
WYNDHAM CITY COUNCIL GOVERNANCE RULES



INTRODUCTION

1. Nature of Rules

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

2. Date of Commencement

These Governance Rules commence on the day following the day on which they are adopted by Council. They replace the Governance Rules adopted by Council at its meeting on 26 April 2022.

3. Contents

These Governance Rules are divided into the following Chapters:

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

4. Definitions

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

Act means the *Local Government Act 2020*.

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

Chief Executive Officer includes an Acting Chief Executive Officer.

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

Council means Wyndham City Council.

Council meeting has the same meaning as in the Act.

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

Mayor means the Mayor of Council.

these Rules means these Governance Rules.

GOVERNANCE FRAMEWORK

CHAPTER ONE

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*:
 - Election Period Policy
 - Conflict of Interest Policy
 - Audio-Visual Recording of Council Meetings Policy 2017
 - Wyndham 2040 Vision
 - Wyndham City Plan 2013-2017
 - Community Engagement Framework and Model 2013-17
 - Corporate Recording of Council Meetings Policy 2014

2. Decision Making

- (a) In any matter in which a decision must be made by *Council* (including persons acting with the delegated authority of *Council*), *Council* must consider the matter and make a decision:
 - (i) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
 - (ii) on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- (b) *Council* must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of *Council* is entitled to communicate their views and have their interests considered).
- (c) Without limiting anything in paragraph (b) of this sub-Rule:
 - (iii) before making a decision that will directly affect the rights of a person, *Council* (including any person acting with the delegated authority of *Council*) must identify the person or persons whose rights will be directly affected, give notice of the decision which *Council* must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made;
 - (iv) 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;
 - (v) 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

GOVERNANCE FRAMEWORK

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



MEETING PROCEDURE FOR COUNCIL MEETINGS

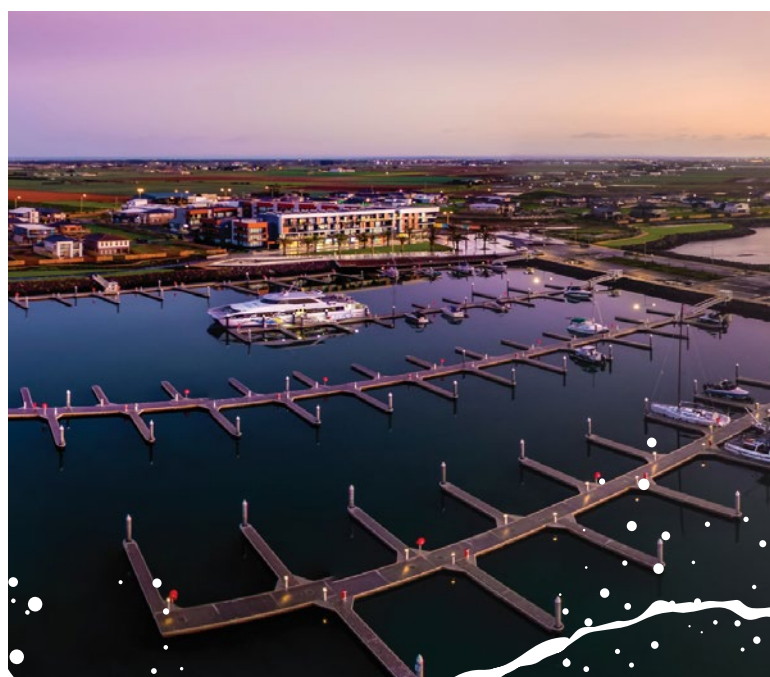
CHAPTER TWO

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PART A – INTRODUCTION

PART A – INTRODUCTION

1. Title

This Chapter will be known as the “Meeting Procedure Chapter”.

2. Purpose of this Chapter

The purpose of this Chapter is to provide for the:

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

3. Definitions and Notes

3.1 In this Chapter:

“*agenda*” means the notice of a meeting setting out the business to be transacted at the meeting;

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

“*minute book*” means the collective record of proceedings of *Council*;

“*municipal district*” means the municipal district of *Council*;

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

“*notice of rescission*” means a *notice of motion* to rescind a resolution made by *Council*; and

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

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

PART B – ELECTION OF MAYOR

PART B – ELECTION OF MAYOR

Introduction:

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

4. Election of the Mayor

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

5. Method of Voting

The election of the *Mayor* must be carried out by a show of hands or such other visual or audible means as the *Chief Executive Officer* determines.

6. Determining the election of the Mayor

6.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected and invite nomination for the office of *Mayor*.

6.2 Any nominations for the office of *Mayor* must be:

6.2.1 in a form prescribed by the *Chief Executive Officer*; and

6.2.2 seconded by another Councillor.

6.2.3 accepted by the nominated Councillor.

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

Single Nomination

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

Multiple Nominations and Candidate Elected On First Vote

6.5 if there is more than one nomination, the Councillors *attending* at the meeting must vote for one of the candidates.

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

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

6.7 In the event that;

6.7.1 there are three or more candidates;

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

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

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

PART B – ELECTION OF MAYOR

- 6.8** If one of the remaining candidates receives the votes of an absolute majority of Councillors that candidate is duly elected. If none of the remaining candidates receives the votes of an absolute majority of Councillors and it is not resolved to conduct a new election at a later day and time, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives the votes of an absolute majority of Councillors. That candidate must then be declared to have been duly elected.
- 6.9** For the purposes of sub-Rules 6.7 and 6.8 if no candidate can be determined to have the fewest number of votes due to two or more candidates having an equality of votes then the candidate who is to be declared a defeated candidate will be determined by lot.
- 6.10** If a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:
- 6.10.1** each candidate who has an equal number of votes with another candidate or candidates will draw one lot;
 - 6.10.2** the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
 - 6.10.3** as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates until one of those candidates received the votes of an absolute majority of Councillors).
- Two Nominations or Two Remaining Candidates and No Candidate Obtaining An Absolute Majority on First Vote*
- 6.11** In the event of two candidates being nominated or remaining, and neither candidate receiving the votes of an absolute majority of Councillors, the Councillors *in attendance* at the meeting will consider whether to resolve to conduct a new election at a later date and time.

PART B – ELECTION OF MAYOR

6.12 If:

6.12.1 it is resolved to conduct a new election at a later date and time a new election will take place at on the date and at the time resolved upon. In that event the provisions of this Rule 6 will continue to govern the election of the Mayor, and ultimately any candidate whose nomination is the sole nomination or any candidate who receives the votes of an absolute majority of Councillors will be declared duly elected; and

6.12.2 it is not resolved to conduct a new election at a later date and time Councillors must continue to vote until one of the candidates receives the votes of an absolute majority of Councillors, at which point that candidate will be declared duly elected. If, after two or more further votes are taken neither candidate receives the votes of an absolute majority of Councillors, the provisions of sub-Rule 6.11 and this sub-Rule 6.12 must again be followed.

7. Mayoral Ceremonial Speech

7.1 Upon being elected, the *Mayor* may make a ceremonial speech.

7.2 The purpose of the ceremonial speech is to outline priorities for the year ahead based on the adopted *Council Plan*.

7.3 The ceremonial speech must not exceed five (5) minutes.

8. Mayor to Take the Chair

8.1 After the election of the *Mayor*, the *Mayor* must take the chair in accordance with section 18 of the *Act*.

9. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for:

9.1 any office of Deputy Mayor; or

9.2 Chair of a *Delegated Committee*

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

9.3 *Chief Executive Officer* is a reference to the *Mayor*; and

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

10. Appointment of Acting Mayor

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

10.1 resolving that a specified Councillor be so appointed; or

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

at its discretion.

PART C – MEETINGS PROCEDURE

DIVISION 1 – NOTICES OF MEETINGS AND DELIVERY OF AGENDAS

PART C – MEETINGS PROCEDURE

Introduction:

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

DIVISION 1 – NOTICES OF MEETINGS AND DELIVERY OF AGENDAS

11. Dates and Times of Meetings Fixed by Council

Subject to Rule 13, Council must from time to time fix the date, time and place of all Council meetings.

