

## GOVERNANCE RULES

### Introduction

#### 1. Nature of Rules

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

#### 2. Date of Commencement

These Governance Rules commence on 1 August 2022. They will be reviewed no later than every two years from their adoption.

#### 3. Contents

These Governance Rules are divided into the following Chapters:

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

#### 4. Definitions

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

*Act* means the *Local Government Act 2020*.

*Chief Executive Officer* includes an Acting Chief Executive Officer.

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

*Council* means Bass Coast Shire Council.

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

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

*Mayor* means the Mayor of Council.

*these Rules* means these Governance Rules.

## Chapter I – Governance Framework

### I. Context

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

- (a) the overarching governance principles specified in section 9(2) of the Act; and
- (b) the following documents adopted or approved by Council:
  - Community Engagement Policy
  - Councillor Code of Conduct
  - Public Transparency Policy

### 2. Decision Making

- (a) In any matter in which a decision must be made by Council (including persons acting with the delegated authority of Council), Council must consider the matter and make a decision:
  - (i) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
  - (ii) on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- (b) Council must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered).
- (c) Without limiting anything in paragraph (b) of this sub-Rule:
  - (i) before making a decision that will directly affect the rights of a person, Council (including any person acting with the delegated authority of Council) must identify the person or persons whose rights will be directly affected, give notice of the decision which Council must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made.
  - (ii) if a report to be considered at a Council meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has, or persons have been provided with an opportunity to communicate their views and have their interests considered.
  - (iii) if a report to be considered at a Delegated Committee meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has, or persons have been provided with an opportunity to communicate their views and have their interests considered; and
  - (iv) if a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

## Chapter 2 – Meeting Procedure for Council Meetings

### Contents

<b>Part A – Introduction.....</b>	<b>1</b>
1. Title .....	1
2. Purpose of this Chapter .....	1
3. Definitions and Notes .....	1
<b>Part B – Election of Mayor .....</b>	<b>2</b>
4. Election of the Mayor.....	2
5. Method of Voting .....	2
6. Determining the election of the Mayor.....	2
7. Election of Deputy Mayor and Chairs of Delegated Committees .....	2
8. Appointment of Acting Mayor .....	2
<b>Part C – Meetings Procedure .....</b>	<b>3</b>
<b>Division 1 – Notices of Meetings and Delivery of Agendas .....</b>	<b>3</b>
9. Date, Time and Place of Meetings Fixed by Council .....	3
10. Council May Alter Meeting Dates .....	3
11. Meetings Not Fixed by Council.....	3
12. Notice Of Meeting.....	3
<b>Division 2 – Meeting Attendance .....</b>	<b>4</b>
13. Attendance by electronic means .....	4
14. Inability To Obtain a Quorum .....	4
15. Inability To Maintain a Quorum .....	4
16. Adjourned Meetings.....	4
17. Time limits for Meetings.....	4
18. Cancellation or Postponement of a Meeting .....	5
<b>Division 3 – Business of Meetings .....</b>	<b>5</b>
19. Agenda and the Order Of Business .....	5
20. Change To Order Of Business .....	5
21. Urgent Business.....	5
<b>Division 4 – Motions and Debate.....</b>	<b>5</b>
22. Councillors May Propose Notices Of Motion .....	5
23. Notice Of Motion.....	5
24. Chair’s Duty.....	6
25. Introducing a Report.....	6
26. Introducing A Motion or an Amendment.....	6
27. Right Of Reply.....	7
28. Moving An Amendment .....	7
29. Who May Propose An Amendment .....	7
30. How Many Amendments May Be Proposed .....	7
31. An Amendment Once Carried.....	8
32. Foreshadowing Motions .....	8
33. Withdrawal Of Motions .....	8
34. Separation Of Motions.....	8
35. Chair May Separate Motions.....	8
36. Priority of address .....	8
37. Motions In Writing .....	8
38. Repeating Motion and/or Amendment.....	8
39. Debate Must Be Relevant To The Motion.....	9
40. Speaking Times.....	9
41. Addressing the Meeting.....	9
42. Right to Ask Questions .....	9

<b>Division 5 – Procedural Motions .....</b>	<b>9</b>
43.    Procedural Motions .....	9
<b>Division 6 – Rescission Motions .....</b>	<b>11</b>
44.    Notice of Rescission .....	11
45.    If Lost .....	12
46.    If Not Moved .....	12
47.    May Be Moved By Any Councillor .....	12
48.    When Not Required .....	12
<b>Division 7 – Points of Order .....</b>	<b>12</b>
49.    Chair To Decide .....	12
50.    Chair May Adjourn to Consider .....	12
51.    Dissent From Chair’s Ruling .....	12
52.    Procedure For Point of Order .....	13
53.    Valid Points of Order .....	13
<b>Division 8 – Public Question Time .....</b>	<b>13</b>
54.    Question Time .....	13
<b>Division 9 – Petitions and Joint Letters .....</b>	<b>14</b>
55.    Petitions and Joint Letters .....	14
<b>Division 10 – Voting .....</b>	<b>15</b>
56.    How Motion Determined .....	15
57.    Silence .....	15
58.    Recount .....	15
59.    Casting Vote .....	16
60.    By Show of Hands .....	16
61.    Procedure For a Division .....	16
62.    No Discussion Once Declared .....	16
<b>Division 11 – Minutes .....</b>	<b>17</b>
63.    Confirmation of Minutes .....	17
64.    No Debate on Confirmation of Minutes .....	18
65.    Deferral Of Confirmation of Minutes .....	18
66.    Form and Availability of Minutes .....	18
<b>Division 12 – Behaviour .....</b>	<b>19</b>
67.    Public Addressing the Meeting .....	19
68.    Chair May Remove .....	19
69.    Chair may adjourn disorderly meeting .....	19
70.    Removal from Chamber .....	19
<b>Division 13 – Additional Duties of Chair .....</b>	<b>19</b>
71.    The Chair’s Duties and Discretions .....	19
<b>Division 14 – Suspension of Standing Orders .....</b>	<b>20</b>
72.    Suspension of Standing Orders .....	20
<b>Division 15 – Miscellaneous .....</b>	<b>20</b>
73.    Procedure not provided in this Chapter .....	20
74.    Criticism of members of Council staff .....	20

