

BENALLA

RURAL CITY COUNCIL

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Governance Rules 2020

July 2022

Governance Rules 2020

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Part A

1. Introduction

1.1. Title

These Governance Rules will be known as the *Governance Rules 2020*.

1.2. Purpose of the Governance Rules

- 1.2.1. The purpose of these Rules is to keep in force rules for or with respect to the following the conduct of Council meetings
- 1.2.2. the conduct of meetings of delegated committees
- 1.2.3. the form and availability of meeting records
- 1.2.4. the election of the Mayor and the Deputy Mayor
- 1.2.5. the appointment of an Acting Mayor
- 1.2.6. an election period policy in accordance with section 69 of the Act
- 1.2.7. the procedures for the disclosure of a conflict of interest by a councillor or a member of a delegated committee under section 130 of the Act
- 1.2.8. the procedure for the disclosure of a conflict of interest by a councillor under section 131 of the Act
- 1.2.9. the disclosure of a conflict of interest by a member of Council staff
- 1.2.10. when providing information in respect of a matter within the meaning of section 126(1) of the Act
- 1.2.11. Provide for procedures governing the establishment and conduct of Advisory Committees
- 1.2.12. any other matters prescribed by the regulations

1.3. Authorising Provision

These Rules are established under section 60 of the *Local Government Act 2020* (the Act)

1.4. Commencement date and Review date:

These Governance Rules:

- a. commence on the day following the day on which the Governance Rules are adopted by the Council; and
- b. are to be reviewed and any amendments adopted by 1 September prior to a General Election.
- c. may be reviewed at any time by the Council to accommodate changes in legislation, regulations and new technology or systems.

1.5. Definitions

Definitions under the Governance Rules 2020 unless the context or subject-matter suggests otherwise:

Word or Context	Definition
Act	The <i>Local Government Act 2020</i> .
Advisory committee	(however titled) is a committee established by the Council, that provides advice to: <ol style="list-style-type: none"> a. The Council; or b. member of Council staff who has been delegated a power, duty or function of the Council; that is not a Delegated Committee.
Agenda	A document containing the date, time and place of a Meeting and the business to be transacted at the <i>Meeting</i> .
Agreement of Council	Indicative agreement of all of the councillors present without a vote being conducted. In the event there is any uncertainty about majority of councillors agreeing, the matter may be put to a vote. Assembly of Councillors (however titled) means a meeting of an advisory committee of the Council, if at least one councillor is present, or a planned or scheduled meeting of at least half of the councillors and one member of Council staff which considers matters that are intended or likely to be— <ol style="list-style-type: none"> a. the subject of a decision of the Council; or b. subject to the exercise of a function, duty or power of the Council that has been delegated to a person or committee— but does not include a meeting of the Council, a Delegated Committee of the Council, an Audit and Risk Committee established under Section 8.7, a club, association, peak body, political party or other organisation;
Authorised Officer	An Authorised Officer of the Council appointed under the Local Government 1989 Act or any other Act.
Business day	A day that is not a Saturday, Sunday or public holiday.
Chair	The person who chairs a Meeting and includes an acting, temporary or substitute chair.
Chamber	Any room where the Council holds a Council Meeting.
Chief Executive Officer	The person appointed by the Council to be its Chief Executive Officer and includes a person acting in that office.
Committee Meetings	A meeting of a Delegated Committee convened in accordance with these Governance Rules and includes a scheduled or unscheduled meeting (whether held as face-to-face attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance.
Council	Benalla Rural City Council.

Word or Context	Definition
Council Resolution	The resolution of the Council (Council by resolution) means the following: (a) a resolution made at a Council meeting; (b) a resolution made at a delegated committee meeting under delegation.
Council Meeting	A meeting of the Council convened in accordance with these Governance Rules and includes a scheduled meeting and unscheduled meeting (whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance.
Council Year	The 12-month period commencing from the date of the Meeting at which the Mayor is elected.
Councillor	A person who is an elected member of the <i>Council</i> .
Delegate	means a member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation.
Delegated Committee Meeting	A meeting of a Delegated Committee.
Deputy Mayor	The Deputy Mayor of the Council and any person appointed by the Council to act as Deputy Mayor.
Director	A senior member of Council staff holding the position of General Manager or another position (however designated) which report directly to the Chief Executive Officer.
Disorder	Any disorderly conduct of a member of the Gallery or a councillor and includes: a. interjecting when another person is speaking, except, in the case of where a councillor is raising a Point of Order b. making comments that are defamatory, malicious, abusive or offensive c. refusing to leave the Meeting when requested, ordered or directed to do so by the chair in accordance with the Act and the Governance Rules d. engaging in any other conduct which prevents the orderly conduct of the Meeting
Division	A formal count and record taken of those voting for and against a motion.
Foreshadowed Item	A matter raised in the relevant section of the Council Meeting that a councillor intends to submit a Notice of Motion for the next Council Meeting.
Mayor	The Mayor of the Council and any other councillor acting as Mayor in the absence of the Mayor.
Majority of the Votes	A majority of councillors present at the time of a vote voting in favour of a matter.

Word or Context	Definition
Meeting	A Council Meeting or a Delegated Committee Meeting.
Member	A member of any committee to which these Governance Rules apply.
Minister	The Minister for Local Government.
Minutes	The official record of the proceedings and decisions of a Meeting.
Motion	A proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted.
Notice of Motion	A notice setting out the text of a motion which a councillor proposes to move at a Council Meeting.
Notice of Rescission	A notice of motion to rescind a resolution made by the Council.
On Notice	Held or deferred to enable preparation of a response.
Officer	An employee of the Council.
Person	A person who has attained the age of 18 years but not a corporation, a council or any other incorporated body or any public statutory corporation.
Petition	A formal written application requesting some action by the Council, which must be typed or printed without erasure, and be received from at least 12 persons, signed by those persons whose name and physical address also appears and on which page of the petition bears the petition request of the whole of the petition.
Point of Order	A procedural point (about how the Meeting is being conducted), not involving the substance of a matter before a Meeting.
Quorum	The minimum number of members of the Council or a Committee of the Council required by the Governance Rules to be present in order to constitute a valid meeting of the Council or the Committee.
Rule, sub-rule or sub clause	A rule, sub-rule or sub-clause included in these Governance Rules.
Senior Officer	The Chief Executive Officer, a member of Council staff who has management responsibilities and reports directly to the Chief Executive Officer or a member of Council staff whose total remuneration exceeds \$151,000 or such higher threshold amount as is specified by the Minister in accordance with section 97B of the Act.
Unscheduled Meeting	A meeting of the Council convened for a particular purpose that cannot be effectively dealt with in the schedule of Council Meetings set by the Council

Word or Context	Definition
Urgent business	A business which: <ul style="list-style-type: none"> a. relates to or arises out of a matter which has arisen since distribution of the agenda; and b. cannot safely or conveniently be deferred until the next Ordinary Meeting and which the Council resolves to admit as urgent business.
Visitor	Any person who is in attendance at a Meeting other than a councillor, member of a Special Committee or an Officer.
Written	Includes duplicated, photocopied, printed and typed and extends to both hard copy and soft copy form.

1.5.1. Definitions provided by the Act

The following definitions provided by the Act are applied to the Governance Rules:

Word or Context	Definition
Audit and Risk Committee	The Audit and Risk Committee established by the Council under section 53 of the Act.
Councillor Code of Conduct	The councillor Code of Conduct developed by the Council under section 139 of the Act.
Delegated Committee	<ul style="list-style-type: none"> a. A delegated committee established by a Council under section 63; or b. A joint delegated committee established by 2 or more Councils under section 64; or c. A committee, other than a Community Asset Committee, exercising any power of the Council under the Act or any other Act delegated to the committee under the Act or any other Act.

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2. Election of the Mayor

2.1. The Role and Functions of the Mayor

The role and functions of the Mayor are provided in the Act. The holder of this significant office is the chair at Council Meetings, is the leader of the councillors, acts as the principal spokesperson for Council and carries out civic and ceremonial duties.

- 2.1.1. The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor, except that the election of the Mayor must be held in accordance with any provisions contained in the Act.
- 2.1.2. A Meeting to elect a Mayor must be open to the public.
- 2.1.3. A Mayor is to be elected no later than one month after the date of a general election.
- 2.1.4. Before the election of the Mayor, a Council must determine by resolution whether the Mayor is to be elected for a one-year or a two-year term.
- 2.1.5. The next election of the Mayor must be held on a day that is as close to the end of the one-year or two-year term as reasonably practicable.

2.2. Procedures for Election of Mayor

- 2.2.1. The Chief Executive officer will chair *pro tem* (but will have no voting rights) at any Meeting to elect the Mayor, the Chief Executive will:
 - i. report the results of the election (where applicable)
 - ii. administer Declarations of Office and Oaths of Allegiance (where applicable);
 - iii. administer the fixing of allowances payable to the Mayor and councillors in accordance with section 74 of the Act (where applicable); and
 - iv. be the Returning Officer for the election of the Mayor.

The Returning Officer must invite nominations for the office of Mayor and the following procedures will apply to the conduct of the election:

- 2.2.2. there must first be a determination of the term of appointment of the Mayor,
- 2.2.3. voting will be carried out by show of hands;
- 2.2.4. The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.
- 2.2.5. any councillor is eligible for election or re-election to the office of Mayor;
- 2.2.6. nominations for the position of Mayor must be moved and seconded;
- 2.2.7. any councillor nominated may refuse nomination;
- 2.2.8. where only one nomination is received, the councillor must be declared elected;
- 2.2.9. where two or more nominations are received, the councillor with the majority of votes must be declared elected.

2.2.10. Where in an election for the Mayor:

- i. only one candidate has been nominated, that candidate must be declared elected;
- ii. two candidates have been nominated, a vote must be taken and the candidate who receives the number of votes equal to or greater than half the councillors of the Council must be declared elected;
- iii. two candidates have been nominated and no candidate receives the number of votes equal to half the councillors of the Council, a second vote will be conducted.
- iv. where, after a second vote, where two candidates have been nominated and no candidate receives the number of votes equal to half the councillors of the Council the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6 pm the following day;
- v. more than two candidates have been nominated and no candidate receives the number of votes equal to or greater than half the councillors of the Council:
 - a. the candidate with the fewest number of votes cast must be eliminated;
 - b. the names of the remaining candidates must be put to the vote again; and
 - c. the procedure in a and b above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined in sub-clause ii of this Clause.
 - d. in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes) the Chief Executive Officer will conduct a vote for one candidate to be defeated.

2.3. Role and Election of Deputy Mayor

- 2.3.1. At the Council Meeting at which the Mayor is to be elected, the Council the Council may resolve to establish the position of Deputy Mayor and elect a councillor to the position of Deputy Mayor
- 2.3.2. If the Council has not resolved to establish the position of Deputy Mayor, any provisions in this these Governance Rules relating to the Deputy Mayor have no effect.
- 2.3.3. If the Council resolves to have the office of Deputy Mayor, the provisions of rule 2 apply to the election of the Deputy Mayor with all necessary modifications and adaptations.
- 2.3.4. The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.
- 2.3.5. If the Mayor is not in attendance at a Council Meeting the Deputy Mayor must take the chair.

2.4. Ceremonial Mayoral Speech

- 2.4.1. Upon being elected, the Mayor may make a ceremonial speech.
- 2.4.2. The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead based on the adopted Council Plan.

2.5. Business Following Election of Mayor

- 2.5.1. Once the Mayor has been elected, the Chief Executive must vacate the chair and the Mayor must take the chair for the balance of the meeting, when the following matters may be dealt with:
 - 2.5.2. Statement of Commitment by Mayor and councillors;
 - 2.5.3. Establishment of Delegated Committees and Advisory Committees.
 - 2.5.4. The same procedure for the election of Mayor will be followed for the election of any chair of a Committee with any necessary modifications. Determining the Meeting Cycle for the next 12 months of Council and Committee meetings;
 - 2.5.5. Fixing quora for Advisory and Committee meetings and electing chairs of the various Delegated Committees;
 - 2.5.6. Appointment of Council representatives to Advisory Committees, peak industry bodies and regional and community based committees;
 - 2.5.7. Appointment of the Councils official newspaper;
 - 2.5.8. Any other matter considered necessary by the Chief Executive Officer; and

2.6. Appointment of an Acting Mayor

2.6.1. Role of an Acting Mayor

An Acting Mayor may perform any function or exercise any power conferred on the Mayor.

2.6.2. When to appoint an Acting Mayor

Where there is a vacancy in the office of Mayor or the Mayor is absent, incapable of acting or refusing to act, and there is no Deputy Mayor or the Deputy Mayor is absent, incapable of acting or refusing to act, the Council must appoint one of the councillors to be the Acting Mayor.

The Mayor will be deemed to be absent if the Mayor is, or will be, away from the municipality or uncontactable whilst within the municipality and therefore unable to fulfil the role of Mayor for a period of seven or more consecutive days.

The Mayor will be deemed to be incapable of acting where the Mayor declares to the Council that they are incapable of fulfilling the role of Mayor.

2.6.3. Election of an Acting Mayor

Where an Acting Mayor is to be appointed, 2.2 Procedures for Election of the Mayor apply to the election of the Acting Mayor with all necessary modifications and adaptations.

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3. Meeting Procedures

3.1. Purpose of Council Meetings

The Council holds scheduled Meetings and, when required, unscheduled Meetings to conduct the business of the Council.

- 3.1.1. The Council is committed to transparency in decision making and, in accordance with the Local Government Act 2020, Council and Delegated Committee meetings are open to the public and members of the community are able to attend.
- 3.1.2. Meetings will only be closed to members of the public if:
 1. there are clear reasons for particular matters to remain confidential; or
 2. a meeting is required to be closed for security reasons; or
 3. it is necessary to enable the meeting to proceed in an ordinary matter.
- 3.1.3. Council Meetings and Delegated Committee meetings will be held in a format that mixes in-person and electronic attendance.

