

WEST WIMMERA SHIRE COUNCIL

GOVERNANCE RULES

Introduction

1. Nature of Rules

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

2. Date of Commencement

These Governance Rules commence on 17 November 2022 and replace the Governance Rules adopted by *Council* on 19 August 2020.

3. Contents

These Governance Rules are divided into the following Chapters:

| Chapter | Name |
|----------------|-------------------------------------------------------------------------------------------------------|
| 1 | Governance Framework |
| 2 | Meeting Procedure for <i>Council Meetings</i> |
| 3 | Meeting Procedure for <i>Delegated Committees</i> |
| 4 | Meeting Procedure for <i>Community Asset Committees</i> |
| 5 | Disclosure of Conflicts of Interest |
| 6 | Miscellaneous |
| 7 | Election Period Policy |
| 8 | Annexure: <ul style="list-style-type: none">• Declaration of Conflict of Interest Form. |

4. Definitions

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

- a) *Act* means the *Local Government Act 2020*;
- b) *business day* means Monday to Friday excluding public holidays;
- c) *committee* means a *Community Asset Committee* or a *Delegated Committee*;
- d) *Chief Executive Officer (CEO)* means the *Chief Executive Officer of Council* and includes an *Acting CEO*;
- e) *Community Asset Committee* means a *Community Asset Committee* established under section 65 of the *Act*; ¹
- f) *confidential information* has the same meaning as in section 3 of the *Act*;
- g) *Council* means West Wimmera Shire Council;
- h) *Council meeting* means a meeting held in accordance with the *Act* and these *Rules* and comprises scheduled meetings and unscheduled meetings whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance;
- i) *Delegated Committee* means a *Delegated Committee* established under section 63 of the *Act*; ²
- j) *election period* has the same meaning as in section 3 of the *Act*;
- k) *Mayor* means the *Mayor of the Council*;
- l) *present at the meeting* includes attendance by electronic means;
- m) *publish* has the same meaning as in the *Act*; and
- n) *Rules* means these Governance Rules.

¹ At present, Council does not have any Community Asset Committees.

² At present, Council does not have any Delegated Committees.

Chapter 1 – Governance Framework

1. Context

These *Rules* should be read in the context of and in conjunction with:

- (a) the overarching governance principles specified in section 9(2) of the *Act*; and
- (b) the following documents:
 - i. Community Engagement Policy;
 - ii. Council Expenses Policy;
 - iii. Councillor Code of Conduct;
 - iv. Election Period Policy;
 - v. Information Privacy Policy;
 - vi. Media Relations Policy; and
 - vii. Public Transparency Policy.

2. Decision Making

- (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* or the *CEO*, is entitled to communicate their views and have their interests considered).
- (c) 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* may 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 or persons have been provided with an opportunity to communicate their views and have their interests considered; and
 - 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.

Chapter 2 – Meeting Procedure for Council Meetings

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Part A – Introduction

1. Title

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

2. Purpose

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:

- 3.1.1 "*absolute majority*" means the number of Councillors which is greater than half the total number of Councillors;
- 3.1.2 "*agenda*" means the notice of a meeting setting out the business to be transacted at the meeting including, but not limited to:
 - a) apologies;
 - b) requests for leave of absence;
 - c) requests to attend the meeting by electronic means;
 - d) disclosures of conflict of interest;
 - e) questions from the gallery;
 - f) confirmation of minutes of previous meetings;
 - g) summaries of Councillor Forums;
 - h) written questions submitted in accordance with sub-clause 54.4;
 - i) deputations
 - j) petitions;
 - k) *notices of motion*;
 - l) reports by Councillors;
 - m) reports (including attachments) by *Council* staff;
 - n) late business;

- o) consideration and or hearing of submissions pursuant to a statutory provision or in accordance with Council's *Community Engagement Policy*;
 - p) confidential items; and
 - q) other business included pursuant to these *Rules*;
- 3.1.3 "*Chair*" means the Chairperson of a meeting and includes a Councillor who is appointed by resolution to chair a meeting under section 61(3) of the *Act*;
- 3.1.4 "*minute book*" means the collective record of proceedings of *Council*;
- 3.1.5 "*municipal district*" means the *municipal district* of *Council*;
- 3.1.6 "*notice of motion*" means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting, and which will be included in that meeting's *agenda* if approved by the *CEO*;
- 3.1.7 "*notice of rescission*" means a *notice of motion* to rescind a resolution made by *Council*; and
- 3.1.8 "*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*

The *CEO* 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 means as the *CEO* allows.

6. Determining the election of the *Mayor*

6.1 Unless *Council* resolves otherwise, the election of the *Mayor* will occur at a meeting held specifically to:

- 6.1.1 elect the *Mayor* and Deputy Mayor;
- 6.1.2 appoint Councillors to various *committees*;

- 6.1.3 determine the schedule of meetings (including locations and format) for the coming year.
- 6.2 This meeting will be held at a time and place determined by resolution of *Council*.
- 6.3 The *CEO* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- 6.4 Nominations for the office of *Mayor* are to be made by a verbal nomination at the meeting.
- 6.5 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*.
- 6.6 Single nomination
- 6.6.1 If there is only one nomination, the *CEO* must declare the candidate nominated to be duly elected.
- 6.7 Multiple nominations and candidate elected on the first vote.
- 6.7.1 If there is more than one nomination, the Councillors in attendance may vote for one of the candidates.
- 6.7.2 In the event of a candidate receiving the votes of an *absolute majority* of Councillors, the *CEO* must declare that candidate to be elected.
- 6.8 Three or more nominations and no candidate obtaining an *absolute majority* on the first vote.
- 6.8.1 In the event that:
- a) there are three or more candidates;
 - b) no candidate receives the votes of an *absolute majority* of Councillors;
 - c) it is not resolved to conduct a new election at a later date and time,
- the *CEO* must declare the candidate with the fewest vote to be a defeated candidate. The Councillors in attendance at the meeting may then vote for one of the remaining candidates.
- 6.9 If one of the remaining candidates receives the votes of an *absolute majority* of Councillors, the *CEO* must declare that candidate to be 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 date and time, the process of declaring the candidate 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. The *CEO* must then declare that candidate to have been duly elected.

