



GOVERNANCE RULES

Adopted by Council
Date for Review
Responsible Officer
Department

24 August 2020 (amended 26 April 2021)
October 2021
Manager Governance
Governance

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 1 September 2020.

3. Contents

These Governance Rules are divided into the following Chapters:

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4. Definitions

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

Act means the *Local Government Act 2020*.

Chief Executive Officer includes an Acting Chief Executive Officer.

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

Council means 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 or person acting as Mayor.

these Rules means these Governance-Rules.

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Chapter 1 – Governance Framework

1. Context

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

the overarching governance principles specified in section 9(2) of the *Act*; and
the following documents adopted or approved by *Council*:

- 1.1 Councillors Code of Conduct
- 1.2 Audio recording of Council meetings policy
- 1.3 Recognition of residents policy

2. Decision Making

1.4 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:

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

1.5 *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).

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

- (a) 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;
- (b) 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;
- (c) 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
- (d) if a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

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Chapter 2 – Meeting Procedure for Council Meetings

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Chapter 2 – Meeting Procedure for Council Meetings

DIVISION 1 – THE COUNCIL

DEFINITIONS OF WORDS USED IN THIS MEETINGS PROCEDURE

‘Agenda’ means the notice of a meeting setting out the business to be transacted at the meeting;

‘Advisory Committee’ means an advisory committee established by Council;

‘Chairperson’ means the Chairperson of a meeting and includes an acting, a temporary and a substitute Chairperson;

‘Clause’ means a clause of these Meeting Procedures;

‘Committee’ means an Advisory Committee established by Council;

‘Community Asset Committee’ means a Community Asset Committee established under section 65 of the Act;

‘Common seal’ means the common seal of Council;

‘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 as elected by Council;

‘Gallery’ means members of the public in the public seating area at a Council or other meeting;

‘Minute book’ means the collective record of proceedings of Council;

‘Notice of Motion’ means a notice setting out the text of a motion which is proposed to be moved at the next relevant meeting or such meeting as indicated on the notice;

‘Ordinary meeting’ means an Ordinary meeting of Council;

‘Public Notice’ means at a minimum publication on Council’s website.

‘Standing Orders’ means the procedures for meetings of the Council and its committees;

‘Visitor’ means any person (other than a Councillor, Committee member or member of Council staff) who is in attendance at a Council or Committee meeting; and

‘Written’ includes duplicated, lithographed, photocopied, photographed, printed and typed, and extends to both hard copy and soft copy form.

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DIVISION 1 – THE COUNCIL

1. Procedure for election of Mayor

- 1.1 At a meeting of the Council that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council.
- 1.2 The Mayor is to be elected at a Council meeting held:
 - 1.2.1 after the last Saturday in October but not later than 30 November in each year; or
 - 1.2.2 as soon as possible after any vacancy in the office of the Mayor occurs.
- 1.3 In fixing the date and time of the Special meeting the person or persons convening the meeting must have regard to the standards contained in clause 52 of these Meeting Procedures
- 1.4 Any Councillor is eligible for election or re-election to the office of Mayor.
- 1.5 The Chief Executive Officer will be the first temporary Chairperson of the Special meeting at which the election of Mayor is to be conducted.
- 1.6 The Chief Executive Officer shall invite nominations for a second temporary Chairperson, which nominations do not need to be seconded.
 - 1.6.1 If there is only one nomination, the candidate nominated shall be deemed to have been duly elected.
 - 1.6.2 If there is more than one nomination, the Councillors present at the meeting shall vote for one of the candidates by a show of hands (or by such other method as Council determines).
 - 1.6.3 In the event of a candidate receiving an absolute majority of the votes, that candidate shall be declared to have been duly elected.
 - 1.6.4 In the event of no candidate receiving an absolute majority of the votes, the candidate with the fewest number of votes shall be declared to be a defeated candidate. The Councillors present at the meeting shall then vote for one of the remaining candidates by a show of hands (or by such other method as Council determines).
 - 1.6.5 If one (1) of the remaining candidates receives an absolute majority of the votes, they shall be declared to have been duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates by a show of hands (or by such other method as Council determines) shall be repeated until one (1) of the candidates receives an absolute majority of the votes. That candidate shall be declared to have been duly elected.
 - 1.6.6 In the event of two (2) or more candidates having an equality of votes and one (1) of them having to be declared:
 - (a) a defeated candidate; or
 - (b) duly electedthe result will be determined by lot.
 - 1.6.7 The Chief Executive Officer shall have the conduct of any lot.

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- 1.7 The second temporary Chairperson shall then invite nominations for the office of Mayor, which nominations do not need to be seconded.
- 1.7.1 If there is only one nomination, the candidate nominated shall be deemed to have been duly elected.
- 1.7.2 If there is more than one nomination, the Councillors present at the meeting shall vote for one of the candidates by a show of hands (or by such other method as Council determines).
- 1.7.3 In the event of a candidate receiving an absolute majority of the votes, that candidate shall be declared to have been duly elected.
- 1.7.4 In the event of no candidate receiving an absolute majority of the votes, the candidate with the fewest number of votes shall be declared to be a defeated candidate. The Councillors present at the meeting shall then vote for one of the remaining candidates by a show of hands (or by such other method as Council determines).
- 1.7.5 If one (1) of the remaining candidates receives an absolute majority of the votes, they shall be declared to have been duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates by a show of hands (or by such other method as Council determines) shall be repeated until one (1) of the candidates receives an absolute majority of the votes. That candidate shall be declared to have been duly elected.
- 1.7.6 In the event of two (2) or more candidates having an equality of votes and one (1) of them having to be declared:
- (a) a defeated candidate; or
- (b) duly elected
- the result will be determined by lot.
- 1.7.7 The Chief Executive Officer shall have the conduct of any lot.

2. Election of Deputy Mayor and Appointment of Acting Mayor

Deputy Mayor

- 2.1 Any election for Deputy Mayor will be conducted in accordance with sub-clause 1.7 as if a reference to the second temporary Chairperson is a reference to Mayor and a reference to the Mayor is a reference to Deputy Mayor.