## Part A – Introduction

### 1. Title

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

### 2. Purpose of this Chapter

The purpose of this Chapter is to:

- 2.1 provide for the election of the Mayor and any Deputy Mayor;
- 2.2 provide for the appointment of any Acting Mayor; and
- 2.3 provide for the procedures governing the conduct of *Council meetings*.

### 3. Definitions and Notes

#### 3.1 In this Chapter:

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

"*Chair*" means the Chairperson of a meeting and includes a Councillor who is appointed by resolution to chair a meeting under section 61(3) of the *Act*.

"*Minute book*" means the collective record of proceedings of *Council*.

"*Municipal district*" means the municipal district of *Council*.

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

"*quorum*" a quorum at a Council meeting is an absolute majority, absolute majority means the number of Councillors which is greater than half the total number of the Councillors of a Council.

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

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

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

## **Part B – Election of Mayor**

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

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

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

### **5. Method of Voting**

The election of the Mayor must be carried out by a show of hands.

### **6. Determining the election of the Mayor**

- 6.1 The Chief Executive Officer must open the meeting at which the Mayor is to be elected and invite nominations for the office of Mayor.
- 6.2 Any nominations for the office of Mayor must be:
  - 6.2.1 in writing and in a form prescribed by the Chief Executive Officer; and
  - 6.2.2 seconded by another Councillor.
- 6.3 Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor:
  - 6.3.1 if there is only one nomination, the candidate nominated must be declared to be duly elected.
  - 6.3.2 if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates.
  - 6.3.3 the candidate receiving an absolute majority of the votes is declared to have been elected.
  - 6.3.4 in the event that no candidate receives an absolute majority of the votes the Chief Executive Officer must resolve to conduct a new election at a later date and time. Council may resolve to defer the meeting or elect a temporary Chair to consider the remaining business of the meeting.

### **7. Election of Deputy Mayor and Chairs of Delegated Committees**

Any election for:

- 7.1 any office of Deputy Mayor; or
- 7.2 Chair of a Delegated Committee will be regulated by Rules 4-6 (inclusive) of this Chapter, as if the reference to the:
  - 7.3 Chief Executive Officer is a reference to the Mayor; and
  - 7.4 Mayor is a reference to the Deputy Mayor or the Chair of the Delegated Committee (as the case may be).

### **8. Appointment of Acting Mayor**

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

- 8.1 resolving that a specified Councillor be so appointed; or
- 8.2 following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter,

at its discretion.

## **Part C – Meetings Procedure**

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

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

#### **9. Date, Time and Place of Meetings Fixed by Council**

- 9.1 Subject to Rule 11, Council must from time to time fix the date, time and place of all Council meetings.
- 9.2 Meetings shall be conducted electronically providing a livestream is available through Council's website, where legislation allows.

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

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

#### **11. Meetings Not Fixed by Council**

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

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

- 12.1 A notice of meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be delivered or sent electronically to every Councillor for all Council meetings at least 4 days before the meeting.
- 12.2 Notwithstanding sub-Rule 12.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting during the period of their absence.
- 12.3 Reasonable notice of each Council meeting must be provided to the public. Council may do this:
  - 12.3.1 for meetings which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule on its website at various times throughout the year, or prior to each such Council meeting; and
  - 12.3.2 for any meeting by giving notice on its website and in at least one newspaper generally circulating in the municipal district.

## **Division 2 – Meeting Attendance**

### **13. Attendance by electronic means**

- 13.1 A Councillor may attend and be present at a Council meeting by electronic means of communication, where legislation allows.
- 13.2 The Councillor must notify the Mayor and Chief Executive Officer.
- 13.3 A Councillor must be able to be seen and heard to be considered present at the meeting.

### **14. Inability To Obtain a Quorum**

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

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

### **15. Inability To Maintain a Quorum**

- 15.1 If during any Council meeting, a quorum cannot be maintained then Rule 14 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 15.2 Sub-Rule 15.1 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.

### **16. Adjourned Meetings**

- 16.1 Council may adjourn any meeting to another date or time but cannot in the absence of disorder or a threat to the safety of any Councillor or member of Council staff adjourn a meeting in session to another place.
- 16.2 Council may adjourn a meeting to another date or time due to technical difficulties.
- 16.3 The Chief Executive Officer must give written notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 16.4 If it is impracticable for the notice given under sub-Rule 16.3 to be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

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

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



- 17.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the Chair immediately prior to the meeting standing adjourned. In that event, the provisions of sub-Rules 16.3 and 16.4 apply.

