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AGENDA

SCHEDULED MEETING OF COUNCIL **FOR** **WEDNESDAY 24 AUGUST 2022** **TO BE HELD AT COBRAM CIVIC CENTRE, PUNT ROAD COBRAM VIC 3644** **COMMENCING AT 5.00 PM**

RECORDING

Consistent with section 12.3 of our Governance Rules, Council officers have been authorised to record the public session of this meeting using an audio recording device.

LIVE STREAMING

Council meetings will now be lived streamed to allow those interested in viewing proceedings greater access to Council decisions and debate, without attending the meeting in person.

1. WELCOME CALLING TO ORDER – CEO

2. PRAYER

Almighty God we humbly ask you to guide our deliberations for the welfare and benefit of the Moira Shire and its people whom we serve.

Amen

3. ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

We, the Moira Shire Council, would like to acknowledge the traditional owners of the land upon which we meet and pay our respects to their Elders both past and present.

4. APOLOGIES / LEAVE OF ABSENCE

5. DECLARATION UNDER ACTS, REGULATIONS, CODES OR LOCAL LAWS

6. DISCLOSURE OF CONFLICTS OF INTEREST

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Recommendation: “That the minutes of the Scheduled Council Meeting held on Wednesday, 27 July 2022, as prepared, be confirmed.”

8. COUNCILLOR REPORTS

COUNCILLORS TO PROVIDE VERBAL REPORTS

9. OFFICERS REPORTS

10. PUBLIC QUESTION TIME

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FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.1.1
(FINANCIAL ACCOUNTANT, ANDREW
WILSON)
(CHIEF FINANCE OFFICER MATT JARVIS)

ENVIRONMENTAL UPGRADE AGREEMENTS (EUA) - QUARTERLY PERFORMANCE REPORT - JUNE 2022

Recommendation

That Council notes the Environment Upgrade Agreements quarterly performance report for the June 2022 quarter.

1. Executive Summary

This report provides an update on the Environmental Upgrade Agreements involving Council for the quarter ending 30 June 2022.

2. Conflict of interest declaration

There are no officer conflicts of interest issues to consider within this report.

3. Background & Context

The quarterly performance report mandated under Section 181G of the Local Government Act (1989), and as amended by Section 363 of the Local Government Act (2020), Council is required to report quarterly on the performance of EUAs involving Council.

4. Issues

Under a EUA, Council administers the recovery of the EUA charges and transfer the funds to the funding body. Council does not provide funding.

From 1 July 2022, the funding body will assume the role of administration of the recovery of the EUA charges, with Council supporting its collection on an on-going basis.

5. Strategic Alignment

We will strive to provide a safe, compliant and well-planned built environment based on a sound strategic platform.

Council Plan

5. Transparent and accountable
governance

EUAs provide a mechanism to assist business located within Moira Shire to fund works that improve the energy, water or environmental efficiency or sustainability of a building on their rateable land.

6. Internal & External Engagement

Engagement

Internal Chief Financial Officer
 Manager Finance
 Revenue Technical Officer

FILE NO:
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ITEM NO: 11.1.1
(FINANCIAL ACCOUNTANT, ANDREW
WILSON)
(CHIEF FINANCE OFFICER MATT JARVIS)

**ENVIRONMENTAL UPGRADE AGREEMENTS (EUA) - QUARTERLY
PERFORMANCE REPORT - JUNE 2022 (cont'd)**

7. Budget / Financial Considerations

Reporting requirement	Status as at 30 June 2022
a) Each environmental upgrade agreement entered into in the last quarter, and the rateable land to which the agreement relates.	No new agreements entered into in the last quarter.
b) Each environmental upgrade charge approved in respect of the agreements referred to in paragraph (a), and the value of the charges.	No new agreements entered into in the last quarter.
c) The total number of environmental upgrade charges in operation in the last quarter.	5
d) The total value of all environmental upgrade charge payments that have fallen due and have not been paid.	Nil
e) The total value of all environmental upgrade charge payments that are yet to fall due.	\$3,758,182

8. Risk & Mitigation

There are no risk management issues to consider within this report.

9. Conclusion

Council continues to manage Environmental Upgrade Agreements as per legislative requirements.

Attachments

Nil

FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.1.2
(CHIEF FINANCE OFFICER, MATT JARVIS)
(CHIEF EXECUTIVE OFFICER, CLARE
KEENAN)

CONTRACTS AWARDED UNDER DELEGATION REPORT

Recommendation

That Council note the report on contracts awarded under delegation.

1. Executive Summary

Council's *Instrument of Delegation to the Chief Executive Officer* was adopted on 27 October 2021 which provides a delegation to the CEO to award contracts up to the value of \$350,000.

The Procurement Policy (adopted 27 October 2021) requires purchases between \$150,001 (exc GST) and \$350,000 (exc GST) to follow an advertised RFQ (Request for Quote) process.

This report lists all contracts awarded under delegation since the adoption of the Procurement Policy in October 2021 to 30 June 2022.

2. Conflict of interest declaration

There are no office conflict of interest considerations.

3. Background & Context

In accordance with Section 108 of the *Local Government Act 2020*, Council adopted a Procurement Policy ('Policy') on 27 October 2021. One of the Policy's objectives is to achieve an outcome of 'High standards of probity, transparency, accountability and risk management'.

Council's Instrument of Delegation to the Chief Executive Officer was also adopted on 27 October 2021 which confirms a delegation to the CEO to award contracts up to the value of \$350,000.

Appendix A of the Policy requires purchases between \$150,001 (exc GST) and \$350,000 (exc GST) to follow an advertised RFQ (Request For Quote) process.

The below table lists the contracts awarded under delegation since the October 2021 Scheduled Council Meeting up to 30 June 2022. Future reports will only list the contracts awarded since the last report.

Contract No.	Contract Details	Value exclusive of GST	Awarded to
C022/21	Construction of Kerb and Channel and Associated Works, Karook Street, Cobram	\$228,440.34	Miller Pipe & Civil Pty Ltd December 2021
C014/21	Supply & Lease of One 4m3 Day Cab Tip Truck (7 years lease plus balloon payment)	\$215,524.49	SG Fleet Australia December 2021
C025/21	Numurkah Town Hall Airconditioning Refurbishment	\$190,052.31	Dickson's Refrigeration & Airconditioning January 2022
C002/21	Supply & Delivery of Two (2) Water	\$217,000.00	Freightmore

FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.1.2
(CHIEF FINANCE OFFICER, MATT JARVIS)
(CHIEF EXECUTIVE OFFICER, CLARE
KEENAN)

CONTRACTS AWARDED UNDER DELEGATION REPORT (cont'd)

	Tanker Trailers		Transport Pty Ltd March 2022
C013/22	Upgrade of the Barmah Punt Site – Evans Street, Barmah	\$187,600.08	O'Loughlin Excavations Pty Ltd April 2022
C009/22	Supply & Installation of Airconditioning System – Cobram Sports Stadium	\$231,902.00	Refrigelec Pty Ltd May 2022
C001/22	Supply and Delivery of Eight (8) Light Fleet Vehicles (renewal)	\$344,270.89	De Maria Motors June 2022

4. Issues

No issues were raised within the contracts awarded under delegation.

5. Strategic Alignment

Council Plan

5. Transparent and accountable
governance

This report details the advertised RFQs that have been awarded or renewed under delegated authority. Under the Strategic Objective Pillar 5, communicating decisions made under delegation allows for greater transparency.

6. Internal & External Engagement

Internal and External Consultation was not required.

7. Budget / Financial Considerations

The Instrument of Delegation to the Chief Executive Officer includes a delegation to award a contract for goods and services or works to \$350,000 excluding GST.

8. Risk & Mitigation

The Procurement Policy provides guidance to the entire organization in regard to procurement and is therefore a critical component of Council's overall risk management framework.

The Instrument of Delegation to the Chief Executive Officer supports Council's management of business risks and commitment to good governance.

9. Conclusion

This report details the advertised RFQs that have been awarded or renewed under delegated authority since the adoption of the Moira Shire Council Procurement Policy in October 2021 up to 30 June 2022.

Attachments

Nil

FILE NO: F20/205
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.1
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

GOVERNANCE RULES

Recommendation

That Council resolves to:

1. Adopt the Governance Rules.
2. That all Scheduled and Unscheduled Council Meetings and Delegated Committee Meetings have the option to participate via electronic means in a hybrid format.
3. Revoke the Caretaker (Election Period) Policy.

1. Executive Summary

The purpose of this report is seek Councillors endorsement on the revised Governance Rules.

The Local Government Act 2020 (the Act) requires Council to adopt and maintain Governance Rules (adopted in August 2020). *The Regulatory Legislation Amendment Act 2022* proposes amendments to the Act that are required to be reflected in our Governance Rules.

In summary, the amendments include the ability and process to approve Councillors attending Council and Delegated Committee Meetings via electronic means from 2 September 2022.

During this review we have taken the opportunity to incorporate our Election Period Policy into the Governance Rules as required by the Act.

Amending our Governance Rules triggered a community engagement requirement. The rules were available for public comment from 14 July and concluded on 28 July 2022. No public comments were received during this time.

We now seek Council's endorsement of the attached Governance Rules.

2. Conflict of interest declaration

There is no officer conflict of interest considerations.

3. Background & Context

The *Regulatory Legislation Amendment (Reform) Act 2022* (the Amendment Act), received Royal Assent on 29 March 2022 and includes reforms relating to virtual council meetings. From 2 September 2022, councils and regional libraries will be able to conduct virtual meetings in accordance with their relevant Governance Rules (or Local Laws in the case of regional libraries) on a permanent basis.

These reforms will be incorporated into Division 2, Part 3 of the *Local Government Act 2020* (LG Act), which relates to the procedures for Council decision making, including the holding of meetings (being council meetings, joint meetings of councils, delegated committee, and joint delegated committee meetings).

The table below provides a summary of the keys amendments to the Governance Rules.

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(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

GOVERNANCE RULES (cont'd)

SUMMARY OF KEY INCLUSIONS	
GOVERNANCE RULES	AMENDMENTS
Committee Meeting definition	Means a meeting of a Delegated Committee convened in accordance with these Governance Rules and includes a scheduled or unscheduled meeting (whether held as face-to-face attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance
Council Meeting definition	Means a meeting of the Council convened in accordance with these Governance Rules and includes a scheduled meeting and unscheduled meeting (whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance.
Quorum definition	For the purposes of these meetings, a Councillor present by electronic means of communication is deemed present for the purposes of a quorum.
Meeting procedures	Included an agreed process for requesting and approving attendance by electronic means.
Notice of meetings	Council by resolution can determine the proposed or preferred format style of meetings (in-person, electronic- including hybrid or parallel) noting the criteria and process available for a member who wishes to request approval to attend by electronic means.
Questions of Council	Consider questions on notice be submitted 48hr prior to the meeting
Assemblies of Councillors	Included provisions to record and report to Council the assemblies of Councillors.
Election Period Policy	Included the Election Period Policy into the Governance Rules as required by the Act.

4. Issues

The *Regulatory Legislation Amendment (Reform) Act 2022* come into effect of 2 September 2022 the turnaround time is short in order to amend and adopt the revised Governance Rules.

5. Strategic Alignment

Council Plan

5. Transparent and accountable governance

6. Internal & External Engagement

Engagement

Internal Councillors, ELT & Governance Team

External Community engagement process

Feedback

No feedback was received

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GOVERNANCE RULES (cont'd)

7. Budget / Financial Considerations

There are no budget impact or financial considerations to consider.

8. Risk & Mitigation

Risk

Financial
Economic (regional context or
broader economic impact)
Environmental
Reputational

Mitigation

There are no additional financial considerations
There are no Economic risks identified.

There are no Environmental risks to consider
Councillors will have greater flexibility in attending
both Scheduled Council meetings and Delegated
Committee meetings.

Legislative Compliance

Local Government Act 2020
The Regulatory Legislation Amendment Act 2022

9. Conclusion

The revised Governance Rules are attached for Council consideration.

Attachments

1 Governance Rules

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5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.1
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules



FILE NO: F20/205
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.1
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
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AND PERFORMANCE BRANT DOYLE)

GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

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GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

1 INTRODUCTION

1.1 Nature of Rules

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

These Rules determine the way in which Council will:

- Make decisions:
 - in the best interest of the Moira Shire community;
 - fairly and on the merits of the question; and
 - in a way that ensures any person whose rights will be directly affected by a decision will be entitled to communicate their views and have their interests considered;
- Elect its Mayor and Deputy Mayor;
- Conduct Meetings of Council and Delegated Committees;
- Give notice of Meetings and record and make available Meeting records (Minutes and livestreamed Meetings);
- Be informed in its decision making through community engagement, Advisory Committees and Council Officer Reports;
- Require the disclosure and management of conflicts of interest.

1.2 Definitions

In these Governance Rules:

Act	means the <i>Local Government Act 2020</i> .
Advisory committee	means a committee established by the Council, that provides advice to: the Council; or a member of Council staff who has been delegated a power, duty or function of the Council; that is not a Delegated Committee.
Agenda	means a document containing the date, time and place of a Meeting and a list of business to be transacted at the Meeting.
Agreement of Council	means indicative agreement of all of the Councillors present, without a vote being conducted. In the event there is any uncertainty about all Councillors agreeing, the matter will be put to a vote.
Chairperson	means the Chairperson of a Meeting and includes an acting, temporary and substitute Chairperson.
Chamber	means any room where the Council holds a Council Meeting.
Chief Executive Officer	means the person occupying the office of Chief Executive Officer of Council under Section 44 of the Act, and includes a person acting in that office.
Committee Meeting	means a meeting of a Delegated Committee (whether held as face-to-face attendance in a set location or via electronic means (virtual) or in a 'hybrid' format that mixes face-to-face and electronic attendance);
Council	means Moira Shire Council.

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(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)**

GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

Councillor	means a Councillor who is an elected member of Council and includes Mayor and Deputy Mayor
Council Meeting	means a meeting of the Council convened in accordance with these Governance Rules and includes a Scheduled meeting and Unscheduled meeting (whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) or in a 'hybrid' format that mixes in-person and electronic attendance).
Delegate	means a member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation.
Director	means a senior member of Council staff holding the position of Director or another position (however designated) which reports directly to the Chief Executive Officer.
Foreshadowed item	means a matter raised in the relevant section of the Council Meeting that a Councillor intends to submit a Notice of Motion for the next Council Meeting.
Mayor	means the Mayor of Council and any person appointed by Council to be acting as Mayor.
Member	means a member of any committee to which these Governance Rules apply.
Minister	means the Minister for Local Government.
Minutes	means the official record of the proceedings and decisions of a Meeting.
Motion	means a proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted.
Notice of Motion	means a notice setting out the text of a Motion which a Councillor proposes to move at a Council Meeting.
Notice of Rescission	means a Notice of Motion to rescind a resolution made by Council.
On Notice	means item held or deferred to enable preparation of a response.
Point of Order	means a procedural point (about how the Meeting is being conducted), not involving the substance of a matter before a Meeting.
Procedural Motion	means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure.
Quorum	means the minimum number of members to be present in order to constitute a valid meeting of the Council or a Delegated Committee. Five Councillors are required for a Scheduled or Unscheduled Council Meeting.
Suspension of standing orders	means the suspension of the provisions of the Governance Rules to facilitate full discussion of an issue without formal constraints.
Urgent Business	means a matter that relates to or arises out of a matter which has arisen since distribution of the agenda and cannot safely or conveniently be deferred until the next meeting.
Unscheduled Meeting	means a meeting of the Council convened for a particular purpose that cannot be effectively dealt with in the schedule of Scheduled Council meetings set by Council.

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(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

2 GOVERNANCE FRAMEWORK

2.1 Context

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

- a) the overarching governance principles specified in section 9(2) of the Act; and
- b) the following documents adopted or approved by Council:
 - a. Community Engagement Policy;
 - b. Public Transparency Policy;
 - c. Live Streaming and Publishing Recordings of Council Meetings Policy;
 - d. Councillor Code of Conduct;
 - e. Other relevant policies.
- c) Conflict of Interest Guide for Councillors and Staff.

2.2 Decision Making

2.2.1 Where Council makes a decision in any matter (including persons acting with the delegated authority of Council), Council must consider the matter and make the 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.

2.2.2 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).

2.2.3 Without limiting anything in sub-rule 2.2.2:

- (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 has 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 Council Officer proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the Council Officer must, when making that decision, ensure that they record that notice of the decision to be made was given to the person or persons and such person was or persons were provided with an opportunity to communicate their views and have their interests considered.

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ITEM NO: 11.2.1
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

3 MEETING PROCEDURE

3.1 Purpose of Council meetings

- 3.1.1 Council holds Scheduled Meetings and, when required, Unscheduled Meetings to conduct the business of Council.
- 3.1.2 Council is committed to transparency in decision making and, in accordance with the *Local Government Act 2020*, both Council and Delegated Committee Meetings are open to the public and the community are able to attend.
- 3.1.3 Meetings will only be closed to members of the public if:
 - (a) there are clear reasons for particular matters to remain confidential; or
 - (b) a meeting is required to be closed for security or community safety reasons; or
 - (c) it is necessary to enable the meeting to proceed in an orderly manner.

If a meeting is closed to the public for the reasons outlined in sub-rule 3.1.3(b) or 3.1.3(c), the meeting will continue to be livestreamed. In the event a livestream is not available the meeting may be adjourned, or a recording of the proceedings made available on Council website.

3.2 Requesting attendance by electronic means

- 3.2.1 Councillors and members of Delegated Committees who want to attend a meeting via electronic means must submit a request to the Manager Governance & Performance at least three hours prior to the meeting, who will consider the request based on the following criteria:
 - (a) Proposed location must be private and free of interruptions including background noise etc; and
 - (b) Must have adequate data connection to avoid interruptions to the connection.
- 3.2.2 The submission must be made in writing stating the reason.
- 3.2.3 The request must also state the meeting(s) that are proposed to be attended via electronic means.
- 3.2.4 Manager Governance & Performance will provide a response to the request as soon as possible and notify the rest of the members of the meeting of this decision.
- 3.2.5 It will remain the responsibility of the Councillor or member attending electronically to ensure that they have the required access and environment suitable for electronic communications.
- 3.2.6 There may be times when Council is required to deal with sensitive issues and request all Councillors to meet in person. At the Chief Executive Officer's or the Mayor's discretion a request for attendance via electronic means will not be accepted.