Appointment of Acting Mayor

- 2.2 If Council has not established an office of Deputy Mayor or if the Deputy Mayor is unable to perform the role of Mayor and it becomes required to appoint an Acting Mayor, an Acting Mayor shall be appointed.
- 2.2.1 By Council resolving that a specified Councillor be so appointed; or
- 2.2.2 in accordance with sub-clause 1.7 as if a reference to the second temporary Chairperson is a reference to the Chief Executive Officer and a reference to the Mayor is a reference to Acting Mayor.
- at Council's discretion

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3. Mayor to take Chair

- 3.1 After the election of the Mayor is determined, the Mayor must take the Chair.
- 3.2 The Mayor must take the Chair at all Council meetings at which they are present.
- 3.3 If the Mayor is absent from a Council meeting the Deputy Mayor must take the Chair.
- 3.4 If the Mayor and Deputy Mayor are absent from a Council meeting, the Council must elect one of the Councillors as temporary Chairperson.
- 3.5 An election for temporary Chairperson is to be conducted in accordance with sub-clause 1.6 as if a reference to the second temporary Chairperson is a reference to temporary Chairperson.

DIVISION 2 – MEETING PROCEDURE

4. Quorum

The quorum for a Council meeting must be at least a majority of the members of the Council.

5. Failure to raise a quorum

If a quorum is not present within 30 minutes of the time appointed for the commencement of a Council meeting:

- 5.1 the meeting may be adjourned for not more than seven days by:
 - 5.1.1 a majority of the Councillors present; or
 - 5.1.2 in the absence of any Councillor, the Chief Executive Officer; and
- 5.2 the Chief Executive Officer must give all Councillors notice of the adjourned meeting.

6. Inability to maintain a quorum

If a quorum ceases to be present at any time during a Council meeting, then no business can be legally transacted until a quorum is again formed.

7. 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:

The Mayor will consider whether the decision can be made by; -

- (a) splitting the matter into two or more separate parts, so that a quorum can be maintained for each separate part; or
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.
- 7.1 the Chief Executive Officer may include the items then under consideration on an agenda for a future Council meeting; and
- 7.2 the meeting will resume and consider the item next listed on the agenda for consideration.

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8. When meeting lapses

If a quorum fails after a Council meeting has begun and cannot be formed within 30 minutes of the failure, the meeting lapses.

9. Business of a lapsed meeting

If a Council meeting lapses, the undisposed business must, unless it has already been disposed of at another meeting, be included in the agenda for the next appropriate Council meeting.

10. Date, time and place of meetings

10.1 The dates, times and places of Council meetings are within the discretion of Council.

10.2 Council may, by resolution, alter the day upon, and time and place at, which any Council meeting shall be held.

10.3 The Mayor or at least three councillors may by written notice call a Council Meeting.

11. Notice of meeting

11.1 Council must at least 7 days before the holding of:

11.1.1 an Ordinary meeting; or

11.1.2 a meeting of a special committee comprised solely of Councillors

give public notice of the meeting.

11.2 If urgent or extraordinary circumstances prevent a Council from complying with sub-clause 11.1, Council must:

11.2.1 give such public notice as is practicable; and

11.2.2 specify the urgent or extraordinary circumstances which prevented Council from complying with sub-clause 11.1 in the minutes of the meeting.

11.3 The Chief Executive Officer must ensure that the agenda for any Council meeting is sent to every Councillor at least 48 hours before the meeting.

11.4 In performing the duty imposed by sub-clauses 11.1 and 11.2, the Chief Executive Officer must have regard to the standards defined clause 53 of these Meeting Procedures

11.5 In performing the duty imposed by sub-clause 11.3, the Chief Executive Officer must have regard to the standards defined in clauses 54 and 55 of these Meeting Procedures.

12. Agenda Items

12.1 No business can be dealt with at an Ordinary meeting of Council unless:

12.1.1 it is contained in the agenda; or

12.1.2 it is admitted as urgent business in accordance with sub-clause 14.9;
or

12.1.3 it is submitted by a Councillor at the meeting as general business in accordance with sub-clause 14.10.

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- 12.2 The Chief Executive Officer may include any matter on the agenda which they think should be considered at the meeting to which the agenda relates.

13. Order of business

- 13.1 The following order of business must be followed at the first Ordinary meeting of the month unless the Mayor or Chairperson determines otherwise:
- 13.1.1 Acknowledgement of the Traditional Custodians of this Land;
 - 13.1.2 Prayer;
 - 13.1.3 Apologies;
 - 13.1.4 Disclosure of conflicts of interest;
 - 13.1.5 Condolence motions (which must comply with clause 17 of this Code);
 - 13.1.6 Confirmation of minutes of previous meetings;
 - 13.1.7 Receipt of Council and Community Committee minutes and recommendations to Council to be adopted and other minutes for noting;
 - 13.1.8 Presentation of awards;
 - 13.1.9 Public question time;
 - 13.1.10 Notices of motion;
 - 13.1.11 Officer reports;
 - 13.1.12 Petitions and joint letters;
 - 13.1.13 Deputations;
 - 13.1.14 Urgent business;
 - 13.1.15 Delegates reports;
 - 13.1.16 General business; and
 - 13.1.17 Confidential matters.
- 13.2 The following order of business must be followed at the second Ordinary (Town Planning) meeting of the unless the Mayor or Chairperson determines otherwise:
- 13.2.1 Acknowledgement of the Traditional Custodians of this Land;
 - 13.2.2 Prayer;
 - 13.2.3 Apologies;
 - 13.2.4 Disclosure of conflicts of interest;
 - 13.2.5 Condolence motions (which must comply with clause 17 of this Code);
 - 13.2.6 Officer reports; and
 - 13.2.7 Confidential matters

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14. Conduct of business

The items of business as listed on an agenda must be dealt with in the following manner:

14.1 Disclosure of conflicts of interest

The Mayor or Chairperson is to advise Councillors of the requirements of the Act in relation to the disclosure of conflicts of interest and will read out any “Statements of Disclosure of Conflict of Interest” they have received.

14.2 Confirmation of minutes of previous meetings

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

14.2.1 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;

14.2.2 A copy of the minutes should be delivered or sent electronically to each Councillor no later than 48 hours before the next meeting;

14.2.3 If a copy of the minutes of the previous meeting has not been delivered to Councillors as required sub-clause 14.2.2, the Chief Executive Officer must read the minutes;

14.2.4 When the confirmation of the minutes is called on, the Chairperson must ask: “Is any item of the minutes opposed?”;

14.2.5 If no Councillor indicates opposition, the minutes must be declared to be confirmed;

14.2.6 If a Councillor is dissatisfied with the accuracy of the minutes, then they must:

(a) state the item or items with which they are dissatisfied; and

(b) prepare a motion clearly setting out the alternative wording to amend the minutes;

14.2.7 The Chairperson of the meeting at which the minutes are confirmed must initial each page of the minutes (except for the last page which must be signed);

14.2.8 The Chief Executive Officer is responsible for the keeping of the minutes and must have regard to the standards defined in clause 56 of these Governance Rules.