3.2. Meeting Roles

3.2.1. Chair and Members

The chair, councillors and members of Delegated Committees will ensure good council decision-making by endeavouring to ensure:

1. decision making is transparent to members and observers;
2. meeting members have sufficient information to make good decisions;
3. every member is supported to contribute to decisions;
4. any person whose rights are affected has their interests considered;
5. debate and discussion is focussed on the issues at hand;
6. meetings are conducted in an orderly manner;
7. chair and members are familiar with these rules and any applicable delegations and Terms of Reference; and
8. decisions are made on the merits of the matter.

3.2.2. Mayor to take the Chair

The Mayor will take the chair at all Meetings that they are present in-person. If the Mayor is unable to attend a Council meeting for any reason, the Deputy Mayor will take the chair. If the Deputy Mayor is not present in person, the Chief Executive must open the Meeting and temporarily take the chair to invite nominations from the councillors present for a temporary chair.

1. If there is only one nomination (which must be seconded), the candidate nominated is deemed to have been duly elected.
2. If there is more than one nomination (each of which must be seconded), the councillors present at the Meeting must vote for one of the candidates by a show of hands. In the event of a candidate receiving a majority of the votes, that candidate is declared to have been elected.
3. In the event of no candidate receiving a majority of the votes, the provisions of rule 2.2.7.1 will apply.

3.2.3. Delegated Committee Chair

1. At the Meeting at which Council establishes a delegated committee it must also appoint a chair.
2. The chair of a delegated committee must be a councillor.
3. For the avoidance of doubt, sub-rule (1) does not intend to limit the powers of the Mayor provided in the Act.
4. The chair may chair a Delegated Committee meeting electronically or in person. The chair may choose to not chair the meeting if they are attending electronically.
 - a. If the chair chooses to not chair the meeting when attending electronically or is not in attendance, the Mayor or Deputy Mayor will chair the meeting if they are in attendance.
 - b. If the Mayor or Deputy Mayor are not attendance, the Chief Executive Officer must open the Meeting and temporarily take the chair to invite nominations from councillors present to appoint a temporary chair.

3.2.4. The Chair's Duties and Discretions

In addition to the specific duties and discretions provided in these Governance Rules, the chair:

1. may chair a Council Meeting or Delegated Committee meeting electronically or in person. The chair may choose to not chair the meeting if they are attending electronically.
 - a. If the chair chooses to not chair the meeting when attending electronically or is not in attendance, the Mayor or Deputy Mayor will chair the meeting if they are in attendance.
 - b. If the Mayor or Deputy Mayor are not attendance, the Chief Executive Officer must open the Meeting and temporarily take the chair to invite nominations from councillors present to appoint a temporary chair.
2. must not accept any Motion, question or statement which is:
 - a. vague or ambiguous;
 - b. defamatory, malicious, abusive or objectionable in language or substance; or
 - c. outside the powers of Council;
3. must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise during the meeting;
4. must call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council;
5. may direct that a vote be recounted to be satisfied of the result; and
6. must decide on all points of order.

3.2.5. Chief Executive Officer

1. The Chief Executive Officer, or delegate, may participate in the meeting to provide support to the chair.
2. The Chief Executive Officer should:
 - a. immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
 - b. advise if there are operational, financial or risk implications arising from a proposed resolution;
 - c. help clarify the intent of any unclear resolution to facilitate implementation;
 - d. on request, assist with procedural issues that may arise.

3.2.6. Councillors and members of Delegated Committees

1. councillors and members of Delegated Committees contribute to good governance and decision making by:
 - a. Seeking views of community members and reading agenda prior to the meeting;
 - b. demonstrating due respect and consideration to community views and the professional / expert advice provided in the agenda papers;
 - c. attending meetings and participating in debate and discussion;
 - d. demonstrating respect for the role of the chair and the rights of other councillors or members of Delegated Committees to contribute to the decision-making; and
 - e. being courteous and orderly.

3.2.7. Community

1. Council meetings are decision making forums and it is important that they are open to the community to attend and/or view proceedings.
2. Community members may only participate in Council meetings in accordance with section 7 of these Governance Rules. The community can participate if the meeting is electronic, hybrid or parallel style meeting
3. Community members are encouraged to participate in the Council's engagement forums and watch available Live streams of Council Meetings.
4. Community members may seek to inform individual councillors of their views by contacting them directly in advance of Meetings.

3.2.8. Attendance, Apologies and Absences

1. councillors and members of Delegated Committees who are unable to attend a meeting may submit an apology:
 - a. In writing to the chair, who will advise the meeting: or
 - b. By seeking another councillor or member of the Delegated Committee to submit it at the meeting on their behalf.
2. An apology submitted to a meeting will be recorded in the minutes.
3. A councillor intending to take a leave of absence should submit it in writing to the Mayor.

4. The Mayor will seek to have any leave of absence request received included in the agenda of the next Council meeting.
5. A leave of absence not included in a Council meeting agenda may still be considered by the Council if a written request has been received by the Mayor prior to the meeting.
6. The Council will not unreasonably withhold its approval of a leave of absence request.
7. A councillor who has not submitted an apology or had a leave of absence approved who is not in attendance at a Council or Delegated Committee meeting will be recorded as absent.
8. Leave of absence cannot be granted in respect of a past meeting.
9. For the purpose of these Governance Rules, a councillor shall be determined to be in attendance if they are either physically present or attending online in accordance with Council's existing IT processes at the time of that meeting. The preferred method of councillor attendance is in person.
10. A councillor must inform the Mayor in writing six hours prior to the commencement of the meeting that they will be attending online. The Mayor must similarly inform the CEO and, if applicable, the meeting chair.
11. For the avoidance of doubt, a councillor must only be recorded as present at a meeting they attend online when:
 - a. they can hear proceedings;
 - b. they can see other members in attendance and can be seen by other members, including other members attending online; and
 - c. they can be heard (to speak).
12. It is the responsibility of the chair of a meeting that they confirm with each member attending online that the above criteria are met prior to the commencement of the meeting.
13. Any member who attends online must confirm, to the approval of the chair, that the physical room in which they are located is secure enough to allow for confidential matters to be discussed safely. If the member cannot confirm this to the chair's satisfaction, that member must withdraw from the meeting and must be recorded as absent for that portion of the meeting. It is the obligation of each member attending online that they understand this obligation.
14. In the event of technical difficulties that make online attendance impractical for key attendees (e.g. Mayor, chair, councillor or CEO) If the technical difficulty cannot be immediately resolved, the chair may move to adjourn the meeting until the technical difficulty is resolved, but for no more than 30 minutes.
15. Notwithstanding any of these Governance Rules, Council will ensure that a recording of the meeting is made available on Council's YouTube account and on Council's website.
16. The chair of a Council Meeting or Delegated Committee is required to chair the meeting in person. Council Meetings and Delegated Committee meetings will be held in a format that mixes in-person and electronic attendance, unless otherwise advertised by the Council.

3.3. Notices of Council Meetings and Delivery of Agendas

3.3.1. Council Meetings

The date, time and place of all Meetings for the following Council Year is to be fixed by the Council at a Council meeting after the election of the Mayor but not later than the last Council meeting of the calendar year. A notice of meeting incorporating or accompanied by an agenda of the business to be dealt with must be served on every councillor:

1. for a Scheduled Council Meeting, not less than three business days (72 hours) before the meeting. A period of less than three business days may be justified if exceptional circumstances exist.
2. An Agenda for each Council Meeting, that is not an unscheduled Meeting, will be made available on the Council's website no less than 72 hours before the Council Meeting.
3. A schedule of Council Meetings must be prepared and published that ensure it is available to a broad section of the community, including on the Council's website at least once each year and with such greater frequency as the Chief Executive Officer determines. The schedule of Council Meetings must also be available from the Council's Customer Service Centre.

3.3.2. Unscheduled Meetings

1. Council may by resolution call an unscheduled Meeting of the Council.
2. The Mayor, or three councillors may by written notice call an unscheduled Meeting of the Council.
3. The Chief Executive Officer, following consultation with the Mayor, may call an unscheduled meeting.
4. The Council may by resolution call an unscheduled Meeting.
 - a. The resolution must specify the date and time of the unscheduled Meeting and the business to be transacted. The date and time of the unscheduled Meeting must not be prior to 6pm on the day following the Meeting at which the resolution has been made.
5. A written notice to call an unscheduled Meeting must:
 - a. specify the business to be transacted;
 - b. be delivered to the Chief Executive Officer or Delegate in sufficient time to enable notice to be given in accordance with sub-rules (6) and (7).
6. The Chief Executive Officer must determine the time and date for the meeting, giving consideration to:
 - a. the urgency of the business to be transacted
 - b. the availability of councillors
 - c. a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted
7. The Chief Executive Officer must arrange for notice of the meeting on Council's website as soon as practicable after the time and date of the meeting has been determined.

8. The Chief Executive Officer must call an unscheduled Meeting to elect a Mayor following a Council election declaration, in accordance with the Act.
 9. The unscheduled Meeting for the election of a Mayor following an election may also consider the role of Deputy Mayor and any other matters as determined by the Chief Executive Officer.
 10. Only the business specified in the Council resolution, or written notice, may be considered at an unscheduled Meeting, unless all Council, by unanimous resolution determine to admit another matter.
 11. An Agenda for an unscheduled Meeting must be made available electronically to every councillor at least 48 hours before the meeting. A period of less than 48 hours may be justified if exceptional circumstances exist.
 12. An Agenda for an unscheduled Council Meeting will be made available on Council's website no less than 24 hours before the Council meeting.
- 3.3.3. Notwithstanding sub-clauses 3.3.1 and 3.3.2 an agenda need not be served on any councillor who has been granted leave of absence unless the councillor has requested the Chief Executive officer in writing to continue to deliver an agenda during his or her period of absence.
- 3.3.4. A notice or agenda is served on a councillor for the purposes of this clause if it is sent by post, email or otherwise delivered to the:
1. An electronic file sharing service as approved by the Chief Executive Officer and to which councillors have been given access;
 2. councillor's place of residence;
 3. councillor's place of business (if applicable); or
 4. place specified by the councillor for delivery of notices of meetings.
- 3.3.5. If a notice is delivered by post it is taken as having been served on the councillor when it would have arrived at its destination in the ordinary course of mail.
- 3.3.6. Date, time and place of Council Meetings
1. At or before the last Meeting each calendar year, Council must fix the date, time and place of all Council Meetings and any Delegated Committee Meetings for the following calendar year.
 2. Council by resolution, or the Chief Executive Officer, may change the date, time and place of, or cancel, any Meeting which has been fixed and must provide notice of the change to the public.
 3. Council by resolution can determine the proposed or preferred format style of meetings (in-person, electronic- including hybrid or parallel) noting the criteria and process available for a member who wishes to request approval to attend by electronic means.
 4. The Council by resolution may determine certain meetings must be held solely as face-to-face (in-person) meetings.

3.3.7. Postponement

1. In the case of an emergency, the Chief Executive Officer or Delegate or, in the absence of both, a Senior Officer, may postpone a Council Meeting, provided every reasonable attempt is made to notify every councillor of the postponement.
2. The Chief Executive Officer, Delegate or Senior Officer must submit a full written report of the circumstances requiring his or her action in respect of the emergency postponement at the next Ordinary Meeting.

3.4. Location of Council Meetings

All Meetings will be held at the Benalla Civic Centre, or any other building within the Council's municipal district as determined by the Chief Executive Officer and advertised accordingly.

3.5. Alteration of Meeting Dates, Times or Location

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

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4. Quorum

No business can be transacted at a Council meeting unless a majority of the councillors or members of the Delegated Committee (as the case may be) is present.

If there is no quorum at the commencement of a Meeting or if a quorum cannot be maintained during a Meeting, the Meeting is to be adjourned to another date and/or time. A quorum for a Council meeting or Delegated Committee meeting is to include all members attending in an online or electronic format.

A quorum is an absolute majority (s61(7) of the Act). Inability to Obtain a Quorum.

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

4.1.2. If, after 30 minutes from the scheduled starting time of any Meeting, a quorum cannot be obtained, those members of the Council present or, if no councillors are present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Senior Officer, may adjourn the Meeting for a period not exceeding seven days from the date of the adjournment.

4.2. Inability to Maintain a Quorum

4.2.1. If, during any Meeting, or any adjournment of the Meeting, a quorum cannot be maintained, those members of the Council present or, if no councillors are present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Senior Officer, may adjourn so much of the Meeting as remains for a period not exceeding seven days from the date of the adjournment.

4.2.2. A decision made under delegation due to the Council not being able to achieve or maintain a quorum will be reported to the next Council Meeting.


4.3. Inability to Achieve or Maintain a Quorum Due to Conflicts of Interest of Councillors

4.3.1. If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of councillors, the Council will:

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

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

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

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- 4.3.3. The Chief Executive Officer must provide written notice, including by electronic means, to each councillor of any Council Meeting adjourned to another date or time due to an inability to achieve or maintain a quorum.
 - 4.3.4. Where it is not practicable because time does not permit notice in accordance with clause 4(6) to occur, then, provided every reasonable attempt is made to contact each councillor either verbally, or by some other means, it will be sufficient.
 - 4.3.5. Notice of an adjournment to another date or time due to another date or time must be published on Council's website as soon as practical.

5. Adjournments by the Council

The Council may adjourn any Meeting to another date or time but cannot adjourn a Meeting in session to another place.

5.1. Adjourned Meetings

- 5.1.1. The Chief Executive Officer or a member of Council staff authorised by the Chief Executive Officer must give notice to each councillor of the date, time and place to which the Meeting stands adjourned and of the business remaining to be considered.
- 5.1.2. If it is impracticable for the notice given under sub clause 5.1.1 to be in writing, the Chief Executive Officer must make reasonable endeavors to give notice by telephone, email, in person or by some other means to each councillor.

5.2. Cancellation or Postponement of a Council Meeting

- 5.2.1. The Chief Executive Officer may, in the case of an emergency necessitating the cancellation or postponement of a Council meeting, cancel or postpone a Meeting.
- 5.2.2. The Chief Executive Officer must submit to the immediately following Council Meeting a written report on any exercise of the power conferred by sub-rule 5.2.1.