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

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

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

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

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

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

- 20.1 Once an agenda has been sent to Councillors, the order of business for that Council meeting may be altered by the Chief Executive Officer in consultation with the Mayor.
- 20.2 Once the meeting has commenced the Chair is able to alter the order of business by consent of Councillors.

### **21. Urgent Business**

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

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

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

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

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

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

- 23.1 A final notice of motion must be in writing signed by a Councillor and be lodged with or sent to the Chief Executive Officer by 5pm 10 days prior to the Council meeting agenda being published.
- 23.2 The Chief Executive Officer may reject any notice of motion which:
- 23.2.1 is vague or unclear in intention
  - 23.2.2 it is beyond Council's power to pass; or
  - 23.2.3 if passed would result in Council otherwise acting invalidly
  - 23.2.4 but must:

- 23.2.5 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
- 23.2.6 notify in writing the Councillor who lodged it of the rejection and reasons for the rejection.
- 23.3 The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda.
- 23.4 The Chief Executive Officer must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.
- 23.5 Except by leave of Council, each notice of motion before any meeting must be considered in the order in which they were entered in the notice of motion register.
- 23.6 If a Councillor who has given a notice of motion is absent from the meeting or fails to move the motion when called upon by the Chair, any other Councillor may move the motion.
- 23.7 If a notice of motion is not moved at the Council meeting at which it is listed, it lapses and is deemed to have been lost.
- 23.8 If a motion 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.

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

Any motion which is determined by the Chair to be:

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

must not be accepted by the Chair.

## **25. Introducing a Report**

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

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

The procedure for moving any motion or amendment is:

- 26.1 the mover must state the motion without speaking to it.

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

## **27. Right Of Reply**

- 27.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
- 27.2 After the right of reply has been taken but subject to any Councillor exercising their right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

## **28. Moving An Amendment**

- 28.1 Subject to sub-Rule 28.2 a motion which has been moved and seconded may be amended by leaving out, inserting or adding words, which words must be relevant to the subject of the motion and does not change the intent.
- 28.2 A motion to confirm a previous resolution of Council cannot be amended.
- 28.3 An amendment must not be directly opposite to the motion.

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

- 29.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- 29.2 Any one Councillor cannot move more than two amendments in succession.

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

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

**31. An Amendment Once Carried**

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

**32. Foreshadowing Motions**

- 32.1 At any time during debate a Councillor may foreshadow a motion so as to inform Council of their intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 32.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the Chair being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- 32.3 The Chief Executive Officer or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.
- 32.4 The Chair is not obliged to accept foreshadowed motions.

**33. Withdrawal Of Motions**

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

**34. Separation Of Motions**

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

**35. Chair May Separate Motions**

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

**36. Priority of address**

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

**37. Motions In Writing**

- 37.1 The Chair may require all motions, except procedural motions, to be in writing.
- 37.2 The Chair may adjourn the meeting while the motion is being written or Chair may defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

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

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

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

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

- 39.2 If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may direct the speaker not speak further in respect of the motion then before the Chair.
- 39.3 A speaker to whom a direction has been given under sub-Rule 39.2 must comply with that direction.

#### 40. **Speaking Times**

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

- 40.1 the mover of a motion or an amendment: 3 minutes.
- 40.2 any other Councillor: 3 minutes; and
- 40.3 the mover of a motion exercising a right of reply: 3 minutes.

#### 41. **Addressing the Meeting**

If the Chair so determines:

- 41.1 any person addressing the Chair must refer to the Chair as:
- 41.1.1 Madam Mayor; or
  - 41.1.2 Mr Mayor; or
  - 41.1.3 Madam Chair; or
  - 41.1.4 Mr Chair
- as the case may be.
- 41.2 all Councillors, other than the Mayor, must be addressed as  
**Cr** ..... **(name)**.
- 41.3 all members of Council staff, must be addressed as Mr or Ms  
.....(name) as appropriate or by their official title.

#### 42. **Right to Ask Questions**

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

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

#### 43. **Procedural Motions**

- 43.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the Chair.
- 43.2 Procedural motions require a seconder.
- 43.3 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:

## PROCEDURAL MOTIONS TABLE

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

## Division 6 – Rescission Motions

### 44. Notice of Rescission

- 44.1 A Councillor may propose a notice of rescission provided:
- 44.1.1 it has been signed and dated by at least three Councillors.
  - 44.1.2 the resolution proposed to be rescinded has not been acted on; and
  - 44.1.3 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.

It should be remembered that a notice of rescission is a form of notice of motion.

Accordingly, all provisions in this Chapter regulating notices of motion equally apply to notices of rescission.

- 44.2 A resolution will be deemed to have been acted on if:
- 44.2.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or
  - 44.2.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on Council or any other person.
- 44.3 The Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:
- 44.3.1 has not been acted on; and
  - 44.3.2 is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-Rule 44.1.3,
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

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

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

Sub-Rule 44.3 would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.

**45. 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.

**46. If Not Moved**

If a motion for rescission is not moved at the meeting at which it is listed, it lapses and is deemed to have been lost.