14.3 Receipt of Council and Community Committee minutes and recommendations to Council to be adopted and other minutes for noting

14.3.1 Minutes of Committees must be distributed as soon as practical to Councillors and be listed for noting on the agenda for the next convenient meeting of Council.

14.3.2 Any recommendations to Council from a Committee, are to be separately identified on the agenda for the next convenient meeting of Council.

14.3.3 If a Councillor is dissatisfied with the wording of a recommendation contained in a Committee report, then they must:

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- (a) state the recommendation with which they are dissatisfied; and
 - (b) propose a motion clearly setting out alternative wording.
- 14.4 Public question time
 - 14.4.1 At the first Ordinary meeting of the month there must be an opportunity for members of the public to submit questions to Council.
 - 14.4.2 Public question time must be limited to 30 minutes in duration unless Council resolves to extend that time and answers to individual questions may be limited at the discretion of the Chairperson.
 - 14.4.3 Schedule 1 of these Governance Rules contains the procedural guidelines for Public Question Time.
- 14.5 Notices of motion
 - 14.5.1 A Councillor must not move a notice of motion unless notice of such motion has been given in accordance with of these Governance Rules.
 - 14.5.2 A notice of motion must be in writing signed by a Councillor and lodged or sent via email to the Chief Executive Officer by 5pm on the third working day prior to the date of the Council meeting to enable the Chief Executive Officer to give at least 48 hours' notice to all Councillors.
 - 14.5.3 If a notice of motion is submitted by email the Councillor must, by speaking in person (including by telephone) with the Chief Executive Officer or his/her delegate, confirm that the Councillor did transmit the notice of motion. The email address for lodgement of notices of motion shall be the official address and number of the organisation or as determined by the Chief Executive Officer.
 - 14.5.4 If the Mayor, after consultation with the Chief Executive Officer, regards a notice of motion as too vague because the general thrust of the motion is unclear the Mayor shall reject the notice of motion and not place it on the agenda. For example, a mere heading or a motion to the effect "that the matter be discussed" or similar wording, would be insufficient. A notice should therefore set out the text of the motion. A notice of motion must not be inconsistent with the requirements of this code.
 - 14.5.5 The full text of any such notice of motion must be included on the agenda.
 - 14.5.6 The Chief Executive Officer must cause all notices of motion to be numbered, dated and entered in the notice of motion book in the order in which they were received.
 - 14.5.7 Except by leave of Council, notices of motion before any Council meeting must be considered in the order in which they were entered in the notice of motion book.
 - 14.5.8 If a Councillor who has given a notice of motion:
 - (a) is absent from the Council meeting; or
 - (b) fails to move the motion when called upon by the Chairpersonany other Councillor may move the motion.
 - 14.5.9 If a notice of motion is not moved and seconded at the Council meeting in which it was included on the agenda, it lapses.

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- 14.6 Officer reports
- 14.6.1 The Chief Executive Officer will determine what inwards correspondence will be subject of a report to Council.
 - 14.6.2 A report from a member of Council staff must not be read in full at any Council meeting unless the meeting resolves to the contrary.
 - 14.6.3 The Chairperson may invite visitors in the gallery to speak for or against an officer recommendation which is before Council for consideration.
 - 14.6.4 Schedule 2 of these Governance Rules contains the procedural guidelines for members of the gallery speaking for or against an officer recommendation.
 - 14.6.5 A person speaking for or against an officer recommendation must, unless otherwise determined by the Council or Committee, confine their comments to 3 minutes.
- 14.7 Petitions and joint letters
- 14.7.1 A petition or joint letter must:
 - (a) be in legible and permanent writing, stating clearly the full name and address of each signatory and be signed by at least 5 people;
 - (b) not be defamatory, indecent, abusive or objectionable in language or content; and
 - (c) not relate to matters beyond the powers of Council.
 - 14.7.2 Every page of a petition or joint letter must bear the whole of the petition or request.
 - 14.7.3 Any signature appearing upon a page which does not bear the whole of the petition or request must not be considered by Council.
 - 14.7.4 Every page of a petition or joint letter must be a single piece of paper and must not be pasted, stapled, pinned or otherwise affixed to any other document.
 - 14.7.5 On receipt of a petition or joint letter, the Chief Executive Officer must note on the first page the total number of signatures.
 - 14.7.6 A summary of the text of the petition or joint letter which has not already been presented to a Council meeting and which bears the note of the Chief Executive Officer in accordance with sub-clause 14.7.5 must be included on the agenda for the next Council meeting.
 - 14.7.7 A petition or joint letter may nominate a person to whom a reply may be sent, but if no person is nominated Council may reply to the first or any person whose signature appears on the petition.
 - 14.7.8 A petition or joint letter received by any Councillor personally which requires a decision of or a direction from Council must be tabled by the Councillor at the next relevant Council meeting or referred by the Councillor to the Chief Executive Officer.

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14.8 Deputations

Deputation to make written request

- 14.8.1 A deputation wishing to be heard must make a written request to the Chief Executive Officer, clearly indicating the purpose for which the deputation is sought and the names of the speakers nominated and whom they represent.
- 14.8.2 A request to be heard must specify the name and address of a person authorised to be contacted by the Chief Executive Officer to receive notices on behalf of the deputation.
- 14.8.3 The Chief Executive Officer must inform the Mayor of the written request.

Deputation listed for hearing

- 14.8.4 The Mayor will have discretion whether approval will be given for the deputation to be received and at which Council or Committee meeting the deputation will be heard.
- 14.8.5 If a deputation is listed for hearing, the Chief Executive Officer must give to the person specified in the request written notice of the time, date and place of the Council or Committee meeting at which the deputation will be heard.

Hearing a deputation

- 14.8.6 Not more than three speakers may address a Council or Committee meeting on behalf of the deputation unless otherwise resolved at the meeting. Council or the Committee is to be advised of the names of the speakers nominated and whom they represent.
- 14.8.7 If members of the deputation other than the appointed speakers attempt to address the Council or Committee meeting or interject, or any of the deputation acts in a disorderly way, the Chairperson may read sub-clause 14.8.8 to the deputation.
- 14.8.8 If there are any further interjections, disorderly conduct or attempts to address the Council or Committee meeting from the deputation after this clause has been read, the deputation will not be further heard and the Chairperson must call on the next business.
- 14.8.9 Despite sub-clauses 14.8.6 to 14.8.8, the Chairperson may allow another speaker to clarify a point if called upon to do so.

14.9 Urgent business

- 14.9.1 Council may determine that a report, of which no notice is included in the agenda, be classified as urgent business and be transacted at a meeting.
- 14.9.2 A report may be classified as urgent business if it:
 - (a) relates to a matter which has arisen since distribution of the agenda; or
 - (b) involves a matter of urgent community concern; or
 - (c) cannot be safely or conveniently deferred until the next Ordinary meeting.

