



# Governance Rules

## September 2020

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## Part 1 – Introduction

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The Moorabool Shire Council is committed to good governance and ensuring its decision-making processes are fair and merit based.

To realise this commitment Council aims to serve the needs of the entire community whilst balancing competing interests in a timely, appropriate and responsive manner. The wellbeing of the community results from its residents, businesses and community groups feeling that their interests have been considered by Council in its decision-making processes. Therefore, anyone affected by or interested in a decision must have the opportunity to participate in the process for making that decision.

These Governance Rules have been developed to reflect this commitment, whilst also giving effect to the overarching governance principles, contained in the Local Government Act 2020.

By adopting and adhering these Governance Rules, Council can ensure that its commitment to good governance and the overarching governance principles, consistently guides its decision-making processes, and those of its delegated committees and officers.

These Governance Rules come into effect on 1 September 2020.

## Part 2 – Definitions

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In these Governance Rules:

**Act** means the Local Government Act 2020;

**Advisory committee** means a committee established by the Council, which provides advice to:

- a) the Council; or
- b) a member of Council staff who has been delegated a power, duty or function of the Council;

that is not a Delegated Committee;

**Agenda** means a document containing the date, time and place of a Meeting and a list of business to be transacted at the Meeting;

**Audit and Risk Committee** means the Audit and Risk Committee established by Council under section 53.

**Chairperson** means the Chairperson of a Meeting and includes an acting, temporary and substitute Chairperson;

**Chief Executive Officer** means the person occupying the office of Chief Executive Officer of Council, and includes a person acting in that office;

**Common Seal** means the common seal of Council;

**Council** means Moorabool Shire Council;

**Councillor** means a Councillor of Moorabool Shire Council;

**Council Meeting** means a meeting of the Council convened in accordance with these Governance Rules and includes a scheduled meeting or unscheduled meeting;

**Delegate** means a member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation;

**Delegated Committee** has the same meaning as in the Act;

**Deputy Mayor** means any person appointed by Council to act as Deputy Mayor;

**Disorder** means 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 Chairperson in accordance with the Act and the Governance Rules; and
- d) engaging in any other conduct which prevents the orderly conduct of the Meeting;

**Mayor** means the Mayor of Council and any person appointed by Council to be acting as Mayor;

**Meeting** means a Council Meeting, Delegated Committee Meeting or a Meeting of any other type of Committee established by Council;

**Minister** means the Minister responsible for Local Government;

**Minutes** means the official record of the proceedings and decisions of a Meeting;

**Motion** means a proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted;

**Notice of Motion** means a notice setting out the text of a Motion which a Councillor proposes to move at a Council Meeting;

**Point of Order** means a procedural point (about how the Meeting is being conducted), not involving the substance of a matter before a Meeting;

**Procedural Motion** means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure;

**Urgent Business** means a matter that relates to or arises out of a matter which has arisen since distribution of the agenda and cannot safely or conveniently be deferred until the next meeting;

**Unscheduled Meeting** means a meeting of the Council convened for a particular purpose that cannot be effectively dealt with in the schedule of Council meetings set by Council.

## Part 3 - Meetings Procedure

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### 3.1 Purpose of Council Meetings

- 3.1.1 Council holds scheduled Meetings and, when required, unscheduled Meetings to conduct the business of Council.
- 3.1.2 Council is committed to transparency in decision making and, in accordance with the *Local Government Act 2020*, Council and Delegated Committee Meetings are open to the public and the community are able to attend.
- 3.1.3 Meetings will only be closed to members of the public if:
  - a) there are clear reasons for particular matters to remain confidential (specified in the definition of confidential information in section 3(1) of the Act); or
  - b) a meeting is required to be closed for security reasons; or
  - c) it is necessary to enable the meeting to proceed
- 3.1.4 If a meeting is closed to the public for the reasons outlined in sub-rule 3.1.3(b) or 3.1.3(c), the meeting can be livestreamed. In the event a livestream is not available the meeting may be adjourned, or a recording of the proceedings may be available on Council website.

### 3.2 Meeting Roles & Responsibilities

#### 3.2.1 Chairperson and Members

The Chairperson, Councillors and members of Delegated Committees will ensure good Council decision-making by endeavouring to ensure:

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

#### 3.2.2 Mayor to take the Chair

- a) The Mayor must take the Chair at all Council Meetings at which the Mayor is present.
- b) If the Mayor is not in attendance at a Council Meeting, the Deputy Mayor (if one has been elected) must take the Chair.
- c) If the Mayor and Deputy Mayor are not in attendance at a Council Meeting, Council must appoint one of the Councillors as Chair.
  - i) The Chief Executive Officer will invite nominations for a temporary Chairperson for the period the Mayor is to be absent.



- ii) If there is more than 1 nomination, the Councillors present at the meeting must vote for 1 of the candidates by a show of hands and the candidate receiving a majority of the votes will be declared to have been duly elected.
- d) Delegated Committee Chairperson
  - i) At the Meeting at which Council establishes a delegated committee it must also appoint a Chairperson.
  - ii) The Chair of a delegated committee must be a Councillor.
  - iii) For the avoidance of doubt, sub-rule (3.2.3 a)) does not intend to limit the powers of the Mayor provided in the Act.

### 3.2.3 The Chairperson's Duties and Discretions

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

- a) must not accept any Motion, question or statement which is:
  - iv) vague or ambiguous;
  - v) defamatory, malicious, abusive or objectionable in language or substance; or
  - vi) outside the powers of Council;
- b) must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise during the meeting;
- c) must call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council;
- d) may direct that a vote be recounted to be satisfied of the result; and
- e) must decide on all points of order
- f) Where these Governance Rules does not provide a procedure for the Meeting, the Chairperson shall decide the procedure to be followed.

### 3.2.4 Chief Executive Officer

- a) The Chief Executive Officer is responsible for the preparation of the Council meeting agenda in accordance with Schedule 1.
- b) The Chief Executive Officer, or delegate, may participate in the meeting to provide support to the Chairperson.
- c) The Chief Executive Officer should:
  - i) Immediately advise, to the best of their knowledge, if a proposed motion or action is contrary to the law;
  - ii) Advise if there are operational, financial or risk implications arising from a proposed motion;
  - iii) Help clarify the intent of any unclear motion or resolution to facilitate implementation;
  - iv) On request, assist with procedural issues that may arise.

### 3.2.5 Councillors and members of Delegated Committees

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 Chairperson and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making;
- e) Being courteous and orderly.

### 3.2.6 Community

- a) Council meetings are decision making forums and it is important that they are open to the community to attend and/or view proceedings.
- b) Community members may only participate in meetings in accordance with requirements contained in these Governance Rules (refer section 3.7, Public Participation).
- c) Community members may seek to inform individual Councillors of their views by contacting them directly in advance of Meetings.

## 3.3 Notice of meetings and availability of agenda

### 3.3.1 Date, time and place of Council Meetings

- a) Council will fix the dates, times and places of all Meetings for a twelve-month period at the Meeting of Council which is to be held no earlier than the last Saturday in October and no later than 30 November in each year.
- b) 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.
- c) A schedule of Meetings must be prepared and published that ensures it is available to a broad section of the community, including on Council's website at least once each year and with greater frequency, if the Chief Executive Officer determines necessary.

