

# GOVERNANCE RULES

## Introduction

### 1. Nature of Rules

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

### 2. Date of Commencement

These Governance Rules commence on 23 August 2022.

### 3. Contents

These Governance Rules are divided into the following Chapters:

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

### 4. Definitions

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

Act means the Local Government Act 2020.

attend, attending and in attendance include attend, attending or in attendance by electronic means.

Chief Executive Officer includes an Acting Chief Executive Officer.

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

Council means Hume City Council.

Council meeting has the same meaning as in the Act.

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

Mayor means the Mayor of Council.

these Rules means these Governance Rules.

## Chapter 1 – Governance Framework

### 1. Context

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

- (a) the overarching governance principles specified in section 9(2) of the Act; and
- (b) the following documents adopted or approved by Council:
  - Councillor 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 identify the person or persons whose rights will be directly affected, give notice of the decision which Council must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made;
  - (ii) if a report to be considered at a Council meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;
  - (iii) if a report to be considered at a Delegated Committee meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and

## Chapter 2 – Meeting Procedure for Council Meetings

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## **Part A – Introduction**

### **1. Title**

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

### **2. Purpose 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:**

"absolute majority" means the number of Councillors which is greater than half the total number of Councillors of a Council.

"agenda" means the notice of a meeting setting out the business to be transacted at the meeting;

"Chair" means the Chairperson of a meeting and includes a Councillor who is

"disorder" means disruptive or disrespectful behaviour which negatively affects the ordinary function of Council meetings. Such behaviour may include but is not limited to – using aggressive, threatening or violent behaviour or language;

"municipal district" means the municipal district of Council;

"notice of motion" means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;

"notice of rescission" means a notice of motion to rescind a resolution made by Council;

"quorum" a quorum at a Council meeting means an absolute majority; and

"written" includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form, and writing has a corresponding meaning.

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

## **Part B – Election of Mayor**

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

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

The 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 seconded by another Councillor.

6.3 Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor.

#### Single Nomination

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

#### Multiple Nominations and Candidate Elected On First Vote

6.5 If there is more than one nomination, the Councillors in attendance at the meeting must vote for one of the candidates.

6.6 In the event of a candidate receiving the votes of an absolute majority of Councillors, that candidate is declared to have been elected.

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

6.7 In the event that:

6.7.1 there are three or more candidates;

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

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

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

6.8 If one of the remaining candidates receives the votes of an absolute majority of Councillors, that candidate is duly elected. If none of the remaining candidates receives the votes of an absolute majority of Councillors and it is not resolved to conduct a new election at a later day and time, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the

remaining candidates must be repeated until one of the candidates receives the votes of an absolute majority of Councillors. That candidate must then be declared to have been duly elected.

- 6.9 For the purposes of sub-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 If a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:
- 6.10.1 each candidate who has an equal number of votes with another candidate or candidates will draw one lot;
  - 6.10.2 the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
  - 6.10.3 as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates until one of those candidates receives the votes of an absolute majority of Councillors).

#### Two Nominations or Two Remaining Candidates and No Candidate Obtaining An Absolute Majority On First Vote

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

7.2 Chair of a Delegated Committee

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

7.3 Chief Executive Officer is a reference to the Mayor; and

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

**8. Appointment of Acting Mayor**

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

8.1 resolving that a specified Councillor be so appointed; or

8.2 following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter,

at its discretion.



## **Part C – Meetings Procedure**

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

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

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

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

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

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

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

- 11.1 The Mayor or at least 3 Councillors may by a written notice call a Council meeting.
- 11.2 The notice must specify the date and time of the Council meeting and the business to be transacted.
- 11.3 The Chief Executive Officer must convene the Council meeting as specified in the notice.
- 11.4 Unless all Councillors are in attendance and unanimously agree to deal with any other matter, only the business specified in the written notice can be transacted at the Council meeting.

#### **12. Notice Of Meeting**

- 12.1 A notice of meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be delivered or sent electronically to every Councillor for all Council meetings at least 48 hours before the meeting.
- 12.2 Notwithstanding sub-Rule 12.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting during the period of their absence.
- 12.3 Reasonable notice of each Council meeting must be provided to the public. Council may do this:
  - 12.3.1 for meetings which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, or prior to each such Council meeting; and
  - 12.3.2 for any meeting by giving notice on its website.

### **Division 2 – Quorums**

#### **13. Inability To Obtain A Quorum**

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

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

#### **14. Inability To Maintain A Quorum**

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

#### **15. Inability to achieve or maintain a quorum due to conflicts of interest**

If a quorum cannot be achieved or maintained during a Council meeting due to a majority of Councillors having declared a Conflict of Interest in an item:

- 15.1 The Council must consider whether the decision can be made in an alternative matter such as:
  - 15.1.1 splitting the matter into two or more separate parts, so that a quorum can be maintained for each separate part; or
  - 15.1.2 making prior decisions in component parts of the matter at a meeting for which a quorum can be maintained, before deciding the overall matter at a meeting for which a quorum can be maintained; or
  - 15.1.3 deferring the item under consideration to facilitate the making of decisions on component parts of the matter at a meeting for which a quorum can be maintained.

#### **16. Adjourned Meetings**

- 16.1 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.
- 16.2 The Chief Executive Officer must give written notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 16.3 If it is impracticable for the notice given under sub-Rule 16.2 to be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

#### **17. Time limits for Meetings**

- 17.1 A Council meeting must not continue after 10pm unless a majority of Councillors who are in attendance vote in favour of it continuing.
- 17.2 A meeting cannot be continued for more than 30 minutes (or a further 30 minutes, if a majority of Councillors has already voted to continue it for 30 minutes).