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14.10 General Business

- 14.10.1 At the first Ordinary meeting each month a Councillor may raise an item of general business, by:
- (a) raising an item of general interest;
 - (b) addressing a question to a member of Council staff;
 - (c) requesting that a member of Council staff prepare a report; and
 - (d) proposing or foreshadowing a motion for debate.
- 14.10.2 A Councillor must not raise more than three items of general business at any one Ordinary meeting without the approval of the Mayor.
- 14.10.3 An item of general business under sub-clause 14.10.1(d) must not:
- (a) substantially affect the levels of Council service;
 - (b) commit Council to significant expenditure not included in the adopted Council Budget;
 - (c) establish or amend Council policy;
 - (d) commit Council to any contractual arrangement;
 - (e) concern any litigation in respect of which Council is a party; or
 - (f) require, pursuant to other policy determined by Council from time to time, the giving of prior notice.
- 14.10.4 The following provisions apply to a Councillor addressing a question to members of Council staff:
- (a) Questions may be asked with or without notice; and
 - (b) A member of Council staff who elects to answer a question without notice by indicating that they require further time to research their answer, must be treated as having deferred the giving of an answer until the next convenient Council meeting. At such meeting, the question must be answered in the form of a report.
- 14.10.5 Council may of its own volition or upon the advice of a member of Council staff, resolve to close the meeting to members of the public in order that a question or an answer to a question relating to:
- (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;
 - (b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person;
 - (c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values;
 - (d) law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;

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- (e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;
- (f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
- (g) private commercial information, being information provided by a business, commercial or financial undertaking that—
 - (i) relates to trade secrets; or
 - (ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;
- (h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a);
- (i) internal arbitration information, being information specified in section 145;
- (j) Councillor Conduct Panel confidential information, being information specified in section 169;
- (k) information prescribed by the regulations to be confidential information for the purposes of this definition;
- (l) information that was confidential information for the purposes of section 77 of the **Local Government Act 1989**;

14.10.6 An answer must only be given to the Council meeting if the Chairperson has determined that the relevant question:

- (a) is not a matter beyond the powers of Council;
- (b) is not defamatory, indecent, abusive or objectionable in language or substance;
- (c) is not repetitive of a question already answered (whether at the same or an earlier meeting);
- (d) is not asked to embarrass a member of Council staff or another Councillor; or
- (e) does not raise an issue which might more appropriately be dealt with by way of notice of motion.

14.10.7 Debate or discussion of questions or answers is not permitted and all questions and answers must be as brief as possible.

14.11 Confidential matters

If a part of a meeting is proposed to be closed to the public under Section 66 of the Local Government Act the Chief Executive Officer must ensure that a description of the matter to be considered is included in the open part of the Council agenda but the detailed reports is only made available to councillors.

15. Time limit for meetings

15.1 A Council meeting must not continue beyond any time previously determined by Council unless a majority of Councillors present vote in favour of its continuance.

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- 15.2 In the absence of such continuance, the Council meeting must stand adjourned to a time, date and place announced by the Chairperson.
- 15.3 The Chief Executive Officer must give notice to each Councillor of the date, time and place to which the Council meeting stands adjourned and of the business remaining to be considered.

16. Form of motion

- 16.1 A motion or an amendment must:
 - 16.1.1 be clear and unambiguous and relate to the powers or functions of Council;
 - 16.1.2 be in writing upon the request of the Chairperson;
 - 16.1.3 except in the case of general business or urgent business, be relevant to an item of business on the agenda; and
 - 16.1.4 not be defamatory or objectionable in language or nature.
- 16.2 The Chairperson may refuse to accept any motion or amendment which contravenes sub-clause 16.1.
- 16.3 Any person proposing or foreshadowing a motion, or addressing the Council meeting, must have regard to the standards defined in clauses 57 to 61 (inclusive) of these Meeting Procedures.

17. Motion to be moved and seconded

The procedure upon any motion or amendment is:

- 17.1 the mover must state the nature of the motion or amendment, and then move it without speaking to it; and
- 17.2 the seconder must say –
“I second it”, or words to that effect.

18. Unopposed motion or amendment

If a motion or an amendment is seconded:

- 18.1 the Chairperson must ask:
“Is the motion opposed?”
or
“Is the amendment opposed?”
- 18.2 if no Councillor indicates opposition, it may be declared to be carried.

19. Lapsed motion or motion not to be withdrawn without leave

- 19.1 If a motion or amendment is not seconded it lapses.
- 19.2 A motion or amendment that has been seconded cannot be withdrawn without the consent of the Council meeting.

20. Course of debate of opposed motion

- 20.1 If any Councillor indicates opposition to a motion or an amendment which has been seconded:
 - 20.1.1 the mover may address Council upon it;

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- 20.1.2 the seconder may speak to it at that stage or reserve the right to speak at a later stage;
 - 20.1.3 it is open to debate;
 - 20.1.4 the mover must, except in the case of an amendment or a motion which has been amended, be given a right of reply; and
 - 20.1.5 the Chairperson must then put it to the vote.
- 20.2 The Chairperson must, in presiding over a debate, have regard to the standards defined in clauses 57 to 61 (inclusive) of these Meeting Procedures.

21. Amendment

- 21.1 An amendment must not be the negative of, or substantially contrary to, the motion. If an amendment effectively negates the substance of the motion it is ruled to be an alternative motion and shall only be considered in the event that the motion is lost.
- 21.2 The mover and seconder of a motion cannot move or second an amendment to it.
- 21.3 The mover of an amendment has no right of reply.
- 21.4 A second or subsequent amendment cannot be moved until the immediately preceding amendment is disposed of.
- 21.5 If an amendment is carried it becomes the substantive motion and debate on the motion continues. The substantive motion can be further amended.
- 21.6 A Councillor can only move one amendment per item under discussion.

22. Deferral Motion

- 22.1 A Councillor may move a motion that an item on the agenda be considered at a future meeting of the Council.
- 22.2 The mover of such a motion must give their reasons to Council as to why the item should not be considered at the meeting.
- 22.3 A seconder is required for the motion.
- 22.4 The motion must be voted on forthwith. There is to be no debate on the motion.

23. Councillors to stand when speaking

- 23.1 Councillors must stand when speaking at a Council meeting, unless they are not capable of doing so.
- 23.2 The Chairperson may remain seated when speaking at a meeting.

