

GOVERNANCE RULES

Introduction

1. Nature of Rules

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

2. Date of Commencement

These Governance Rules commence on 1 September 2022.

3. Contents

These Governance Rules are divided into the following Chapters:

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

1. Definitions

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

WORD(S)	MEANING
Act	means the <i>Local Government Act 2020</i> .
The votes of an Absolute majority of Councillors	means the votes of more than half of the number of elected Councillors.
Agenda	means the notice of a Meeting setting out the business to be transacted at the Meeting.
Amendment	means a minor alteration to a motion designed to improve the motion without altering its intent or material impact.
Attend, Attending and In Attendance	includes attend, attending or in attendance by electronic means.
Chair or Chairperson	means the Chairperson of the Meeting and includes an acting, temporary or substitute Chairperson.
Chief Executive Officer	means the person appointed by a Council under section 44 of the Act to be its Chief Executive Officer of Council and includes an Acting Chief Executive Officer.

WORD(S)	MEANING
Communicate Electronically	means communication to and from councillors including an email sent to the email account that is provided by the Council or the provision of documents transmitted via a secure software application to a digital device.
Community Asset Committee	means a Community Asset Committee established under section 65 of the Act.
Conflict of interest	Means a conflict of interest within the meaning of the Local Government Act 2020.
Council	means Knox City Council.
Council Meeting or "Meeting"	means a Council meeting that complies with section 61(1).
Councillor	means a Councillor of Council.
Delegated Committee	means a Delegated Committee established under section 63 of the Act.
Deputy Mayor	means the Deputy Mayor of Council.
Director	means a member of staff occupying a second-level position in the core part of the organisational structure of Council or designated by the Chief Executive Officer as a being part of the Executive Management Team.
Foreshadowed Motion	Means a motion, other than Notice of Motion, advice of which is given: <ul style="list-style-type: none"> • prior to a meeting, with an indication that the Councillor is considering, or intending to move the motion as an alternative to the Officers Recommendation in a report • during a meeting, prefaced by a Councillor with a statement that in the event of a motion before the Chair being lost, the Councillor intends to move the motion as an alternative motion.
Mayor	means the Mayor of <i>Council</i> .
Minutes	means collective record of proceedings of a Council Meeting.
Notice of Motion	means a notice setting out the text of a motion which is proposed to be moved at the next relevant Meeting.
Notice of Rescission	means a <i>notice of motion</i> to rescind a resolution made by <i>Council</i> .
Officer	means a person employed on Council staff.
Point of Order	Means a formal request of the Chairperson for clarification of, or for a ruling, on a matter of procedure.
Procedural Motion	means a motion set out in Rule 42 of Chapter 2.
Recording or Broadcasting Device	means any device which is being used to: <ul style="list-style-type: none"> • photograph or otherwise record visual images; • to make an audio recording; • to broadcast photographs or visual images; and or • to make an audio broadcast.

WORD(S)	MEANING
Supplementary Report	means a report circulated by the Chief Executive Officer in relation to matters that have arisen since the publication of the Agenda.
The Rules	means these Governance Rules.
Written	includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form, and writing has a corresponding meaning.

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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 set out below;
- 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;
- and
- (b) the following documents adopted or approved by *Council*:
- Community Engagement Policy
 - Public Transparency Policy
 - Councillor Code of Conduct
 - Councillor Gift, Benefit and Hospitality Policy
 - The Instruments of Delegation to any Delegated Committee
 - Staff Code of Conduct.

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* 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 ensure any person whose rights will be directly affected by the decision has had reasonable notice and an opportunity to communicate their views and have their interests considered.;
- (ii) if a report to be considered at a *Council meeting* concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;
- (iii) if a report to be considered at a *Delegated Committee* meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
- (iv) if a member of Council staff intends to make a decision under delegation they must ensure:
 - a) The decision making process includes or included an opportunity for any person whose rights will be directly affected by the decision to communicate their views and have their interests considered; and
 - b) The decision making process, any notice given; views received; or interests considered are documented appropriately.

For the purposes of this section, appropriate record keeping methods include, but are not limited to:

- letters;
- delegate reports;
- detailed customer service requests;
- minutes of meetings;
- memos; and/or
- detailed officer file notes.

Chapter 2 – Meeting Procedure for Council Meetings

Part A – Introduction

1. Title

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

2. Purpose of this Chapter

The purpose of this Chapter is to:

- 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, unless stated below words have the same meaning as specified in the Introduction.
- 3.2 In this Chapter, a reference to a Rule or sub-Rule is a reference to a Rule or sub-Rule in this Chapter, unless stated otherwise.
- 3.3 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.

Before the election of the Mayor, Council must determine by resolution whether the Mayor is to be elected for a 1 year or a 2 year term.

4. Election of the *Mayor*

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

5. Method of Voting

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

6. Determining the election of the *Mayor*

- 6.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- 6.2 Any nominations for the office of *Mayor* must be:
- 6.2.1 stated verbally in the meeting; and
 - 6.2.2 seconded by another Councillor.
- 6.3 Once nominations for the office of *Mayor* have been received, no further nominations may be accepted unless it is resolved to conduct a new election at a later date and time; and the following provisions will govern the election of the *Mayor*.

Single Nomination

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

Multiple Nominations and Candidate Elected On First Vote

- 6.5 If there is more than one nomination, the Councillors in attendance at the meeting must (subject to the Act and these Rules) vote for one of the candidates;
- 6.6 In the event of a candidate receiving the votes of an absolute majority of Councillors, that candidate must then be declared to have been elected.

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

6.7 In the event that:

6.7.1 there are three or more candidates;

6.7.2 no candidate receives the votes of an absolute majority of Councillors;
and

6.7.3 it is not resolved to conduct a new election at a later date and time:

a second vote will be taken. In the event of a candidate receiving the votes of an absolute majority of Councillors that candidate must then be declared to have been duly elected.

6.8 If, after the second vote pursuant to sub-Rule 6.7:

6.8.1 no candidate receives the votes of an absolute majority of Councillors;
and

6.8.2 it is not resolved to conduct a new election at a later day and time:

the candidate with the fewest number of votes must be declared to be a defeated candidate and the Councillors in attendance at the meeting will then vote for one of the remaining candidates.

If one of the remaining candidates receives the votes of an absolute majority of Councillors, that candidate must then be declared to have been duly elected.

If none of the remaining candidates receives the votes of an absolute majority of Councillors and it is not resolved to conduct a new election at a later day and time, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives the votes of an absolute majority of Councillors. That candidate must then be declared to have been duly elected.

6.9 For the purposes of sub-Rules 6.7 and 6.8 if no candidate can be determined to have the fewest number of votes due to two or more candidates having an equality of votes then the candidate who is to be declared a defeated candidate will be determined by lot.

6.10 For the purposes of sub-Rules 6.7 and 6.8 if no candidate can be determined to have the fewest number of votes due to two or more candidates having an equality of votes then the candidate who is to be declared a defeated candidate will be determined by lot.

6.10.1 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 who has an equal number of votes with another candidate or candidates 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. The word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates until one of those candidates receives the votes of an absolute majority of Councillors).

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

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

6.12 If:

6.12.1 it is resolved to conduct a new election at a later date and time a new election will take place at on the date and at the 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 will be declared duly elected; and

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

7. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for:

7.1 any office of Deputy Mayor;

7.2 Chair of a *Delegated Committee*; or

7.3 *the appointment of Councillors to positions on Council Committees and external committees where the number of candidates exceeds the number of vacant positions*

will be regulated by Rules 4-6 (inclusive) of this Chapter, as if the reference to the:

7.4 *Chief Executive Officer* is a reference to the *Mayor*; and

7.5 *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 4, 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.

Council is committed to transparency in decision making and, in accordance with the Act, Council and Delegated Committee Meetings:

- are open to the public and live streamed in accordance with Council policy; and will only be closed to members of the public if the requirements of the Act are met.

If a meeting is closed to the public to consider confidential matters, live streaming will be terminated.
If a meeting is closed to maintain security or order, the meeting will continue to be livestreamed.

Division 1 – Notices of Meetings and Delivery of Agendas

9. Dates and Times of Meetings Fixed by Council

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

10. Changing Meeting Dates

- 10.1 Council by resolution, may change the date, time and place of, or cancel, any Meeting which has been fixed.
- 10.2 The Chief Executive Officer, may change the date, time and place of, or cancel, any Meeting which has been fixed, provided reasonable attempts are made to consult with the Mayor and Councillors, before such decision is taken.
- 10.3 The Chief Executive Officer, shall, following the exercise of:
 - 10.3.1 the power in sub-rules 10.1 or 10.2, cause notice of any cancellation or change to date, time and place of, of any Meeting to be given on Council's website.
 - 10.3.2 the power in sub-rule 10.2, cause notice of any cancellation or change to date, time and place of, of any Meeting to be given to Councillors in writing.

11. Meetings Not Fixed by Council

- 11.1 The Chief Executive Officer may by a *written* notice call a *Council Meeting* following a general election for the purposes of electing the mayor, and or such other business as considered necessary or appropriate by the Chief Executive Officer.
- 11.2 The *Mayor* or at least 3 Councillors may by a *written* notice call a *Council meeting*.
 - 11.2.1 The notice must specify the date and time of the *Council meeting* and the business to be transacted.

11.2.2 When specifying the date and time of the *Council meeting*, regard shall be had to:

- a) The availability of an absolute majority of Councillors to attend the meeting;
- b) The availability of relevant officers to prepare any necessary reports and advice and to attend the meeting;
- c) The availability of the meeting room and associated technology to facilitate the meeting, including live streaming equipment;
- d) The amount of notice that is reasonable to give the community; and
- e) The requirements of the Governance Framework set out in Chapter 1.

11.2.3 The Chief Executive Officer must convene the Council meeting as specified in the notice.

11.3 Unless all Councillors are in attendance and unanimously agree to deal with any other matter, only the business specified in the *written* notice can be transacted at the *Council meeting*.

12. Notice Of Meeting

12.1 Reasonable notice of each *Council meeting* must be provided to the public by:

- 12.1.1 maintaining a schedule of meetings on Council's website; and
- 12.1.2 Publishing agendas on Council's website in accordance with Rule 17.

Division 2 – Quorum

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*. Notice is not required in respect of any Councillor who has been granted leave of absence pursuant to the Act and who has not requested the Chief Executive Officer, in writing, to continue to give notice of Meetings to be held during the period of leave of absence.