3.3 Community Members participation

- 3.3.1 Community members may attend meetings open to the public, and may only participate in Council meetings in accordance with sub-rule 8.1.9.

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3.4 Meeting Roles

3.4.1 Overview

- (a) The way in which Council and Committee Meetings are conducted makes a significant contribution to good governance. The Chairperson plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors and members of Delegated Committees and Advisory Committees have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed appropriately, and statutory requirements are adhered to.
- (b) The Act provides for the Mayor to appoint a Councillor as the Chair of a Delegated Committee and any such appointment prevails over any appointment made by Council. While there are no limitations on exercising that power, the Mayor must always act in a way that is consistent with the adopted Councillor Code of Conduct and transparency commitments of the Council.
- (c) Additionally, each member of the meeting has an obligation to participate in good decision-making.

3.5 Chairperson and Members

3.5.1 The Chairperson, Councillors and members of Delegated Committees will ensure good council decision-making by endeavoring to ensure:

- (a) Decision making is transparent to members and observers;
- (b) Sufficient information is available to make good decisions;
- (c) Every member is supported to contribute to decisions;
- (d) Any person whose rights are affected has their interests considered;
- (e) Debate and discussion is focussed on the issues at hand;
- (f) Meetings are conducted in an orderly manner; and
- (g) Decisions should be made on the merits of the matter.

3.6 Mayor to take the Chair

- 3.6.1 The Mayor must take the Chair at all Council Meetings at which the Mayor is present.
- 3.6.2 If the Mayor is not in attendance at a Council Meeting, the Deputy Mayor must take the Chair.
- 3.6.3 If the Mayor and Deputy Mayor are not in attendance at a Council Meeting, Council must appoint one of the Councillors as Chair of the meeting by resolution.

3.7 Delegated Committee Chairperson

- 3.7.1 At the Meeting at which Council establishes a Delegated Committee it must also appoint a Chairperson.
- 3.7.2 The Chair of a Delegated Committee must be a Councillor.
- 3.7.3 For the avoidance of doubt, sub-rule 3.7.1 does not intend to limit the powers of the Mayor provided in the Act.

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3.8 The Chairperson's Duties and Discretions

- 3.8.1 In addition to the specific duties and discretions provided in these Governance Rules, the Chairperson:
- (a) must not accept any Motion, question or statement which is:
 - vague or ambiguous; or
 - defamatory, malicious, abusive or objectionable in language or substance; or
 - outside the powers of Council;
 - (b) must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise during the meeting;
 - (c) must call a person to order if their behavior is disruptive and interferes with the conduct of the business of Council;
 - (d) may direct that a vote be recounted to be satisfied of the result; and
 - (e) decide on all points of order.

3.9 Chief Executive Officer

- 3.9.1 The Chief Executive Officer, or delegate, may participate in the meeting to provide support to the Chairperson.
- 3.9.2 The Chief Executive Officer or delegate should:
- (a) Immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
 - (b) Advise if there are operational, financial or risk implications arising from a proposed resolution;
 - (c) Help clarify the intent of any unclear resolution to facilitate implementation;
 - (d) On request, assist with procedural issues that may arise.

3.10 Councillors and members of Delegated Committees

- 3.10.1 Councillors and members of Delegated Committees contribute to good governance and decision making by:
- (a) Seeking views of community members and reading the agenda prior to the meeting;
 - (b) Demonstrating due respect and consideration to community views and the professional / expert advice provided in the agenda papers;
 - (c) Attending meetings and participating in debate and discussion;
 - (d) Demonstrating respect for the role of the Chairperson and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making;
 - (e) Being courteous and orderly.

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3.11 Community

- 3.11.1 Council meetings are decision making forums and it is important that they are open to the community to attend and/or view proceedings.
- 3.11.2 Community members may seek to inform individual Councillors of their views by contacting them directly in advance of Meetings.

3.12 Apologies and absences

- 3.12.1 Councillors and members of Delegated Committees who are unable to attend a meeting may submit an apology:
 - (a) In writing to the Chairperson, who will advise the meeting; or
 - (b) By seeking another Councillor or member of the Delegated Committee or the CEO to submit it at the meeting on their behalf.
- 3.12.2 An apology submitted to a meeting will be recorded in the minutes.
- 3.12.3 A Councillor intending to take a leave of absence should submit it in writing to the Mayor.
- 3.12.4 The Mayor will seek to have any leave of absence request received included in the agenda of the next Council meeting.
- 3.12.5 A leave of absence not included in a Council meeting agenda may still be considered by Council if a written request has been received by the Mayor prior to the meeting.
- 3.12.6 Council will not unreasonably withhold its approval of a leave of absence request.
- 3.12.7 A Councillor who has not submitted an apology or had a leave of absence approved who is not in attendance at a Council or Delegated Committee meeting will be recorded as absent.

4 NOTICE OF MEETINGS AND AVAILABILITY OF AGENDA

4.1 Date, time and place of Council Meetings

- 4.1.1 At or before the last Meeting each calendar year, Council must fix the date, time and place of all Council Meetings and any Delegated Committee Meetings for the following calendar year.
- 4.1.2 Council by resolution, or the Chief Executive Officer, may change the date, time and place of, or cancel, any Meeting which has been fixed and must provide notice of the change to the public.

4.2 Postponement

- 4.2.1 In the case of an emergency, the Chief Executive Officer or Delegate or, in the absence of both, a Director, may postpone a Council Meeting, provided every reasonable attempt is made to notify every Councillor of the postponement.
- 4.2.2 The Chief Executive Officer, Delegate or Director must submit a full written report of the circumstances requiring their action in respect of the emergency postponement at the next Scheduled Meeting.

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4.3 Unscheduled Meetings

- 4.3.1 Council may choose to call an Unscheduled Council meeting to consider urgent items that cannot be deferred until the next Scheduled Meeting. An Unscheduled Council Meeting may be called by:
- (a) Council, by resolution; or
 - (b) The Mayor or three Councillors; or
 - (c) The CEO, following consultation with the Mayor.
- 4.3.2 A written notice to call an Unscheduled Meeting must:
- (a) Specify the business to be transacted; and
 - (b) Be delivered to the Chief Executive Officer or Delegate in sufficient time to enable notice to be given in accordance with Rule 4.4 Notice of Meetings.
- 4.3.3 The Chief Executive Officer must determine the time and date for the meeting, giving consideration to:
- (a) the urgency of the business to be transacted; and
 - (b) the availability of Councillors; and
 - (c) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted.
- 4.3.4 The Chief Executive Officer must arrange for notice of the meeting on Council's website.
- 4.3.5 Any resolution of Council to call an Unscheduled Meeting must specify the date and time of the Unscheduled Meeting and the business to be transacted. The date and time of the Unscheduled Meeting must not be prior to 6pm on the day following the Council Meeting at which the resolution was made.
- 4.3.6 The Chief Executive Officer must call an Unscheduled Meeting to elect a Mayor and Deputy Mayor following a Council election declaration, in accordance with the Act.
- 4.3.7 The Unscheduled Meeting for the election of a Mayor following an election may also consider any other matters as determined by the Chief Executive Officer.
- 4.3.8 Only the business specified in the Council resolution, or written notice, may be considered at an Unscheduled Meeting, unless all Councillors, by unanimous resolution determine to admit another matter.

4.4 Notice of Meetings

- 4.4.1 Council by resolution can determine the proposed or preferred format style of meetings (in-person, electronic- including hybrid or parallel) noting the criteria and process available for a member who wants to request approval to attend by electronic means.
- 4.4.2 A Council may determine certain meetings that must be held solely as face-to-face (in-person) meetings.

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4.4.3 Scheduled Meetings

- (a) A notice of a Meeting, that is not an Unscheduled Meeting, incorporating or accompanied by an Agenda of the business to be dealt with, must be sent electronically to every Councillor for all Council Meetings, at least five days before the Meeting. A period of less than five days may be justified if exceptional circumstances exist, but no less than three.

An Agenda for each Council Meeting, that is not an Unscheduled Meeting, will be made available on Council's website no less than 48 hours before the Council Meeting.

- (b) A schedule of Council Meetings must be prepared and published that ensures it is available to a broad section of the community, including on Council's website at least once each year and with such greater frequency as the Chief Executive Officer determines. The schedule of Council meetings must also be available from Council's Customer Service Centres.

4.4.4 Unscheduled meetings

- (a) Notice of an Unscheduled Meeting must be published on Council's website as soon as practicable after the time and date of the meeting has been determined.
- (b) An Agenda for an Unscheduled Meeting must be made available electronically to every Councillor at least 48 hours before the meeting. A period of less than 48 hours may be justified if exceptional circumstances exist.
- (c) An Agenda for an Unscheduled Council Meeting will be made available on Council's website no less than 24 hours before the Council meeting.

5 QUORUM

- 5.1.1 Meetings must commence within 30 minutes of the scheduled starting time.

- 5.1.2 If, after 30 minutes from the scheduled starting time of any Meeting or adjournment, a quorum cannot be obtained, the Chairperson, may adjourn the Meeting for a period not exceeding seven days from the date of the adjournment.

- 5.1.3 If, during any Meeting or any adjournment of the Meeting, a quorum cannot be maintained, the Chairperson may adjourn the Meeting for a period not exceeding seven days from the date of the adjournment.

- 5.1.4 The Chairperson may defer an item of business in respect of which there is, or is likely to be, a disclosure of a conflict of interest by one or more Councillors that will cause a quorum to be lost, and direct the Chief Executive Officer to include that item of business on an Agenda for a future Council Meeting.

- 5.1.5 If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, Council will:

- (a) Determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
- (b) Determine to make decisions on separate parts of the matter at a meeting where quorum can be maintained, before making a decision on the whole matter at a meeting for which quorum can be maintained.

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If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, and the matter cannot be separated into component parts or prior decisions made, Council will delegate the decision to be made:

- (a) By the Chief Executive Officer; or
- (b) By a Delegated Committee, established for the purpose of determining the matter, comprised of all the Councillors who have not disclosed a conflict of interest and any other person(s) the Council considers suitable.

- 5.1.6 A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council Meeting.
- 5.1.7 Where council experience technical difficulties in broadcasting a meeting, the meeting must be adjourned until the issue is resolved, or must be postponed to another time and date.
- 5.1.8 The Chief Executive Officer must provide written notice, including by electronic means, to each Councillor of any Council Meeting adjourned to another date or time due to an inability to achieve or maintain a quorum.
- 5.1.9 Where it is not practicable because time does not permit notice in accordance with sub-rule 5.1.8 to occur, then, provided every reasonable attempt is made to contact each Councillor either verbally, or by some other means, it will be sufficient.
- 5.1.10 Notice of an adjournment to another date or time must be published on Council's website as soon as practical.

6 ELECTION OF MAYOR

6.1 Chief Executive to set time and date for election of Mayor

- 6.1.1 The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor, except that the election of the Mayor must be held in accordance with any provisions contained in the Act.

6.2 Method of Voting

- 6.2.1 The election of the Mayor must be carried out by a show of hands or following a resolution made in accordance with sub-rule 9.2.1, an electronic method that enables those observing (in attendance and those watching a livestream broadcast) to see who a Councillor has voted for at the time the vote is taken.

6.3 Determining the Election of Mayor / Deputy Mayor

- 6.3.1 The Chief Executive Officer will preside during the election of the Mayor.
- 6.3.2 The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee. Councillors cannot self-nominate and a nomination does not require a Councillor to second the nomination.
- 6.3.3 Where in an election for the Mayor:
 - (a) only one candidate has been nominated, that candidate must be declared elected;
 - (b) two candidates have been nominated, a vote must be taken and the candidate who receives a majority must be declared elected.
 - (c) two candidates have been nominated and no candidate receives a majority, the vote will be determined by lot.

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- (d) more than two candidates have been nominated and no candidate receives a majority vote from the Councillors present:
 - i. the candidate with the fewest number of votes cast must be eliminated;
 - ii. the names of the remaining candidates must be put to the vote again; and
 - iii. the procedure in i and ii above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined in sub-clause (b) of this Clause.
 - iv. in the event of two or more candidates having an equality of votes the elected candidate shall be determined by lot.
- (e) The provisions of sub- rules 6.3.2 and 6.3.3 apply to the election of the Deputy Mayor with all necessary modifications and adaptations.

6.4 Ceremonial Mayoral Speech

- 6.4.1 Upon being elected, the Mayor may make a ceremonial speech.
- 6.4.2 The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead and the Mayors aspirations for the ensuing term of office.

6.5 Role and Election of Deputy Mayor

- 6.5.1 The Council shall establish an office of Deputy Mayor.
- 6.5.2 If the Mayor is not in attendance at a Council Meeting the Deputy Mayor must take the Chair.
- 6.5.3 The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.

7 BUSINESS OF MEETINGS

7.1 Business at Meetings

- 7.1.1 The Chief Executive Officer may include any matter on the Agenda for a Council Meeting which they think should be considered at the Meeting to which the Agenda relates.
- 7.1.2 No business can be dealt with at a Meeting unless it is:
 - (a) Contained on the Agenda; or
 - (b) Admitted as Urgent Business in accordance with Rule 7.4.

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7.2 Order of business for Council Meetings

7.2.1 The order of business could follow the example set out below:

- (a) Welcome Calling to order – CEO;
- (b) Prayer;
- (c) Acknowledgement of Traditional Owners;
- (d) Apologies/Leaves of Absence;
- (e) Declaration under any acts, regulations, codes or local laws;
- (f) Disclosures of conflicts of interest;
- (g) Confirmation of Minutes of previous Meetings;
- (h) Councillor verbal reports;
- (i) CEO and Director verbal reports;
- (j) Questions of Council time;
- (k) Notices of rescission;
- (l) Foreshadowed items;
- (m) Officer reports for determination;
- (n) Officer reports for information;
- (o) Notices of motions;
- (p) Petitions & joint letters;
- (q) Council seal;
- (r) Urgent Business;
- (s) Confidential Business;
- (t) Confidential Urgent Business.

7.3 Change to order of business

7.3.1 Once an Agenda has been sent to Councillors, the order of business for that Meeting may be altered by a resolution of Council.

7.4 Urgent Business

7.4.1 If the Agenda for a Meeting makes provision for Urgent Business, business cannot be admitted as Urgent Business other than by resolution of Council and only then if:

- (a) It relates to or arises out of a matter which has arisen since distribution of the Agenda; and
- (b) deferring the item until the next Meeting will mean a decision on the item will not have any effect on the matter; or
- (c) the item involves a matter of urgency as determined by the Chief Executive Officer; and
- (d) it cannot be addressed through an operational service request process.
- (e) the matter does not:
 - substantially affect the levels of Council service;
 - commit Council to significant expenditure not included in the adopted budget;
 - establish or amend Council Policy; or
 - commit Council to any contractual arrangement.

7.4.2 A Councillor proposing a matter be admitted as Urgent Business must lodge it in writing to the Chief Executive Officer 4 hours prior to the Meeting.

7.4.3 The Chief Executive Officer may also advise the Mayor of any matter they determine appropriate for Council to consider admitting as Urgent Business.

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7.5 Time Limits for Meetings

- 7.5.1 A Meeting must not continue after 3 hours from the time it commences unless a majority of Councillors/members present vote in favour of its extension in accordance with this Clause.
- 7.5.2 Extensions of a Meeting will be in block periods of 30 minutes.
- 7.5.3 After the initial 30-minute extension the Meeting must not continue unless a majority of Councillors present vote in favour of a further extension.
- 7.5.4 A Meeting may only be continued for a maximum of two 30-minute extensions.
- 7.5.5 In the absence of such extensions as provided for in sub-rules 7.5.1, 7.5.2 and 7.5.3, or in the event there is further business to be transacted at the completion of two extensions, the Meeting must stand adjourned to 6 pm on the following day.
- 7.5.6 Notwithstanding sub-rule 7.5.6, the Chairperson may seek the agreement of Council not to adjourn the Meeting to the following day, if the Chairperson reasonably believes the remaining business will take less than 10 minutes to transact.

7.6 Chairperson may temporarily adjourn a Meeting

- 7.6.1 The Chairperson may adjourn a Meeting for a 10 minute break, at an appropriate point in proceedings.

8 QUESTION OF COUNCIL

8.1 Questions of Council Time to Be Held

- 8.1.1 Questions of Council are an opportunity for the general public to submit a question prior to the Scheduled Meeting and receive a response from Council during Questions of Council time of the Meeting.
- 8.1.2 The Council will hold Questions of Council Time for up to 30 minutes duration at the beginning of each Scheduled Meeting to allow questions of Council. Extension of time may be granted at the discretion of the Mayor.
- 8.1.3 Council meetings are recorded and broadcasted to the public, this includes community questions and responses.
- 8.1.4 Questions of Council time will not apply during any period when the Council has resolved to close the meeting in respect of a matter under section 66 (1) of the Act.
- 8.1.5 Questions of Council may be on any matter relevant to the jurisdiction of the Council except if it:
 - (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance; or
 - (b) relates to confidential information as defined under the Act; or
 - (c) relates to the personal hardship of any resident or ratepayer; or
 - (d) relates to any other matter which the Council considers would prejudice the Council or any person; or
 - (e) Deals with a subject matter already answered.
- 8.1.6 No more than two questions will be accepted from any person at any one meeting.

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- 8.1.7 Where the Chief Executive Officer does not accept a question, the submitter is to be informed of the decision and reasons for which their question was not accepted.
- 8.1.8 A question submitted in writing by a member of the public, which has been disallowed by the Chief Executive Officer may be provided to any Councillor on request.
- 8.1.9 Questions may be read by the submitter where they are present at the meeting. Where the submitter is not present they shall be read by the Chief Executive Officer or a delegate of the Chief Executive Officer and may be abridged to remove unnecessary commentary and only state the question.
- 8.1.10 Questions submitted to the Council must be:
- (a) in written form;
 - (b) contain the name, address, email and contact telephone number of the person submitting the question;
 - (c) in a form approved or permitted by the Council (a form is available on Council's website);
 - (d) addressed to the Chief Executive Officer; and
 - o submitted no later than 48 hours prior to the meeting by email to info@moira.vic.gov.au clearly stating is a question for the meeting.