### 3.3.2 Notice of Council Meetings

- a) A notice of a Meeting, that is not an unscheduled Meeting, incorporating or accompanied by an Agenda of the business to be dealt with, must be sent electronically to every Councillor for all Council Meetings, at least 48 hours before the Meeting.
- b) An Agenda for each Council Meeting, that is not an unscheduled Meeting, will be made available on Council's website no less than 48 hours before the Council Meeting.

### 3.3.3 Postponement

In the case of an emergency or other justifiable circumstance, the Chief Executive Officer or Delegate, may postpone a Council Meeting, provided reasonable attempts are made to notify every Councillor of the postponement.

### 3.3.4 Unscheduled Meetings

- a) Council may by resolution call an unscheduled Meeting of the Council. Any resolution of Council to call an unscheduled Meeting must specify the date and time of the unscheduled Meeting and the business to be transacted. The date and time of the unscheduled Meeting must not be prior to 6pm on the day following the Council Meeting at which the resolution was made.
- b) The CEO, following consultation with the Mayor, may call an unscheduled meeting.
- c) The Mayor, or three Councillors may by written notice call an unscheduled Meeting of the Council. A written notice to call an unscheduled Meeting must:
  - i) Specify the business to be transacted;
  - ii) be delivered to the Chief Executive Officer or Delegate in sufficient time to enable the required period of notice to be given.
- d) The Chief Executive Officer must determine the time and date for the meeting, considering:
  - i) the urgency of the business to be transacted
  - ii) the availability of Councillors
  - iii) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted
- e) The Chief Executive Officer must call an unscheduled Meeting to elect a Mayor, following a Council election declaration, in accordance with the Act.
- f) 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.
- g) 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.

### 3.3.5 Notice of Unscheduled Meetings

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

### 3.4 Conduct of Meetings

#### 3.4.1 Quorum

- a) The quorum for a meeting is greater than half the total number of the Councillors, or in the case of a Committee, more than half of the total members.
- b) A meeting cannot commence, resume or continue without a quorum.
- c) Should a quorum be unachievable or maintainable due to the disclosure of conflicts of interest by one or more Councillors, the Chairperson may:
  - i) Defer the item of business to a future meeting; or
  - ii) Determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
  - iii) 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.
- d) 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:
  - i) By the Chief Executive Officer; or
  - ii) 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.
- e) A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council Meeting.

#### 3.4.2 Business at Meetings

- a) No business can be dealt with at a Meeting unless:
  - i) it is included in the agenda, or
  - ii) Councillors who by a unanimous vote, vote in favour of a matter being dealt with as urgent business.
- b) Unless the Chairperson otherwise determines -
  - i) the order of business at a Meeting must be as it is set out in the agenda; and
  - ii) the meeting shall conclude when all the business set out on the agenda has been dealt with.

### 3.4.3 Adjourning Meetings

Should a quorum be unachievable after 30 minutes from the commencement of the scheduled starting time or cannot be maintained during the meeting, those Councillors present may adjourn the meeting, by resolution to a date and/or time to be determined. In the event there are no Councillors present, the CEO (or delegate) may adjourn the meeting for a period not exceeding 7 days.

### 3.4.4 Form of Motions

#### a) Motions

A 'Motion' may be in the form of an Officer's recommendation (as contained in a Council report) or a motion as proposed by a Councillor.

#### b) Amendments

An 'Amendment' is a motion which has been moved and seconded but formally amended to include/exclude words.

- i) An amendment must not be the negative of or substantially contrary to the motion and must be relevant to the subject of the motion.
- ii) An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- iii) Any Councillor moving an amendment to a motion will be allocated thirty (30) seconds to explain the reasons for the amendment.
- iv) Only one amendment can be before the Meeting at a time and until it is put to the vote, no further amendment can be proposed, but with the leave of the Chairperson, another amendment or a new motion can be foreshadowed by any Councillor stating in brief terms the nature of it.
- v) A Councillor cannot move more than two (2) amendments in succession.
- vi) When any amendment is put to the vote and is declared carried by the Chairperson it thereupon becomes the substantive motion before the meeting and can be debated and further amended.

#### c) Foreshadowed Motions

A 'Foreshadowed Motion' is a new motion, prefaced by a Councillor with a statement that in the event of a motion before the Chair being lost, a Councillor intends to move an alternative motion.

- i) At any time during debate a Councillor may foreshadow a motion but this does not extend any special right to the foreshadowed motion. A foreshadowed motion has no procedural standing and is merely a means of assisting the flow of a Council meeting.
- ii) Foreshadowed motions are not recorded in the Minutes until the foreshadowed motion is formally moved.

### d) Notices of Motion

- i) A 'Notice of Motion' is a notice setting out the text of a motion that a Councillor proposes to move at a Meeting.
- ii) A Notice of Motion must:
  - be received by the Chief Executive Officer at least 7 days prior to a Meeting; and
  - be included in order of receipt on the agenda for that Meeting.
- iii) Should a Councillor who has given a Notice of Motion be absent from the meeting, any other Councillor may move the motion.
- iv) A Notice of Motion must call for a Council report if the Notice of Motion proposes any action that:
  - impacts the levels of Council service;
  - commits Council to expenditure greater than [insert council's upper limit] that is not included in the adopted Council Budget;
  - proposes to establish, amend or extend Council policy;
  - proposes to impact the rights of any person who has not had the opportunity to contribute their views;
  - commits Council to any contractual arrangement; or
  - concerns any litigation in respect of which Council is a party.
- v) The Chief Executive Officer must reject any Notice of Motion which:
  - is too vague;
  - is defamatory;
  - may be prejudicial to any person or Council;
  - is objectionable in language or nature;
  - is outside the powers of Council;
  - relates to a matter that is the subject of a rescission motion within three (3) calendar months of the rescission motion having been dealt with
  - is submitted during Election Period.
- vi) The Chief Executive Officer may reject a proposed Notice of Motion that
  - relates to a matter that can be addressed through the operational service request process; or
  - Relates to a matter that has been previously resolved by Council or is acted upon.
- vii) If a Notice of Motion is lost or lapses for want of a mover/seconded, it cannot be relisted for 3 months.

**3.4.5 Procedures for Motions**

- a) A motion which is proposed by a Councillor at a Meeting must be:
  - i) clearly expressed and unambiguous;
  - ii) not defamatory or objectionable in nature;
  - iii) related to the powers or functions of Council; and
  - iv) relevant to an item on the agenda (unless it relates to an item which has been agreed by the Meeting as urgent business).
- b) If a motion is to be moved or debated by the Chairperson, the Chairperson must vacate the Chair and appoint the Deputy Mayor or another Councillor as Temporary Chair for the duration of the motion.
- c) Any motion that differs in wording from an Officer's recommendation or Notice of Motion that is on the agenda must, if requested by the Chairperson, be written out by the proposer.
- d) The Chairperson may request that a motion be read to the meeting before the vote is taken.
- e) The Chairperson may reject any motion that does not conform to sub-clause 3.4.5 a).
- f) A Councillor who is proposing a motion must first state briefly the nature of the motion and then move it, without speaking to it.
- g) The Chairperson must then call for the motion to be seconded and after it is seconded (by any Councillor other than the mover); the mover may then speak to it or may with the consent of the Chairperson defer speaking on it until later in the debate.
- h) Any motion that is not seconded lapses.
- i) The Chairperson may ask after a motion is moved and seconded whether it is opposed and if no opposition is indicated, he or she may then put it to the vote, without debate. Similarly, the Chairperson may ask at any time during the debate whether the motion before the Meeting is opposed or is further opposed and if no opposition or no further opposition is indicated, he or she may put it to the vote, without further debate.
- j) The mover of a motion has the right of reply with respect to the debate on his or her motion immediately before the vote is taken, but that right of reply is lost if an Amendment to the motion is carried.
- k) If an amendment to a motion is carried, the Mover of the Amendment has no right of reply.
- l) Apart from the mover's right of reply referred to in the previous sub-clause, a Councillor may only speak once on the motion and once on any amendment of a motion. A Councillor may request at any time before a vote is taken on a motion that it is in two or more parts, that each part be put to the vote separately. The Chairperson may agree with or refuse such a request.
- m) When the mover of a motion has a right of reply under sub-clause 3.4.5 j) and has exercised that right, the Chairperson must then put the motion to the vote without making or allowing any further comment on it.