**47. 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.

**48. When Not Required**

48.1 Unless sub-Rule 48.2 applies, a motion for rescission is not required where *Council* wishes to change policy.

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

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

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

**Division 7 – Points of Order**

**49. Chair To Decide**

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

**50. Chair May Adjourn to Consider**

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

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

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

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

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



- 51.2 When a motion in accordance with this Rule is moved and seconded, the Chair must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present, temporary Chair elected by the meeting) must take their place.
- 51.3 The Deputy Mayor or temporary Chair must invite the mover to state the reasons for their dissent and the Chair may then reply.
- 51.4 The Deputy Mayor or temporary Chair must put the motion in the following form:  
"That the Chair's ruling be dissented from."
- 51.5 If the vote is in the negative, the Chair resumes the Chair and the meeting proceeds.
- 51.6 If the vote is in the affirmative, the Chair must then resume the Chair, reverse or vary (as the case may be) their previous ruling and proceed.
- 51.7 The defeat of the Chair's ruling is in no way a motion of censure or non-confidence in the Chair and should not be so regarded by the meeting.

## **52. Procedure For Point of Order**

A Councillor raising a point of order must:

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

## **53. Valid Points of Order**

A point of order may be raised in relation to:

- 53.1 a motion, which, under Rule 244, or a question which, under Rule 544, should not be accepted by the Chair;
- 53.2 a question of procedure; or
- 53.3 any act of disorder.

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

## **Division 8 – Public Question Time**

### **54. Question Time**

- 54.1 Public question time must be held at each Council meeting fixed under Rule 9 to enable members of the public to submit questions to Council.
- 54.2 Sub-Rule 54.1 I does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the Act.
- 54.3 Questions submitted to Council must be:
  - 54.3.1 in writing, state the name and address of the person submitting the question and generally be in a form approved or permitted by Council; and
  - 54.3.2 be lodged 48 hours prior to the Council meeting.

- 54.4 No person may submit more than two questions at anyone meeting.
- 54.5 The Chair or a member of Council staff nominated by the Chair may read a question and response at the meeting which has been submitted in accordance with this Rule. Not all questions are required to be read at the meeting.
- 54.6 A question may be disallowed by the Chair if the Chair determines that it:
  - 54.6.1 relates to a matter outside the duties, functions and powers of Council.
  - 54.6.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance.
  - 54.6.3 deals with a subject matter already answered.
  - 54.6.4 is aimed at embarrassing a Councillor or a member of Council staff.
  - 54.6.5 relates to personnel matters.
  - 54.6.6 relates to the personal hardship of any resident or ratepayer.
  - 54.6.7 relates to confidential information as defined in Section 3 of the Act
  - 54.6.8 relates to matters affecting the security of Council property; or
  - 54.6.9 relates to any other matter which Council considers would prejudice Council or any person.
- 54.7 Any question which has been disallowed by the Chair will not be read at the meeting.
- 54.8 Any question which has been disallowed by the Chair must be made available to Councillors.
- 54.9 All questions and answers must be as brief as possible, and no discussion may be allowed other than by Councillors for the purposes of clarification.
- 54.10 Questions must be limited to 50 words inclusive of any preamble and additional information.
- 54.11 Like questions may be grouped together and a single answer provided.
- 54.12 The Chair may nominate a Councillor or the Chief Executive Officer to respond to a question.
- 54.13 A Councillor or the Chief Executive Officer may require a question to be put on notice. If a question is put on notice, a written copy of the answer will be sent to the person who asked the question.
- 54.14 A Councillor or the Chief Executive Officer may advise Council 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 Chief Executive Officer (as the case may be) must briefly state the reason why the reply should be so given and, unless Council resolves to the contrary, the reply to such question must be so given.

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

### **55. Petitions and Joint Letters**

- 55.1 A petition or joint letter must be received by 5pm 10 days prior to the Council meeting agenda being published.
- 55.2 Unless Council resolves to deal with it earlier, no motion (other than a motion to receive the same) may be made on any petition, joint letter, or other like

application until a future Ordinary Council meeting after that at which it has been presented.

- 55.3 It is incumbent on every Councillor or officer receiving a petition or joint letter to acquaint themselves with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to Council, and to forward to the Governance Department for inclusion prior to the release of the agenda to be tabled at a Council Meeting.
- 55.4 A request to table a petition or joint letter at a Council meeting that has not been included in the agenda requires a resolution of Council.
- 55.5 Every petition or joint letter presented to Council must be in writing (other than pencil), typing or printing, contain the request of the petitioners or signatories, be signed by at least 3 people, and submitted by the lead petitioner with a cover letter containing their contact details.
- 55.6 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the residential address of every petitioner or signatory must be clearly stated.
- 55.7 Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by Council.
- 55.8 Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned, or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 55.9 If a petition, joint letter, or other like application relates to a planning application or a Planning Scheme Amendment currently before Council under the Planning and Environment Act 1987 it will be treated as a submission to that planning application or that Planning Scheme Amendment and will not be treated as a petition or joint letter.
- 55.10 If a petition, joint letter, or other like application relates to a formal submission process undertaken by Council it will be treated as a submission and will not be treated as a petition or joint letter.
- 55.11 An electronic/online petition, joint letter or other like application is required to adhere to all the requirements of a written petition unless Council resolves otherwise.

## **Division 10 – Voting**

### **56. How Motion Determined**

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

### **57. Silence**

Voting must take place in silence.

### **58. Recount**

The Chair may direct that a vote be recounted to satisfy themselves of the result. The vote during the recount must reflect the original vote.

## **59. Casting Vote**

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

## **60. By Show of Hands**

- 60.1 Voting on any matter is by show of hands.
- 60.2 A Councillor present at the meeting who does not vote is to be taken to have voted against the question.