- 17.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the Chair immediately prior to the meeting standing adjourned. In that event, the provisions of sub-Rules 16.2 and 16.3 apply.

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

- 18.1 The Chief Executive Officer may, in the case of an emergency necessitating the cancellation or postponement of a Council meeting, cancel or postpone a Council meeting.
- 18.2 The Chief Executive Officer must present to the immediately following Council meeting a written report on any exercise of the power conferred by sub-Rule 18.1.

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

### **19. Agenda and the Order Of Business**

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

### **20. Change To Order Of Business**

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

### **21. Urgent Business**

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

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

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

### **22. Councillors May Propose Notices Of Motion**

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

### **23. Notice Of Motion**

- 23.1 A Councillor may lodge no more than two Notices of Motion per month.
- 23.2 A notice of motion must be in writing and be lodged with or sent via email to the Chief Executive Officer by 12 noon on the third working day prior to the date of the Council meeting to allow sufficient time for the Chief Executive Officer to include the notice of motion in agenda papers for a Council meeting and to give each Councillor at least 48 hours notice of such notice of motion.
- 23.3 The Chief Executive Officer may reject any notice of motion which:
- 23.3.1 is vague or unclear in intention
- 23.3.2 it is beyond Council's power to pass; or

- 23.3.3 if passed would result in Council otherwise acting invalidly
  - but must:
  - 23.3.4 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
  - 23.3.5 notify in writing the Councillor who lodged it of the rejection and reasons for the rejection.
- 23.4 The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda.
- 23.5 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.
- 23.6 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.
- 23.7 If a Councillor who has given a notice of motion is absent from the meeting or fails to move the motion when called upon by the Chair, any other Councillor may move the motion.
- 23.8 If a notice of motion is not moved at the Council meeting at which it is listed, it lapses.

#### **24. Chair's Duty**

Any motion which is determined by the Chair to be:

- 24.1 defamatory;
- 24.2 objectionable in language or nature;
- 24.3 vague or unclear in intention;
- 24.4 outside the powers of Council; or
- 24.5 irrelevant to the item of business on the agenda and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the Chair.

#### **25. Introducing a Report**

- 25.1 Before a written report is considered by Council and any motion moved in relation to such report, a member of Council staff may introduce the report by indicating in not more than 2 minutes:
  - 25.1.1 its background; or
  - 25.1.2 the reasons for any recommendation which appears.
- 25.2 Unless Council resolves otherwise, a member of Council staff need not read any written report to Council in full.

## **26. Introducing A Motion or an Amendment**

The procedure for moving any motion or amendment is:

- 26.1 the mover must state the motion or amendment without speaking to it;
- 26.2 the motion or amendment must be seconded and the seconder must be a Councillor other than the mover. If a motion or amendment is not seconded, the motion or amendment lapses for want of a seconder;
- 26.3 if a motion or an amendment is moved and seconded the Chair must ask:  
  
"Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"
- 26.4 if no Councillor indicates opposition or a desire to speak to it, the Chair may declare the motion or amendment carried without discussion;
- 26.5 if a Councillor indicates opposition or a desire to speak to it, then the Chair must call on the mover to address the meeting;
- 26.6 after the mover has addressed the meeting, the seconder may address the meeting;
- 26.7 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the Chair must invite debate by calling on any Councillor who wishes to speak to the motion or amendment; and
- 26.8 if, after the mover has addressed the meeting, the Chair has invited debate and no Councillor speaks to the motion or amendment, then the Chair must put the motion or amendment to the vote.

## **27. Right Of Reply**

- 27.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
- 27.2 After the right of reply has been taken the motion must immediately be put to the vote without any further discussion or debate.

## **28. Moving An Amendment**

- 28.1 Subject to sub-Rule 28.2 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.
- 28.2 A motion to confirm a previous resolution of Council cannot be amended.
- 28.3 An amendment must not be directly opposite to the motion.

## **29. Agreed alteration to Motion or Amendment**

- 29.1 With leave of the Council both the mover and seconder of a motion or amendment may agree to an alteration proposed by another Councillor.
- 29.2 Any such alteration will not be regarded as an amendment to the motion or amendment.

### **30. Who May Propose An Amendment**

- 30.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- 30.2 Any one Councillor cannot move more than one amendment in relation to the motion.

### **31. How Many Amendments May Be Proposed**

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

### **32. An Amendment Once Carried**

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

### **33. Foreshadowing Motions**

- 33.1 At any time during debate a Councillor may foreshadow a motion so as to inform Council of 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.
- 33.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the Chair being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- 33.3 The 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.

### **34. Withdrawal Of Motions**

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

### **35. Separation Of Motions**

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

### **36. Chair May Separate Motions**

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

**37. Priority of address**

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

**38. Motions In Writing**

38.1 The Chair may require that a complex or detailed motion be in writing.

38.2 Council may adjourn the meeting while the motion is being written or Council may defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

**39. Repeating Motion and/or Amendment**

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

**40. Debate Must Be Relevant To The Motion**

40.1 Debate must always be relevant to the motion before the Chair, and, if not, the Chair must request the speaker to confine debate to the motion.

40.2 If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may direct the speaker to be seated and not speak further in respect of the motion then before the Chair.

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

**41. Debate on Tabled Items**

There is to be no debate on items which have been tabled.

**42. Speaking Times**

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

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

42.2 any other Councillor: 3 minutes; and

42.3 the mover of a motion exercising a right of reply: 2 minutes.