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6. Business Of Meetings

6.1. Overview

The business to be transacted at a Council meeting is contained in the agenda provided to councillors and available to the community on the Council's website. The Chief Executive Officer oversees preparation of the agenda and determines the order of business to facilitate open, efficient and effective processes of government.

The role of the Mayor includes providing advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings. The Council can admit an item of urgent business in accordance with Rule 6.8.

6.2. Agenda Items

- 6.2.1. The Chief Executive Officer may include any matter on the Agenda for a Council Meeting which he or she thinks should be considered at the Meeting to which the Agenda relates.
- 6.2.2. No business can be dealt with at a Meeting unless it is:
 - 1. contained in the agenda; or
 - 2. admitted as urgent business under Rule 6.8.

6.3. Accessibility

- 6.3.1. The Council will conduct Council Meetings at a venue that is accessible in accordance with the *Disability Discrimination Act 1992*.
- 6.3.2. A councillor or a member of the public may, at least four business days prior to a Council meeting, request that the Chief Executive Officer provide language or communication support at the Meeting.
- 6.3.3. If a request has been made under subclause (2) the Chief Executive Officer will determine the level of language or communication support to be provided, including the use of interpreters or other technologies, to assist a person in accessing the Council meeting.

6.4. Audio Recording of Meetings

- 6.4.1. The Chief Executive Officer may make an audio recording of proceedings of a Meeting by means of a suitable audio device.
- 6.4.2. Audio recordings will be made in accordance with the Council's Recording of Council Meetings Policy.
- 6.4.3. Meetings will be livestreamed via the Council's website.
- 6.4.4. Recording of Meetings
 - 1. A person must not, without the prior approval of the Chief Executive Officer, operate any audio or visual recording equipment at any Council meeting.
 - 2. A request to record a meeting pursuant to sub-rule (1) will not be unreasonably withheld.
 - 3. Nothing in sub-rule (1) applies to:
 - a. any member of Council staff operating any recording device for the purpose of preparing draft minutes of the Council meeting; or

- b. any security camera installed in any place in which a Council meeting is held.
- 4. If the chair gives approval under sub-rule (1) the chair, must as soon as practicable after opening the Council meeting, announce the giving of approval and advise those who are in attendance that their voices are likely to be recorded during the course of the Council meeting.
- 5. The chair may at any time during the Meeting withdraw any consent that has been given.
- 6. A person representing the media may be given written consent by the Chief Executive Officer to make audio recordings of meeting proceedings for the duration of one Council Year. The chair may withdraw the consent that has been given at any time during a Meeting.

6.5. Order of Business for Council Meetings and Delegated Committee Meetings

6.5.1. The order of business is determined by the Chief Executive Officer to facilitate and maintain open, efficient and effective processes of government. At the commencement of these Governance Rules Order of Business for Council Meetings will be:

1. Opening and Acknowledgement of Country
2. Statement of Commitment
3. Disclosures of Conflict of Interest
4. Apologies and Leave of Absences
5. Confirmation of Minutes of Previous Meetings
6. Public Question Time
7. Petitions
8. Record of Committees
 - a. Recommendations from Finance and Operations Committee
 - b. Recommendations for Planning and Development Committee
 - c. Report for Assemblies of councillors, Advisory and External Committees
9. Reports
 - a. Authorisation of signing and sealing of documents
 - b. Reports by Officers
 - c. Mayor And councillors' Attendance at Committees and Civic Functions
 - d. Council Actions Pending
10. Reports by councillors
11. Notices of Motion
12. Notices of Rescission Motions
13. Urgent Business
14. Confidential Business
 - a. Confidential reports by Officers
 - b. Confidential reports by councillors
 - c. Confidential reports from Committees
15. Reopening of Meeting to the Public
16. Closure of the Meeting

6.5.2. The order of business is determined by the Chief Executive Officer to facilitate and maintain open, efficient and effective processes of government. At the commencement of these Governance Rules Order of Business for Delegated Committee Meetings will be:

1. Acknowledgement of Country
2. Apologies and Leave of Absences
3. Confirmation of Minutes of Previous Meetings
4. Disclosures of Conflicts of Interest
5. Officer Reports
6. Confidential Business (If required)
7. Closure of the Meeting

6.6. Reports by Councillors

6.6.1. A councillor may present to the Council an account on the most recent deliberations of the committee, body, association, group or working party at the next practicable Council meeting, who is:

1. the chair of an Advisory Committee or a Delegated Committee;
2. appointed by the Council as a member of a community consultative or reference committee; or
3. a delegate, nominee or appointee to an external committee, body, association, group or working party

6.6.2. A councillor may present a report on any matter relevant to the whole of the Council.

6.7. Change to Order of Business

Once an agenda has been provided to councillors, the order of business for that Council Meeting may be altered by a resolution of the Council (refer Schedule A – Procedural Motions).

6.8. Urgent Business

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

1. It relates to or arises out of a matter which has arisen since distribution of the Agenda; and
2. deferring the item until the next Meeting will mean a decision on the item will not have any effect on the matter; or
3. the item involves a matter of urgency as determined by the Chief Executive Officer; and
4. it cannot be addressed through an operational service request process.
5. Provided the matter does not:

- a. substantially affect the levels of Council service;
 - b. commit Council to significant expenditure not included in the adopted budget;
 - c. establish or amend Council Policy; or
 - d. commit Council to any contractual arrangement.
- 6.8.2. A councillor proposing a matter be admitted as urgent business must lodge it in writing to the Chief Executive Officer no later than 3 pm on the day of the Meeting.
- 6.8.3. The Chief Executive Officer will advise the Mayor of any matter he or she determines appropriate for Council to consider admitting as urgent business.

6.9. Time Limits for Meetings

- 6.9.1. A meeting must not continue after three hours from the time it commences unless a majority of the councillors present vote in favour of an extension in accordance with this rule.
- 6.9.2. Extensions of a Meeting will be in block periods of 30 minutes.
- 6.9.3. After the initial 30-minute extension the Meeting must not continue unless a majority of councillors present vote in favour of a further extension.
- 6.9.4. In the absence of such extensions as provided for in sub-rules 6.9.1, 6.9.2, and 6.9.3, or in the event there is further business to be transacted at the completion of two extensions, the Meeting must stand adjourned to 6 pm on the following day.
- 6.9.5. Notwithstanding sub-rule 6.9.4, the chair may seek the Agreement of Council not to adjourn the Meeting to the following day, if the chair reasonably believes the remaining business will take less than 10 minutes to transact.
- 6.9.6. The chair may adjourn a Meeting for a 10-minute break, at an appropriate point in proceedings after two hours has elapsed.
- 6.9.7. Notwithstanding sub-rule 6.9.1, the chair may seek the Agreement of Council not to adjourn the Meeting if the chair reasonably believes the remaining business of the Meeting will take less than 30 minutes to transact.

6.10. Motions and Debate

This Section describes the procedure for introducing a motion or amendment, the rules of debate, foreshadowing a motion or amendment and the duty of the chair in relation to accepting motions and amendments.

It also describes the process for a councillor lodging a notice of motion for consideration and/or indicating they will raise a matter at the next Council Meeting (foreshadowing items).

A flowchart depicting the procedure for motions and amendments is provided for reference in Schedule C.

- 6.10.1. A councillor may move any motion related to an item included in the agenda. In the interest of transparency and informed decision making, motions or

amendments should not introduce new matters to a debate that have not been the subject of the report or background of the motion being considered by the Council. Motions are required to be submitted in writing so they can be displayed to the meeting.

- 6.10.2. As a resolution must be able to be acted upon, a motion must clearly state what is intended and what its effect will be if it becomes the decision. This provides clarity for the implementation of Council decisions.

6.11. Notices of Motion

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

- 6.11.1. A Notice of Motion must be in writing (which includes an email), be signed by a councillor, and be lodged with the Chief Executive Officer prior to noon ten business days before the day of the Council meeting to allow sufficient time to include the Notice of Motion in the agenda to be provided to each councillor in accordance with subclause 4.1.
- 6.11.2. The Chief Executive Officer must inform councillors about the legal and cost implications of any proposed Notice of Motion. The Chief Executive Officer may suggest revised wording to the draft Notice of Motion to facilitate compliance with the requirements for Notices of Motion under this Local Law.
- 6.11.3. A Notice of Motion must relate to the objectives, role and functions of Council as outlined in the Act.
- 6.11.4. A Notice of Motion must call for a Council report if the Notice of Motion proposes any action that:
1. impacts the levels of Council service;
 2. commits Council to expenditure greater than [insert council's upper limit] that is not included in the adopted Council Budget;
 3. proposes to establish, amend or extend Council policy;
 4. proposes to impact the rights of any person who has not had the opportunity to contribute their views;
 5. commits Council to any contractual arrangement; or
 6. concerns any litigation in respect of which Council is a party.
- 6.11.5. The Chief Executive Officer must reject any Notice of Motion which:
1. is too vague;
 2. is defamatory;
 3. may be prejudicial to any person or Council;
 4. is objectionable in language or nature;
 5. is outside the powers of Council
 6. is submitted during the Election Period.

- 6.11.6. The Chief Executive Officer may reject any Notice of Motion that
 1. relates to a matter that can be addressed through the Customer Request Management System; or
 2. Relates to a matter that has been previously resolved by the Council or is acted upon.
 3. If rejecting a Notice of Motion, the Chief Executive Officer must:
 - a. give the councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - b. if the Notice of Motion cannot be amended to the satisfaction of the Chief Executive Officer, notify, in writing, the councillor who lodged it of the rejection and the reasons for the rejection.
- 6.11.7. The Chief Executive Officer may designate a Notice of Motion to be confidential in accordance with the relevant grounds contained in the Act, in which case, the Notice of Motion will be considered in the part of the relevant Council Meeting that is closed to members of the public.
- 6.11.8. The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the agenda and outline the policy, financial and resourcing implications if the Notice of Motion is passed.
- 6.11.9. The Chief Executive Officer may arrange for comments of members of Council staff to be provided to councillors prior to the Notice of Motion being published in the agenda for the relevant Council meeting.
- 6.11.10. 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.
- 6.11.11. Except by leave of the 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.
- 6.11.12. The Motion moved must not be substantially different to the motion published in the Agenda, however, may be amended by resolution of the Council.
- 6.11.13. If a councillor who has lodged a Notice of Motion is absent from the Council meeting at which the Notice of Motion is to be considered, or fails to move the motion when called upon to do so by the chair, any other councillor may move the Notice of Motion.
- 6.11.14. If a Notice of Motion is not moved at the Council meeting at which it is listed, it lapses.

6.12. Rescission Motions

This section provides a description of the circumstances and procedures under which a Council decision can be rescinded or altered. It also prescribes a procedure under which a Council policy can be altered or varied.

A Notice of Rescission is a form of Notice of Motion. Accordingly, all provisions in Governance Rules regulating Notices of Motion equally apply to Notices of Rescission.

6.12.1. Notice of Rescission

1. Motions to revoke, rescind or alter a previous resolution can be made in the following ways:
 - a. by Notice of Rescission delivered by a councillor in accordance with sub clause (2)(d); or
 - b. by recommendation contained in an Officer's report which is included in the agenda, that a previous decision be altered or revoked.

6.12.2. A councillor may propose a Notice of Rescission provided:

1. it has been signed and dated;
2. the resolution proposed to be rescinded has not been acted on;
3. the effect of rescinding the resolution will not place the Council at significant legal, financial or other risk, including non-compliance with statutory obligations;
4. the Notice of Rescission is delivered or sent electronically to the Chief Executive Officer setting out:
5. the resolution to be rescinded; and
6. the Meeting at and date on which the resolution was made.

6.12.3. A notice of rescission must be in writing, signed (including by electronic means) by a councillor and be delivered to the Chief Executive Officer or a Delegate by 12 noon at least 10 business days prior to the next Ordinary Meeting.

6.12.4. The Chief Executive Officer, or a member of Council staff with responsibility for the subject matter of a resolution, may implement a resolution of Council at any time after the close of the Meeting at which it was made. A resolution will be deemed to have been acted on if:

1. its content or substance has been communicated in writing by the Chief Executive Officer or a member of Council staff to a person whose interests are materially affected by it, including by the publishing of the unconfirmed minutes of a Council meeting on the website; or
2. a statutory process has been commenced so as to vest enforceable rights in or obligations on the Council or any other person.

6.12.5. Notwithstanding sub-rule 6.12.3, the Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:

1. has not been acted on; and
2. is the subject of a Notice of Rescission which has been delivered or sent to the Chief Executive Officer in accordance with subclause (2)(d) unless deferring implementation of the resolution would have the effect of:
 3. depriving the resolution of its usefulness;
 4. giving rise to non-compliance with a legal obligation; or
 5. placing the Council at significant legal, financial or other risk.

- 6.12.6. If a motion to rescind or alter a previous resolution is lost, an identical or similar motion may not be put before the Council for at least six months from the date it was last lost, unless the Council resolves that the Notice of Rescission be re-listed at a future Meeting.
- 6.12.7. If a motion for rescission is not moved at the Meeting at which it is listed, it lapses.
- 6.12.8. A motion for rescission listed on an agenda may be moved by any councillor present but may not be amended.
- 6.12.9. A notice of rescission listed on an Agenda may be moved by any councillor present but be moved in the form it was listed and must not be amended.
- 6.12.10. The Chief Executive Officer must cause every Notice of Rescission received to be sequentially numbered and to be maintained in a register.

6.13. Change of Council Policy

- 6.13.1. The Council reviews its policies to ensure they are current and continue to reflect community expectations and the position held by a particular Council.
- 6.13.2. It is good practice for the Council to review significant policies at least once in each Council term (every 4 years) and such reviews may lead to change in policy position.
- 6.13.3. Subject to sub- rule 6.13.4, if the Council wishes to change a Council policy, a formal notice of rescission is not required.
- 6.13.4. If a policy has been in force in its original or amended form for less than 12 months, any intention to change the policy which may result in a substantial change to the policy's application or operation for members of the public should be communicated to those affected, and their comment sought, prior to the policy being changed.