12. Council May Alter Meeting Dates

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

13. Meetings Not Fixed by Council (Unscheduled or Special Meetings)

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

14. Notice Of Meeting

- 14.1 A notice of 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 48 hours before the meeting.
- 14.2 Notwithstanding sub-Rule 14.1, a notice of meeting need not be sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting during the period of their absence.
- 14.3 Reasonable notice of each Council meeting must be provided to the public. Council may do this:
 - 14.3.1 for meetings which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in a newspaper generally circulating in the municipal district either at various times throughout the year, or prior to each such Council meeting; and
 - 14.3.2 for any meeting by giving notice on its website and social media accounts and in each of its Customer Service Centres.

DIVISION 2 – QUORUMS

DIVISION 2 – QUORUMS

Definition:

Specified in s 61(4) of the *Local Government Act 2020* as ‘an absolute majority’, which is in turn defined in s 61(7) as ‘the number of Councillors which is greater than half the total number of Councillors’.

15. Inability To Obtain A Quorum

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

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

16. Inability To Maintain A Quorum

- 16.1 If during any *Council meeting*, a quorum cannot be maintained then Rule 15 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 16.2 Sub-Rule 16.1 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.
- 16.3 If, during a *Council meeting*, it appears as though a quorum will not be maintained *Council* must consider whether the decision can be made by dealing with the matter in an alternative manner. An alternative manner may include resolving to split a matter into two or more separate parts, so that a quorum can be maintained for at least one part.

17. Adjourned Meetings

- 17.1 *Council* may adjourn any meeting to another date or time but cannot in the absence of disorder or a threat to the safety of any Councillor or member of Council staff adjourn a meeting in session to another place.
- 17.2 The *Chief Executive Officer* must give *written* notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 17.3 If it is impracticable for the notice given under sub-Rule 17.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.
- 17.4 Details of the adjourned meeting will be published on Council’s website as soon as practicable.

18. Time limits for Meetings

- 18.1 A *Council meeting* must not continue after 10.30pm unless a majority of Councillors who are *in attendance* vote in favour of it continuing.
- 18.2 A meeting cannot be continued for more than 30 minutes (or a further 30 minutes, if a majority of Councillors has already voted to continue it for 30 minutes).
- 18.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of sub Rules 17.2 and 17.3 apply.

19. Cancellation or Postponement of a Meeting

- 19.1** The *Chief Executive Officer* may, in the case of an emergency necessitating the cancellation or postponement of a *Council meeting*, cancel or postpone a *Council meeting*.
- 19.2** The *Chief Executive Officer* must present to the immediately following *Council meeting* a written report on any exercise of the power conferred by sub-Rule 19.1.

DIVISION 3 – BUSINESS OF MEETINGS

DIVISION 3 – BUSINESS OF MEETINGS

20. Agenda and the Order Of Business

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

21. Change To Order Of Business

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

22. Urgent Business

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

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

DIVISION 4 – MOTIONS AND DEBATE

DIVISION 4 – MOTIONS AND DEBATE

23. Councillors May Propose *Notices Of Motion*

Councillors may ensure that an issue is listed on an *agenda* by lodging a *notice of motion*.

24. Notice Of Motion

- 24.1** A *notice of motion* must be in *writing* signed by a Councillor, and be lodged with or sent to the *Chief Executive Officer* prior to 9pm on the fifth business day before the *Council meeting* at which the Councillor wants the *notice of motion* to be considered. This will allow sufficient time for the *Chief Executive Officer* to include the *notice of motion* in agenda papers for a *Council meeting* and to give each Councillor at least 24 hours' notice of such *notice of motion*.
- 24.2** A *notice of motion* must call for a report if it proposes any action that:
- 24.2.1** impacts the levels of *Council* service;
 - 24.2.2** commits *Council* to expenditure greater than \$100,000 that is not included in the adopted Budget;
 - 24.2.3** proposes to impact the rights of any person who has not had an opportunity to contribute their views;
 - 24.2.4** commits *Council* to any contract; or
 - 24.2.5** concerns any litigation to which *Council* is a party.
- 24.3** The *Chief Executive Officer* may reject any *notice of motion* which:
- 24.3.1** is vague or unclear in intention;
 - 24.3.2** is beyond *Council's* power to pass;
 - 24.3.3** if passed would result in *Council* otherwise acting invalidly;
 - 24.3.4** is contrary to a previous decision of *Council* (unless it takes the form of a *notice of rescission*) or *Council* policy; or
 - 24.3.5** is contrary to sub-Rule 24.2
- but must:
- 24.3.6** give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - 24.3.7** notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.
- 24.4** The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.
- 24.5** The *Chief Executive Officer* must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.
- 24.6** Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were entered in the notice of motion register.
- 24.7** If a Councillor who has given a *notice of motion* is absent from the meeting or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- 24.8** If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.

DIVISION 4 – MOTIONS AND DEBATE

25. Chair's Duty

Any motion which is determined by the *Chair* to be:

- 25.1 defamatory;
- 25.2 objectionable in language or nature;
- 25.3 vague or unclear in intention;
- 25.4 outside the powers of *Council*; or
- 25.5 irrelevant to the item of business on the *agenda* and has not been admitted as urgent, or purports to be an amendment but is not, must not be accepted by the *Chair*.

26. Introducing a Report

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

27. Introducing A Motion or an Amendment

The procedure for moving any motion or amendment is:

- 27.1 the mover must state the motion or amendment without speaking to it;
- 27.2 the motion or amendment must be seconded and the seconder must be a Councillor other than the mover. If a motion or amendment is not seconded, the motion or amendment lapses for want of a seconder;
- 27.3 if a motion or an amendment is moved and seconded the *Chair* must ask:

“Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?”
- 27.4 if no Councillor indicates opposition or a desire to speak to it, the *Chair* may declare the motion or amendment carried without discussion;
- 27.5 if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- 27.6 after the mover has addressed the meeting, the seconder may address the meeting;
- 27.7 the seconder may reserve the right to speak;
- 27.8 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
- 27.9 if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

DIVISION 4 – MOTIONS AND DEBATE

28. Right Of Reply

- 28.1 The mover of a motion has a right of reply to matters raised during debate.
- 28.2 If no Councillor has spoken against a motion, there will be no right of reply.
- 28.3 The mover of an amendment does not have right of reply.
- 28.4 After the right of reply has been taken but subject to any Councillor exercising their right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

29. Moving An Amendment

- 29.1 Subject to sub-Rule 29.2 a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- 29.2 A motion to confirm a previous resolution of *Council* cannot be amended.
- 29.3 An amendment must not be directly opposite to the motion.

30. Who May Propose An Amendment

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

31. How Many Amendments May Be Proposed

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

32. An Amendment Once Carried

- 32.1 If the amendment is carried, the motion as amended becomes the substantive motion before the meeting and shall be put to the vote by the *Chair*, but only after the *Chair* has invited debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
- 32.2 The mover of the original motion retains the right of reply to that motion.

33. Foreshadowing Motions

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

DIVISION 4 – MOTIONS AND DEBATE

34. Withdrawal Of Motions

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

35. Separation Of Motions

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

36. Chair May Separate Motions

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

37. Priority of address

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

38. Motions In Writing

- 38.1** The *Chair* may require that a complex or detailed motion be in *writing*.
- 38.2** *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.

39. Repeating Motion and/or Amendment

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

40. Debate Must Be Relevant To The Motion

- 40.1** Debate must always be relevant to the motion before the Chair, and, if not, the *Chair* must request the speaker to confine debate to the motion.
- 40.2** If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker to not speak further in respect of the motion then before the Chair.
- 40.3** A speaker to whom a direction has been given under sub-Rule 40.2 must comply with that direction.