- 6.10 For the purpose of sub-Rules 6.8 and 6.9, if no candidate can be determined 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.
- 6.11 If a lot is conducted, the *CEO* will have the conduct of the lot and the following provisions will apply:
- 6.11.1 each candidate who has an equal number of votes with another candidate or candidates will draw one lot;
- 6.11.2 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
- 6.11.3 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).
- 6.12 Two nominations or two remaining candidates and no candidate obtaining an absolute majority on the first vote.
- 6.12.1 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.
- 6.12.2 If:
- a) it is resolved to conduct a new election at a later date and time, a new election will take place at the date and time resolved upon. In that event, the provisions of this 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 must be declared duly elected by the *CEO*; and
- b) 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 must be declared duly elected by the *CEO*. 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 6.12.1 and this sub-Rule 6.12.2 (b) 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 Rule 6 of this Chapter, as if the reference to the:

7.3 *CEO* 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 necessary 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 and 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 13, *Council* must from time to time fix the format, date, time and place of all *Council meetings* other than in an election year, when the meeting will be called by the *CEO* following the Election Manager's declaration of the election results.

10. Format of meetings

10.1 Subject to *Council* resolving, meetings may be held:

- a) by physical attendance; or
- b) by electronic means; or
- c) by a combination of (a) and (b).

10.2 Meetings will, with the exception of when confidential items are being considered, be livestreamed.

11. Meetings held by physical attendance

11.1. Meetings to be held by attendance are:

11.2. the first *Council meeting* after a general election;

11.3. a meeting to enable the taking of the oath of affirmation of office by a person elected to be a Councillor following the filling of a vacancy on the *Council*;

11.4 a meeting to elect the *Mayor*;

11.5 a meeting to appoint a *CEO* or re-appoint the *CEO*;

11.6 a meeting to consider matters involving the Councillor Code of Conduct;

11.7 a meeting to consider the standing down of a Councillor pursuant to Division 6 of the *Act*;

11.8 a meeting to consider the suspension of Councillor pursuant to Division 8 of the *Act*;

11.9 a meeting to consider the biannual report of the Audit and Risk Committee; and

11.10 a meeting which for technical reasons, cannot be conducted by electronic means.

Other meetings which may be held by attendance include meetings to:

- 11.11 consider the draft budget
- 11.12 adopt the budget;
- 11.13 declare rates and charges pursuant to the *Local Government Act 1989*;
- 11.14 adopt the Council Plan;
- 11.15 consider the annual report of the *Mayor* on the implementation of the Council Plan;
- 11.16 appoint an Acting *CEO*;
- 11.17 adopt Council Policies, Plans, Codes, Rules or Guidelines required by legislation;
- 11.18 adopt a local law;
- 11.19 consider the Annual Report;
- 11.20 consider the compulsory acquisition or purchase of land;
- 11.21 consider the sale of *Council* land;
- 11.22 consider the leasing of Council land pursuant to section 115(4) of the *Act*;
- 11.23 consider the purchase of land;
- 11.24 consider instituting proceedings in the Supreme Court or County Court;
- 11.25 consider the establishment of a *Delegated Committee* or *Community Asset Committee*; or
- 11.26 review the West Wimmera Planning Scheme.

12. Council May Alter Meeting Dates

Council may resolve to change the format, date, time and place of any *Council meeting* which has been fixed by it and must provide reasonable public notice of the change, including on the *Council* website on *Council's* social media platform.

13. Meetings Not Fixed by Council

- 13.1 The *Mayor* or at least three Councillors may by a *written* notice call a *Council meeting*.
- 13.2 The notice must specify the date, time and format of the *Council meeting* and the business to be transacted.
- 13.3 The *CEO* must convene the *Council meeting* as specified in the notice.

- 13.4 Unless all Councillors are present (with the exception of any who have been granted leave of absence) and unanimously agree to deal with any other matter, only the business specified in the *written* notice can be transacted at the *Council meeting*.
- 13.5 The *CEO* must summon a meeting of *Council* within 14 days or, if that is not possible, as soon as practicable, after the day the Election Manager for a general election publicly declares the result of the election.

14. Notice of Meeting

- 14.1 A notice of a scheduled meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor at least two *business days* before the meeting.
- 14.2 Notwithstanding sub-Rule 14.1, in the case of a meeting called by the *Mayor* or three Councillors in accordance with sub-Rule 13.1, notice of the meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor at least two *business days*, or if this is not practicable, at least 48 hours before the meeting.
- 14.3 Notwithstanding sub-Rule 14.2, 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 *CEO* in *writing* to continue to give notice of any meeting during the leave of absence period.
- 14.4 Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this:
- 14.4.1 for *meetings* which it has fixed, by preparing a schedule of meetings annually or from time to time, and arranging publication of such schedule on its website; and
- 14.4.2 for any meeting by giving notice:
- (a) on its website;
- (b) where practicable in each of its Customer Service Centres and/or in a newspaper generally circulating in the municipal district.
- 14.5 The notice of meeting given pursuant to this sub-Rule must indicate the format of the meeting.

Division 2 – Quorums

15. Inability to Obtain a Quorum

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

- 15.1 the meeting will be deemed to have lapsed;
- 15.2 the *Mayor* must convene another *Council meeting*, the *agenda* for which will be identical to the *agenda* for the lapsed meeting; and

- 15.3 the *CEO* must give all Councillors *written* notice of the meeting convened by the *Mayor*.

16. Inability to Maintain a Quorum

- 16.1 If during any *Council meeting*, a quorum cannot be maintained then Rule 15 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 16.2 Sub-rule 16.1 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.
- 16.3 If the *Council* experiences an ongoing inability to maintain a quorum due to the number of Councillors with a conflict of interest, the “alternative manner” provisions of section 67 (2), (3) and (4) of the *Act* will apply.