**43. Addressing the Meeting**

43.1 If the Chair so determines:

43.1.1 any person addressing the Chair must refer to the Chair as:

(a) Madam Mayor; or

(b) Mr Mayor; or

(c) Mayor

(d) Madam Chair; or

(e) Mr Chair

(f) Chair.

as the case may be;

43.1.2 all Councillors, other than the Mayor, must be addressed as **Cr**  
.....**(name)**.

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

43.2 Councillors to stand when speaking

43.2.1 Councillors must stand when speaking at a Council meeting, unless they  
are not capable of doing so.

43.2.2 The Chair may remain seated when speaking at a meeting.

#### **44. Right to Ask Questions**

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

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

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

#### **45. Procedural Motions**

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

45.2 Procedural motions require a seconder.

45.3 Notwithstanding any other provision in this Chapter, procedural motions must be  
dealt with in accordance with the following table:



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**PROCEDURAL MOTIONS TABLE**

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

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## Division 6 – Rescission Motions

### 46. Notice of Rescission

- 46.1 A Councillor may propose a notice of rescission provided:
- 46.1.1 it is in writing
  - 46.1.2 it is supported, in writing, by at least three Councillors;
  - 46.1.3 the resolution proposed to be rescinded has not been acted on; and
  - 46.1.4 the notice of rescission is delivered to the Chief Executive Officer within 48 hours of the resolution having been made setting out -
    - (a) the resolution to be rescinded; and
    - (b) the meeting and date when the resolution was carried.
  - 46.1.5 Any Councillor proposing a notice of rescission is required to provide written justification that must include one or more of the following:
    - (a) The vote did not accurately reflect the opinion held by the meeting due to the misunderstanding of the motion or for some other reasons;
    - (b) New information has become available which may affect the decision of Council; or
    - (c) Some vital information was overlooked in Council forming its decision.

*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.*

- 46.2 A resolution will be deemed to have been acted on if:
- 46.2.1 its contents have or substance has been communicated in writing to a person whose interests are materially affected by it; or
  - 46.2.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on Council or any other person.
- 46.3 The Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:
- 46.3.1 has not been acted on; and
  - 46.3.2 is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-Rule 46.1.4,
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

*By way of example, assume that, on a Monday evening, Council resolves to have legal representation at a planning appeal to be heard on the following Monday. Assume also that, immediately after that resolution is made, a Councillor lodges a notice of motion to rescind that resolution. Finally, assume that the notice of rescission would not be dealt with until the next Monday evening (being the evening of the day on which the planning appeal is to be heard).*

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

*Sub-Rule 46.3 would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.*

**47. If Lost**

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

**48. If Not Moved**

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

**49. May Be Moved By Any Councillor**

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

**50. When Not Required**

50.1 Unless sub-Rule 50.2 applies, a motion for rescission is not required where Council wishes to change policy.

50.2 The following standards apply if Council wishes to change policy:

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

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

**Division 7 – Points of Order**

**51. Chair To Decide**

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

**52. Chair May Adjourn To Consider**

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

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

**53. Dissent From Chair's Ruling**

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

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

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

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

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

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

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

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

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

**54. Procedure For Point Of Order**

A Councillor raising a point of order must:

54.1 state the point of order; and

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

**55. Valid Points Of Order**

A point of order may be raised in relation to:

55.1 a motion, which, under Rule 24 should not be accepted by the Chair;

55.2 a question of procedure;

55.3 a matter which is contrary to these Rules;

55.4 a matter which is contrary to legislation;

55.5 a matter which is outside the duties, functions and powers of Council;

55.6 a matter that is irrelevant;

55.7 an error of fact; or

55.8 any act of disorder.

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

## **Division 8 – Public Engagement with Council**

### **56. Public Questions**

- 56.1 Public Questions must be submitted to Council:
- 56.1.1 in writing, state the name and address of the person submitting the question and generally be in a form approved or permitted by Council; and
  - 56.1.2 must be lodged prior to 12 noon on the day of the Council meeting.
- 56.2 No person may submit more than two questions at any one meeting.
- 56.3 The Chair or a member of Council staff nominated by the Chair may read to those in attendance at the meeting a question which has been submitted in accordance with this Rule.
- 56.4 Notwithstanding sub-Rule 56.3, the Chair may refrain from reading a question or having a question read if the person who submitted the question is not in attendance at the time when the question is due to be read.
- 56.5 A question may be disallowed by the Chair or the Chief Executive Officer if it is determines that it:
- 56.5.1 relates to a matter outside the duties, functions and powers of Council;
  - 56.5.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - 56.5.3 deals with a subject matter already answered;
  - 56.5.4 is aimed at embarrassing a Councillor or a member of Council staff;
  - 56.5.5 relates to personnel matters;
  - 56.5.6 relates to the personal hardship of any resident or ratepayer;
  - 56.5.7 is repetitive of a question already asked by the person;
  - 56.5.8 relates to any other matter which Council considers would prejudice Council or any person.
- 56.6 Any question which has been disallowed by the Chair must be made available to any other Councillor upon request.
- 56.7 No discussion may be allowed other than by Councillors for the purposes of clarification.
- 56.8 Like questions may be grouped together and a single answer provided.
- 56.9 The Chair may nominate a Councillor or the Chief Executive Officer to respond to a question.