41. Speaking Times

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

- 41.1** the mover of a motion or an amendment which has been opposed: 5 minutes;
- 41.2** any other Councillor: 3 minutes; and
- 41.3** the mover of a motion exercising a right of reply: 3 minutes.

42. Addressing the Meeting

If the *Chair* so determines:

42.1 any person addressing the *Chair* must refer to the *Chair* as:

42.1.1 Madam Mayor; or

42.1.2 Mr Mayor; or

42.1.3 Madam Chair; or

42.1.4 Mr Chair

as the case may be;

42.2 all Councillors, other than the *Mayor*, must be addressed as

Cr.....(name).

42.3 all members of Council staff, must be addressed as

.....(name) as appropriate or by their official title.

43. Right to Ask Questions

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

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

DIVISION 5 – PROCEDURAL MOTIONS

DIVISION 5 – PROCEDURAL MOTIONS

44. Procedural Motions

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

44.2 Procedural motions require a seconder.

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



PROCEDURAL MOTIONS TABLE

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

DIVISION 6 – RESCISSION MOTIONS

DIVISION 6 – RESCISSION MOTIONS

45. Notice of Rescission

45.1 A Councillor may propose a *notice of rescission* provided:

- 45.1.1** it has been signed and dated by at least three Councillors;
- 45.1.2** the resolution proposed to be rescinded has not been acted on; and
- 45.1.3** the *notice of rescission* is delivered to the *Chief Executive Officer* within 24 hours of the resolution having been made setting out-
 - (a)** the resolution to be rescinded; and
 - (b)** the meeting and date when the resolution was carried.

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

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

45.2 A resolution will be deemed to have been acted on if:

- 45.2.1** its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or
- 45.2.2** a statutory process has been commenced so as to vest enforceable rights in or obligations on *Council* or any other person.

45.3 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:

- 45.3.1** has not been acted on; and
- 45.3.2** is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 45.1.3, unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

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

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

DIVISION 6 – RESCISSION MOTIONS

Sub-Rule 45.3 would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.

46. If Lost

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

47. If Not Moved

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

48. May Be Moved By Any Councillor

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

49. When Not Required

49.1 Unless sub-Rule 49.2 applies, a motion for rescission is not required where *Council* wishes to change policy.

49.2 The following standards apply if *Council* wishes to change policy:

- 49.2.1** if the policy has been in force in its original or amended form for less than 12 months, a *notice of rescission* must be presented to *Council*; and
- 49.2.2** any intention to change a *Council* policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.

DIVISION 7 – POINTS OF ORDER

DIVISION 7 – POINTS OF ORDER

50. Chair To Decide

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

51. Chair May Adjourn To Consider

- 51.1** The *Chair* may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.
- 51.2** All other questions before the meeting are suspended until the point of order is decided.

52. Final Ruling on a Point of Order

- 52.1** The decision of the *Chair* in respect of a point of order raised will not be open for discussion and will be final and conclusive unless the majority of Councillors present carry a motion of dissent.
- 52.2** A motion of dissent on a point of order must contain the provision, rule, practice or precedent in substitution for the *Chair*'s ruling.
- 52.3** A motion of dissent in relation to a point of order is not a motion of dissent in the *Chair*, and the *Chair* must at all times remain in the *Chair* and he or she will retain his or her right to a second vote.

DIVISION 7 – POINTS OF ORDER

52.4 A motion of dissent on a point of order will take precedence over all other business and, if carried, must be acted on instead of the ruling given by the *Chair*.

53. Procedure For Point Of Order

A Councillor raising a point of order must:

53.1 state the point of order; and

53.2 state any section, Rule, paragraph or provision relevant to the point of order.

54. Valid Points Of Order

A point of order may be raised in relation to:

54.1 a motion, which, under Rule 25, or a question which, under Rule 55, should not be accepted by the *Chair*;

54.2 a question of procedure; or

54.3 any act of disorder.

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

DIVISION 8 – PUBLIC QUESTION TIME

DIVISION 8 – PUBLIC QUESTION TIME

55. Question Time

55.1 There must be a public question time at every *Council meeting* fixed under Rule 11 to enable members of the public to submit questions to *Council*.

55.2 Sub-Rule 55.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the *Act*.

55.3 Public question time will not exceed 15 minutes in duration.

55.4 Questions submitted to *Council* must be:

55.4.1 in *writing*, state the name and address of the person submitting the question and generally be in a form approved or permitted by *Council*; and

55.4.2 placed in the receptacle designated for the purpose at the place of the meeting by 5pm the day before the *Council meeting* or be lodged electronically at the designated email address by 5pm on the day before the *Council meeting*.

55.5 No person may submit more than two questions at any one meeting.

55.6 If a person has submitted two questions to a meeting, the second question:

55.6.1 may, at the discretion of the *Chair*, be deferred until all other persons who have asked a question have had their questions asked and answered; or

55.6.2 may not be asked if the time allotted for public question time has expired and will be responded to in *writing* after the *Council meeting*.

55.7 The *Chair* or a member of Council staff nominated by the *Chair* may read to those *in attendance* at the meeting a question which has been submitted in accordance with this Rule.

DIVISION 8 – PUBLIC QUESTION TIME

- 55.8** Notwithstanding sub-Rule 55.6, the *Chair* may refrain from reading a question or having a question read if the person who submitted the question is not *in attendance* at the time when the question is due to be read.
- 55.9** A question may be disallowed by the *Chair* if the *Chair* determines that it:
- 55.9.1** relates to a matter outside the duties, functions and powers of *Council*;
 - 55.9.2** is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 55.9.3** deals with a subject matter already answered;
 - 55.9.4** is aimed at embarrassing a Councillor or a member of Council staff;
 - 55.9.5** relates to personnel matters;
 - 55.9.6** relates to the personal hardship of any resident or ratepayer;
 - 55.9.7** relates to industrial matters;
 - 55.9.8** relates to contractual matters;
 - 55.9.9** relates to proposed developments;
 - 55.9.10** relates to legal advice;
 - 55.9.11** relates to matters affecting the security of *Council* property; or
 - 55.9.12** relates to any other matter which *Council* considers would prejudice *Council* or any person.
- 55.10** Any question which has been disallowed by the *Chair* must be made available to any other Councillor upon request.
- 55.11** All questions and answers must be as brief as possible, and no discussion may be allowed other than by *Councillors* for the purposes of clarification.
- 55.12** Like questions may be grouped together and a single answer provided.
- 55.13** The *Chair* may nominate a Councillor or the *Chief Executive Officer* to respond to a question.
- 55.14** A Councillor or the *Chief Executive Officer* may require a question to be put on notice. If a question is put on notice, a *written* copy of the answer will be sent to the person who asked the question.
- 55.15** A Councillor or the *Chief Executive Officer* may advise *Council* that it is their opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or *Chief Executive Officer* (as the case may be) must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given.
- 55.16** If the Chairperson decides that they will respond to a question from the public, the Chairperson may vacate the Chair while the response is being provided. The CEO will determine which officer will respond to a question from the public.
- 55.17** Sub-rule 55.8 does not apply if the *Council meeting* is held wholly by electronic means (virtual) and the meeting is livestreamed. The person asking the question does not need to be present online at the *Council meeting* for their question to be read out.

DIVISION 9 – PETITIONS AND JOINT LETTERS

DIVISION 9 – PETITIONS AND JOINT LETTERS

56. Petitions and Joint Letters

- 56.1** Unless *Council* determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition, joint letter, memorial or other like application until a subsequent *Council meeting* after that at which it has been presented.
- 56.2** It is incumbent on every Councillor presenting a petition or joint letter to acquaint themselves with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful towards *Council*.
- 56.3** Every Councillor presenting a petition or joint letter to *Council* must:
- 56.3.1** write or otherwise record their name at the beginning of the petition or joint letter; and
 - 56.3.2** confine themselves to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of the prayer or request.
- 56.4** Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), contain the request of the petitioners or signatories and be signed by at least 15 people.
- 56.5** Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- 56.6** Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- 56.7** Every page of a hard copy petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 56.8** Electronic or online petitions, joint letters, memorials or like applications must contain the name and email address of each petitioner or signatory, which details will, for the purposes of this Rule 56, qualify as the address and signature of such petitioner or signatory.
- 56.9** If a petition, joint letter, memorial or other like application relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.