14. Inability To Maintain A Quorum

14.1 If during any *council meeting* a quorum is lost:

- 14.1.1 The meeting shall be deemed to have been adjourned for a period of up to 15 minutes.

- 14.1.2 If, within a period of 15 minutes a quorum is obtained, the meeting may proceed.
- 14.1.3 If after a period of 15 minutes a quorum cannot be obtained, Rule 13 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 14.2 Despite the loss of a quorum in the circumstances set in this clause, the business transacted at the Meeting to that point that a quorum was lost will remain valid and be capable of being acted upon.
- 14.3 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.

Explanatory Note:

A quorum at a Council meeting is an absolute majority.

Section 67 of the Act provides for alternate decision-making manners where a quorum cannot be maintained due to the number of Councillors who have a conflict of interest,

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 With the exception of the duration of the adjournment, no discussion is allowed on any motion for adjournment of the Meeting, but if on being put the motion is defeated, the subject then under consideration or the next on the Agenda must be discussed before any subsequent motion for adjournment is moved.
- 15.3 Where a meeting is adjourned to another date, or for more than 1 hour:
 - 15.3.1 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.
 - 15.3.2 If it is impracticable for the notice given under sub-Rule 15.3 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 after 10.30pm unless a majority of Councillors present vote in favour of it continuing.
- 16.2 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, sub-Rule 15.3 applies.

Division 3 – Business of Meetings

17. Agenda and the Order of Business

- 17.1 The agenda, and the order of business, for a Council meeting is to be determined by the Chief Executive Officer, having regard to advice provided by the Mayor, so as to facilitate and maintain open, efficient and effective processes of government.
- 17.2 Where practicable, the Chief Executive Officer will send or communicate electronically to every Councillor the Agenda for the Meeting not later than close of business seven (7) days prior to the day fixed for the holding of the meeting. If a public holiday falls on the day agendas are due to be sent, they will be provided to all Councillors not later than close of business six (6) days in advance.
- 17.3 An Agenda need not be delivered to a Councillor who has been granted leave of absence unless the Councillor has, in writing, requested the Chief Executive Officer to continue to provide Agendas for Meetings held during the period of leave.
- 17.4 The Chief Executive Officer with the approval of the Mayor (or Chair of Delegated Committee) may, after distribution of the Agenda prepare a supplementary report for inclusion in a Revised Agenda. A supplementary report sent to Councillors less than 1 working day before the time fixed for holding the Meeting shall be considered under Urgent Business pursuant to Rule 20.
- 17.5 Unless otherwise provided in these Rules, no business may be conducted at a Meeting unless it is business notice of which has been given either by inclusion in the Agenda or any report accompanying the Agenda or in a Notice of Motion or Notice of Rescission.
- 17.6 The Chief Executive Officer shall cause an Agenda, Revised Agenda and/or Supplementary Report to be published on Council's website as soon as practicable, with the exception of any material, containing information that is designated confidential pursuant to the Chapter 6 of these Rules.

18. Change To Order Of Business

- 18.1 Once an agenda has been sent to Councillors, the order of business for that Council meeting may be altered:
 - 18.1.1 Pursuant to sub-Rule 17.4;
 - 18.1.2 By the Chief Executive Officer to withdraw an Officer's report;
 - 18.1.3 By resolution of Council; or
 - 18.1.4 With the leave of Council.

19. Reports by Councillors

19.1 Where the order of business for a *Council Meeting* makes provision for reports by Councillors, such reports may include advice regarding:

- a) meetings of any committees on which a Councillor represents Council that have been held since the last Council Meeting;
- b) other meetings the Councillor has attended, or actions undertaken since the last Council Meeting;
- c) any professional development activity undertaken or conference attended in association with his or her role as a Councillor; and
- d) particulars of Ward issues or Council wide issues of note.

19.2 Reports by Councillors shall be made verbally, with the exception of the particulars (i.e. dates, times and titles) of meetings attended under sub-Rule 19.1 a), b) and c) which may be submitted as a report to the Chief Executive Officer (or their delegate) within 48 hours of the meeting for inclusion in the minutes.

20. Urgent Business

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

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

20.2 The process for raising urgent business will be as follows:

- 20.2.1 If a Councillor or the Chair indicates an intention to raise an item of urgent business the Chair shall state, or call upon the Councillor to state, the nature of the business and why it satisfies the requirements of sub-Rules 20.1.1 and 20.1.2.
- 20.2.2 The Chair will call for a motion that the item be admitted as an item of urgent business pursuant to Rule 20.
- 20.2.3 If the motion under sub-Rule 20.2.2 is carried, the business shall be considered in accordance with Division 4 of this Chapter.
- 20.2.4 If the motion under sub-Rule 20.2.2 is not carried, no further discussion may occur in relation to the item.

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 and be lodged with or sent to the Chief Executive Officer, no later than close of business four working days prior to the meeting.

22.2 A *Notice of Motion* must call for a Council report if the *Notice of Motion* proposes any action that:

22.2.1 impacts the levels of Council service;

22.2.2 commits Council to expenditure greater than \$5,000 that is not included in the adopted Council Budget;

22.2.3 proposes to establish, amend or extend Council policy which will impact the rights of any person who has not had the opportunity to contribute their views;

22.2.4 proposes to impact the rights of any person who has not had the opportunity to contribute their views;

22.2.5 commits Council to any contractual arrangement; or

22.2.6 concerns any litigation in respect of which Council is a party.

22.3 Where a *Notice of Motion* calls for a Council report :

22.3.1 The Councillor should discuss the *Notice of Motion* with the Chief Executive Officer or the relevant Director in advance, to determine the resource requirements; and

22.3.2 If the resource requirements exceed 3 person days or \$5,000 in costs, the notice should refer the matter to the next budget deliberations for funding.

22.4 If a notice of motion is received in accordance with sub-rules 22.1, 22.2 and 22.3;

22.4.1 The *Chief Executive Officer* or their delegate may provide advice to the Councillor consistent with Rule 71 and provide the Councillor with an opportunity to amend their *Notice of Motion*.

22.4.2 If practicable, the Chief Executive Officer shall include the *Notice of Motion* in the agenda for the Council meeting, otherwise, the Chief Executive Officer must distribute a copy of the *Notice of Motion* to all Councillors and publish the *Notice of Motion* on the Council website as soon as practicable.

22.4.3 The *Chief Executive Officer* may, at their discretion, include with a *Notice of Motion* distributed pursuant to sub-Rule 22.4.2 such additional information as they consider appropriate to Council's deliberations,

having regard, but not limited to, the provisions of sub-Rule 71.2 and the Governance Framework in Chapter 1 of these Rules.

- 22.4.4 If a *Notice of Motion* is lodged other than in accordance with sub- Rule 22.1 the *Notice of Motion*, unless withdrawn, must be included in the agenda for the following Council Meeting.
- 22.4.5 At the meeting, except with the leave of *Council*, the *Notice of Motion* must be moved in the form of words circulated pursuant to sub-Rule 22.4.2 and may be amended in accordance with sub-Rule 27.
- 22.5 If a Councillor who has lodged a *Notice of Motion* is absent from the Meeting or fails to move the motion when called upon by the Chairperson, any other Councillor may move the motion.
- 22.6 If a *Notice of Motion* is not moved in at the *Council meeting* at which it is listed, the *Notice of Motion* shall be deemed to have lapsed for want of a mover.
- 22.7 A *Notice of Motion* may be withdrawn by a request in writing lodged with the Chief Executive Officer at any time prior to the publication of the notice in an agenda or on Council's website. Otherwise, the item must be dealt with at a Meeting.
- 22.8 The *Chief Executive Officer* may reject any *Notice of Motion* which:
- 22.8.1 is vague or unclear in intention
 - 22.8.2 it is beyond *Council's* power to pass;
 - 22.8.1 is contrary to the requirements of the Governance Framework set out in Chapter 1 of these *Rules*, or
 - 22.8.2 if passed would result in *Council* otherwise acting invalidly
- but must:
- 22.8.3 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - 22.8.4 notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.
- 22.9 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.
- 22.10 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.
- 22.11 A *Notice of Motion* is not required to request the *Chief Executive Officer* to cause a matter under the Planning and Environment Act 1987 to be reported to a *Council Meeting* rather than be determined under delegation.

23. Validity of motions

Any motion which is determined by the *Chairperson* 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*;
- 23.5 contrary to the Governance Rules; or
- 23.6 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 *Chairperson*.

24. Introducing A Motion

The procedure for moving any motion 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 is moved and seconded the *Chairperson* may ask:
"Is the motion opposed?"
- 24.4 the *Chairperson* must call on the mover to address the meeting;
- 24.5 after the mover has addressed the meeting or reserved their address until later in the debate, the *Chairperson* must call on the seconder to address the meeting;

25. Debating A Motion

Once a motion has been introduced, the procedure for debate is:

- 25.1 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chairperson* must invite debate by calling on any *Councillor* who wishes to speak to the motion,
- 25.2 if, after the mover has addressed the meeting, the *Chairperson* invites debate and no Councillor speaks to the motion, then the *Chairperson* must put the motion to the vote.
- 25.3 subject to sub-Rule 25.5 and Rule 26, a *Councillor* may only speak once on the motion..
- 25.4 a *Councillor* calling the attention of the *Chairperson* to a point of order is not regarded as speaking to the motion.

- 25.5 if a motion is amended in accordance with Rule 27, a *Councillor* who spoke to the motion prior to the *amendment* being carried may be permitted by the *Chairperson* to speak to the motion a second time.

26. Right Of Reply

- 26.1 The mover of a motion, including an *amendment*, has a right of reply to matters raised during debate.
- 26.2 The mover of a motion must not introduce new material when exercising any right of reply.
- 26.3 After the right of reply has been taken but subject to any *Councillor* exercising their right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

27. Moving An Amendment

- 27.1 Subject to sub-Rule 27.2 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.
- 27.2 A motion to confirm a previous resolution of *Council* cannot be amended.
- 27.3 An *amendment* must not be directly opposite to the motion, or be substantially contrary to the motion.
- 27.4 If a *Councillor* proposes an *amendment* and the mover and seconder of the motion both indicate their agreement with the *amendment*, the *Chairperson* may accept the *amendment* without debate or vote.
- 27.5 If a *Councillor* proposes an *amendment* and either the mover or seconder of the motion indicate their opposition to the *amendment*, the procedure for moving the *amendment* must be as detailed in sub- Rules 24 to 26 of this Chapter as if the reference to the motion is a reference to the *amendment*.