## **57. Public Comments**

- 57.1 Public Comments may be made in relation to officer recommendations or notices of motion.
- 57.2 Public Comments must be submitted to Council in writing by 3pm on the day of the Council Meeting or visitors in the gallery can register to speak to an item immediately prior to the Council Meeting.
- 57.3 Each speaker or submitter must state or include their name and whether they are speaking in support or against the officer recommendation or notice of motion. The statements are to be strictly limited to the officer recommendation or notice of motion before them.
- 57.4 Each speaker is to confine themselves to 3 (three) minutes each. Comments submitted in writing are to be of a length that will take not more than 3 (three) minutes to be read out.
- 57.5 The Chair or a member of Council staff nominated by the Chair may read Public Comments which have been submitted in accordance with this Rule where the person who submitted the Public Comment is not in attendance.
- 57.6 There is no right of reply or discussion allowed, and no questions can be directed to the Officers, Councillors or visitors in the gallery. The only statements that can be made are either directly related to supporting or opposing the officer's recommendation or notice of motion.
  - 57.6.1 A Public Comment may be disallowed by the Chair if the Chair determines that it:
    - 57.6.2 relates to a matter outside the duties, functions and powers of Council;
    - 57.6.3 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
    - 57.6.4 is aimed at embarrassing a Councillor or a member of Council staff;
    - 57.6.5 relates to personnel matters;
    - 57.6.6 relates to the personal hardship of any resident or ratepayer;
    - 57.6.7 is repetitive of statements or points already made;
    - 57.6.8 is repetitive of any comments made at a Submission Hearing on the matter;
    - 57.6.9 relates to any other matter which Council considers would prejudice Council or any person.

## **58. Submission Hearing**

- 58.1 The Chief Executive Officer may elect to hold a Submission Hearing to allow people to address Council on a specific matter (such as planning matters or the adoption of key documents) or a Submissions Hearing may be recommended in a Council report.
- 58.2 Submissions must be submitted to Council in writing in accordance with the advertisement on the matter.
- 58.3 Each speaker or submitter must state or include their name and, where appropriate, whether they are speaking in support or against the matter. The statements are to be strictly limited to the officer recommendation or notice of motion before them.

- 58.4 Each speaker is to confine themselves to 3 (three) minutes each. Comments submitted in writing are to be of a length that will take not more than 3 (three) minutes to be read out.
- 58.5 No submissions received in writing will be read out during the Submission Hearing if the submitter is not present, but they will be circulated to all Councillors.
- 58.6 There is no right of reply or discussion allowed, and no questions can be directed to the Officers, Councillors or visitors in the gallery. The only statements that can be made are either directly related to the matter.
- 58.6.1 A submission may be disallowed by the Chair if the Chair determines that it:
- 58.6.2 relates to a matter outside the duties, functions and powers of Council;
- 58.6.3 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
- 58.6.4 is aimed at embarrassing a Councillor or a member of Council staff;
- 58.6.5 relates to personnel matters;
- 58.6.6 relates to the personal hardship of any resident or ratepayer;
- 58.6.7 is repetitive of statements or points already made;
- 58.6.8 relates to any other matter which Council considers would prejudice Council or any person.
- 58.7 Hearing meetings are not required to be open to the public or livestreamed but can be at the discretion of the Chief Executive Officer or the Chair.
- 58.8 No Agenda or Minutes will be created for Submission Hearings. Councillors will be provided with a running sheet which lists the submitters who wish to address Council on the matter.

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

### **59. Petitions and Joint Letters**

- 59.1 Unless Council determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next fixed Council meeting after that at which it has been presented.
- 59.2 Every petition or joint letter presented to Council must be in writing (other than pencil), contain the request of the petitioners or signatories and be signed by at least 12 people.
- 59.3 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.
- 59.4 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.
- 59.5 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.

- 59.6 Electronic or online petitions, joint letters, memorials or like applications must contain the name and email address of each petitioner or signatory, which details will, for the purposes of this Rule 59, qualify as the address and signature of such petitioner or signatory.
- 59.7 If a petition, joint letter, memorial or other like application relates to an operational matter, Council must refer it to the Chief Executive Officer for consideration.

## **Division 10 – Voting**

### **60. How Motion Determined**

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

### **61. Silence**

Subject to Rule 64, voting must take place in silence.

### **62. Recount**

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

### **63. Casting Vote**

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

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

### **64. How Votes Are Cast**

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

### **65. Procedure For A Division**

65.1 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.

65.2 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.

65.3 When a division is called for, the Chair must:

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

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



## 66. No Discussion Once Declared

Once a vote on a matter has been taken, no further discussion relating to the matter is allowed unless the discussion involves foreshadowing a notice of rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

*For example, Rule 66 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 66 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.*

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

## Division 11 – Minutes

### 67. Confirmation of Minutes

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

67.1.1 a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;

67.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;

67.1.3 if a Councillor indicates opposition to the minutes:

(a) they must specify the item(s) to which they object;

(b) the objected item(s) must be considered separately and in the order in which they appear in the minutes;

(c) the Councillor objecting must move accordingly without speaking to the motion;

(d) the motion must be seconded;

(e) the Chair must ask:

"Is the motion opposed?"