8.2 Response

- 8.2.1 Questions submitted in writing prior to the Meeting will be responded to during Question Time of Council.
- 8.2.2 Response to a question raised during the meeting may be provided immediately at the discretion of the Council.
- 8.2.3 The matter may be taken on notice and referred to the relevant Officer for investigation and response if required.
- 8.2.4 Where the question is taken on notice Council officers will respond within 10 working days of the Meeting.
- 8.2.5 The Chief Executive Officer may respond in writing to a question answered at the meeting if it is considered a serious matter warranting a written reply or if requested by the submitter.

8.3 Petitions and joint letters

- 8.3.1 Every petition submitted to Council must:
- (a) be legible and in permanent writing;
 - (b) be clear and on each page the matter and action sought from council stated;
 - (c) not be derogatory, defamatory or objectionable in language or nature;
 - (d) not relate to matters outside the powers of Council; and
 - (e) include the names, addresses and original signatures of at least ten people
- 8.3.2 Where a petition has been signed by more than three people and less than ten people, it will be treated as a Joint Letter and forwarded directly to the appropriate member of Council staff for action as an operational item.
- 8.3.3 Any Councillor presenting a petition is responsible for ensuring that:
- (a) they are familiar with the contents and purpose of the petition; and
 - (b) the petition is not derogatory, defamatory or objectionable in language or nature.

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- 8.3.4 Unless sub-rules 8.3.5 or 8.3.6 apply, the only Motions that may be considered by Council on any petition are:
- (a) that the petition be received; and
 - (b) that the petition be referred to the Chief Executive Officer or relevant Director for consideration and response; or
 - (c) that the petition be referred to the Chief Executive Officer or relevant Director for a report to a future Council Meeting.
- 8.3.5 If a petition relates to an item listed on the Agenda for the Meeting at which it is submitted, the petition may be dealt with in conjunction with the item.
- 8.3.6 If a petition relates to a 'statutory matter' which is the subject of a public submissions process in accordance with the relevant legislation the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).
- 8.3.7 The Chief Executive Officer may determine that an electronic or online petition will be submitted to a Council Meeting.
- 8.3.8 The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council meeting.
- 8.3.9 An online or electronic petition will not be presented to a Council meeting if it contains signatures that are false or misleading.
- 8.3.10 The Chairperson may order and cause the removal of any placard or poster that is deemed by the Chairperson to be objectionable, disrespectful or otherwise inappropriate.

8.4 Chairperson May Remove

- 8.4.1 Members of the public present at a Council Meeting must not interject during the Council Meeting.
- 8.4.2 If a person, other than a Councillor, interjects or behaves offensively during the Council Meeting, the Mayor may direct:
- (a) the person to stop interjecting or behaving offensively; and
 - (b) if the person continues to interject or behave offensively, the removal of the person.
- 8.4.3 The Chairperson may cause the removal of any object or material that is deemed by the Chairperson to be objectionable or disrespectful.
- 8.4.4 In causing a person's removal under sub-rule 8.4.2(b), or the removal of an object or material under sub-rule 8.4.3, the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the person, object or material.

9 VOTING

9.1 How a matter is determined

- 9.1.1 To determine a Motion at a Meeting, the Chairperson 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.
- 9.1.2 In the event of a tied vote, the Chairperson must, unless the Act provides otherwise, exercise the casting vote.

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GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

9.2 Voting must be seen

- 9.2.1 Voting may be by any method resolved by Council that enables those in attendance and those watching a livestream broadcast to clearly see which way a Councillor has voted at the time a vote is taken.
- 9.2.2 In the absence of a Council resolving an alternative method, voting on any matter is by show of hands.

9.3 When a division is permitted

- 9.3.1 A division may be requested by any Councillor on any vote.
- 9.3.2 The request must be made to the Chairperson either immediately prior to, or immediately after, the vote has been taken, and may not be made after the Meeting has moved to the next item of business.
- 9.3.3 When a division is called for the Chairperson must:
- (a) first ask each Councillor wishing to vote in favour of the Motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes; and
 - (b) then ask each Councillor wishing to vote against the Motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes; and
 - (c) finally declare the result of the division.
- 9.3.4 Where a division is requested after the original vote has been taken, the Motion is decided on the division and the fact that there may be a difference between the result obtained when the original vote was taken and the result obtained on the division must be disregarded.

9.4 No discussion once a vote has been declared

- 9.4.1 Once a vote on a Motion has been declared carried or lost by the Chairperson, no further discussion relating to the Motion is allowed, unless the discussion:
- (a) involves a Councillor requesting that their opposition to a resolution be recorded in the Minutes or calling for a division in accordance with Rule 9.3; or
 - (b) is a Councillor foreshadowing a notice of rescission.

10 ADDRESSING THE MEETING

10.1 Councillor allowed to speak uninterrupted

- 10.1.1 A Councillor who has the floor must not be interrupted unless called to order, or given notice by the Chairperson that their speaking time has elapsed or is about to elapse. At this time, they must then remain silent until the Councillor raising the Point of Order has been heard and the Point of Order dealt with.

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10.2 Addressing the Meeting

10.2.1 If the Chairperson so determines:

- (a) any person addressing the Chairperson must refer to the Chairperson as:
 - Mayor; or
 - Chairperson,

as the case may be;

- (b) all Councillors, other than the Mayor, must be addressed as Cr (surname); and
- (c) all Council staff, must be addressed by their official title.

10.2.2 Any person who addresses the Meeting must direct all remarks through the Chairperson.

10.2.3 A Councillor must not ask questions from the Directors during their verbal reports. A request for further information must be made in accordance with the Councillor and Staff Interaction Protocol and the Councillor Code of Conduct.

11 MOTIONS AND DEBATE

11.1 Moving a motion

11.1.1 The procedure for moving any Motion is:

- (a) the mover must outline the Motion without speaking in support of it;
- (b) the Motion must be seconded by a Councillor other than the mover;
- (c) if a Motion is not seconded, the Motion lapses for want of a seconder;
- (d) if there is a seconder, then the Chairperson must call on the mover to speak to the Motion;
- (e) after the mover has spoken to the Motion, the seconder may also speak to the Motion;
- (f) after the seconder has spoken to the Motion (or after the mover has spoken to the Motion if the seconder does not speak to the Motion), the Chairperson must call on any Councillor who wishes to speak **against** the Motion;
- (g) If no Councillor wishes to speak against the Motion, then the Chairperson will call on any Councillors who wish to speak **for** the motion;
- (h) After waiting until all Councillors wishing to speak to the Motion have spoken, the Chairperson will then move the Motion.

11.2 Chairperson's duty

11.2.1 The Chairperson must not accept any Motion which:

- (a) is defamatory; or
- (b) is objectionable in language or nature; or
- (c) is vague or unclear in its intention; or
- (d) is outside the powers of Council; or
- (e) is not relevant to an item of business on the Agenda and has not been admitted as Urgent Business; or
- (f) purports to be an amendment but is not.

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11.3 Right of reply

- 11.3.1 The mover of a Motion, which has not been amended, may, once debate has been exhausted, exercise a right of reply to matters raised during debate.
- 11.3.2 No new matters may be raised in the right of reply.
- 11.3.3 If no Councillor has spoken against a Motion, there will be no right of reply.
- 11.3.4 After the right of reply has been exercised, the Motion must immediately be put to the vote without any further discussion or debate.

11.4 Moving an amendment

- 11.4.1 A Motion, which has been moved and seconded, may be amended by leaving out, inserting or adding words, which must be relevant to the subject of the Motion but must not fundamentally alter the substantive intent or outcome of the motion.
- 11.4.2 An amendment may be proposed or seconded by any Councillor, except the mover and seconder of the original Motion.
- 11.4.3 If a Councillor proposes an amendment and the original mover and seconder of the Motion both indicate their agreement with the amendment, the amended Motion becomes the substantive Motion without debate or vote.
- 11.4.4 If a Councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:
 - (a) the amendment must be moved and seconded;
 - (b) a Councillor may speak on any amendment once, whether or not they have spoken to the Motion, but debate must be confined to the terms of the amendment;
 - (c) any number of amendments may be proposed to a Motion, but only one amendment may be accepted by the Chairperson at any one time. 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 and voted on;
 - (d) if the amendment is carried, the Motion as amended then becomes the Motion before the Meeting (known as the 'substantive Motion'); and
 - (e) the mover of an amendment does not have right of reply.

If a proposed amendment is ruled to be the negative of, or substantially contrary to, the motion, it should be treated as an alternative motion to be considered only in the event that the motion before the Chair is lost – see Foreshadowing Motions.

11.5 Foreshadowing motions

- 11.5.1 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.
- 11.5.2 A Motion foreshadowed may be prefaced with a statement that, in the event of a particular Motion before the Meeting being resolved in a certain way, a Councillor intends to move an alternative or additional Motion.
- 11.5.3 A Motion foreshadowed has no procedural standing and is merely a means to assist the flow of the Meeting.

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- 11.5.4 The Minutes of the Meeting will not include foreshadowed Motions unless the foreshadowed Motion is subsequently formally moved as a Motion.

11.6 Withdrawal of motions

- 11.6.1 Before any Motion is put to the vote, it may be withdrawn with the agreement of Council.

11.7 Separation of motions

- 11.7.1 Where a Motion contains more than one part, a Councillor may request the Chairperson to put the Motion to the vote in separate parts.
- 11.7.2 The Chairperson may decide to put any Motion to the vote in separate parts.

11.8 Motions moved in a block

- 11.8.1 The Chairperson may allow like Motions to be moved, or request Councillors to move like items, in a block (en bloc), only if the Motions note actions already taken and will not commit Council to further action, spending or changes to policy.

11.9 Motions in writing

- 11.9.1 The Chairperson may require Motions, except Procedural Motions, to be submitted in writing.
- 11.9.2 The Chairperson may adjourn a 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.

11.10 Debate must be relevant to the motion

- 11.10.1 Debate must always be relevant to the Motion before the Meeting, and, if not, the Chairperson must request the speaker to confine debate to the Motion.
- 11.10.2 If, after being requested by the Chairperson to confine debate to the Motion before the Meeting, the speaker continues to debate irrelevant matters, the Chairperson may direct the speaker not speak further in respect of the Motion before the Chairperson. The speaker must immediately comply with any such direction.

11.11 Adequate and sufficient debate

- 11.11.1 Adequate debate is required where a matter is contentious in nature. In such a case, every Councillor should be given an opportunity to participate in the debate.
- 11.11.2 A Motion has been sufficiently debated if opposing views (where they exist) have been sufficiently put, not so much the number of those who have spoken but whether all minority opposing views have been put.
- 11.11.3 Once the views put are representative of the views of all Councillors or Members the debate would be regarded as sufficient.

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11.12 Speaking times

- 11.12.1 Unless a Motion for an extension of speaking time has been carried, the maximum speaking times are:
- (a) the mover of a Motion or amendment - three minutes;
 - (b) the mover of a Motion when exercising their right of reply - two minutes; and
 - (c) any other speaker - three minutes.
- 11.12.2 A Motion for an extension of speaking time must be proposed before the initial speaking time, for that speaker, expires.
- 11.12.3 A Motion for an extension of speaking time must not be accepted by the Chairperson if another Councillor has commenced speaking.
- 11.12.4 Only one extension of speaking time is permitted for each speaker.
- 11.12.5 Any extension of speaking time must not be more than two minutes.

11.13 Procedural motions

- 11.13.1 Unless otherwise prohibited, and subject to sub- rule 11.13.3, a procedural Motion may be moved at any time and must be dealt with immediately by the Chairperson.
- 11.13.2 Procedural Motions require a seconder.
- 11.13.3 The Chairperson may reject a procedural Motion if they believe the Motion on which it is proposed has not been adequately or sufficiently debated.
- 11.13.4 Regardless of any other provision in these Rules, a procedural Motion must be dealt with in accordance with the table below.
- 11.13.5 A Procedural Motion may not be moved or seconded by the Chairperson.
- 11.13.6 Unless otherwise provided, debate on a procedural Motion is not permitted and the mover does not have a right of reply.
- 11.13.7 Unless otherwise provided, a procedural Motion must not be amended.

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PROCEDURAL MOTIONS TABLE

Motion	Form	Mover/ Seconder	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Deferral of a matter (to a future meeting)	'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral) ...'	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of the Mayor/Deputy Mayor; (b) During the election of a Chair/person; or (c) When another Councillor is speaking	Consideration/debate on the motion and/or amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future meeting, where a fresh motion may be put and debated	Debate continues unaffected	Yes
Closure (of debate)	'That the motion now be put'	Any Councillor who has not moved or seconded the original motion or spoken for/against the original motion	During nominations for a Chairperson	Motion or amendment is put to the vote immediately without further debate, subject to any Councillor exercising their right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

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Motion	Form	Mover/ Seconder	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Laying a motion on the table (pausing debate)	'That the motion be laid on the table'	A Councillor who has not spoken for/against the motion	During the election of the Mayor/Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same or subsequent meeting	Debate continues unaffected	No
Take a motion from the table (resume debate on a matter)	'That the motion in relation to xx be taken from the table'	Any Councillor	When no motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
Alter the order of business	'That the item listed at xx on the agenda be considered before/after the item listed as xy'	Any Councillor	(a) At a Meeting to elect the Mayor/Deputy Mayor; or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the Agenda	No

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Motion	Form	Mover/ Second	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Suspension of Standing Orders	'That Standing Orders be suspended to ...' (reason must be provided)	Any Councillor		The rules of the meeting are temporarily suspended for the specific reason given in the motion No debate or decision on any matter, other than a decision to resume Standing Orders, is permitted	The meeting continues unaffected	No
Resumption of Standing Orders	'That Standing Orders be resumed'	Any Councillor	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed	The meeting cannot continue	No
Consideration of confidential matter(s) (Close the meeting to members of the public)	That, in accordance with section 66(2)(a) of the <i>Local Government Act 2020</i> the meeting be closed to members of the public for the consideration of item xx is <i>confidential as it relates to [insert reason]</i>	Any Councillor	During the election of the Mayor/Deputy Mayor	The meeting is closed to members of the public	The meeting continues to be open to the public	Yes

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Motion	Form	Mover/ Seconder	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Reopen the meeting	'That the meeting be reopened to members of the public'	Any Councillor		The Meeting is reopened to the public	The meeting remains closed to the public	No

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GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

11.14 Notices of Motion

- 11.14.1 A Councillor can submit to the Chief Executive Officer a Notice of Motion for inclusion in the Agenda for a Meeting.
- 11.14.2 A Notice of Motion must be in writing, signed by the Councillor (including by electronic means), and be lodged with the Chief Executive Officer no later than 12 noon seven days before the Meeting at which it is intended to be considered to ensure its inclusion in the Agenda.
- 11.14.3 The Chief Executive Officer must inform Councillors about the legal and cost implications of any proposed Notice of Motion. The Chief Executive Officer may suggest revised wording to the draft Notice of Motion to facilitate compliance with the requirements for Notices of Motion under these Governance Rules.
- 11.14.4 A Notice of Motion must relate to the objectives, role and functions of Council as outlined in the Act.
- 11.14.5 A Notice of Motion must call for a Council report if the Notice of Motion proposes any action that:
- (a) impacts the levels of Council service;
 - (b) commits Council to expenditure that is not included in the adopted Council Budget;
 - (c) proposes to establish, amend or extend Council policy;
 - (d) proposes to impact the rights of any person who has not had the opportunity to contribute their views;
 - (e) commits Council to any contractual arrangement; or
 - (f) concerns any litigation in respect of which Council is a party.
- 11.14.6 The Chief Executive Officer must reject any Notice of Motion which:
- (a) is too vague;
 - (b) is defamatory;
 - (c) may be prejudicial to any person or Council;
 - (d) is objectionable in language or nature;
 - (e) is outside the powers of Council
 - (f) is submitted during Election Period.
- 11.14.7 The Chief Executive Officer may also reject a proposed Notice of Motion that:
- (a) relates to a matter that can be addressed through the operational service request process; or
 - (b) relates to a matter that has been previously resolved by Council or is acted upon.
- 11.14.8 If rejecting a Notice of Motion, the Chief Executive Officer must inform the Councillor who lodged it of that rejection and the reasons for the rejection no later than five days before the Meeting at which it is intended to be considered. The Councillor may submit a revised Motion within 24 hours.
- 11.14.9 The Chief Executive Officer may designate a Notice of Motion to be confidential in accordance with relevant grounds as contained in the Act, in which case, the Notice of Motion will be considered in the part of the relevant Council Meeting that is closed to members of the public.
- 11.14.10 The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the Agenda and outline the policy, financial and resourcing implications if the Notice of Motion is passed.
- 11.14.11 The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the Notice of Motion being published in the Agenda for the relevant Council Meeting.

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- 11.14.12 The Chief Executive Officer must cause all Notices of Motion to be sequentially numbered, dated and entered in a register.
- 11.14.13 Unless Council resolves otherwise, each Notice of Motion must be considered in the order in which they were received.
- 11.14.14 The Motion moved must not be substantially different to the Motion published in the Agenda, however, may be amended by resolution of the Council.
- 11.14.15 If a Councillor who has lodged a Notice of Motion is absent from the Meeting or fails to move the Motion when called upon by the Chairperson to do so, any other Councillor may move the Motion.
- 11.14.16 If a Notice of Motion is not moved at the Council Meeting at which it is listed, it lapses.