6.14. Addressing the Council Meeting

This section provides for how the meeting is to be addressed by councillors and Members of Council Staff.

- 6.14.1. Members of the Community may only address a meeting in accordance with Section 7 of these rules.
- 6.14.2. Councillor allowed to speak uninterrupted
A councillor who has the floor must not be interrupted unless called to order, or given notice by the chair his speaking time has elapsed or is about to elapse, when he or she must sit down and remain silent until the councillor raising the Point of Order has been heard and the Point of Order dealt with.

- 6.14.3. Any person addressing the chair must refer to the chair as:
- Madam Mayor; or Mr Mayor; or
 - Madam Chair; or
 - Mr Chair; or
 - Mayor; or
 - Chair
1. all councillors, other than the Mayor, must be addressed as councillor (family name);
 2. all members of Council staff must be addressed as:
 - a. Mr or Ms (family name) as appropriate or by their official title; and
 - b. all members of the community must be addressed by title and family name.
- 6.14.4. For all Meetings any councillor (except for the chair) or person who addresses a Council meeting must stand and direct all remarks through the chair unless granted an exemption by the chair.
- 6.14.5. In the case of competition for the right of speak, the chair must decide the order in which the councillors concerned will be heard.

6.15. Introducing a Report

- 6.15.1. Before a written report is considered by the 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 three minutes:
1. its background; and
 2. the reasons for any recommendation which appears.
- 6.15.2. After a report is introduced, the chair will allow councillors to ask questions for clarification, pursuant to rule 6.16.13.

6.16. Introducing a Motion or an Amendment

6.16.1. Chair's duty

The chair must not accept any Motion which:

1. is defamatory;
2. is objectionable in language or nature;
3. is vague or unclear in its intention;
4. is outside the powers of Council;
5. is not relevant to an item of business on the Agenda and has not been admitted as urgent business; or
6. purports to be an amendment but is not.

6.16.2. The procedure for moving any motion or amendment is:

1. the mover must outline the Motion without speaking in support of it;
2. the motion must be seconded by a councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder.
3. if there is a seconder, then the chair must call on the mover to speak to the Motion;
4. after the mover has spoken to the Motion, the seconder may also speak to the Motion;
5. after the seconder has spoken to the Motion (or after the mover has spoken to the Motion if the seconder does not speak to the Motion), the chair must call on any councillor who wishes to speak against the Motion, then on any councillor who wishes to speak for the Motion, after waiting until all councillors wishing to speak to the Motion have spoken; and
6. if no councillor wishes to speak against the Motion, then the chair may put the Motion or call on any other Member to speak.

6.16.3. Right of Reply

1. If there has been any opposition to a motion, the mover of a motion has a right of reply to matters raised during debate.
2. No new matters may be raised in the right of reply.
3. After the right of reply has been taken or has been capable of being taken but subject to any councillor exercising his or her 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.

6.16.4. Moving an Amendment

1. Subject to subclause (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.
2. An amendment may be proposed or seconded by any councillor, except the mover and seconder of the original Motion.
3. A motion to confirm a previous resolution of the Council cannot be amended.
4. An amendment must not be the negative of, or substantially contrary to, the motion.
5. If a councillor proposes an amendment and the original mover and seconder of the Motion both indicate their agreement with the amendment, the amended Motion becomes the substantive Motion without debate or vote.

6. If a councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:
 - a. the amendment must be moved and seconded;
 - b. a councillor may speak on any amendment once, whether or not he or she has spoken to the Motion, but debate must be confined to the terms of the amendment;
 - c. any number of amendments may be proposed to a Motion, but only one amendment may be accepted by the chair at any one time. No second or subsequent amendment, whether to the Motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with and voted on;
 - d. if the amendment is carried, the Motion as amended then becomes the Motion before the Meeting (known as the 'substantive Motion'); and
 - e. the mover of an amendment does not have right of reply.

6.16.5. Foreshadowing Motions

1. At any time during debate a councillor may foreshadow a motion so as to inform the Council of his or her intention to move a motion at a later stage in the Council meeting, but this does not extend any special right to the foreshadowed motion.
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.
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.
4. A foreshadowed motion has no procedural standing and is merely a means of assisting the flow of a Council meeting.

6.16.6. Withdrawal of Motions

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

6.16.7. Separation of Motions

1. Where a motion contains more than one part, a councillor may request the chair to put the motion to the vote in separate parts.
2. The chair may decide to put any Motion to the vote in separate parts.

6.16.8. Motions to be Moved in a Block

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

6.16.9. Motions in Writing

1. All Motions, except procedural Motions, must be submitted in writing. The chair may require that a complex or detailed motion be displayed on a screen.
2. The chair may adjourn a Meeting while a Motion is being written or may request Council to defer the matter until the Motion has been written, allowing the Meeting to proceed uninterrupted.
3. The Council may adjourn a Meeting while a motion is being written or the Council may defer the matter in the order of business, until the motion has been written.
4. The chair may request the person taking the minutes of the Council meeting to read the motion or amendment to the Council meeting before the vote is taken.

6.16.10. Debate must be Relevant to the Motion

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.
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 be seated and not speak further in respect of the motion then before the chair.
3. A speaker to whom a direction has been given under sub-rule (2) must comply with that direction.

6.16.11. Adequate and sufficient debate

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

6.16.12. Speaking Times

1. A councillor must not speak longer than the time set out below, unless granted an extension by the chair:
 - a. the mover of a motion or an amendment: five minutes
 - b. the seconder of a motion and any other councillor: three minutes
 - c. the mover of a motion exercising a right of reply: two minutes.
2. Only one extension is permitted for each speaker.
3. Any extended speaking time must not exceed two minutes.

6.16.13. Right to Ask Questions

1. A councillor may, when no other councillor is speaking, ask through the chair any question concerning or arising out of the motion or amendment before the chair.
2. The chair has the right to limit questions and direct that debate be commenced or resumed.

6.17. Procedural Motions

A procedural motion is a motion which deals with conduct of the meeting itself. Both the 'adjournment of debate motion and the 'closure' motion contained in these Rules seek to manage the business before the chair and must be dealt with immediately by the chair.

1. Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the chair.
2. Procedural motions require a seconder.
3. Notwithstanding any other provision in these Governance Rules, procedural motions must be dealt with in accordance with the table at Schedule A.
4. The chair may reject a procedural Motion if he or she believes the Motion on which it is proposed has not been adequately or sufficiently debated.
5. A Procedural Motion may not be moved or seconded by the chair.
6. Unless otherwise provided, debate on a procedural Motion is not permitted and the mover does not have a right of reply.
7. Unless otherwise provided, a procedural Motion must not be amended.

6.18. Points of Order

A point of order is taken when a councillor draws the attention of the chair to an alleged irregularity in the proceedings. A councillor may make a point of order at any time during the Meeting they consider that these Governance Rules or the *Councillor Code of Conduct* is not being complied with.

This section describes valid points of order, the process for raising and ruling on a point of order, and the procedure if there is dissent from the chair's ruling.

6.18.1. Valid Points of Order - A point of order may be raised in relation to:

1. a Motion which has not been accepted by the chair;
2. a question of procedure;
3. a councillor who is not conducting themselves in accordance with the councillor Code of Conduct;
4. debate that is irrelevant to the matter under consideration;
5. constitutes a tedious repetition of something already said;
6. is a matter that should be considered in a session of a Meeting closed to the public in accordance with the Act;
7. is prejudicial to any person or the Council;

8. a matter that is outside the powers of Council; or
9. any act of Disorder.

6.18.2. Procedure for Point of Order

A councillor raising a point of order must identify the basis upon which they are making the point of order, including a reference to any provision in these Governance Rules or the councillor Code of Conduct. The chair must not allow the point of order if the councillor making it cannot identify the basis upon which they are making the point of order.

6.18.3. Contradiction or Opinion

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

6.18.4. Chair to Decide

1. The chair must decide all points of order without entering into any discussion or comment, other than to confer with the Chief Executive Officer, or a member of Council staff authorised by the Chief Executive Officer for that purpose. The chair must when ruling upon a point of order state the provision of legislation, rule, custom or practice upon which he or she is basing the ruling.
2. The chair may adjourn the Meeting to consider a point of order but otherwise must rule on it as soon as it is raised.
3. Before adjourning the Meeting, the chair will indicate the duration of the adjournment and the time at which the Meeting will resume.
4. All other questions before the Council are suspended until the point of order is decided.

6.18.5. Dissent from Chair's Ruling Dissent in Chairperson's ruling

1. A councillor may move that the Council disagree with the chair's ruling on a point of order, by moving a motion of dissent such as: 'That the chair's ruling [set out the ruling] be dissented from'.
2. A Motion of dissent in the chair's ruling must, if seconded, be given priority to all other items of business and a substitute chairperson must be elected to preside while the Motion is being considered.
3. The substitute chair must put questions relative to the ruling to the chair first, and then to the mover of the Motion.
4. The substitute chairperson must conduct a debate on the chairperson's ruling, and the matter must be decided by a majority vote.
5. The temporary chair must put the motion in the following form: 'That the chair's ruling be dissented from.'
6. If the vote is in the negative, the chair resumes the chair and the Meeting proceeds.
7. If the vote is in the affirmative, the chair must resume the chair then reverse or vary (as the case may be) his or her previous ruling and proceed.
8. The defeat of the chair's ruling is in no way a motion of censure or no-confidence in the chair.

6.19. Voting

At the conclusion of debate on a matter before the Meeting, the chair must put the question, motion or amendment to the vote. Each councillor is entitled to one vote and voting must be by show of hands. The vote is determined by a majority of the councillors present at the meeting at the time the vote is taken voting in favour of the motion.

If a vote is tied, the chair generally has a second vote. A second vote has traditionally been used to maintain the status quo, however, it is intended in this Local Law that it is used as a 'deliberate vote' for the chair to make a decision in the best interest of the community.

Provision is made for the introduction of an electronic voting system as long as Council has resolved to implement the system and all participants in the meeting and those observing a meeting are able to see which way councillor has voted on a matter at the time the vote is taken.

Sometimes a councillor may want his or her vote recorded – this is provided for in this section, along with the procedure when a councillor calls for a division on a vote which is when how each councillor voted is recorded.

6.19.1. How a Motion is Determined

1. To determine a motion before a Meeting, the chair must first call for those in favour of the motion, then those opposed to the motion and finally those abstaining from voting, and must then declare the result to the Meeting.
2. In the event of councillors abstaining from voting on an item it is still a requirement for a majority of those present at the Meeting to vote in favour of the motion for it to be adopted. A Councillor who abstains from voting is taken to have voted *against* the motion. If a majority of those present at the meeting abstain from voting the motion fails even if the majority who did vote, voted in favour.
3. Each councillor present at a Council meeting who is entitled to vote is entitled to one vote.
4. Voting at a meeting must not be in secret, but if the meeting is closed to the public, a councillor is not required to divulge their vote to the public.
5. The question is determined in the affirmative by a majority of the councillors present at a meeting at the time the vote is taken voting in favour of the question.
6. For the purpose of determining the result of a vote, a councillor present at the meeting who does not vote is to be taken to have voted against the question.

6.19.2. Voting must be seen

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

6.19.3. Voting must take place in silence.

6.19.4. The chair may direct that a vote be recounted to be satisfied of the result.

6.19.5. Second Vote

1. In the event that the number of votes in favour of the matter is half the number of councillors present, the chair must exercise a second vote in accordance with the Act (section 59(d)).
2. There are circumstances in which the chair does not have a second vote and the matter is determined by lot – these relate to the election of the Mayor and the appointment of the chair of Delegated Committees made up entirely of councillors.

6.19.6. Procedure for a Division

1. Immediately after any motion is put to a Council meeting and before the next item of business has commenced, a councillor may call for a division.
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.
3. When a division is called for, the chair must:
 - a. first ask each councillor wishing to vote in favour of the Motion to indicate their vote and the chair must then state the names of those councillors to be recorded in the Minutes;
 - b. then ask each councillor wishing to vote against the Motion to indicate their vote and the chair must then state the names of those councillors to be recorded in the Minutes;
 - c. next, ask each councillor abstaining from voting to indicate their vote and the chair must then state the names of those councillors to be recorded in the Minutes; and
 - d. finally, declare the result of the division.

6.19.7. No Discussion Once Declared

1. Once a vote on a motion has been taken, no further discussion relating to the motion is allowed unless the discussion involves a councillor:
 - a. requesting, before the next item of business is considered, that his or her opposition to a resolution be recorded in the minutes of the Council meeting;
 - b. calling for a division in accordance with subclause 4.14.7.1; or
 - c. foreshadowing a Notice of Rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

6.20. Minutes

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

1. contain details of the proceedings and resolutions made;
2. be clearly expressed;
3. be self-explanatory;
4. in relation to resolutions recorded in the minutes, incorporate relevant reports or a summary of the relevant reports considered in the decision making process; and
5. incorporate additional information admitted during the course of the meeting for the purpose of the decision making process which was not previously included in the agenda.

6.20.2. The minutes of a Council meeting must be submitted to the next appropriate Council meeting for confirmation.

6.20.3. Keeping of Minutes

1. The Chief Executive Officer (or member of Council staff authorised by the Chief Executive Officer to attend the Council meeting and to take the minutes of such Meeting) must keep minutes of each Council meeting, and those minutes must record:
 - a. the date, place, time and nature of the Council meeting;
 - b. the names of the councillors present and the names of any councillors on leave of absence or who apologised in advance for their non-attendance;
 - c. the names and titles of the members of Council staff present who are not part of the gallery;
 - d. details of failure to achieve or maintain a quorum and any adjournment and the reason for the adjournment (whether as a result or otherwise);
 - e. any disclosure of a conflict of interest made by a councillor in accordance with the Act;
 - f. arrivals and departures (including temporary departures) of councillors during the course of the Council meeting;
 - g. each motion and amendment moved showing the mover and seconder (including procedural motions and amendments that lapse for the want of a seconder);
 - h. the outcome of every motion, that is, whether it was put to the vote and the result (if carried, lost, withdrawn, lapsed, amended);
 - i. when requested by a councillor, a record of their support of, opposition to, or abstention from voting on any Motion, noting that under s61(5) that a councillor present at the meeting who does not vote is taken to have voted against the question;

- j. the vote cast by or abstention from voting of each councillor upon a division;
- k. details of any submissions made to the Council;
- l. details of any petition made to the Council;
- m. questions read and responses provided as part of public question time;
- n. details of any failure to achieve or maintain a quorum;
- o. the time and reason for any adjournment or at which standing orders were suspended and resumed; and
- p. the time the Council meeting was opened and closed, including any part of the Council meeting that was closed to members of the public.

