



MANSFIELD SHIRE

Governance Rules 2020



CONTENTS

Introduction

1.	Nature of Rules	5
2.	Date of Commencement	5
3.	Contents	6
4.	Definitions	6

Chapter 1 – The Governance Framework

The Governance Framework	7	
1.	Context.....	7
2.	Decision Making.....	7

Chapter 2 – Meeting Procedure for Council Meetings

Part A – Introduction	8	
1.	Title	8
2.	Purpose of this Chapter	8
3.	Definitions and Notes.....	8
Part B – Election of Mayor	12	
4.	Election of the Mayor s25	12
5.	Method of Voting.....	12
6.	Determining the election of the Mayor	12
7.	Election of Deputy Mayor and Chairs of Delegated Committees	13
8.	Appointment of Acting Mayor.....	14
Part C – Meetings Procedure	15	
Division 1 – Notices of Meetings and Delivery of Agendas	15	
9.	Dates and Times of Meetings Fixed by Council	15
10.	Council May Alter Meeting Dates	15
11.	Meetings Not Fixed by Council	15
12.	Notice Of Meeting	15
Division 2 – Quorums	16	
13.	Inability To Obtain A Quorum	16
14.	Inability To Maintain A Quorum	16
15.	Adjourned Meetings	16
16.	Time limits for Meetings	17
17.	Cancellation or Postponement of a Meeting.....	17
Division 3 – Business of Meetings.....	17	
18.	Agenda and the Order Of Business.....	17
19.	Change To Order Of Business	17
20.	Urgent Business.....	17
Division 4 – Motions and Debate	18	
21.	Councillors May Propose Notices Of Motion	18
22.	Notice Of Motion	18
23.	Chair’s Duty	19
24.	Introducing A Motion or an Amendment	19
25.	Right Of Reply.....	20
26.	Moving An Amendment.....	20
27.	Who May Propose An Amendment	20
28.	How Many Amendments May Be Proposed	20
29.	An Amendment Once Carried.....	20
30.	Foreshadowing Motions.....	21
31.	Withdrawal Of Motions.....	21



32.	Separation Of Motions	21
33.	<i>Chair</i> May Separate Motions	21
34.	Priority of address	21
35.	Motions In Writing	21
36.	Repeating Motion and/or Amendment	21
37.	Debate Must Be Relevant To The Motion	22
38.	Speaking Times	22
39.	Addressing the Meeting	22
40.	Right to Ask Questions	23
Division 5 – Procedural Motions		23
41.	Procedural Motions	23
Division 6 – Rescission Motions		27
42.	Notice of Rescission	27
43.	If Lost	28
44.	If Not Moved	28
45.	May Be Moved By Any Councillor	28
46.	When Not Required	28
Division 7 – Points of Order		29
47.	<i>Chair</i> To Decide	29
48.	<i>Chair</i> May Adjourn To Consider	29
49.	Dissent From <i>Chair's</i> Ruling	29
50.	Procedure For Point Of Order	30
51.	Valid Points Of Order	30
Division 8 – Public Participation		30
52.	Public Question Time	30
53.	Deputations to an Item on the Agenda	32
Division 9 – Petitions and Joint Letters		33
54.	Petitions and Joint Letters	33
Division 10 – Voting		34
55.	How Motion Determined	34
56.	Silence	34
57.	Recount	34
58.	Casting Vote	34
59.	By Show Of Hands	34
60.	Procedure For A Division	34
61.	No Discussion Once Declared	35
Division 11 – Minutes		35
62.	Confirmation of Minutes	35
63.	No Debate on Confirmation Of Minutes	37
64.	Deferral Of Confirmation Of Minutes	37
65.	Form and Availability of Minutes	37
Division 12 – Behaviour		38
66.	Public Addressing The Meeting	38
67.	<i>Chair</i> May Remove	38
68.	<i>Chair</i> may adjourn disorderly meeting	38
69.	Removal from Chamber	39
Division 13 – Additional Duties of <i>Chair</i>		39
70.	The <i>Chair's</i> Duties And Discretions	39
Division 14 – Suspension of Standing Orders		39
71.	Suspension of Standing Orders	39
Division 15 – Miscellaneous		40
72.	Meetings Conducted Remotely	40
73.	Procedure not provided in this Chapter	40