- n) A motion must otherwise be put to the vote when the Chairperson believes that the issues have been reasonably canvassed in the debate.
- o) A Councillor calling a point of order or foreshadowing a new motion or further amendment is not deemed to be speaking on the motion before the Meeting.
- p) A motion or amendment cannot be withdrawn without Council consenting to the withdrawal by resolution.
- q) If the mover or seconder of a motion indicates that he or she wishes to withdraw from moving or seconding the motion, the Chairperson may seek another mover or seconder (as the case requires), but if no Councillor indicates his or her willingness to be the substitute mover or seconder, the motion lapses.
- r) If a Councillor proposes to alter a motion and the original mover and seconder of the Motion both indicate their agreement with the alteration, the altered Motion becomes the substantive Motion without the need to move an amendment.
- s) Council may defer an item until another Meeting if further consideration or clarification is required prior to a decision being made. The motion to defer an item is a substantive motion and may be debated.
- t) The Chairperson may allow like Motions to be moved, or request Councillors to move like items, in a block (en bloc).

### 3.4.6 Procedural Motions

- a) Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the Chairperson.
- b) The mover/seconder of a procedural motion must not have moved, seconded or spoken to the motion or any amendment of it before the Chair.
- c) A procedural motion cannot be moved by the Chairperson.
- d) Notwithstanding any other provision in this Meeting Procedure, procedural motions must be dealt with in accordance with the procedures set out in Schedule 2 of the Meeting Procedure.

### 3.4.7 Rules for Debate

- a) Debate must always be relevant to the question before the Chair, and if not, the Chairperson will request the speaker to confine debate to the subject matter.
- b) If after being told to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chairperson may disallow the speaker any further comment in respect to the matter before the Chair.
- c) A speaker to whom a direction has been given under clause 3.4.8 a) and b) must comply with that direction.
- d) A Councillor must not speak on any one motion or other matter before a Meeting for a time longer than that stated below unless granted an extension by the Chair immediately prior to the speaker speaking.



**3.4.8 Order & Time Limit of Debate**

- a) Once seconded, the Chairperson will call for any Councillor wishing to speak to the motion;
- b) If any Councillor indicates they wish to speak to the motion, the Chairperson must:
  - i) Invite the mover to address Council (5 minutes)
  - ii) Invite any Councillor opposing the motion to address Council (3 minutes)
  - iii) Invite the Seconder to address Council (3 minutes)
  - iv) Invite any Councillor abstaining from the vote to address Council (2minutes)
  - v) Invite speakers for, against and abstaining in alternate sequence until all Councillors wishing to speak to the motion have had opportunity (2 minutes)
  - vi) Invite the mover to close debate with right of reply (2 minutes)
- c) In cases where there is competition for the right to speak at a Meeting then the Chairperson must decide the order in which Councillors may speak.
- d) A Councillor must not be interrupted except by the Chairperson or upon a point of order being taken.
- e) Unless excused by the Chairperson, a Councillor at any Council Meeting must stand when speaking.
- f) The Chairperson may remain seated when speaking at any Meeting and he or she may speak on any matter under discussion.
- g) When exercising a right of reply, a Councillor must not introduce fresh matter.
- h) No resolution may be discussed after it is dealt with, unless the Chairperson allows it.
- i) Except that the mover of an unamended motion has the right of reply and that any Councillor may take a Point of Order or offer a personal explanation, a Councillor must not speak more than once to the same motion or amendment

**3.4.9 Points of Order**

- a) A Councillor who is addressing the meeting must not be interrupted unless a Point of Order is called, at which time he or she must remain silent until the Councillor raising the Point of Order has been heard and the question disposed of.
- b) A Councillor raising a Point of Order must:
  - i) state the Point of Order; and
  - ii) state any section, clause, paragraph or provision relevant to the point of order before resuming his or her seat.
- c) A Point of Order may be raised in relation to:
  - i) a motion or a Public question which, under this Procedure should not be accepted by the Chairperson;

- ii) a question of procedure; or
  - iii) any act of disorder.
- d) The Chairperson shall decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the Point of Order raised, without entering into any discussion or comment.
- e) The Chairperson may adjourn the Meeting to consider a Point of Order; otherwise he or she must rule on it as soon as it is raised.
- f) All other matters before Council are suspended until the Point of Order is decided.
- g) A Point of Order cannot be taken for the sole purpose of:
  - i) expressing a mere difference of opinion; or
  - ii) contradicting a speaker; or
  - iii) disrupting the meeting.

### 3.4.10 Right to Ask Questions

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

### 3.4.11 Voting

- a) To determine a motion that is put to a meeting, the Chairperson will first ask for those in favour of the motion, then those opposed to the motion, then those abstaining from the vote and will then declare the results to the meeting.
- b) Unless the Council resolves otherwise, voting on any matter will be by show of hands.
- c) Motion to be read again:
  - i) Before any matter is put to the vote, a Councillor may require that the question, motion or amendment be read again.
  - ii) The Chairperson, without being so requested, may direct the Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and take the minutes of such meeting) to read the question, motion or amendment to the meeting before the vote is taken.
- d) The motion 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.
- e) If a Councillor present at the meeting does not vote (abstains), it must be taken that they have voted against the question.
- f) If the number of votes in favour of the question, motion or amendment is half the number of Councillors present at the meeting at the time the vote is taken, the Chairperson has a second/casting vote.

- g) Any Councillor, before the next item of business is considered, may ask that his or her opposition or abstention regarding a motion adopted by the meeting be recorded in the minutes of the meeting.
- h) A Councillor may call for a division immediately after any motion is put to a meeting and before the next item of business has commenced.
- i) The request must be made to the Chairperson either immediately prior to or immediately after the vote has been taken, but cannot be requested after the next item of business has commenced.

### 3.4.12 Procedure for a Division:

- a) 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.
- b) When a division is called for, the Chairperson will:
  - i) first ask each Councillor wishing to vote in the affirmative to raise their hand. The Chairperson must then state the names of those Councillors voting in the affirmative; and
  - ii) then ask each Councillor wishing to vote in the negative to raise their hand. The Chairperson must then state the names of those Councillors voting in the negative; and
  - iii) then ask any Councillor wishing to abstain from the vote to raise their hand. The Chairperson must then state the names of those Councillors abstaining from the vote.
  - iv) The Chief Executive Officer (or any person authorised by the Chief Executive Officer to attend the meeting and take the minutes of such meeting) must record in the minutes the vote of each Councillor.
- c) No Councillor is prevented from changing his or her original vote when voting on the division.
- d) Councillors must remain seated in silence while a vote is being taken.
- e) The Chairperson may direct that the vote be re-counted as often as may be necessary to be satisfied of the result.
- f) The Chairperson must declare the result of the vote or division as soon as it is taken.

