading up to a general election.

### Policy Statement

This policy has been developed to ensure transparency and the principles of good governance and accountability are practised by Councillors and staff in relation to the Council Election Period.

### Definitions

Term	Definition
Election Period	Defined in the <i>Act</i> as the period that: a) starts at the time that nominations close on nomination day; and, b) ends at 6.00pm on election day.
Community Engagement	A process where a group of individuals, organisations or the broader community is invited to provide feedback on a matter that relates to an issue affecting the entire municipality or is a consultative process relating to a major policy decision by Council. It does not include the provision of statutory notice relating to planning permit applications or any other decisions.

Term	Definition
Electoral Material	Is defined in the Act as advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting.
Electoral Matter	Is defined as matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the election manager for the purposes of conducting an election. Without limiting the generality of the definition of electoral matter, matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on - <ul style="list-style-type: none"> <li>a) the election; or</li> <li>b) a candidate in the election; or</li> <li>c) an issue submitted to, or otherwise before, the voters in connection with the election.</li> </ul>

## Scope

This Policy applies to Councillors, Council Staff and Contractors to ensure the ordinary business of Council continues in a responsible, transparent and legally compliant manner during the Election Period. The caretaker period commences 32 days before the election, when nominations close, and ends at 6pm on election day. This policy impacts upon:

- ▶ The timing of the consideration and decision making for major policies;
- ▶ Timing of community engagement processes;
- ▶ Use of council resources, including staff;
- ▶ The publication of written material by Council;
- ▶ The timing and conduct of council events and activities;
- ▶ Access to Council information; and
- ▶ Use of the media, including all social media channels.

## Responsibilities

The Chief Executive Officer (CEO) is responsible for:

- ▶ The dissemination of this policy to Councillors, Council staff and contractors; and,
- ▶ The approval of all written material prepared and published by Council, certifying that it does not contain any electoral material as defined by the Act.

The Coordinator Governance & Risk is responsible for maintaining a register of certified publications and information requests from Councillors and candidates.

Councillors, Council Staff and Contractors are responsible for understanding and complying with the provisions of this policy at all times during the Election Period.

## Misuse of Position

Councillors need to be mindful of their responsibilities in relation to improper use of their position outlined in the Act. Section 123 and 124 of the Act prohibit Councillors from intentionally misusing or inappropriately making use of their position to:

- ▶ Gain or attempt to gain, directly or indirectly, an advantage for themselves or any other person; or
- ▶ Cause, or attempt to cause, detriment to the council or another person.

## Council Decision Making

It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an election period. Council therefore commits to the principle that it will make every endeavour to avoid making significant decisions that bind an incoming Council.

### Council Meetings

Council is still able to conduct its usual meetings during the Election Period as it is a core function of the elected Council. Council meetings will continue as normal during this time. Council agendas and minutes will be printed, distributed and published as normal.

Any questions to Council from the public submitted for public question time that relate to electoral matter will not be considered at any Council meeting during an election period.

The operation of Council Committees shall be suspended upon the commencement of the election period ahead of a general Council election. Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

### Decisions Prohibited During the Election Period

Pursuant to Section 69(2) of the Act this Election Period Policy prohibits any Council decision during the election period that:

- ▶ Relates to the appointment or remuneration of the Chief Executive Officer (CEO) but not to the appointment or remuneration of an Acting CEO; or
- ▶ Commits Council to expenditure exceeding one per cent of Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
- ▶ Council considers could be reasonably deferred until the next Council is in place; or
- ▶ Council considers should not be made during an election period.

### Urgent Decisions

In such cases that a decision cannot be delayed, the CEO must first give approval for an urgent decision on a matter. The CEO must consider the following before giving approval for a decision being made on a significant issue (not a decision prohibited by the Act) during the Election Period:

- ▶ The urgency for a decision to be made;

## Mansfield Shire Council | Election Period (Caretaker) Policy

- ▶ Whether or not the matter was known or foreseen in the lead up to the election period, so as to provide an opportunity for a decision to be made outside of the election period;
- ▶ If there are any significant financial or legal implications if the decision is not made;
- ▶ Whether or not the deferral of a decision breaches or compromises any statutory requirement under another *act* or regulation, and what the consequences of such a breach are; and,
- ▶ Whether the decision is in the best interests of *council* and the community.

### Council Publications

In accordance with section 304(2) Council will ensure that it does not print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process.

Council's annual report will be produced to meet legislative requirements without reference to any electoral matter.