Chapter 3 – Meeting Procedures for Delegated Committees

1.	Meeting Procedure Generally	40
2.	Meeting Procedure can be Varied	40

Chapter 4 – Meeting Procedures for Community Asset Committees

1.	Intoduction	41
2.	Meeting Procedure.....	41

Chapter 5 – Disclosures of Conflicts of Interest

1.	Introduction	42
2.	Definitions	42
3.	Disclosures of Conflics of Interests at a Council Meeting.....	42
4.	Disclosures of Conflics of Interests at a Delegated Committee Meeting.....	43
5.	Disclosures of Conflics of Interests at a Community Asset Committee Meeting....	44
6.	Disclosures at a Meeting Under the Auspices of Council	44
7.	Disclosures by Members of Council Staff Preparing Reports for Meetings.....	45
8.	Disclosures of Conflicts of Interests by Members of Council Staff in the Exercise of Delegated Power	45
9.	Disclosures of a Member of Council Staff in Exercise of a Statutory Function	46
10.	Retention of Written Notices	46

Chapter 6 - Miscellaneous

1.	Informal Meetings of Councillors	47
2.	Confidential Information	47
3.	Joint Council Meetings.....	47

Chapter 7 - Election Period Policy

Election Period Policy.....	50
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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 2020.



3. Contents

These Governance Rules are divided into the following Chapters:

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

4. Definitions

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

Act means the *Local Government Act 2020*.

Chief Executive Officer includes an Acting Chief Executive Officer.

Community Asset Committee means a Community Asset Committee established under section 65 of the Act.

Council means Mansfield Shire Council.

Council meeting has the same meaning as in the *Act*.

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

Mayor means the Mayor of *Council*.

these Rules means these Governance Rules.

Chapter 1 – Governance Framework

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 s60(2)

- a) In any matter in which a decision must be made by *Council* (including persons acting with the delegated authority of *Council*), *Council* must consider the matter and make a decision:
 - (i) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
 - (ii) on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- b) *Council* must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of *Council* is entitled to communicate their views and have their interests considered).
- c) Without limiting anything in paragraph (b) of this sub-Rule:
 - (iii) 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;
 - (iv) 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;
 - (v) 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
 - (vi) 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 Local Law".

2. Purpose of this Chapter

The purpose of this Chapter is to:

- 2.1 provide for the election of the Mayor and any Deputy Mayor;
- 2.2 provide for the appointment of any Acting Mayor; and
- 2.3 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 an acting, temporary and substitute Chairperson or any *Councillor* who is appointed by resolution to chair the meeting under section 61(3) of the *Act*;



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;

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

Committee Meeting means a meeting of a *Delegated Committee*;

Common Seal means the common seal of *Council*;

Council means 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;

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

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

interjecting when another person is speaking, except, in the case of where a *Councillor* is raising a *Point of Order*;

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

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;

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.

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 writing and 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*:

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

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

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

6.3.4 in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;

6.3.5 if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;



6.3.6 in the event of two or more candidates having an equality of votes and one of them having to be declared:

- (a) a defeated candidate; and
- (b) duly elected

the declaration will be determined by lot.

6.3.7 if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:

- (a) each candidate will draw one lot;
- (b) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
- (c) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected).

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

11.1 The *Mayor* or at least 3 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 present 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 his or her 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, and

arranging publication of such schedule in a newspaper generally circulating in the *municipal district* either at various times throughout the year, or prior to each such *Council meeting*; and

- 12.3.2 for any meeting by giving notice on its website and:
- (a) in each of its Customer Service Centres; and/or
 - (b) in at least one 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 present 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 an *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 him or her to include the *notice of motion* in agenda papers for a *Council meeting* and to give each Councillor at least 48 hours notice of such *notice of motion*.
- 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 his or her 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 so as to inform *Council* of his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 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 Chairas 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

Procedural Motion	Form	Mover & Secunder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> , (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes



Procedural Motion	Form	Mover & Secunder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
2. Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the <i>Council</i> has been made for that meeting in accordance with section 85 of the <i>Act</i> ; or (d) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected	Yes



Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
3. The closure	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for <i>Chair</i>	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	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. Assume also that, immediately after that resolution is made, a Councillor lodges a notice of motion to rescind that resolution. Finally, assume that the notice of rescission would not be dealt with until the next Monday evening (being the evening of the day on which the planning appeal is to be heard).