2. The minutes should:

- a. bear the date and time the Meeting was commenced, adjourned, resumed and concluded;
- b. have pages consecutively numbered; and
- c. contain consecutive item numbers which are clearly headed with a subject title and, where appropriate, sub-titles.

6.20.4. Availability of Minutes

1. The minutes as recorded by the Chief Executive Officer (or other Officer authorised by the Chief Executive Officer to attend the Meeting and to take the minutes of such Meeting) will be made available as the unconfirmed minutes to:
 - a. councillors (electronically) within four business days of the Council meeting; and
 - b. members of the public, by publishing on the Council's website within five business days of the Council meeting.
2. The confirmed minutes will be published on the Council's website within five Business Days of confirmation - being at the next available Ordinary Meeting or meeting of the Special Committee (as the case may be).

6.20.5. Confirmation of Minutes

1. At every Meeting the Minutes of the preceding Meeting(s) must be dealt with as follows:
 - a. a Motion will be moved to confirm the Minutes in the following terms: 'That the Minutes of theMeeting held on20.....be confirmed.';
 - b. if a councillor indicates opposition to the Minutes, the councillor must specify the particular item or items in the Minutes and, after asking any questions to clarify the matter, can only move a Motion to rectify the alleged error(s) in the Minutes by adding the following words to the Motion in sub-clause (2) (a) '...subject to the following alteration(s).....'.

2. once the Minutes are confirmed in their original or amended form, the Minutes must, if practicable, be signed by the chair of the Meeting at which they have been confirmed; and
 - a. a copy of the minutes must be delivered or sent electronically to each councillor no later than 48 hours before the next Council meeting;
 - b. no debate or discussion is permitted on the confirmation of minutes except as to their accuracy as a record of the proceedings of the Meeting to which they relate;
 - c. once the minutes are confirmed in their original or amended form the minutes must be initialled on each page and signed on the last page by the chair of the Meeting at which they have been confirmed; and
 - d. the original signed copy of the minutes must be retained as permanent Council records according to the Council's Records Management Policy.

6.21. Conduct and Behaviour

This section describes the expected conduct and behaviour of members of the public or visitors at a Council meeting, the related powers of the chair and enforcement of these Governance Rules.

- 6.21.1. Conduct and behaviour, such as directly addressing councillors, interjecting or other unruly behaviour, are inappropriate. Members of the public or visitors at a Meeting must ensure that their conduct or behaviour does not interfere with the business of the Council or Delegated Committee.
- 6.21.2. Display of placards and posters
 1. Subject to sub- rules (2) and 3, a person can display any placards or posters in the Council Chamber or in any building where a Meeting is being, or is about to be, held, including outside the entrance to the building.
 2. A placard or poster must not:
 - a. display any offensive, indecent, insulting or objectionable item or words;
 - b. obstruct the entrance to the Council Chamber or a building where a Meeting is being, or is about to be, held; or
 - c. obstruct the view or physically impede any person.
 3. The chair may order and cause the removal of any placard or poster that is deemed by the chair to be objectionable, disrespectful or otherwise inappropriate.
- 6.21.3. Chair May Remove
 1. Members of the public present at a Council Meeting must not interject during the Council Meeting.
 2. If a person, other than a councillor, interjects or gesticulating offensively during the Council Meeting, the Mayor may direct:
 3. the person to stop interjecting or gesticulating offensively; and

4. if the person continues to interject or gesticulate offensively, the removal of the person.
5. The chair may cause the removal of any object or material that is deemed by the chair to be objectionable or disrespectful.
6. In causing a person's removal or the removal of an object or material under sub-rule 6.21.3(1-5), the chair may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the person, object or material.

6.21.4. Disorderly Conduct

The conduct of councillors and Members at meetings is governed by the *Act*, these Governance Rules and the *Councillor Code of Conduct*.

6.21.5. Chair may adjourn disorderly Meeting

1. The chair may call a break in a Meeting for either a short time, or to resume another day if:
 - a. the behaviour at the Council table or in the gallery is significantly disrupting the Meeting; or
 - b. when a Meeting has been in progress for longer than 2 hours.
 - c. The break referred to in sub-clause 1 is an adjournment.
2. Where a councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the Meeting, and prevents the conduct of Council business:
3. Council may, by resolution, suspend that councillor from a portion of the Meeting or from the balance of the Meeting where the chair has warned the councillor to cease that behaviour; or
4. The Mayor, under section 19 of the Act, at a Council meeting, having previously warned the councillor to cease that behaviour, may direct a councillor to leave the meeting for a period of time or the balance of the Meeting.
5. Where Council suspends a councillor under sub-rule (1)(a), or the Mayor directs a councillor to leave the meeting under sub-rule (1)(b) the councillor will take no active part in the portion of the Meeting from which he or she has been suspended.
6. If a councillor has been suspended from a meeting or directed to leave in accordance with sub-rule (3) the chair may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the councillor.

6.21.6. Public Addressing the Meeting

1. Members of the public may only address the Council in accordance with Section 7.
2. Any member of the public addressing the Council must extend due courtesy and respect to the Council and the processes under which it operates and must take direction from the chair whenever called on to do so.
3. Members of the public present at a Council meeting must remain silent during the proceedings other than when specifically invited to address the Council.

6.22. Suspension of Standing Orders

Standing Orders are the rules made to govern the procedure at Council meetings and Special Committee meetings contained in these Rules. The Standing Orders cover a range of matters including the order of business, rules of debate, procedural motions and election procedures.

Suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal meeting procedure. The purpose of this action is to enable the formalities of meeting procedure to be temporarily disposed of while an issue is discussed.

6.22.1. Suspension of Standing Orders

To facilitate the business of a Council meeting, the Council may, by resolution, suspend standing orders.

1. The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of the Council.
2. No motion to suspend standing orders can be accepted by the chair during a second continuance of a Meeting beyond 10pm agreed in accordance with subclause 4.5.10.
3. No motion can be accepted by the chair or lawfully be dealt with during any suspension of Standing Orders, except a motion to resume Standing Orders.
4. Suspending standing orders should be used at the discretion of the Council and managed by the chair of the Meeting.
5. Even though standing orders are suspended, the chair is still responsible for ensuring that the Meeting continues in an orderly and courteous manner. The chair is entitled to suspend the Meeting until he or she is satisfied that the Meeting can resume in an orderly and courteous way. During the suspension of standing orders these Governance Rules continue to apply which relate to improper and disorderly conduct and failing to obey a direction of the chair.
6. No Motion to suspend standing orders can be accepted by the chair during a second extension of time for a Meeting.

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7. Public Participation

As outlined in the purpose of these Governance Rules, Council Meetings are held for the Council to make its decisions. Members of the public do not have a right to address the Council, however provisions are made for the Council to respond to questions from the community and for the public to make submissions to Council.

At each Scheduled Council Meeting there is an opportunity for members of the public to ask questions of the Council. Assistance will be available for any community member seeking or requiring support to write their question(s).

Petitioning is a long-established process for members of the community to demonstrate community support for a request or views on a matter, and for that request or view to be presented directly to Council.

This Section sets out the procedures to be followed to submit a question or petition, the circumstances under which a question or petition may be disallowed and the process for addressing and responding to the question or petition at or after the meeting.

Council meetings are recorded and broadcasted to the public, this includes community questions and submissions.

7.1. Public Submissions and Questions of Council Guidelines

- 7.1.1. Questions of Council and Public Submissions will not be allowed during any period when the Council has resolved to close the meeting in respect of a matter under section 66 (1) of the Act.
- 7.1.2. Submissions as part of Public Submissions and Questions of Council may be on any matter except if it:
 1. is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
 2. relates to confidential information as defined under the Act;
 3. relates to the personal hardship of any resident or ratepayer; or
 4. relates to any other matter which the Council considers would prejudice the Council or any person.
- 7.1.3. No more than two questions will be accepted from any person at any one meeting.
- 7.1.4. Where the Chief Executive Officer does not accept a question, the submitter is to be informed of the reason or reasons for which their question was not accepted.
- 7.1.5. The Mayor reserves the right to cease a submission as part of Open Forum if he or she deems the submission inappropriate.
- 7.1.6. Copies of all questions allowed by the Chief Executive Officer will be provided in writing to all councillors.
- 7.1.7. A submission or question submitted in writing by a member of the public, which has been disallowed by the Chief Executive Officer will be provided to any councillor on request.

7.2. Public Question Time

- 7.2.1. There must be a public question time at every Scheduled Council Meeting to enable members of the community to submit questions to the Council.
- 7.2.2. Notwithstanding 7.2.1, public question time will not be held during an Election Period.
- 7.2.3. Public question time will not exceed 10 minutes in duration unless the Council resolves otherwise (in which case public question time may be extended for a further period of 10 minutes).
- 7.2.4. Public question time may only be extended for a maximum of two additional 10 minute periods.
- 7.2.5. Questions submitted to the Council on notice must be:
 1. in written form;
 2. contain the name, address and email or contact telephone number of the person submitting the question;
 3. in a form approved or permitted by the Council (Template available on Council's website);
 4. addressed to the Chief Executive Officer; and
 5. submitted no later than 10am on the day prior to the next Meeting by:
 6. letter to the Chief Executive Office, PO Box 227, Benalla VIC 3672 (letter must be with Council by 10am on the day prior to the Council meeting); or
 7. email to council@benalla.vic.gov.au; or
 8. hand delivery to the Customer Service Centre at 1 Bridge Street East, Benalla.
- 7.2.6. The Chief Executive Officer will cause a question submitted in a language other than English to be translated to English.
- 7.2.7. A question that cannot be translated prior to the commencement of the next scheduled Council Meeting will be translated prior to the next scheduled Council Meeting and the submitter will be notified.
- 7.2.8. No person may submit more than two questions to any one Council Meeting.
- 7.2.9. If a person has submitted two questions to a Council Meeting, the second question:
 1. may, at the discretion of the chair, be deferred until all other persons who have submitted a question have had their questions asked and answered;
 2. may not be asked if the time allotted for public question time has expired.
- 7.2.10. 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.
- 7.2.11. Like questions may be grouped together and a single answer provided.

7.2.12. Response

1. Response to a submission or question raised during the submission in Public Question Time may be provided immediately as part of the Public Question Time at the discretion of the Council.
2. The chair may nominate a councillor, the Chief Executive Officer, or another member of Council staff to respond to a question.
3. The matter will be referred to the relevant Officer for investigation and response if required.
4. Council officers will respond acknowledging the question and providing procedural advice and/or the response within 10 working days of the Meeting of Council

7.3. Public Submissions

7.3.1. To enhance the consultative process and facilitate public participation and involvement of the community in Council decision making in accordance with good governance, the Council has established a process under which arrangements may be made for members of the public to address the Council or a Delegated Committee. The processes in the Governance Rules are intended to regulate how the community can participate in a Meeting when all other consultation avenues have been completed or in the few instances where there is no specific consultation mechanism.

7.3.2. Call for Submissions and Hearing of Submissions

1. Council may call for submissions in relation to a proposed decision from any person affected by the proposed decision.
2. For a submission to be valid, a person making a submission must provide in writing how they could be affected by the proposed decision, outline their views and/or how they want their interests considered when Council considers it decision.
3. The Council must, when calling for submissions, provide a public notice on the Council's website providing a minimum of 28 days for submissions to be received by the Council and fix the date, time and place for a Submissions Hearing if submissions are received.
4. When calling for submissions, the Council will provide information on how submissions are to be made, and the deadline.
5. People making a submission may request to speak in support of their submission to the Council at a Hearing of Submissions.
6. A Hearing of Submissions must be held at least 14 days prior to the proposed decision being considered at a Council meeting.

7.3.3. Planning for the Hearing of Submissions

1. A person who has requested to be heard in support of their written submission must be provided with an opportunity to be heard.
2. Where a person has advised in their submission that they wish to be represented by a person who is named in the submission, that opportunity must be provided.
3. A person who has requested to be heard must be given reasonable notice of the day, time and place of the Meeting at which submissions will be heard if that has not already been provided in the public notice.
4. Where a submitter is a community group/organisation, it is preferable that the group selects a spokesperson to make the submission and that the Council be provided with the name and contact details of that spokesperson before the Meeting at which submissions will be heard.

7.3.4. Hearing of Submissions

1. Any person speaking in support of their submission will have a maximum of three minutes to address the Council at the Submissions Hearing and must only speak to the content of their written submission.
2. The Council must consider all submissions received prior to consideration of the proposed decision for which the submissions were called.
3. Reports relating to matters where persons have a right to make a submission will generally be listed early on the agenda. The report will list the names of submitters who have been invited to make a presentation at the Meeting. Copies of all submissions received will be attached to the report.
4. At the meeting, the chair will introduce the item and advise submitters that they will be called upon one at a time to make their presentation.
5. Submissions will be heard in the order that they were received at the Council Offices.
6. At the conclusion of each submission, the chair will ask councillors if they have any questions on the submission.

7.3.5. A decision will not be made at the Meeting at which submissions are heard. A future Meeting which will be open to the public will consider the submissions followed by a Meeting to make a decision on the matter.

7.3.6. The Council must advise in writing, each person who has made a separate submission of the decision made in relation to their submission and the reasons for this.