11.15 Notices of Rescission

- 11.15.1 A notice of rescission is a form of Notice of Motion. Accordingly, all provisions in these Rules regulating Notices of Motion equally apply to notices of rescission.
- 11.15.2 Motions to rescind or alter a previous resolution of Council can be made by:
- (a) A Notice of Rescission delivered by a Councillor in accordance with sub-rule 11.14.2 or
 - (b) A recommendation contained in an officer's report included in the Agenda.
- 11.15.3 A Councillor may propose a Motion to rescind or alter a previous resolution of Council provided:
- (a) the previous resolution has not been acted on; and
 - (b) a notice is delivered to the Chief Executive Officer or Delegate setting out:
 - the relevant previous resolution to be rescinded or altered; and
 - the Meeting and date when the relevant previous resolution was carried.
- 11.15.4 A Notice of Rescission must be in writing, signed (including by electronic means) by a Councillor and be delivered to the Chief Executive Officer or a Delegate prior to the distribution of the meeting agenda.
- 11.15.5 The Chief Executive Officer, or a member of Council staff with responsibility for the subject matter of a resolution, may implement a resolution of Council at any time after the close of the Meeting at which it was made. A resolution of Council will be deemed to have been acted on if:
- (a) its contents or substance has been formally communicated to a person whose interests are materially affected by it, including by publishing the proposed Minutes of a Council Meeting on Council's website; or
 - (b) a statutory process has been commenced so as to vest enforceable rights or obligations on Council or any other person.
- 11.15.6 Notwithstanding sub-rule 11.15.5, the Chief Executive Officer or member of Council staff must defer implementing a resolution which:
- (a) has not been acted on; and
 - (b) is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub rule 11.14.2 unless deferring implementation of the resolution would have the effect of depriving the resolution of usefulness, giving rise to non-compliance with a legal obligation or placing the Council at legal, financial or other risk.

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- 11.15.7 If a Motion for rescission is lost, a similar Motion may not be put before Council for at least one month from the date it was last lost, unless Council resolves that the Notice of Rescission be re-listed at a future Meeting.
- 11.15.8 If a Motion for rescission is not moved at the Meeting for which it is listed, it lapses.
- 11.15.9 A notice of rescission listed on an Agenda may be moved by any Councillor present but must be moved in the form it was listed and must not be amended.

11.16 Foreshadowed Items

- 11.16.1 At the time designated in the Meeting Agenda, a Councillor may foreshadow a Notice of Motion to be submitted for consideration at the next Meeting by indicating, when called on to do so by the Chair, the subject matter of the foreshadowed Notice of Motion.
- 11.16.2 The subject matter, as indicated by the Councillor, of a Foreshadowed Item will be recorded in the Minutes.
- 11.16.3 No discussion or debate is allowed on a Foreshadowed Item.
- 11.16.4 A Foreshadowed Item will have no further formal status at that Council Meeting.
- 11.16.5 Foreshadowed Items are intended to be used to indicate to Council and the community matters of importance that will be raised at the next Council Meeting.
- 11.16.6 If a Councillor does not submit a Notice of Motion for the next Council Meeting, no further action on a Foreshadowed Item will occur.

12 POINTS OF ORDER

- 12.1.1 A Councillor raising a Point of Order must state:
- (a) the Point of Order; and
 - (b) any section, Clause, paragraph or provision relevant to the Point of Order.
- 12.1.2 The Chairperson must decide all points of order by stating the provision, rule, practice or precedent which they considers applicable to the Point of Order raised, without entering into any discussion or comment.
- 12.1.3 The Chairperson may adjourn the Meeting to consider a Point of Order; otherwise they must rule on it as soon as it is raised.
- 12.1.4 All other matters before Council are suspended until the Point of Order is decided.

12.2 Dissent in Chairperson's ruling

- 12.2.1 A Motion of dissent in the Chairperson's ruling must, if seconded, be given priority to all other items of business

12.3 Valid points of order

- 12.3.1 A Point of Order may be raised in relation to:
- (a) a Motion which has not been accepted by the Chairperson;
 - (b) a question of procedure;
 - (c) a Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
 - (d) debate that is irrelevant to the matter under consideration;
 - (e) a matter that is outside the powers of Council; or

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(f) any act of Disorder.

12.4 Contradiction or opinion

12.4.1 Rising to express a mere difference of opinion or to contradict a speaker is not a Point of Order.

12.5 Disorderly Conduct

12.5.1 The conduct of Councillors and Members at meetings is governed by the Act, these Rules and the Councillor Code of Conduct.

12.6 Chairperson may adjourn disorderly Meeting

12.6.1 The Chairperson may call a break in a Meeting for either a short time, or to resume another day if:

- (a) the behaviour at the Council table or in the gallery is significantly disrupting the Meeting;
or
- (b) when a Meeting has been in progress for longer than 2 hours.

12.6.2 The break referred to in sub-clause 12.6.1 is an adjournment.

12.6.3 Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the Meeting, and prevents the conduct of Council business:

- (a) Council may, by resolution, suspend that Councillor from a portion of the Meeting or from the balance of the Meeting where the Chairperson has warned the Councillor to cease that behaviour; or
- (b) The Mayor, under section 19 of the Act, at a Council meeting, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the meeting for a period of time or the balance of the Meeting.

12.6.4 Where Council suspends a Councillor under sub-rule 12.6.3(a), or the Mayor directs a Councillor to leave the meeting under sub-rule 12.6.3(b) the Councillor will take no active part in the portion of the Meeting from which they have been suspended.

If a Councillor has been suspended from a meeting or directed to leave in accordance with sub-rule 12.6.4 the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the Councillor. The Act (section 19(1)(b)) provides the power to the Mayor to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

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13 MINUTES

The Minutes of a meeting must contain details of the proceedings and resolutions made, be clearly expressed, be self-explanatory and identify the relevant reports considered in the decision-making process. The Minutes of a Council Meeting must be submitted to the next appropriate Council Meeting for confirmation.

13.1 Keeping of Minutes

- 13.1.1 The Chief Executive Officer or Delegate is responsible for the keeping of Minutes on behalf of Council. Those Minutes must record:
- (a) the date, place, time and nature of the Council Meeting;
 - (b) the names of Councillors and whether they are present, an apology, on leave of absence, etc.;
 - (c) the titles of the Directors present who are not part of the gallery;
 - (d) the disclosure of a conflict of interest made by a Councillor in accordance with the Act;
 - (e) the arrivals and departures of Councillors, during the course of the Meeting (including any temporary departures or arrivals);
 - (f) every Motion and amendment moved (including procedural Motions);
 - (g) the outcome of every Motion moved;
 - (h) where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
 - (i) when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any Motion, noting that under s61(5) that a Councillor present at the meeting who does not vote is taken to have voted against the motion;
 - (j) details of any failure to achieve or maintain a quorum;
 - (k) a summary of questions asked as part of public question time;
 - (l) details of any petitions made to Council;
 - (m) the time for any adjournment of the Meeting or suspension of standing orders;
 - (n) any other matter, which the Chief Executive Officer or Delegate thinks should be recorded to clarify the intention of the Meeting or assist in the reading of the Minutes; and
 - (o) the time the Council Meeting was opened and closed, including any part of the Council Meeting that was closed to members of the public.

13.2 Confirmation of Minutes

- 13.2.1 The Minutes as recorded by the Chief Executive Officer, or Delegate, will be made available as the proposed Minutes to:
- (a) Councillors, within 7 business days;
 - (b) members of the public, by publishing them on Council's website, within 9 business days of the Council Meeting they relate to.
- 13.2.2 At every Council Meeting the Minutes of the preceding Council Meeting(s) must be dealt with as follows:
- (a) a Motion will be moved to confirm the Minutes in the following terms: 'That the Minutes of theMeeting held on20.....be confirmed.';
 - (b) if a Councillor indicates opposition to the Minutes, the Councillor must specify the particular item or items in the Minutes and, after asking any questions to clarify the matter, can only move a Motion to rectify the alleged error(s) in the Minutes by adding the following words to the Motion in sub-clause (2) (a) '...subject to the following alteration(s).....';
 - (c) If the Chief Executive Officer believes that the proposed alteration is not a correct record of the Council's decision the matter may be resolved by reference to any

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transcript or recording of the meeting and the confirmed minutes shall reflect that transcript or recording.

- 13.2.3 no debate or discussion is permitted on the confirmation of Minutes except as to their accuracy as a record of the proceedings of the Council Meeting to which they relate;
- 13.2.4 once the Minutes are confirmed in their original or amended form, the Minutes must, if practicable, be signed by the Chairperson of the Meeting at which they have been confirmed; and
- 13.2.5 Electronic Minutes and storage (new sub-section) reference to *Public Records Act 1973*.

13.3 Recording of Proceedings

- 13.3.1 A person in the gallery must not operate film, photographic, tape-recording or other equipment to reproduce sound and/or images at any Meeting without first obtaining the consent of the Chairperson.
- 13.3.2 The consent of the Chairperson may be revoked at any time during the course of a Meeting by the Chairperson stating that consent has been revoked and ordering that the recording cease.

14 SUSPENSION OF STANDING ORDERS

- 14.1.1 Standing Orders are the rules made to govern the procedure at Council Meetings contained in these Governance Rules. The Standing Orders cover a range of matters including the order of business, rules of debate, procedural motions and election procedures. Standing Orders can be suspended to facilitate the business of a meeting.

14.2 Suspension of standing orders

- 14.2.1 To temporarily remove the constraints of formal meeting procedure and allow full discussion or clarification of an issue, Council may, by resolution, suspend standing orders in accordance with the procedural motion table at Rule 11.13.
- 14.2.2 Suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of Council.
- 14.2.3 No Motion can be accepted by the Chairperson or lawfully be dealt with during any suspension of standing orders, except a Motion to resume standing orders.
- 14.2.4 No Motion to suspend standing orders can be accepted by the Chairperson during a second extension of time for a Meeting.

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15 DELEGATED COMMITTEES

- 15.1.1 Council may establish Delegated Committees and Advisory Committees as part of its Governance Framework. Delegated Committees must comprise of Councillors and may include members of Council staff and others and must be chaired by a Councillor. As Council may delegate specific powers, duties and functions to Committees, their meeting procedures need to be formal.
- 15.1.2 If Council establishes a Delegated Committee, these Rules will apply to the Delegated Committee Meetings with any necessary modifications.
- 15.1.3 For the purpose of sub- rule 15.1.1:
- (a) a Council meeting is to be read as a reference to a Delegated Committee Meeting;
 - (b) a Councillor is to be read as a reference to a Member of the Delegated Committee; and
 - (c) a reference to the Mayor is to be read as a reference to the Chairperson of the Delegated Committee.
- 15.1.4 If Council establishes a Delegated Committee, Council may resolve that a provision of this Governance Rules do not apply to that Committee.

16 ASSEMBLIES OF COUNCILLORS

- 16.1.1 Council will record any Assembly of Councillors, which can be defined as:
- (a) A meeting (other than a Council or delegated committee meeting), briefing or other activity where at least half of the Council and a member of Council staff is present; or
 - (b) A meeting of a Council Advisory Committee, where one or more Councillor is present; and
 - (c) Where the matters considered may be subject to a decision of Council or exercise of a function, duty or power of the Council that has been delegated to a person or committee.
- 16.1.2 A Councillor is required to disclose a conflict of interest they may have before the matter is discussed and exit the meeting, remaining out of sight and hearing while any discussions and vote takes place.
- 16.1.3 A report will be prepared and included in the agenda at each Scheduled Council Meeting.
- 16.1.4 The operation of Council Advisory and Delegated Committees excluding the Audit and Risk Committee shall be suspended upon the commencement of the election period ahead of a general Council election.
- 16.1.5 Any outstanding Delegate's Reports may still be reported to a Scheduled Meeting of Council during this period.
- 16.1.6 Council Committees shall resume meeting following the election unless otherwise determined by the Council.

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17 CONFLICT OF INTEREST

- 17.1.1 The Act defines General and Material Conflicts of Interest and provides exemptions for remoteness and interests in common with a substantial proportion of ratepayers along with other specific circumstances.
- 17.1.2 The Act also provides that Council must include in its Governance Rules procedures for disclosures of Conflicts of Interest, including at meetings conducted under the auspices of Council that are not Council meetings. Meetings conducted under the auspices of Council include those meetings arranged or hosted by Council.
- 17.1.3 These Rules provide the procedures for disclosures of conflicts of interest.
- 17.1.4 Further guidance is available from the Public Interest Guideline, located on our website.

17.2 Obligations with regard to conflict of interest:

- 17.2.1 Councillors, members of Delegated Committees and Council staff are required to:
 - (a) Manage - all situations which may give rise to conflicts of interest;
 - (b) Identify - any conflicts of interest; and
 - (c) Disclose – or declare all conflicts of interest.

17.3 Councillors and Members of Delegated Committees

- 17.3.1 May not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- 17.3.2 When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.
- 17.3.3 All disclosures of conflicts of interest will be recorded in the minutes of a Council or Delegated Committee Meeting.
- 17.3.4 Council will maintain a Conflict of Interest Register which will be made available on Council's website.

17.4 Procedure at a Council or Delegated Committee Meeting

- 17.4.1 At the time indicated in the Agenda, a Councillor with a conflict of interest in an item on that agenda must indicate they have a conflict of interest by clearly stating:
 - (a) The item for which they have a conflict of interest; and
 - (b) Whether their conflict of interest is general or material; and
 - (c) The circumstances that give rise to the conflict of interest.
- 17.4.2 Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor or Member of a Delegated Committee must indicate to the meeting the existence of the conflict of interest and leave the meeting.
- 17.4.3 A Councillor who is not present at the designated time in the agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the manner that required for the declarations of conflicts of interest at sub-rule (1) prior to leaving the meeting.
- 17.4.4 A Councillor or Member of a Delegated Committee who discloses a conflict of interest and leaves a Council meeting must not communicate with any participants in the meeting while the decision is being made.

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17.5 Procedure at other meetings organised, hosted or supported by Council

- 17.5.1 A Councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.
- (a) At the time indicated on the Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.
 - (b) If there is no Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest as soon the matter arises.
- 17.5.2 At the time for discussion of that item, the Councillor will leave the discussion and not communicate with any members of the meeting for the duration of the discussion.
- 17.5.3 The existence of a conflict of interest will be recorded in the minutes of the meeting.
- 17.5.4 If there are no minutes kept of the meeting, the conflict of interest will be recorded in a meeting record and provided to the Governance team for recording in the register of Conflicts of Interest.
- 17.5.5 The meeting minutes or record will also record the duration of the discussion and whether the Councillor left the meeting.
- 17.5.6 Meeting records and reports will be presented to Council for noting and inclusion on the public record.

18 JOINT COUNCIL MEETINGS

- 18.1.1 Regional collaboration provides benefits through collective procurement, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it's possible for the participating Councils to make their own decisions and determinations, in some circumstances, it may be beneficial to hold Joint Council Meetings as are provided for in the Act.
- 18.1.2 Council may resolve to participate in a Joint Council meeting to consider:
- (a) Matters subject to discussion of approved alliances;
 - (b) Collaborative projects;
 - (c) Collaborative procurement;
 - (d) Emergency Response.
- 18.1.3 If Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer, or Delegate, will agree on Governance Rules with the participating Councils.
- 18.1.4 Where Moira Shire is the lead Council on a matter to be brought for consideration at a Joint Council meeting, the Mayor will be nominated to Chair the Joint Council meeting
- 18.1.5 A majority of Councillors will be appointed to represent Council at a Joint Council meeting.
- 18.1.6 Consistent information will be provided to Councillors prior to any Joint Meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.
- 18.1.7 A joint briefing arranged in accordance with sub-rule (5) may be held electronically.

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19 ELECTION PERIOD POLICY REQUIREMENTS

19.1 Policy Requirements

- 19.1.1 Council will have in place an Election Period policy that:
- (a) Governs decision making during a local government election period, including what may be considered at a Council meeting;
 - (b) Prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
 - (c) Sets out the conditions for any community engagement required to be undertaken during an election period, including consultations, Civic events, and activities of Advisory Committees established by Council;
 - (d) Sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns
 - (e) Defines roles and responsibilities in relation to who is the spokesperson for Council during an election period
 - (f) Sets out the requirements for a Councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.
- 19.1.2 At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its election period policy.
- 19.1.3 The Election Period Policy forms part of these Governance Rules and is included in Section 20 below.

20 ELECTION PERIOD POLICY

20.1 Introduction

Moirā Shire Council is committed to providing good governance and to fair and democratic elections and therefore adopts and endorses the principles and procedures within this policy to apply during any election.

This Election Period Policy (Caretaker Policy) has been developed in order to ensure that the general elections and any by-elections for the Moirā Shire Council and subsequent elections are conducted in a manner that is ethical, fair and equitable and are publicly perceived as such.

During the lead up to (not just the election period) employees need to maintain impartiality by avoiding making any comment or expressing an opinion, in any context which is public or may become public, in relation to candidates, potential candidates or policy debates in the lead up to an election.

During this time, Council will operate in a limited capacity to safeguard the authority of the incoming Council, with actions or decisions being rescheduled where possible.

In addition to being a statutory requirement, observance of a caretaker period is important to support probity and confidence in the election process. A caretaker period is a moral obligation that has evolved over time, following federal and state government conventions. It provides fairness to all candidates by

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preventing elected representatives from receiving an advantage or carrying out inappropriate electioneering.

This policy commits Council to:

- Avoid making significant new policies or decisions that could unreasonably bind a future Council.
- Avoid making inappropriate decisions or using resources inappropriately.
- Rescheduling the release of publications and communications where possible. Any publications and communications must be checked and certified by the Chief Executive Officer as not containing any electoral matter before being released.
- Avoid holding Council meetings, Delegated Committee meetings, Advisory Committee meetings (including the Audit & Risk Committee) unless there are special circumstances. Councillors will not attend any Unscheduled or Advisory or Delegated Committee meetings held.
- Avoid holding public consultation, Council events, functions or other meetings.
- Ensuring that public resources, including staff time, are not used in election campaigning, or in a way that may improperly influence the result of an election, or advantage existing Councillors as candidates.
- Ensuring that information held by Council, which would normally be available to Councillors, is made equally available and accessible to all candidates during the election.