DIVISION 10 – VOTING

DIVISION 10 – VOTING

57. How Motion Determined

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

58. Silence

Voting must take place in silence.

59. Recount

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

60. Casting Vote

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

DIVISION 10 – VOTING

61. By Show Of Hands

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

This Rule does not prevent a Councillor from abstaining from voting. A decision to abstain from voting should not, however, be taken lightly. Not participating in decisions taken by Council could be seen as an abrogation of a Councillor's public duty.

62. Procedure For A Division

- 62.1** Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- 62.2** When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.
- 62.3** When a division is called for, the *Chair* must:
- 62.3.1** first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of their hands or otherwise signify their support in a manner recognised by the *Chair*. The *Chair* must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the affirmative; and
 - 62.3.2** then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of their hands or otherwise signify their opposition in a manner recognised by the *Chair*. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the negative.

63. No Discussion Once Declared

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

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

For example, Rule 63 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.

Equally, Rule 63 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.

Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in sub-Rule 63.2, to discussion about a positive motion were a resolution has just been rescinded.

DIVISION 11 – MINUTES

DIVISION 11 – MINUTES

64. Confirmation of Minutes

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

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

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

64.1.3 if a Councillor indicates opposition to the minutes:

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

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

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

(d) the motion must be seconded;

(e) the *Chair* must ask:

“Is the motion opposed?”

(f) if no Councillor indicates opposition, then the *Chair* must declare the motion carried without discussion and then ask the second of the questions described in sub-Rule 64.1.3(k);

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

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

(i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;

(j) if, after the mover has addressed the meeting, the *Chair* invites debate and no Councillor speaks to the motion, the *Chair* must put the motion; and

(k) the *Chair* must, after all objections have been dealt with, ultimately ask:

“The question is that the minutes be confirmed” or

“The question is that the minutes, as amended, be confirmed”,

and then must put the question to the vote accordingly;

64.1.4 a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed; and

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

DIVISION 11 – MINUTES

65. No Debate on Confirmation Of Minutes

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

66. Deferral Of Confirmation Of Minutes

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

67. Form and Availability of Minutes

- 67.1** The *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer* to attend the meeting and to take the minutes of such meeting) must keep minutes of each *Council meeting*, and those minutes must record:
- 67.1.1** the date, place, time and nature of the meeting;
 - 67.1.2** the names of the Councillors *in attendance* and the names of any Councillors who apologised in advance for their non-attendance;
 - 67.1.3** the names of the members of Council staff *in attendance*;
 - 67.1.4** any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5 and whether the conflict of interest was said by the Councillor to be a general conflict of interest or a material conflict of interest;
 - 67.1.5** arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
 - 67.1.6** each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
 - 67.1.7** the vote cast by each Councillor upon a division and any abstention from voting;
 - 67.1.8** the vote cast by any Councillor who has requested that their vote be recorded in the minutes;
 - 67.1.9** questions upon notice;
 - 67.1.10** the failure of a quorum;
 - 67.1.11** any adjournment of the meeting and the reasons for that adjournment; and
 - 67.1.12** the time at which standing orders were suspended and resumed.
- 67.2** The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are:
- 67.2.1** published on *Council's* website; and
 - 67.2.2** available for inspection at *Council's* office during normal business hours.
- 67.3** Nothing in sub-Rule 67.2 requires *Council* or the *Chief Executive Officer* to make public any minutes relating to a *Council meeting* or part of a *Council meeting* closed to members of the public in accordance with section 66 of the *Act*.

DIVISION 12 – BEHAVIOUR

DIVISION 12 – BEHAVIOUR

68. Public Addressing The Meeting

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

69. Chair May Remove

The *Chair* may order and cause the removal of any person who disrupts any meeting or fails to comply with a direction given under sub-Rule 68.2.

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

70. Chair may adjourn disorderly meeting

If the *Chair* is of the opinion that disorder at the *Council table* or in the gallery makes it desirable to adjourn the *Council meeting*, the *Chair* may adjourn the meeting to a later time on the same day or to some later day as they think proper. In that event, the provisions of sub-Rules 17.2 and 17.3 apply.

71. Removal from Chamber

The *Chair*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer* or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the gallery under Rule 69.

DIVISION 13 – ADDITIONAL DUTIES OF CHAIR

DIVISION 13 – ADDITIONAL DUTIES OF CHAIR

72. The Chair’s Duties And Discretions

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

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

DIVISION 14 – ADDITIONAL DUTIES OF CHAIR

DIVISION 14 – SUSPENSION OF STANDING ORDERS

73. Suspension of Standing Orders

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

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

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

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

“That standing orders be suspended to enable discussion on.....”

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

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

“That standing orders be resumed.”

DIVISION 15 – PHYSICAL AND REMOTE ATTENDANCE

DIVISION 15 – PHYSICAL AND REMOTE ATTENDANCE

74. Mode of Attendance

74.1 Each notice of meeting must indicate whether the relevant *Council meeting* is to be conducted:

74.1.1 wholly in person;

74.1.2 wholly by electronic means; or

74.1.3 partially in person and partially by electronic means.

74.2 The indication in the notice of meeting must be consistent with any Resolution of *Council* that has expressed a preference for, or otherwise specified, when *Council meetings* are to be conducted:

74.2.1 wholly in person;

74.2.2 wholly by electronic means; or

74.2.3 partially in person and partially by electronic means.

74.3 If a *Council meeting* is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.

74.4 Any request made under sub-Rule 74.3 must:

74.4.1 be in writing;

74.4.2 be given to the *Chief Executive Officer* no later than 24 hours prior to the commencement of the relevant *Council meeting*; and

74.4.3 specify the reasons why the Councillor is unable or does not wish to attend the *Council meeting* in person.

DIVISION 15 – PHYSICAL AND REMOTE ATTENDANCE

- 74.5** The *Chief Executive Officer* must ensure that any request received in accordance with sub-Rule 74.4 and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant *Council meeting*.
- 74.6** *Council* may approve and must not unreasonably refuse any request.
- 74.7** A Councillor who is attending a *Council meeting* by electronic means is responsible for ensuring that they are able to access such equipment and are in such an environment that facilitates participation in the *Council meeting*.
- 74.8** Without detracting from anything said in sub-Rule 74.7, a Councillor who is attending a meeting by electronic means must be able to:
- 74.8.1** hear the proceedings;
 - 74.8.2** see all Councillors and members of Council staff who are also *attending the Council meeting*, at least while a Councillor or member of Council staff is speaking;
 - 74.8.3** be seen by all Councillors, members of Council staff and members of the public who are physically present at the *Council meeting*; and
 - 74.8.4** be heard when they speak.
- 74.9** If the conditions of sub-Rule 74.8 cannot be met by one or more Councillors *attending a Council meeting*, whether because of technical difficulties or otherwise:
- 74.9.1** the *Council meeting* will nonetheless proceed as long as a quorum is present; and
 - 74.9.2** the relevant Councillor (or Councillors) will be treated as being absent from the *Council meeting* or that part of the *Council meeting*
- unless the *Council meeting* has been adjourned in accordance with *these Rules*.
- 74.10** Nothing in this Rule 74 prevents a Councillor from joining (or re-joining) a *Council meeting* at the time that they achieve compliance with sub-Rule 74.8 even if the *Council meeting* has already commenced or has continued in their absence.

75. Meetings Conducted Remotely

If a Council meeting is conducted wholly or partially by electronic means, the Chair may, with the consent of the meeting, modify the application of any of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of the meeting.

