



GOVERNANCE RULES

Adopted: 19 August 2020



WEST WIMMERA SHIRE COUNCIL GOVERNANCE RULES

Introduction

1. Nature of Rules

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

2. Date of Commencement

These Governance Rules commence on 1 September 2020.

3. Contents

These Governance Rules are divided into the following Chapters:

Chapter	Name
Chapter 1	Governance Framework
Chapter 2	Meeting Procedure for Council Meetings
Chapter 3	Meeting Procedure for Delegated Committees
Chapter 4	Meeting Procedure for Community Asset Committees
Chapter 5	Disclosure of Conflicts Of Interest
Chapter 6	Miscellaneous
Chapter 7	Election Period Policy
Chapter 8	Annexures <ul style="list-style-type: none">- Declaration of Conflict of Interest Form- Notice of Motion- Notice of Rescission- Councillor Code of Conduct – adopted 20 June 2019

4. Definitions

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

Act means the *Local Government Act 2020*.

Chief Executive Officer includes an Acting Chief Executive Officer.

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

Council means **West Wimmera Shire Council**.

Council meeting has the same meaning as in the Act.

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

Mayor means the Mayor of West Wimmera Shire Council.

these Rules means these Governance Rules.

Chapter 1 – Governance Framework

1. Context

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

- (a) the overarching governance principles specified in section 9(2) of the *Act*; and
- (b) the following documents adopted or approved by *Council*:

Public Transparency Policy

Community Engagement Policy

Councillor Code of Conduct

Staff Code of Conduct

Election Period Policy

2. Decision Making

- (a) In any matter in which a decision must be made by *Council* (including persons acting with the delegated authority of *Council*), *Council* must consider the matter and make a decision:
 - (i) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
 - (ii) on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- (b) *Council* must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of *Council* is entitled to communicate their views and have their interests considered).
- (c) Without limiting anything in paragraph (b) of this sub-Rule:
 - (i) before making a decision that will directly affect the rights of a person, *Council* (including any person acting with the delegated authority of *Council*) must identify the person or persons whose rights will be directly affected, give notice of the decision which *Council* must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made;
 - (ii) if a report to be considered at a *Council meeting* concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;
 - (iii) if a report to be considered at a *Delegated Committee* meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
 - (iv) if a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

Chapter 2 – Meeting Procedure for Council Meetings

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Part A – Introduction

1. Title

This Chapter will be known as the "Meeting Procedure Chapter".

2. Purpose of this Chapter

The purpose of this Chapter is to:

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

3. Definitions and Notes

3.1 In this Chapter:

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

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

"*minute book*" means the collective record of proceedings of *Council*;

"*municipal district*" means the municipal district of *Council*;

"*notice of motion*" means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting, and which will be included in that meeting's Agenda if approved by the Chief Executive Officer;

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

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

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

Part B – Election of Mayor

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

4. Election of the *Mayor*

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

5. Method of Voting

The election of the *Mayor* must be carried out by a show of hands.

6. Determining the election of the *Mayor*

- 6.1 Unless Council resolves otherwise, the election of the *Mayor* will occur at a meeting held specifically to elect the *Mayor* and Deputy *Mayor*, appoint Councillors to various committees, determine the schedule of meetings (including locations) for the coming year and set the Councillor and Mayoral allowances. This meeting will be held on the first Wednesday of November each year (other than an election year).
- 6.2 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- 6.3 Nominations for the office of *Mayor* can be received in the following ways:
 - 6.3.1 in writing and in a form prescribed by the *Chief Executive Officer*; or
 - 6.3.2 Via a verbal nomination at the meeting as called for by the CEO
 - 6.3.3 Written nominations must be seconded / co-signed by another Councillor.
 - 6.3.4 The seconder of a nomination has the right to nominate one other Councillor.
- 6.4 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:
 - 6.4.1 if there is only one nomination, the candidate nominated must be declared to be duly elected;
 - 6.4.2 if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;
 - 6.4.3 in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
 - 6.4.4 in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
 - 6.4.5 if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the

candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;

6.4.6 in the event of two or more candidates having an equality of votes and one of them having to be declared:

- (a) a defeated candidate; and
- (b) duly elected

the declaration will be determined by lot.

6.4.7 if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:

- (a) each candidate will draw one lot;
- (b) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
- (c) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, & the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected).

7. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for:

- 7.1 any office of Deputy Mayor; or
- 7.2 Chair of a *Delegated Committee*

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

- 7.3 *Chief Executive Officer* is a reference to the *Mayor*; and
- 7.4 *Mayor* is a reference to the Deputy Mayor or the Chair of the *Delegated Committee* (as the case may be).

8. Appointment of Acting Mayor

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

- 8.1 resolving that a specified Councillor be so appointed; or
- 8.2 following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter, at its discretion.

Part C – Meetings Procedure

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

Division 1 – Notices of Meetings and Delivery of Agendas

9. Dates and Times of Meetings Fixed by Council

Subject to Rule 11, *Council* must from time to time fix the date, time and place of all *Council meetings*. This will be undertaken at a meeting scheduled for the first Wednesday in November each year, other than an election year, where the meeting will be called following the declaration of the Council.

10. Council May Alter Meeting Dates

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

11. Meetings Not Fixed by Council

11.1 The *Mayor* or at least 3 Councillors may by a *written* notice call a *Council meeting*.

11.2 The notice must specify the date and time of the *Council meeting* and the business to be transacted.

11.3 The *Chief Executive Officer* must convene the *Council meeting* as specified in the notice.

11.4 Unless all Councillors are present and unanimously agree to deal with any other matter, only the business specified in the *written* notice can be transacted at the *Council meeting*.

12. Notice of Meeting

12.1 A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for all *Council meetings* at least 48 hours before the meeting.

12.2 Notwithstanding sub-Rule 12.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in *writing* to continue to give notice of any meeting during the period of his or her absence.

12.3 Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this:

12.3.1 for *meetings* which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in newspapers generally circulating in the *municipal district* either at various times throughout the year, or prior to each such *Council meeting*; and

12.3.2 for any meeting by giving notice on its website and:

(a) in each of its Customer Service Centres; and/or

(b) in newspapers generally circulating in the *municipal district*.

Division 2 – Quorums

13. Inability to Obtain a Quorum

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

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

14. Inability to Maintain a Quorum

- 14.1 If during any *Council meeting*, a quorum cannot be maintained then Rule 13 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 14.2 Sub-Rule 14.1 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.

15. Adjourned Meetings

- 15.1 *Council* may adjourn any meeting to another date or time but cannot in the absence of disorder or a threat to the safety of any Councillor or member of Council staff adjourn a meeting in session to another place.
- 15.2 The *Chief Executive Officer* must give *written* notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 15.3 If it is impracticable for the notice given under sub-Rule 15.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.