Note – Section 67 provides that:

- a) *Council may resolve to split the matter into two or more parts so that a quorum may be maintained for each separate part; or*
- b) *Council may make prior decisions on component parts of the matter for which a quorum can be maintained; or*
- c) *if Council is unable to utilise the alternative manner provision of the Act, the Council must establish a delegated committee consisting of:*
 - i. all the Councillors who have not disclosed a conflict of interest in the matter; and*
 - ii. any other person(s) that the Council considers suitable.*

17. Adjourned Meetings

- 17.1 *Council* may adjourn any meeting to another date or time but cannot in the absence of disorder, a threat to the safety of any Councillor, member of Council staff or any other person or an emergency, adjourn a meeting conducted pursuant to sub-Rule 10 (a), (b) or (c) in session to another place.
- 17.2 The *CEO* must give at least two *business days 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.
- 17.3 If it is impracticable for the notice given under sub-Rule 17.2 to be in *writing*, the *CEO* must give notice to each Councillor by telephone, email or in person.

18. Time limits for Meetings

- 18.1 A *Council meeting* must not continue for more than 3.5 hours unless *Council* resolves in favour of it continuing, in which case the meeting may continue for a maximum of 30 minutes.
- 18.2 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 17.2 and 17.3 apply.

19. Cancellation or Postponement of a Meeting

- 19.1 The *CEO* may, in the case of an emergency, disaster or some other exceptional circumstance and, if practicable, after obtaining the agreement of the *Mayor*, necessitating the cancellation or postponement of a *Council meeting*, cancel or postpone a *Council meeting*.
- 19.2 The *CEO* must present to the next *Council meeting* a *written* report on any exercise of the power conferred by sub-Rule 19.1.

Division 3 – Business of Meetings

20. Agenda and the Order of Business

The *agenda* for and the order of business for a *Council meeting* is to be generally in accordance with sub-Rule 3.1.2 or as modified by the *CEO*, in consultation with the *Mayor*, so as to facilitate and maintain open, efficient and effective processes of government.

21. Change To Order of Business

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

22. Late Business

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

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

Division 4 – Motions and Debate

23. Councillors May Propose *Notices of Motion*

Councillors may propose an item be included in an *agenda* by lodging a *notice of motion*.

24. Notice of Motion

- 24.1 A *notice of motion* must be in *writing* on a form provided by the *CEO*, signed by the Councillor and be lodged with or sent to the *CEO* by the *agenda* cut-off time, to allow sufficient time for the *CEO* to include the *notice of motion* in the *agenda* papers for the *meeting*. The *notice of motion* must include the proposed motion followed by an explanation of up to 100 words.
- 24.2 The *CEO* may reject any *notice of motion* which:
- 24.2.1 is vague or unclear in intention;
 - 24.2.2 is beyond *Council's* power to consider;
 - 24.2.3 if passed, would result in *Council* otherwise acting invalidly; or
 - 24.2.4 is potentially libellous, indecent; abusive, offensive, trivial or objectionable in language or substance.
- but must:
- 24.2.5 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - 24.2.6 notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.
- 24.3 The *CEO* 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.
- 24.4 Except by leave of *Council*, each *notice of motion* before any *Council meeting* must be considered in the order in which they were entered in the *notice of motion* register.
- 24.5 If a Councillor who has given a *notice of motion* is absent from the *Council meeting* or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- 24.6 If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.
- 24.7 If a *notice of motion* is lost, a similar motion cannot be put before a *Council meeting* for at least three months from the date it was last lost, unless *Council* resolves that the notice be relisted at a future *Council meeting*.
(Note – See Rule 46).

25. Chair's Duty

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

- 25.1 defamatory;
- 25.2 objectionable in language or nature;

- 25.3 vague or unclear in intention;
 - 25.4 outside the powers of *Council*; or
 - 25.5 irrelevant to the item of business on the *agenda* and has not been admitted as *late business*, or purports to be an amendment but is not,
- must not be accepted by the *Chair*.

26. Introducing a Report

- 26.1 Before a *written* report is considered by *Council* and any motion moved in relation to such report, a member of Council staff may introduce the report by indicating:
 - 26.1.1 its background; or
 - 26.1.2 the reasons for any recommendation which appears.
- 26.2 Councillors can ask questions of the staff member presenting the report prior to a motion being moved and seconded and after debate commences.

27. Introducing a Motion or an Amendment

The procedure for moving any motion or amendment is:

- 27.1 the mover must state the motion without speaking to it;
- 27.2 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;
- 27.3 if a motion or an amendment is moved and seconded the *Chair* must ask:

“Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?”
- 27.4 if no Councillor indicates opposition or a desire to speak to it, the *Chair* may declare the motion or amendment carried without discussion;
- 27.5 if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- 27.6 after the mover has addressed the meeting, the seconder may address the meeting;
- 27.7 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; and
- 27.8 if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

28. Right of Reply

- 28.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
- 28.2 After the right of reply has been taken but subject to any Councillor exercising the 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.

Note – Accordingly, the mover of the original motion has a right of reply. That right of reply will be taken:

- a. if the amendment is lost – when debate on the original motion is complete and the vote on the original motion is about to be taken; or
 - b. if the amendment is carried – when debate on the amended motion is complete and the vote on the amended motion is about to be taken
2. The mover of the amendment (once it is seconded) has a right of reply which is taken when debate on the amendment is complete and the vote on the amendment is about to be taken. The mover of the amendment does not get a right of reply to the substantive motion, even if their amended motion becomes the substantive motion before the meeting.

29. Moving an Amendment

- 29.1 Subject to sub-Rule 29.2 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.
- 29.2 A motion to confirm a previous resolution of *Council* cannot be amended.
- 29.3 An amendment must not be directly opposite to the motion.

30. Who May Propose an Amendment

- 30.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- 30.2 The seconder of an amendment is permitted to move a subsequent amendment.
- 30.3 A Councillor cannot move more than two amendments in succession.

31. How Many Amendments May Be Proposed

- 31.1 Any number of amendments may be proposed to a motion but only one amendment may be accepted by the *Chair* at any one time.
- 31.2 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.