20.2 Definitions

Document	has the same meaning as the <i>Interpretation of Legislation Act 1984</i>
Election period	During an election period, local government goes into 'caretaker' mode, avoiding actions and decisions which could be seen to be influencing voters or which will have a significant impact on the incoming Council. The Local Government Act 2020 (Act) provides that the election period commences at the time that nominations close of nomination day for that election and ends at 6pm on Election Day
Electoral advertisement, handbill, pamphlet or notice	means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.
Electoral matter	means matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the returning officer for the purposes of conducting an election. Without limiting the definition, electoral matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to or comment on: <ul style="list-style-type: none"> (a) the election; or (b) a candidate in the election; or (d) an issue submitted to, or otherwise before the voters in connection with the election.
Inappropriate decisions	made by a Council during an election period includes any of the following— <ul style="list-style-type: none"> (a) decisions that would affect voting in an election; (b) decisions that could reasonably be made after the election.
Publish	means publish by any means including by publication on the Internet;
The Act	means the <i>Local Government Act 2020</i>

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20.3 Start and Finish Dates

This Election Period Policy (Caretaker Policy) applies during the Election Period which:

- Commences at the time that nominations close on nomination day for that election; and
- Concludes at 6.00pm on Election Day.

20.4 Roles and Responsibilities

Councillors

- Observe the protocols for interactions with Council staff.
- Avoid misuse of Council resources for electioneering.
- Establish an alternative email and computer network for electioneering to achieve zero use of Council's IT resources.
- Be mindful that when representing Council at external meetings it is not appropriate to use the opportunity for electioneering.
- Do not use the role of Councillor or access to Council staff and resources to gain media attention in support of an election campaign.
- When publishing any campaign material on your own behalf, assume responsibility for compliance and not purport that the material to be originating from, or authorised by Moira Shire Council (eg by use of Council logos).
- Refrain from moving motions or raising matters at a Council meeting that could potentially influence voting in the election (should special circumstances require a meeting to be held).

Chief Executive Officer

- Responsible for overseeing implementation of Council's Election Period Policy
- Manage and monitor interactions between staff and Councillors (or candidates).
- Approve and certify publications or communications to be released.
- Ensure that information held by Council, which would normally be available to Councillors, is made equally available and accessible to all candidates.

Council staff (or contractors)

- Observe the protocols for interaction with Councillors and apply the same to candidates.
- Remain neutral and don't become involved or interested in candidates or the politics of the election.
- Avoid participating in activities which support a candidate, including fundraising or campaign activities.
- Avoid misuse of Council resources, specifically for electioneering by candidates.
- Seek approval from the Chief Executive Officer for any publication or communication that needs to proceed.
- Consider the requirements within this policy before making a decision under delegation.

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20.5 Why is an Election Period Policy required?

The Act requires councils to have an Election Period Policy to explain to their communities how they will conduct their business immediately prior to an election. This is to ensure council elections are not compromised by inappropriate electioneering by existing Councillors and to safeguard the authority of the incoming council.

The policy also provides guidance at an operational level to ensure compliance with legislative requirements, demonstrates the Council's commitment to probity in its elections and ensures transparency and accountability of the Council, Councillors and staff during the election period.

20.6 Is my proposed action affected by this policy?

The following is a quick reference on where to find guidance:

- | | |
|--|--------------------------------|
| - You are involved in making a decision for Council (under delegation). | refer to sections 20.7 – 20.10 |
| - You are involved in creating any kind of Council publication or communication. | refer to section 20.11 |
| - You are about to publish material which has reference to a candidate (which included sitting Councillors), or the election, or an issue before the voters in connection with the election. | refer to section 20.11 |
| - You are involved in preparing an agenda for a Council meeting, Delegated Committee or Advisory Committee meeting (meetings will only be held under special circumstances) | refer to section 20.11 |
| - You are involved in planning a public consultation process. | refer to section 20.12 |
| - You are involved in planning an event, ceremony, function or meeting. | refer to section 20.12 |
| - You are a sitting Councillor who is planning to attend a function or event. | refer to section 20.12 |
| - You provide administrative support to Councillors. | refer to section 20.13 |
| - You are a Councillor or candidate requesting access to Council information. | refer to section 20.14 |
| - You are a Councillor requesting media advice or services | refer to Section 20.15 |
| - You have been requested to provide assistance or advice to a candidate | refer to Section 20.16 & 20.17 |

20.7 Decisions

The timing of decisions will be scheduled to avoid the election period when Council is in a caretaker role. During the election period, Council commits to only making appropriate decisions, whether for operational purposes or pursuant to a statutory requirement.

There are no Scheduled Council meetings, Unscheduled, Delegated or Advisory meetings scheduled to be held during the election period. The Chief Executive Officer or a member of Council staff acting under delegation can also make decisions.

Guidance in this policy is not legally binding on the Council. If it becomes important to make a decision contrary to this policy during the election period, the necessity will need to be justified to the Chief Executive Officer or demonstrated to the community.

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20.8 Prohibited decisions

Provisions under section 69 of the Act prohibit Council from making certain decisions during the election period for a general election. A prohibited decision is one that:

- (a) Relates to the appointment or remuneration of a CEO but not to the appointment or remuneration of an Acting CEO.
- (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.
- (c) The Council considers could be reasonably deferred until the next Council is in place.
- (d) The Council considers should not be made during an election period (Inappropriate decisions)
- (e) 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 (this also applies to by-elections)

Any Council decision made in contravention of 20.8(a) and (b) above, is invalid. 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 section 69(4) of the Act, is entitled to compensation from the Council for that loss or damage.

Scheduling consideration of prohibited decisions

The CEO will ensure that prohibited decisions are either:

- considered by Council prior to the election period; or
- scheduled for determination by the incoming Council.

Advice must be sought from the Chief Executive Officer or their delegate if there is any doubt on where a decision fits within the policy or if it should be made at all.

20.9 Inappropriate Decisions

Inappropriate decisions are defined as meaning:

Inappropriate decisions

- Decisions that would affect voting in an election.
- Decisions that may unreasonably bind an incoming council and could reasonably be made after the election.

20.10 Inappropriate decisions that will be avoided

The following inappropriate decisions (whether made by Council, a Delegated Committee or a staff member with delegated authority) will be avoided completely during the election period:

- allocation of community grants or other direct funding to community organisations
- allocation of discretionary funding
- major planning scheme amendments
- sale or discontinuance of roads etc

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- changes to strategic objectives and strategies in the Council Plan.

20.11 Publications and communications

Publications and communications are broadly considered to be documents or information prepared for the community, for example:

- Council newsletters
- Advertisements and notices
- Agendas for Council or Delegated meetings
- Media releases
- Brochures, leaflets and posters
- Mail-outs or emails to multiple addressees
- Material on Council's internet sites
- Social media, blogs etc

Where possible the release of publications or communications will be scheduled to avoid the election period when Council is in a caretaker role.

During the election period all publications and communications must be checked, then signed off and certified by the Chief Executive Officer that they do not contain electoral matter before being released.

Guidance will be provided to recognise electoral matters with instructions on the process to be followed to obtain approval and certification by the Chief Executive Officer.

Statutory requirements

It is prohibited under the Act for Council to:

- (a) print, publish or distribute; or
- (b) cause, permit or authorise others to print, publish or distribute on behalf of the Council,

any advertisement, handbill, pamphlet or notice during the election period unless it has been certified, in writing by the Chief Executive Officer. There is an exception for any document required to be published in accordance with, or under, any Act or regulation.

The Chief Executive Officer must not certify any material about the election, unless it is information about the election process.

Certification of publications and communications by the Chief Executive Officer

The Chief Executive Officer will ensure that information is provided to Councillors and Council staff (or contractors) prior to the election period to preclude unauthorised publication of materials during the election period.

The Chief Executive Officer's certification must be in writing and importantly, cannot be delegated.

Criteria for Chief Executive Officer's approval (certification)

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:

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

- (i) the election; or
- (ii) a candidate in the election; or
- (iii) an issue before the voters in connection with the election; or
- (iv) a current Councillor; or
- (v) the strengths or weaknesses of a candidate; or
- (vi) advocates the policies of the Council or of a candidate; or
- (vii) responds to claims made by a candidate; or
- (viii) publicises the achievements of the elected Council.

May approve publication of material which only contains information:

- (i) about the election process itself; or
- (ii) which is essential for the conduct of Council operations; and
- (iii) does not include any reference to a current Councillor otherwise precluded by this policy.

Council's internet and social media sites

In the months, leading up to the election period Council's internet and social media sites will be examined and where appropriate any material that might reasonably influence voters in connection with the election will be temporarily withdrawn.

Social media includes, but is not limited to Facebook, Instagram, Twitter, YouTube, Flickr, LinkedIn, Pinterest. Council sites include:

Moirra Shire Council

<http://www.moirra.vic.gov.au/>

<https://www.facebook.com/moirashirecouncil/>

<https://www.facebook.com/moirayouth/>

<https://www.facebook.com/moirabusiness/>

Sun Country on the Murray

<http://www.visitthemurray.com.au/places-to-go/central/suncountry>

<https://www.facebook.com/visitsuncountry/>

<http://www.cobrambarooga.com.au>

<https://www.facebook.com/cobrambarooga/>

<http://nathaliabarmah.com.au/>

<https://www.facebook.com/NathaliaBarmahTourism>

<https://www.facebook.com/NumurkahTourism>

<http://www.farmgatetrail.com.au>

<http://www.yarrowongamulwala.com.au/> *

<https://www.facebook.com/yarrowongamulwalatourism/> *

FILE NO: F20/205
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.1
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

* collaborate with Yarrawonga Mulwala Tourism on their site

During the election period Council internet and social media sites 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 their name, a photograph, contact details, title, membership of special committees and other bodies to which they have been appointed by the Council.

A disclaimer will be included on the front page of Moira Shire Council internet and social media sites indicating that during the election period, while Council is in a caretaker role, content will only be added to this site in accordance with Council's Election Period Policy.

Council meeting agendas

Council meetings will not be held during the election period. However, should special circumstances require that a meeting be held, the content of the agenda will be checked to ensure that no agenda item would potentially:

- influence voters' intentions; or
- encourage use by councillor candidates for electioneering.

Once checked the agenda will require certification by the Chief Executive Officer before distribution.

Council's Annual Report

Due to the publication date of the Annual Report generally occurring during the election period, it is affected by the legislative restrictions on publications and therefore information about Councillors will be restricted to what is required by the *Local Government (Planning and Reporting) Regulations 2020*, a photograph of the Councillor, and membership of special committees and other bodies to which they have been appointed by the Council.

The Annual Report will not contain a Foreword from the Mayor.

Email usage

The Chief Executive Officer will ensure that information is provided to Councillors, staff and contractors prior to the election period to preclude unauthorised publication of materials via Council's email system during the election period.

Council notice boards and buildings

During the election period Council noticeboards and buildings will not be used to display electoral matter.

20.12 Public consultation, events, functions and meetings

Council will avoid holding or sponsoring public consultation, events, citizenship ceremonies, functions and meetings while Council is in a caretaker role. The timing of these activities will be scheduled to be held before the election period or after the new Council is elected.

If special circumstances require public consultation to be held, Council will justify to the community why it is necessary and how the risks of affecting voting at the election will be mitigated or prevented.

If special circumstances require an event, function or meeting to be held the reasons must be justified and any risk of affecting voting at the election will need to be mitigated, or prevented, to the satisfaction of the Chief Executive Officer.

FILE NO: F20/205
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.1
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

Council, Delegated or Advisory Committee meetings

Meetings are not scheduled to be held during the election period. If special circumstances require a Delegated or Advisory Committee meeting to be held the Councillor representative will not attend.

Events staged by external bodies

Councillors may continue to attend events and functions during the election period. However, Councillors need to be mindful that they are representing Council and not use the opportunity for electioneering.

Speeches or keynote addresses

Councillors should not give welcome speeches, speeches or keynote addresses at any events, whether organised by Council or by an external body.

Recording of attendance at external meetings and functions

The presence of Councillors at external meetings and functions may be recorded in attendance records, except where this record of attendance is in conjunction with information or promotional material (text or images) that may be considered as electoral material.

Publication of promotional material

Any material promoting an event, function or meeting that has permission to proceed from the Chief Executive Officer must be consistent with the controls under section 20.11 – Publications and Communications.

20.13 Council resources

Council resources refer to anything owned, purchased, leased or paid for by Council. For example council vehicles, buildings, property, equipment, stationery, hospitality, email, phones, Council employees or contractors.

Due propriety will be observed in the use of Council resources. Councillors, Council staff and contractors are required to exercise appropriate discretion and diligence in that regard.

Council staff and contractors must avoid assisting the Mayor or Councillors in ways that could be perceived as being connected directly or indirectly with an election campaign.

Guidance on the use of resources will also be taken from Local Government Victoria's Governance Practice Note No. 5 on Election Caretaker Arrangements.

Support to the Mayor and Councillors

Support services to the Mayor and Councillors will be kept to a minimum. Council staff, including support staff for Mayor and Councillors, must not be asked to undertake any tasks connected directly or indirectly with an election campaign.

FILE NO: F20/205
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.1
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

Correspondence

The Mayor will avoid sending correspondence during the election period. If a response is required it will be made by the Chief Executive Officer or their delegate, provided it meets the criteria for certification under section 20.11 – Publications and communications.

Council branding and stationery

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

Councillor photographs

Councillors are not permitted to use photos or images taken by, or provided by Council, for the purposes of their election campaign (including photographs that appear on Council's websites).

Use of Council equipment and services by Councillors

Councillors may continue to use any equipment and services provided to them to facilitate their duties in accordance with Council's Reimbursement of Expenses and Support Policy. When using Council equipment and services during and leading up to the election period Councillors should avoid incurring costs to Council which are or could be perceived to be for election related purposes.

Expenses incurred by Councillors

Payment or reimbursement of costs must relate to actual out-of-pocket expenses that are necessary in the performance of Council duties. Councillors are responsible for expenses that relate to, or could be perceived to relate to, an election campaign.

If it can be demonstrated that an expense covers both Council and electoral business the Chief Executive Officer may approve partial payment or reimbursement for Council duties.

Councillors will be required to make a declaration that any expenses incurred accord with this policy, when:

- making a claim for out-of-pocket expenses; or
- making requests for Council payment for services.

Forums

No local community forums, including opportunities for discussion, meet and greet sessions or community afternoon teas will be organised for Councillors during the election period.

20.14 Access to Council information

Information held by Council, which would normally be available to Councillors, will be made equally available and accessible to candidates during the election.

There will be transparency in the provision of all information and advice during the election period. Where practicable, and not prohibited by legislation, information that is made available to Councillors will also be made available to candidates.

FILE NO: F20/205
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.1
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

Preparation of briefing notes and weekly newsletter for Councillors will be suspended during the election period, and Council briefing meetings will not be held.

Requests for information will be directed to the Chief Executive Officer or their delegate for determination and distribution to all Councillors and candidates, if appropriate. Once approved and certified by the Chief Executive Officer the information will be circulated, usually via an email or by publishing on Council's internet site.

20.15 Media and corporate communications

During the election period Council's media and corporate communications will be restricted to essential advice for the community 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 their delegate. No media advice or assistance will be provided on election issues or 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. A media release must be certified and approved by the Chief Executive Officer before being released.

Publicity campaigns

During the election period, publicity campaigns, other than for the purpose of conducting the election will be avoided. Where a publicity campaign is deemed necessary for a Council activity, it must be approved by the Chief Executive Officer or their delegate.

Councillors

Councillors will not use 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 employees must not make any public statement that relates to an election issue unless statements have been approved and certified by the Chief Executive Officer.

20.16 Misuse Of Position (By A Councillor)

Section 123 (1) prevents Councillors from misusing their position, and section 124 prevents Councillors giving improper direction, or exerting improper influence over a member of Council staff. Penalties apply for breaching these sections and the penalty for 123 includes possible imprisonment.

20.17 Equity in assistance and advice

The Council affirms that all candidates for the Council election will be treated equally.

Candidate assistance and advice

FILE NO: F20/205
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.1
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

Any assistance and advice provided to a candidate as part of the conduct of the Council election will be provided equally to all candidates.

Election process enquiries

Enquiries from Councillors or candidates relating to the election process will be directed to the Returning Officer appointed by the Victorian Electoral Commission. Where the matter is outside the responsibilities of the Returning Officer, enquiries will be referred to the Chief Executive Officer or their delegate.

20.18 Breach of policy

Any breach of this policy relating to staff conduct is to be referred to the Chief Executive Officer.

Alleged breaches relating to all other matters are to be referred to the Local Government Inspectorate at <https://w.www.vic.gov.au/lgi.html> or 03 7017 8212.

20.19 Related Policies

Staff and Councillor Interaction Protocol

20.20 Related Legislation

Local Government Act 2020

20.21 References

Moira Shire Council

Employee Code of Conduct 2021

Councillor Code of Conduct 2022

Local Government Victoria

Reforms arising from the Local Government Amendment (Improved Governance) Act 2015 - A guide for councils

Governance Practice Note No. 5 – Election Caretaker Arrangements

21 DOCUMENT HISTORY

Version	Document History	Approved by/updated on website
1	New document	26 August 2020
2	Review	TBC

FILE NO: F20/205
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.1
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

GOVERNANCE RULES (cont'd)

ATTACHMENT No [1] - Governance Rules

www.moiravic.gov.au

Phone (03) 5871 9222 **NRS** 133 677

Email info@moiravic.gov.au

Mail PO Box 578, Cobram VIC3643

Main Administration Centre

44 Station Street, Cobram

Service Centre

100 Belmore Street, Yarrawonga



FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022

Recommendation

That Council:

1. Accepts the minutes of the Audit & Risk Committee meeting held on 21 July 2022; and
2. Endorse the recommendations contained within the reports.

1. Executive Summary

The Audit & Risk Committee (the Committee) is an independent advisory Committee to Council. The primary objective of the Committee is to assist Council in the effective conduct of its responsibilities for financial reporting, management of risks and maintaining a reliable system of internal controls.

In accordance with the Audit & Risk Committee Charter, the minutes of the Audit & Risk Committee held on 21 July 2022 are attached.