16. Time limits for Meetings

- 16.1 A *Council meeting* must not continue for more than 3.5 hours unless a majority of Councillors present vote in favour of it continuing.
- 16.2 A meeting cannot be continued for more than 30 minutes (or a further 30 minutes, if a majority of Councillors has already voted to continue it for 30 minutes).
- 16.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of sub-Rules 15.2 and 15.3 apply.

17. Cancellation or Postponement of a Meeting

- 17.1 The *Chief Executive Officer* may, in the case of an emergency necessitating the cancellation or postponement of a *Council meeting*, cancel or postpone a *Council meeting*.

- 17.2 The *Chief Executive Officer* must present to the immediately following *Council meeting* a *written* report on any exercise of the power conferred by sub-Rule 17.1.

Division 3 – Business of Meetings

18. Agenda and the Order Of Business

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

19. Change To Order Of Business

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

20. Urgent Business

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

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

Division 4 – Motions and Debate

21. Councillors May Propose *Notices of Motion*

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

22. Notice of Motion

- 22.1 A *notice of motion* must be in *writing* signed by a Councillor, and be lodged with or sent to the *Chief Executive Officer* by the Agenda cut-off time, to allow sufficient time for him or her to include the *notice of motion* in agenda papers for a *Council meeting* and to give each Councillor at least 48 hours' notice of such *notice of motion*.
- 22.2 The *Chief Executive Officer* may reject any *notice of motion* which:
- 22.2.1 is vague or unclear in intention
- 22.2.2 it is beyond *Council's* power to pass; or
- 22.2.3 if passed would result in *Council* otherwise acting invalidly
- but must:
- 22.2.4 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
- 22.2.5 notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.
- 22.3 The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.

- 22.4 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.
- 22.5 Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were entered in the notice of motion register.
- 22.6 If a Councillor who has given a *notice of motion* is absent from the meeting or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- 22.7 If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.

23. Chair's Duty

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

- 23.1 defamatory;
- 23.2 objectionable in language or nature;
- 23.3 vague or unclear in intention;
- 23.4 outside the powers of *Council*; or
- 23.5 irrelevant to the item of business on the *agenda* and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the *Chair*.

24. Introducing a Report

- 24.1 Before a *written* report is considered by *Council* and any motion moved in relation to such report, a member of Council staff may introduce the report by indicating in not more than 2 minutes:
- 24.1.1 its background; or
- 24.1.2 the reasons for any recommendation which appears.
- 24.2 Unless *Council* resolves otherwise, a member of Council staff need not read any written report to *Council* in full.
- 24.3 Councillors can ask questions of the staff member presenting the report prior to a motion being moved and seconded and debate commencing.

25. Introducing a Motion or an Amendment

The procedure for moving any motion or amendment is:

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

"Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"

- 25.4 if no Councillor indicates opposition or a desire to speak to it, the *Chair* may declare the motion or amendment carried without discussion;
- 25.5 if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- 25.6 after the mover has addressed the meeting, the seconder may address the meeting;
- 25.7 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
- 25.8 if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

26. Right of Reply

- 26.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
- 26.2 After the right of reply has been 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.

27. Moving an Amendment

- 27.1 Subject to sub-Rule 27.2 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.
- 27.2 A motion to confirm a previous resolution of *Council* cannot be amended.
- 27.3 An amendment must not be directly opposite to the motion.

28. Who May Propose an Amendment

- 28.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- 28.2 The seconder of an amendment is permitted to move a subsequent amendment
- 28.3 Any one Councillor cannot move more than two amendments in succession.

29. How Many Amendments May Be Proposed

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

30. An Amendment Once Carried

- 30.1 If the amendment is carried, the motion as amended then becomes the motion before the meeting, and the amended motion must then be put.
- 30.2 The mover of the original motion retains the right of reply to that motion.

31. Foreshadowing Motions

- 31.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 31.2 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.
- 31.3 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.
- 31.4 The *Chair* is not obliged to accept foreshadowed motions.

32. Withdrawal of Motions

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

33. Separation of Motions

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

34. Chair May Separate Motions

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

35. Priority of address

In the case of competition for the right of speak, the *Chair* must decide the order in which the Councillors concerned will be heard. This will be determined by the Councillors raising their hand to alert the Chair to the desire to ask a question. The order will be established as the Chair acknowledges each Councillor's request to speak.

36. Motions in Writing

- 36.1 The *Chair* may require that a complex or detailed motion be in writing. This is to be provided on the motion template and handed to the minute taker. It must also be read to the meeting to ensure that the content is clearly understood by Councillors.
- 36.2 *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.

37. Repeating Motion and/or Amendment

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

38. Debate Must be Relevant to the Motion

38.1 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.

38.2 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.

38.3 A speaker to whom a direction has been given under sub-Rule 38.2 must comply with that direction.

38.4 A speaker must direct debate to the meeting.

39. Speaking Times

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

39.1 the mover of a motion or an amendment which has been opposed: 5 minutes;

39.2 any other Councillor: 3 minutes; and

39.3 the mover of a motion exercising a right of reply: 2 minutes.

40. Addressing the Meeting

If the *Chair* so determines:

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

40.1.1 Madam Mayor; or

40.1.2 Mr Mayor; or

40.1.3 Madam Chair; or

40.1.4 Mr Chair

as the case may be;

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

Cr(name).

40.3 all members of Council staff, must be addressed as Mr or Ms

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

41. Right to Ask Questions

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

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

Division 5 – Procedural Motions

42. Procedural Motions

- 42.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.
- 42.2 Procedural motions require a seconder.
- 42.3 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:

PROCEDURAL MOTIONS TABLE

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

Division 6 – Rescission Motions

43. Notice of Rescission

- 43.1 A Councillor may propose a *notice of rescission* provided:
- 43.1.1 it has been signed and dated by the mover and the seconder;
 - 43.1.2 the resolution proposed to be rescinded has not been acted on; and
 - 43.1.3 the *notice of rescission* is delivered to the *Chief Executive Officer* within 24 hours of the resolution having been made setting out -
 - (a) the resolution to be rescinded; and
 - (b) the meeting and date when the resolution was carried.

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

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

- 43.2 A resolution will be deemed to have been acted on if:
- 43.2.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or
 - 43.2.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- 43.3 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:
- 43.3.1 has not been acted on; and
 - 43.3.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 43.1.3,
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

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

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

Sub-Rule 43.3 would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.

44. If Lost

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

45. If Not Moved

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

46. May Be Moved By Any Councillor

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

47. When Not Required

47.1 Unless sub-Rule 47.2 applies, a motion for rescission is not required where *Council* wishes to change policy.

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

47.2.1 if the policy has been in force in its original or amended form for less than 12 months, a *notice of rescission* must be presented to *Council*; and

47.2.2 any intention to change a *Council* policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.