32. An Amendment Once Carried

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

33. Foreshadowing Motions

- 33.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of an intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 33.2 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.
- 33.3 The *CEO* 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.
- 33.4 The *Chair* is not obliged to accept foreshadowed motions which are:
 - 33.4.1 unrelated to the motion or amendment; or
 - 33.4.2 identical to, or to the effect of, an amendment previously moved.

34. Withdrawal of Motions

- 34.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of *Council*.
- 34.2 If the majority of Councillors object to the withdrawal of the motion, it may not be withdrawn.

35. 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.

36. Chair May Separate Motions

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

37. Priority of address

In the case of competition for the right of speak, the *Chair* must decide the order in which the Councillors concerned will be heard. This will be determined by the Councillors raising their hand or alerting the *Chair* to the desire to speak. The order will be established as the *Chair* acknowledges each Councillor's request to speak.

38. Motions in Writing

38.1 The *Chair* may require that a complex or detailed motion be in writing, handed to the minute taker and read to the meeting by the mover or the *Chair* to ensure that the content is clearly understood by Councillors.

38.2 *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.

39. 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.

40. Debate Must be Relevant to the Motion

40.1 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.

40.2 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 cease speaking and not speak further in respect of the motion then before the *Chair*.

40.3 A speaker to whom a direction has been given under sub-Rule 40.2 must comply with that direction.

40.4 A speaker must direct debate to the meeting.

41. Speaking Times

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

41.1 the mover of a motion or an amendment which has been opposed: three minutes;

41.2 any other Councillor: three minutes;

41.3 the mover of a motion exercising a right of reply: three minutes; and

41.4 should the *Chair* grant an extension, a Councillor may speak for another three minutes.

42. Addressing the Meeting

If the *Chair* so determines:

42.1 any person addressing the *Chair* must refer to the *Chair* as:

Madam *Mayor*, or

Mr *Mayor*, or

Madam *Chair*, or

Mr *Chair*

as the case may be;

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

Cr**(name)**.

42.3 all members of Council staff, must be addressed by their official title.

43. Right to Ask Questions

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

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

Division 5 – Procedural Motions

44. Procedural Motions

44.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.

44.2 Procedural motions require a seconder.

44.3 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 |
| 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; or (c) 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 <i>agenda</i> | Debate continues unaffected | Yes |

| Procedural Motion | Form | Mover & Secunder | 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

45. Notice of Rescission

- 45.1 A Councillor may propose a *notice of rescission* provided:
- 45.1.1 it has been signed and dated by two Councillors.
 - 45.1.2 the resolution proposed to be rescinded has not been acted on;
 - 45.1.3 the *notice of rescission* is on a form provided by and delivered to the *CEO* within one *business day* 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.

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.

- 45.2 A resolution will be deemed to have been acted on if:
- 45.2.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or
 - 45.2.3 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- 45.3 The *CEO* or an appropriate member of Council staff must defer implementing a resolution which:
- 45.3.1 has not been acted on; and
 - 45.3.2 is the subject of a *notice of rescission* which has been delivered to the *CEO* in accordance with sub-Rule 45.1.3,
- 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 45.3 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.

46. If Lost

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

47. If Not Moved

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

48. 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.

Division 7 – Points of Order

49. Chair to Decide

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

50. Chair May Adjourn to Consider

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

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

51. Dissent from Chair's Ruling

51.1 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”.

51.2 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 temporarily chair the meeting.

- 51.3 The Deputy Mayor or temporary *Chair* must invite the mover to state the reasons for the dissent and the *Chair* may then reply.
- 51.4 The Deputy Mayor or temporary *Chair* must put the motion in the following form:

“That the *Chair’s* ruling be dissented from.”
- 51.5 If the vote is in the negative, the *Chair* resumes the Chair and the meeting proceeds.
- 51.6 If the vote is in the affirmative, the *Chair* must then resume the Chair, reverse or vary (as the case may be) the previous ruling and proceed.
- 51.7 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.

52. Procedure for Point of Order

- 52.1 A Councillor raising a point of order must:
 - 52.1.1 state the point of order indicating what the Councillor believes was incorrect in relation to the *Chair’s* ruling; and
 - 52.1.2 state any section, Rule, paragraph or provision relevant to the point of order within these Rules or the *Act*.
- 52.2 There is no debate on a point of order.

53. Valid Points of Order

A point of order may be raised in relation to:

- 53.1 a motion, which, under Rule 25, or a question which, under Rule 54, should not be accepted by the *Chair*;
- 53.2 a question of procedure; or
- 53.3 any act of disorder.

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| Rising to express a difference of opinion or to contradict a speaker is not a point of order. |
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Division 8 – Public Question Time

54. Question Time

- 54.1 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*, with the exception:

- 54.1.1 of a meeting held in accordance with Part B – election of the Mayor; and
- 54.1.2 that question time at *Council meetings* will not be allowed during an *election period*.
- 54.2 Sub-Rule 54.1 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*.
- 54.3 Public question time will not exceed 30 minutes in duration.
- 54.4 Questions to *Council* can be submitted as follows:
 - 54.4.1 in *writing* to the *CEO* at least one *business day* prior to the *Council meeting* or 10 days prior for inclusion in the agenda and must state the question (without any preamble or commentary) giving the name and address of the person submitting the question and generally be in a form approved or permitted by *Council* and may include an explanation of up to 100 words; or
 - 54.4.2 posted to or delivered to the Council's offices or lodged electronically at the prescribed email address, at least one *business day* prior to the *Council meeting*; or
 - 54.4.3 verbally at a *Council Meeting* (without any preamble or commentary), following the removal of standing orders and via the prompt of the *Mayor*.
 - 54.4.4 members of the gallery providing verbal questions at a Council Meeting must state their name to be recorded in the minutes.
- 54.5 No person may submit more than two questions at any one meeting.
- 54.6 If a person has submitted two questions to a meeting, the second question:
 - 54.6.1 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
 - 54.6.2 may not be asked if the time allotted for public question time has expired.
- 54.7 The *Chair* or a member of Council staff nominated by the *Chair* may read to those *present at the meeting* a question which has been submitted in accordance with this Rule.
- 54.8 Notwithstanding sub-Rule 54.7, 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 meeting*.
- 54.9 A question may be disallowed by the *Chair* if the *Chair* determines that it:
 - 54.9.1 relates to a matter outside the duties, functions and powers of *Council*;