The following reports were considered by the committee:

- Claims Management and Insurance Renewal Report for 2021/22.
- WHS Status Report
- 2021/22 Asset Valuations – Report on Process
- Risk Register Report
- Fraud Risk Register Report
- Due Diligence Review – Summary of Recommendations
- Audit & Risk Committee Charter and Work Plan
- Internal Audit Program Status Update
- Major Projects/incidents and Legal Proceedings
- Audit & Risk Committee Annual Report
- Election of the Audit & Risk Committee Chair
- Internal Audit Report – Past Issues Review

The key recommendations from the Audit & Risk Committee is to refer these matters to Council for consideration and endorsement.

2. Conflict of interest declaration

There is no officer conflict of interest considerations.

3. Background & Context

The Committee is an independent advisory committee to Council. The primary objective of the Committee is to assist Council in the effective conduct of its responsibilities for financial reporting, management of risks, maintaining a reliable system of internal controls and facilitating the organization's ethical development.

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

As part of Council's governance obligations to its community, Council has constituted the Committee to facilitate:

- The enhancement of the credibility and objectivity of internal and external financial reporting;
- Effective management of financial and other risks and protection of Council assets;
- Compliance with laws and regulations as well as use of best practice guidelines;
- The effectiveness of the internal audit function;
- The provision of an effective means of communication between external auditors, internal audit management and the Council.

4. Issues

No issues were raised within the Audit & Risk Committee Meeting agenda.

5. Strategic Alignment

Council Plan

5. Transparent and accountable governance

6. Internal & External Engagement

Internal consultation was conducted with the Audit & Risk Committee and Senior Management.

External consultation was not required.

7. Budget / Financial Considerations

All financial implications are considered in the Council 2021/22 Budget.

8. Risk & Mitigation

Risk

Financial

Economic (regional context or
broader economic impact)

Environmental

Reputational

Legislative Compliance

Mitigation

All financial implications are considered in the Council 2022/23 Budget.

All Victorian Councils are required to have an Audit & Risk Committee.

There is no environmental impact with this report.

There is no reputational risk to consider within this report.

There are no implications within this report

9. Conclusion

That Council receive and accept the Audit & Risk Committee meeting minutes held on 21 July 2022 and endorse the recommendations contained within the reports.

Attachments

1 Audit & Risk Committee Meeting Minutes 21 July 2022

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022



MINUTES

AUDIT & RISK COMMITTEE MEETING HELD AT
COUNCILLOR BRIEFING ROOM
44 STATION STREET COBRAM VIC 3644,
THURSDAY 21 JULY 2022

The meeting commenced at 9.00AM

PRESENT

Fred Douglas (Chair)
Lisa Ford
Anthea Sloan
Cr Wayne Limbrick

IN ATTENDANCE:

Clare Keenan	Chief Executive Officer (left the meeting at 10.00 am and returned at 10.16 am)
Brant Doyle	Director Corporate Governance & Performance
Matt Jarvis	Chief Financial Officer
Nancy Mustica	Senior Governance Officer
Brad Ead	AFS Auditor
Marg Allan	Municipal Monitor

ACKNOWLEDGEMENT OF COUNTRY

The Moirā Shire Audit & Risk Committee, would like to acknowledge the traditional owners of the land upon which we meet and pay our respects to their Elders both past and present.

1. APOLOGIES

Cr Ed Cox

2. IN-CAMERA RESOLUTION

MOTION

CR WAYNE LIMBRICK / LISA FORD

That pursuant to the provisions of the Local Government Act 2020 (the Act), the meeting will now be closed to members of the public to enable the meeting to discuss matters pursuant to the provisions of Section 66 (2) of the Act resolve to be considered in closed session.

(CARRIED)

3. DECLARATION OF ANY CONFLICT OF INTEREST

NIL

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

**AUDIT & RISK COMMITTEE MEETING
THURSDAY 21 JULY 2022**

4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

MOTION:

LISA FORD / CR WAYNE LIMBRICK

"That the minutes of the Audit & Risk Committee Meeting held on Thursday, 12 May 2022, as prepared, be confirmed."

(CARRIED)

5. BUSINESS ARISING FROM PREVIOUS MEETING

Moir Shire Council Audit and Risk Committee Action Register

Item No.	Meeting Date	Description	Responsible Officer	Due Date	Revised Due Date	Status	Notes
6.2.4	12/05/2022	Council to investigate security of buildings using scramble locks instead of keys	Amanda Chadwick			In progress	
6.2.5	12/05/2022	Provide update Organisational chart to committee	Nancy Mustica			Completed	Uploaded to Airwatch
6.2.7	12/05/2022	Provide copy of draft Audit & Risk Committee Charter to Committee for review	Amanda Chadwick			Completed	Uploaded to Airwatch
GB	12/05/2022	AFS to provide VAGO report	Brad Ead			Completed	Uploaded to Airwatch
GB	12/05/2022	Include list of attendees in Audit & Risk Committee Minutes	Nancy Mustica			Completed	Minutes already include list of attendees

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

CHIEF FINANCIAL OFFICER
OFFICER REPORTS FOR DETERMINATION

AUDIT & RISK COMMITTEE MEETING
THURSDAY, 21 JULY 2022

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 6.1.1
(COMMERCIAL SERVICES COORDINATOR,
BRUCE BERG VON LINDHE)
(CHIEF FINANCE OFFICER, MATT JARVIS)

CLAIMS MANAGEMENT AND INSURANCE RENEWAL REPORT FOR 2021/22

Executive Summary

This report provides a summary of various aspects of Council's incidents and claims activity for the 2021/2022 Financial Year.

Council received 43 incident reports, which resulted in 23 liability claims and 20 'Report Only' notifications for 2021/22. There are currently 5 on going claims from previous years currently in litigation.

There has been 4 motor vehicle claims this year, 3 of which were at fault accidents and one not at fault accident which awaits reimbursement of the insurance excess.

Council has made 2 property claims this year. Both claims relate to the theft of tools and equipment; \$7,000 from the Cobram Landfill and \$10,000 from the Nathalia Depot.

MOTION

ANTHEA SLOAN / LISA FORD

That the Audit and Risk Committee;

1. note the claims management and insurance renewal report for the 2021/22 Financial Year; and
2. refer the report to Council for consideration.

(CARRIED)

**FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE**

**ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)**

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

**FILE NO: 0001.
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE**

**ITEM NO: 6.2.1
(WORKPLACE HEALTH & SAFETY
COORDINATOR, ANTHONY HICKS)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)**

WHS STATUS REPORT

Executive Summary

This report provides a summary of the WHS related incidents and activities for the June 2022 Quarter.

MOTION

CR WAYNE LIMBRICK / LISA FORD

That the Audit and Risk Committee note the Workplace Health and Safety (WHS) Status Report for the June 2022 quarter and refer the report to Council for Consideration.

(CARRIED)

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 6.2.2
(FINANCIAL ACCOUNTANT, ANDREW
WILSON)
(CHIEF FINANCE OFFICER MATT JARVIS)

2021/22 ASSET VALUATIONS - REPORT ON PROCESS

Executive Summary

The value of Council's non-current physical assets is a significant component of Council's overall financial position. This report addresses the year's Asset Valuation process in preparation for the final Asset Valuation report at the September 2022 Audit Committee meeting.

MOTION

ANTHEA SLOAN / LISA FORD

That the Audit Committee note the 2021/22 Asset Valuations - Report on process.

(CARRIED)

**FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE**

**ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)**

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

**FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE**

**ITEM NO: 6.2.3
(GOVERNANCE OFFICER, NATALIE EVANS)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)**

RISK REGISTER REPORT

Executive Summary

Council maintains a Risk Register to record and manage the risks faced by Council at the corporate level. Risks are identified through internal and external audits, insurance audits, self-audits and ongoing risk assessments which are conducted in consultation with responsible officers.

MOTION

CR WAYNE LIMBRICK / ANTHEA SLOAN

That the Audit and Risk Committee:

- note the Risk Register Report for the June 2022 Quarter; and
- refer the report to Council for consideration.

(CARRIED)

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 6.2.4
(GOVERNANCE OFFICER, NATALIE EVANS)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

FRAUD RISK REGISTER REPORT

Executive Summary

Council maintains a Fraud Risk Register for the purpose of recording and managing the risks faced by Council at the corporate level.

MOTION

LISA FORD / ANTHEA SLOAN

That the Audit and Risk Committee:

- note the Fraud Risk Register Report for the June 2022 Quarter; and
- refer the report to Council for consideration.

(CARRIED)

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 6.2.5
(MANAGER GOVERNANCE & RISK,
AMANDA CHADWICK)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE, BRANT DOYLE)

DUE DILIGENCE REVIEW - SUMMARY OF RECOMMENDATIONS

Executive Summary

Moirā Shire Council has recently pursued an opportunity to consider an alternative insurance arrangement offered by CivicRisk Mutual (CRM) - a Local Government Insurance Mutual owned by 24 NSW Councils.

As part of the process for CivicRisk Mutual to consider Council as a member, a Due Diligence review was conducted by a risk advisory company called InConsult. This report provided a number of recommendations to improve Councils risk profile. A copy of this report is provided as an attachment.

MOTION

CR WAYNE LIMBRICK / LISA FORD

That the Audit & Risk Committee note the recommendations provided in the Due Diligence Review conducted in May 2022.

(CARRIED)

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 6.2.6
(MANAGER GOVERNANCE & RISK,
AMANDA CHADWICK)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE, BRANT DOYLE)

AUDIT AND RISK COMMITTEE CHARTER AND WORK PLAN

Executive Summary

The Audit and Risk Committee Charter was adopted by Moira Shire Council on 27 May 2020 in accordance with the new requirements of the *Local Government Act 2020*.

A review was conducted in September 2020 to include additional reporting requirements and was adopted by Council on 25 November 2020.

This review has now been conducted to increase the number of external independent members and provide more clarity in the roles and responsibilities of the committee.

MOTION

CR WAYNE LIMBRICK / ANTHEA SLOAN

That the Audit & Risk Committee note the revised Charter and Work Plan.

(CARRIED)

**FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE**

**ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)**

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

**FILE NO: F
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE**

**ITEM NO: 6.2.7
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE, BRANT DOYLE)**

INTERNAL AUDIT PROGRAM STATUS UPDATE

Executive Summary

That the Audit & Risk Committee consider the Internal Audit Program Status Update.

MOTION

CR WAYNE LIMBRICK / LISA FORD

That the Audit & Risk Committee note the Internal Audit Program Status Update acknowledging the scope for the Budgeting topic.

(CARRIED)

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

CORPORATE GOVERNANCE AND
PERFORMANCE
OFFICER REPORTS FOR DETERMINATION

AUDIT & RISK COMMITTEE MEETING
THURSDAY, 21 JULY 2022

FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 6.2.8
(MANAGER GOVERNANCE AND
PERFORMANCE, AMANDA CHADWICK)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE, BRANT DOYLE)

MAJOR PROJECT/INCIDENTS AND LEGAL PROCEEDINGS

Executive Summary

This report provides a summary of key projects, which are new or unusual or have the potential to have a high level of interest or risk.

MOTION

LISA FORD / ANTHEA SLOAN

That the Audit and Risk Committee note the information provided regarding major projects, incidents and legal proceedings.

(CARRIED)

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

CORPORATE GOVERNANCE AND
PERFORMANCE
OFFICER REPORTS FOR DETERMINATION

AUDIT & RISK COMMITTEE MEETING
THURSDAY, 21 JULY 2022

FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 6.2.9
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE, BRANT DOYLE)

AUDIT AND RISK COMMITTEE ANNUAL REPORT

Executive Summary

The Moira Shire Council Audit and Risk Committee Charter requires the Committee to provide an annual report of the financial years' activities to Council. This report summarises the key activities of the Audit and Risk Committee during 2021/22.

A key objective of Council is to ensure effective corporate governance through the application of strong and appropriate policies, procedures and controls. To assist Council achieve this objective the Audit and Risk Committee's key role is to provide appropriate advice and recommendations to Council on matters relevant to the Audit and Risk Committee's Charter.

These matters include:

- the effectiveness of internal and external financial reporting;
- management of financial and other risks and the protection of Council assets;
- compliance with laws and regulations as well as use of Best Practice guidelines;
- the effectiveness of the internal audit function; and
- communication between the external auditor, internal audit, Management and the Council.

MOTION

LISA FORD / CR WAYNE LIMBRICK

That the Audit and Risk Committee;

- Note the Annual Report; and
- Refer the Annual Report to Council for endorsement.

(CARRIED)

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

CORPORATE GOVERNANCE AND
PERFORMANCE
OFFICER REPORTS FOR DETERMINATION

AUDIT & RISK COMMITTEE MEETING
THURSDAY, 21 JULY 2022

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 6.2.10
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE, BRANT DOYLE)

ELECTION OF THE AUDIT & RISK COMMITTEE CHAIR

Fred Douglas was appointed as chair to the Audit & Risk Committee on 29 July 2021 for a 12 month period.

A new chair is required to be appointed at this meeting and in accordance with the Audit & Risk Committee Charter it must be an external independent member.

Election of the Chair

The CEO Clare Keenan presided during the election of the chair.

The CEO called for nominations for chair of the Audit & Risk Committee.

Cr Wayne Limbrick nominated Anthea Sloan, Anthea accepted the nomination.

Lisa Ford nominated Fred Douglas, Fred accepted the nomination.

There being no further nominations, the CEO asked for a show of hands for Anthea Sloan.

Anthea Sloan received three votes.

As Anthea received a majority, the CEO declared Anthea Sloan elected as Chair for 12 months.

MOTION

CR WAYNE LIMBRICK / LISA FORD

That Anthea Sloan be appointed as chair of the Audit & Risk Committee for the next 12 months commencing from 22 July 2022.

(CARRIED)

FILE NO: F13/493
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.2
(SENIOR GOVERNANCE OFFICER,
NANCY MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

AUDIT & RISK COMMITTEE MEETING MINUTES 21 JULY 2022 (cont'd)

ATTACHMENT No [1] - Audit & Risk Committee Meeting Minutes 21 July 2022

GENERAL BUSINESS

AUDIT & RISK COMMITTEE MEETING
THURSDAY, 21 JULY 2022

FILE NO: VARIOUS

ITEM NO:

GENERAL BUSINESS

1. CEO Update
2. Quarterly Industry Update
3. Fred Douglas - Weed growth in the Bundalong Lagoon and the effect on Council to gather rate revenue.

MEETING CLOSE: 11.00AM

FILE NO: F13/858/005
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.3
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

PROPOSAL TO DISCONTINUE A SECTION OF ROAD RESERVE ALONGSIDE HAY AVENUE COBRAM

Recommendation

That Council:

1. Discontinue a parcel of road reserve alongside Hay Avenue Cobram; and
2. Authorise the Chief Executive Officer to sell the land to the adjoining landholder and to complete the associated contractual and administrative processes.

1. Executive Summary

This report requests Council's authorisation for the Chief Executive Officer to proceed with the proposal to:

- discontinue a parcel of road reserve alongside Hay Avenue Cobram, and
- sell a portion of land (triangle shaped parcel) to the adjoining land owner.

The legislated processes for council to discontinue a road and to sell public owned land requires council to seek community feedback on the proposal before making a decision to proceed or otherwise.

The community consultation process concluded on 22 July 2022 and Council did not receive any submissions on this proposal.

It is recommended Council proceed with this proposal to discontinue the road reserve and authorise the Chief Executive Officer to sell the land by private treaty to the adjoining landholder for the price determined by an independent valuation in accordance with section 114 of the Local Government Act 2020.

2. Conflict of interest declaration

There are no officer conflict of interest considerations.

3. Background & Context

On 17 April 2019 Council resolved to discontinue the road reserve alongside Hay Avenue Cobram following community consultation and authorised the Chief Executive Officer to sell the land to the adjoining landholder and to complete the associated contractual and administrative processes.

In order to finalise the consolidation of the parcel of land previously discontinued, it has come to our attention that the hatched parcel of land indicated in the map below remains a road reserve and also needs to be discontinued in order to realign the boundaries to create the triangle shaped parcel of land.

FILE NO: F13/858/005
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.3
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

**PROPOSAL TO DISCONTINUE A SECTION OF ROAD RESERVE ALONGSIDE HAY
AVENUE COBRAM (cont'd)**



Process

The process for council to discontinue a road is defined in section 12 of the Road Management Act 2004 and Schedule 10 Clause 3 of the Local Government Act 1989. This requires Council to seek community feedback (LGA s223) on the proposal before it makes a decision to proceed or otherwise.

The community feedback process concluded on 22 July 2022 and Council did not receive any submissions.