## **61. Procedure For a Division**

- 61.1 Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- 61.2 When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion, or amendment.
- 61.3 When a division is called for, the Chair must:
  - 61.3.1 first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise their hand. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the affirmative; and
  - 61.3.2 then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise their hand. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the negative.

## **62. No Discussion Once Declared**

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

- 62.1 a Councillor requesting, before the next item of business is considered, that their opposition to a resolution be recorded in the minutes or a register maintained for that purpose; or
- 62.2 foreshadowing a *notice of rescission* where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

For example, Rule 622 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.

Equally, Rule 622 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.

Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in sub-Rule 62.2, to discussion about a positive motion where a resolution has just been rescinded.

## **Division 11 – Minutes**

### **63. Confirmation of Minutes**

- 63.1 At every Council meeting the minutes of the preceding meeting(s) must be dealt with as follows:
- 63.1.1 a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting.
  - 63.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed.
  - 63.1.3 if a Councillor indicates opposition to the minutes:
    - (a) he or she must specify the item(s) to which he or she objects.
    - (b) the objected item(s) must be considered separately and in the order in which they appear in the minutes.
    - (c) the Councillor objecting must move accordingly without speaking to the motion.
    - (d) the motion must be seconded.
    - (e) the Chair must ask:  
"Is the motion opposed?"
    - (f) if no Councillor indicates opposition, then the Chair must declare the motion carried without discussion and then ask the second of the questions described in sub-Rule 63.1.3(k);
    - (g) if a Councillor indicates opposition, then the Chair must call on the mover to address the meeting.
    - (h) after the mover has addressed the meeting, the seconder may address the meeting.
    - (i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the Chair must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion.
    - (j) if, after the mover has addressed the meeting, the Chair invites debate and no Councillor speaks to the motion, the Chair must put the motion; and
    - (k) the Chair must, after all objections have been dealt with, ultimately ask:  
"The question is that the minutes be confirmed" or  
"The question is that the minutes, as amended, be confirmed",  
and he or she must put the question to the vote accordingly.
  - 63.1.4 a resolution of Council must confirm the minutes and the minutes must, if practicable, be signed by the Chair of the meeting at which they have been confirmed.
  - 63.1.5 the minutes must be entered in the minute book and each item in the minute book must be entered consecutively; and

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

**64. No Debate on Confirmation of Minutes**

No discussion or debate on the confirmation of minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.

**65. Deferral Of Confirmation of Minutes**

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

**66. Form and Availability of Minutes**

- 66.1 The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and to take the minutes of such meeting) must keep minutes of each Council meeting, and those minutes must record:
- 66.1.1 the date, place, time, and nature of the meeting.
  - 66.1.2 the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance.
  - 66.1.3 the names of the members of Council staff present.
  - 66.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5.
  - 66.1.5 arrivals and departures (including temporary departures) of Councillors during the meeting.
  - 66.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder).
  - 66.1.7 the vote cast by each Councillor upon a division.
  - 66.1.8 the vote cast by any Councillor who has requested that their vote be recorded in the minutes.
  - 66.1.9 the failure of a quorum.
  - 66.1.10 any adjournment of the meeting and the reasons for that adjournment; and
  - 66.1.11 the time at which standing orders were suspended and resumed.
- 66.2 The Chief Executive Officer must ensure that the minutes of any Council meeting are:
- 66.2.1 published on Council's website; or
  - 66.2.2 available for inspection at Council's office during normal business hours.
- 66.3 Nothing in sub-Rule 66.2 requires Council or the Chief Executive Officer to make public any minutes relating to a Council meeting or part of a Council meeting closed to members of the public in accordance with section 66 of the Act.

## **Division 12 – Behaviour**

### **67. Public Addressing the Meeting**

- 67.1 Members of the public do not have a right to address Council and may only do so with the consent of the Chair or by prior arrangement.
- 67.2 Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chair whenever called on to do so.
- 67.3 A member of the public present at a Council meeting must not disrupt the meeting.

### **68. Chair May Remove**

The Chair may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 67.2.

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

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

If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of sub-Rules 16.3 and 16.4 apply.

### **70. Removal from Chamber**

The Chair, or Council in the case of a suspension, may ask the Chief Executive Office, a senior member of staff, or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the Chair has ordered to be removed from the gallery under Rule 71.

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

### **71. The Chair's Duties and Discretions**

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

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

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

### **72. Suspension of Standing Orders**

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

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

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

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

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

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

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

"That standing orders be resumed."

## **Division 15 – Miscellaneous**

### **73. Procedure not provided in this Chapter**

In all cases not specifically provided for by this Chapter, resort must be had to the Standing Orders and Rules of Practice of the Upper House of the Victorian Parliament (so far as the same are capable of being applied to Council proceedings).

### **74. Criticism of members of Council staff**

- 74.1 The Chief Executive Officer may make a brief statement at a Council meeting in respect of any statement by a Councillor made at the Council meeting criticising him or her or any member of Council staff.

- 74.2 A statement under sub-Rule 74.1 must be made by the Chief Executive Officer, through the Chair as soon as is practicable after the Councillor who made the statement has resumed their seat.



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

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

If Council establishes a Delegated Committee:

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

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

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

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

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

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

### **1. Introduction**

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

### **2. Meeting Procedure**

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

## **Chapter 5 – Disclosure of Conflicts of Interest**

### **1. 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:

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

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

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

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

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

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

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\* 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.