(f) if no Councillor indicates opposition, then the Chair must declare the motion carried without discussion and then ask the second of the questions described in sub-Rule 67.1.3(k);

(g) if a Councillor indicates opposition, then the Chair must call on the mover to address the meeting;

(h) after the mover has addressed the meeting, the seconder may address the meeting;

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

67.1.4 a resolution of Council must confirm the minutes;

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

#### **68. 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.

#### **69. Deferral Of Confirmation Of Minutes**

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

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

70.1 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:

70.1.1 the date, place, time and nature of the meeting;

70.1.2 the names of the Councillors in attendance and the names of any Councillors who apologised in advance for their non-attendance;

70.1.3 the names of the members of Council staff in attendance;

70.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5 and whether the conflict of interest was said by the Councillor to be a general conflict of interest or a material conflict of interest;

70.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;

70.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);

- 70.1.7 the vote cast by each Councillor upon a division and any abstention from voting;
- 70.1.8 the vote cast by any Councillor who has requested that their vote be recorded in the minutes;
- 70.1.9
- 70.1.10 the failure of a quorum;
- 70.1.11 any adjournment of the meeting and the reasons for that adjournment; and
- 70.1.12 the time at which standing orders were suspended and resumed.
- 70.2 The Chief Executive Officer must ensure that the minutes of any Council meeting are:
  - 70.2.1 published on Council's website; and
  - 70.2.2 available for inspection at Council's office during normal business hours.
- 70.3 Nothing in sub-Rule 70.2 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**

### **71. Members of the Public Addressing The Meeting**

- 71.1 Members of the public do not have a right to address Council outside the provisions of Rules 54 and 55 and may only do so with the consent of the Chair or by prior arrangement.
- 71.2 Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chair whenever called on to do so.
- 71.3 A member of the public in attendance at a Council meeting must not disrupt the meeting.

### **72. Chair May Remove**

The Chair may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 71.2.

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

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

If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, the Chair may adjourn the meeting to a later time on the same day or to some later day as they think proper. In that event, the provisions of sub-Rules 16.2 and 16.3 apply.

#### **74. Removal from Chamber**

The Chair, or Council in the case of a suspension, may ask the Chief Executive Officer or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the Chair has ordered to be removed from the gallery under Rule 72.

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

#### **75. The Chair's Duties And Discretions**

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

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

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

#### **76. Suspension of Standing Orders**

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

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

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

- 76.2 The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of Council. An appropriate motion would be:

"That standing order be suspended to enable discussion on....."

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

- 76.4 Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:

"That standing orders be resumed."

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

#### **77. Mode of Attendance**

- 77.1 Each notice of meeting must indicate whether the relevant Council meeting is to be conducted:
  - 77.1.1 wholly in person;
  - 77.1.2 wholly by electronic means; or
  - 77.1.3 partially in person and partially by electronic means.

- 77.2 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:
- 77.2.1 wholly in person;
  - 77.2.2 wholly by electronic means; or
  - 77.2.3 partially in person and partially by electronic means.
- 77.3 If a Council meeting is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.
- 77.4 Any request made under sub-Rule 77.3 must:
- 77.4.1 be in writing;
  - 77.4.2 be given to the Chief Executive Officer no later than 24 hours prior to the commencement of the relevant Council meeting where possible; and
  - 77.4.3 specify the reasons why the Councillor is unable or does not wish to attend the Council meeting in person.
- 77.5 Requests under sub-Rule 77.3 can be made in the following circumstances:
- 77.5.1 Where a Councillor has a contagious illness;
  - 77.5.2 Where a Councillor has a short-term medical condition or impairment;
  - 77.5.3 Where a Councillor has an ongoing medical condition or impairment.
  - 77.5.4 Where a Councillor Carer responsibilities;
  - 77.5.5 If a Councillor has taken leave;
  - 77.5.6 If a Councillor is travelling for work;
  - 77.5.7 If a Councillor has taken compassionate leave;
- 77.6 Where the circumstances above exist Councillors are encouraged not to attend the meeting and must consider their ability to fully participate in the meeting before applying to attend by electronic means;
- 77.7 Where a situation has not been provided for under these Rules the Chief Executive Officer may determine the matter.
- 77.8 The Chief Executive Officer may request evidence to support the application as required.
- 77.9 The Chief Executive Officer may approve and must not unreasonably refuse any request.
- 77.10 The Chief Executive Officer must ensure that any request received in accordance with sub-Rule 77.4 and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant Council meeting.
- 77.11 A Councillor who is attending a Council meeting by electronic means is responsible for ensuring that they are able to access such equipment and are in such an environment that facilitates participation in the Council meeting.

- 77.12 Without detracting from anything said in sub-Rule 77.11, a Councillor who is attending a meeting by electronic means must be able to:
- 77.12.1 hear the proceedings;
  - 77.12.2 see all Councillors and members of Council staff who are also attending the Council meeting, at least while a Councillor or member of Council staff is speaking;
  - 77.12.3 be seen by all Councillors, members of Council staff and members of the public who are physically present at the Council meeting; and
  - 77.12.4 be heard when they speak.
- 77.13 If the conditions of sub-Rule 77.12 cannot be met by one or more Councillors attending a Council meeting, whether because of technical difficulties or otherwise:
- 77.13.1 the Council meeting will nonetheless proceed as long as a quorum is present; and
  - 77.13.2 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.
- 77.14 Nothing in this Rule 77 prevents a Councillor from joining (or re-joining) a Council meeting at the time that they achieve compliance with sub-Rule 77.12 even if the Council meeting has already commenced or has continued in their absence.

**78. Meetings Conducted Remotely or partially in person and partially by electronic means**

- 78.1 If a Council meeting is conducted wholly or partially by electronic means, the Chair may, with the consent of the meeting, modify the application of any of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of the meeting.
- 78.2 If the Chair is attending the Council meeting virtually and leaves the meeting due to technical issues the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present, temporary Chair elected by the meeting) must take their place until the Chair returns to the meeting.
- 78.3 If the Chief Executive Officer is attending the meeting virtually and leaves the meeting due to technical issues a member of the Executive or the Manager Governance will assist the Chair until the Chief Executive Officer is able to return to the meeting.
- 78.4 Council may resolve to make certain meetings in person only.