DIVISION 16 – MISCELLANEOUS

DIVISION 16 – MISCELLANEOUS

76. Criticism of members of Council staff

76.1 The *Chief Executive Officer* may make a brief statement at a *Council meeting* in respect of any statement by a Councillor made at the Council meeting criticising them or any member of Council staff.

76.2 A statement under sub-Rule 76.1 must be made by the *Chief Executive Officer*, through the *Chair*, as soon as it practicable after the Councillor who made the statement has finished speaking.

77. Procedure not provided in this Chapter

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

MEETINGS PROCEDURE FOR DELEGATED COMMITTEES

CHAPTER 3

1. Meeting Procedure Generally

If *Council* establishes a *Delegated Committee*:

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

2. Meeting Procedure Can Be Varied

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

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

MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEES

CHAPTER 4

1. Introduction

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

2. Meeting Procedure

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

DISCLOSURE OF CONFLICTS OF INTEREST

CHAPTER 5

1. Definition

In this Chapter:

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

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

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

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

2.1 are *in attendance* must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting* immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or

2.2 intend to *attend* must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council meeting* commences a written notice:

2.2.1 advising of the conflict of interest;

2.2.2 explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and

2.2.3 detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:

2.2.3.1 public

2.2.3.2 nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and

2.2.3.3 nature of that other person’s interest in the matter,

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

DISCLOSURE OF CONFLICTS OF INTEREST

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

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

A member of a *Delegated Committee* who has a conflict of interest in a matter being considered at a *Delegated Committee* meeting at which they:

- 3.1** are *in attendance* must disclose that conflict of interest by explaining the nature of the conflict of interest to those *in attendance* at the *Delegated Committee* meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 3.2** intend to *attend* must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Delegated Committee* meeting commences a written notice:
 - 3.2.1** advising of the conflict of interest;
 - 3.2.2** explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and
 - 3.2.3** detailing, if the nature of the conflict of interest involves a member of a *Delegated Committee's* relationship with or a gift from another person the:
 - 3.2.3.1** name of the other person;
 - 3.2.3.2** nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - 3.2.4** nature of that other person's interest in the matter,and then immediately before the matter is considered at the meeting announcing to those *in attendance* that they have a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

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

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

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

- 4.1** are *in attendance* must disclose that conflict of interest by explaining the nature of the conflict of interest to those *in attendance* at the *Community Asset Committee* meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or

DISCLOSURE OF CONFLICTS OF INTEREST

- 4.2** intend to *attend* must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:
- 4.2.1** advising of the conflict of interest;
 - 4.2.2** explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and
 - 4.2.3** detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
 - 4.2.3.1** name of the other person;
 - 4.2.3.2** nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - 4.2.4** nature of that other person's interest in the matter,
 and then immediately before the matter is considered at the meeting announcing to those *in attendance* that they have a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

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

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

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

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

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

- 6.1** A member of Council staff who, in their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a Report for the consideration of a:
- 6.1.1** *Council meeting*;
 - 6.1.2** *Delegated Committee meeting*;
 - 6.1.3** *Community Asset Committee meeting*
- must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* disclosing the conflict of interest and explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest.

DISCLOSURE OF CONFLICTS OF INTEREST

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

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

- 7.1** A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest.
- 7.2** If the member of Council staff referred to in sub-Rule 8.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

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

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

9. Retention of Written Notices

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



MISCELLANEOUS

CHAPTER 6

1. Informal Meetings of Councillors

If there is a meeting of Councillors that:

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

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

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

2. Confidential Information

- 2.1 If the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, they may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 2.2 Information which has been designated by the *Chief Executive Officer* as confidential information within the meaning of the Act, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.
- 2.3 Nothing in sub-Rule 2.2 will, without more, mean that information designated by the *Chief Executive Officer* under sub-Rule 2.1 satisfies the definition of “confidential information” contained in section 3(1) of the Act.



ELECTION PERIOD POLICY

CHAPTER 7

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.

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.

3. The Election Period Policy forms part of these Governance Rules.

4. The operation of Council Advisory Committees shall be suspended upon the commencement of the election period ahead of a general Council election.

5. Any outstanding Delegate's Reports may still be reported to a Council meeting during this period.

6. Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

Council's Election Period Policy is attached.

ELECTION PERIOD POLICY 2024



1. PURPOSE

Section 69 of the *Local Government Act 2020* (the Act) requires Council to include an Election Period Policy (Policy) in its Governance Rules. The Policy sets out the procedures to be applied by Council during the election period for a general election. During the election period certain prohibitions apply to the general functions and powers of Council.

The Policy has been developed to ensure that Wyndham City Council's general elections to be held on Saturday, 26 October 2024, and subsequent elections, are conducted in a manner that is ethical, fair and equitable and are publicly perceived as such.

2. SCOPE


This Policy applies to all Council staff, Councillors and election candidates during the election period, also known as the caretaker period.

The election period starts at the time that nominations for the election of Council close, known as nomination day. The election period for the 2024 elections will apply from 24 September 2024 until 6pm on Election Day, Saturday 26 October 2024, inclusive.

3. POLICY STATEMENT

The Policy includes procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election. It places limits on public consultation and the scheduling of Council events and puts in place procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.

The Policy also takes into consideration best practice recommendations from organisations and agencies such as the Local Government Inspectorate.



4. POLICY OBJECTIVES

- 4.1** This Policy facilitates the continuation of Council’s ordinary business throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established “caretaker” conventions.
- 4.2** This Policy explains how Council will conduct its business during the election period to ensure that the elections are not compromised by inappropriate electioneering by existing Councillors and safeguards the authority of the incoming Council.
- 4.3** This Policy aims to address and provide guidelines in respect of the matters listed below:
- Council decision-making
 - Public consultation, meetings and Council events
 - Council Publications
 - Use of Council resources
 - Access to Council information and assistance to candidates
 - Media and publicity
 - Election Signage
 - Section 123 of the Act (misuse of position)

5. POLICY

5.1 GENERAL

5.1.1 During the election period, Council will not make decisions that:

- Relate to the appointment or remuneration of the Chief Executive Officer (CEO) but not to the appointment or remuneration of an Acting CEO
- Commits Council to expenditure exceeding 1 per cent of the Council’s income
- Council considers should not be made during an election period

During the election period, Council will:

- Ensure that Council resources are not used for election campaign purposes, nor in a way that might improperly influence the result of an election
- Limit public consultation, public meetings and Council events in order to facilitate Council’s day- to-day business while avoiding any express or implied links to the election
- Not print, publish or distribute “electoral matter”

5.1.2 Election period

The election period (also known as the caretaker period) refers to the period commencing on the last day on which nominations for the election can be received (nomination day) and continues until election day.

For the 2024 elections, the election period starts on 24 September 2024 and ends at 6pm on Saturday, 26 October 2024.

Recognising that electioneering can occur at any time throughout a term of Council, this policy is applicable at any time insofar that any candidate should not utilise any Council resource, advantage or benefit for the purposes of electioneering. This extends to practice that could create the public perception that some benefit or advantage has been gained by any candidate.

5.1.3 Acknowledgement of Receipt of Policy

Following the adoption of the Policy, Councillors must sign a register to acknowledge that they have received a copy of the adopted Policy.

5.1.4 . Communication of Policy

Following the adoption of the Policy, a copy of the Policy will be published on Council's website and copies will also be circulated to potential candidates.

The CEO will ensure that all staff are informed of the requirements of this policy prior to commencement of the election period.