Division 7 – Points of Order

48. Chair to Decide

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

49. Chair May Adjourn to Consider

49.1 The *Chair* may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.

49.2 All other questions before the meeting are suspended until the point of order is decided.

50. Dissent from Chair's Ruling

50.1 A Councillor may move that the meeting disagree with the *Chair's* ruling on a point of order, by moving:

"That the *Chair's* ruling [setting out that ruling or part of that ruling] be dissented from".

50.2 When a motion in accordance with this Rule is moved and seconded, the *Chair* must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present, temporary *Chair* elected by the meeting) must take his or her place.

50.3 The Deputy Mayor or temporary *Chair* must invite the mover to state the reasons for his or her dissent and the *Chair* may then reply.

50.4 The Deputy Mayor or temporary *Chair* must put the motion in the following form:

"That the *Chair's* ruling be dissented from."

50.5 If the vote is in the negative, the *Chair* resumes the Chair and the meeting proceeds.

50.6 If the vote is in the affirmative, the *Chair* must then resume the Chair, reverse or vary (as the case may be) his or her previous ruling and proceed.

50.7 The defeat of the *Chair's* ruling is in no way a motion of censure or non- confidence in the *Chair*, and should not be so regarded by the meeting.

51. Procedure for Point ofOrder

A Councillor raising a point of order must:

51.1 state the point of order; and

51.2 state any section, Rule, paragraph or provision relevant to the point of order within these rules or the Local Government Act 2020

52. Valid Points ofOrder

A point of order may be raised in relation to:

52.1 a motion, which, under Rule 23, or a question which, under Rule 53, should not be accepted by the *Chair*;

52.2 a question of procedure; or

52.3 any act of disorder.

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

Division 8 – Public Question Time

53. Question Time

53.1 There must be a public question time at every *Council meeting* fixed under Rule 9 to enable members of the public to submit questions to *Council*.

53.2 Sub-Rule 53.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the *Act*.

- 53.3 Public question time will not exceed 30 minutes in duration. The time of commencing public question time will be recorded in the minutes.
- 53.4 Questions submitted to *Council* can be submitted as follows:
- 53.4.1 in *writing*, state the name and address of the person submitting the question and generally be in a form approved or permitted by *Council*; and
 - 53.4.2 placed in the receptacle designated for the purpose at the place of the meeting at least two hours prior to the *Council meeting*, or be lodged electronically at the prescribed email address at least two hours prior to the *Council meeting*.
 - 53.4.3 Verbally at a Council Meeting, following the removal of standing orders and via the prompt of the Mayor.
 - 53.4.4 Members of the Gallery providing verbal questions without notice at a Council Meeting, must state their name to be recorded in the minutes.
- 53.5 No person may submit more than two questions at any one meeting.
- 53.6 If a person has submitted two questions to a meeting, the second question:
- 53.6.1 may, at the discretion of the *Chair*, be deferred until all other persons who have asked a question have had their questions asked and answered; or
 - 53.6.2 may not be asked if the time allotted for public question time has expired.
- 53.7 The *Chair* or a member of Council staff nominated by the *Chair* may read to those present at the meeting a question which has been submitted in accordance with this Rule.
- 53.8 Notwithstanding sub-Rule 53.6, the *Chair* may refrain from reading a question or having a question read if the person who submitted the question is not present in the gallery at the time when the question is due to be read.
- 53.9 A question may be disallowed by the *Chair* if the *Chair* determines that it:
- 53.9.1 relates to a matter outside the duties, functions and powers of *Council*;
 - 53.9.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 53.9.3 deals with a subject matter already answered;
 - 53.9.4 is aimed at embarrassing a Councillor or a member of Council staff;
 - 53.9.5 relates to personnel matters;
 - 53.9.6 relates to the personal hardship of any resident or ratepayer;
 - 53.9.7 relates to industrial matters;
 - 53.9.8 relates to contractual matters;
 - 53.9.9 relates to proposed developments;

- 53.9.10 relates to legal advice;
 - 53.9.11 relates to matters affecting the security of *Council* property; or
 - 53.9.12 relates to any other matter which *Council* considers would prejudice *Council* or any person.
- 53.10 Any written question which has been disallowed by the *Chair* must be made available to any other Councillor upon request.
 - 53.11 All questions and answers must be as brief as possible, and no discussion may be allowed other than by *Councillors* for the purposes of clarification.
 - 53.12 Like questions may be grouped together and a single answer provided.
 - 53.13 The *Chair* may nominate a Councillor or the *Chief Executive Officer* to respond to a question.
 - 53.14 A Councillor or the *Chief Executive Officer* may require a question to be put on notice. If a question is put on notice, a *written* copy of the answer will be sent to the person who asked the question.
 - 53.15 A Councillor or *the Chief Executive Officer* may advise *Council* that it is his or her opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or *Chief Executive Officer* (as the case may be) must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given.

Division 9 – Petitions and Joint Letters

54. Petitions and Joint Letters

- 54.1 Unless *Council* determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next *Council meeting* after that at which it has been presented.
- 54.2 It is incumbent on every Councillor presenting a petition or joint letter to acquaint himself or herself with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to *Council*.
- 54.3 Every Councillor presenting a petition or joint letter to *Council* must:
 - 54.3.1 write or otherwise record his or her name at the beginning of the petition or joint letter; and
 - 54.3.2 confine himself or herself to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of the prayer or request.
- 54.4 Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 12 people.
- 54.5 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.

- 54.6 Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- 54.7 Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 54.8 If a petition, joint letter, memorial or other like application relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.

Division 10 – Voting

55. How Motion Determined

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

56. Silence

Voting must take place in silence.

57. Recount

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

58. Casting Vote

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

59. By Show Of Hands

Voting on any matter is by show of hands.

60. Procedure for A Division

60.1 Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.

60.2 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.

60.3 When a division is called for, the *Chair* must:

60.3.1 first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any authorised officer must record, the names of those Councillors voting in the affirmative; and

60.3.2 then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any authorised officer must record, the names of those Councillors voting in the negative.

61. No Discussion Once Declared

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

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

For example, Rule 61 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.

Equally, Rule 61 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.

Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in sub-Rule 61.2, to discussion about a positive motion were a resolution has just been rescinded.