In these circumstances, deferring implementation of the resolution would have the effect of depriving the resolution of efficacy. This is because the notice of rescission would not be debated until after the very thing contemplated by the resolution had come and gone. In other words, by the time the notice of rescission was dealt with the opportunity for legal representation at the planning appeal would have been lost.

Sub-Rule 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 present 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 he or she considers 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 present, temporary *Chair* elected by the meeting) must take his or her place.
- 49.3 The Deputy Mayor or temporary *Chair* must invite the mover to state the reasons for his or her 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) his or her 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 his or her 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 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 present 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 in the gallery at the time when the question is due to be read. If a person is not present 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 his or her opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or *Chief Executive Officer* (as the case may be) must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given.

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 *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 himself or herself with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to *Council*.
- 54.3 Every Councillor presenting a petition or joint letter to *Council* must:
- 54.3.1 write or otherwise record his or her name at the beginning of the petition or joint letter; and
 - 54.3.2 confine himself or herself 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), typing or printing, 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 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 favour of the motion and then those opposed to the motion, and must then declare the result to the meeting.

56. Silence

Voting must take place in silence.

57. Recount

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

58. Casting Vote

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

59. By Show Of Hands

Voting on any matter is by show of hands.

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 his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the affirmative; and

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



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 his or her 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

- 62.1 At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
 - 62.1.1 a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;
 - 62.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;
 - 62.1.3 if a Councillor indicates opposition to the minutes:
 - (a) he or she must specify the item(s) to which he or she objects;
 - (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 62.1.3(k);
 - (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 he or she must put the question to the vote accordingly;
- 62.1.4 a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed;
- 62.1.5 the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively; and
- 62.1.6 unless otherwise resolved or required by law, minutes of a *Delegated Committee* requiring confirmation by *Council* must not be available to the public until confirmed by *Council*.



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:

- 65.1.1 the date, place, time and nature of the meeting;
- 65.1.2 the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
- 65.1.3 the names of the members of Council staff present;
- 65.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5;
- 65.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
- 65.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
- 65.1.7 the vote cast by each Councillor upon a division;
- 65.1.8 the vote cast by any Councillor who has requested that his or her vote be recorded in the minutes;
- 65.1.9 questions upon notice;
- 65.1.10 the failure of a quorum;
- 65.1.11 any adjournment of the meeting and the reasons for that adjournment; and
- 65.1.12 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:
- 65.2.1 published on *Council's* website; and
 - 65.2.2 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 present 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 his or her 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*, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks 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 70.

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 – Miscellaneous

72. Meetings Conducted Remotely

If:

72.1 by law a meeting may be conducted electronically; and

72.2 *Council* decides that a meeting is to be conducted electronically,

the *Chair* may, with the consent of the meeting, modify the application of any of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of the meeting.

73. 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:

- 2.1 *Council* may; or
- 2.2 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. Introduction

The following Rules in this Chapter apply only upon Division 1A of Part 4 of the *Local Government Act 1989* being repealed.¹

2. Definition

In this Chapter:

- 2.1 “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
- 2.2 a member of a *Delegated Committee* includes a Councillor.

3. 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 he or she:

- 3.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting* immediately before the matter is considered; or
- 3.2 intends to be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council 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
 - 3.2.3 detailing, if the nature of the conflict of interest involves 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
 - nature of that other person’s interest in the matter,

¹ At the time of making these Rules the date on which Division 1A of Part 4 of the *Local Government Act 1989* is expected to be repealed is 24 October 2020.



and then immediately before the matter is considered at the meeting announcing to those present that he or she has 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.

4. 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:

4.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Delegated Committee* meeting immediately before the matter is considered; or

4.2 intends to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Delegated 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

4.2.3 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

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 present that he or she has 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.



5. 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 he or she:

- 5.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Community Asset Committee* meeting immediately before the matter is considered; or
- 5.2 intends to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:
 - 5.2.1 advising of the conflict of interest;
 - 5.2.2 explaining the nature of the conflict of interest; and
 - 5.2.3 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
 - 5.2.4 nature of that other person's interest in the matter,and then immediately before the matter is considered at the meeting announcing to those present that he or she has 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.

6. 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 held under the auspices of *Council* at which he or she is present must:

- 6.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting immediately before the matter is considered;
- 6.2 absent himself or herself from any discussion of the matter; and



- 6.3 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 present at the meeting.