- 54.9.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 54.9.3 deals with a subject matter already answered;
 - 54.9.4 is aimed at embarrassing a Councillor or a member of Council staff;
 - 54.9.5 relates to personnel matters;
 - 54.9.6 relates to the personal hardship of any resident or ratepayer;
 - 54.9.7 relates to industrial matters;
 - 54.9.8 relates to contractual matters;
 - 54.9.9 relates to proposed developments;
 - 54.9.10 relates to legal advice;
 - 54.9.11 relates to matters affecting the security of *Council* property; or
 - 54.9.12 relates to any other matter which *Council* considers would prejudice *Council* or any person.
- 54.10 Any *written* question which has been disallowed by the *Chair* must be made available to any other Councillor upon request.
 - 54.11 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.
 - 54.12 Like questions may be grouped together and a single answer provided.
 - 54.13 The *Chair* may nominate a Councillor or the *CEO* to respond to a question.
 - 54.14 A Councillor or the *CEO* may require a question to be put on notice. If a question is put on notice, a *written* response will be sent as soon as practicable to the person who asked the question.
 - 54.15 A Councillor or *the CEO* may advise *Council* that it is the Councillor's or *CEO's* (as the case may be) opinion that the reply to the question should be given in a meeting closed to members of the public. The Councillor or *CEO* must state briefly the reason why the reply should be so given and *Council* may, if the question and proposed response is confidential information, deal with the matter in accordance with section 66 of the Act.

Division 9 – Petitions and Joint Letters

55. Petitions and Joint Letters

- 55.1 Every petition submitted to *Council* must:
- 55.1.1 be legible and in permanent writing (not pencil);
 - 55.1.2 be clear and on each page the matter and action sought from Council is stated;
 - 55.1.3 not be derogatory, defamatory or objectionable in language or nature;
 - 55.1.4 not relate to matters outside the powers of Council;
 - 55.1.5 include the names, addresses and original signatures of at least five people; and
 - 55.1.6 be submitted at least one business day prior to the Council meeting for tabling at the Council meeting or ten days prior to the Council meeting for inclusion in the agenda.
- 55.2 A petition may be disallowed by the CEO if they determine that it:
- 55.2.1 relates to a matter outside the duties, functions and powers of *Council*;
 - 55.2.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 55.2.3 deals with a subject matter already answered;
 - 55.2.4 is aimed at embarrassing a Councillor or a member of Council staff
 - 55.2.5 relates to personnel matters;
 - 55.2.6 relates to industrial matters;
 - 55.2.7 relates to contractual matters;
 - 55.2.8 relates to proposed developments;
 - 55.2.9 relates to legal advice;
 - 55.2.10 relates to matters affecting the security of Council property; or
 - 55.2.11 relates to any other matter which Council considers would prejudice Council or any person.

- 55.3 Unless Council resolves to consider it as late business, no motion (other than a motion to receive the same) may be made on any petition, joint letter, or other like application until a Council meeting after that at which it has been presented.
- 55.4 A report in response to the petition will then be presented to a subsequent Council meeting outlining recommended actions to address the petition unless, the CEO, after consultation with the *Mayor*, determines the subject matter of the petition can be dealt with administratively.
- 55.5 If a petition relates to an item listed on the agenda for the *Council meeting* at which it is submitted, the petition may be dealt with in conjunction with the item.
- 55.6 If a petition, joint letter or other like application relates to an operational matter, *Council* must refer it to the *CEO* for consideration.
- 55.7 Every Councillor presenting a petition or joint letter must be familiar with the contents of that petition or joint letter and ensure that it does not contain language disrespectful to Council.
- 55.8 Every Councillor presenting a petition or joint letter to Council must:
- 55.8.1 write or otherwise record their name at the beginning of the petition or joint letter; and
 - 55.8.2 confine any remarks 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.

Division 10 – Voting

56. How Motion Determined

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

57. Silence

Voting must take place in silence.

58. Recount

The *Chair* may direct that a vote be recounted so as to be satisfied of the result.

59. Casting Vote

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

60. Method of voting

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

61. Procedure for A Division

- 61.1 Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- 61.2 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.
- 61.3 When a division is called for, the *Chair* must:
 - 61.3.1 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 a hand or indicate their preference in some other manner acceptable to the *Chair*. The *Chair* must then state, and the *CEO* or any authorised officer must record, the names of those Councillors voting in the affirmative; and
 - 61.3.2 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 a hand or indicate their preference in some other manner acceptable to the *Chair*. The *Chair* must then state, and the *CEO* or any *authorised officer* must record, the names of those Councillors voting in the negative; and
 - 61.3.3 then ask each Councillor wishing to abstain from voting to raise a hand and, upon such request being made, each Councillor wishing to abstain from voting must raise a hand or indicate their preference in some other manner acceptable to the *Chair*. The *Chair* must then state, and the *CEO* or any authorised officer must record, the names of those Councillors abstaining from voting.

62. No Discussion Once Declared

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

- 62.1 a Councillor requesting, before the next item of business is considered, that the Councillor's opposition to a resolution be recorded in the minutes; or
- 62.2 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 62 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 62 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 62.2, to discussion about a positive motion where a resolution has just been rescinded.

Division 11 – Minutes

63. Confirmation of Minutes

- 63.1 At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
- 63.1.1 a copy of the minutes must be delivered to each Councillor no later than two *business days* before the meeting;
 - 63.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;
 - 63.1.3 if a Councillor indicates opposition to the minutes:
 - (a) the Councillor must specify the item(s) to which the objection is raised;
 - (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 63.1.3 (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;
- (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 the *Chair* must put the question to the vote accordingly;

- 63.1.4 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;
- 63.1.5 the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively; and
- 63.1.6 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*.