Division 11 – Minutes

62. Confirmation of Minutes

- 62.1 At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
 - 62.1.1 a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;
 - 62.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;
 - 62.1.3 if a Councillor indicates opposition to the minutes:
 - (a) he or she must specify the item(s) to which he or she objects;
 - (b) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
 - (c) the Councillor objecting must move accordingly without speaking to the motion;
 - (d) the motion must be seconded;
 - (e) the *Chair* must ask:
"Is the motion opposed?"
 - (f) if no Councillor indicates opposition, then the *Chair* must declare the motion carried without discussion and then ask the second of the questions described in sub-Rule 62.1.3(k);

- (g) if a Councillor indicates opposition, then the *Chair* must call on the mover to address the meeting;
- (h) after the mover has addressed the meeting, the seconder may address the meeting;
- (i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
- (j) if, after the mover has addressed the meeting, the *Chair* invites debate and no Councillor speaks to the motion, the *Chair* must put the motion; and
- (k) the *Chair* must, after all objections have been dealt with, ultimately ask:

"The question is that the minutes be confirmed" or

"The question is that the minutes, as amended, be confirmed",

and he or she must put the question to the vote accordingly;

- 62.1.4 a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed;
- 62.1.5 the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively; and
- 62.1.6 unless otherwise resolved or required by law, minutes of a *Delegated Committee* requiring confirmation by *Council* must not be available to the public until confirmed by *Council*.

63. No Debate on Confirmation of Minutes

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

64. Deferral of Confirmation of Minutes

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

65. Form and Availability of Minutes

- 65.1 The *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer* to attend the meeting and to take the minutes of such meeting) must keep minutes of each *Council meeting*, and those minutes must record:
 - 65.1.1 the date, place, time and nature of the meeting;
 - 65.1.2 the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;

- 65.1.3 the names of the members of Council staff present;
 - 65.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5;
 - 65.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
 - 65.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
 - 65.1.7 the vote cast by each Councillor upon a division;
 - 65.1.8 the vote cast by any Councillor who has requested that his or her vote be recorded in the minutes;
 - 65.1.9 questions upon notice;
 - 65.1.10 the failure of a quorum;
 - 65.1.11 any adjournment of the meeting and the reasons for that adjournment; and
 - 65.1.12 the time at which standing orders were suspended and resumed.
- 65.2 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are:
- 65.2.1 published on *Council's* website; and
 - 65.2.2 available for inspection at *Council's* office during normal business hours.
- 65.3 Nothing in sub-Rule 65.2 requires *Council* or the *Chief Executive Officer* to make public any minutes relating to a *Council meeting* or part of a *Council meeting* closed to members of the public in accordance with section 66 of the *Act*.

Division 12 – Behaviour

66. Public Addressing the Meeting

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

67. Conduct at Meetings

Councillors will have regard to the Councillor Code of Conduct in their participation in any meetings they attend as a Councillor. This will be achieved by treating fellow Councillors, Staff and members of Delegated Committees with respect and not making defamatory, indecent, factually incorrect, abusive or disorderly statements or comments.

68. Chair May Remove

The *Chair* may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 66.2.

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

69. Chair may adjourn disorderly meeting

If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of sub-Rules 15.2 and 15.3 apply.

70. Removal from Chamber

The *Chair*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer* or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the gallery under Rule 68.

Division 13 – Additional Duties of Chair

71. The Chair's Duties and Discretions

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

71.1 must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community; and

71.2 must call to order any person who is disruptive or unruly during any meeting.

Division 14 – Suspension of Standing Orders

72. Suspension of Standing Orders

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

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

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

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

"That standing order be suspended to enable discussion on....."

- 72.3 No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.
- 72.4 Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:
- "That standing orders be resumed."

Division 15 – Miscellaneous

73. Meetings Conducted Remotely

If:

73.1 by law a meeting may be conducted electronically; and

73.2 *Council* decides that a meeting is to be conducted electronically,

the *Chair* may, with the consent of the meeting, modify the application of any of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of the meeting.

74. Procedure not provided in this Chapter

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

75. Criticism of members of Council staff

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

75.2 A statement under sub-Rule 75.1 must be made by the *Chief Executive Officer*, through the *Chair*, as soon as it practicable after the Councillor who made the statement has resumed his or her seat.

Chapter 3 – Meeting Procedure for Delegated Committees

1. Meeting Procedure Generally

If *Council* establishes a *Delegated Committee*:

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

2. Meeting Procedure can be Varied

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

- 2.1 *Council* may; or
- 2.2 the *Delegated Committee* may, with the approval of *Council*

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

Chapter 4 – Meeting Procedure for Community Asset Committees

1. Introduction

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

2. Meeting Procedure

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

Chapter 5 – Disclosure of Conflicts of Interest

1. Introduction

The following Rules in this Chapter apply only upon Division 1A of Part 4 of the *Local Government Act 1989* being repealed.*

2. Definition

In this Chapter:

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

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

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

- 3.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting*, when prompted by the Chair at the appropriate point in the meeting agenda and / or immediately before the matter is considered; or
- 3.2 intends to be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council meeting* commences a written notice on the form provided specifically for the purpose of declaring an interest:
 - 3.2.1 advising of the conflict of interest;
 - 3.2.2 explaining the nature of the conflict of interest; and
 - 3.2.3 detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - (c) nature of that other person’s interest in the matter,

and then, at the appropriate point of the meeting or, immediately before the matter is considered at the meeting announcing to those present that he or she has a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

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

* At the time of making these Rules the date on which Division 1A of Part 4 of the *Local Government Act 1989* is expected to be repealed is 24 October 2020.

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

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

- 4.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Delegated Committee* meeting immediately before the matter is considered; or
- 4.2 intends to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Delegated Committee* meeting commences a written notice:
 - 4.2.1 advising of the conflict of interest;
 - 4.2.2 explaining the nature of the conflict of interest; and
 - 4.2.3 detailing, if the nature of the conflict of interest involves a member of a *Delegated Committee's* relationship with or a gift from another person the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - 4.2.4 nature of that other person's interest in the matter,

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

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

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

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

- 5.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Community Asset Committee* meeting immediately before the matter is considered; or
- 5.2 intends to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:
 - 5.2.1 advising of the conflict of interest;
 - 5.2.2 explaining the nature of the conflict of interest; and
 - 5.2.3 detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
 - (a) name of the other person;

- (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and

5.2.4 nature of that other person's interest in the matter,

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

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

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

A Councillor who has a conflict of interest in a matter being considered by a meeting held under the auspices of *Council* at which he or she is present must:

- 6.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting immediately before the matter is considered;
- 6.2 absent himself or herself from any discussion of the matter; and
- 6.3 as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.

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

7.1 A member of Council staff who, in his or her capacity as a member of Council staff, has a conflict of interest in a matter in respect of which he or she is preparing or contributing to the preparation of a Report for the consideration of a:

- 7.1.1 *Council meeting*;
- 7.1.2 *Delegated Committee meeting*;
- 7.1.3 *Community Asset Committee meeting*

must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* disclosing the conflict of interest and explaining the nature of the conflict of interest.

