

Governance Rules



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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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

- (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.

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.

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.

- 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.

- 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.

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.

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.

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.

- 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.

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.

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 <i>Chairperson</i> ; 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

Motion	Form	Mover/ Second	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

Motion	Form	Mover/ Seconder	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 <i>is 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

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

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.

- 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.

- 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

- (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 has 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.

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

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.

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.

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.

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.

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

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>

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.

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.

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

- 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:

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:

Moira Shire Council

<http://www.moira.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.yarrawongamulwala.com.au/> *

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

* 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.

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.

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.

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

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

Moir 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

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