64. 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.

65. 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.

66. Form and Availability of Minutes

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

- 66.1.1 the date, place, time and format of the meeting;
- 66.1.2 the names of the Councillors present:

- a) whether the participation of Councillors was by physical attendance or electronic means;
 - b) the names of any Councillors who apologised in advance for their non-attendance or who had been granted leave of absence;
 - c) in the case of a meeting conducted pursuant to sub-Rule 10 (a) or 10(c), requests by Councillors to attend the meeting by electronic means;
- 66.1.3 the names of the members of Council staff present;
 - 66.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5;
 - 66.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
 - 66.1.6 the vote cast by each Councillor upon a division;
 - 66.1.7 the vote cast by any Councillor who has requested that the Councillor's vote be recorded in the minutes;
 - 66.1.8 questions from the gallery;
 - 66.1.9 the failure of a quorum;
 - 66.1.10 any adjournment of the meeting and the reasons for that adjournment;
 - 66.1.11 the time at which standing orders were suspended and resumed; and
 - 66.1.12 any matters arising pursuant to sub-Rule 74.8.
- 66.2 The *CEO* must ensure that the minutes of any *Council meeting* are:
 - 66.2.1 published on *Council's* website; and
 - 66.2.1 available for inspection at *Council's* office during normal business hours.
 - 66.3 Nothing in sub-Rule 66.2 requires *Council* or the *CEO* 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

67. Public Addressing the Meeting

- 67.1 With exception of:
 - 67.1.1 instances where a submitter has a statutory right pursuant to section 223 of the *Local Government Act* 1989 or any other relevant Act to address *Council*; or

67.1.2 instances where a person is exercising a right pursuant to Council's Community Engagement Policy;

members of the public do not have a right to address *Council*.

67.2 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.

67.3 A member of the public present at a *Council meeting* must not disrupt the meeting.

68. Conduct at Meetings

Councillors have regard to the Councillor Code of Conduct in their participation in any meetings they attend as a Councillor. This will be achieved by treating fellow Councillors, staff and members of Council *committees* with respect and not making defamatory, indecent, factually incorrect, abusive or disorderly statements or comments.

69. Chair May Remove

The *Chair* may order and cause the removal of any person, other than a Councillor, from the gallery or may terminate the person's electronic attendance if the person disrupts any meeting or fails to comply with a direction given under sub-Rule 67.2.

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.

70. Chair may adjourn disorderly meeting

If the *Chair* is of the opinion that disorder at the *Council* table by a person in the gallery or participating in the meeting by electronic means, 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 the *Chair* thinks proper. In that event, the provisions of sub-Rules 17.2 and 17.3 apply.

71. Removal from Chamber

The *Chair*, or *Council* in the case of a suspension pursuant to section 19(1)(b) of the *Act*, may ask the *CEO* 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 69.

Division 13 – Additional Duties of Chair

72. The Chair's Duties and Discretions

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

- 72.1 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
- 72.2 must call to order any person who is disruptive or unruly during any meeting.

Division 14 – Suspension of Standing Orders

73. Suspension of Standing Orders

- 73.1 To expedite the business of a meeting, *Council* may resolve to 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.

- 73.2 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....."

- 73.3 No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.

- 73.4 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

74. Meetings Conducted by Electronic Means

If:

- 74.1 by law a meeting may be conducted electronically; and

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

the meeting must, as far as possible be conducted in accordance with the Good Practice Guideline issued by the Minister for Local Government in June 2022.

- 74.3 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.

- 74.4 In accordance with section 41(6A) of the *Act*, a Councillor wishing to attend and be present at a meeting by electronic means of communication must:
- 74.4.1 submit the request to the *CEO* prior to the meeting;
 - 74.4.2 specify the reasons for the request; and
 - 74.4.3 indicate the dates or dates of the relevant *Council meetings*.
- 74.5 The *CEO* must ensure that any request received in accordance with sub-Rule 74.4 and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant *Council meeting*.
- 74.6 *Council* must consider the request and may approve or disallow the request, but must not unreasonably disallow the request.
- 74.7 In order to participate in a meeting conducted by electronic means, Councillors should preferably be able to:
- 74.7.1 hear proceedings;
 - 74.7.2 see other Councillors and be seen by other Councillors; and
 - 74.7.3 be heard.
- 74.8 In the event that the requirements of sub-Rule 74.7 are compromised by a technical malfunction:
- 74.8.1 *Council* may resolve to adjourn the meeting for up to 30 minutes to enable the technical issues to be overcome;
 - 74.8.2 after the adjournment, if the Councillor or Councillors still cannot participate in accordance with sub-Rule 74.7, the *Mayor* may:
 - a) determine that the fact that the Councillor or Councillor can be heard is sufficient and that the meeting can continue; or
 - b) shall announce that the Councillor is no longer participating in the meeting;
 - 74.8.3 if the technical issues are subsequently resolved, the Councillor may re-join the meeting; and
 - 74.8.4 the circumstances described in sub-Rules 74.8.1 to 74.8.3 inclusive shall be recorded in the minutes.

75. Procedures 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 Legislative Council of the Victorian Parliament (so far as the same are capable of being applied to *Council* proceedings).

76. Criticism of members of Council staff

- 76.1 The *CEO* may make a brief statement at a *Council meeting* in respect of any statement by a Councillor made at the *Council meeting* criticising the *CEO* or any member of Council staff.
- 76.2 A statement under sub-Rule 76.1 must be made by the *CEO*, through the *Chair*.

Chapter 3 – Meeting Procedure for Delegated Committees

77. Meeting Procedure Generally

If *Council* establishes a *Delegated Committee*:

- 77.1 all of the provisions of Chapter 2 apply to meetings of the *Delegated Committee*; and
- 77.2 any reference in Chapter 2 to:
- 77.2.1 a *Council meeting* is to be read as a reference to a *Delegated Committee* meeting;
 - 77.2.2 a Councillor is to be read as a reference to a member of the *Delegated Committee*; and
 - 77.2.3 the *Mayor* is to be read as a reference to the *Chair* of the *Delegated Committee*.