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

A member of a Delegated Committee who has a conflict of interest in a matter being considered at a Delegated Committee meeting at which he or she:

- 4.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Delegated Committee meeting immediately before the matter is considered; or
- 4.2 intends to present must disclose that conflict of interest by providing to the Chief Executive Officer before the Delegated Committee meeting commences a written notice:
  - 4.2.1 advising of the conflict of interest.
  - 4.2.2 explaining the nature of the conflict of interest; and
  - 4.2.3 detailing, if the nature of the conflict of interest involves a member of a Delegated Committee's relationship with or a gift from another person the:
    - (a) name of the other person.
    - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
  - 4.2.4 nature of that other person's interest in the matter,

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

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

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

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

- 5.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Community Asset Committee meeting immediately before the matter is considered; or
- 5.2 intends to present must disclose that conflict of interest by providing to the Chief Executive Officer before the Community Asset Committee meeting commences a written notice:
  - 5.2.1 advising of the conflict of interest.
  - 5.2.2 explaining the nature of the conflict of interest; and
  - 5.2.3 detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
    - (a) name of the other person.
    - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
  - 5.2.4 nature of that other person's interest in the matter,

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

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

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

A Councillor who has a conflict of interest in a matter being considered by a meeting held under the auspices of Council at which he or she is present must:

- 6.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting immediately before the matter is considered.
- 6.2 absent themselves from any discussion of the matter; and
- 6.3 as soon as practicable after the meeting concludes provide to the Chief Executive Officer a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.

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

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

- 7.1.1 Council meeting.
- 7.1.2 Delegated Committee meeting.
- 7.1.3 Community Asset Committee meeting

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

7.2 The Chief Executive Officer must ensure that the Report referred to in sub-Rule 7.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

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

- 7.3.1 the written notice referred to in sub-Rule 7.1 must be given to the Mayor; and
- 7.3.2 the obligation imposed by sub-Rule 7.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

8.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest.

9. 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.

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

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

**11. Retention of Written Notices**

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

## **Chapter 6 – Miscellaneous**

### **1. Informal Meetings of Councillors**

If there is a meeting of Councillors that:

- 1.1 is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors and contains three or more Councillors.
- 1.2 is a meeting of a Council Committee that a Councillor is appointed to.
- 1.3 is attended by at least one member of Council staff; and
- 1.4 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:

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

### **2. Confidential Information**

- 2.1 If, after the repeal of section 77(2)(c) of the Local Government Act 1989, the Chief Executive Officer is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, he or she may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 2.2 Information which has been designated by the Chief Executive Officer as confidential information within the meaning of the Act, and in respect of which advice has been given to Councillors and/or members of Council staff in writing, accordingly, will be presumed to be confidential information.

## Chapter 7 – Election Period Policy



### Election Period Policy

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#### **Preamble**

The Election Period Policy sets out how Council will meet the requirements of the *Local Government Act 2020* (the Act) during Council, State or Federal Elections.

This Policy is designed to ensure that Council and Councillors avoid certain actions and decisions which could be seen to be influencing voters or that would have a significant impact on the incoming Council.

Councillors are elected to perform their duties in a lawful manner and must comply with relevant provisions of the Act including the standards of councillor conduct which are prescribed in regulation 12 of the Local Government (Governance and Integrity) Regulations 2020.

Councillors can decide to stand as candidates for State or Federal Elections, and in doing so need to ensure their obligations as a Councillor remains in line with good governance practices. When considering standing for State or Federal Parliament, it is recommended Councillors consider these duties and requirements under the Act, including standards of conduct and potential conflicts of interest.

#### **Policy objectives**

The Policy provides clear direction on:

- Decisions to be made by Council
- Any material to be published by Council
- Attendance and participation in functions and events
- Public Consultation
- The use of Council resources
- Access to Council information and
- Media and Communications engagement

The Election Period Policy applies to Councillors, Council officers, Delegated Committees and Community Asset Committees under delegation.



## Election Period Policy

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### Definitions

Where terms used in this policy are defined in the Act, their use in this policy is consistent with the definitions set out in the Act.

Council	means Bass Coast Shire Council, a body corporate constituted as a municipal Council under the Local Government Act 2020 (the "Act")
Councillors	means the individuals holding the office of a member of Bass Coast Shire Council
Council Officer	means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer
Candidate	a Councillor who is endorsed as a candidate for election by a political party or who if not a member of a political party has announced their intention to nominate as a candidate in State or Federal election or by-election.
Nomination Date	date set by the relevant electoral commission at which nominations to be candidates in an election close.

### Policy statement

#### 1. Election Period

The 'election period' is defined by the Act:

*election period means the period that—*

- (a) starts at the time that nominations close on nomination day; and
- (b) ends at 6 p.m. on election day.

#### 2. Council Election Period

##### 2.1 Council Decision Making

Section 69 of the *Local Government Act 2020* prohibits Council from making certain decisions during the election period.

The Act states:

*(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.

## Election Period Policy

(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.

As set out in Section 59 (2) a decision by resolution of Council includes:

- (a) a resolution made at a Council meeting;
- (b) a resolution made at a meeting of a delegated committee.
- (c) the exercise of a power or the performance of a duty or function of the Council by a member of Council staff or a Community Asset Committee under delegation.

The table below includes a range of scenarios which may come before Council for decision. It provides guidance on whether Council can or cannot make the decision and the basis for that recommendation.