**Division 16 – Miscellaneous**

**79. Criticism of members of Council staff**

- 79.1 The Chief Executive Officer may make a brief statement at a Council meeting in respect of any statement by a Councillor made at the Council meeting criticising them or any member of Council staff.
- 79.2 A statement under sub-Rule 79.1 must be made by the Chief Executive Officer, through the Chair, as soon as it practicable after the Councillor who made the statement has resumed their seat.

**80. Procedure not provided in this Chapter**

80.1 Where a situation has not been provided for under these Rules the Chair may determine the matter.

80.2 The Chair may adjourn the meeting to consider a situation not provided for under these Rules.

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

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

If Council establishes a Delegated Committee:

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

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

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

- 2.1 Council may; or
- 2.2 the Delegated Committee may, with the approval of Council

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



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

### **1. Introduction**

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

### **2. Meeting Procedure**

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

## Chapter 5 – Disclosure of Conflicts of Interest

### 1. Definition

In this Chapter:

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

### 2. Disclosure of a Conflict of Interest at a Council Meeting

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

- 2.1 are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the Council meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; and
- 2.2 must disclose that conflict of interest by providing to the Chief Executive Officer a written notice:
  - 2.2.1 advising of the conflict of interest;
  - 2.2.2 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
  - 2.2.3 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,

The Councillor must leave the Council meeting immediately before the matter in which they have declared a conflict of interest and not return to the meeting until after the matter has been disposed of.

### 3. Disclosure of Conflict of Interest at a Delegated Committee Meeting

A member of a Delegated Committee who has a conflict of interest in a matter being considered at a Delegated Committee meeting at which 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 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; and
- 3.2 must disclose that conflict of interest by providing to the Chief Executive Officer a written notice:
  - 3.2.1 advising of the conflict of interest;
  - 3.2.2 explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and

- 3.2.3 detailing, if the nature of the conflict of interest involves a member of a Delegated Committee's relationship with or a gift from another person the:
  - (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
- 3.2.4 nature of that other person's interest in the matter,

The member of a Delegated Committee must leave the Delegated Committee meeting immediately before the matter in which they have declared a conflict of interest and not return to the meeting until after the matter has been disposed of.

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

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

- 4.1 are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the Community Asset Committee meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; and
- 4.2 must disclose that conflict of interest by providing to the Chief Executive Officer before the Community Asset Committee meeting commences a written notice:
  - 4.2.1 advising of the conflict of interest;
  - 4.2.2 explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and
  - 4.2.3 detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
    - (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,

The Councillor must leave the Committee Asset Committee meeting immediately before the matter in which they have declared a conflict of interest and not return to the meeting until after the matter has been disposed of.

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

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

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

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

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

6.1.1 Council meeting;

6.1.2 Delegated Committee meeting;

6.1.3 Community Asset Committee meeting

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

6.2 The Chief Executive Officer must ensure that the Report referred to in sub-Rule 6.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

6.3 If the member of Council staff referred to in sub-Rule 6.1 is the Chief Executive Officer:

6.3.1 the written notice referred to in sub-Rule 6.1 must be given to the Mayor; and

6.3.2 the obligation imposed by sub-Rule 6.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

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

7.2 If the member of Council staff referred to in sub-Rule 7.1 is the Chief Executive Officer the written notice must be given to the Mayor.

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

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

8.2 If the member of Council staff referred to in sub-Rule 8.1 is the Chief Executive Officer the written notice must be given to the Mayor.

## **9. Retention of Written Notices**

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

## Chapter 6 – Miscellaneous

### 1. Confidential Information

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

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

### **1. POLICY STATEMENT**

Hume City Council is committed to the principle of fair and democratic elections and will therefore adopt the practices within this policy and relevant legislative requirements as outlined in the Local Government Act 2020 (also referred to as ‘the Act’).

### **2. PURPOSE**

- 2.1 The Election Caretaker Period Policy 2020 has been developed to ensure that the general elections of Hume City Council to be held on Saturday 24 October 2020 and subsequent elections are conducted in a manner that is ethical, fair and equitable and is publicly perceived as such.
- 2.2 This policy addresses the requirements as outlined in the Local Government Act 2020 in relation to the caretaker period and activities that are impacted during this time including decision-making, council resources public consultation and events, information and communications.
- 2.3 This policy also addresses the requirements as outlined in the Local Government Act 2020 in relation to Councillor conduct and misuse of position during the caretaker period. In addition to this policy, Council reinforces the importance of adhering to these requirements through its Code of Conduct for Councillors, which is about adopting good governance and leadership practices when representing Council and in dealings with the community, Council staff and other Councillors.

### **3. SCOPE**

This policy applies to Councillors, the Chief Executive Officer and Executive Management Team, the Senior Management Team and all Council staff.

### **4. OBJECTIVE**

- 4.1 The objective of this policy is to develop a clear understanding and agreement on procedures for Councillors and all staff in relation to the caretaker period.
- 4.2 The policy is in accordance with section 69 of the Local Government Act 2020 which states that a Council must include an election period policy in its Governance Rules.
- 4.3 Hume City Council has certain provisions in place before, during and after the election period (also known as the caretaker period) to ensure the orderly and proper conduct of the election process and to avoid actions and decisions that may be interpreted as influencing voters or binding an incoming Council.

### **5. POLICY IMPLEMENTATION**

The caretaker period commences 32 days before the election, when nominations close, and ends at 6pm on election day.

As such, the following policy actions must be complied with during the 2020 general election period, which will run from midnight on Tuesday 22 September 2020 to 6pm on Election Day, Saturday 24 October 2020.