28. Who May Propose An Amendment

- 28.1 An *amendment* under sub-Rule 27.4 may be proposed or seconded by any *Councillor*.
- 28.2 An *amendment* under sub-Rule 27.5 may be proposed or seconded by any *Councillor*, except the mover or seconder of the original motion.
- 28.3 Any one *Councillor* cannot move more than two *amendments* in succession.

29. How Many Amendments May Be Proposed

- 29.1 Any number of *amendments* may be proposed to a motion but only one *amendment* may be accepted by the *Chairperson* at any one time.
- 29.2 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.

30. An Amendment Once Carried

- 30.1 If the *amendment* is carried, the motion as amended then becomes the substantive motion before the meeting.
- 30.2 For the purposes of debate under Rule 25, the mover and seconder of the *amendment* are deemed to be the mover and seconder of the substantive motion and to have addressed the meeting, and debate commences as for a new motion.

31. Foreshadowing Motions

- 31.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of their intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 31.2 A Councillor may foreshadow a motion prior to the meeting to inform *Councillors* of a motion they are considering moving, but this does not extend any special right to the foreshadowed motion:
 - 31.2.1 When foreshadowed prior to the meeting, the Chairperson, or Chief Executive Officer, may cause a foreshadowed motion to be circulated to all Councillors.
- 31.3 A foreshadowed motion may be prefaced with a statement that in the event of a particular motion before the *Chairperson* being resolved in a certain way, a *Councillor* intends to move an alternative or additional motion.
- 31.4 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.
- 31.5 A foreshadowed motion has no procedural standing and is merely a means to assist the flow of the Meeting.
 - 31.5.1 The Chairperson is not obliged to accept foreshadowed motions.
 - 31.5.2 The Chairperson may consider foreshadowed motions and the order in which they were received, when determining the priority of address under sub-Rule 35.

32. Withdrawal Of Motions

- 32.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of *Council*.

33. Separation Of Motions

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

34. Chair May Separate Motions

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

35. Priority of address

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

36. Motions In Writing

36.1 The *Chairperson* may require that any motion be in writing.

36.2 *Council*, or the *Chairperson with leave of the 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.

37. Repeating Motion and/or Amendment

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

38. Debate Must Be Relevant To The Motion

38.1 Debate must always be relevant to the motion, *amendment* or business under discussion before the *Chairperson*, and, if not, the *Chairperson* must request the speaker to confine debate to the motion, *amendment* or business under discussion.

38.2 If after being requested to confine debate to the motion, *amendment* or business under discussion before the *Chairperson*, the speaker continues to debate irrelevant matters, the *Chairperson* may direct the speaker to be seated and not speak further in respect of the motion, *amendment* or business under discussion then before the *Chairperson*.

38.3 A speaker to whom a direction has been given under sub-Rule 38.2 must comply with that direction.

39. Speaking Times

39.1 A *Councillor* must not speak longer than the time set out below, unless granted an extension as a *procedural motion* in accordance with Rule 42:

39.1.1 the mover of a motion or an *amendment* which has been opposed: 5 minutes;

39.1.2 any other *Councillor*: 3 minutes;

39.1.3 the mover of a motion exercising a right of reply: 2 minutes; and

39.1.4 any Reports by *Councillors* under Rule 19, 5 minutes.

40. Addressing the Meeting

- 40.1 A *Councillor* may speak only when called by the *Chairperson*:
 - 40.1.1 To speak in debate;
 - 40.1.2 To ask or answer a question;
 - 40.1.3 On a point of order; or
 - 40.1.4 To make a personal explanation.
- 40.2 Once acknowledged by the *Chairperson* as being the next speaker on an item, the *Councillor* has the floor and may stand when addressing the Meeting and must not be interrupted unless called to order or time has expired.
- 40.3 Except for the *Chairperson*, any *Councillor* or person who addresses the Meeting must direct all remarks through the *Chairperson*.

41. Right to Ask Questions

- 41.1 A *Councillor* may, when no other *Councillor* is speaking, ask any question concerning or arising out of the motion or *amendment* before the *Chairperson*.
- 41.2 The *Chairperson* has the right to limit questions and direct that debate be commenced or resumed.

Division 5 – Procedural Motions

42. Procedural Motions

- 42.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chairperson*.
- 42.2 Procedural motions require a seconder.
- 42.3 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 & Seconder	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 until	Any <i>Councillor</i> 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 <i>Councillor</i> is speaking	Motion and any <i>amendment</i> postponed to the stated time and/or date	Debate continues unaffected	Yes
2. Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any <i>Councillor</i> who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chairperson</i> ; (b) When another <i>Councillor</i> 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 <i>amendments</i> not further discussed or voted on until: (a) <i>Council</i> resolves to take the question from the table at the same Meeting (b) Matter is placed on an Agenda and the <i>Council</i> resolves to take the question from the table	Debate continues unaffected	Yes
3. The closure	That the motion be now put	Any <i>Councillor</i> who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for <i>Chairperson</i>	Motion or <i>amendment</i> in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any <i>Councillor</i> exercising their right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
4. Proceeding to the next business	That the Meeting proceed to the next business	A <i>Councillor</i> who has not moved, seconded or spoken to the motion or an amendment of it	(a) During the election of a <i>Chairperson</i> ; (b) When another <i>Councillor</i> is speaking; or (c) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	If carried in respect to a procedural motion, its effect is to remove that motion from consideration If carried in respect to an <i>amendment</i> , its effect is to dispose of the <i>amendment</i> and debate resumes upon the substantive motion If carried in respect to a substantive item of business on the agenda, the item is not considered unless listed on a future agenda.	Debate continues unaffected	No
5.Extension of Speaking Time	That Cr _____ be granted an extension of time to speak.	Any <i>Councillor</i> other than the speaker requesting the extension		The speaker shall be allowed a further 2 minutes to speak but further extensions must not be permitted	The <i>Chairperson</i> must direct the speaker to be seated and not speak further in respect of the motion	No

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
6.Suspension of standing orders	That standing orders be suspended	Any <i>Councillor</i>		<p>The formalities of the meeting procedure are temporarily disposed of.</p> <p>No motion can be accepted by the <i>Chairperson</i> or lawfully be dealt with until standing orders are resumed</p>	The formalities of the meeting procedure remain in place	Yes
7.Resumption of standing orders	That standing orders be resumed	Any <i>Councillor</i>	When standing orders have not been previously suspended	The formalities of the meeting procedure are resumed	<p>The formalities of the meeting procedure remain temporarily disposed of.</p> <p>No motion can be accepted by the <i>Chairperson</i> or lawfully be dealt with until standing orders are resumed</p>	Yes

Division 6 – Rescission Motions

43. Notice of Rescission

- 43.1 A Councillor may propose a *Notice of Rescission* provided:
- 43.1.1 it has been signed and dated by at least two *Councillors*;
 - 43.1.2 the resolution proposed to be rescinded has not been acted on; and
 - 43.1.3 the *Notice of Rescission* is delivered to the *Chief Executive Officer* not later than the close of business on the working day following the meeting at which the decision was made setting out -
 - (a) the resolution to be rescinded; and
 - (b) the meeting and date when the resolution was carried.

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.

- 43.2 Rescission or amendment motions are not permissible in respect of planning permit resolutions, planning scheme amendment resolutions or contract / tender acceptance resolutions.
- 43.3 A resolution will be deemed to have been acted on if:
- 43.3.1 its contents have or substance has been formally communicated to a person whose interests are materially affected by it; or
 - 43.3.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- 43.4 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:
- 43.4.1 has not been acted on; and
 - 43.4.2 is the subject of a *Notice of Rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 43.1.3,
- 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 at VCAT on the following Monday.*
- *immediately after that resolution is made, a Councillor lodges a Notice of Motion to rescind that resolution.*
- *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 43.4 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.

43.5 The *Chief Executive Officer* must:

43.5.1 advise all *Councillors* of any Notice of Rescission delivered under this clause within 24 hours of receiving it.

43.5.2 subject to *Sub-Rule 43.4*, list any such Notice of Amendment on the *Agenda* of the next *Council Meeting*.

44. If Lost

44.1 If a motion for rescission is lost or lapses, a similar motion may not be put before *Council* for at least three months from the date it was last lost, unless:

44.1.1 *Council* resolves that the *Notice of Motion* be re-listed at a future meeting;
or

44.1.2 A *Notice of Rescission* is lodged with the *Chief Executive Officer* signed by an absolute majority of *Councillors*.

45. If Not Moved

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

46. 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.

47. When Not Required

47.1 A motion for rescission is not required where *Council* wishes to change policy.

Division 7 – Points of Order

48. Chairperson To Decide

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

49. Chairperson May Adjourn To Consider

- 49.1 The *Chairperson* may adjourn the meeting to consider a *point of order* but otherwise must rule on it as soon as it is raised.
- 49.2 All other questions before the meeting are suspended until the *point of order* is decided.

50. Dissent From Chairperson's Ruling

- 50.1 A *Councillor* may move that the meeting disagree with the *Chairperson's* ruling on a *point of order*, by moving:
 - "That the *Chairperson's* ruling [setting out that ruling or part of that ruling] be dissented from".
- 50.2 When a motion in accordance with this Rule is moved and seconded, the *Chairperson* must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the *Deputy Mayor* is not present, a temporary *Chairperson* elected by the meeting) must take the Chair.
- 50.3 The *Deputy Mayor* or temporary *Chairperson* must invite the mover to state the reasons for their dissent and the *Chairperson* may then reply.
- 50.4 The *Deputy Mayor* or temporary *Chairperson* must put the motion in the following form:
 - "That the *Chairperson's* ruling be dissented from."
- 50.5 If the vote is in the negative, the *Chairperson* resumes the Chair and the meeting proceeds.
- 50.6 If the vote is in the affirmative, the *Chairperson* must then resume the Chair, reverse or vary (as the case may be) their previous ruling and proceed.
- 50.7 The defeat of the *Chairperson's* ruling is in no way a motion of censure or non-confidence in the *Chairperson*, and should not be so regarded by the meeting.