Proposed Council Decision	Is it allowed?	Source
Employment or remuneration of a Chief Executive Officer under section 45, other than a decision to appoint an acting Chief Executive Officer.	No	This is prohibited by s69(2)(a) of the Act
Committing the Council to expenditure exceeding 1% of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year.	No	This is prohibited by s69(2)(b) of the Act
A decision which Council considers could be reasonably deferred until the next Council is in place.	No	This is prohibited by s69(2)(c) of the Act
Decisions that significantly affect the municipality or unreasonably bind the incoming Council.	No	This is prohibited by s69(2)(c) of the Act
A decision to issue a planning permit in accordance with the Bass Coast Planning Scheme.	Yes	Failing to make a decision in these instances could be an abdication of Council's responsibilities under the <i>Planning and Environment Act 1987</i> and relegate the decision to the Victorian Civil and Administrative Tribunal.
A decision to proceed with a Planning Scheme Amendment.	No.	This is prohibited by s69(2)(d) of the Act

## Election Period Policy

Proposed Council Decision	Is it allowed?	Source
Decision to adopt a Planning Scheme Amendment.	No	This is prohibited by s69(2)(d) of the Act
A decision to send submissions received in response to an exhibited Planning Scheme Amendment to an Independent Panel.	Yes	This a procedural decision in a situation where the decision to undertake the amendment has already been made by Council. The decision does not bind Council to adopt the amendment after the panel report is received. It is considered that these decisions should not be held up by the election period.

### 2.2 Material Published by Council

Section 304(2) of the Act prohibits Council from using:

*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.*

Councillors are, however, able to publish campaign material on their own behalf, but cannot purport for that material to be originating from, or authorised by, Council or the Bass Coast Shire (e.g. by use of Council logos).

Publication should be read broadly to include electronic information and web-based productions.

The controls do not cover newspaper advertisements which simply announce the holding of a meeting or the election process itself.

Material is electoral matter if it:

- Publicises the strengths or weaknesses of a candidate.
- Advocates the policies of the Council or of a Candidate; or
- Responds to claims made by a candidate.

*Considerations of Chief Executive Officer in granting publication approval*

In considering whether to grant approval for the publication of material during the election period, in accordance with the provisions in the Act, the Chief Executive Officer:

## Election Period Policy

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Must not permit any materials to be published which include reference to the following:

- The election.
- A candidate in the election.
- A current Councillor; or
- An issue before the voters in connection with the election.

May approve publication of material which only contains information about:

- The election process itself; or
- Council information that does not include any reference to a current Councillor otherwise precluded by this Policy.

### *Bass Coast Shire Council website and social media*

During the election period the website, Facebook or Twitter will not contain material which contravenes this Policy. Any references to the election will only relate to the election process. Information about Councillors will be restricted to names, contact details, titles, membership of special committees and other bodies to which they have been appointed by Council.

### *Annual Report*

Due to the publication date of the 2019/2020 Annual Report occurring during the election period, it is affected by the legislative restrictions on publications and therefore will not include information about Councillors beyond what is required by the *Local Government (Finance and Reporting) Amendment Regulations 2011*.

### *Council Publications*

Any Council publication which is potentially affected by this Policy will be reviewed by the Manager Governance and Property to ensure that any circulated, displayed or otherwise publicly available material during the election period does not contain material that may be construed as 'electoral matter'. Electoral matter is defined as "matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the returning officer for the purpose of conducting the election."

## **2.3 Functions and Events**

In this section reference to functions and events means gatherings of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to Council and its community and may take the form of conferences, workshops, forums, launches, promotional activities or social occasions such as dinners, receptions and balls.

### *Public Events Staged by External Bodies*

Councillors may continue to attend events and functions during the election period. If a Councillor is attending an event in their capacity as a Councillor, they must refrain from participating in any activity that could be considered electioneering.

### *Council Events and Functions*

Council organised events and functions held during the election period will be reduced to only those essential to the operation of Council. This may be varied by a Council resolution or where prior approval has been given by the Chief Executive Officer.

## Election Period Policy

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### *Speeches/Keynote addresses*

Councillors should not give speeches or keynote addresses at Council organised or sponsored events and functions during the election period.

Councillors may make short welcome speeches at Council organised or sponsored events and functions during the election period, subject to prior approval from the Chief Executive Officer.

### *Publication of promotional material*

In preparing any material concerning a Council organised or sponsored function or event which will be published or distributed during the election period, such preparation must be consistent with the controls under this Policy.

## **2.4 Community Engagement**

Community Engagement means a process that involves an invitation or invitations to individuals, groups or organisations, or the community generally, to comment on an issue or proposed action or proposed policy and includes discussion of that matter with the public.

Where possible, community engagement should not be undertaken during the election period unless it is required to facilitate the day-to-day business of Council and cannot be deferred until the new Council term.

Consultation on any contentious or politically sensitive matter will not commence, or continue, during the election period.

Community engagement required pursuant to the *Planning and Environment Act 1987* is exempt from this clause.

All public consultation that will run into the election period must have prior approval from the Chief Executive Officer. Where approved, the results will not be reported to the Council until after the election period, unless the Chief Executive Officer decides otherwise.

## **2.5 Use of Council resources**

The use of Council resources to support a candidate's election campaign or to develop or deliver election campaign material is expressly prohibited.