5.1 Decision-making

- 5.1.1 As per the requirements of section 69(2) of the Local Government Act 2020, Council is prohibited from making any decisions during the election period for a general election that—
- a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
  - b) 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
  - c) the Council considers could be reasonably deferred until the next Council is in place; or
  - d) the Council considers should not be made during an election period.
- 5.1.2 As per the requirements of section 69(3) of the Local Government Act 2020, Council is prohibited from making any decisions during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.
- 5.1.3 The Chief Executive Officer and Executive Management Team will assess all papers prepared for council or special committee meetings during the election period to ensure that no agenda item is included that could potentially influence voters' intentions at the forthcoming election or could encourage Councillor candidates to use the item as part of their electioneering.
- 5.1.4 Council will refrain from making major decisions such as (but not limited to) the allocation of community grants and other significant direct funding to community organisations, major planning scheme amendments and changes to strategic objectives and strategies in the council plan. Any other decision will be considered only if absolutely necessary for Council operational purposes or pursuant to a statutory requirement.
- 5.1.5 Council will not make any decisions during the election period that will be binding on an incoming Council save for decisions which are part of the normal operating function of Council which includes most town planning matters.
- 5.1.6 Applications and proceedings made and conducted under Division 7 of Part 6 of the Local Government Act 2020, being Councillor Conduct Panels and VCAT, must be suspended during the election period for a general election.

## Misuse of Council resources

- 5.1.7 As per the requirements of section 304(1) of the Local Government Act 2020, a Councillor or member of Council staff must not use Council resources in a way that—
- a) is intended to; or
  - b) is likely to—
- affect the result of an election under this Act.
- 5.1.8 As per the requirements of section 304(2) of the Local Government Act 2020, 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 on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.
- 5.1.9 Council will ensure that Council resources are not used inappropriately during an election period in ways that may influence voting in an election or provide undue advantage for a candidate. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice will be sought from the Chief Executive Officer.
- 5.1.10 Council Staff will not authorise, use or allocate a Council resource for any purpose that may influence voting in the election, except where it only relates to the election process and is authorised by the Chief Executive Officer.
- 5.1.11 Council resources, including office or meeting facilities, support staff, hospitality services, equipment, stationery, printing, photographs/graphics/videos and branding, will be used exclusively for normal Council business during the election period and will not be used in connection with any election campaign or in a manner that may be construed as supporting an election campaign.
- 5.1.12 No Council logos, letterheads or other expressions of Hume City Council's brand (such as photographs/graphics, corporate colours, font and "H-symbol" key line) will be used for, or be linked in any way to, a candidate's election campaign.
- 5.1.13 Council resources, including office or meeting facilities, support staff, hospitality services, equipment, stationery, printing, photographs/graphics/videos and branding are not to be used in ways that may influence voting in an election or provide undue advantage for a candidate.
- 5.1.14 In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice will be sought from the Chief Executive Officer.
- 5.1.15 Reimbursements of Councillors' out-of-pocket expenses during the election period will only apply to costs that have been incurred in performance of normal duties as a Councillor and not for expenses that could be perceived as supporting or being connected with the election.



- 5.1.16 Equipment and facilities such as phones, laptops, facsimile machines, etc., provided to Councillors for the purpose of conducting normal Council business will not be used for campaigning purposes. Where it is impractical for Councillors to discontinue their use of these facilities during the election period, Councillors will reimburse Council for the usage of those services in accordance with Council's Expenses Policy.
- 5.1.17 Council email addresses, facsimile numbers and telephone numbers will not be used as contact points in campaign material.
- 5.1.18 The Chief Executive Officer or any staff should not be asked to undertake any tasks connected directly or indirectly with electioneering.

## 5.2 Misuse of position

In accordance with Sections 123 and 124 of the Act, being Misuse of position and Directing a member of Council staff respectively, a Councillor will not intentionally misuse or intentionally direct, or seek to direct, a member of Council staff. A breach of either section attracts serious penalties including possible imprisonment (refer to Attachment 1).

## 5.3 Public consultation

- 5.3.1 For the purposes of this section of the policy, public consultation means a process which involves inviting (formally or informally) individuals, groups, organisations, businesses or the community generally to provide comment or feedback on an issue, proposed action, policy, plan or strategy of Council.
- 5.3.2 Public consultations will not continue or commence during the Election Period.
- 5.3.3 Prior to the commencement of the Election Period, public consultation which is likely to become contentious or politically sensitive during the course of the Election Period should be postponed where possible and practicable until after the election has been completed.
- 5.3.4 Any public consultations continuing into or commencing from Saturday 1 August 2020 to the commencement of the Election Period at midnight Tuesday 22 September 2020, requires approval from the Chief Executive Officer (CEO) and should avoid contentious or politically sensitive issues.
- 5.3.5 Where public consultation has occurred prior to the Election Period but a report on the consultation has not yet proceeded to a Council meeting, results of the consultation will also not be provided to Council until the Election Period has concluded.
- 5.3.6 Consultation for Permit Applications under the Planning and Environment Act 1987 are exempt from this section of the Policy and can be conducted in accordance with statutory requirements.

#### 5.4 Council events

- 5.4.1 It is preferable that no Council-run events and functions are held during the election period. If any are proposed to be held during the election period, they must have prior approval from the Chief Executive Officer and be considered essential to the operation of Council.
- 5.4.2 Public events and functions during the election period will only be organised and run by Council's administration if they are part of Council's normal business activities. Officers will plan to avoid staging any functions, public events or the launch of publications during the election period. No election material or active campaigning, including within the context of speeches by Councillors, is to be conducted at Council run and sponsored events.
- 5.4.3 Councillors can attend events and functions hosted by either Council or external parties during the election period. The Mayor can officially welcome guests at Council organised events and functions, however the Mayor and Councillors cannot give official speeches during the election period. During this time the Chief Executive Officer or Director is to give the speech. The speech should not contain any comment that could be considered as Council pushing an election issue and must be approved by the Chief Executive Officer or Manager Strategic Communications. In addition, no copies of the speech are to be handed out to the community or media at the event.