Information on Council's website, all Mansfield Shire Council social media accounts or in the Mansfield Matters section of the Mansfield Courier will be limited to that which relates to the factual details about the Election and the Electoral process.

Information on Council's website or other forms of electronic media relating to the current Council will be limited to Councillors' names and contact details in recognition that they still have duties to perform during the Election Period. All other Councillor images and profile material will be removed from all electronic media and Council buildings.

An election period statement will be placed on Council's website and social media accounts advising Council will not be updating or adding new information to those channels, other than necessary operational information.

All Council media releases, publications, advertisements and public notices must be certified by the CEO in writing prior to publishing, printing or distribution. The CEO must not certify any publication that contains electoral material.

Emails associated with the normal conduct of Council business are not required to be certified by the CEO unless the email is to be used for broad communication with the community.

A register of certified documents will be maintained by the Coordinator Governance & Risk.

#### **For Staff, During the Election Period:**

- ▶ Wherever possible, Council publications will not be released during the Election Period, other than those that relate to the conduct of the Election itself.
- ▶ When publications are released, they must not be used in any way that might be construed as influencing the outcome of an election, including material about the performance of an incumbent Council or Councillor, candidate or issue that is likely to affect voting.
- ▶ Council publications will not contain Councillor photographs but will include their contact



details if it is necessary to support them in conducting their duties as current elected representatives.

- ▶ Media releases or other such statements must not feature any photographs, quotes or names of incumbent Councillors. Quotes must be from the CEO only.
- ▶ Publicity campaigns will only be undertaken during the Election Period if they relate to the process of conducting the Election, as agreed with the Victorian Electoral Commission, or are deemed as being necessary for the conduct of a normal Council function. All campaigns are to be signed off by the CEO prior to being undertaken.
- ▶ Council staff must not make any public statement that can be interpreted as political comment or have influence on the electoral process. All requests for staff to comment on sensitive or political issues are to be referred to the CEO.
- ▶ The Shire's segment on local radio, if required, will only involve the CEO. Information provided during this segment must only convey information about usual Council services or functions or electoral process information. There must be no comment on candidates or any issues surrounding the election.

#### **For Councillors, During the Election Period:**

- ▶ The Mansfield Shire Council logo or any images which are the property of the Shire must not be used in any electoral material produced by candidates.
- ▶ Individual Councillors may make statements as candidates in the election provided that they are clearly communicated as personal opinions and do not undermine the standing of Council within the community. Such statements must not be prepared by Council staff. This ensures sitting Councillors, who are also candidates, are afforded the same opportunities as other candidates.
- ▶ Sitting Councillors may refer to adopted Council policies or decisions but there should be a clear distinction between the adopted Council position and any political commentary the candidate may wish to make.
- ▶ No media advice or assistance will be provided to Councillors on election campaign matters or in regard to publicity that involves specific Councillors.
- ▶ Councillors may still refer to themselves as 'Councillor' during the Election Period however, to avoid confusion, they must ensure that any election publication using the title 'Councillor' clearly indicates that it is their own electoral material and does not represent views of the Council.
- ▶ No electoral material may be placed in any Mansfield Shire buildings including the Visitor Information Centre, Mansfield Library or the Noticeboard Managed by Council. This does not include material produced by the Returning Officer or Victorian Electoral Commission for the purposes of conducting the election.

## Certification Process

The process for the certification of documents will be as follows:

- ▶ When drafting a publication, check and ensure that no electoral material is present – if uncertain, check with the Coordinator Governance & Risk.
- ▶ Once the draft is prepared and checked, the document is to be given to the CEO under memo, using the attached FORM 1.
- ▶ The CEO will use the wording in FORM 2 attached to this policy to certify the document.
- ▶ Councillors are able to publish campaign material on their own behalf, but cannot imply for that material to be originating from, or authorised by, Council (eg cannot use Council logo).

## Use of Council Resources

Councillors and members of Council staff will comply with section 304 of the Act regarding prohibition of Council resources during the election period.