### 3.4.13 Urgent Business:

- a) 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:
  - i) It relates to or arises out of a matter which has arisen since distribution of the Agenda; and
  - ii) deferring the item until the next Meeting will mean a decision on the item will not have any effect on the matter; or
  - iii) the item involves a matter of urgency as determined by the Chief Executive Officer; and

- iv) it cannot be addressed through an operational service request process.
- v) Provided the matter does not:
  - substantially affect the levels of Council service;
  - commit Council to significant expenditure not included in the adopted budget;
  - establish or amend Council Policy; or
  - commit Council to any contractual arrangement.

### **3.4.14 Dissent from Chairperson Ruling:**

- a) The decision of the Chairperson in respect to a Point of Order raised will not be open for discussion and will be final and conclusive unless the majority of Councillors present at the meeting move a motion of dissent.
- b) A motion of dissent requires no seconder, and the Chairperson must immediately stand down.
- c) A Temporary Chairperson takes the chair for discussion on the motion of dissent following the process outlined in Clause 15.10.
- d) The Chairperson is given the opportunity to explain their decision and the mover also puts forward their reason for dissent.
- e) The meeting then votes on the motion: if the motion is upheld, the Chairperson must reverse their decision. If the motion is lost, the meeting continues as before.

### **3.4.15 Time limits for Meetings**

- a) Unless Council resolves to the contrary a Council Meeting or Committee Meeting shall not continue beyond four (4) consecutive hours.
- b) Any business not reached or dealt with at the time the meeting closes shall be held over until the next Council or Committee Meeting.
- c) Council may resolve to extend the meeting by one (1) forty-five (45) minute interval only if deemed necessary.
- d) Any business not dealt with that is adjourned until the next Council or Committee Meeting shall be recorded in the minutes of the meeting.

## **3.5 Minutes of a Meeting**

- 3.5.1 The Chief Executive Officer or delegate is responsible for the keeping of Minutes on behalf of Council. Those Minutes must record:
  - a) the date, place, time and nature of the Council Meeting;
  - b) the names of Councillors and whether they are present, an apology, on leave of absence, etc.;
  - c) the titles of the members of Council staff present who are not part of the gallery;

- d) the disclosure of a conflict of interest made by a Councillor in accordance with the Act;
- e) the arrivals and departures of Councillors, during the course of the Meeting (including any temporary departures or arrivals);
- f) every Motion and Amendment moved (including procedural Motions),
- g) the outcome of every Motion moved;
- h) where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
- i) when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any Motion;
- j) details of any failure to achieve or maintain a quorum;
- k) a summary of any questions asked (including the name and suburb of the person), and the response provided as part of public question time;
- l) details of any petitions made to Council;
- m) details of any speakers to an agenda item or deputation;
- n) the time and reason for any adjournment of the Meeting or suspension of standing orders;
- o) any other matter, which the Chief Executive Officer or Delegate thinks should be recorded to clarify the intention of the Meeting or assist in the reading of the Minutes; and
- 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.

### 3.5.2 Confirmation of the Minutes of a Meeting

- a) When confirming the minutes of a Meeting, the Chairperson must ask if any item in the minutes is opposed.
- b) Opposition can only be expressed regarding items in the minutes on the basis that the record is incomplete or inaccurate.
- c) The Chairperson must not allow discussion or motions on any other issue than the alleged omission from or inaccuracy of the minutes.
- d) If no Councillor indicates opposition, a resolution of Council must confirm the minutes.
- e) If any Councillor indicates opposition, he or she must specify the particular item or items in the minutes concerned and can, after asking any questions to clarify the matter, only move a motion to rectify the alleged error(s) in the record.

### 3.6 Rescission Notification

- 3.6.1 A notice of motion to rescind or alter a previous resolution of Council:
- a) Must be given to the Chief Executive in sufficient time to enable the Chief Executive Officer to give ninety-six (96) hours' notice to all Councillors;
  - b) Is deemed to have been withdrawn if not moved at the next meeting at which such business may be transacted;
  - c) Cannot be considered at a meeting unless the number of Councillors in attendance at the meeting is at least equal to the number of Councillors in attendance when the resolution of Council was adopted.
- 3.6.2 A Councillor may propose a motion to amend or rescind a decision of the Council provided:
- a) the decision has not been acted upon; and
  - b) a notice is delivered to the Chief Executive Officer by the close of business on the day following the meeting at which the decision of Council was made stating:
    - i. the decision proposed to be amended or rescinded; and
    - ii. the meeting and date when the decision was made.
- 3.6.3 The Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:
- a) has not been acted on; and
  - b) is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with clause 3.6.1.

### 3.7 Public Participation

#### 3.7.1 Public Question Time

- a) Question time will take place during the Council Meeting as provided for in the agenda.
- b) Questions in writing in the form prescribed by the Chief Executive Officer will be accepted up to 5pm on the day before the Meeting.
- c) A person must not submit more than two (2) individual questions at a meeting, inclusive of all parts and variants as interpreted by the Chairperson or other person authorised for this purpose by the Chairperson.
- d) A question will only be read to the meeting if the Chairperson or other person authorised for this purpose by the Chairperson has determined that the:
  - i) person directing the question is present in the gallery;
  - ii) question does not relate to a confidential matter;
  - iii) question does not relate to a matter in respect of which Council has no power to act;
  - iv) question is not defamatory, indecent, abusive or objectionable in language or substance;
  - v) question is not a repetition of a question already asked or answered (whether at the same or an earlier meeting); and

- vi) question is not asked to embarrass a Councillor, member of Council staff or member of the public.
- e) Persons submitting questions must be present in the public gallery. If they are not present in the Gallery, the question will be held over to the next meeting only.
- f) The Chief Executive Officer will read out each question and the Chairperson shall decide who will answer each question.

### 3.7.2 Petitions & Joint Letters

- a) Petitions and joint letters presented to Council must be in writing and contain the 'prayer' or request of the petitioners or signatories.
- b) Petitions and joint letters must be signed by the persons whose names are appended to it and include their address.
- c) Any signature appearing on a page, which does not bear the text of the whole of the petition or request, may not be considered by Council.
- d) Electronic petitions or joint letters must comply with sub-clauses as stated above and include the name and e-mail address of each petitioner (this functions as the 'signature' of a petitioner);

### 3.7.3 Speakers to an Item on the Agenda

- a) Council has made provision in the conduct of its Meetings for speakers to address Council in relation to matters included on the agenda for consideration.
- b) Persons wishing to address Council on a matter included in the agenda shall inform Council prior to 3.00pm on the day of the meeting by contacting the Chief Executive Officer's office and registering their name and agenda item being spoken to.
- c) At the meeting the Mayor will invite the persons wishing to speak to an item to address the Council on the agenda item.
- d) The person may elect to sit or stand to address Council, and state their name and address before commencing. No debate on the item is permitted between the person addressing Council and the Council.
- e) A maximum of three minutes per person will be allocated. An extension of time may be granted at the discretion of the Mayor.
- f) Councillors, through the Mayor, may ask the person addressing Council for clarification of matters presented.
- g) The Mayor may direct that a member of the gallery ceases speaking if the above procedure is not followed.

### 3.7.4 Deputations

- a) A deputation wishing to be heard by Council may make a request to the Chief Executive Officer who must refer the request to the Mayor.