5.2 COUNCIL DECISION-MAKING

5.2.1 Section 69 of the Act prohibits the making of some decisions during the election period.

a) Chief Executive Officer

In accordance with section 69(2)(a) Council must not, during the election period, make a decision that relates to the appointment or remuneration of the CEO, other than a decision to appoint an acting CEO.

b) Contracts

In accordance with section 69(2)(b) Council must not commit to expenditure with a value in excess of the equivalent of 1 per cent of Council's rates and charges levied under section 158 of the *Local Government Act 1989* in the preceding financial year. For the 2024 election, this amount is \$2.85 million.

c) General

In accordance with section 69(2)(c) and (d) Council is prohibited from making a decision that the Council considers could be reasonably deferred until the next Council is in place or that Council considers should not be made during an election period.

d) Invalid decisions

A Council decision made in contravention of section 69(2) (a) or (b) of the Act is invalid in accordance with section 69(4) of the Act.

e) Compensation

In accordance with section 69(5) of the Act, any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid is entitled to compensation from Council for that loss or damage.

5.2.2 Significant Decisions

Council will use all reasonable efforts to avoid making significant decisions.

For the purposes of this Policy, significant decisions include, but are not limited to:

- Decisions that may irrevocably commit the incoming Council to substantial expenditure or to other significant actions, for example spending unbudgeted monies, the allocation of community grants or other direct funding to community organisations
- Decisions that may have an irrevocable and significant impact on the municipality or a significant section of the community, for example, major planning scheme amendments, unplanned community consultation, adopting a new policy, strategy or local law or changes to strategic objectives and strategies in the Council Plan

5.2.3 Significant decision considerations

Where possible, the CEO will ensure that any anticipated significant decisions are scheduled for Council to consider and determine prior to the start of the election period or are scheduled for determination by the incoming Council.

During the election period, the CEO will determine if a significant policy decision is required and will advise Council accordingly. In making any such determination, the CEO will have regard to all circumstances, including, but not limited to:

- Whether the decision is, in fact, significant
- The urgency of the decision (if the decision could reasonably be made by the incoming Council)
- Whether the decision is likely to be controversial or affect voting in the election
- Whether the decision would require the spending of unbudgeted monies
- Whether the decision is in respect of the completion of an activity already commenced and has been endorsed by the incumbent Council
- Whether the decision requires community engagement
- Whether the failure to make the decision would have a negative impact on Council, the municipality or the local community
- Whether the disadvantage of avoiding making the decision exceeds the benefit of making the decision
- Any relevant statutory obligations and timeframes
- The best interests of the community and Council

5.2.4 Decisions made under officer delegation

Significant decision-making power is formally delegated to Council staff and the decision of a delegate is deemed to be a decision by Council.

Before making any decisions under delegated authority during the election period, Council officers should carefully consider the following:

- Whether the decision is significant
- The urgency of the decision – can it be deferred until after the election period?
- The possibility of financial repercussions if the decision is deferred
- Whether the decision is likely to be controversial
- Whether the decision is in the best interests of Council and the community

Officers requiring assistance in determining whether a decision is likely to be inappropriate should seek advice from the Executive Manager Corporate Affairs in the first instance.



5.2.5 Election period statement

During the election period, the CEO will ensure that an “election period statement” is included in every report submitted to Council or to a Delegated committee for a decision. The election period statement will appear at the start of each item listed on the agenda and will take the following form:

1. *“This report is being considered during an election period. The recommended decision is not a prohibited decision in accordance with section 69(2) and (3) of the Local Government Act 2020, nor a significant decision within the meaning of Council’s Election Period Policy.”*

OR

2. *“This report is being considered during an election period. The recommended decision is not a prohibited decision in accordance with section 69(2) and (3) of the Local Government Act 2020 but has been determined by the Chief Executive Officer to be a significant decision within the meaning of Council’s Election Period Policy. An exemption is required for the following reasons: (insert reasons for exemption)”*

In accordance with section 177 of the Act Council may resolve to apply to the Minister for Local Government for a compliance exemption if it is required to make a prohibited decision within the meaning of section 69(2) or 69(3) of the Act.

5.2.6 Announcement of decisions made prior to the election period

To avoid doubt, this policy applies only to the actual making of decisions, not the announcement of decisions which have been made prior to the election period. However, as far as practicable such announcements should be made before the election period begins.



5.3 PUBLIC CONSULTATION, MEETINGS AND COUNCIL EVENTS

5.3.1 Limited public consultation

Council will limit public consultation primarily to any consultation required under the *Planning and Environment Act 1987* and matters subject to section 223 of the *Local Government Act 1989*. Public consultation may also be required in other circumstances to ensure that Council's normal activities are proactively managed. All public consultation will avoid any express or implied links to the election and will only be undertaken with the CEO's prior approval.

5.3.2 Public meetings and Council events

Public meetings and events coordinated by Council will not be held during the election period, unless the meeting or event cannot be re-scheduled, and it would negatively impact Council or the community. Where it is deemed necessary to hold meetings or events during this period, prior approval is required by the CEO (as well as approval for running sheets and speeches). Where Council meetings or events are held during the election period, Councillors and candidates are not permitted to use events and meetings as forums for electioneering purposes and must not distribute election material.

In instances where a Councillor is invited to attend an external event or function in their capacity as a Councillor, roles are restricted to official duties only (where a Councillor would ordinarily perform such duties.) These duties must be performed in line with organisational protocols and Councillors must not use these events for the purposes of electioneering. Invitations are 'in the capacity as Councillor' where it is coordinated/received via the Mayor and Councillors office and when the invitee would not usually be invited in a private capacity.

5.3.3 Council and Delegated Committee Meetings

Council and delegated committee agenda papers and minutes are considered to be part of normal Council business and do not require certification by the CEO.

Council and delegated committee meetings will continue to be open to the public and livestreamed during the election period.

Council will suspend the public question time segment at Council meetings held during the election period. Any questions that may be received will not be read out at the Council meeting and written responses will be provided.

5.3.4 Advisory Committee Meetings

The operation of Council Advisory Committees shall be suspended upon the commencement of the election period ahead of a general Council election.

Any outstanding Advisory Committee Reports may still be reported to a Council meeting during this period.

Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

5.4 USE OF COUNCIL RESOURCES

5.4.1 A Councillor must not use Council resources in connection with, or in any way that may be perceived as in connection with, an election campaign. This applies to a Councillor standing in Council, State or Federal government elections. Such use would constitute misuse of position by the Councillor.

Council resources include financial, human (a staff member's or a consultant's time) and material resources. In circumstances where it is unclear if the use of Council resources is related, or may be perceived as being related, to a candidate's election campaign, the use should be referred to the CEO for a determination.

5.4.2 The following specific restrictions apply:

- a) Council resources, including, but not limited to, office space, staff, hospitality services, catering, IT equipment, stationery and use by the Mayor of a Council-owned vehicle, may be used for normal Council business only during the election period and must not be used in connection with a candidate's election campaign.
- b) Reimbursement of Councillor out-of-pocket expenses during the election period will continue to apply to expenses incurred in the performance of normal Council duties only. Expenses that are, or could be, perceived as supporting or being connected with a candidate's election campaign will not be reimbursed. The CEO's determination in the event of a dispute is final.
- c) Where Councillors receive Council-funded equipment or services (mobile phones, internet connections, use by the Mayor of a Council-owned vehicle), and it is impractical to discontinue that use during the election period, the Councillor will reimburse Council for the costs of using the services that is over and above their use for Council business. In the case of the Mayoral vehicle, the Mayor may be required to record distances travelled and the purpose of that travel where it is not for Council business. Importantly, Councillors must also be mindful to manage any perceived conflicts even where a direct expense may not be incurred, for example, receiving calls or emails in connection with candidature on a Council funded device or account.
- d) Photographs or images paid for by Council or taken by Council staff must not be used in election material by any candidate or incumbent Councillor. This extends to images of Councillors, events and any Council infrastructure. Equally, candidates are not authorised to use any Council images in connection with their campaign.
- e) Council's logo, letterhead, or any other Council branding may not be used for, or associated in any way with, a candidate's election campaign.