7.3.7. Other Submissions

1. In addition to submissions called by the Council, the public has other opportunities to address the Council as follows:
 - a. A public submission in respect of an item listed on the agenda.
2. The Council may suspend standing orders to hear from a community member or representative of an organisation, on matters of significance to the Council, only if prior arrangements have been made by written request to the Mayor or Chief Executive Officer.
3. Any person wishing to address the Council at a Council Meeting or a Delegated Committee comprised of all councillors must submit a 'Request to be heard' form by 10am on the day of the meeting. At the time of registering to speak persons must provide a summary of the matter on which they will be speaking.
4. Requests to be heard will be registered strictly in the order of receipt of the request at the Council office.
5. At the commencement of the Meeting the Governance Coordinator or other member of Council staff authorised by the Chief Executive Officer will provide the chair with a list of the names of the submitters and the order in which they will speak.
6. In instances where a number of persons wish to present the same point of view, the chair at his or her discretion may request a speaker/speakers be nominated to represent them.
7. Order and duration of Public submissions
 - a. Public submissions in relation to an item listed on the agenda will be heard immediately before the Officer report on the matter. A maximum of three minutes will be provided to each speaker.
8. Chair to outline the process. The Chair will:
 - a. inform the submitters that they will be called upon one at a time to make their presentations;
 - b. advise submitters that a three-minute limit applies to each presentation and they should keep points relevant to the issue and not repeat points made by other submitters if there is more than one submitter;
 - c. advise submitters that there will be no public interjection during the Meeting and speakers will be called in the order of receipt of their application to be heard; and
 - d. at the conclusion of each submission, ask councillors if they have any questions on the submission. Councillors should ask questions that display active listening and empathy for the individual/groups' concerns and should not make contradictory remarks.

7.3.8. Procedures for Submitters

1. Any person wishing to present written material that was not included in their written submission must provide a copy to the Governance Coordinator (or other member of Council staff nominated for the purpose) by 2pm five business days prior to the day of the Meeting to enable distribution to councillors with the business papers.
2. No material will be distributed during the Meeting by any person, including Officers, without the permission of the chair.

7.3.9. Notice of Decision to Submitters

All submitters must be advised in writing of any final decision made by the Council on the matter and the reasons for the decision.

7.3.10. Petitions

1. To facilitate a request by a member of the public for information or action in relation to a particular matter, a written petition to the Council must be in accordance with this section.
2. A petition is a written request from members of the public for information or action in relation to a particular matter. The petition must be typed or printed (other than in pencil) without erasure and be received from at least 12 persons and signed by the persons and, except in cases of incapacity or sickness, whose names and physical addresses appear on a page which shows the whole of the petition.
3. Where a petition has been signed by less than 10 people, it will be treated as a joint letter and forwarded directly to the appropriate member of Council staff for action as an operational item.
4. Any councillor presenting a petition is responsible for ensuring that:
 - a. he or she is familiar with the contents and purpose of the petition; and
 - b. the petition is not derogatory, defamatory or objectionable in language or nature.
5. Procedure
 - a. For a petition to be presented at a Council meeting, the requirements of a petition as shown in Schedule B must be met.
 - b. A petition received before 10am seven days before the next scheduled Council Meeting will be included in the Agenda. If not, the petition will be received at the following scheduled Council Meeting.
 - c. The only motions that may be moved at the scheduled Council Meeting in relation to the petition are:
 - i. That the petition be received;
 - ii. That the petition be referred to an appropriate Delegated Committee for report; and
 - iii. That the petition be considered at a specific time or in conjunction with a specific item.
 - d. Officers will channel all correspondence related to the petition through the petition organiser (or the first-named signatory).

- e. If a petition relates to an item listed on the Agenda for the Meeting at which it is submitted, the petition may be dealt with in conjunction with the item.
- f. If a petition relates to a 'statutory matter' which is the subject of a public submissions process in accordance with the relevant legislation the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).
- g. An online or electronic petition will not be accepted to be presented to a scheduled Council meeting. Online petitions may be accepted as joint letters.
- h. In accordance with the Council's commitment to privacy, only the issues raised in the petition, along with the number of signatories, will be included in the agenda and minutes.

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8. Delegated Committees

The Council may establish Delegated Committees and advisory committees as part of its governance framework. Delegated Committees can comprise councillors, members of Council staff and others.

The Council may delegate specific powers, duties and functions to Special Committees, their meeting procedures need to be formal. Meeting procedures for most advisory committees, however, are typically less formal. This section describes how the Governance Rules to meetings and proceedings of Delegated Committees and advisory committees.

8.1. Application to Delegated Committees Generally

If Council establishes a Delegated Committee, these Rules will apply to the Delegated Committee Meetings with any necessary modifications

For the purposes of sub-rule 8.1. a reference in Section 3-6 inclusive to:

1. a Council meeting is to be read as a reference to a meeting of the Delegated Committee;
2. a councillor is to be read as a reference to a member of the Delegated Committee; and
3. the Mayor is to be read as a reference to the chair of the Delegated Committee.

8.2. Application to Delegated Committees Specifically

8.2.1. Notwithstanding sub-rule 8.1.1, if the Council establishes a Delegated Committee not composed solely of councillors:

1. the Council may; or
2. the Delegated Committee may, with the approval of the Council;

resolve that any provision(s) of Sections 3-6 is (or are) not to apply, whereupon that provision (or those provisions) will not apply until the Council resolves, or the Delegated Committee with the approval of the Council, resolves otherwise.

8.3. Election of Chairs of Delegated Committees

8.3.1. Any election for:

1. chair of a Delegated Committee; or
2. temporary chair of a Delegated Committee;

will be regulated by Sections 3-6 (inclusive) of these Governance Rules as if the reference to the Mayor is a reference to the chair of the Special Committee or temporary chair (as the case may be).

8.4. Application to Advisory Committees

8.4.1. If the Council establishes an advisory committee:

1. the Council may; or
2. the advisory committee may, with the approval of the Council

resolve that any provision(s) Sections 3-6 (or are) to apply, whereupon that provision (or those provisions) will apply until the Council resolves, or the advisory committee with the approval of the Council resolves, otherwise.

3. For the purposes of subclause 8.4.1, a reference Sections 3-6 of these Rules to:
 - a. a Council meeting is to be read as a reference to a meeting of the advisory committee;
 - b. a councillor is to be read as a reference to a member of the advisory committee;
 - c. the Mayor is to be read as a reference to the chair of the advisory committee; and
 - d. the Chief Executive Officer is to be read as a reference to an officer of the Council.

8.5. Adoption of Recommendation

If a recommendation of an advisory committee or a Delegated Committee is adopted by the Council, what has been recommended becomes a resolution of the Council.

8.6. Community Asset Committees

The Act provides for Council to establish a Community Asset Committee for the management of a community asset such as a hall. Council may appoint members of the community to the committee and delegate to it powers, duties or functions. The powers delegated to a community asset committee must be limited in the amount and purpose of any financial delegation.

- 8.6.1. The Governance Rules may apply to any Community Asset Committee established by Council.
- 8.6.2. Council may resolve, in establishing a Community Asset Committee which chapters of the Governance Rules apply but as a minimum must include Rules 3.2 and 10.
- 8.6.3. A Community Asset Committee must report the minutes of all Committee Meetings to the next practicable Council meeting.
- 8.6.4. A Community Asset Committee must act in accordance with its adopted Charter, Instrument of Delegation and any Terms of Reference adopted by Council.

8.7. Audit and Risk Committee

The Act provides for Council to establish an Audit and Risk committee to provide oversight.

- 8.7.1. The Governance Rules will apply to the Audit and Risk Committee established by Council unless otherwise provided in the Audit and Risk Charter.
- 8.7.2. Council may resolve, in establishing an Audit and Risk Committee that the meeting procedure chapter of these Governance Rules does not apply.
- 8.7.3. An Audit and Risk Committee must report the minutes of all Committee Meetings to the next practicable Council meeting.
- 8.7.4. An Audit and Risk Committee must act in accordance with its adopted Charter adopted by Council.

8.8. Assembly of Councillors

- 8.8.1. At an assembly of councillors, the Chief Executive Officer must ensure that a written record is kept of—
1. the names of all councillors and members of Council staff attending;
 2. the matters considered;
 3. whether a councillor who has disclosed a conflict of interest as required by subsection (3) leaves the assembly.
- 8.8.2. The Chief Executive Officer must ensure that the written record of an assembly of councillors is, as soon as practicable—
1. reported at an ordinary meeting of the Council; and
 2. incorporated in the minutes of that Council meeting.

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9. Election Period Policy

9.1 The Council will have in place an election period policy

- 9.1.1. The Council will have in place an election period policy that:
1. governs decision making during a local government election period, including what may be considered at a Council meeting;
 2. prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
 3. 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 the Council;
 4. 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;
 5. defines roles and responsibilities in relation to who is the spokesperson for Council during an election period;
 6. 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.
- 9.1.2. At least once in each Council term and, not later than 12 months prior to the commencement of an election period, the Council will review its election period policy.
- 9.1.3. The Election Period Policy forms part of these Governance Rules and is attached as Schedule E.
- 9.1.4. The operation of Council Advisory Committees shall be suspended upon the commencement of the election period ahead of a general Council election.
- 9.1.5. Any outstanding Delegate's Reports may still be reported to an ordinary meeting of Council during this period.
- 9.1.6. Council Committees shall resume meeting following the election and the appointment by the incoming Council of councillors to each committee.

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10. Conflict Of Interest

The *Act* defines general and material conflicts of interest and provides exemptions for remoteness and interests in common with a substantial proportion of ratepayers along with other specific circumstances.

The Act also provides Council must include in its Governance Rules procedures for disclosures of Conflicts of interest, including at meetings conducted under the auspices of Council that are not Council meetings. Meetings conducted under the auspices of Council include those meetings arranged or hosted by Council.

These Rules provide the procedures for disclosures of conflicts of interest.

Further guidance is available from the Managing Conflicts of Interest guideline.

10.1. Obligations with regard to Conflict of Interest:

10.1.1. Councillors, members of Delegated Committees and Council staff are required to:

1. avoid all situations which may give rise to conflicts of interest;
2. identify any conflicts of interest; and
3. disclose or declare all conflicts of interest;

10.2. Councillors and Members of Delegated Committees

10.2.1. Councillors and Members of Delegated Committees:

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

10.3. Procedure at a Council or Delegated Committee Meeting

10.3.1. At the time indicated in the Agenda, a councillor with a conflict of interest in an item on that agenda must indicate they have a conflict of interest by clearly stating:

1. the item for which they have a conflict of interest; and
2. whether their conflict of interest is general or material; and
3. the circumstances that give rise to the conflict of interest.

10.3.2. Immediately prior to the consideration of the item in which they have a conflict of interest, a councillor or Member of a Delegated Committee must indicate to the meeting the existence of the conflict of interest and leave the meeting.

10.3.3. A councillor who is not present at the designated time in the agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the

manner that required for the declarations of conflicts of interest at sub-rule 10.3.1 prior to leaving the meeting.

- 10.3.4. A councillor or Member of a Delegated Committee who discloses a conflict of interest and leaves a Council meeting must not communicate with any participants in the meeting while the decision is being made.

10.4. Procedure at other Meetings Organised, Hosted or Supported by the Council

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

10.5. Council Staff

- 10.5.1. Must act in accordance with the Staff Code of Conduct.
- 10.5.2. Must not exercise a delegation or make a decision on any matter where they have a conflict of interest.
- 10.5.3. May be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at Rule 5.6 and the Employee Code of Conduct.

10.6. Procedure for disclosures of conflicts of interest by Council Staff

- 10.6.1. Council staff must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.
- 10.6.2. All conflicts of interest disclosed by Council staff will be provided to the Governance team for recording in the register of Conflicts of Interest.
- 10.6.3. A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:
 1. The number and qualifications of other people providing advice regarding the same matter is equal or greater; or
 2. The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
 3. The staff member's Director or Manager determines that the conflict of interest has not influenced the advice provided; and
 4. The existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.

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11. Joint Council Meetings

Regional collaboration provides benefits through collective procurement, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it's possible for the participating Councils to make their own decisions and determinations, in some circumstances, it may be beneficial to hold Joint Council Meetings as are provided for in the Act.

11.1. Council May Resolve to Participate in a Joint Council Meeting to Consider:

- 11.1.1. Matters subject to discussion of the Memorandum of Understanding with the Rural City of Wangaratta dated 19 December 2018.
- 11.1.2. Collaborative projects
- 11.1.3. Collaborative procurement
- 11.1.4. Emergency Response
- 11.1.5. If the Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer (or delegate) will agree on governance rules with the participating Councils.
- 11.1.6. Where Benalla Rural City Council is the lead Council on a matter to be brought for consideration at a Joint Council meeting, the Mayor will be nominated to chair the Joint Council meeting
- 11.1.7. At a majority of councillors will be appointed to represent Council at a Joint Council meeting.
- 11.1.8. Consistent information will be provided to councillors prior to any Joint Meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.
- 11.1.9. A joint briefing arranged in accordance with sub-rule 11.1.5 may be held electronically.

12. Miscellaneous

This section provides for policies, guidelines and procedures to support the operation of this Local Law.

12.1. Procedure Not Provided in Local Law

In all cases not specifically provided for by these Governance Rules, the Council may determine the procedure to apply by resolution.

12.2. Policies and Guidelines

The Council may adopt any policies or guidelines from time to time for the purpose of exercising any discretions conferred by these Governance Rules.