- b) The Mayor may direct the Chief Executive Officer as to the meeting at which the deputation will be heard or, alternatively, ask the Chief Executive Officer to place a request before Council.
- c) If the Mayor asks for a deputation to be heard, the Chief Executive Officer must notify all Councillors of that direction, and also notify a member of the deputation of the date, time, and place at which the deputation will be heard.
- d) A deputation may lodge with the Chief Executive Officer, a written submission detailing the subject matter of the deputation prior to the deputation addressing Council.
- e) Council will not hear more than 2 speakers on behalf of any deputation, and may set time limits on the length and address of each speaker.
- f) Councillors and members of Council staff may question the deputation on matters raised by it for purposes of clarification but no discussion will be allowed.
- g) No motion must be allowed on any deputation until the next Ordinary meeting after the deputation has been heard unless Council, by resolution, decides otherwise.

### 3.7.5 Livestreaming and Recording Proceedings

- a) The Chief Executive Officer (or other person authorised by the Chief Executive Officer) may conduct a livestream of the proceedings of the Council Meeting.
- b) The Chief Executive Officer (or other person authorised by the Chief Executive Officer) may also otherwise record all the proceedings of a Council or Delegated Committee Meeting using a suitable electronic recording device.
- c) Media representatives may, with the consent of Council or the Delegated Committee (as the case may be), be permitted to record any part of the proceedings of the Council or Delegated Committee Meeting. The consent of Council or the Delegated Committee must not be unreasonably withheld, but may be revoked at any time during the course of the relevant meeting.
- d) Members of the public must not operate recording equipment at any Council or Delegated Committee Meeting without the prior written consent of Council. Such consent may be given only after receipt of a written application and may at any time during the course of the meeting be revoked by Council or the Delegated Committee as the case may be.

## 3.8 Other General Conduct & Modes of Address

- 3.8.1 A Councillor or any other person who addresses a Meeting must do so in a courteous manner.
- 3.8.2 Any Councillor or person who addresses the meeting must direct all remarks through the Chairperson.
- 3.8.3 A Councillor or any other person must not at a Meeting make any defamatory, indecent, abusive, offensive or disorderly statement or comment.



- 3.8.4 If such a statement or comment is made, the Chairperson may require the Councillor to withdraw it and the Councillor concerned must immediately and unreservedly do so.
- 3.8.5 If a Councillor continues to engage in improper or disorderly conduct, or acts in a way that otherwise disrupts the Meeting, and prevents the conduct of Council business, Council may, by resolution, suspend that Councillor from a portion of the Meeting or from the balance of the Meeting where the Chairperson has warned the Councillor to cease that behaviour; or
- 3.8.6 Where Council suspends a Councillor or the Mayor directs a Councillor to leave the meeting, the Councillor will take no active part in the portion of the Meeting from which he or she has been suspended.
- 3.8.7 Visitors at a Meeting must not interject or take part in the debate.
- 3.8.8 The gallery must preserve silence at all times during a Meeting.
- 3.8.9 If any visitor is called to order by the Chairperson for any improper or disorderly conduct on more than one occasion during the Meeting, the Chairperson may order him or her to leave the Meeting room or building.
- 3.8.10 The Chairperson may adjourn a disorderly Meeting.

### **3.9 Suspension of Standing Orders**

- 3.9.1 Any provision of this Procedure except that relating to a quorum may by resolution be suspended for any part of a Meeting.
- 3.9.2 The suspension of Standing Orders will be used to enable full discussion of any issues without the constraints of formal meeting procedure.
  - i) An appropriate motion would be “That Standing Orders be suspended to enable discussion on\_\_\_\_\_”.
- 3.9.3 No motion, except one that proposes the resumption of standing orders, may be accepted by the Chairperson during such suspension.

Schedule 1

1. The content, format and order of items on:
  - a) **Council Meeting agendas will include:**
    - Opening of Meeting and Prayer
    - Acknowledgement to Country
    - Present
    - Apologies
    - Confirmation of Minutes
    - Disclosure of Conflict of Interest
    - Public Question Time
    - Petitions
    - Deputations
    - Officers Reports
    - Notices of Motion
    - Mayors Report
    - Councillors' Reports
    - Urgent Business
    - Confidential Reports
    - Meeting closure
  
  - a) **Unscheduled Meeting agendas will include:**
    - Opening
    - Prayer
    - Acknowledgement to Country
    - Apologies
    - Declarations of Conflict of Interest
    - Council Reports (as advertised).
    - Closure
  
  - b) **Delegated Committee Meeting agendas will include matters that are in accordance with and directly relevant to the Committees Instrument of Delegation.**

Schedule 2: Procedural Motions

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	(a) During the election of a <i>Chairperson</i> ; (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
2. Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	(a) During the election of a <i>Chairperson</i> ; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the <i>Council</i> has been made for that meeting in accordance with section 85 of the <i>Act</i> ; or (d) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected	Yes

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
3. The closure	That the motion be now put	Any Councillor who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	During nominations for <i>Chairperson</i>	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
4. Laying question on the table	That the question lie on the table	Any Councillor who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	(a) During the election of a <i>Chairperson</i> ; (b) During a meeting which is a call of the <i>Council</i> has been made for that meeting in accordance with section 85 of the <i>Act</i> ; or (d) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	Motion and amendment is not further discussed or voted on until: (a) <i>Council</i> resolves to take the question from the table at the same meeting; or (b) The matter is placed on a subsequent agenda and <i>Council</i> resolves to take the question from the table	Debate continues unaffected	No

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
5. Previous question	That the question be not now put	Any Councillor who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	<p>(a) During the election of a <i>Chairperson</i>;</p> <p>(b) When another Councillor is speaking;</p> <p>(c) When the matter is one in respect of which a call of the <i>Council</i> has been made for that meeting in accordance with section 85 of the <i>Act</i>;</p> <p>(d) When an amendment is before <i>Council</i>; or</p> <p>(e) When a motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement</p>	<p>(a) No vote or further discussion on the motion until it is placed on a subsequent agenda for a later meeting; and</p> <p>(b) Proceed to next business</p>	Motion (as amended up to that time) put immediately without further amendment or debate	Yes

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
6. Proceeding to next business	<p>That the meeting proceed to the next business</p> <p>Note: This motion:</p> <p>(a) may not be amended;</p> <p>(b) may not be debated; and</p> <p>(c) must be put to the vote as soon as seconded</p>	Any Councillor who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	<p>(a) During the election of a <i>Chairperson</i>;</p> <p>(b) When another Councillor is speaking;</p> <p>(c) When the matter is one in respect of which a call of the <i>Council</i> has been made in accordance with section 88 of the <i>Act</i>;</p> <p>or</p> <p>(d) When a motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement</p>	<p>If carried in respect of:</p> <p>(a) An amendment, <i>Council</i> considers the motion without reference to the amendment:</p> <p>(b) A motion - no vote or further discussion on the motion until it is placed on an agenda for a later meeting</p>	Debate continues unaffected	No

## Part 4 – Election of Mayor and Deputy Mayor

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### 4.1 Overview

The role and functions of the Mayor and Deputy Mayor are provided in the Local Government Act. For the purpose of process, the following will occur:

- 4.1.1 A Mayor is to be elected no later than one month after the date of a general election at a Council meeting open to the public;
- 4.1.2 Before the election of the Mayor and Deputy Mayor, a Council must determine by resolution whether each of these roles is to be elected for a 1 year or a 2 year term respectively.
- 4.1.3 If the Mayor / Deputy Mayor is elected for a 1 year term, the next election of the Mayor must be held on a day to be determined by the Council that is as close to the end of the 1 year term as is reasonably practicable.
- 4.1.4 If the Mayor / Deputy Mayor is to be elected for a 2 year term, the next election of the Mayor must be held on a day to be determined by the Council that is as close to the end of the 2 year term as is reasonably practicable.
- 4.1.5 A Mayor is to be elected within one month after any vacancy in the office of Mayor occurs.
- 4.1.6 The election of a Mayor after the period specified in this section does not invalidate the election.
- 4.1.7 A Councillor elected to fill a vacancy in the office of Mayor caused other than by the expiration of a one year or a 2 year term serves the remaining period of the previous Mayor's term.