A motion in accordance with this rule should be moved discerningly, with caution; and only where the Chairperson's decision has materially affected an important matter, and not in furtherance of debate.

A successful motion of dissent does not mean that the Chair's ruling was necessarily incorrect, but reflects that the will of the meeting has overruled the Chairperson's ruling.

51. Procedure For Point Of Order

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

- 51.1 state the *point of order*; and
 - 51.2 state any section, Rule, paragraph or provision relevant to the *point of order*;
- before resuming their seat.

52. Valid Points Of Order

A *point of order* may be raised on the grounds that a matter is:

- 52.1 a motion, which, under Rule 23, or a question which, under Rule 53, should not be accepted by the *Chairperson*;
- 52.2 contrary to these rules;
- 52.3 defamatory or derogatory of any councillor, officer, or member of the community;
- 52.4 offensive;
- 52.5 irrelevant under Rule 38;
- 52.6 constitutes a tedious repetition of something already said;
- 52.7 prejudicial to any other person or the council;
- 52.8 a matter that should be considered in a session of a meeting closed to the public, in accordance with the Act;
- 52.9 outside the council's functions or power;
- 52.10 improper; or
- 52.11 or on the grounds that a person in the chamber is being disruptive or unruly during any meeting,

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

Division 8 – Public Question Time

53. Question Time

- 53.1 Unless *Council* resolves to the contrary, there shall be a public question time at every *Council meeting* fixed under Rule 9 to enable members of the public to submit questions to *Council*.
- 53.2 Sub-Rule 53.1 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*.
- 53.3 Public question time will not exceed 30 minutes in duration unless extended by a resolution of *Council*.
- 53.4 Questions submitted to *Council* must;
 - 53.4.1 Be lodged in writing, in English and:
 - a) electronically on the prescribed form available on Council's website prior to 12:00pm on the day of the Council meeting; or
 - b) in hardcopy on the form prescribed by the *Chief Executive Officer* and available at Council's Offices prior to 7:15pm on the day of that *Meeting*; and

- 53.4.2 include the name and address of the person submitting the question, and an email address and phone number if available.

If the requirement to provide a question in writing and or in English prevents or hinders participation in public question time, assistance with submitting questions can be arranged through the Governance Department, via interpreter service if required. It is recommended assistance is sought well ahead of the Council meeting.

- 53.5 No person may submit more than two questions at any one meeting.
- 53.6 If a person has submitted two questions to a meeting, the second question:
- 53.6.1 may, at the discretion of the *Chairperson*, be deferred until all other persons who have asked a question have had their questions asked and answered; or
- 53.6.2 may not be asked if the time allotted for public question time has expired.
- 53.7 The *Chairperson* or a member of Council staff nominated by the *Chairperson* may read to those present at the meeting a question which has been submitted in accordance with this Rule.
- 53.8 If present in the Public Gallery, the *Chairperson* may offer the questioner the opportunity to make a brief introductory statement. The time allowed for such statement and question will be up to two (2) minutes.
- 53.9 A question may be disallowed by the *Chairperson* if the *Chairperson* determines that the question:
- 53.9.1 relates to a matter outside the duties, functions and powers of *Council*;
- 53.9.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
- 53.9.3 deals with a subject matter already answered;
- 53.9.4 is aimed at embarrassing a *Councillor* or a member of Council staff;
- 53.9.5 subject to sub-Rule 53.15, cannot be asked, or cannot be answered without disclosing confidential information as defined by Section 3 of the Act.
- 53.9.6 relates to any other matter which the *Chairperson* considers would prejudice *Council* or any person.
- 53.10 Any question which has been disallowed by the *Chairperson* must be made available to any other *Councillor* upon request.
- 53.11 All questions and answers must be as brief as possible, and no discussion may be allowed other than the introductory statement as provided in sub-Rule 53.8 or by *Councillors* for the purposes of clarification.
- 53.12 Like questions may be grouped together and a single answer provided.

- 53.13 The *Chairperson* may nominate a *Councillor*; or the *Chief Executive Officer* or their delegate to respond to a question.
- 53.14 Questions received and accepted in accordance with this Rule:
- 53.14.1 will receive a verbal response at the meeting where possible; and or
- 53.14.2 where a detailed or researched response is required, may be taken on notice for a written response to be provided within 10 business days.
- 53.15 *Councillor* or the *Chief Executive Officer* may advise *Council* that it is their opinion that a question, and or the answer to the question, contain confidential information in accordance section 3 of the Act, and if the question is accepted, should be considered 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, if *Council* so resolves, the meeting may be closed to the public to consider the question and the response.

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 may be made on any petition, joint letter, or other like application until the next fixed *Council meeting* after that at which it has been presented, other than:
- 54.1.1 a motion to receive and note the petition
- 54.1.2 A motion to refer the matter to the *Chief Executive Officer* or a Director for consideration.
- 54.2 It is incumbent on every Councillor presenting a petition or joint letter to acquaint themselves with the contents of that petition or joint letter, and to ascertain that:
- 54.2.1 it does not contain language which is disrespectful towards *Council*.
- 54.2.2 It is not defamatory, indecent, abusive or objectionable in language or substance; and
- 54.2.3 does not relate to a matter beyond the powers of *Council*.
- 54.3 Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), in English, contain the request of the petitioners or signatories and be signed by at least 2 people.
- 54.4 Subject to sub-rule 54.7, 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.
- 54.5 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*.
- 54.6 Every page of a hard copy 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.

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

Division 10 – Voting

55. How a Motion is Determined

To determine a motion before a *meeting*, the *Chairperson* must first call for those in favour of the motion and then those opposed to the motion, must acknowledge any *Councillor* who has abstained and must then declare the result to the *meeting*.

56. Silence

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

57. Recount

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

58. Casting Vote

- 58.1 If the number of votes in favour of the question is half the number of Councillors present at the meeting at the time the vote is taken, the Chairperson has a second vote; except as provided for in Section 61 of the Act.
- 58.2 The *Chair* may adjourn a meeting to consider how their casting vote will be cast.

According to Section 61 of the Act, a Councillor present at the meeting who does not vote is to be taken to have voted against the question.

59. How Votes Are Cast

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

60. Procedure For A Division

- 60.1 Immediately after any question is put to a meeting 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*.
- 60.2.1 As a division is a separate and distinct vote, no *Councillor* is prevented from changing his or her original vote at the voting on the division.
- 60.3 When a division is called for, the *Chairperson* must:
- 60.3.1 first ask each *Councillor* wishing to vote in the affirmative to raise a hand and, upon such request being made, each *Councillor* wishing to vote in the affirmative must raise one of their hands or otherwise signify their support in a manner recognised by the chair. The *Chairperson* must then state, and the *Chief Executive Officer* or any authorised officer must record, the names of those *Councillors* voting in the affirmative;

- 60.3.2 then ask each *Councillor* wishing to vote in the negative to raise a hand and, upon such request being made, each *Councillor* wishing to vote in the negative must raise one of their hands or otherwise signify their support in a manner recognised by the chair. The *Chairperson* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those *Councillors* voting in the negative;
- 60.3.3 if required, then ask each *Councillor* who abstained from voting to raise a hand and, upon such request being made, each *Councillor* who abstained must raise one of their hands or otherwise signify their support in a manner recognised by the chair. The *Chairperson* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those *Councillors* who abstained from voting; and
- 60.3.4 then declare the result of the vote.

61. 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:

- 61.1 a *Councillor* requesting, before the next item of business is considered, that their opposition to a resolution be recorded in the minutes; or
- 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.
- 61.3 Consideration of a positive motion, where the vote on a negative motion has just been lost and the *Chief Executive Officer* advises a decision or direction of *Council* is required in order to progress a matter.
- 61.4 Consideration of negative motion, or an alternative motion where a vote on a positive motion has just been lost and the *Chief Executive Officer* advises a decision or direction of *Council* is required in order to progress a matter.
- 61.5 An opportunity to speak to the election of a Mayor or Deputy Mayor, following a declaration that a Mayor or Deputy Mayor has been duly elected.

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 decision of Council has not been made. For instance,

1. *Assume that Council considered a motion to refuse a planning permit application and that motion was defeated.*

Without a substitute resolution – eg that a planning permit now be granted – the planning permit application will be left in limbo. Sub-Rule 61.3 indicates in this instance, discussion about a further motion is permissible.

2. *Assume that Council considered a motion to adopt a policy and the motion was lost.*

The reference in sub-Rule 61.4. would enable the discussion of an alternative motion for example to:

- *adopt an amended version of the policy,*
- *abandon the policy, or*
- *refer the policy back to officers for additional work and presentation to a future meeting.*

Sub-Rule 61.4. would also enable the inverse of scenario 1 above, where a motion to grant a planning permit was lost.

Division 11 – Minutes

62. Confirmation of Minutes

62.1 Subject to sub-Rule 62.2, at every *Council meeting* that considers *minutes* of a preceding meeting(s), the *minutes* must be dealt with as follows:

62.1.1 the *Chairperson* must ask "Is there any opposition to the *minutes* of the previous meeting(s)?" and if *Councillors* express no opposition, may declare the minutes to be confirmed.

62.1.2 if a *Councillor* expresses opposition:

- a) a motion can be proposed for confirmation of the *Minutes* with amendment(s); or
- b) a motion may be proposed to allow any adjournment to allow time for the *Minutes* to be read after which a motion can be proposed for confirmation of the *Minutes*, with or without amendment; or
- c) a motion may be proposed to defer consideration of the *minutes* until the next meeting.

62.1.3 If a *Councillor* proposes a motion to confirm the *minutes* with amendments in accordance with sub-Rule 62.1.2 the *Councillor* must:

- a) state the item or items with which they are dissatisfied / object; and

- b) propose a motion clearly outlining the alternative wording to amend the *Minutes*; and
- c) the motion shall be considered according to Division 4 of this Chapter.

62.1.4 Following confirmation of the *minutes*, the *minutes* shall be signed (by hand or secure electronic method) by the *Chairperson* of the *meeting* at which they have been confirmed;

62.2 The *Chairperson* with leave of the meeting, may defer the confirmation of the *Minutes* until the next meeting if considered appropriate.

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 in accordance with sub-Rule 62.1.2.