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Part B – Schedules

Schedule A: Procedural Motions Table

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

Motion	Form	Mover/ Seconder	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Laying a motion on the table (pausing debate)	'That the motion be laid on the table'	A councillor who has not spoken for/against the motion	During the election of the Mayor/Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same meeting	Debate continues unaffected	No
Take a motion from the table (resume debate on a matter)	'That the motion in relation to xx be taken from the table'	Any councillor	When no motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
Alter the order of business	'That the item listed at xx on the agenda be considered before/after the item listed as xy'	Any councillor	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the <i>Agenda</i>	No
Suspension of Standing Orders	'That Standing Orders be suspended to ...' (reason must be provided)	Any councillor		The rules of the meeting are temporarily suspended for the specific reason given in the motion No debate or decision on any matter, other than a decision to resume Standing Orders, is permitted	The meeting continues unaffected	No

Motion	Form	Mover/ Seconder	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Resumption of Standing Orders	'That Standing Orders be resumed'	Any councillor	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed	The meeting cannot continue	No
Consideration of confidential matter(s) (Close the meeting to members of the public)	That, in accordance with section 66(2)(a) of the <i>Local Government Act 2020</i> the meeting be closed to members of the public for the consideration of item xx <i>is confidential as it relates to [insert reason]</i>	Any councillor	During the election of the Mayor/Deputy Mayor	The meeting is closed to members of the public	The meeting Continues to be open to the public	Yes
Reopen the meeting	'That the meeting be reopened to members of the public'	Any councillor		The Meeting is reopened to the public	The meeting remains closed to the public	No

Schedule B: Guidelines for Petitions

Requirements of a petition

A petition will be presented at a Council Meeting only if it meets all of the following requirements:

- The petition must be received from at least 12 persons, signed by those persons whose name and physical address also appears
- Although initial copies of petitions can be conveyed by email or facsimile, the original document must be sighted and received by the Council in a hardcopy format.
- The petition must be legible and in permanent writing (i.e. no pencil)
- The petition must be in the English language, or accompanied by a translation, which will need to be certified by the Chief Executive Officer who will present it to be correct.
- The petition must be addressed to the Chief Executive Officer, the Mayor, or one or more councillors containing a request for action to be taken by the Council.
- Each page of the petition must repeat the full wording of the petition as contained on the first page of the petition.
- Any signature appearing upon a page which does not bear the whole of the petition wording will not be considered by the Council.
- All signatures must be original signatures, not photocopied, scanned or faxed copies.
- All signatories' names and address must be legible writing to be counted. Names and address that cannot be read will not be counted.
- The petition should not be indecent, abusive or objectionable in language or content.
- Every page of a petition, including signatories to the petition must be on an original piece of paper and not pasted, stapled, or otherwise affixed to any other piece of paper.
- The petition should not relate to a planning permit application.

How are petitions relating to planning applications handled?

Any petition referring to a specific planning application will not be viewed as a petition, but a joint submission. This is because:

- Council has a range of separate legal requirements (under the Planning and Environment Act 1987), such as notice and time limits relating to planning applications, and
- Council is required to consider each individual matter on its planning merits.

How to lodge a petition

Petitions should be forwarded by mail to Benalla Rural City Council PO Box 227, Benalla Vic 3671 or delivered in person to the Benalla Rural City Customer Service Centre, 1 Bridge Street East, Benalla.



Sample

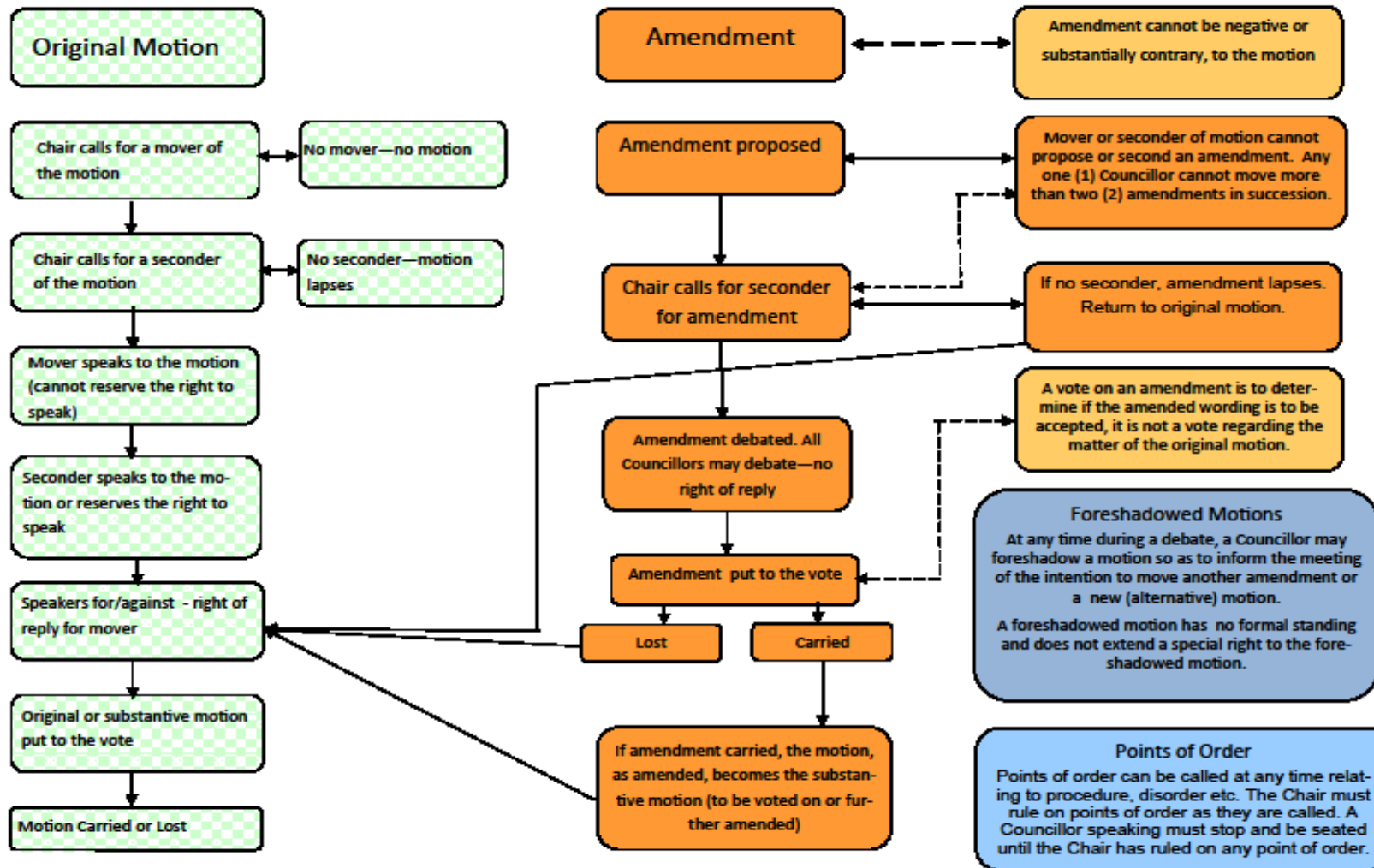
To the Mayor and Councillors of Benalla Rural City

The following petitioners draw the attention of the Council to (enter the circumstances that led to the petition)

The following petitioners request that(outline the action sought)

Name (please print name)	Address (please print full residential address)	Signature (petitioners must sign)

Schedule C: Procedure for Motions and Amendments



Schedule D: Guidelines for Public Submissions

How to maximise presentations to the Council.

The following points may assist presenters to maximise their benefits from the time available to make an oral submission:

- Start with primary messages. What is the purpose of your presentation and what do you wish to achieve?
- Plan submissions so they can be delivered in the time available. Councillors faced with a large agenda welcome presenters who can make their point succinctly and in reasonable time.
- Think about the issues from the viewpoint of councillors and staff. What will they want to know and what do you expect from the Council?
- Avoid jargon and keep the messages clear. Councillors come from a range of vocational backgrounds. Some will understand jargon very clearly, while the message may be lost on others less familiar with your issue.
- If planning to use visual presentations or maps, advise Council officers well in advance so that the appropriate technology or equipment can be provided. Arrive 15 minutes early to assist with set up and testing of presentations prior to the meeting. Backup options are helpful in the event technology fails.

After the meeting

A report will be presented to a subsequent Meeting on the proposal detailing the consideration of all submissions received, both written and oral.

Following consideration of all submissions a report will be presented to a future Meeting to make a decision on the matter.

Any person who has made a submission, or the nominated representative of a person or a group:

- (a) will be advised of the meeting date and time of the meeting at which the Council will make a decision; and
- (b) will be notified of the Council decision and the reasons for it.

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CP 21 Election Period Policy

Responsible Officer:	Chief Executive Officer
Document type:	Council Policy
Reference:	CP 21
Approved by:	Council
Date approved:	26 August 2020
Date of next review:	1 September 2023

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A. Preliminary

1. Introduction

The Election Period Policy has been developed to ensure transparency, good governance and accountability are adhered to by Councillors and officers so that general elections held for Benalla Rural City Council are conducted in a manner that is ethical, fair and equitable and are publicly perceived as such.

In addition to supporting probity and confidence in the election process, observance of the election period is a statutory requirement. The *Local Government Act 2020* (the Act) governs municipal elections and requires the Council to prepare, adopt and maintain an Election Period Policy in relation to procedures to be applied by the Council during the period leading up to a general election. The statutory requirements are minimum governance standards.

The policy will assure the community that Benalla Rural City will not use public resources in election campaigning or make major decisions that may bind the incoming council, while continuing to function on behalf of the community.

2. Objectives

- To ensure the highest standard of good governance is achieved by the incumbent Council and all Council staff.
- To supplement the requirements of the Act with additional measures to ensure that best practice is achieved in supporting the fair and unbiased conduct of general elections.
- To ensure that Council elections are conducted in an environment that is open and fair to all candidates by outlining: the use of council resources, council publications, functions and events, requests for information, liaison with the media and Councillor expenditure in the lead up to an election.
- To recognise that the incumbent Council will require support, information and resources to fulfil its role as elected representatives of the community within the confines of this policy.

3. Legislation

This policy should be read in conjunction with the Act, particularly the following sections-

3.1 Section 69 Governance Rules to include election period policy

- (1) A Council must include an election period policy in its Governance Rules.
- (2) An election period policy must prohibit any Council decision during the election period for a general election that—

- (a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
 - (b) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
 - (c) the Council considers could be reasonably deferred until the next Council is in place; or
 - (d) the Council considers should not be made during an election period.
- (3) An election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.
- (4) A Council decision made in contravention of subsection (2)(a) or (b) is invalid.
- (5) Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of subsection (4) is entitled to compensation from the Council for that loss or damage.

3.2 Section 123 Misuse of position

- (1) A person who is, or has been, a Councillor or member of a delegated committee must not intentionally misuse their position—
- (a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
 - (b) to cause, or attempt to cause, detriment to the Council or another person.
- Penalty: 600 penalty units or imprisonment for 5 years.
- (2) An offence against subsection (1) is an indictable offence.
- (3) For the purposes of this section, circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a delegated committee include—
- (a) making improper use of information acquired as a result of the position the person held or holds; or
 - (b) disclosing information that is confidential information; or
 - (c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or
 - (d) exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform; or
 - (e) using public funds or resources in a manner that is improper or unauthorised; or

- (f) participating in a decision on a matter in which the person has a conflict of interest.
- (4) This section—
 - (a) has effect in addition to, and not in derogation from, any Act or law relating to the criminal or civil liability of Councillors or members of delegated committees; and
 - (b) does not prevent the institution of any criminal or civil proceedings in respect of that liability.

3.3 Section 124 Directing a member of Council staff

A Councillor must not intentionally direct, or seek to direct, a member of Council staff—

- (a) in the exercise of a delegated power, or the performance of a delegated duty or function, of the Council; or
- (b) in the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under this Act or any other Act; or
- (c) in the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under this Act or any other Act; or
- (d) in relation to advice provided to the Council or a delegated committee, including advice in a report to the Council or delegated committee.

Penalty: 120 penalty units.

3.4 Section 304 Prohibition on Councillor or member of Council staff

- (1) A Councillor or member of Council staff must not use Council resources in a way that—
 - (a) is intended to; or
 - (b) is likely to—affect the result of an election under this Act.

Penalty: 60 penalty units.

- (2) A Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

Penalty: 60 penalty units.

4. Definitions

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

Definitions used in this policy which are not defined by the Act are:

Act	<i>Local Government Act (Vic) 1989</i>
Chief Executive Officer	Chief Executive Officer of Benalla Rural City including their delegate
Councillors	Councillors including the Mayor
council resources	Council stationery, motor vehicles, telephones, computers, office equipment, Council staff and contractors
election period	<p>As defined in section 3(1) of the Act, the election period starts at the time that nominations close on nomination day.</p> <p>Section 44(1) of the <i>Interpretation of Legislation Act 1984</i> provides that, 'where in an Act or subordinate instrument a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall not be included in the period'.</p> <p>The Election period ends at 6 pm on election day</p>
electoral matter	<p>matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the returning officer for the purposes of conducting an election. Without limiting the definition, electoral matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on -</p> <ul style="list-style-type: none">(a) the election; or(b) a candidate in the election; or(c) an issue submitted to, or otherwise before the voters in connection with the election.(d) advocates the policies of the Council or of a candidate(e) refers to matters that are known to be contentious in the community and likely to be the subject of election debate
event or function	Any planned gathering or social occasion organised or sponsored by Benalla Rural City

major policy decision	Any decision relating to the employment or remuneration of the Chief Executive Officer, entering into a contract or proposal, the total value of which is the greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 of the <i>Local Government Act 1989</i> in the preceding financial year, the allocation of community grants, major planning scheme amendments, or significant changes to Council plans or budget, decisions which would unreasonably bind an incoming Council.
publication	Includes any means of publication including letters and information on the Internet and social media
public (or community) consultation	A process that involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy and includes discussion of that matter with the public. It does not include providing a statutory notice relating to planning permit applications or other decisions.
significant policy decision	A decision which would bind an incoming Council that either relates to the commitment of substantial expenditure or action or a decision which affects the municipality and community that cannot be reversed.

B. Application

1. Who the policy applies to

Councillors must comply with the policy, regardless of whether they intend to nominate or have already nominated as candidates for election.

Staff and Delegated Committee members must act in accordance with this policy during the election period.

[JS1]

Council committee members who are candidates for election are expected to comply with this policy and in addition:

- a. submit apologies for any committee meetings or other activities held during the election period
- b. return any council equipment, documents or information which is not available to the public for the duration of the election period
- c. immediately resign from the committee upon election.