7.2 The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 7.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

7.3 If the member of Council staff referred to in sub-Rule 7.1 is the *Chief Executive Officer*:

- 7.3.1 the written notice referred to in sub-Rule 7.1 must be given to the *Mayor*; and
- 7.3.2 the obligation imposed by sub-Rule 7.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

8.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.

8.2 If the member of Council staff referred to in sub-Rule 8.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

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

9.1 A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.

9.2 If the member of Council staff referred to in sub-Rule 9.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

10. Retention of Written Notices

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

Chapter 6 – Miscellaneous

1. Informal Meetings of Councillors (Councillor Forums)

If there is a meeting of Councillors that:

- 1.1 is scheduled or planned for the purpose of discussing the business of *Council* or briefing Councillors;
- 1.2 is attended by at least one member of Council staff; and
- 1.3 All items discussed at Informal Meetings are to be accompanied by a briefing report prepared by the appropriate officer
- 1.4 is not a *Council meeting*, *Delegated Committee* meeting or *Community Asset Committee* meeting

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

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

2. Confidential Information

- 2.1 If, after the repeal of section 77(2)(c) of the *Local Government Act 1989*, the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the *Act*, he or she may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 2.2 Information which has been designated by the *Chief Executive Officer* as confidential information within the meaning of the *Act*, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.

Example of Officer Recommendation

GROUNDS FOR DETERMINING TO CLOSE THE MEETING TO THE PUBLIC

RECOMMENDATION

That as required by Section 66 (5) (a) and (b) of the Local Government Act 2020, Council hereby records the ground or grounds for determining to close the meeting to the public as follows:

Edenhope Industrial Estate

Grounds: LG Act 2020 Section 3 Confidential Information definition (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

Explanation: This report contains details of commercial negotiations regarding the sale of land at the Edenhope Industrial Estate.

Chapter 7 – Election Period Policy

COUNCIL POLICY		
Election Period Policy	Policy No:	
	Adopted by Council:	21 Aug 2019
	Next review date:	Aug 2023
Senior Manager:	Chief Executive Officer	
Responsible Officer:	Chief Executive Officer	
Functional Area:	Governance	

Introduction & Background

Section 93B of the Local Government Act 1989 requires all Councils to adopt and maintain an Election Period Policy to explain to their communities how they will conduct their business immediately prior to an election (election period).

Section 93B of the Act also requires all Councils to review, and if required, amend this policy no later than 12 months before the commencement of the next general election period.

This policy will ensure Council Elections are not compromised by inappropriate electioneering by existing Councillors, actions and decisions which could be perceived as influencing voters are avoided and the authority of the incoming council is safeguarded.

Purpose & Objectives

This policy provides a framework for Councillors and staff and outlines expected behaviours for the conduct of Council business during the lead-up to the general election for 2020.

The policy will ensure that the election is conducted in a transparent and accountable manner, the highest standard of governance is achieved and the statutory requirements of the *Local Government Act 1989 (the Act)* are met.

The policy will achieve greater consistency and rigour in Council procedures and reduce ambiguity and confusion surrounding caretaker arrangements in the 32 days leading up to the conduct of the general election (election period).

Once the 2019 review of the Local Government Act 1989 has been completed, this policy will again be reviewed and updated so that it reflects the amendments to the Act.

Council is committed to:

- ensuring that the ordinary business of local government in West Wimmera continues throughout an election period in a responsible and transparent manner and in accordance with statutory requirements and established 'caretaker' conventions;
- ensuring that the ongoing ordinary business of Council is kept separate from Councillors' activities which relate to the election;
- ensuring that in the run-up to an election, Council does not make decisions which inappropriately

- bind the next Council;
- avoiding making significant new policies or decisions that could unreasonably bind a future Council; and
- ensuring 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.

Definitions

<i>Election Period</i>	The statutory caretaker requirements apply during the 'election period'. For the 2020 Council elections, this means that the mandatory election period will be from midnight at the end of 22 September 2020 to 6 pm on 24 October 2020 (Election Day). (A Council may at its discretion decide to implement caretaker arrangements from an earlier date.)
<i>Election candidates</i>	All sitting Councillors will be considered as being election candidates until the close of nominations.
<i>Electoral matter</i>	Means matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the returning officer for the purposes of conducting the election) (s3(1A)). Includes, but is not limited to, material that deals with the election or election candidates or issues of contention in the election, e.g. <ul style="list-style-type: none"> • publicity of the strengths or weaknesses of a candidate • advocacy of the policies of the Council or of a candidate • response to claims made by a candidate • publicity of achievements of the elected Council

Policy Details

The policy addresses decisions during elections, use of Council resources, Council publications, and media and communications issues.

1. Preventing Inappropriate Decisions and Misuse of Resources

Given the relatively short election period, Council will reschedule most decisions until after the new Council commences its term, or if that is not appropriate, bring decisions forward so they are determined before the election period starts.

Council will continue to hold council meetings during the election period; however, the following decisions will be avoided completely in the 32 days leading up to the general election:

Major Policy Decisions

- a) the employment or remuneration of a Chief Executive Officer under Section 94, other than a decision to appoint an acting Chief Executive Officer;
- b) the termination of a Chief Executive Officer under Section 94 of the Act;
- c) entering into a contract the total value of which exceeds whichever is the greater of:
 - i. \$100,000 or such higher amount as may be fixed by Order in Council under section 186(1); or
 - ii. \$1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year.
- d) the use of entrepreneurial powers under section 193 if the sum assessed under section 193(5A) in respect of the proposal exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 of the preceding financial year. *[For*

the 2020 caretaker period 1% of the 2019/2020 rate revenue is \$67,876. This does not include revenue from special rates or special charges.]

Other types of decisions that Council will not make during an election period are:

1. Allocating community grants or other forms of direct funding to community organisations.
2. Major planning scheme amendments.
3. Changes to strategic objectives or strategies in the Council Plan.
4. Any decisions of a significant nature and which would unnecessarily bind an incoming Council.

Council commits that any other decision will be considered only if absolutely necessary for Council operational purposes or pursuant to a statutory requirement. It is noted that to avoid making certain decisions during an election (other than decisions prohibited under section 93A) is not legally binding; however, if it becomes important to make a decision contrary to this policy during the election period, the necessity will need to be demonstrated to the community.

If a Council considers that there are extraordinary circumstances which require the making of a major policy decision during the election period, the Council may apply in writing to the Minister for Local Government for an exemption from the application of section 93A to the major policy decision specified in the application.

Council will consult with Local Government Victoria before writing to the Minister and confirm what details should be included in the application to avoid unnecessary delays.

It is understood that Council cannot assume that an application will be granted. Scope to grant exemptions is limited because the Minister must be satisfied that the circumstances are extraordinary. The Minister will also consider whether granting the application is in the public interest.