24. Interruptions, interjections and relevance

- 24.1 A Councillor must not be interrupted except by the Chairperson or upon a point of order or personal explanation.
- 24.2 If a Councillor is interrupted by the Chairperson or upon a point of order or personal explanation, they must remain silent until the Chairperson has ceased speaking, the point of order has been determined or the personal explanation has been given.
- 24.3 A Councillor must not digress from the subject matter of the motion or business under discussion.

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24.4 The mover of a motion must not introduce fresh matter when exercising any right of reply.

25. Priority of address

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

26. Councillors not to speak twice to same motion or amendment

Except that the mover of an unamended motion has the right of reply and that any Councillor may call a point of order or offer a personal explanation, no Councillor may speak more than once to the same motion or amendment.

27. Chairperson may speak

27.1 The Chairperson may address a Council meeting upon any matter under discussion and is not deemed to have left the Chair on such occasions.

27.2 The Chairperson may, if they so wish, vacate the Chair for the duration of any item under discussion whereupon a temporary Chairperson elected by the meeting shall take the Chair until such item has been disposed of.

28. Resumption of adjourned debate

If a debate is adjourned by motion, the Councillor moving the adjournment has the right to be the first speaker upon the resumption of debate unless they have already spoken to the motion or amendment.

29. Time limits

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

- | | | |
|------|--|------------|
| 29.1 | the mover of a motion or an amendment: | 5 minutes |
| 29.2 | any other Councillor: | 3 minutes |
| 29.3 | the mover of a motion exercising a right of reply: | 2 minutes. |

30. Rescission or alteration

30.1 A Councillor may propose a notice of rescission provided:

30.1.1 It is in writing;

30.1.2 It is supported, in writing, by at least three Councillors;

30.1.3 The resolution proposed to be rescinded has not been acted on; and

30.1.4 The notice of rescission is delivered to the Chief Executive Officer within 24 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.

30.2 Any Councillor proposing a notice of rescission is required to provide written justification that must include one or more of the following:

30.2.1 The vote did not accurately reflect the opinion held by the meeting due to the misunderstanding of the motion or for some other reasons; or

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- 30.2.2 New information has become available which may affect the decision of Council; or
- 30.2.3 Some vital information was overlooking in Council forming its decision.
- 30.3 A resolution will be deemed to have been acted on if:
- 30.3.1 its contents have or substance has been communicated in writing to a person whose interests are materially affected by it; or
- 30.3.2 a statutory process has been commenced so as to vest enforceable rights in or obligations on Council or any other person.
- 30.4 The Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:
- 30.4.1 has not been acted on; and
- 30.4.2 is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-Rule 30.1.4, unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.
- 30.5 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.
- 30.6 If Not Moved
- If a motion for rescission is not moved at the meeting at which it is listed, it lapses and a similar motion may not be put before Council for at least three months from the date it lapsed, unless Council resolves that the notice of motion be re-listed at a future meeting.
- 30.7 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.
- 30.8 When Not Required
- 30.8.1 Unless sub-Rule 47.2 applies, a motion for rescission is not required where Council wishes to change policy.
- 30.8.2 The following standards apply if Council wishes to change policy:
- (a) 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
- (b) 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.

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31. Formal Motions

The procedure for, and effect of, formal motions is as follows:

Formal Motion	Form	Mover & Seconder	Matter in Respect of Which Motion May be Moved	When Motion Prohibited	Effect if Carried	Effect if Lost
Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor	Any matter	(a) During the election of a Chairperson; (b) when another Councillor is speaking	Motion and amendments postponed to the stated time and/or date	Debate continues unaffected
Adjournment of meeting to later hour or date	That the meeting be adjourned to *am/pm and/or *date	Any Councillor	Any meeting	(a) During the election of a Chairperson; (b) when another Councillor is speaking	Meeting adjourns immediately until the stated time and/or date	Debate continues unaffected
The closure	That the motion be now put	A Councillor who has not spoken to the motion or any amendment of it	Any matter	During nominations for Chairperson	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion	Debate continues unaffected

32. Points of order

- 32.1 A point of order must be called by stating:
- 32.1.1 the matter complained of; and
 - 32.1.2 if a provision of these Meeting Procedures is said to establish the point of order, the relevant provision.
- 32.2 A Councillor may call a point of order by drawing the attention of the Chairperson to:
- 32.2.1 the fact that a Councillor is out of order; or
 - 32.2.2 an act of disorder;
- despite the fact that the Chairperson or a Councillor is speaking at the time.
- 32.3 When called to order, a Councillor must cease speaking until the point of order is decided unless they are requested by the Chairperson to provide an explanation.
- 32.4 The Chairperson may take a point of order without it having been called by a Councillor.

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33. Chairperson to decide point of order

- 33.1 The Chairperson may adjourn the Council meeting to consider a point of order but must otherwise rule upon it as soon as it is taken.
- 33.2 The Chairperson must, when ruling on a point of order, state the provision of these Meeting procedures or the rule, custom or practice which is relied on in support of the ruling.

34. Disagreeing with Chairperson's ruling

- 34.1 A Councillor may move that the Council meeting disagree with the Chairperson's ruling.
- 34.2 When a motion in accordance with this Clause is moved and seconded, the Chairperson must leave the Chair and the Deputy Mayor shall assume the Chair as the temporary Chairperson. If the Deputy Mayor is not present a temporary Chairperson is to be elected in accordance with sub-clause 2.2.2 and must take their place. The following procedure then applies:
 - 34.2.1 The temporary Chairperson must invite the mover to state the reasons for their dissent and the Chairperson may then reply.
 - 34.2.2 The temporary Chairperson then puts the motion in the following form:
"That the Chairperson's ruling be upheld".
 - 34.2.3 If the vote is in the affirmative, the Chairperson resumes the Chair and the meeting proceeds.
 - 34.2.4 If the vote is in the negative, the Chairperson resumes the Chair, reverses their previous ruling and then proceeds.
- 34.3 The defeat of the Chairperson's ruling is in no way a vote of censure or no-confidence and shall not so be regarded by the meeting.

35. Determining the vote

To determine a motion or amendment before the meeting, the Chairperson shall first call for those in favour and then those opposed, and then shall declare the result to the meeting.

36. Repeating motion

- 36.1 Before any matter is put to the vote, a Councillor may require that the question, motion or amendment be read again.
- 36.2 The Chairperson without being so requested may direct the Chief Executive Officer to read the question, motion or amendment to the Council meeting before the vote is taken.

37. Vote to be taken in silence

- 37.1 Except that a Councillor may call for a division, Councillors must remain seated in silence while a vote is being taken.
- 37.2 Unless Council otherwise determines, voting must be by a show of hands.