Prior to the election period the Chief Executive Officer will ensure that all members of Council staff are advised in regard to the application of the election period procedures:

- ▶ Council staff will not undertake an activity that may affect voting in the election, except where it only relates to the election process and is authorised by the Chief Executive Officer.
- ▶ Council staff will not authorise, use, or allocate a Council resource for any purpose that may influence voting in the election, except where it only relates to the election process and is authorised by the Chief Executive Officer.
- ▶ Councillors must not ask the Chief Executive Officer, nor Council staff to undertake any tasks connected directly or indirectly with the election campaign of a Councillor standing for re-election.
- ▶ Councillors may continue to use any Council equipment provided to them to facilitate their performance or normal Council duties, subject to existing protocols and terms of use.
- ▶ No Council resources such as photocopiers, logos, letterheads, or other corporate branding will be used for, or linked in any way to, a candidate's election campaign.
- ▶ Where Councillors have Council funded services, such as mobile phones, landlines and internet connections, and where it is impractical for Councillors to discontinue their use of these during the election, Councillors will reimburse the Council for usage of those services during the election period that exceeds normal usage levels.
- ▶ Where a Council staff member wishes to be involved in a private capacity in the campaign of any candidate, the staff member must ensure that all election related activity is strictly carried out after working hours and that no Council resource is used in their electoral activities.
- ▶ Any staff member involved privately in the campaign of any candidate must:
  - Seek approval from the CEO of their involvement;

- Take the necessary action to clearly separate their working and private activities;
- Avoid conflict of interest that may arise between their support of a particular candidate and their employment at Mansfield Shire Council.

## Community Engagement

No community engagement process will be conducted by Council, Council Staff or any other third party contracted by Council during the Election Period in relation to a significant or contentious issue or an issue relevant to the election.

Where community engagement processes have been conducted just prior to the Election Period, the outcomes and findings of such processes must not be reported upon to either Council, the community or the media during the Election Period.

The above does not apply to public consultation required pursuant to the *Planning and Environment Act 1987* or to matters subject to section 223 of the 1989 Act. Consultation under this statutory provision shall only proceed after the express agreement by the CEO where it relates solely to the normal day to day business of Council, and the consultation is not deemed to be controversial.

### Attendance at Functions and Events

Council organised events and functions held during the Election Period will be reduced to only those essential to the operation of the Council. The CEO will ensure that the scheduling of functions and events avoids the Election Period, where possible.

Councillors may continue to attend public events staged by external bodies during the Election Period.

Councillors may make speeches at Council organised or sponsored events and functions during the Election Period subject to prior approval of the Chief Executive Officer.

## Access to Council Information

All candidates must have equal access to public information held by Mansfield Shire Council that is relevant to the election. However, neither candidates nor sitting Councillors will be provided with information or advice from Council staff that could be perceived to support an election campaign.

Information circulated to any Councillor or the Council by Council staff must relate only to the carrying out of Councillor functions.

Information and briefing material prepared by Council staff and circulated to a Councillor or the Council (such as via the Councillor Communique) must not relate to any election issues or matters that might be perceived to be of an electoral nature.

All requests for information received from Councillors and candidates are to be directed to the Coordinator Governance and Risk. A register of such requests will be kept, and made public, detailing the nature of the request and whether or not information was provided.

## Mansfield Shire Council | Election Period (Caretaker) Policy

Once the information request has been reviewed by the Coordinator Governance and Risk, it will be referred to the relevant Departmental Manager or CEO for response. Only the Managers or the CEO may respond to a Councillor or candidate information request.

Any request for information relating to the conduct of the election will be referred to the appointed Returning Officer appointed by the Victorian Electoral Commission.

### References / Related Policies

- ▶ *Local Government Act 2020*
- ▶ Mansfield Shire Councillor Code of Conduct & Councillor Charter

### Gender Impact Assessment

The Election (Caretaker) Period Policy has considered the Gender Equality Act 2020 in its preparation but is not relevant to its content. The Election (Caretaker) Period Policy has been assessed as not requiring a Gender Impact Assessment (GIA).

### Implementation

This policy was endorsed by Council on 17 October 2023

### Review Date

August 2027

### Authorisation to Implement Policy

Signed:   
Councillor

Witnessed:   
Chief Executive Officer

Approval dated: 17 October 2023

**Mansfield Shire Council reserves the right to review, vary or revoke this Policy at any time.**

### Request for Chief Executive Officer to certify material

**FORM 1 - Certification of Material**

This material has been checked and does not contain any electoral or electoral related matter to the best of my knowledge in accordance with section 304 of the *Local Government Act 2020*.

**Name**..... **Signature**.....

**Name**..... **Signature**.....

**Date**.....

### Chief Executive Officer certification

**FORM 2 - Certification of Material**

I certify that the attached material is suitable for printing, publishing or distributing on behalf of Mansfield Shire Council in accordance with section 304 of the *Local Government Act 2020*.

**Signature**..... **Date**.....

Chief Executive Officer – Kirsten Alexander