64. Form and Availability of Minutes

64.1 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:

- 64.1.1 the date, place, time and nature of the meeting;
- 64.1.2 the names of the *Councillors* present and the names of any *Councillors* who apologised in advance for their non-attendance;
- 64.1.3 the names of the members of Directors present and their organisational titles;
- 64.1.4 any disclosure of a conflict of interest made by a *Councillor*, including any explanation given by the *Councillor* under Chapter 5; and whether the conflict of interest was said by the *Councillor* to be a general conflict of interest or a material conflict of interest;
- 64.1.5 arrivals and departures (including temporary departures) of *Councillors* during the course of the *meeting*;
- 64.1.6 each motion and *amendment* moved:
 - (a) including motions and *amendments* that lapse for the want of a seconder, and motions and amendments withdrawn by resolution or by leave of the Meeting; but
 - (b) not including amendments in accordance with sub-Rule 27.4
- 64.1.7 whether motions or *amendments* were carried or lost;
- 64.1.8 in respect of a division:
 - (a) the *Councillor* who called the division;
 - (b) the vote cast by each *Councillor* upon a division;

- (c) whether any *Councillor* abstained from voting; and
- (d) the result of the division.
- 64.1.9 the vote cast by any *Councillor* who has requested that his or her vote be recorded in the *minutes*;
- 64.1.10 a summary of any questions upon notice;
- 64.1.11 the failure of a quorum;
- 64.1.12 closure of the meeting to members of the public;
- 64.1.13 any adjournment of the meeting; and the reasons for any adjournment of one (1) hour or more;
- 64.1.14 the time at which standing orders were suspended and resumed; and
- 64.1.15 a summary of proceedings during public question time;
- 64.1.16 a summary of Reports by Councillors under Rule 19;
- 64.1.17 a summary of any personal explanation made in accordance with Rule 78
- 64.1.18 Any other matter which the *Chief Executive Officer* thinks should be recorded to clarify the intention of the Meeting or the reading of the minutes.
- 64.2 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are:
 - 64.2.1 published on *Council's* website; and
 - 64.2.2 available for inspection at *Council's* office during normal business hours.
- 64.3 Nothing in sub-Rule 64.2 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

65. Addressing The Meeting

- 65.1 Members of the public:
 - 65.1.1 do not have a right to address *Council* and may only do so with the consent of the *Chairperson* or by prior arrangement.
 - 65.1.2 must, if addressing *Council*, extend due courtesy and respect to *Council* and the processes under which it operates and must take direction from the *Chairperson* whenever called on to do so.
 - 65.1.3 Must not, if in attendance at a *Council meeting*, disrupt the meeting.

65.2 Councillors shall:

65.2.1 extend due courtesy and respect to each-other, the community and to Council and the processes under which it operates, and must take direction from the Chairperson whenever called on to do so.

66. Chairperson May Remove

The *Chairperson* 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 65.1.2.

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

67. Chairperson may adjourn disorderly meeting

If the *Chairperson* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, the Chair may adjourn the meeting to a later time on the same day or to some later day as they think proper. In that event, the provisions of sub-Rules 15.3 and 15.3.2 apply.

68. Removal from Chamber

The *Chairperson*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer* or any *Authorised Officer* or member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the *Chairperson* has ordered to be removed from the gallery under Rule 66.

69. Suspensions

Council by resolution may suspend from a *Meeting*, and for the balance of the *Meeting*, any *Councillor* whose actions have disrupted the business of *Council*, and have impeded its orderly conduct.

Division 13 – Meeting Roles and Duties of Chairperson

70. Role of Mayor

- 70.1 Subject to Rule 72, the *Mayor* shall chair all *Council Meetings* at which they are present.
- 70.2 Subject to Rule 72, the *Mayor* shall chair all *Delegated Committee Meetings* at which they are present, unless:
 - a) *Council* resolves otherwise; or
 - b) The *Mayor* has appointed a *Councillor* to be the *Chairperson*.

71. Role of the Chief Executive Officer

- 71.1 The *Chief Executive Officer*, or their delegate, may participate in the meeting to provide support to the *Chairperson*.
- 71.2 The *Chief Executive Officer* or their delegate, should:
 - 71.2.1 immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
 - 71.2.2 advise if there are operational, financial or risk implications arising from a proposed resolution;
 - 71.2.3 help clarify the intent of any unclear resolution to facilitate implementation; and
 - 71.2.4 on request, assist with procedural issues that may arise.

72. Chairperson

- 72.1 If the *Mayor* is unable to attend or remain at a *Council Meeting* for any reason; is not present within 15 minutes of the scheduled commencement time of a *Council meeting*, or is required to declare a conflict of interest:
 - 72.1.1 the *Deputy Mayor* will act as *Chairperson*; or if not present
 - 72.1.2 a *Councillor* who was the immediate past *Mayor* will act as *Chairperson*; or if not present or not willing
 - 72.1.3 a temporary *Chairperson* is to be elected.
- 72.2 Council may elect a temporary *Chairperson* by:
 - 72.2.1 resolving that a specified *Councillor* be so appointed; or
 - 72.2.2 following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter.

73. The Chairperson's Duties And Discretions

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

- 73.1 must ensure business is not conducted at a *Meeting* unless a quorum is present.
- 73.2 must ensure decision making is transparent to members and observers, and that that all meeting members with the right to vote have sufficient information to make good decisions;
- 73.3 must not accept any, question or statement which is:
 - 73.3.1 derogatory, or defamatory of any *Councillor*, member of Council staff, or member of the community; or
 - 73.3.2 objectionable in language or nature; and
- 73.4 must call to order any person who is disruptive or unruly during any meeting.
- 73.5 may, where an action or decision under these *Rules* is dependent upon obtaining leave of the meeting or leave of Council, take leave to have been granted if:
 - a) before taking the action or making the decision, the *Chairperson* indicates the action or decision that is proposed to be taken; and
 - b) no *Councillor* present indicates opposition to the proposed action or decision.
- 73.6 may address a *Meeting* upon any matter under discussion, and is not deemed to have left the Chair on such occasions. However, such address should only take place after all other *Councillors* have had the opportunity to address the *Meeting*.

The roles and duties above should be read in conjunction with the provisions of the Act, including :

- Section 18 - Role of the Mayor*
- Section 28 Role of a Councillor*
- Section 46 Functions of the Chief Executive Officer*

Division 14 – Suspension of Standing Orders

74. Suspension of Standing Orders

- 74.1 To expedite the business of a meeting, *Council* may by procedural motion, suspend standing orders.
- 74.2 The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*.
- 74.3 No motion can be accepted by the *Chairperson* or lawfully be dealt with during any suspension of 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.

Division 15 – Physical and Remote Attendance

75. Mode of Attendance

- 75.1 Each notice of meeting must indicate whether the relevant *Council meeting* is to be conducted:
 - 75.1.1 wholly in person (also known as an “in person” meeting);
 - 75.1.2 wholly by electronic means (also known as an “online only” meeting) ; or
 - 75.1.3 partially in person and partially by electronic means (also known as a ‘hybrid’ meeting).
- 75.2 The indication in the notice of meeting must be consistent with any Resolution of *Council* that has expressed a preference for, or otherwise specified, when *Council meetings* are to be conducted:
 - 75.2.1 wholly in person;
 - 75.2.2 wholly by electronic means; or
 - 75.2.3 partially in person and partially by electronic means.
- 75.3 If a *Council meeting* is to be conducted:
 - 75.3.1 Wholly in person, a Councillor may nonetheless request to attend by electronic means.
 - 75.3.2 Wholly by electronic means, a Councillor may nonetheless request the meeting be conducted partially in person and partially by electronic means.
- 75.4 Any request made under sub-Rule 75.3 must:
 - 75.4.1 be in writing;
 - 75.4.2 be given to the *Chief Executive Officer* no later than 24 hours prior to the commencement of the relevant *Council meeting*; and
 - 75.4.3 specify the reasons why the Councillor is unable or does not wish to attend the *Council meeting* in the manner specified in the notice given under sub-Rule 75.1.
- 75.5 The *Chief Executive Officer* must:
 - 75.5.1 Ensure that any request received in accordance with sub-Rule 75.4 and any other request received from a Councillor to attend other than in the manner specified in sub-Rule 75.1 is made known at the commencement of the relevant Council meeting.
 - 75.5.2 In consultation with the Mayor, take reasonable steps to facilitate a request received in accordance with sub-Rule 75.4 where practicable.
- 75.6 *Council* may approve and must not unreasonably refuse any request made in accordance with sub-Rule 75.4.

- 75.7 A Councillor who is attending a *Council meeting* by electronic means is responsible for:
- 75.7.1 ensuring that they are able to access such equipment and are present in such an environment that facilitates participation in the *Council meeting*.
 - 75.7.2 Ensuring that the location that they are participating from is secure to ensure that deliberations are confidential if required.
- 75.8 Without detracting from anything said in sub-Rule 75.7, a Councillor who is attending a meeting by electronic means must be able to:
- 75.8.1 hear the proceedings;
 - 75.8.2 be heard when they speak.
- and should be able to:
- 75.8.3 see all Councillors and members of Council staff who are also attending the Council meeting, at least while a Councillor or member of Council staff is speaking;
 - 75.8.4 be seen by all Councillors, members of Council staff and members of the public who are physically present at the *Council meeting*; and
- 75.9 If the conditions of sub-Rule 75.8.1 and 75.8.2 cannot be met by one or more Councillors attending a *Council meeting*, whether because of technical difficulties or otherwise:
- 75.9.1 the *Council meeting* will nonetheless proceed as long as a quorum is present; and
 - 75.9.2 the relevant Councillor (or Councillors) will be treated as being absent from the *Council meeting* or that part of the *Council meeting*
- unless the *Council meeting* has been adjourned in accordance with *these Rules*.
- 75.10 Nothing in this Rule 75 prevents a Councillor from joining (or re-joining) a *Council meeting* at the time that they achieve compliance with sub-Rule 75.8 even if the *Council meeting* has already commenced or has continued in their absence.

76. Meetings Conducted Remotely

If a Council meeting is conducted wholly or partially by electronic means, the *Chairperson* may, with the leave of the meeting, modify the application of any of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of the meeting.

Division 16 – Miscellaneous

77. Procedure not provided in this Chapter

In all cases not specifically provided for by this Chapter, resort may 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).