38. Recount of vote

The Chairperson may direct that the vote be recounted as often as may be necessary for satisfy themselves of the result.

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39. Division

- 39.1 Immediately after any motion, amendment or question is put to a Council meeting and before the next item of business has commenced, a Councillor may call for a division.
- 39.2 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.
- 39.3 When a division is called for, the Chairperson must:
- 39.3.1 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. The Chairperson must then state, and the Chief Executive Officer must record, the names of those Councillors voting in the affirmative;
 - 39.3.2 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. The Chairperson must then state, and the Chief Executive Officer must record, the names of those Councillors voting in the negative; and
 - 39.3.3 then ask each Councillor wishing to abstain from the vote to raise a hand and, upon such request being made, each Councillor wishing to abstain from the vote must raise one of their hands. The Chairperson must then state, and the Chief Executive Officer must record, the names of those Councillors abstaining from the vote.
- 39.4 The Chairperson must declare the result of the division as soon as it is taken.

40. Resolution not to be discussed after it is carried

Except in the case of a motion of rescission or alteration, no resolution may be discussed after the vote upon it has been declared.

41. Gallery to be silent

- 41.1 The Chairperson may invite comments from the gallery, allowing visitors in the Gallery to speak for or against an officer recommendation prior to Council entering debate in accordance with Schedule 2 of these Meeting Procedures.
- 41.2 In all other circumstances:
- 41.2.1 Visitors must not interject or take part in the debate.
 - 41.2.2 Silence must be preserved in the gallery at all times.

42. Public Submissions

- 42.1 Where Council has sought public submissions in accordance with section 223 of the Act and a person, or a representative specified in the submission has requested to be heard at a Council or Committee meeting in support of their submission, they shall comply with the requirement of Schedule 2 to these Meeting Procedures and confine their comments to five minutes, with ten minutes being allowed to speak to a submission if there are two or more speakers for the one submission.
- 42.2 The Chairperson may grant an extension to the time in sub-clause 42.1 of up to one minute to allow a speaker to conclude their submission.

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43. Recording Proceedings

- 43.1 The Chief Executive Officer will record on suitable audio recording equipment all the proceedings of a Council meeting, except for confidential parts of a meeting. A copy of the audio recordings of Council meetings will be made available on Council's website within 48 hours of a Council meeting, as per Council's Audio Recordings of Council Meetings Policy.
- 43.2 Any other person must not take photographs or make a visual recording of any part of the proceedings of a Council meeting, unless the Mayor has invited persons present at the meeting and/or Councillors to take photographs of parts of the Council meeting.
- 43.3 Council will, in exceptional circumstances, consider a request submitted prior to the commencement of the meeting, to make a visual recording of any part of the proceedings of a Council meeting. Where the consent of Council is granted, it may be revoked at any time during the course of the relevant meeting.
- 43.4 Where under sub-clause 43.3, consent has been granted for a Council meeting to be recorded, the Chairperson must advise visitors in the gallery at the commencement of the meeting.

44. Ejection of disorderly visitors

If any visitor is called to order by the Chairperson and thereafter again acts in breach of the direction of the Chairperson to be called to order, the Chairperson may order them to be removed.

45. Ordering withdrawal of remark

- 45.1 The Chairperson may require a Councillor to withdraw any remark which is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature.
- 45.2 A Councillor required to withdraw a remark must do so immediately without qualification or explanation.

46. Suspensions

- 46.1 Council may, by resolution, suspend from a Council meeting, and for the balance of the Council meeting, any Councillor whose behaviour is preventing the Council from conducting its business.
- 46.2 A Councillor must not be suspended unless the Chairperson has warned the Councillor that their actions are disrupting the business of Council at the meeting and have impeded its orderly conduct.
- 46.3 A Councillor must upon the direction of the Mayor immediately leave the Council meeting on suspension.
- 46.4 If a Councillor who has been suspended by the Council refuses to leave the meeting when called upon by the Chairperson, the Councillor has committed an offence under the Local Government Act 2020 Section 19 (b).

47. Chairperson may adjourn disorderly Council 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, they may adjourn the meeting to a later time on the same day or to some later day as they think proper.

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48. Removal from Council meeting

The Chairperson may ask any Authorised Officer or member of the Police Force to remove from the Council meeting any person who acts in breach of the Meeting Procedure.

49. Procedure not provided in these Meeting Procedures

In all cases not specifically provided for by these Meeting Procedures, resort must be had to the rules, forms and usages of the Victorian Parliament (so far as the same are capable of being applied to Council).

DIVISION 3 – SUSPENSION OF STANDING ORDERS

50. Suspension of standing orders

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

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

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

50.4 It should not be used purely to dispense with the processes and protocol of the government of Council. An appropriate motion would be:

“That standing orders be suspended to enable discussion on

50.5 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 4 – STANDARDS

51. Setting meeting time for election of Mayor

In determining the most appropriate time and date for any election of Mayor, Council or the Chief Executive Officer should take into account such things as:

51.1 the legislation;

51.2 the requirement to finalise any election;

51.3 the Council’s normal meeting schedule;

51.4 the availability of Councillors;

51.5 Council’s and community’s wishes; and

51.6 any other matter which the Chief Executive Officer considers appropriate.

52. Notice of meetings to the public

52.1 To enable notice of Council meetings to be given to the public, Council should prepare a schedule of meetings annually, twice yearly, quarterly or from time to time, and arrange publication in a newspaper generally circulating in the municipal district either:

52.1.1 at various times throughout the year; or

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52.1.2 just prior to each meeting.

52.2 In addition, copies of any Council meeting schedule will be published on Council's website.

52.3 Where Council meeting dates are changed as permitted by sub-clause 10.2, details will, when time permits, be published in the appointed newspapers. However, if time does not permit this to occur, then a notice setting out the details should be posted at Council's customer service centres and on Council's website to inform the public of the change.

53. Notice of Council meetings to Councillors

53.1 The agenda for any Council meeting must state the date, time and place of the meeting and the business to be dealt with and must be delivered or sent by post, facsimile or electronically (if applicable) to each Councillor's place of residence or usual place of business (if applicable) or as otherwise specified by the Councillor.

53.2 An agenda may be handed personally to a Councillor in any location within the time required, or may be delivered to another destination, provided a written authorisation by the relevant Councillor is held by the Chief Executive Officer.

53.3 To enable the processes of government to be efficiently managed, Councillors should keep the Chief Executive Officer informed of their point(s) of contact from time to time.

54. Delivery of notices to Councillors

54.1 By Post

54.1.1 The notice should be delivered to the local post office in sufficient time to enable the notice to reach the Councillor's postal address at least 48 hours prior to the Council meeting, according to normal mail delivery.