### 4.2 Nominations

- 4.2.1 Any Councillor is eligible for election or re-election to the office of Mayor.
- 4.2.2 A Councillor may only nominate one Councillor as a candidate for the role of the Mayor.
- 4.2.3 A Councillor may nominate themselves as a candidate for the role of Mayor.
- 4.2.4 Except where a Councillor has nominated themselves, a nominated Councillor must advise the Chair whether they accept or decline the nomination as a candidate for the role of Mayor.
- 4.2.5 Nominations need not be seconded.
- 4.2.6 If Council resolves to have the office of Deputy Mayor, provisions 5.2.1 to 5.2.5 will also apply to the nomination of candidates for the role of Deputy Mayor.

### 4.3 Determining the Election of Mayor

- 4.3.1 The Chief Executive Officer will chair the election of the Mayor.
- 4.3.2 The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.
- 4.3.3 The Mayor must be elected by an absolute majority of the Councillors<sup>1</sup>.
- 4.3.4 Where in an election for the Mayor:
- 4.3.5 One candidate has been nominated, that candidate must be declared elected.
  - a) **Two candidates** have been nominated:
    - i) A vote must be taken and the candidate who receives the number of votes greater than half the Councillors of the Council must be declared elected;
  - b) **Where 3 or more candidates** have been nominated and no candidate receives a number of votes greater than half the Councillors of the Council:
    - i) the candidate with the fewest number of votes cast must be eliminated;
    - ii) the names of the remaining candidates must be put to the vote as outlined in subsection 4.1.4 (b) will apply.
  - c) If an absolute majority of the Councillors cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date.
  - d) If Council resolves to have the office of Deputy Mayor, the provisions as outlined above will apply.

### 4.4 Deputy Mayor

- 4.4.1 At the Council Meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.
- 4.4.2 If the Council has not resolved to establish the position of Deputy Mayor, any provisions in these Governance Rules relating to the Deputy Mayor have no effect.

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<sup>1</sup> In this section, **absolute majority** means the number of Councillors which is greater than half the total number of the Councillors of a Council.



**4.5 Method of Voting**

The election of the Mayor must be carried out by a show of hands or an electronic method that enables those observing (in attendance and those watching a livestream broadcast) to see who a Councillor has voted for at the time the vote is taken.

## Part 5 – Council Committees

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### 5.1 Delegated Committees

Council may establish Delegated Committees as part of its governance framework. Delegated Committees can comprise Councillors, members of Council staff and others and must be chaired by a Councillor. As Council may delegate specific powers, duties and functions to Committees, their meeting procedures need to be formal.

- 5.1.1 If Council establishes a Delegated Committee, these Governance Rules will apply to the Delegated Committee Meetings with any necessary modifications, therefore in such circumstances:
- a) a Council meeting is to be read as a reference to a Delegated Committee Meeting;
  - b) a Councillor is to be read as a reference to a Member of the Delegated Committee; and
  - c) a reference to the Mayor is to be read as a reference to the Chairperson of the Delegated Committee
- 5.1.2 If Council establishes a Delegated Committee, Council may resolve that a provision of this governance rules do not apply to that Committee.

### 5.2 Community Asset Committees

- 5.2.1 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.
- 5.2.2 The Governance Rules may apply to any Community Asset Committee established by Council.
- a) Council may determine, in establishing a Community Asset Committee which parts of the Governance Rules apply but as a minimum must include Section 3.5 of Part 3, Minutes of a Meeting.
  - b) A Community Asset Committee must report the minutes of all Committee Meetings to the next practicable Council meeting.
  - c) A Community Asset Committee must act in accordance with its adopted Charter, Instrument of Delegation and any Terms of Reference adopted by Council.
  - d) A Community Asset Committee must adhere to any policy, guideline or protocol introduced by Council, which relates to the operational or governance requirements of the Committee.
  - e) A Community Asset Committee must provide Council with an Annual Report each year, in a format determined by the Chief Executive Officer.

### 5.3 Audit and Risk Committee

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

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

### 5.4 Advisory Committees

The establishment of non-legislated Advisory Committees is often essential to ensure that the input from subject matter experts, community groups and other stakeholders is considered when Council is developing major strategies, plans and/or policy that impact the greater Moorabool community.

- 5.4.1 Advisory Committees cannot make decisions on behalf of Council.
- 5.4.2 Advisory Committees will be established with their own individual Terms of Reference to guide the operation and functionality of those committees are in place to meet Council's expectations.
- 5.4.3 The Terms of Reference will outline how the Advisory Committee is to be structured, what its functions are, how it will operate and report/make recommendations to Council.

## Part 6 – Conflicts of Interest

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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 disclosures of Conflicts of interest, apply to Council meetings and 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 Governance Rules provide the following procedures for disclosures of conflicts of interest:

### 6.1 Obligations with regard to conflict of interest

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

- a) Avoid – all situations which may give rise to conflicts of interest;
- b) Identify – any conflicts of interest; and
- c) Disclose – or declare all conflicts of interest;

### 6.2 Councillors and Members of Delegated Committees

6.2.1 May not participate in discussion or decision-making on a matter in which they have a conflict of interest.

6.2.2 When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.

6.2.3 All disclosures of conflicts of interest will be recorded in the minutes of a Council or Delegated Committee Meeting.

6.2.4 Council will maintain a Conflict of Interest Register which will be made available on Council's website.

### 6.3 Procedure at a Council or Delegated Committee Meeting

6.3.1 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:

- a) The item for which they have a conflict of interest; and
- b) Whether their conflict of interest is general or material; and
- c) The circumstances that give rise to the conflict of interest.

6.3.2 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.

6.3.3 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 section 6.3.1, prior to leaving the meeting.

- 6.3.4 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.

### 6.4 Procedure at other meetings organised, hosted or supported by Council

- 6.4.1 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.
- 6.4.2 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.
- 6.4.3 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.
- 6.4.4 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.
- 6.4.5 The existence of a conflict of interest will be recorded in the minutes of the meeting.
- 6.4.6 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.
- 6.4.7 The meeting minutes or record will also record the duration of the discussion and whether the Councillor left the meeting.
- 6.4.8 Meeting records and reports will be presented to Council for noting and inclusion on the public record.

### 6.5 Council staff

- 6.5.1 Must act in accordance with the Employee Code of Conduct.
- 6.5.2 Must not exercise a delegation or make a decision on any matter where they have a conflict of interest.
- 6.5.3 May be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at section 6.6 and the Employee Code of Conduct.