5.5 ACCESS TO COUNCIL INFORMATION AND ASSISTANCE TO CANDIDATES

Council acknowledges that candidates expect Council to respond to their requests for information that relates to the election. Any such requests will be responded to equitably and as though all candidates have made the same request.

Accordingly, all candidates will receive the same information. Incumbent Councillors will continue to receive information that is necessary to fulfil their Council roles. Where information relates to what could be considered an “election issue” or is not required to fulfil duties as a Councillor, requests will be denied. The CEO’s determination in the event of a dispute is final.

5.5.1 All candidates will be treated equally which means that:

- a) Any assistance and advice provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.
- b) All election process-related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the CEO or a designated member of Council staff.

5.5.2 Councillors and other candidates will not be provided with information or advice from Council staff that may be perceived to support their election campaign. There will be complete transparency in the provision of information and advice during the election period. The following specific restrictions apply:

- a) Information and briefing materials prepared by staff for Councillors during the election period will relate only to factual matters or to existing Council services or projects. Such information will not relate to policy development, new projects or matters that are the subject of public or election debate or that might be perceived to relate to a candidate’s election campaign.
- b) An Information Request Register will be maintained during the election period. The Register will be made available on Council’s website and will record all requests for information by Councillors and candidates, and Council’s responses.
- c) Requests for information which require the use of significant Council resources in order to provide a response, or which might be perceived to support an election campaign, will be referred to the CEO for a determination as to whether a response may be provided.

5.6 ELECTORAL MATERIAL

5.6.1 Publishing electoral material

Electoral material is defined in the Act as an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only 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 election manager for the purposes of conducting an election. The definition 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:

- a) the election
- b) a candidate in the election
- c) an issue submitted to, or otherwise before, the voters in connection with the election

Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, electoral material containing electoral matter.

The definition of 'publish' extends to information published on Council's website and on social media. It includes, but is not limited to, material about the election, incumbent Council, election candidates and issues of contention in the election.

It does not include material produced by the Returning Officer for the purpose of conducting the election, information about the election process, advertisements announcing the holding of meetings and statutory documents such as rate notices, food premises registrations and parking fines.

5.6.2 Some examples of what constitutes electoral matter is material that:

- Publicises the strengths or weaknesses of a candidate
- Advocates Council policies or those of a candidate
- Responds to claims made by a candidate
- Publicises the achievements of the incumbent Council or individual Councillors
- Refers to matters known to be contentious in the community and likely to be the subject of election debate
- Promotes the role or duty of a Councillor

The wide definition of electoral matter means that Councillors must consider communication activities in their capacity as a Councillor during the election period and the run up to the election period.

To minimise the risk of inadvertent publishing that contains electoral matter, it is best practice for Council to avoid publication activity during the election period, except where it is essential for the conduct of Council operations. This extends to all online and printed material such as, but not limited to, Wyndham News, media releases, Mayoral column, social media and all correspondence.

5.6.3 Annual report

The Annual Report is not considered to be an advertisement, handbill or pamphlet, however the Annual Report must not include matter that may be considered electioneering or publicising attributes or achievements of individual Councillors.

Information about Councillors will be restricted to what is required by the Local Government (Planning and Reporting) Regulations 2020 and membership of delegated committees and other bodies to which they have been appointed by Council.

Despite publication of the Annual Report during the election period, it is deemed appropriate that the Mayoral Message be included in the Annual Report for the preceding financial year.

5.7 MEDIA AND PUBLICITY

5.7.1 Council issued communications

Council publicity that contains general ongoing Council news or information about the election process is permitted. Council publicity will not be used in any way that might influence the outcome of the election and will not quote or feature Councillors.

5.7.2 The following specific requirements apply during the election period:

- a) Council staff must not make any public statement that could be construed as influencing the election. This does not include statements of clarification that have the prior approval of the CEO. Statements of clarification should only be used where not issuing a statement could mislead or deceive a large proportion of the public and would impact Council's service delivery.
- b) Public events and related publicity campaigns, other than for the purpose of conducting the election, will be avoided wherever possible. Where a public event or publicity campaign is deemed necessary for a Council service or function, it must have the prior approval of the CEO.
- c) All media releases, responses or statements will be avoided where possible.
- d) Council will only run paid advertisements in Wyndham's local newspapers where they are considered to be essential for Council operations and subject to the CEO's approval.
- e) Any increase in the publication, distribution or availability of a publication must be approved by the CEO. Existing material available to the public in libraries, the civic centre and community centres will be assessed for inclusion of electoral matter and any such matter will be temporarily withdrawn or not prominently displayed in so far as this is practicable in the circumstances.

5.7.3 Council websites and social media

During the election period, information about Councillors on Council's websites will be restricted to portrait photographs, names, titles, contact details and their membership of committees and other bodies to which they have been appointed by Council.

All Council-operated social media may only be used for the conduct of essential Council business and social media publications will require prior certification by the CEO.

5.7.4 The following specific requirements apply during the election period:

- a) A statement outlining election period provisions will be published on Council's websites and social media accounts prior to the period commencing.
 - b) Council will only respond to service requests or requests for information published via social media as they relate to operational matters. Where possible, responses will be provided privately, rather than being published publicly.
 - c) Council will not respond to online commentary throughout the election period, unless clarification is needed to ensure that a large proportion of the public is not misled or deceived in relation to key service delivery.
-

5.7.5 Councillor-issued communication

- a) No media advice or assistance may be provided by staff in relation to election campaign matters, or regarding publicity that involves specific Councillors.
- b) Councillors are not permitted to use their position as elected representatives or their access to Council staff and other Council resources to gain media attention in support of their election campaign.
- c) Councillors and other candidates are permitted to issue their own media releases provided they do not use Council resources, including email, logo or any branding, letterhead or any Council-owned device. Councillors and candidates must make it clear that the views expressed are personal views only, and not the views of the Council.
- d) Councillors are not permitted to comment in an official capacity on any issues raised by the media during the election period. Any comments made to the media must be expressed as personal views only and not the views of Council.
- e) Only Councillors in office may use the title of 'Councillor' in electoral material.
- f) Councillors are not permitted to comment in an official capacity in respect of an electoral matter raised on social media during the election period. Councillors are not permitted to use social media as Councillors to respond to election issues.
- g) Councillors standing for re-election must carefully manage the use of their existing online profiles when utilising social media for re-election purposes. Councillors are encouraged to set up separate accounts, pages, profiles or presences in their capacity as election candidates.
- h) Council resources (Internet access, mobile phones, Council logos) must not be used in connection with setting up or maintaining any social media or online presence as candidates.