54.1.2 If for any reason the reliability of the postal service is in question, attempts to contact the relevant Councillors by telephone should be made, if circumstances permit.

54.2 By Delivery

Delivery to the Councillor's place of residence or usual place of business (if applicable) at least 48 hours before the Council meeting will be sufficient to constitute delivery, whether the Councillor is in attendance or not.

54.3 By Electronic Transfer of Data

If applicable, transmission by email or other electronic transfer of data to the Councillor's Council allocated or advised email address at least 48 hours before the Council meeting.

55. Minutes

In keeping the minutes of any Council meeting, the Chief Executive Officer must record:

55.1 The names of Councillors and whether they are present, an apology or on leave of absence;

55.2 The arrival and departure of Councillors during the course of the meeting. It is a requirement that Councillors advise the Chairperson of their departure and subsequent return to the meeting;

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- 55.3 Every motion and amendment moved, including the mover (and seconder) of any motion or amendment;
- 55.4 The outcome of every motion, that is, whether it was put to the vote and the result;
- 55.5 Procedural motions;
- 55.6 Where a valid division is called, the names of every Councillor and the way their vote was cast;
- 55.7 Details of any failure to achieve or maintain a quorum and any adjournment, whether as a result or otherwise;
- 55.8 Details of any question directed or taken upon notice;
- 55.9 The time and reason for any adjournment of the meeting or suspension of standing orders;
- 55.10 Disclosure of a conflict of interest by a Councillor;
- 55.11 Closure of the meeting to members of the public and the reasons for the closure; and
- 55.12 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.

Availability of Council Minutes

- 55.13 The Chief Executive Officer will prepare and make available to Councillors and the public the unconfirmed minutes of a Council meeting within four working days of the meeting.
- 55.14 The unconfirmed and when confirmed minutes shall be made available by publishing on Council's website.

56. Addressing the Council meeting

At a Council meeting:

- 56.1 Any person addressing the Chair must refer to the Chairperson as:
 - 56.1.1 Madam Mayor;
 - 56.1.2 Mr Mayor;
 - 56.1.3 Madam Acting Mayor;
 - 56.1.4 Mr Acting Mayor;
 - 56.1.5 Madam Chair; or
 - 56.1.6 Mr Chairas the case may be.
- 56.2 All Councillors, other than the Chairperson, must be addressed as Cr.....(name).....
- 56.3 All members of Council staff should be addressed as Mr or Ms...(name)... as appropriate or by their official title.

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57. Foreshadowing a motion

- 57.1 A motion foreshadowed may be prefaced with a statement that, in the event a particular motion before the Chair is resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- 57.2 A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the meeting.
- 57.3 The Chief Executive Officer is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.

58. Separation of motions

Where a motion contains several parts or segments or is complicated, it may, at the discretion of the Chairperson, be separated to avoid difficulties, particularly if different Councillors have differing views about the several parts of the motion.

59. Motions in writing

The Chairperson may wish to suspend the Council meeting while a motion is being written or may request Council to defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

60. Sufficient debate

- 60.1 Adequate debate is required where a matter is contentious in nature. In such a case, every Councillor should be given an opportunity to speak.
- 60.2 A motion has not been sufficiently debated if opposing views (where they exist) have not been sufficiently put, not so much the number of those who have spoken, but whether all minority opposing views have been put, for instance:
 - 60.2.1 It may be that several speakers have addressed the Council meeting, but their views may be similar. In this case, differing views should be sought by the Chairperson (if they exist).
 - 60.2.2 On the other hand, if only a few speakers have addressed the Council meeting, their views may be representative of the other Councillors, in which case, the debate would be regarded as sufficient.

DIVISION 5 – APPLICATION TO OTHER MEETINGS

61. Public Meetings

- 61.1 Any provisions of these Meeting Procedures shall, if Council so resolves, apply to any meetings conducted by, or on behalf of, Council with appropriate modifications.
- 61.2 Sub-clause 62.1 does not prevent any person from addressing a public meeting, conducted by, or on behalf of Council, if permitted to do so by the Chairperson.

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PROCEDURAL GUIDELINES - PUBLIC QUESTION TIME

1. A maximum of two questions are to be asked by any one person.
2. A person submitting a question must be present in the gallery at the time the question is considered.
3. The Mayor or Chairperson will nominate the appropriate person to respond to each question.
4. The Mayor or Chairperson may disallow any question which is considered:
 - To relate to a matter beyond the power or duties of Council;
 - To be defamatory, indecent, offensive, abusive, irrelevant, trivial or objectionable in language or nature;
 - To be repetitive of a question already answered (whether at the same or any earlier meeting);
 - To be aimed to embarrass a Councillor, or member of Council staff;
 - To be confidential in nature because it relates to:
 - personnel or industrial matters;
 - the personal hardship of any resident or ratepayer;
 - contractual, matters, proposed developments or legal advice;
 - matters affecting the security of Council property; or
 - any other matter which Council considers would prejudice the Council or any person.
5. The Mayor or Chairperson will ascertain that the person asking the question is present in the gallery and will read or direct that the question be read.
6. The Mayor or Chairperson has the discretion to seek clarification of the question if deemed necessary but otherwise the person asking the question is not permitted to enter into debate with or directly question Councillors or members of Council staff.
7. A Councillor or a member of Council staff may advise the meeting that it is their opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or member of Council staff will state briefly the reason why the reply should be so given and Council shall determine whether a resolution to close the meeting is required.
8. A Councillor responding to a question may seek additional information from a member of Council staff to assist in the answering of that question.
9. Any public questions which have been disallowed will be provided to Councillors.