Should a Council make a major policy decision within the election period, the decision is invalid. [s93A(4)]

Any person who suffers any loss or damage as a result of acting in good faith on a major policy decision made in contravention of this section is entitled to compensation from the Council for that loss or damage. S93A(5)

Papers prepared for Council meetings during the election period will be carefully vetted by the Chief Executive Officer to ensure that no agenda item is included that could potentially influence voters' intentions at the forthcoming election or could encourage Councillor candidates to use the item as part of their electioneering. Council commits that all Councillors will refrain from moving motions or raising matters at a meeting that could potentially influence voting at the election.

Use of Council resources

Public resources must not be used in any way that would influence the way people vote in elections or give Councillors any inappropriate real or perceived electoral advantage. Councillors will be treated in the same way as other candidates on access to council resources. The following guidelines will ensure that due propriety is observed in the use of and access to staff, property, equipment and other resources during the election period.

- Councillors will continue to be provided with resources during the election period to continue to perform their elected role.
- Council resources, including officers, support staff, email services, equipment (ie: computers, ipads, photocopiers, motor vehicles), branding and stationery, are only to be used for normal Council business and are not to be used for any election campaign activities.

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

Staff must:

- avoid assisting Councillors in ways that are or could create a perception that they are being used for electoral purposes
- report any interest in being involved privately in the election campaign of any candidate to the Chief Executive Officer
- not provide any information to any candidate or prospective candidate other than information that is available to the general public and will direct all election enquiries to the Returning Officer
- report to the Chief Executive Officer when the use of resources might be construed as being related to a candidate's election campaign
- Not make any public statement that relates to an election issue unless such statements have been approved by the Chief Executive Officer.
- Not promote any Councillors in social media.

Councillors must:

- Not use Council resources for any election campaign activities except as provided for under this policy. These resources include but not limited to Council provided motor Vehicle, Council uniforms, IT equipment, telephone, stationery.
- Councillors will reimburse the Council for usage of those services during the election period that exceeds normal usage levels.
- 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
- Not ask Councillor support staff to undertake any tasks indirectly or directly connected with a Councillor candidate's election campaign
- Not exert undue influence over the timing of works or the delivery of Council services that may result in a political gain for electoral purposes.
- Adhere to all provisions of Section 76D of the Act - Misuse of Position.

Where Councillors have Council funded services such as internet connections, and where it is impractical for Councillors to discontinue their use of these during the election, Councillors will reimburse the Council for usage of those services during the election period that exceeds normal usage levels.

2. Limiting public consultation and council events

Council will defer any scheduled Community Forum until after the election period.

Council will not accept any questions from members of public without the question being placed on the Council agenda, as it constitutes community consultation. The Chief Executive Officer will review all questions on notice and will make a decision if an item could be placed on Council's agenda.

Consultation is an integral part of Council's policy development process and operations. However there are concerns that consultation undertaken close to a general election may become an election issue in itself and influence voting. Issues raised through the consultation and decisions that follow may also unreasonably bind the incoming Council.

Where events occur and whether or not a Councillor is to make a speech, Councillors will be reminded that they are representing Council and are not to use the opportunity for electioneering.

Functions or events for the purpose of electioneering must not be resourced or publicised by the Council.

Material printed or disseminated during the election period to publicise a function or event must be subject to the certification process.

3. Equitable access to Council information

Councillors will be treated in the same way as other candidates with respect to access to the council held information. The following guidelines will ensure that due propriety is observed in the use of and access to information during the election period.

- Councillors may continue to automatically access council held documents during the election period, but only as is necessary for them to perform their elected role and functions.
- Information and briefing material prepared and provided to Councillors must be necessary to the carrying out of the Councillor's role and must not be used for election purposes.
- Any document made available to Councillors will also be made available to candidates.
- Applications for access to council information by all parties will be processed by the Chief Executive Officer, who will ensure that information made available to one candidate is accessible to all candidates.

Council Publications

s. 55D – Prohibition on Council

A Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer. (This power may not be delegated to another member of Council staff.) This does not include publication of any document published before the commencement of the election period (but still available after commencement, e.g., on Council's website) and publication of any document required to be published in accordance with, or under, any Act or regulation, e.g., rate notices, food premises registrations.

All publications including, newsletters, advertisements and notices, media releases, leaflets and brochures and mail outs during the election period will be certified by the Chief Executive Officer that they do not contain electoral matter before being printed or published or distributed. (This power may not be delegated to another member of Council staff.) This also applies to the publication of such material on the Council's website. The Chief Executive Officer must not intentionally or recklessly certify an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process.

A Councillor or member of Council staff must not intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period on behalf of, or in the name of, the Council or on behalf of, or in the name of, a Councillor using Council resources if the electoral advertisement, handbill, pamphlet or notice has not been certified by the Chief Executive Officer.

Council staff will avoid all publication activity, including updated or new information added to its website during the election period except where printing, publishing or distributing a document is essential for the conduct of Council operations.

The Act imposes these limitations during the election period to ensure the Council does not publish material with public funds that may influence, or be seen to influence people's voting decisions.

Annual Report

Council will produce its 2019-2020 Annual Report and submit it to the Minister for Local Government in accordance with the Act. The Annual Report may 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 but will fulfil its statutory obligations on reporting matters. It may also be required for the Annual Report to be the subject of a Special Meeting of Council to confirm the completion of the Annual Report. If it is appropriate, the special meeting will be held post-election period. The wider distribution of annual report and placing the annual report on Council website will be done after the election.

Other

Emails that are part of the normal conduct of Council business will not require certification; however any emails with multiple addressees, used for broad communication, will be subject to the certification process.

All reports listed for consideration by Council through agendas prepared during the election period will be checked by the Chief Executive Officer for compliance with section 55D. An 'Election Period Statement' will be included in every report submitted to the Council or Council Committee for a decision.

The Electoral material, including pamphlets, posters and notices will not be visible or available at any council premises, including libraries, during the election period. The only exception to this is material issued by the Returning Officer for the purpose of conducting the election.

Councillors may use the title 'Councillor' in their election material as they continue to hold the positions in the period; however to avoid confusion, Councillors must ensure that any election publication using the title Councillor clearly indicates that it is their own material and does not represent Council.

Requests for information which require significant resources to be devoted to making a response or which might be perceived to support an election campaign will be referred to the Chief Executive Officer for consideration.

Expenses incurred by Councillors

Claims for the reimbursement of expenses shall only relate to expenditure incurred whilst conducting Council business in accordance with *Council's Expense Entitlement & Support Policy* and not election activities.

Media/Communications issues

Media Releases and other media statements are regarded as documents that require certification by the CEO. All official media statements will only be made by the Chief Executive Officer.