78. Personal Explanation

- 78.1 A *Councillor* may, at any *Council meeting* and at a time decided by the *Chairperson*, make a personal explanation for a period not exceeding 2 minutes on any statement made affecting that *Councillor*.
- 78.2 The *Chief Executive Officer*, or a *Director*, may make a personal explanation at a *Council meeting* in respect of any statement by a *Councillor* made at the *Council meeting* criticising them or any member of Council staff.
- 78.3 A statement under sub-Rule 78.2 must be made by the *Chief Executive Officer* or a *Director*, through the *Chairperson*, as soon as it practicable after the *Councillor* who made the statement has resumed his or her seat.
- 78.4 A personal explanation must not be debated or made for the purpose of furthering debate.
- 78.5 Sub-Rule 78.4 shall not prevent a *Councillor*, the *Chief Executive Officer*, or a *Director*, making a personal explanation in respect of a statement made in accordance with sub-Rules 78.1 or 78.2.

79. Recording and Broadcasting Proceedings

- 79.1 A person must not operate any recording or broadcasting device at any *Council Meeting* or *Special Committee Meeting* without first obtaining:
- 79.1.1 the consent of the *Mayor* or *Chairperson* (as the case may be); or
- 79.1.2 consent of *Council* by resolution of the meeting.
- 79.2 Consent granted under sub-Rule 79.1.1 or 79.1.2 may be revoked at any time during the course of a *Council Meeting* or *Delegated Committee Meeting* by the *Chairperson* or by resolution of *Council* or the *Delegated Committee*.
- 79.3 Nothing in sub-Rule 79.1 applies to any member of Council staff operating any device for the purpose of production of the minutes of the meeting or keeping a record of the *Council Meeting* or *Delegated Committee Meeting*.
- 79.4 Where a *Council Meeting* or *Delegated Committee Meeting* is to be recorded pursuant to this clause the *Chairperson* must as soon as practicable after the opening of the *meeting* advise those who are in attendance that their images and/or voices are likely to be recorded during the course of the meeting.

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 *Chairperson* of the *Delegated Committee*.

2. Meeting Procedure Can Be Varied

Notwithstanding Rule 1, if *Council* establishes a *Delegated Committee*, whether comprised solely of *Councillors* or not:

- 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.

3. Public Submissions

- 3.1 A *Delegated Committee* may, at such time as is allocated by it or by *Council*, hear any person wishing to be heard in respect of his or her submissions to *Council* under Section 223 of the Local Government Act 1989.
- 3.2 *Delegated Committee* members may, through the *Chairperson*, question any submitter in relation to his or her submission.

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

1. Definition

In this Chapter:

- 1.1 “attend” and “in attendance” include attend or in attendance by electronic means;
- 1.2 “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 an ‘Issues Briefing’ or ‘Councillor Briefing’ or by some other name); and
- 1.3 a member of a *Delegated Committee* includes a Councillor.

2. Obligations with regard to Conflict of Interest

- 2.1 *Councillors*, members of a *Delegated Committee* and Council staff are required to:
 - 2.1.1 identify any conflicts of interest; and
 - 2.1.2 disclose or declare all conflicts of interest in accordance with the Act and these Rules; and
 - 2.1.3 exclude themselves from any decision making process in relation to a matter in which they have a conflict of interest in accordance with the Act and these *Rules*

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 they:

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

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

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

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 they:

- 4.1 Are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the *Delegated Committee* meeting immediately before the matter is considered; and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 4.2 intend to attend must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Delegated Committee* meeting commences a written notice:
 - 4.2.1 advising of the conflict of interest;
 - 4.2.2 explaining the nature of the conflict of interest; and indicating whether it is a general conflict of interest or a material conflict of interest; and
 - 4.2.3 detailing, if the nature of the conflict of interest involves a member of a *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
 - 4.2.4 nature of that other person's interest in the matter,

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

The 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 they:

- 5.1 Are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the *Community Asset Committee* meeting immediately before the matter is considered; and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 5.2 intend to attend must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:
 - 5.2.1 advising of the conflict of interest;
 - 5.2.2 explaining the nature of the conflict of interest; and indicating whether it is a general conflict of interest or a material conflict of interest; and
 - 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:
 - (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
 - 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 in attendance that they have a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

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

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 conducted under the auspices of *Council* at which they are in attendance must:

- 6.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the meeting immediately before the matter is considered; and indicating whether it is a general conflict of interest or a material conflict of interest
- 6.2 absent themselves 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 in attendance at the meeting.

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

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

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 and indicating whether it is a general conflict of interest or a material 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 by Members of Council Staff Providing advice at Meetings

8.1 A member of Council staff who, in their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are providing advice at a:

8.1.1 *Council meeting;*

8.1.2 *Delegated Committee meeting;*

8.1.3 *Community Asset Committee meeting;* or

8.1.4 *Advisory Committee meeting (howsoever named)*

must, immediately upon becoming aware of the conflict of interest, inform the meeting of the conflict of interest and the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest.

8.2 The *Chief Executive Officer* must ensure that the minutes of the meeting referred to in sub-Rule 8.1 record the fact that a member of Council staff disclosed a conflict of interest.

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

- 9.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest
- 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. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function

- 10.1 A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest.
- 10.2 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*.

11. Disclosure by Contractors and Consultants

- 11.1 All contractors and consultants engaged by *Council* to provide advice to the decision making process will be required to disclose conflicts of interest.
- 11.2 A contractor or consultant who discloses a conflict of interest will not be engaged to provide advice on that matter unless;
 - 11.2.1 the conflict is so remote or insignificant it could not be considered to influence the advice being provided; or
 - 11.2.2 the conflict of interest relates to an individual within an organisation and the organisation can demonstrate the conflict of interest can be effectively managed; or
 - 11.2.3 there are no other contractors or consultants reasonably available and qualified to provide the technical advice required; and
 - 11.2.4 the conflict of interest is documented in all advice provided by that contractor or consultant.

12. Records of Conflict of Interest and Retention of Written Notices

- 12.1 All conflicts of interest disclosed during a *Council meeting* or *Delegated Committee meeting* will be recorded in the minutes of the meeting pursuant to Chapter 2 of these *Rules* .
- 12.2 The *Chief Executive Officer* will maintain a Conflict of Interest Register which will be made available for inspection upon request.
- 12.3 The *Chief Executive Officer* must retain all written notices received under this Chapter for a period of three years.
- 12.4 The *Chief Executive Officer* is not required under sub-Rule 12.3 to include any information on a register that would meet the definition of confidential information in Section 3 of the Act.

Chapter 6 – Miscellaneous

1. Informal Meetings of Councillors

- 1.1 If there is a meeting of Councillors that:
- 1.1.1 is scheduled or planned for the purpose of discussing the business of *Council* or briefing *Councillors*;
 - 1.1.2 is attended by at least one member of Council staff; and
 - 1.1.3 is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting
- the *Chief Executive Officer* must ensure that a written record is kept of the meeting.
- 1.2 Council may request a summary of records kept under sub-Rule 1.1 be:
- 1.2.1 reported to the next convenient Council meeting; and
 - 1.2.2 recorded in the minutes of that Council meeting.

2. Confidential Information

- 2.1 If the *Chief Executive Officer* is of the opinion that information is confidential information within the meaning of the *Act*, they may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 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.
- 2.3 Nothing in sub-Rule 2.2 will, without more, mean that information designated by the *Chief Executive Officer* under sub-Rule 2.1 satisfies the definition of “confidential information” contained in section 3(1) of the *Act*.

Chapter 7 – Election Period Policy

Policy Number:	2005/02	Directorate:	City Development - Finance & Governance
Approval by:	Council	Responsible Officer:	Coordinator Governance
Approval Date:		Version Number:	6
Review Date:	October 2023		

1. Purpose

This Election Period Policy & Procedure (Policy) ensures that the Knox City Council municipal elections are conducted in a manner that is fair, equitable, and publicly perceived as such. This Policy further ensures that the ordinary business of Council continues throughout the election period in a responsible and transparent manner, and in accordance with statutory requirements and established 'caretaker' conventions.

2. Context

Section 69(1) of the Local Government Act 2020 (the Act) requires a Council to include an election period policy in its Governance Rules. The Act states that an election period policy must prohibit any Council decision during the election period for a general election that:

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

An election period policy must also prohibit any Council decision during the election period that would enable the use of Council resources in a way that is intended to influence, or is likely to influence, voting at the election.

3. Scope

This policy will apply to Councillors, Council staff and candidates for the Knox City Council general elections held on or after Saturday, 24 October 2020.

While the focus of the policy is on the formal 32 day election period, it is acknowledged that campaigning typically starts well in advance of the formal election period and consequently may trigger some provisions of this policy.

4. Contents

5. References

4.1 Community & Council Plan 2017-2021

- Goal 8, We have confidence in decision making

4.2 Relevant Legislation

- Local Government Act 2020
- Local Government (Electoral) Regulations 2016

4.3 Charter of Human Rights

- This policy has been assessed against is considered to be compatible with the charter of Human Rights.

4.4 Related Council Policies

- Councillor Code of Conduct
- Staff Code of Conduct
- Minor Grants Program Policy
- Social Media Policy

4.5 Related Council Procedures

- Nil

6. Definitions

Candidate	<p>A person who has:</p> <ul style="list-style-type: none"> • Within 12 months of the next election period, publicly expressed an intention to run as a candidate in the election; and or • a person who has formally nominated as a candidate in the election with the Election Manager. <p>A candidate is a “known candidate” when a person has actual knowledge of the candidate’s identity and that they meet the above definition.</p>
Council	Knox City Council, whether constituted before or after the commencement of this Policy.
Election Day	<p>In the case of an election, the day of an election determined under section 257 or 260 of the Act.</p> <p>For the 2020 elections, election day is Saturday, 24 October 2020.</p>
Election Manager	Means the Victorian Electoral Commission (VEC) or a person appointed in writing by the VEC
Electoral Matter	<p>As defined in section 3(4) and 3(5) of the Act and detailed below:</p> <p>Any 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 returning officer 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; or (b) a candidate in the election; or (c) an issue submitted to, or otherwise before, the voters in connection with the election.