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HUME CITY COUNCIL

MEETING PROCEDURES

SCHEDULE 2 – PUBLIC COMMENT TO OFFICER RECOMMENDATION

1. Council has made provision in the business of Ordinary Meetings of the Council for the public to make statements in support or against an officer recommendation as printed on the Council agenda.
2. At the commencement of the Council meeting the Mayor or Chairperson will ask visitors in the gallery if there are any items on the agenda which has an officer recommendation, they wish to make a statement of support or against. These items will then be dealt with at the commencement of the meeting following public question time.
3. Prior to Councillors debating the item on the agenda, visitors in the gallery will be permitted to speak for or against the recommendation as printed on the agenda. Each speaker is to state their name and address and whether they are speaking in support or against the officer recommendation. The statements are to be strictly limited to the officer recommendation before them.
4. Each speaker is to confine themselves to 3 (three) minutes each. The Mayor or Chairperson at any time may cease to hear comments from the gallery.
5. The object of the procedure is to allow the members of the public to have their concerns and comments conveyed to Councillors immediately prior to the matter being considered by Council. It is not intended that the same points or arguments be repeated by several speakers. If the point has been made then it shall not be repeated.
6. There is no right of reply or discussion allowed, and no questions can be sought of 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.
7. The Mayor or Chairperson will nominate the appropriate person to speak for or against the recommendation.
8. In the case of competition for the right to speak, the Mayor or Chairperson must decide the order in which the visitors in the gallery will be heard.
9. Visitors in the gallery are not permitted to address Councillors or Officers at any time during the meeting. They must not interject or take any part in any debate. Silence must be preserved in the gallery at all times other than when directed by the Mayor or Chairperson.
- 10. The Mayor or Chairperson may require the person speaking to the recommendation to cease speaking if the Mayor or Chairperson considers any comment:**
 - To be defamatory, indecent, offensive, abusive, irrelevant, trivial or objectionable in language or nature;
 - To be repetitive of a statements or point already made; or
 - To be aimed or asked to embarrass a Councillor, or member of Council staff or any other person.

GOVERNANCE RULES
Chapter 3 – Meeting Procedure for Delegated Committees

1. Meeting Procedure Generally

If *Council* establishes a *Delegated Committee*:

- all of the provisions of Chapter 2 apply to meetings of the *Delegated Committee*;
and

any reference in Chapter 2 to:

- a *Council meeting* is to be read as a reference to a *Delegated Committee* meeting;
- a Councillor is to be read as a reference to a member of the *Delegated Committee*;
and
- 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:

- *Council* may; or
- 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.

GOVERNANCE RULES

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

If *Council* establishes a *Community Asset Committee*:

all of the provisions of Chapter 2 of these rules apply to meetings of a *Community Asset Committee*, unless the Chief Executive Officer chooses to amend or exempt any of the provisions of Chapter 2 in a Committee’s Instrument of Delegation.

any reference in Chapter 2 to:

- a *Council meeting* is to be read as a reference to a *Community Asset Committee*: meeting
- a Councillor is to be read as a reference to a member of the *Community Asset Committee*: and
- the Mayor is to be read as a reference to the Chair of the *Community Asset Committee*..

GOVERNANCE RULES

Chapter 5 – Disclosure of Conflicts of Interest

1. Introduction

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

2. Definition

In this Chapter:

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

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

3. Disclosure of a Conflict of Interest at a Council Meeting

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

3.1.1. are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting* at the start of the meeting in accordance with Chapter 2 (Meeting Procedures) of these Governance Rules and immediately before the matter is considered. The Councillor as soon as practicable after the meeting concludes is required to provide the information required in 3.1.2 to the Chief Executive Officer; or

3.1.2. intend to be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council meeting* commences a written notice:

- (a) advising of the conflict of interest;
- (b) explaining the nature of the conflict of interest; and
- (c) detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:
 - (d) name of the other person;
 - (e) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - (f) nature of that other person’s interest in the matter,

and then at the start of the meeting in accordance with Chapter 2 (Meeting Procedures) of these Governance Rules and immediately before the matter is considered at the meeting announcing to those present that they have a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

3.2. The Councillor must, in either event, just before the matter is considered leave the *Council meeting* immediately after giving the explanation or making the

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

GOVERNANCE RULES

Chapter 5 – Disclosure of Conflicts of Interest

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

4.1. 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:

4.1.1. are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting* at the start of the meeting in accordance with Chapter 2 (Meeting Procedures) of these Governance Rules and immediately before the matter is considered. The member of the *Delegated Committee* as soon as practicable after the meeting concludes is required to provide the information required in 4.1.2 to the Chief Executive Officer; or

4.1.2. intend to be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the Delegated Committee meeting commences a written notice:

- (a) advising of the conflict of interest;
- (b) explaining the nature of the conflict of interest; and
- (c) 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:
 - (d) name of the other person;
 - (e) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - (f) nature of that other person's interest in the matter,

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

4.2. The member of a *Delegated Committee* must, in either event, leave the *Delegated Committee* meeting just before the matter is considered 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

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

5.1.1. are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Community Asset Committee meeting* at the start of the meeting in accordance with Chapter 2 (Meeting Procedures) of these Governance Rules and immediately before the matter is considered. The Councillor is as soon as practicable after the meeting concludes is required to provide the information required in 5.1.2 to the Chief Executive Officer; or

GOVERNANCE RULES

Chapter 5 – Disclosure of Conflicts of Interest

- 5.1.2. intend to be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:
- (a) advising of the conflict of interest;
 - (b) explaining the nature of the conflict of interest; and
 - (c) detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
 - name of the other person;
 - nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - nature of that other person's interest in the matter,
 - (d) and then immediately before the matter is considered at the meeting announcing to those present that they have a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.
- 5.1.3. The Councillor must, in either event, leave the *Committee Asset Committee* meeting just before the matter is considered 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

- 6.1. A Councillor who has a conflict of interest in a matter being considered by a meeting held under the auspices of *Council* at which they are present must:
- 6.1.1. disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *meeting* at the start of the meeting and immediately before the matter is considered.
 - 6.1.2. absent themselves from any discussion of the matter; and
 - 6.1.3. as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting. The information to include, as a minimum the information required in 3.1.2.

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. The information to include, as a minimum the information required in 3.1.2.

GOVERNANCE RULES
Chapter 5 – Disclosure of Conflicts of Interest

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

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

- 8.1. A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest. The information to include, as a minimum the information required in 3.1.2. Clause 3.1.2(b) being read as the Staff Members relationship.
- 8.2. If the member of Council staff referred to in sub-Rule 8.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

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

- 9.1. A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest. The information to include, as a minimum the information required in 3.1.2.
- 9.2. If the member of Council staff referred to in sub-Rule 9.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

10. Retention of Written Notices

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

GOVERNANCE RULES

Chapter 6 – Miscellaneous

1. Informal Meetings of Councillors

If there is a meeting of Councillors that:

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

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

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

2. Confidential Information

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

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.

GOVERNANCE RULES

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.

GOVERNANCE RULES

Chapter 7 – Election Period Policy

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—

GOVERNANCE RULES
Chapter 7 – Election Period Policy

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.

GOVERNANCE RULES

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- 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

GOVERNANCE RULES

Chapter 7 – Election Period Policy

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

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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

GOVERNANCE RULES
Chapter 7 – Election Period Policy

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—

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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—

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Chapter 7 – Election Period Policy

- (a) in the exercise of a delegated power, or the performance of a delegated duty or function, of the Council; or
- (b) 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
- (c) 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
- (d) 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.