5.8 COUNCIL STAFF MEMBER STANDING FOR ELECTION

5.8.1 In the event that a Council staff member stands for election as a Councillor for Wyndham City Council, they must:

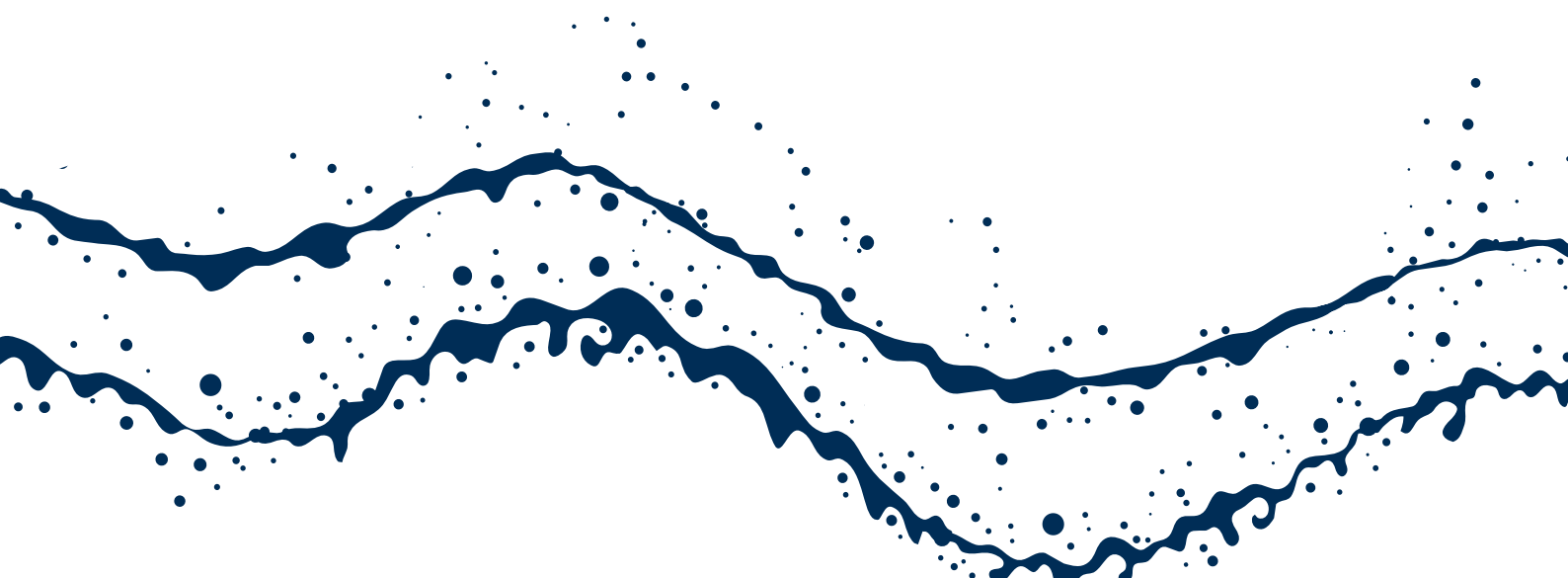
- a) Take leave to stand for election to the office of Councillor (with leave commencing, at the latest, from the time of nominating as a candidate).
- b) If elected, resign as a Council staff member immediately upon being declared elected.

5.8.2 In the event that a member of Council's staff stands for election as a candidate in a state or federal election, they must:

- a) Advise the CEO of their candidacy in writing.
- b) Consider taking a leave of absence from the formal nomination date until election day.
- c) Seek advice from the Executive Manager Corporate Affairs to manage any possible real or perceived conflicts of interest.

5.9 COUNCILLOR STANDING AS A CANDIDATE IN A STATE OR FEDERAL ELECTION

- 5.9.1 As soon as practicable after becoming a candidate in a state or federal election, a Councillor must advise the CEO in writing. The CEO must advise all Councillors in writing as soon as practicable.
- 5.9.2 A Councillor standing as a candidate in a state or federal election is encouraged to take a leave of absence from the nomination date until Election Day.
- 5.9.3 If elected in a state or federal election, the Councillor must resign from their position as a Councillor of the Wyndham City Council immediately upon being declared elected.



5.10 ELECTION SIGNAGE PROTOCOL

This part of the policy provides guidance in relation to the rules which apply to signage that promotes candidates in an election or relates to election issues.

The content of election signage must meet the requirements for election material under the Act.

5.10.1 Election Signs on private land

Election signs are allowed to be displayed on private land with permission from the owner of the land, subject to the following restrictions which are set out in clause 52.05-10 of the Wyndham Planning Scheme:

- a) The advertisement area of the sign must not exceed five square metres.
- b) The sign must not be animated or internally illuminated.
- c) The sign must not be displayed longer than 14 days after the election is held.

5.10.2 Election Signs on public land

Council prohibits the display or placement of election signs on land that is owned, occupied, managed or controlled by Council including roads, recreation reserves, halls, facilities, nature strips and median strips.

5.10.3 Portable or moveable election signs

Portable or moveable election signs that are attached to a vehicle, trailer or bicycle may travel on a road within the Wyndham municipality provided that the sign does not unreasonably restrict the use of the road or endanger the safety of members of the public.

The vehicle, trailer or bicycle with election signage attached cannot be parked on a road for the purpose of election advertising without a permit.

Election signs cannot under any circumstances be displayed on a vehicle, trailer or bicycle on a footpath.

Further information regarding the management of election signage is provided in the Election Signage Protocol.

6. SECTION 123 — MISUSE OF POSITION

- 6.1 Councillors and members of a delegated committee are reminded that pursuant to section 123 of the Act, they must not misuse their position to:**
- a) Gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person.
 - b) Cause, or attempt to cause, detriment to the Council or another person.
-
- 6.2 Circumstances that constitute a misuse of position, include:**
- a) Making improper use of information acquired as a result of a position held.
 - b) Disclosing information that is confidential information.
 - c) Directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff.
 - d) Exercising, or purporting to exercise, a power, duty or function with no authority to do so.
 - e) Using public funds or resources in an improper or unauthorised manner.
 - f) Participating in a decision on a matter in which the person has a conflict of interest.

7. POLICY REVIEW

This policy provides guidance for the 2024 elections and will be reviewed and amended, if required, no later than 12 months prior to the commencement of each subsequent general election period.



8. DEFINITIONS

Act	Local Government Act 2020
Candidate	means a person who has nominated as a candidate for an election under section 256 of the Act
CEO	Chief Executive Officer
Election day	means the day of the election determined under section 257 or 260 of the Act
Election period	means the period that starts at the time that nominations close on nomination day and ends at 6pm on election day
Electoral material	is defined in the Act as an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only 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 election manager for the purposes of conducting an election
Nomination Day	means the last day on which nominations to be a candidate at a Council election may be received
Returning Officer	the officer appointed by the Victorian Electoral Commission who is responsible for the conduct of the election and who formally announces the election results
Significant decisions	means any Council decision, including decisions by delegated committees or members of Council staff acting under a delegation. given by Council during an election period for a general election that: <ol style="list-style-type: none"> 1. May irrevocably commit the incoming Council to substantial expenditure or to other significant actions. 2. May have an irrevocable or significant impact on the municipality or a significant section of the community.

9. BREACH OF POLICY

Any breach of this policy relating to staff conduct is to be referred to the CEO.

Section 123 of the Act (Misuse of Position) prescribes serious penalties for any Councillor who inappropriately makes use of their position or information obtained in their role to gain an advantage, or disadvantage another.

A breach of section 123 of the Act may result in a fine of 600 penalty units (currently \$115,386) or imprisonment for five years. An offence committed under section 123(1) of the Act is an indictable offence.

Section 69(4) and 69(5) of the Act sets out the conditions for an invalid decision and potential compensation for an invalid decision made during the election period.

With regard to inappropriate election signage Council will take compliance action against the land owner and/or individual candidate and/or parties displaying any sign that is in breach of the Wyndham Planning Scheme. A planning infringement notice and fine may be issued to the candidate in accordance with the *Planning and Environment Act 1987*.

A breach of the Community Local Law in relation to the display of election signage may result in a fine of 2 penalty units (currently \$384.62).

REFERENCES

External reference material:

- *Local Government Act 2020*
- *Planning & Environment Act 1987*

Wyndham City Council reference material:

- Councillor Code of Conduct
- Wyndham City Council Governance Rules
- Community Engagement Policy 2021-2025
- Community Amenity Local Law 2023
- Election Signage Protocol

VERSION HISTORY				
ID	DATE	AUTHOR	REVISION REASON / KEY CHANGES	REVIEW DATE
1.0	29/03/2016	Governance Legal Counsel	New Policy	August 2019
2.0	6/08/2019	Coordinator Governance	Revision	August 2023
3.0	18/08/2020	Coordinator Governance	Revision (Adoption of Governance Rules)	August 2023
4.0	26/09/2023	Coordinator Governance	Revision	July 2027

DOCUMENT CONTROL	
DOCUMENT NAME	WCC – Election Period Policy 2023
OBJECTIVE ID	A4153615
OWNER	Executive Manager Corporate Affairs
APPROVER	Council
DATE OF ADOPTION	26/09/2023
NEXT REVIEW DATE	July 2027