Media Releases or other media statements will not refer to specific Councillors or feature any photograph, quote or name of incumbent Councillors during the election period. Where it is necessary to make or clarify any public statement, comment on sensitive or political issues or identify a spokesperson in relation to an issue, the matter must be referred to and approved by the Chief Executive Officer.

Media statements dealing with their election campaign must be issued by Councillors privately. Statements must be clearly communicated as personal opinion and not undermine the standing of the Council in the community.

Staff will not provide advice or assistance in the preparation of media releases or other media statements that contain electoral material.

Council staff must not make any public statement that can be interpreted as a political comment or have an influence on the electoral process.

Social Media

Any publication on social media sites which are auspice by the Council is to be certified by the CEO.

Council staff will undertake constant monitoring of social media site (Facebook) during the election period to ensure no electoral matter is posted.

For the duration of the election period, the ability for the public to post comments on Council's social media sites will be disabled.

Website

Council's website will not be used to convey information that could be regarded as electoral material but will contain information about the election process.

Council's website will be checked at the start of the election period to ensure that any information that might be regarded as likely to influence how people vote will be removed, including photos of Councillors at publicity events. Profiles of Councillors will also be removed but contact details and photos will remain.

Responsibilities

The Chief Executive Officer is responsible for overseeing adherence to the policy.

Councillors and staff are responsible for reporting any breach or suspected breach of this policy to the Chief Executive Officer.

Stakeholders

The following people are directly affected by the policy:

Councillors

Chief Executive Officer

Council Directors

Review

Following the 2020 General Election Council will continue to maintain the policy by reviewing and, if required, amending the policy not later than 12 months before the commencement of each subsequent general election period.

Communication/Implementation

The policy must be transparent and accessible. It will be communicated to Councillors and staff in accordance with the Council's policy administrative processes. It will also be made public on the council's website and available in hardcopy for public inspection. Copies will be made available to each Councillor on Docs on Tap.

Charter of Human Rights Compliance

It is considered that this policy does not impact on any human rights identified in the *Charter of Human Rights & Responsibilities Act 2006*.

Chapter 8 – Annexures

**DECLARATION OF CONFLICT OF INTEREST (Local Gov Act 2020 S.126-131)
West Wimmera Shire Council**

Section A - to be completed by Councillor / Committee Member / Member of Council Staff making statement and submitted to the Chief Executive Officer or their delegate before the meeting (where possible).

1.	Name of Councillor / Committee Member / Member of Council Staff	
2.	Name of Meeting	
3.	Date of Meeting	
4.	Date of Disclosure (if different to above)	
5.	Agenda Item Number	
6.	Agenda Item Description	
7.	Description of Conflict of Interest in Item	<input type="checkbox"/> General Conflict of Interest (S127) Private interests could result in that person acting in a manner that is contrary to their public duty
	<p><u>Material Conflict of Interest (S128)</u></p> The declarant has a material conflict of interest, if an affected person would gain a benefit or suffer a loss depending on the outcome of a matter	For a Material Conflict of Interest, affected person is: <ul style="list-style-type: none"> <input type="checkbox"/> The declarant on this form (S128(3)(a)) <input type="checkbox"/> A family member of the declarant on this form (S128(3)(b)) <input type="checkbox"/> A body corporate of which the declarant on this form or their spouse/domestic partner is a Director of a member of the governing body (S128(3)(c)) <input type="checkbox"/> An employer of the declarant on this form, unless the employer is a public body (S128(3)(d)) <input type="checkbox"/> A business partner of the declarant on this form (S128(3)(e)) <input type="checkbox"/> A person for whom the declarant on this form is a consultant, contractor or agent (S128(3)(f)) <input type="checkbox"/> A beneficiary under a trust or an object of a discretionary trust, of which the declarant on this form is a trustee (S128(3)(g)) <input type="checkbox"/> A person from whom the declarant on this form has received a disclosable gift (S128(3)(h))
8.	Nature of Conflict of Interest (please provide a description of the nature of your conflict of interest)	
	Signature of Councillor / Committee Member / Member of Council Staff
	Time left meeting:am/pm	Time returned to meeting:.....am/pm

	<p>NOTE: Section 130(2) of the Act requires that while the matter is being considered, or any vote is taken, the Councillor or Committee member or Member of Council Staff must:</p> <p>(a) leave the room and notify the Mayor or Chairperson that he or she is doing so; and</p> <p>(b) remain outside the room and any gallery or other area in view or hearing of the room.</p>
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Section B - to be completed by the Officer responsible for Council or Committee Minutes

1.	Was a vote taken on the item?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.	Did Councillor/Committee Member/Member of Council Staff exit meeting before discussion of, and not vote on, the item?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Print Name: _____ Signature: _____
[Responsible Officer]

CONFLICT OF INTEREST DISCLOSURE FORM

In accordance with the *Local Government Act 2020*, a relevant person must declare any general or material conflicts of interests which are direct or indirect, pecuniary or non-pecuniary.

For the purpose of the Act, a relevant person is defined as being a Councillor, a member of a Delegated Committee who is not a Councillor, or a member of Council staff.

DEFINITIONS

In this Division of the Act:

- family member*** means—
- (a) a spouse or domestic partner of the relevant person; or
 - (b) a parent, grandparent, sibling, child, grandchild, step-parent, step-sibling or step-child of the relevant person or of their spouse or domestic partner; or
 - (c) any other relative that regularly resides with the relevant person;

matter means a matter with which a Council, delegated committee, community asset committee or a member of Council staff is concerned and that will require—

- (a) a power to be exercised, or a duty or function to be performed, or a decision to be made, by the Council, delegated committee or community asset committee in respect of the matter; or
- (b) a power to be exercised, or a duty or function to be performed, or a decision to be made by a member of Council staff in respect of the matter;

not-for-profit organisation means a body that—

- (a) operates exclusively for charitable, civil, sporting or other social purposes; and
- (b) does not share or allocate the funds or profits of the body or organisation with the owners, shareholders or executives of the body or organisation;

S 127: GENERAL CONFLICT OF INTEREST

(1) Subject to section 129, a relevant person has a ***general conflict of interest*** in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

(2) For the purposes of subsection (1):

private interests means any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief.

public duty means the responsibilities and obligations that a relevant person has to members of the public in their role as a relevant person.

S 128: MATERIAL CONFLICT OF INTEREST

A relevant person has a **material conflict of interest** in respect of a matter if an affected person would **gain a benefit or suffer a loss** depending on the outcome of the matter.

(2) The benefit may arise or the loss incurred—

- (a) directly or indirectly; or
- (b) in a pecuniary or non-pecuniary form.