78. Meeting Procedure can be Varied

Notwithstanding Rule 77, if *Council* establishes a *Delegated Committee* that is not composed solely of Councillors:

78.1 *Council* may; or

78.2 the *Delegated Committee* may, with the prior 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 prior approval of *Council* resolves, otherwise.

Chapter 4 – Meeting Procedure for Community Asset Committees

79. Introduction

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

80. 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

81. Introduction

The following Rules in this Chapter apply in respect of the conflict of interest provisions of the *Act*.

82. Definition

In this Chapter:

82.1 “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 91 of Chapter 6 (whether such a meeting is known as a “Councillor Briefing”, “Councillor Forum” or by some other name); and

82.2 a member of a *Delegated Committee* includes a Councillor.

83. 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 the Councillor:

83.1 is present, must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting*, when prompted by the *Chair* at the appropriate point in the meeting *agenda* and / or immediately before the matter is considered; or

83.2 intends to be present must disclose that conflict of interest by providing to the *CEO* before the *Council meeting* commences a *written* notice on the form provided by the *CEO* specifically for the purpose of declaring an interest:

83.2.1 advising of the conflict of interest;

83.2.2 explaining the nature of the conflict of interest; and

83.2.3 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, at the appropriate point of the meeting or, immediately before the matter is considered at the meeting announcing to those present that the Councillor has a conflict of interest and that a *written* notice has been given to the *CEO* under this sub-Rule.

83.3 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.

84. 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 the member:

84.1 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

84.2 intends to present must disclose that conflict of interest by providing to the *CEO* before the *Delegated Committee* meeting commences a *written* notice:

84.2.1 advising of the conflict of interest;

84.2.2 explaining the nature of the conflict of interest; and

84.2.3 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:

- (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

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 the member has a conflict of interest and that a *written* notice has been given to the *CEO* under this sub-Rule.

84.3 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.

85. 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 the Councillor:

85.1 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

85.2 intends to present must disclose that conflict of interest by providing to the *CEO* before the *Community Asset Committee* meeting commences a *written* notice:

85.2.1 advising of the conflict of interest;

85.2.2 explaining the nature of the conflict of interest; and

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:

(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

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 the Councillor has a conflict of interest and that a *written* notice has been given to the *CEO* under this sub-Rule.

85.3 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.

86. 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 the Councillor is present must:

86.1 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;

86.2 absent themselves from any discussion of the matter; and

86.3 as soon as practicable after the meeting concludes, provide to the *CEO* a *written* notice recording that the disclosure was made and accurately summarising the explanation given to those *present at the meeting*.

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

87.1 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 the staff member is preparing or contributing to the preparation of a report for the consideration of a:

87.1.1 *Council meeting*;

87.1.2 *Delegated Committee meeting*; or

87.1.3 *Community Asset Committee meeting*,

must, immediately upon becoming aware of the conflict of interest, provide a *written* notice to the *CEO* disclosing the conflict of interest and explaining the nature of the conflict of interest.

87.2 The *CEO* 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.

87.3 If the member of Council staff referred to in sub-Rule 87.1 is the *CEO*:

87.3.1 the *written* notice referred to in sub-Rule 87.1 must be given to the *Mayor*,
and

87.3.2 the obligation imposed by sub-Rule 87.2 may be discharged by any other member of Council staff responsible for the preparation of the report.

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

88.1 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 *CEO* explaining the nature of the conflict of interest.

88.2 If the member of Council staff referred to in sub-Rule 88.1 is the *CEO* the *written* notice must be given to the *Mayor*.

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

89.1 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 *CEO* explaining the nature of the conflict of interest.

89.2 If the member of Council staff referred to in sub-Rule 89.1 is the *CEO* the *written* notice must be given to the *Mayor*.

90. Retention of Written Notices

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

Chapter 6 – Miscellaneous

91. Informal Meetings of Councillors (Councillor Forums)

If there is a meeting of Councillors that:

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

the *CEO* must ensure that a summary of the matters discussed at the meeting are:

- (a) tabled at the next convenient *Council meeting*; and
- (b) recorded in the minutes of that *Council meeting*.

92. Confidential Information

92.1 If the *CEO* is of the opinion that information relating to a meeting is *confidential information* within the meaning of the *Act*, the *CEO* may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.

92.2 Information which has been designated by the *CEO* 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, will be presumed to be *confidential information*.

93. Amendments to the Governance Rules

Minor amendments to these Governance Rules may be made by the *CEO* to reflect legislative or organisational changes. The *CEO* must notify the Councillors of any such amendments.

Chapter 8 – Annexure

DECLARATION OF CONFLICT OF INTEREST (Local Government Act 2020 – sections 126-131) West Wimmera Shire Council

Section A - to be completed by the Councillor / Committee Member / member of Council staff making a statement and submitted to the *Chief Executive Officer* or delegate before the meeting (where possible).

| | | |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Name of Councillor / committee member / member of Council staff | |
| 2. | Name of meeting | |
| 3. | Date of meeting | |
| 4. | Date of disclosure (if different to above) | |
| 5. | Agenda item number | |
| 6. | Agenda item description | |
| 7. | Description of Conflict of Interest in Item | <input type="checkbox"/> General Conflict of Interest (section 127) Private interests could result in that person acting in a manner that is contrary to their public duty |
| | Material Conflict of Interest (section 128) The declarant has a material conflict of interest, if an affected person would gain a benefit or suffer a loss depending on the outcome of a matter The benefit or loss may be: <ul style="list-style-type: none"> • direct or indirect; or • pecuniary or non-pecuniary. | For a material conflict of interest, an affected person is: <ul style="list-style-type: none"> <input type="checkbox"/> The declarant on this form (section 128 (3)(a)) <input type="checkbox"/> A family member of the declarant on this form (section 128 (3)(b)) <input type="checkbox"/> A body corporate of which the declarant on this form or their spouse/domestic partner is a Director of a member of the governing body (section 128(3)(c)) <input type="checkbox"/> An employer of the declarant on this form, unless the employer is a public body (section 128 (3)(d)) <input type="checkbox"/> A business partner of the declarant on this form (section 128 (3)(e)) <input type="checkbox"/> A person for whom the declarant on this form is a consultant, contractor or agent (section 128 (3)(f)) |
| | | <input type="checkbox"/> A beneficiary under a trust or an object of a discretionary trust, of which the declarant on this form is a trustee (section 128(3)(g)) |

| | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| | | A person from whom the declarant on this form has received a disclosable gift (section 128(3)(h)) |
| 8. | Nature of conflict of interest (please provide a description of the nature of your conflict of interest) | |
| | Signature of Councillor / committee member / member of Council staff | |
| | Time left meeting:am/pm | Time returned to the meeting:.....am/pm |
| <p>NOTE: Section 130(2) of the Act requires that while the matter is being considered, or any vote is taken, the Councillor or Committee member or member of Council staff must:</p> <p>a) disclose the conflict of interest in the manner required by the Governance Rules; and</p> <p>b) exclude themselves (*) from the decision making process in relation to that matter, including any discussion or vote on the matter at any Council meeting or delegated committee, and any action in relation to the matter.</p> <p>(*) Note - “exclude themselves” means, in the case of a meeting conducted by physical attendance:</p> <p>a) leave the room and notify the Chair accordingly; and</p> <p>b) remain outside the room and any gallery or other viewing area in view or hearing of the room.</p> <p>In the case of a meeting conducted by electronic means, a member of Council staff will “suspend” the involvement of the Councillor, Committee member or member of Council staff by disconnecting their audio and visual attendance until the matter has been dealt with.</p> | | |

Section B - to be completed by the officer responsible for Council or Committee minutes.

| | | | |
|----|-------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------------------|
| 1. | Was a vote taken on the item? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. | Did the Councillor/Committee member/member of Council staff exit the meeting before discussion of, and not vote on, the item? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

Signature

Name

LEGISLATIVE EXTRACTS

CONFLICT OF INTEREST DISCLOSURE

In accordance with the *Local Government Act 2020*, a relevant person must declare any general or material conflicts of interests which are direct or indirect, pecuniary or non-pecuniary.

For the purpose of the Act, a relevant person is defined as being a Councillor, a member of a Delegated Committee who is not a Councillor, or a member of Council staff.

DEFINITIONS

In this Division of the Act:

a) ***family member*** means:

- a spouse or domestic partner of the relevant person; or
- a parent, grandparent, sibling, child, grandchild, step-parent, step-sibling or step-child of the relevant person or of their spouse or domestic partner; or
- any other relative that regularly resides with the relevant person;

b) ***matter*** means a matter with which a Council, delegated committee, *community asset committee* or a member of Council staff is concerned and that will require—

- a power to be exercised, or a duty or function to be performed, or a decision to be made, by the Council, delegated committee or *community asset committee* in respect of the matter; or
- a power to be exercised, or a duty or function to be performed, or a decision to be made by a member of Council staff in respect of the matter;

c) ***not-for-profit organisation*** means a body that:

- operates exclusively for charitable, civil, sporting or other social purposes; and
- does not share or allocate the funds or profits of the body or organisation with the owners, shareholders or executives of the body or organisation.

SECTION 127: GENERAL CONFLICT OF INTEREST

(1) Subject to section 129, a relevant person has a **general conflict of interest** in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

(2) For the purposes of subsection (1):

- a) **private interests** means any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief.
- b) **public duty** means the responsibilities and obligations that a relevant person has to members of the public in their role as a relevant person.

SECTION 128: MATERIAL CONFLICT OF INTEREST

A relevant person has a **material conflict of interest** in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

(2) The benefit may arise or the loss incurred:

- a) directly or indirectly; or
- b) in a pecuniary or non-pecuniary form.

(3) For the purposes of this section, any of the following is an **affected person**:

- a) the relevant person;
- b) a family member of the relevant person;
- c) a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body;
- d) an employer of the relevant person, unless the employer is a public body;
- e) a business partner of the relevant person;
- f) a person for whom the relevant person is a consultant, contractor or agent;
- g) a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee;
- h) a person from whom the relevant person has received a disclosable gift.

SECTION 128: DISCLOSABLE GIFTS

(4) For the purposes of subsection (3)(h), **disclosable gift** means one or more gifts with a total value of, or more than, \$500 or if an amount is prescribed for the purposes of this subsection, the prescribed amount, received from a person in the 5 years preceding the decision on the matter:

- a) if the relevant person held the office of Councillor, was a member of Council staff or was a member of a delegated committee at the time the gift was received; or
- b) if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation

but does not include the value of any reasonable hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a Councillor, member of Council staff or member of a delegated committee.

SECTION 129: EXEMPTIONS

A conflict of interest does not arise if any of the following applies:

- a) the conflict of interest is so remote or insignificant that it could not be reasonably regarded as capable of influencing the actions or decisions of the relevant person in relation to the matter;
- b) the interest that would give rise to a conflict of interest is held in common with a substantial proportion of the residents, ratepayers or electors of the municipal district and does not exceed the interest held by the other residents, ratepayers or electors;
- c) the relevant person does not know the circumstances that give rise to the conflict of interest, and could not be reasonably expected to know those circumstances;
- d) the interest only arises because the relevant person is the representative of the Council on a not-for-profit organisation that has an interest in the matter and the relevant person receives no personal advantage from the not-for-profit organisation;
- e) the interest only arises because a family member of the relevant person is a member but not an office-holder of a not-for-profit organisation;
- f) the interest only arises because the relevant person is a member of a not-for-profit organisation that has expressed an opinion or advocated for an outcome in regard to the matter; or
- g) the interest arises in relation to a decision by a Councillor on a matter or in a circumstance that is prescribed to be exempt by the Regulations.