Section 304(1) of the Act prohibits Councillors or Council staff from using Council resources in a way that:

- (a) is intended to; or
- (b) is likely to—  
affect the result of an election under this Act.

The Act further stipulates that:

- (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



## Election Period Policy

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*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.*

Council resources, including but not limited to offices, support staff, mayoral vehicle, meeting facilities, hospitality, equipment, photocopying and stationery will be used exclusively for normal Council business during the Election Period and will not be used in connection with any election.

Council staff must avoid assisting Councillors in ways that could create a perception that they are being used for electoral purposes. In any circumstances where the use of Council resources, including staff, might be construed as being related to a candidate's election campaign, advice will be sought from the Chief Executive Officer.

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

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

### **2.6 Access to Council information**

All candidates have equal rights to access public information relevant to their election campaigns from Council administration. Neither Councillors nor candidates will be provided information or advice from Council staff that might be perceived to support election campaigns, and there shall be transparency in the provision of all information and advice during the election period.

#### *Information and Briefing Material*

Information and briefing material prepared or secured by staff for a Councillor during the Election Period must be necessary to the carrying out of the Councillors' role and must not be related to election issues or to issues that might be perceived to be of an electoral nature.

### **2.7 Media and Communications engagement**

Council's communications services are intended to promote Council activity or initiatives and must not be used in any way that might favour a candidate.

#### *Media advice*

Any requests for media advice or assistance from Councillors during the election period will be channelled through the Chief Executive Officer or the Chief Executive Officer's delegate/s. No media advice or assistance will be provided in relation to election issues or in regard to publicity that involves specific Councillors.

#### *Media releases/spokespersons*

Media releases will not refer to specific Councillors. Where it is necessary to identify a spokesperson in relation to an issue the Chief Executive Officer will determine the appropriate person.

## Election Period Policy

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### *Publicity campaigns*

During the election period, publicity campaigns, other than for the purpose of conducting the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council activity, it must be approved by the Chief Executive Officer. In any event, Council publicity during the election period will be restricted to communicating normal Council activities and initiatives.

### *Councillors*

Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of an election campaign.

### *Council employees*

During the election period no Council employee may make any public statement that relates to an election issue unless statements have been approved by the Chief Executive Officer.

## **3. Standing for State and Federal Election**

### **3.1 Declaring candidacy in an election**

A Councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as an independent candidate for a State or Federal election (a Prospective Candidate), should provide written advice to the Chief Executive Officer, as soon as practicable, who should then provide written advice to all Councillors.

The Councillor who is a Prospective Candidate, should then declare their intended candidacy at a meeting of the Council as soon as practicable.

### **3.2 Conflict of Interest**

A Councillor who is a Prospective Candidate or a Nominated Candidate should take care to declare conflicts of interest that may pertain to their conflicting role as a candidate in line with the Act.

### **3.3 Leave of Absence**

A Councillor who nominates as a candidate for a State or Federal Election (a Nominated Candidate), should apply for leave of absence from Council and this leave of absence should commence no later than the date of their nomination as a candidate with the relevant electoral commission for the election (Nomination Date) and conclude no earlier than the close of voting for the election.

During this period, a Councillor who is on a leave of absence should not attend meetings of the Council or otherwise act as a Councillor.

Council, upon receiving an application for a leave of absence from a Councillor who is a Nominated Candidate or who intends to become a Nominated Candidate, should consider this a reasonable request and approve that application.

**3.4 Improper Use of Position by Councillors**

A Councillor who is a Prospective Candidate or a Nominated Candidate, should take care to differentiate between their role as a State or Federal Election Candidate and role as a Councillor when making public comment.

Sections 123 and 124 of the Local Government Act 2020 (the Act) prohibit Councillors from misusing or inappropriately making use of their position. Breaches to the Act can attract serious penalties.

**3.5 Council Resources and Activities**

A Councillor who is a Prospective Candidate or a Nominated Candidate, must not use Council activities, including Council meetings, events, network meetings and Council-related external activities, in relation to their candidacy.

A Councillor who is a Prospective Candidate or a Nominated Candidate, must not use Council resources, including Council staff, equipment and facilities in relation to their candidacy.

**3.6 Media Advice and Releases**

No media advice or assistance will be provided in relation to election issues or in regard to publicity that involves Councillors standing as candidates. Media releases will not refer to specific Councillors in their capacity as candidates.

Councillors standing as candidates are not eligible to be Council's official spokesperson on Council's advocacy priorities. Council will nominate an alternative Councillor to be Council's advocacy spokesperson where required.

Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of an election campaign for a Councillor who is standing for election.

**3.6 Resignation**

A Councillor must resign immediately if they are successful in a State or Federal Election.

**Additional documents**

- Media Engagement Policy
- Social Media Policy
- Councillor Code of Conduct
- *Local Government Act 2020*

**Review process**

The Election Period Policy will be reviewed no later than 12 months prior to a general election and maintained as part of Council's Governance Rules 2020.

**Accountability process**

The Manager Governance and Property will ensure compliance with the requirements under this Policy. If any Councillor or Council officer requires advice on any aspect of this Policy, they should contact the Manager Governance and Property.



#### Election Period Policy

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It is the role of the Chief Executive Officer or the Chief Executive Officer's delegate/s to authorise all published material during the Election Period to ensure Council is not distributing election material.

#### **Approval**

Adopted by Council at its meeting held on                      Date ...../...../.....

Signed by the Mayor (Name).....

..... Date ...../...../.....