#### 5.5 Information

- 5.5.1 Council affirms that all candidates for the Council election will be treated equally in terms of assistance and advice relating to the conduct of the Council election. All election related enquiries will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer.
- 5.5.2 Information and briefing material prepared by Council staff for Councillors during the election period will relate only to factual matters, existing Council services, or information that would normally be available to the public. All such requests for information or action are to be issued through the Executive Officer who will keep a record of requests made and advice provided.
- 5.5.3 No information will be provided which relates to new policy development, new projects or matters that are the subject of public or election debate or might be perceived to be connected with a candidate's election campaign.
- 5.5.4 All requests for information or action are to be issued through the offices of the responsible Council Director and the Executive Officer who will keep a record of requests made and advice provided. In the interests of ensuring equal access to all candidates, if information is sent to one candidate or Councillor, it should be sent to all.

5.6 Communication

5.6.1 Council will not print, publish or distribute or cause, permit or authorise to be printed published or distributed, any advertisement, handbill, pamphlet or notice during the election period unless it has been certified in writing by the Chief Executive Officer or their delegate

5.6.2 The Chief Executive Officer or their delegate will not certify a publication in either electronic or hard copy format that contains electoral matter. This includes social media activities and online/digital communications. Electoral matter is defined broadly as any matter which is intended, or likely to affect voting in an election. It includes any material that refers to the election or candidates in the election or issues submitted to or otherwise before the voters in connection with the election. It excludes material produced for the purpose of conducting the election or informing the community about the election process.

**6. DEFINITIONS AND ABBREVIATIONS**

6.1 Election or Caretaker Period – refers to the time in which the activities of Council and Councillors are restricted as outlined in this policy. The 2020 election period will run from midnight on Tuesday 22 September to 6pm on Election Day, Saturday 24 October 2020.

6.2 CEO – Chief Executive Officer

**7. RELATED DOCUMENTS**

Local Government Act 2020

Hume City Council Code of Conduct for Councillors 2016 Hume City Council Employee Code of Conduct

Social Media Guidelines

Use of Council's Internet, Email and Electronic Communications Policy

**8. ATTACHMENT ONE**

Relevant sections of the Local Government Act 2020

## **Attachment 1: Relevant sections of the Local Government Act 2020**

### **PART 3 – COUNCIL DECISION MAKING**

#### **Division 2 — Procedure and Proceedings**

##### **69 Governance rules to include election period policy**

- (1) A Council must include an election period policy in its Governance Rules.
- (2) An election period policy must prohibit any Council decision during the election period for a general election that—
  - (a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
  - (b) 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
  - (c) the Council considers could be reasonably deferred until the next Council is in place; or
  - (d) the Council considers should not be made during an election period.
- (3) An election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.
- (4) A Council decision made in contravention of subsection (2)(a) or (b) is invalid.
- (5) Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of subsection (4) is entitled to compensation from the Council for that loss or damage.

Note - See section 59 in relation to a resolution of the Council.

### **PART 8 – ELECTORAL PROVISIONS**

#### **Division 4 — Holding of General Elections and By-Elections 257 General elections**

- (1) A general election of Councillors for all Councils must be held—
  - (a) on the fourth Saturday in October 2020; and
  - (b) thereafter on the fourth Saturday in October in the fourth year after the last general election of Councillors for all Councils was held.

#### **Division 9 — Electoral Offences**

##### **304 Prohibition on Councillor or member of Council staff**

- (1) A Councillor or member of Council staff must not use Council resources in a way that—
  - (a) is intended to; or
  - (b) is likely to—affect the result of an election under this Act.

Penalty: 60 penalty units.

- (2) 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 on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

Penalty: 60 penalty units.

## **PART 6 – COUNCIL INTEGRITY**

### **Division 1 — Improper Conduct 123**

#### **Misuse of position**

- (1) A person who is, or has been, a Councillor or member of a delegated committee must not intentionally misuse their position—
    - (a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
    - (b) to cause, or attempt to cause, detriment to the Council or another person.
- Penalty: 600 penalty units or imprisonment for 5 years.
- (2) An offence against subsection (1) is an indictable offence.
  - (3) For the purposes of this section, circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a delegated committee include—
    - (a) making improper use of information acquired as a result of the position the person held or holds; or
    - (b) disclosing information that is confidential information; or
    - (c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or
    - (d) exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorized to exercise or perform; or
    - (e) using public funds or resources in a manner that is improper or unauthorised; or
    - (f) participating in a decision on a matter in which the person has a conflict of interest.
  - (4) This section—
    - (a) has effect in addition to, and not in derogation from, any Act or law relating to the criminal or civil liability of Councillors or members of delegated committees; and
    - (b) does not prevent the institution of any criminal or civil proceedings in respect of that liability.

#### **124 Directing a member of Council staff**

A Councillor must not intentionally direct, or seek to direct, a member of Council staff—In the exercise of a delegated power, or the performance of a delegated duty or function, of the Council; or

- (a) in the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under this Act or any other Act; or
- (b) in the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under this Act or any other Act; or
- (c) in relation to advice provided to the Council or a delegated committee, including advice in a report to the Council or delegated committee.

Penalty: 120 penalty units.