7. Disclosure by Members of Council Staff Preparing Reports for Meetings

- 7.1 A member of Council staff who, in his or her capacity as a member of Council staff, has a conflict of interest in a matter in respect of which he or she is preparing or contributing to the preparation of a Report for the consideration of a:

7.1.1 *Council meeting;*

7.1.2 *Delegated Committee meeting;*

7.1.3 *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.

- 7.2 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.

- 7.3 If the member of Council staff referred to in sub-Rule 7.1 is the *Chief Executive Officer*.

7.3.1 the written notice referred to in sub-Rule 7.1 must be given to the *Mayor*, and

7.3.2 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.

8. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power

- 8.1 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.

- 8.2 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*.



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

- 9.1 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.
- 9.2 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*.

10. 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. Informal Meetings of Councillors

If there is a meeting of Councillors that:

- 1.1 is scheduled or planned for the purpose of discussing the business of *Council* or briefing Councillors;
- 1.2 is attended by at least one member of Council staff; and
- 1.3 is not a *Council meeting*, *Delegated Committee* meeting or *Community Asset Committee* meeting

the *Chief Executive Officer* must ensure that a summary of the matters discussed at the meeting are:

tabled at the next convenient *Council meeting*; and

recorded in the minutes of that *Council meeting*.

2. Confidential Information

- 2.1 If, after the repeal of section 77(2)(c) of the *Local Government Act 1989*, the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the *Act*, he or she may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 2.2 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.

3. Joint Council Meetings

- 3.1 Council may resolve to participate in a Joint Council meeting to consider:
 - (a) Matters subject to discussion of the [insert existing alliance]
 - (b) Collaborative projects
 - (c) Collaborative procurement
 - (d) Emergency Response
- 3.2 If Council has resolved to participate in a Joint Council meeting, the *Chief Executive Officer* (or delegate) will agree on governance rules with the participating Councils.
- 3.3 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.



- 3.4 A majority of Councillors will be appointed to represent Council at a Joint Council meeting.
- 3.5 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.
- 3.6 A joint briefing arranged in accordance with sub-rule (3.5) may be held electronically.



Chapter 7 – Election Period Policy s69



Council Policy

Election Period Policy

Department: Governance	First Implemented: 17 July 2012 Reviewed: September 2020 as part of Governance Rules. Effective Period: 12.00pm Noon - 22 September 2020 until 6.00pm - 24 October 2020 Trim Reference: E6994	Origin: Initiated by: Coordinator Governance & Risk Finalised by: Coorindator Governance & Risk
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1. POLICY 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.

2. 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.

3. DEFINITIONS

Election Period	Defined in the Act as the period that: a) starts at the time that nominations close on nomination day; and, b) ends at 6.00pm on election day.
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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.
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	<p>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.</p> <p>Without limiting the generality of the definition of electoral matter, matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on—</p> <ul style="list-style-type: none">a) the election; orb) a candidate in the election; orc) an issue submitted to, or otherwise before, the voters in connection with the election.

4. SCOPE

This Policy applies to all 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. 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 social media (all individual program and facility Shire Facebook pages, Twitter feeds, and Instagram) .



5. 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.

6. 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 or published as normal.

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

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 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;
- 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.

7. 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 Shire Facebook pages (including individual program and facility pages), Twitter feeds, Instagram 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 our website and social media accounts advising we 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 photograph, quote or name 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 Shire 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 regards 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 the Shire office or the Council library. This does not include material produced by the Returning Officer or Victorian Electoral Commission for the purposes of conducting the election.

8. 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).

9. 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 support 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 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 the Shire.

10. 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.

11. ACCESS TO COUNCIL INFORMATION

All candidates must have equal access to public information held by the Shire 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 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 Governance and Risk Coordinator. A register of such requests will be kept, and made public, detailing the nature of the request and whether or not information was provided.

Once the information request has been reviewed by the Governance and Risk Coordinator, 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.



12. REFERENCES

- *Local Government Act 2020*
- Mansfield Shire Councillor Code of Conduct & Councillor Charter 2017

13. IMPLEMENTATION

This policy is be endorsed as part of the Governance Rules at a Council Meeting on 1 September 2020.

14. REVIEW DATE

1 October 2023

15. AUTHORISATION TO IMPLEMENT POLICY

Signed:  _____

Councillor

Witnessed:  _____

Chief Executive Officer



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*.

.....

.....

Kaylene Conrick
Chief Executive Officer

Date