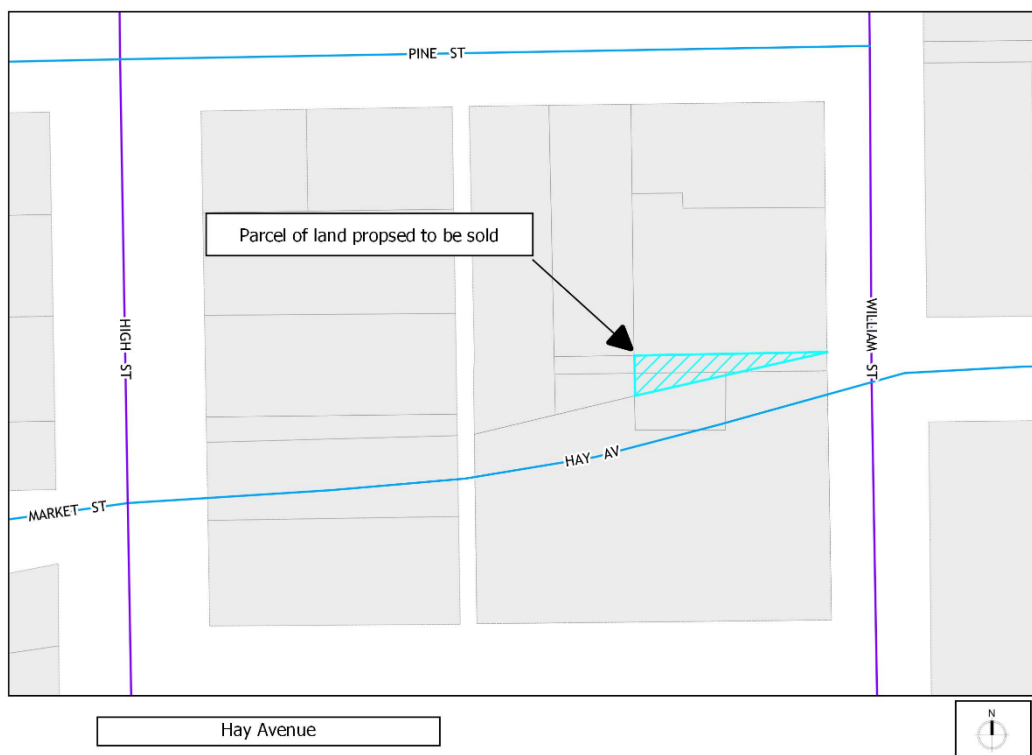
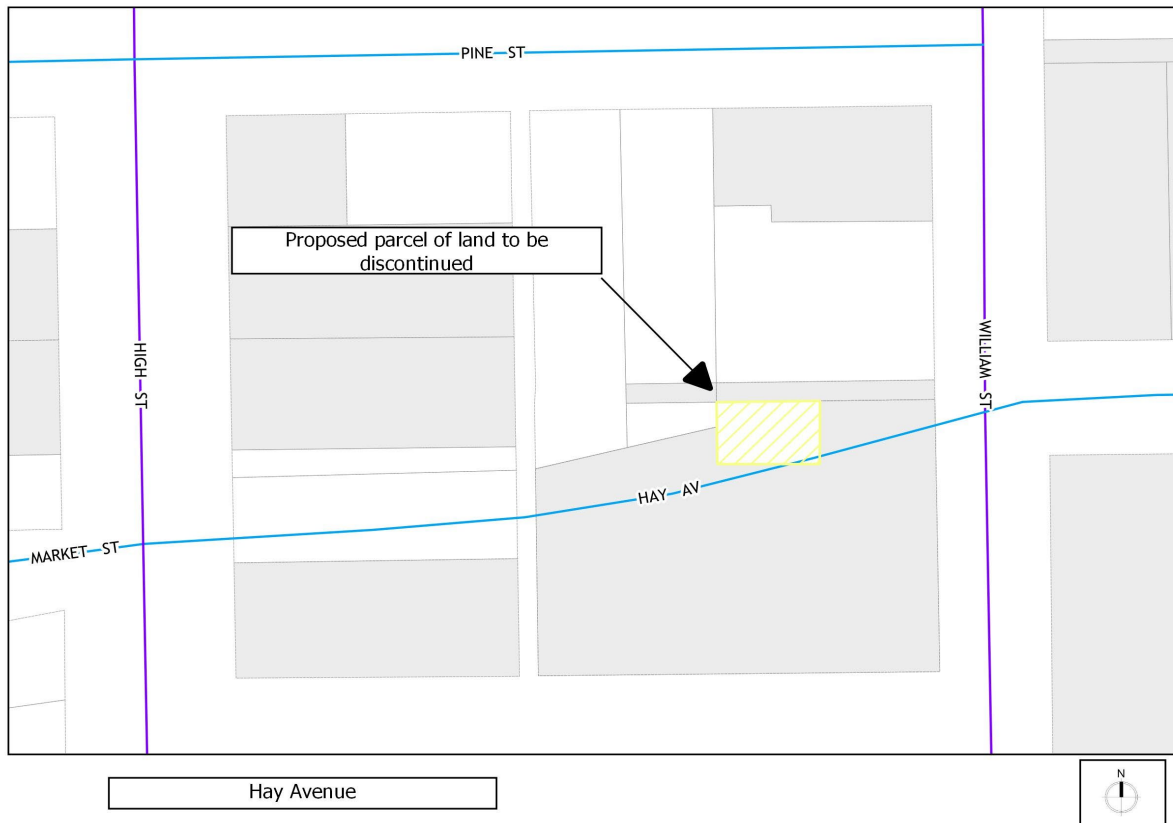
The process for council to sell public owned land is defined in section 114 of the Local Government Act 2020. It is recommended Council resolves to continue with the proposal and authorise the CEO to undertake the next steps to proceed with the sale that includes by not limited to the following:

- Discontinuing the parcel of road reserve (as marked by the yellow hatch in the map below)
- Realignment of boundaries to create a triangle shaped parcel of land (as marked by the blue hatch in the map below)
- Obtaining an independent valuation of the triangle shaped parcel of land no more than 6 months prior to the sale.
- The sale of the triangle shaped parcel of land by private treaty to the adjoining landowner to consolidate with the parcel of land to the north at 11-13 William Street.

FILE NO: F13/858/005
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.3
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

**PROPOSAL TO DISCONTINUE A SECTION OF ROAD RESERVE ALONGSIDE HAY
AVENUE COBRAM (cont'd)**



FILE NO: F13/858/005
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.3
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

**PROPOSAL TO DISCONTINUE A SECTION OF ROAD RESERVE ALONGSIDE HAY
AVENUE COBRAM (cont'd)**



4. Issues

This process would also allow council to address the legacy asset ownership and management issues associated with a road reserve that is not required for the purpose it was created.

5. Strategic Alignment

Council Plan

5. Transparent and accountable governance

6. Internal & External Engagement

Engagement		Feedback
Internal	Nil	
External	Initial consultation was conducted in 2019	No feedback was received

7. Budget / Financial Considerations

The land is not currently in use by council and the proposal will therefore have no impact on Council's delivery of services or financial obligations.

The transfer of ownership will result in the land becoming rateable.

FILE NO: F13/858/005
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.3
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

**PROPOSAL TO DISCONTINUE A SECTION OF ROAD RESERVE ALONGSIDE HAY
AVENUE COBRAM (cont'd)**

8. Risk & Mitigation

Risk	Mitigation
Financial	Costs will be recovered through sale process
Economic (regional context or broader economic impact)	Nil
Environmental	There are no environmental risks to consider
Reputational	The proposal will assist council by tidying up the legacy issues associated with the current property boundaries.
Legislative Compliance	Road Management Act 2004 Local Government Act 1989 Local Government Act 2020

9. Conclusion

It is recommended that Council resolves to discontinue the parcel of road reserve and authorise the Chief Executive Officer to sell the land to the adjoining landholder.

Attachments

Nil

FILE NO: F13/503
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.4
(SENIOR GOVERNANCE OFFICER,
MARGARET HINCK)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

ASSEMBLIES OF COUNCILLORS FOR JULY 2022

Recommendation

That Council receive and note the record of Assemblies of Councillors for July 2022.

1. Executive Summary

The purpose of this report is to detail the Assemblies of Councillors held in July 2022. These records provide transparency in councils decision making process, in line with Council's commitment to the principles for public transparency and Council's Public Transparency Policy.

2. Conflict of interest declaration

There are no council officer conflicts of interest issues to consider within this report.

3. Background & Context

This report provides details of Councillor Assemblies that have been held for the month of July 2022 and whether a conflict of interest disclosure was made by a Councillor.

An Assembly of Councillors can be defined as:

- A meeting of an advisory committee where at least one Councillor is present; or
- A meeting (other than a Council or delegated committee meeting), briefing or other activity where at least half of the Council and a member of Council staff is present; and
- Where the matters considered may be subject to a decision of Council or exercise of a function, duty or power of the Council that has been delegated to a person or committee.

No formal decisions can be made at an Assembly but rather discussion and questions on the issues that allow Councillors to be fully informed for the Council meeting.

FILE NO: F13/503
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.4
(SENIOR GOVERNANCE OFFICER,
MARGARET HINCK)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

ASSEMBLIES OF COUNCILLORS FOR JULY 2022 (cont'd)

4. Issues

Meeting	Present at meeting	Matters discussed	Declaration of Interest(s)
Council Briefing 13 July 2022	<p>Councillors: Libro Mustica Peter Lawless John Beitzel Julie Brooks Peter Elliott Judy Heather Wayne Limbrick Peter Mansfield</p> <p>Municipal Monitor: Marg Allan</p> <p>Staff: Chief Executive Officer, Clare Keenan Director Corporate, Governance and Performance, Brant Doyle Director Sustainable Communities, Sally Rice Manager Community Wellbeing Health & Culture, Georgia Hills Manager Parks, Recreation & Facilities, Mark Lambourn Executive Assistant to Mayor and Councillors Senior Governance Officer Community Facilities and Recreation Officer</p>	<p>Monitors Advice July 2022 – Actions to improve Governance</p> <p>Fencing Policy review</p> <p>Yarrowonga/Mulwala Cricket Club extension to user agreement</p> <p>Construction of Yarrowonga Multisport Stadium Stage 1 – contract discussion</p> <p>Governance Rules Review</p> <p>Gender Equality Plan – Action Plan update</p> <p>Community Strengthening Grants Program Review</p> <p>Living Moira 2035 – Moira Community Achievement Awards proposal to replace Moira Australia Day Awards</p> <p>Scheduled Council Meeting – 27 July 2022 Draft Agenda Review</p>	

FILE NO: F13/503
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.4
(SENIOR GOVERNANCE OFFICER,
MARGARET HINCK)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

ASSEMBLIES OF COUNCILLORS FOR JULY 2022 (cont'd)

Meeting	Present at meeting	Matters discussed	Declaration of Interest(s)
Moira Shire Homelessness Round Table 15 July 2022	Councillors: Peter Lawless Julie Brooks Peter Elliott Judy Heather Wayne Limbrick Staff: Director Sustainable Communities, Sally Rice Manager Community Wellbeing, Health and Culture, Georgia Hills	Round table discussion on homelessness situation in Moira Shire	
ESAC Meeting 27 July 2022	Councillor: Wayne Limbrick Staff: Manager Sustainability, Scott Draper Environment Sustainability Officer Recycling & Waste Project Officer Environmental Services Technical Officer	Business arising Corporate Emissions Plan – workshop to update Councils CERP Rationalisation of transfer stations Regional Water Strategy update EV charging station project - Federation Park Cobram Emissions Reduction Plan development	

FILE NO: F13/503
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.4
(SENIOR GOVERNANCE OFFICER,
MARGARET HINCK)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

ASSEMBLIES OF COUNCILLORS FOR JULY 2022 (cont'd)

<p>Council Briefing 27 July 2022</p>	<p>Councillors: Libro Mustica Peter Lawless John Beitzel Julie Brooks Peter Elliott Judy Heather Wayne Limbrick Peter Mansfield</p> <p>Municipal Monitor: Marg Allan PSM</p> <p>Staff: Chief Executive Officer, Clare Keenan Director Corporate, Governance and Performance Brant Doyle Director Infrastructure Services, Joshua Lewis Chief Financial Officer, Matt Jarvis Manager Governance and Performance, Amanda Chadwick Senior Governance Officer Executive Assistant to the Mayor & Councillors</p>	<p>Agenda Review - Scheduled Council Meeting 27 July 2022</p>	<p>Chief Executive Officer Agenda Review Item 18.2 CEO Employment and Remuneration Advisory Committee meeting minutes</p>
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FILE NO: F13/503
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.2.4
(SENIOR GOVERNANCE OFFICER,
MARGARET HINCK)
(DIRECTOR CORPORATE GOVERNANCE
AND PERFORMANCE BRANT DOYLE)

ASSEMBLIES OF COUNCILLORS FOR JULY 2022 (cont'd)

5. Strategic Alignment

Council Plan Objective 5. Transparent and Accountable Governance.

6. Internal & External Engagement

The Executive Assistant, Mayor & Councillors was consulted in preparation of this report.

7. Budget / Financial Considerations

There are no financial implications to consider with this report.

8. Risk & Mitigation

Preparing Assemblies of Councillors provides transparency in Council's decision-making process.

9. Conclusion

The details of the Assemblies of Councillors incorporated into this report are a true and accurate record of all Assemblies of Councillors reported during July 2022.

Attachments

Nil

FILE NO: XXX
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.3.1
(COORDINATOR PLANNING, TRAVIS
BASHAM)
(DIRECTOR INFRASTRUCTURE SERVICES,
JOSHUA LEWIS)

BUILDING SETBACK POLICY REVIEW

Recommendation

That Council revoke the attached Building Setback Policy.

1. Executive Summary

The Building Setback Policy was last adopted in February 2017. The policy was adopted to determine appropriate building setbacks when none are specified in the Moira Planning Scheme and to ensure that development on Industrial and Commercial zoned land has regard to streetscape and general characteristics of the area.

A review of this policy has determined that it is no longer required as there are provisions under the zones and overlay schedules in the Moira Planning Scheme to address streetscape and neighbourhood character matters as appropriate.

2. Conflict of interest declaration

There are no officer conflict of interest considerations associated with this report.

3. Background & Context

The Building Setback Policy was first adopted by Council in March 2002 and was last reviewed and adopted in February 2017.

The policy was originally adopted to determine appropriate building setbacks when none are specified in the Moira Planning Scheme and to ensure that development on Industrial and Commercial zoned land has regard to streetscape and general characteristics of the area.

Commercial Zones include requirements for applications to address both the site and its context. In assessing an application Council is required to consider, among other matters, the streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.

Industrial Zones are similar and require a consideration of any natural or cultural values on or near the land, streetscape character, built form, landscape treatment, and the interface with non-industrial areas.

In addition to the above, in some areas Overlays such as the Heritage Overlay or Development Plan Overlay may apply and heighten the consideration of interface matters or, in the case of a Development Plan Overlay, apply specific setback requirements where they are warranted.

The Planning Scheme is performance based and generally does not adopt a rigid list of setbacks unless there is an identified need to do so. In light of the operation of the Planning Scheme, the policy has the potential to create confusion and uncertainty, particularly if it is rigidly adhered to out of context.

FILE NO: XXX
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.3.1
(COORDINATOR PLANNING, TRAVIS
BASHAM)
(DIRECTOR INFRASTRUCTURE SERVICES,
JOSHUA LEWIS)

BUILDING SETBACK POLICY REVIEW (cont'd)

In addition to the above, sitting outside of the Planning Scheme, the policy would have very little weight if reliance on it was to be challenged.

The policy has come due for review and it is therefore recommended that it be revoked.

4. Strategic Alignment

Revoking a policy that is no longer required supports the Council Plan Strategy of Transparent and Accountable Governance.

5. Internal & External Engagement

The recommendation to revoke this policy has been noted by the Executive Leadership Team.

6. Budget / Financial Considerations

There are no financial implications associated with this report.

7. Risk & Mitigation

As the policy sits outside the Planning Scheme, reliance on the policy in decision making creates a risk that decisions may be made having regard to irrelevant information (in planning terms). Matters sought to be addressed by the policy (streetscape and character) are adequately covered by the Planning Scheme and there is therefore no risk associated with the revocation of this policy.

8. Conclusion

It is recommended that Council revoke the attached Building Setback Policy.

Attachments

- 1 Building Setback Policy - adopted February 2017

FILE NO: XXX
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.3.1
(COORDINATOR PLANNING, TRAVIS
BASHAM)
(DIRECTOR INFRASTRUCTURE
SERVICES, JOSHUA LEWIS)

BUILDING SETBACK POLICY REVIEW (cont'd)

ATTACHMENT No [1] - Building Setback Policy - adopted February 2017



Building Setback Policy

Policy type	Council
Adopted by	Moir Shire Council
Responsible GM	General Manager Infrastructure
Responsible officer	Manager Planning and Building
Date adopted	22 February 2017
Scheduled for review	22 February 2022

PURPOSE

To provide guidance to determine an appropriate building setback where none is specified in the Moir Planning Scheme; and

To ensure development is appropriately located upon land, having regard to the streetscape and general characteristics of the area.

SCOPE

This policy applies to all planning applications for development considered by Moir Shire Council.

POLICY

Determination of a building setback for a planning permit in the following zones will be based upon building setback distances specified in Table 1, taking into consideration:

- The setback of existing development and the amenity of the area; and
- Where existing and adjacent development is located at a lesser setback, consideration may be given to varying the distances.

Table 1 – Building Setbacks

Zone	Road Zone Category 1	Frontage to any other Road	Side setback from any other Road	Adjoining Properties
Low Density Residential	30m	15m	10m	5m
Industrial 1	30m	10m	5m	Not applicable
Industrial 2	30m	10m	5m	Not applicable
Industrial 3	30m	10m	5m	Not applicable
Commercial 2	30m	10m	5m	Not applicable

Moir Shire Council
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100 Belmore Street, Yarrawonga

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FILE NO: XXX
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.3.1
(COORDINATOR PLANNING, TRAVIS
BASHAM)
(DIRECTOR INFRASTRUCTURE
SERVICES, JOSHUA LEWIS)

BUILDING SETBACK POLICY REVIEW (cont'd)

ATTACHMENT No [1] - Building Setback Policy - adopted February 2017



Building Setback Policy

RELATED LEGISLATION

Planning and Environment Act 1987
Planning and Environment Regulations 2005
Building Act 1993
Building Regulations 2006

REFERENCES

Moirá Planning Scheme
Policy Development Guidelines

REVIEW

This policy will be reviewed five years from the date of adoption, with operational amendments as required, in accordance with Council's approval.

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FILE NO: F20/539
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.3.2
(COORDINATOR PLANNING, TRAVIS
BASHAM)
(DIRECTOR INFRASTRUCTURE SERVICES,
JOSHUA LEWIS)

MOIRA PLANNING SCHEME AMENDMENT C93

Recommendation

That Council:

1. Advise the Independent Planning Panel that part of the amendment which seeks to rezone land in Numurkah from Farming Zone to Industrial 1 Zone and from Industrial 1 Zone to Farming Zone should not proceed.
2. Refer the late submission, and any others received in relation to the rezoning between now and the Panel Hearing, to the Independent Planning Panel.

1. Executive Summary

At its Scheduled Meeting of the 16th December 2020, Council resolved to prepare and exhibit Planning Scheme Amendment C93 to the Moira Planning Scheme.

Amendment C93 is broad reaching and seeks to fulfil Council's obligation to maintain the relevance of the Moira Planning Scheme. It does this by looking to implement the outcomes from volumes of strategic work previously undertaken and adopted by Council over the last 5 years.