### 6.6 Procedure for disclosures of conflicts of interest by Council Staff

- 6.6.1 Council staff must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.
- 6.6.2 All conflicts of interest disclosed by Council staff will be provided to the Governance team for recording in the register of Conflicts of Interest.
- 6.6.3 A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:

- a) The number and qualifications of other people providing advice regarding the same matter is equal or greater; or
- b) The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
- c) The staff member's General Manager determines that the conflict of interest has not influenced the advice provided; and
- d) 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.

## Part 7 – Use of Council Seal

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Under section 14(1)(b) of the Local Government Act 2020, Council is required to have a common seal which acts like the signature of a Council. Affixing the seal demonstrates approval of the content of a document and shows what Council has done or agreed to do. However, not all documents created to implement decisions of Council require the affixing of a seal.

These rules outline the situations in which a seal is required, and how the seal is to be used.

### 7.1 Custodian of Common Seal

The Chief Executive Officer is responsible for keeping the Common Seal in safe custody.

### 7.2 Requesting the Signing and Sealing of a Document

- 7.2.1 Prior to submitting a document to the Chief Executive's Office for signing and sealing, a Document for Sealing Request form must be completed and approved by the relevant departmental manager and then the General/Executive Manager.
- 7.2.2 A copy of the Council resolution approving the use of the Council seal must be attached to the form. The form and the Council resolution must accompany the document being submitted to the Office of the CEO for signing and sealing.
- 7.2.3 If the form has not been signed by the relevant General/Executive Manager or the Council resolution is not attached, the documents must not be accepted for signing and sealing.
- 7.2.4 A contract or agreement must only be submitted for signing and sealing, once the document has been fully executed by the other party/parties (unless the other party to the contract or agreement is either the State Government of Victoria, the Federal Government or another Local Government entity).

### 7.3 Affixing the Common Seal

- 7.3.1 The seal of a Council must not be affixed to any document without the Council's approval granted either generally or specifically by resolution that the seal be so affixed.

Example

*That Council affix the Common Seal to the [description of document].*

Or

*The [document], shall come into force immediately upon the common seal of the Council is affixed to the [document].*

- 7.3.2 The affixing of the Seal to a document must be witnessed by signatures of a Councillor and the Chief Executive, except in the instance where the Seal is to be appended to the contract of employment for the Chief Executive. In this instance, a second Councillor will sign alongside the Mayor.

7.3.3 Council’s preferred sealing clause is as follows:

The **COMMON SEAL** of the            )  
**MOORABOOL SHIRE COUNCIL** )  
was affixed by authority of the    )  
Council in the presence of:        )

.....  
Councillor

.....  
Chief Executive Officer

.....  
Date

**7.4 The Seal may be affixed to any of the following documents:**

- 7.4.1 a contract of employment for the Chief Executive;
- 7.4.2 Council to staff delegations;
- 7.4.3 agreements or contracts from state or federal government departments;
- 7.4.4 planning agreements (s. 173 & 174 of Planning & Environment Act 1987);
- 7.4.5 contract for sale or purchase of land;
- 7.4.6 contracts and tenders that have been endorsed by Council;
- 7.4.7 funding body/agreement;
- 7.4.8 any document that changes Council’s legal position (e.g. significant contract variations);
- 7.4.9 significant financial agreements (e.g. borrowings, changes to overdraft facilities);
- 7.4.10 Any other legal document Council is required to affix the Seal to from time to time or where required by legislation or other legislative authorities.

**7.5 Sealing Register**

The Chief Executive Officer will ensure that a register of all uses of the Common Seal is kept by Council. The register will contain a description of the document, the date the Seal was affixed and the date Council resolved to affix the Seal.



## Part 8 – Election Period Policy

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### 8.1 Purpose

The Election Period Policy (formerly known as the Caretaker Policy) has been developed in order to ensure that the general elections for the Moorabool Shire Council are conducted in a manner that is ethical, fair and equitable, and are publicly perceived as such.

The Policy will also facilitate the continuation of the ordinary business of local government in the Moorabool Shire throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established 'caretaker' conventions.

This Policy also commits Council during the election period to:

- avoid making significant new policies or decisions that could unreasonably bind a future Council; and
- ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.

### 8.2 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:

<b>Publication</b>	Includes any means of publication including letters and information on the Internet including social media.
<b>Public consultation</b>	Means 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.

### 8.3 Scope and Application of Policy

Council will function in accordance with this Policy during the election period which commences at the time that nominations close on nomination day and ends at 6pm on Election Day.

#### 8.3.1 Role of Chief Executive Officer (CEO)

- a) The CEO is responsible for determining any issues that arise in the implementation of this policy.
- b) In addition to the CEO's statutory responsibilities, the CEO or his or her delegate will ensure as far as possible, that:
  - i) All Councillors and Officers are informed of the application of this policy at least 60 days prior to the commencement of the election period;
  - ii) Matters of Council business requiring major policy or significant decisions are scheduled for Council to enable resolution prior to the commencement of the election period, or deferred where appropriate for determination by the incoming Council; and
  - iii) Guidelines to staff on the role and responsibilities of staff in the implementation of this policy are issued if appropriate.

### 8.4 Prohibited Decisions by Council

Under Section 69 of the Act, 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.

### 8.5 Public Consultation

#### 8.5.1 Right to Postpone

- a) Some public consultation activities may be necessary during the election period to facilitate the day to day business of Council and ensure matters continue to be proactively managed.
- b) Any such public consultations will avoid express or implicit links to the election.
- c) In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the election period, Council reserves the right to postpone a matter if the issue is likely to affect voting.

- d) Council will not continue or commence public consultation on any contentious or politically sensitive matter after the commencement of the election period.

### 8.6 Council Communications and Publications

#### 8.6.1 Publishing Material during the Election Period

- a) Council will not print, publish or distribute any advertisement, handbill, pamphlet or notice during an election period unless it has been approved by the Chief Executive Officer or their delegate.
- b) The Chief Executive Officer or their delegate must not intentionally or recklessly approve a publication that contains electoral matter, unless that material is only about the election process.

#### 8.6.2 Approval of Publications

- a) Publications to be printed, published or distributed during the election period must first be approved by the Chief Executive Officer.
- b) Copies of all approved documents will be retained on Council records.
- c) Publications which require approval include:
  - i) Brochures, pamphlets, handbills, flyers, magazines and books;
  - ii) Reports (other than agenda papers and minutes);
  - iii) Advertisements and notices, (includes Moorabool Matters) except newspaper notices of meetings;
  - iv) New website material;
  - v) Social media publications (which includes but not limited to Facebook and Twitter posts);
  - vi) Emails with multiple addresses, used for broad communication with the community;
  - vii) Mass mail outs or identical letters sent to a large number of people by or on behalf of Council;
  - viii) Media releases;
  - ix) Material to publicise a function or event; and
  - x) Any publication or distribution of Councillors' speeches.

#### 8.6.3 Prohibited Material

- a) Electoral matter means any matter which is intended or likely to affect voting in an election, but does not include:
  - i) Any electoral material produced by or on behalf of the returning officer for the purposes of conducting an election, or
  - ii) An advertisement in a newspaper announcing the holding of a meeting.

- b) A publication is taken to contain electoral matter if it contains an express or implicit reference to, or comment on:
  - i) The election; or
  - ii) A candidate in the election; or
  - iii) An issue submitted to, or otherwise before, the voters in connection with the election.
- c) Electoral matter includes material which:
  - i) Publicises the strengths or weaknesses of a candidate;
  - ii) Advocates the policies of the Council or of a candidate;
  - iii) Responds to claims made by a candidate; and
  - iv) Publicises the achievements of the elected Council.