Other candidates for election are expected to comply with the obligations of this policy where they apply.

Prior to the election period the Chief Executive Officer will ensure that all members of Council staff are advised in regard to the application and scope of the caretaker procedures.

2. What activities the policy covers

The policy applies during an election period to cover:

- a. decisions that are made by the Council, a special committee or a person acting under delegation of the Council
- b. any material that is published by the Council or on the Council's behalf
- c. protocols for Council and Special Committee meetings
- d. public consultations
- e. attendance and participation in functions and events
- f. the use of Council resources
- g. access to Council information
- h. media and media services.

3. The policy commits the Council to

- a. avoid making significant new policies or decisions that could unreasonably bind an incoming Council
- b. avoid making inappropriate decisions or using resources inappropriately
- c. rescheduling the release of publications and communications where possible. Any publications and communications must be checked and certified by the Chief Executive Officer to ensure they do not contain any electoral matter before being released.
- d. ensuring that public resources, including staff time, are not used in election campaigning or in a way that may improperly influence the result of an election or advantage existing Councillors as candidates.
- e. ensuring that information held by the Council is made equally available and accessible to all candidates during the election.

C. Policy

This policy replaces and overrides any previous policy or document that refers to the Caretaker period.

1. Council resources

- 1.1. It is an established democratic principle that public resources must not be used in a manner that would influence the way people vote in elections. The Council commits to this principle in that it will ensure Council resources are not used inappropriately during a Council election.

- 1.2. In accordance with section 304 of the Act, the Council will ensure that probity is observed in the use of all Council resources during the election period and Council staff are required to exercise appropriate discretion to ensure compliance with section 304 of the Act. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice must be sought from the Chief Executive Officer or the General Manager Corporate and Community.
- 1.3. In determining whether the use of Council resources during the election period is appropriate, officers will have regard to whether these same resources are available to other candidates at the election.
- 1.4. Council resources, including (but not limited to) offices, meeting rooms, officers, hospitality services, photographs, equipment, Council funded telephone numbers, IPads, motor vehicles and email addresses and stationery will be used exclusively for normal Council business during the election period and will not be used in connection with any election campaign.
- 1.5. Reimbursements of candidates' out-of-pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign. In the case of Councillor claims that cover a combination of Council and electoral business, the Chief Executive Officer may approve a partial reimbursement to cover Council activities.
- 1.6. Council logos, publications, letterheads, or other Benalla Rural City branding are not to be used for, or linked in any way to, a candidate's election campaign.
- 1.7. Council staff will not be asked to undertake any tasks connected directly or indirectly with the election campaign of a Councillor standing for re-election.
- 1.8. Officers will not provide candidates with access to databases, contact lists, property counts, email addresses or any other information that would assist in mailing or other distribution of election material.

Photos or images taken by or provided by the Council are not to be used by Councillors for the purposes of electioneering or in support of their election campaign. This includes photos or images provided by the Council for past Council activities. This applies equally to images on the Council website that may be able to be copied.

2. Council information

- 2.1. The Council affirms that all candidates for the Council election will be treated equally.
- 2.2. For the purposes of this Policy any Councillor – whether standing for re-election or not – will be regarded as a candidate
- 2.3. Requests for information to staff from Councillors or candidates will be referred to the GMC or CEO and recorded as a Councillor Request.
- 2.4. Any assistance and advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.

- 2.5. Briefing material prepared by staff for Councillors during the caretaker period will relate only to factual matters or to existing Council services to assist Councillors in conducting normal day to day activities. 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 be connected with a candidate's election campaign.
- 2.6. Responses to candidates' requests will be provided by the Chief Executive Officer or their delegate. Only information that can be reasonably accessed will be released.
- 2.7. Section 123 of the Act prescribes serious penalties (600 penalty units or imprisonment, or both) for any Councillor who inappropriately makes use of their position or information obtained in the role of Councillor, to gain an advantage.
- 2.8. Any Freedom of Information (Fol) applications lodged during the caretaker period on matters such as expenses, costs etc regarding current Councillors will be dealt with where possible outside of the caretaker period (the Fol Act specifies a 30-day period in providing a response to a FOI application).
- 2.9. An Information Request Register will be maintained by the Customer Service Centre staff. This register will be a public document (available for inspection and available on the Council's website) that records all requests for information of a non-election nature by all candidates and the responses given to those requests as well as the name of the candidate making the request and the date request is made.

3. Public consultation

- 3.1 Public consultation of a limited kind normally associated with routine administration will only continue through the election period where it can be justified as necessary and not likely to influence the election. Significant community consultation on major strategy or policy issues will not occur, or if already commenced, should be discontinued during the election period
- 3.2 Public consultation required under the *Planning and Environment Act 1987*, or matters subject to section 223 of the Act are not affected by this policy.

4. Council publications

The Act specifically prohibits the Council publishing or distributing electoral matter thus providing fairness to all candidates by preventing elected representatives from receiving an advantage. The policy will assist the Council to meet these statutory obligations.

- 4.1 Section 304(2) of the Act prohibits Councillors or Council staff from using Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period.
 - . This is to ensure that the Council does not use public funds that may influence or be seen to influence people's voting decisions.
- 4.2 Best practice recommended by Local Government Victoria – in line with State and Federal Governments – is where possible to limit the release of documents to those that are essential for the conduct of Council operations.

4.3 Section 304(2) of the Act refers specifically to 'electoral material'. Local Government Victoria suggests this can be broadly interpreted to refer to documents produced for the purpose of communicating with the community (including on the internet) and lists the following as examples:

- Council newsletters
- Advertisements and notices, except newspaper notices of meetings
- Media releases
- Leaflets and brochures
- Mailouts to multiple addresses

The following examples are also included in this policy:

- Social media posts
- Council noticeboards
- New website material
- E-Newsletters
- Reports
- Material to publicise an event
- Publication and distribution of councillor speeches.

4.4 The Council must not print, publish or distribute the publications specified in 4.3 during the caretaker period unless they have been certified in writing by the Chief Executive Officer to ensure they do not contain electoral matter. The Chief Executive Officer must not delegate the power to certify publications to a member of Council staff.

4.5 Penalties apply to the certification, printing, publishing or distribution of documents containing electoral matter.

Material should be forwarded to the Chief Executive Officer prefaced with the following wording:

This material has been checked and does not contain any electoral or electoral related matter to the best of my knowledge. In accordance with the requirements of section 55D(1) of the Local Government Act 1989 please certify in writing that you authorise for this material to be printed, published or distributed.

Certified by the Chief Executive Officer in accordance with section 55D(1) of the Local Government Act 1989

Chief Executive Officer signature.....

Date.....

- 4.6 The Annual Report is required by law to be submitted to the Minister for Local Government no later than 30 September each year. Where this means it is published during the caretaker period, it is subject to the legislative restrictions on publications and therefore may not include information about Councillors beyond what is required by the Local Government Regulations.

The *Local Government (Planning and Reporting) Regulations 2014* require the Annual Report to show each Councillor's name, a photograph and a list of membership of special committees and other bodies to which they have been appointed by the Council. It must not include attributes or achievements of individual Councillors.

If a greater number of copies than usual of the annual report are to be distributed, then it may be regarded as a pamphlet and should be subject to certification by the Chief Executive Officer. Similarly any publication of an extract or summary of the annual report must be certified by the Chief Executive Officer.

- 4.7 Council meeting business papers are not considered advertisements, handbills, pamphlets or notices and therefore do not require certification. The exception to this is if agenda and business papers are published for wider distribution than normal. All reports to Council and Special Committees will be assessed by the CEO, in accordance with the Act and this policy

- 4.8 Social media includes, but is not limited to:

- Facebook
- Twitter
- YouTube
- Instagram
- LinkedIn
- Pinterest

www.benalla.vic.gov.au

www.bpacc.com.au

www.benallaartgallery.com.au

www.enjoybenalla.com.au

- 4.9 In accordance with paragraph 4.5, any publications on social media sites under the auspices of the Council during the election period require certification by the CEO, prior to publication. This may mean messages and/or responses to questions may not be posted as quickly as normal.

- 4.10 Protocols have been developed for managing the Council's social media and online channels.

During the election period, the Manager Arts Communications Events and Tourism and the Communications Officer will monitor and oversee all online channels to ensure they are managed in accordance with this policy. Any other staff member who manages a social media or online channel as part of their role with Benalla Rural City is required to apply the same protocols.

During the election period, the following social media controls will be implemented.

- The 'Visitor Posts' facility will be removed
 - No posts or comments that may be construed as electoral matter will be permitted on council sites
 - No hosting or responding to political content will be permitted
 - Comments will be moderated in accordance with the policy
 - Any inappropriate posts will be removed as soon as practicable
 - Members of the Council will not be profiled on council social media during the election period
- 4.11 The Council's existing internet and social media sites will be examined by the Communications Officer and where appropriate any material that might reasonably influence voters in connection with the election will be temporarily withdrawn.
- 4.12 During the election period the Council internet and social media sites will not contain material which contravenes the policy or the statutory requirements relating to publications. Any references to the election will only relate to the election process.
- 4.13 Profiles of the current members of the Council who are candidates will be removed from the Council's website during the election period but retain their contact details for their day-to-day role as a Councillor. Information about Councillors will be restricted to:
- names
 - photographs
 - contact details
 - titles
 - membership of special committees and other bodies to which they have been appointed by the Council.
- 4.14 Any new material published on the Council's website during the caretaker period that may be considered to be an advertisement, handbill, pamphlet or notice must also be subject to the certification process.
- 4.15 The following disclaimer will be included on the front page of the Benalla Rural City Council websites and other digital media sites:
- As the Benalla Rural City Council Election is being held on 24 October 2020, the Council has assumed a caretaker role from 22 September 2020. During the election period, content will only be added to this site in accordance with the Council's Election Period Policy.*
- 4.16 Copies of all certified documents will be retained for the Council records.

5. Media

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

5.1 Media Advice

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

5.2 Media releases / spokespersons

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

5.3 Publicity campaigns

During the election period, publicity campaigns, other than for the purpose of conducting the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council activity, it must be approved and material for publication certified by the CEO. In any event, Council publicity during the election period will be restricted to communicating normal Council activities and initiatives and will not involve specific Councillors.

5.4 Billboards and posters

Council-owned land and buildings will not be used for the purposes of candidates electioneering signage. In the case of signage and pop-up stalls on privately-owned land the normal permit application processes will apply.

5.5 Councillors

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

5.6 Council employees

During the caretaker period, no employee will initiate any public statement that relates to an election issue. Public statements include not only formal media releases but also verbal comments at meetings, functions and events being attended as part of their Council role.

6. Functions and events

6.1. Public events staged by external bodies

Councillors may continue to attend events and functions during the election period.

6.2. Council events and functions

Council organised events and functions held during the caretaker period will be reduced to only those essential to the operation of the Council. Where events do occur Councillors should be advised they are representing the Council and should not use the opportunity for electioneering.

Citizenship ceremonies should be postponed until after the election or conducted by the Chief Executive Officer instead of the Mayor.

6.3. Speeches

Councillors may make speeches at Council organised or sponsored events and functions during the election period subject to prior approval of the Chief Executive Officer. Speeches for Councillors will only be prepared by Council staff in relation to events that are part of the normal services or operation of the Council and such speeches will not be circulated or available for publication.

6.4. Publication of promotional material

In preparing any material concerning a Council organised or sponsored function or event that will be published or distributed during the election period, such preparation must be consistent with sections 4 and 5 of the Policy.

7. Decisions

The Council will comply with sections 69 and 304 of the Act with respect to making major policy decisions. Decisions refer to those made by the Council, Special Committees of the Council and delegated staff.

7.1 In addition to major policy decisions, other decisions may be controversial. Council Management will present advice on these matters in the context of:

- (a) Council obligations under relevant legislation
- (b) Existing Council policies and strategies
- (c) Good professional practice.

7.2 The Council will, where possible, avoid making significant decisions during an election period, unless the matter under consideration is urgent and cannot be deferred without having a negative impact on the Council, the municipality or the local community.

7.3 The Council will operate in a limited capacity while it is in a caretaker role. Appropriate decisions will be made by officers with delegated authority to allow day to day operational matters to continue. Before making a decision the inappropriate decision criteria under section 69 and 304 will be considered:

- (a) Could the decision reasonably be made after the election

- (b) The possibility of financial repercussions if it is deferred
- (c) Whether the decision is likely to be controversial
- (d) Would the decision affect voting at the election
- (e) The best interests of the council.

7.4. The Council's Meeting Agendas and Minutes are not considered to be publications for the purpose of the policy, however during an election period, the following statement will be applied to each agenda and minutes document:

The recommendations contained within this agenda/minutes document do not contravene Section 69 of the Local Government Act 2020 or the Council's adopted Election Period Policy.

During public presentations / Public Question Time at a public meeting, if any Councillor, officer or speaker addresses the Council in such a way that the CEO considers may be campaigning or may influence how a person may vote at an election, the CEO will advise the Chair who may call the speaker on a point of order on that grounds of Governance Local Law 2016 4.10.2.e. improper behaviour

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

8. Information for staff

Prior to the election period, Council staff will be informed about the provisions of the Election Period Policy in the following ways:

- (f) Managers will discuss the policy with staff.
- (g) The Governance Coordinator will email the policy to all staff with a request that Managers and Coordinators print the policy for staff without access to email.

9. Election process enquiries

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 Chief Executive Officer or their nominee.

10. Related Legislation

Local Government Act 1989
Local Government Act 2020

11. References

Benalla Rural City Council *Staff Code of Conduct*

Benalla Rural City Council *Councillor Code of Conduct 2013*

Benalla Rural City Council *CP15 Councillor Expense Reimbursement*

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

Local Government Victoria, *Governance Practice Note No. 5 – Election Caretaker Arrangements*

Governance Rules 2020

12. Breach of policy

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

Alleged breaches relating to all other matters are to be referred to the Local Government Investigations and Compliance Inspectorate at www.dpcd.vic.au/inspectorate or (03) 9665 9555.

BENALLA

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