In addition to the broad strategic updates proposed, Amendment C93 also includes a component that seeks to rezone land at Numurkah.

Ministerial Authorisation to prepare and exhibit the amendment, was granted on the 30th April 2021.

The Amendment was placed on public exhibition from the 9th September 2021 to the 8th October 2021.

A total of thirteen submissions were received. Six from members of the public and seven from referral authorities. All submissions were referred to Council and Council resolved to request the Minister for Planning to appoint an Independent Planning Panel to consider all submissions at its Ordinary Meeting of the 17th December 2021.

On the 16th March 2022 the Minister for Planning appointed a two-person Panel to hear and consider submissions in respect of Amendment C93.

The Panel Hearing is scheduled for the 30th August 2022.

In preparation for the Panel Hearing Officers have discovered that exhibition of the Amendment did not occur properly and in accordance with the provisions of the Planning and Environment Act 1987. An error has occurred in that some properties affected by the proposed rezoning in Numurkah were not advised that the amendment affected their land.

Consequently it is recommended that Council advise the Panel that part of the amendment which seeks to rezone land in Numurkah from Farming Zone to Industrial 1 Zone and from Industrial 1 Zone to Farming Zone should not proceed.

FILE NO: F20/539
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.3.2
(COORDINATOR PLANNING, TRAVIS
BASHAM)
(DIRECTOR INFRASTRUCTURE SERVICES,
JOSHUA LEWIS)

MOIRA PLANNING SCHEME AMENDMENT C93 (cont'd)

The rest of the amendment should continue as it:

- Is soundly based.
- Responds to Council's obligation to ensure its strategy plans are current.
- Represents significant expenditure by Council and the State Government associated with Consultants Reports and large amounts of Officers time.

2. Conflict of interest declaration

In accordance with section 130(2) of the Local Government Act 2020, the officers below declare that they have no interests to disclose:

- Coordinator Planning - Travis Basham
- Director Infrastructure Services - Joshua Lewis

3. Background & Context

The purpose of Amendment C93 is to make changes to the Moira Planning Scheme in accordance with recommendations of the adopted *'Major Town's Strategy Plan Review, 2018'* and the *'Yarrawonga Framework Plan, 2020'*.

The amendment will effectively alter the Planning Scheme to reflect previous strategic planning work that has been completed and include relevant background documents as part of the Planning Scheme.

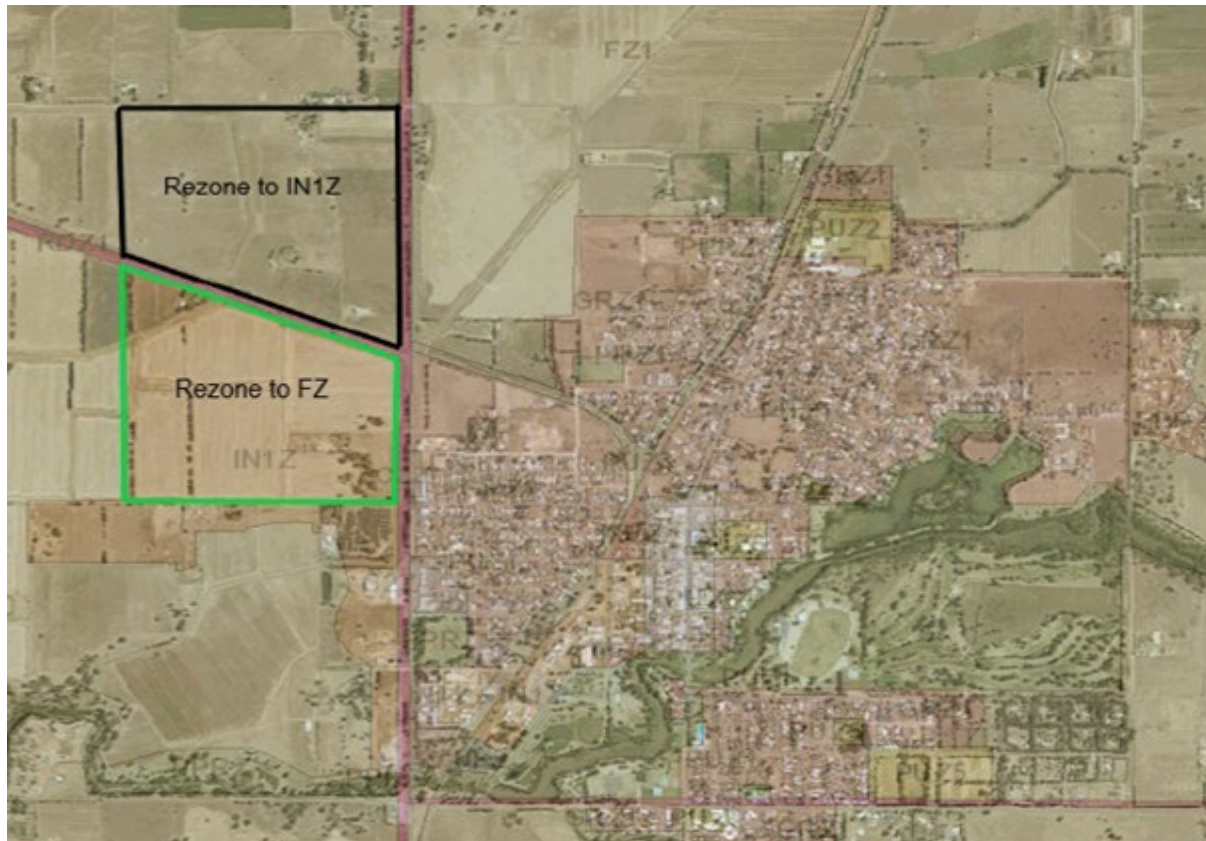
These aspects of the amendment are broad reaching and exhibition of the amendment in respect of these changes was carried out appropriately and in accordance with Section 19 of the Planning and Environment Act 1987 (the Act).

A component of the Amendment however, also seeks to rezone land in Numurkah from Farming Zone to Industrial 1 Zone and from Industrial 1 Zone to Farming Zone, as reflected in the image below. This report is focused on the "rezoning" aspect of the amendment.

FILE NO: F20/539
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 11.3.2
(COORDINATOR PLANNING, TRAVIS
BASHAM)
(DIRECTOR INFRASTRUCTURE SERVICES,
JOSHUA LEWIS)

MOIRA PLANNING SCHEME AMENDMENT C93 (cont'd)



4. Issues

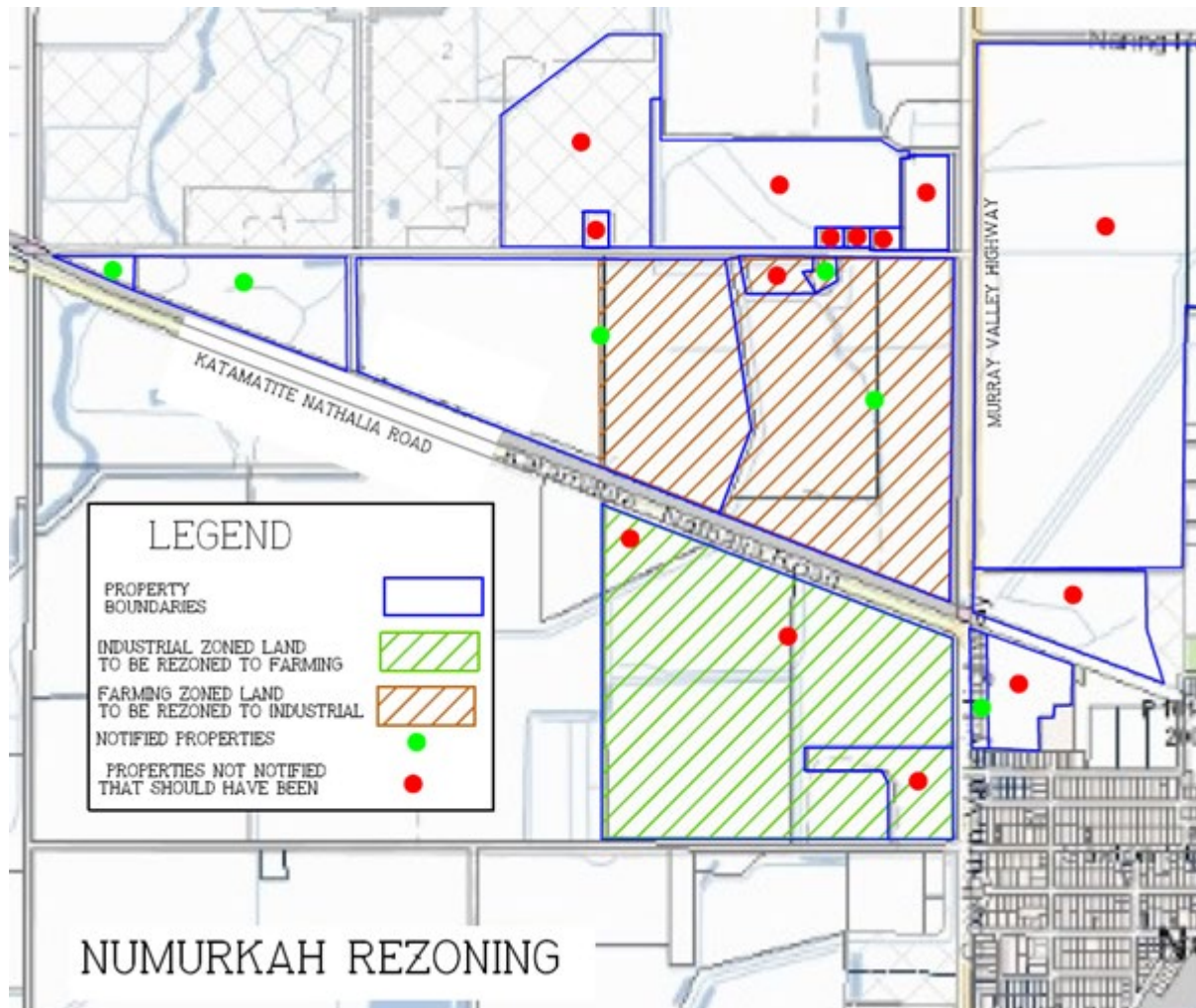
Given the direct impacts the rezoning has on properties, notice of the amendment should have been given to the owners and occupiers of the land within and adjacent to the areas proposed to be rezoned.

It has come to light over the last week however, that some of these properties did not receive a direct notice. The image below indicates properties that received notice as well as those that should have been directly notified, but were not.

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While some of the owners within the affected area may have been aware of the amendment, through the broader notice given or word of mouth (as evidenced by at least one submission received), it cannot be shown that proper and appropriate notice of the rezoning was given.

Section 19(5) of the Act provides that the failure of a planning authority to give a notice does not prevent the adoption or approval of the amendment by the planning authority or its submission to or approval by the Minister.

Given the nature of the proposed rezoning and the impacts it would have on affected properties however, it is considered that Council has a moral and ethical responsibility to not proceed with the rezoning, regardless of its merits or strategic justification.

On this basis alone, it is recommended that Council abandon the rezoning part of the Amendment. This would not prevent the rezoning be revisited at a later time with the correct notification procedures being followed.

At the time of writing, it is noted that two submissions have been received regarding the rezoning. One was considered by Council at its Ordinary Meeting of the 17th December 2021 and has been referred to Panel.

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MOIRA PLANNING SCHEME AMENDMENT C93 (cont'd)

Another late submission has been received (Attachment 1) and it is possible that additional submissions may now be received as owners become aware of the amendment.

Section 22(2) of the Act provides that the planning authority may consider a late submission. Given the circumstances surrounding the submission, it is considered appropriate that Council consider it.

The explanatory report for the Amendment indicates that the rezoning is premised on a perception of land banking identified in the *Major Towns Strategy Plan Review (Yarrawonga, Cobram, Numurkah and Nathalia) 2018*.

The explanatory report states that *“another suitable site for industrial land has been identified that could bring forward the sequencing of zoning of the land that had previously been identified for medium-term industrial into the short-term. The parcels identified are of a similar size and in a similar location and so in terms of strategic merit it is considered that the parcels are a direct swap.”*

The submission at Attachment 1 indicates a propensity for the land to be developed for industrial purposes.

It is also worth noting that the other major property owner within the industrial area also objects to the back zoning of the industrial land to Farming zone. It is also apparent that the rezoning is not simply a case of being a “direct swap”.

The effect of the rezoning would be to create a hole in the industrial area of Numurkah between existing industrial land south of the proposed Farming Zone area and north of it. While this might be a medium to long term gap, it is also apparent that this has not been addressed by the Amendment through application of additional measures such as policy or the Development Plan Overlay, to assist in coordinating development across the area.

Section 23(1) of the Act provides that after considering a submission which requests a change to the amendment, the planning authority must:

- (a) change the amendment in the manner requested; or
- (b) refer the submission to a panel appointed under Part 8; or
- (c) abandon the amendment or part of the amendment.

Given that Council has previously resolved to refer submissions to the Panel in this instance, it is recommended that Council resolves to advise the Panel that the rezoning part of the Amendment should not proceed.

5. Process for abandoning an amendment when submissions referred to a Panel

Planning Panels advise that if a planning authority has referred submissions about an amendment to a Panel, that decision cannot be rescinded, even if the planning authority subsequently decides to no longer pursue the amendment. Once submissions are referred to a Panel, the Planning and Environment Act 1987 makes it mandatory for the Panel to:

- consider all submissions referred to it
- give people a reasonable opportunity to be heard
- report its findings to the planning authority.

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MOIRA PLANNING SCHEME AMENDMENT C93 (cont'd)

Planning Panels are of the opinion that *“a planning authority cannot abandon part of the amendment once submissions have been referred to the Panel. However, Council can resolve and submit to the Panel at the Hearing that part of the Amendment should not proceed.”*

On this basis the Panel proposes to convene a further directions hearing on Thursday 25th August, to confirm the outcome of the Council meeting and any parties to be joined to the Hearing and agree on a way forward for the hearing.

It is therefore recommended that the late submission, and any others received in relation to the rezoning between now and the Panel Hearing, be referred to the Panel.

6. Strategic Alignment

Despite it being the 11th hour in respect of the upcoming Planning Panel, responding to the failure to properly and adequately notify affected persons of the rezoning part of Amendment C93 by abandoning it, accords with the values enshrined in the Council Plan 2021-2025 in relation to ethical leadership, accountability and integrity.

This includes identified actions that:

- Our decisions will be evidence-based, financially viable, and for the longer term.
- We will be transparent, inclusive, responsive and accessible when engaging with the community.
- We will strive to provide a safe, compliant, and well-planned built environment based on a sound strategic platform.

7. Internal & External Engagement

The matter of the failure to adequately consult regarding part of the Amendment has only recently been brought to light and no further consultation has occurred.

8. Budget / Financial Considerations

The implications of abandoning the rezoning part of the Amendment, do not change the costs associated with the Planning Panel which are paid for by Council.

9. Risk & Mitigation

Having become aware that inadequate notice of the rezoning part of the Amendment was given and the impacts that this would have on properties, it is considered that the responsible action to be taken by Council as the Planning Authority for Amendment C93 is to abandon that part of the Amendment.

The remainder of the Amendment does not suffer from the same procedural failure. Adequate notice of the broader changes to the Planning Scheme has been given. These broader changes are in accordance with recommendations of the adopted *‘Major Town’s Strategy Plan Review, 2018’* and the *‘Yarrawonga Framework Plan, 2020’*. These bodies of work pulled together and reviewed multiple strategies and point the way forward for land use and development in Moira Shire.

The adopted strategies are sound bodies of strategic work that were also subject to consultation. The fact that their proposed implementation in the Moira Planning Scheme via

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MOIRA PLANNING SCHEME AMENDMENT C93 (cont'd)

Amendment C93 has attracted relatively few submissions, tends to indicate broad community support for the strategies.

It is also noted that assistance has previously been provided by the Victorian Planning Authority and the Department of Environment, Land, Water and Planning in the preparation of the strategies underpinning the Amendment or the Amendment itself which creates somewhat of an obligation to finalise these projects by implementing them through Amendment C93.

The preparation of Amendment C93 and associated strategic documents involves a most significant amount of expenditure both in direct financial terms as well as Councillor and officers time.

It is therefore considered appropriate that Council maintain its position in relation to the remainder of the Amendment pending the outcomes of the independent review by the Planning Panel on the 30th August 2022.

10. Conclusion

It has been discovered that exhibition of the Amendment did not occur properly and in accordance with the Act. An error has occurred in that the owners and occupiers of some properties affected by the proposed rezoning in Numurkah were not directly advised that the amendment affected their land.

Consequently it is recommended that Council abandon that part of the amendment which seeks to rezone land in Numurkah from Farming Zone to Industrial 1 Zone and from Industrial 1 Zone to Farming Zone.

It is also recommended that the rest of the amendment continue as it is soundly based and helps respond to Council's obligation to ensure its strategy plans are current.

Attachments

- 1 Late Submission - *printed in separate document*

FILE NO: VARIOUS

ITEM NO: 17

URGENT BUSINESS**6.4. Urgent business**

(1) If the Agenda for a Meeting makes provision for urgent business, business cannot be admitted as Urgent Business other than by resolution of Council and only then if:

- (a) It relates to or arises out of a matter which has arisen since distribution of the Agenda; and
- (b) deferring the item until the next Meeting will mean a decision on the item will not have any effect on the matter; or
- (c) the item involves a matter of urgency as determined by the Chief Executive Officer; and
- (d) it cannot be addressed through an operational service request process.
- (e) the matter does not:
 - substantially affect the levels of Council service;
 - commit Council to significant expenditure not included in the adopted budget;
 - establish or amend Council Policy; or
 - commit Council to any contractual arrangement.

(2) A Councillor proposing a matter be admitted as urgent business must lodge it in writing to the Chief Executive Officer four (4) hours prior to the Meeting.

(3) The Chief Executive Officer will advise the Mayor of any matter he or she determines appropriate for Council to consider admitting as urgent business.