### 8.6.4 Council Publications Including Councillor Information

Any reference to Councillors standing for re-election in Council publications printed, published or distributed during an election period must not include promotional text.

### 8.6.5 Website

- a) Material published on Council's website in advance of the election period is not subject to approval, however existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that would be considered electoral matter, were it to be published during the election period.
- b) Councillor profiles on the Council website will be limited to a photograph and contact details. Other communication from a Councillor via the Council website will be removed.
- c) Any material published on Council's website during the election period must be approved by the Chief Executive Officer.

### 8.6.6 Annual Report

- a) Council is required by the Act to produce and put on public display a copy of its Annual Report. The Annual Report will be published during the election period. The Annual Report will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.
- b) any publication of an extract or summary of the Annual Report will require approval of the Chief Executive Officer.

### 8.6.7 Council and Committee Agendas and Minutes

- a) Agenda papers and minutes of Council and Committee meetings do not require certification by the Chief Executive Officer unless they are printed or published for a wider distribution than normal.

- b) Items submitted for Public Question Time will be reviewed to ensure that they comply with the principles of the Act and this Policy, and may be amended accordingly before publication.

### 8.6.8 Social Media

- a) Any publication on social media sites including but not limited to Facebook, Twitter, blogs and wiki pages during the election period must be certified by the Chief Executive Officer.
- b) Staff responsible for administering a Council social media site will monitor the respective site during the election period and use moderation features where available to ensure no electoral matter is posted.

### 8.6.9 Review of Publications

Council will review all publications prior to the commencement of the election period, and during the election period, prior to publication and distribution, to ensure that any such publications comply with the requirements this policy.

## 8.7 Functions/Events

- 8.7.1 Any event or function held during the election period shall relate only to legitimate Council business and shall not be used, or be capable of being construed as being used, in connection with any election activity.
- 8.7.2 All speeches prepared for use at events or functions shall be reviewed by the Chief Executive Officer to ensure the content does not breach this Policy.
- 8.7.3 Councillors may make a short speech during any event or function however the speech must be limited to referring to the specific event at which the it is being delivered and thanking the participants or attendees. The speech must not have any political reference which may be construed as providing a current Councillor any advantage during the election period. Speeches will not be circulated or available for publication.
- 8.7.4 Functions or events for the purpose of electioneering must not be resourced or publicised by the Council.

## 8.8 Council Resources

### 8.8.1 Application of Resources

Council resources, including offices, vehicles, staff, hospitality, services, property, equipment and stationery must be used exclusively for normal Council business during the election period and must not be used in connection with any election campaign or issue.

### 8.8.2 Role of Staff

- a) Council staff will not undertake any tasks connected directly or indirectly with the election campaign of a Councillor standing for re-election or any candidate standing for election.
- b) Council staff will not authorise, use or allocate a Council resource for any purpose that may influence voting in the election, except where it only

relates to the election process and is authorised by the Chief Executive Officer.

- c) Prior to the election period for any election the Chief Executive Officer will ensure that all members of Council staff are advised in regard to the application of the caretaker procedures.
- d) Any staff member who considers that a particular use of Council resources may influence voting in an election or provide an undue advantage for a candidate should advise their manager before authorising, using or allocating the resource. The manager will seek appropriate advice in order to ascertain whether the use of Council resources is in accordance with this statement.

### 8.8.3 Use of Council Equipment by Councillors

Councillors may continue to use any Council equipment provided to them to facilitate their performance of normal Council duties, subject to existing protocols and terms of use. Councillors standing for re-election must not use Council equipment as a resource to assist with election campaigns. This includes laptops, iPad, notepads, telephone land lines, mobile phones, email addresses, and internet connections.

### 8.8.4 Councillors' Entitlement to Reimbursement

Reimbursements of Councillors' out-of-pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that support or are connected with a candidate's election campaign. Claims shall conform with requirements set out in the 'Council Expenses Policy'.

### 8.8.5 Council Branding

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

### 8.8.6 Cessation of Ward Specific Publications

Ward-specific publications, or Councillor profiles and articles in the Moorabool Matters, will not be arranged by Council during the election period.

### 8.8.7 Officers' Discretion

The Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in that regard. Where the use of Council resources appears to relate to the election campaign of a Councillor standing for re-election, the matter must be referred to the Chief Executive Officer or their delegate.

### 8.9 Media Services

#### 8.9.1 Restriction on Services

- a) Council's Communications team undertake the promotion of Council activities and initiatives. During the election period this team's services must not be used in any way that might promote a Councillor as an election candidate.
- b) Council publicity during the election period will be restricted to communicating normal Council activities and initiatives and subject to certification by the Chief Executive Officer.

#### 8.9.2 Media Releases/Spokespersons

- a) Media releases will minimise references to specific Councillors and will not identify any Councillor in a manner that could promote a Councillor as an election candidate.
- b) In the event that a spokesperson is required in relation to any publication or communication, the Chief Executive Officer will fulfil that role.

#### 8.9.3 Councillors

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

#### 8.9.4 Council Employees

During the election period no Council employee may make any public statement that relates to an election issue unless prior approval has been obtained by the Chief Executive Officer or his or her delegate.

### 8.10 Information

#### 8.10.1 Candidates' Access to Information

- a) All election candidates have equal rights to information relevant to their election campaigns from the Council administration. While it is important that sitting Councillors continue to receive information that is necessary to fulfil their existing elected roles, neither Councillors nor candidates will receive information or advice from Council officers that may improperly advantage candidates in the elections (which includes internal publications such as the Councillor Information Bulletin (CIB)).
- b) There will be complete transparency in the provision of all information and advice during the election period.
- c) Requests for clarification relating to the provision of information should be directed to the Chief Executive Officer or his or her delegate.

### 8.10.2 Information Request Register

The Governance unit will maintain an Information Request Register during the election period. This Register will be a public document that records all requests relating to electoral matters and non-routine requests for information by Councillors and candidates, and the responses given to those requests.

### 8.10.3 Improper Use of Position

Section 123 the Act prohibit Councillors from misusing or inappropriately making use of their position. A breach of section 76D attracts serious penalties, including possible imprisonment.

## 8.11 Assistance to Candidates

### 8.11.1 Candidate Information

- c) Council will provide candidates with a Councillor Candidate Information Kit to assist them in running and nominating for Council.
- d) Candidates will be informed of their obligation to complete a Nomination Form which will be available from the Returning Officer, accompanied by the nomination fee.
- e) Candidates will also be informed of the requirements to complete and submit an 'Election Campaign Return' to the Chief Executive Officer.

### 8.11.2 Advice to Candidates about the election process

- a) All election related enquiries from candidates, whether current Councillors or not, will be directed to the Returning Officer, or where the matter is outside of the responsibilities of the Returning Officer, to the Chief Executive Officer or his or her delegate.
- b) Councillors may use the title "Councillor" in their election material, as they continue to hold their positions for the period.
- c) Councillors are advised that any election publication using the title "Councillor" clearly indicates that it is their own material and does not represent Council.
- d) All candidates for the Council election will be treated equally. Any advice to be provided to candidates as part of the conduct of the Council election should be provided equally to all candidates.

## 8.12 Related Legislation

Local Government Act (Victoria) 2020

## 8.13 Review

This policy will be reviewed by 31 August in the year preceding each general election.