Election Period	The period commencing at the time that nominations close on nomination day and ending at 6.00pm on Election Day. For the 2020 elections, the election period will apply from 22 September 2020 until 6:00pm on Saturday, 24 October 2020 inclusive.
Inappropriate Decision	As defined in Section 69(2)(c), (d) and (3) of the Act and detailed below: <ul style="list-style-type: none"> a) decisions that the Council considers could be reasonably deferred until the next Council is in place; b) decisions that the Council considers should not be made during an election period; and c) decisions that would enable the use of Council resources in a way that is intended to influence, or is likely to influence, voting at the election.
Major Decision	As defined in Section 69(2)(a) and (b) of the Act and detailed below: <ul style="list-style-type: none"> a) decisions relating to the appointment or remuneration of a Chief Executive Officer, but not to the appointment or remuneration of an Acting Chief Executive Officer; and b) decisions that commit Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year (approximately \$1.2 million in 2020-2021).
Officer Responsible	In respect of a report to a meeting of Council or a Delegated Committee, means the member (or acting member) of the Executive Management Team responsible for authorising the report.
Staff, Council staff, or staff member	means any employee of Council whether permanent or temporary or casual, and includes contractors, and volunteers carrying out work for or on behalf of Knox City Council

7. Council Policy

1. During the election period:
 - Council will not make major decisions contrary to this policy.
 - Council will not make inappropriate decisions contrary to this policy.
 - Council will limit public consultation, public meetings and Council events in order to facilitate Council's day to-day business while avoiding any express or implied links to the election.
 - A Councillor or member of Council staff will not print, publish or distribute electoral matter contrary to the Act.
2. Council resources, events and activities must not be used at any time for election campaign purposes, or in a way that might improperly influence the result of an election.
3. Information held by Council will be equally and transparently available and accessible to all candidates.
4. Assistance and advice will be provided equally and transparently to all candidates.
5. The Chief Executive Officer shall take reasonable steps to inform affected persons of this policy.

7.1 Commencement of Election Period

No later than 30 days prior to the commencement of the election period, the Chief Executive Officer will ensure:

- all Councillors, Staff and Committee members are reminded of the forthcoming election period and the application of this policy.
- This policy is prominently displayed on Council's website for the benefit of the community and candidates (actual or potential).

7.2 Decision Making During the Election Period

Council, a Delegated Committee of Council or a person acting under delegated authority of Council must not make major decisions or inappropriate decisions during the election period for a general election.

7.2.1 Major Decisions

Council acknowledges that it has an ongoing responsibility to act in the best interests of the community. A major decision made contrary to this policy would be in contravention of section 69(2)(a) or (b) of the Act and would be invalid. Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid is entitled to compensation from the Council for that loss or damage.

7.2.2 Inappropriate Decisions

Decisions on the following matters during the election period (whether made by Council, a Delegated Committee or staff member exercising delegation), are considered inappropriate decisions for the purposes of the Act and this policy:

- Major planning scheme amendments
- Sale or discontinuance of roads or similar
- Changes to the strategic objectives and strategies in the Council Plan
- Acquisition or disposition of land
- Adoption or amendment of policies, protocols, strategies, master plans or frameworks
- Adoption of a revised budget
- Adoption or amendment of a Local Law
- Appointing representatives to Council committees
- Naming or re-naming of roads, reserves or features
- Noting the results of community consultation.

Allocation of community grants may also constitute an inappropriate decision, except where:

- The grants or allocations are made by officers pursuant to a delegation from Council, from an existing budget established by Council,
- The grants or allocations are made by officers in accordance with an established policy; guideline; or framework established by Council.
- Deferring the decision on the grant or allocation would be inappropriate, taking into consideration the factors set out in Clause 7.2.3, particularly where the grant relates to Council's response to, and recovery from the impacts of the COVID-19 pandemic.

Assistance in determining whether a decision is likely to be inappropriate should be sought from the Manager Governance in the first instance.

7.2.3 Officer Decisions under Delegated Authority

Before making a decision under delegated authority during the election period, officers should consider all the relevant facts and circumstances, including:

- Whether the decision is, or may be perceived as inappropriate
- Whether the decision is likely to be controversial or affect voting in the election
- The urgency of the decision (can it reasonably wait until after the election?)
- Possible financial repercussions if the decision is deferred; and
- Whether the decision requires community engagement
- Any relevant statutory obligations and timeframes
- Whether delay, or failure to make a particular decision would have a negative impact on Council, the municipality or the local community
- Whether the disadvantage of avoiding making the decision exceeds the benefit of making the decision
- The best interests of Council and the community

Officers requiring assistance in determining whether a decision is likely to be inappropriate should seek advice from the Manager Governance in the first instance.

7.3 Council and Committee Meetings

Councillors, Committee Members, staff and candidates must ensure that due propriety is observed in the conduct of Council meetings in the lead up to the elections, and be particularly vigilant during the election period.

7.3.1 Approval of Reports

All reports to Council and Delegated Committee meetings will be assessed by the Officer Responsible to ensure decisions that would be considered:

- Inappropriate decisions; and/or
- Major decisions

are deferred for consideration until after the election.

The Officer Responsible will also vet reports to avoid listing matters on an Agenda which could foreseeably influence voters' intentions at the forthcoming election.

The Officer Responsible will take into account all the relevant facts and circumstances, including:

- The urgency of the decision (i.e. if the decision could reasonably be deferred until after the election)
- Whether the decision is likely to be controversial or affect voting in the election
- Whether the decision would require the spending of unbudgeted monies
- Whether the decision represents the completion of an activity already commenced and endorsed by the incumbent Council
- Whether the decision requires community engagement

- Whether delay, or failure to make a particular decision would have a negative impact on Council, the municipality or the local community
- Whether the disadvantage of avoiding making the decision exceeds the benefit of making the decision
- Any relevant statutory obligations and timeframes
- The best interests of the community and Council

Where required, guidance should be sought from the Chief Executive Officer.

7.3.2 Election Period Statement

The following election period statement will be included in all reports submitted to Council and Delegated Committee meetings during the election period.

The recommended decision in this report has been determined by the Officer Responsible not to contravene the provisions of the Local Government Act 2020 or the Election Period Policy with respect to major decisions or inappropriate decisions.

7.3.3 Public Question Time

In the lead up to, and during the election period, the Chief Executive Officer or their nominated representative will assess all questions received to determine whether they contain electoral matter.

Where a question is deemed to contain electoral matter the Chief Executive Officer or their nominated representative shall recommend to the Chairperson that they refuse to receive the question pursuant to the Governance Rules.

If a questioner raises electoral matter during the introduction to their question, they will be requested refrain from doing so. If the questioner fails to comply with this request, they will be asked to resume their seat in the gallery and the question will not be responded to.

7.3.4 Councillor Conduct at Meetings

Councillor-candidates remain Councillors throughout the election period and are obliged to discharge their statutory decision-making role and represent the local community. When attending Council and Committee meetings during (and at times before) the election period, Councillor-candidates should:

- exercise caution so discussion and debate is limited as far as practicable to matters which are not likely to be, or be perceived as, electoral matters.
- avoid as far as practicable, raising notices of motion, urgent business or other items that which are likely to be, or be perceived as, electoral matters.

7.4 **Council Resources**

Councillors, Committee Members and staff must ensure that due propriety is observed in the use of all Council resources at any time, and be particularly vigilant during an election period.

Examples of Council resources include:

- Laptops, computers, iPads, and related software including internet, email accounts and Council owned social media accounts.
- Mobile phones including use for calls, data, SMS messages, photos or videos;
- Councillor business cards and name badges;

- Mayoral vehicle
- Council and Committee meetings;
- Phone lines and fax machines provided by Council;
- Council photocopiers and other printing resources including paper;
- Council publications;
- Council merchandise – eg: corporate gifts;
- Council buildings, facilities and car parks – this includes hubs, childcare centres and sporting facilities;
- Council logos, branding, or obvious adaptations thereof;
- Council stationary;
- Photographs or images paid for by Council or taken by Council staff in their official or professional capacity; and
- Staff (inclusive of time, effort and knowledge).

In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice may be sought from the Chief Executive Officer or their nominated delegate.

7.4.1 Use of Council equipment and services by Councillors

Council resources must be used exclusively for normal Council business and must not be used in connection with any election campaign or to influence voters.

Councillor-candidates must not use Council resources in connection with any activities associated with their election campaigns, regardless of any entitlement to "reasonable personal use" of Council equipment under any other policy, protocol or terms of use.

Councillor-candidates should also be mindful to manage any perceived conflicts even where a direct expense to Council is not incurred.

Example: Campaign-related phone calls or emails received on Council devices. Councillor-candidates cannot control how individuals choose to make contact with them on campaign-related matters, and might manage these perceived conflicts by:

- *Ensuring they have, and publicise an alternative phone number and email contact for their campaign*
- *Where practicable, responding to calls or emails using these alternative channels.*

7.4.2 Councillors' Entitlement to Reimbursement

Reimbursement of Councillors' out of pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties and not for expenses that could be perceived as supporting or being connected to a candidate's election campaign.

7.4.3 Council Branding and Stationery

No Council logos, publications, letterheads, or other Knox City Council branding will be used for, or linked in any way to, a candidate's election campaign.

7.4.4 Mayoral and Councillor Support

Council staff, and in particular the Personal Assistant to the Mayor and Councillors, Governance staff and Communications staff, will not undertake any tasks connected directly or indirectly with an election campaign.

7.4.5 Ward-specific publications and activities

No Ward meetings are to be held during the election period.

Ward-specific publications or Councillor profiles and articles in the media will not be arranged or published by Council during the election period.

7.4.6 Use of Council Facilities

Council facilities cannot be booked for electoral campaigning purposes by Councillors, candidates, or other persons during the election period.

7.4.7 Correspondence

Councillor-candidates remain Councillors throughout the election period and will continue to receive and respond to correspondence for their full term of office.

To avoid perceptions that the administration may be providing undue advantage to Councillor-candidates during the election period:

- Where a Councillor-candidate requests staff to prepare a response to correspondence, the Chief Executive Officer (or relevant Director or Manager as appropriate) will sign and send the response.
- The response will acknowledge the administration is responding due to limitations imposed upon councillor-candidates during the election period.
- A copy of the response will be provided to the Councillor-candidate.
- The Councillor-candidate may separately respond to the correspondence.

7.5 Access to Council Information

Sitting Councillors, including Councillor-candidates will continue to receive information that is necessary to fulfil their existing elected roles during the election period.

Information and briefing material prepared by staff for Councillors during the election period will relate only to factual matters or to existing Council services. Information must not relate to public or election debates or to issues that may be perceived to be connected with or support a candidate's election campaign.

All election candidates are otherwise considered to have equal rights to access information relevant to their election campaigns from the Council administration, however:

- Staff will not provide responses to requests for information that express support, or may be perceived to express support for a candidate's election campaign.
- Staff will only provide information to a known candidate or prospective candidate that is generally available to the community.
- Requests for information which require the use of significant Council resources in order to provide a response will be referred to the Chief Executive Officer to determine whether a response can be provided.

There shall be complete transparency in the provision of all information and advice during the election period.

In any circumstances where the use of Council information might be construed as being related to a candidate's election campaign, advice should be sought from the Chief Executive Officer or their nominated delegate.

7.5.1 Requests for Information

During the election period, candidates requesting information from Council, either directly or indirectly, should direct their request to the Chief Executive Officer or the Manager Governance. In the interests of transparency, all candidates requesting information from Council during the election period, either directly or indirectly, are expected to identify that the request is being made by or on behalf of a candidate.

7.5.2 Information Request Register

During the election period, the Manager Governance will maintain an Information Request Register.

This Register will be a public document that records all requests for information by candidates and non-routine requests for information by Councillors, as well as the response given to those requests. The Register will not include requests for information relating to the election process as these will be referred to and managed by the Election Manager.

Any candidate may, upon request, inspect or obtain a copy of the Information Request Register. The Chief Executive Officer may also, at their discretion, periodically:

- Circulate a copy of the register to candidates; and or
- Publish the register on Council's website.

7.6 Equity and Assistance to Candidates

All candidates in an election will be treated equally by Council which means any assistance and advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.

The types of assistance that are available to candidates from Council will be documented and communicated to all candidates from time to time, and may include:

- Information about this and other Council policies, strategies and plans;
- Information about nominating as a candidate;
- Information about the practicalities of being a Councillor at Knox City Council.
- Information about election campaign donation returns; or
- Guidance to other sources of information relevant to the role of a Councillors, including from the Victorian Electoral Commission and the Election Manager, Local Government Victoria and local government peak bodies.

All election related enquiries to Council should be directed to the Chief Executive Officer or the Manager Governance. Where an enquiry is outside the responsibilities of Council, it shall be referred to the Election Manager.

7.7 Functions Events and Public Consultation

7.7.1 Council Organised Events and Functions

Where practicable, civic and ceremonial Council events will not be scheduled during the election period.

Civic and ceremonial events do not include routine events and programs conducted as part of Council's day-to-day functions and activities (e.g. immunisation sessions, gallery exhibitions, library programs).

Any civic or ceremonial council event held during the election period should meet one or more of the following criteria:

- It is a planned event endorsed by the current Council Plan;
- It is routinely held at the same time of year;
- It is a commemorative or anniversary event held on or near the anniversary date;
- It demonstrates a clear community benefit, or serves an educational or welfare purpose;
or
- It contributes to cultural development, social awareness or sense of community identity.

The Chief Executive Officer may consider other relevant factors before approving a civic or ceremonial event, including, but not limited to:

- Whether the content of the event is likely to be controversial;
- Whether the event could reasonably be deferred until after the election;
- The implications (i.e., financial, reputation) if the event was held during the election period or deferred until after the election; or
- The best interests of the Council and the community.

7.7.2 Speeches at Council organised or sponsored events

Candidates must not give speeches or keynote addresses at Council organised or sponsored events during the election period.

Where it is considered appropriate for a speech to be made on behalf of Council, it will be given by the Chief Executive Officer, or the relevant Director.

7.7.3 External Events and Functions

Councillors are able to attend events or functions conducted by external bodies during the election period, however it is critical to determine whether a request is to attend:

- as a representative of Council; or
- as a candidate in the forthcoming election.

When attending as a representative of the Council, Councillors must be mindful that they do not use; and are not perceived as using the opportunity to promote their own, or any candidate's election campaign.

Where Councillors are invited to represent Council at an external function or event during the election period, and make a speech, Councillor-candidates may do so provided:

- The organiser is contacted in advance and briefed on the limitations imposed on Councillors during the election period.
- The organiser is requested to avoid any express or implied reference to the election or candidates in the election.
- The Councillors' speech is pre-approved by the Chief Executive Officer and does not contain any express or implied reference to the election or candidates in the election.

7.7.4 Publication of Promotion Material

In preparing any publicity material for Council events, the organiser will be mindful of the controls on electoral material as outlined in clause 7.9 of this policy.

Invitations to functions and events will be issued by the Chief Executive Officer and not in the name of the Mayor or individual councillors.

7.8 **Public Consultation**

No Council public consultation processes should be undertaken during the election period, unless they are approved in writing by the Chief Executive Officer.

For the purposes of this section, a public consultation process

- Is a process which involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy;
- May be undertaken in many forms, including a direct mailout (either electronic or physical), public advertisement in the local newspaper, attendance at focus groups, completion of a survey or discussion via social media.
- Does not include consultation required under the Planning and Environment Act 1987, or section 223 of the Act.

Before approving a public consultation process to proceed during the election period, the Chief Executive Officer will consider:

- Whether the consultation process is likely to be controversial;
- Whether the consultation process is significant in the context of the election;
- Whether the consultation process could wait until after the election;
- The implications (i.e., financial, reputation) if the consultation was undertaken during the election period or deferred until after the election; and
- The best interests of council and the community.

7.9 **Council Publications**

The Act imposes specific limitations on Councillors and members of Council staff to ensure that they do not use Council resources in a way that is intended to, or is likely to, affect the result of an election

The Act prohibits Councillors or members of Council staff from publishing material that contains electoral matter. Section 304(2) of the Act states:

“A Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be in behalf of, the Council.”

The above prohibition does not apply to electoral material that contains only information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

The following publications will not be published during the election time without first consulting with the Governance department:

- New brochures, pamphlets, handbills, flyers, magazines and books
- Reports (other than those included in an Agenda for a Council or Delegated Committee meeting)

- Advertisements and notices, except notices of meetings in newspapers
- New website material
- New social media publications
- Emails with multiple addresses, used for broad communication with the community
- Mass mail outs or identical letters sent to a large number of people by or on behalf of Council
- Media releases
- Material to publicise a function or event
- Any publication or distribution of councillors' speeches.

7.9.1 Annual Report

The 2019-20 Annual Report will be affected by the legislative restrictions on publications as the publication date of the report falls within the election period. Therefore information relating to Councillors will be restricted to what is required by the Act and relevant regulations.

During an election year, the Annual Report will not contain a foreword from the Mayor.

7.10 Media and Media Services

Council media and media services are intended to promote Council activities and services and must not be used in any way that might favour any election candidate or influence the outcome of a Council election.

During the election period Council staff are not permitted to make any public statement that could be construed as influencing the elections. This does not include statements of clarification in relation to the election process that have been approved by the Chief Executive Officer.

7.10.1 Media Advice

Any requests for media advice or assistance from Councillors during the Election Period will be channelled through the Chief Executive Officer. No media advice or assistance will be provided in relation to election campaign matters. In particular, the use of any Council publications that feature specific Councillors and/or individual achievements will be avoided for the duration of the election period.

7.10.2 Media Releases and Responses

All media releases and/or responses during the election period must not contain reference to, or quotes by, any candidate including existing Councillors who are deemed to be candidates, and should avoid referring to electoral matters.

All official media releases, responses or statements on behalf of Council will be issued in the name of the Chief Executive Officer during the election period.

7.10.3 Publicity Campaigns

During the election period, Council publicity campaigns, other than for the purpose of conducting the election, will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council service or function, it must be approved by the Chief Executive Officer. Council publicity during the election period will be restricted to promoting normal Council activities.

7.10.4 Website and Social Media

During the election period, information about Councillors on Council's website will be restricted to names, contact details, titles, membership to committees and other bodies to which they have been appointed by Council.

Council staff will carefully vet existing publications and online information prior to the commencement of the election period and, where practicable and appropriate (having particular regard the resources required) will temporarily withdraw any material that might otherwise constitute electoral matter or reasonably influence or be seen to influence, people's voting decisions the election.

In order to comply with Section 304(2) of the Act, during the election period Council will:

- a) disable all external posts and comments to Council's social media sites; or
- b) moderate external posts and comments to ensure they are free from electoral matter before they are published.

A statement outlining the election period provisions will be published on Council's websites and social media accounts prior to the election period commencing.

7.11 Misuse of Position

Section 76D of the Local Government Act 1989 prohibits current or former Councillors or members of special committees from using their position to gain access to information or resources that would otherwise not be available.

Section 76D specifies the following circumstances as a misuse of position:

- making improper use of information acquired as a result of the position they held or hold
- disclosing information that is confidential information within the meaning of the Local Government Act 2020
- directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E of the Local Government Act 1989
- exercising or performing, or purporting to exercise or perform, a power, duty or function that they are is not authorised to exercise or perform
- using public funds or resources in a manner that is improper or unauthorised
- failing to disclose a conflict of interest.

7.12 Candidacy in the election

7.12.1 Council Staff

Upon becoming a candidate in a Knox City Council election, staff must:

- Inform the Chief Executive Officer;
- Take leave from their duties at a minimum being for the duration of the election period in accordance with section 256(8)(a) of the Act (if sufficient paid leave is not accrued, unpaid leave will be available);
- Return any Council equipment (including, but not limited to, motor vehicles, telephones and computers), documents or information that is not available to the public at a minimum being for the duration of the election period; and
- If elected, immediately resign from their employed position at Council, in to comply with the qualification requirements specified in section 34(2)(d) of the Act.

7.12.2 Members of Council Advisory or other Committees

Upon becoming a candidate, any person (other than a councillor) who is a member of one of Council's advisory or other committees is expected to:

- Comply with this policy;
- Inform the Chief Executive Officer;
- Take leave from the committee;
- Return any council equipment, documents or information which is not available to the public for the duration of their candidacy and/or the election period; and
- If elected, immediately resign from the committee.

7.13 Breach of Policy

Any breach of this policy relating to staff conduct is to be referred to the Chief Executive Officer and may be dealt with in accordance with Council Disciplinary Policy and Procedures.

Alleged breaches relating to all other matters are to be referred to the Local Government Investigations and Compliance Inspectorate.

8. Administrative Updates

From time to time, circumstances may change leading to the need for minor administrative changes to this policy. Where an update does not materially alter this policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of Council departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered by Council.