(3) For the purposes of this section, any of the following is an **affected person**—

- (a) the relevant person;
- (b) a family member of the relevant person;
- (c) a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body;
- (d) an employer of the relevant person, unless the employer is a public body;
- (e) a business partner of the relevant person;
- (f) a person for whom the relevant person is a consultant, contractor or agent;
- (g) a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee;
- (h) a person from whom the relevant person has received a disclosable gift.

SECTION 128: DISCLOSABLE GIFTS

(4) For the purposes of subsection (3)(h), **disclosable gift** means one or more gifts with a total value of, or more than, \$500 or if an amount is prescribed for the purposes of this subsection, the prescribed amount, **received from a person in the 5 years preceding the decision on the matter**—

- (a) if the relevant person held the office of Councillor, was a member of Council staff or was a member of a delegated committee at the time the gift was received; or
- (b) if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation—
but does not include the value of any reasonable hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a Councillor, member of Council staff or member of a delegated committee.

SECTION 129: EXEMPTIONS

A conflict of interest does not arise if any of the following applies—

- (a) the conflict of interest is so remote or insignificant that it could not be reasonably regarded as capable of influencing the actions or decisions of the relevant person in relation to the matter;
- (b) the interest that would give rise to a conflict of interest is held in common with a substantial proportion of the residents, ratepayers or electors of the municipal district and does not exceed the interest held by the other residents, ratepayers or electors;
- (c) the relevant person does not know the circumstances that give rise to the conflict of interest, and could not be reasonably expected to know those circumstances;
- (d) the interest only arises because the relevant person is the representative of the Council on a not-for-profit organisation that has an interest in the matter and the relevant person receives no personal advantage from the not-for-profit organisation;

- (e) the interest only arises because a family member of the relevant person is a member but not an office-holder of a not-for-profit organisation;
- (f) the interest only arises because the relevant person is a member of a not-for-profit organisation that has expressed an opinion or advocated for an outcome in regard to the matter;
- (g) the interest arises in relation to a decision by a Councillor on a matter or in a circumstance that is prescribed to be exempt by the regulations.

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Chief Executive Officer:
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Chief Executive Officer:
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**WEST
WIMMERA
SHIRE COUNCIL**



**West Wimmera Shire Council
Councillor Code of Conduct**

Adopted 20 June 2019

The best of country living

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1. INTRODUCTION

The Local Government Act 1989 (the Act) requires all Councils to develop and maintain a Councillor Code of Conduct. The Code of Conduct is required to be reviewed periodically. The West Wimmera Councillor Code of Conduct was last reviewed in February 2017, following the 2016 Council Elections.

This reviewed version of the Councillor Code of Conduct has been developed following a recommendation included as part of a Governance Examination undertaken by the Local Government Inspectorate in October 2018.

The Councillor Code of Conduct includes an internal resolution procedure for dealing with any alleged contraventions of the Code. It enables Council to apply sanctions to a Councillor, who has been found to have contravened this Code of Conduct.

Failure by a Councillor to comply with the Council's internal resolution procedure or to comply with a written direction given by the Council under section 81AB of the Act (sanctions for contraventions of the Code) constitutes misconduct by a Councillor.

If a Councillor Conduct Panel makes a finding of misconduct against a Councillor, the Panel may apply further sanctions against that Councillor.

A set of Councillor Conduct Principles have been developed and included in this Code to guide Councillor behaviour standards that comply with this Code.

Section 8(c) of this Code contains a table explaining the hierarchy for the management of Councillor Conduct Issues and who is responsible for managing the process at the various levels.

2. PURPOSE OF THE CODE OF CONDUCT

The Local Government Act 1989 (the Act) sets out standards of conduct for Councillors under section 76C. It also requires Councils to adopt a Code of Conduct that complies with these principles.

As the purpose of Local Government is to provide a system under which Councils perform the functions and exercise the powers conferred by or under the Local Government Act 1989 and any other Act for the peace, order and good government of their municipal districts. Good governance is fundamental to a Council being able to perform its purpose. Good governance relies heavily on good working relations between Councillors.

The performance of Council has a direct effect on the wellbeing of the residents of West Wimmera Shire. The community can expect certain standards of conduct are adhered to by Councillors and this code provides the following;

2(a) Definitions

The definitions provided below are to assist in guiding Councillors through the key terms that are included in this Code and are defined in the Act.

Arbiter is an independent party appointed by Council to consider alleged violations of the Code of Conduct, by a Councillor and someone who is able to make a determination on such violations.

Bullying by a Councillor means the Councillor repeatedly behaves unreasonably towards another person and that behaviour creates a risk to the health and safety of that person.

Chief Municipal Inspector (CMI) is the head of the Local Government Inspectorate

Principal Conduct Officer is the person appointed by the CEO to be the Principal Conduct Officer under section 81Y of the Act. The Principal Conduct Officer at West Wimmera Shire Council is the Director Corporate and Community Services.

Principal Conduct Registrar is a State appointed officer with specific responsibilities of managing the Councillor Conduct process.

Councillor Conduct Panel means a panel of two people selected by the Principal Conduct Registrar to hear applications of misconduct and serious misconduct in accordance with Section 81V of the Act.

Local Community includes people who live in the Municipal District and people and bodies who are ratepayers and people and bodies who conduct activities or have an interest in the Municipal District.

Misconduct by a Councillor means;

- a. Failure by a Councillor to comply with Council's internal resolution procedure, or
- b. Failure by a Councillor to comply with a written direction given by the Council under section 81AB, or
- c. Repeated contraventions of the Councillor Conduct Principles.

Gross Misconduct by a Councillor means behaviour that demonstrates that a Councillor is not of good character or is otherwise not a fit and proper person to hold the office of Councillor.

Serious Misconduct by a Councillor means;

- a. The failure of a Councillor to attend a Councillor Conduct Panel Hearing formed to make a finding in respect of that Councillor, or
- b. The failure of a Councillor to give a Councillor Conduct Panel any information the Councillor Conduct Panel has requested the Councillor to give, or
- c. The failure of a Councillor to comply with a direction of a Councillor Conduct Panel, or
- d. Continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by a Councillor Conduct Panel, or

- e. Bullying of another Councillor or a member of Council staff by a Councillor, or
- f. Conduct by a Councillor in respect of a member of Council Staff in contravention of section 76E, or
- g. The release of confidential information by a Councillor in contravention of section 77 of the Act.

3. BACKGROUND

A Council must, within 4 months after a general election:

- (a) call a Special Meeting solely for the purpose of reviewing the Councillor Code of Conduct; and
- (b) at that Special Meeting, approve any amendments to be made to the Councillor Code of Conduct determined by the Council to be necessary, following the review of the Councillor Code of Conduct.

A copy of this Code of Conduct (as amended from time to time) must be:

- given to each Councillor
- available for inspection at the Council Office and any district offices
- published on the Council's internet website

From the 2016 Council elections, a person elected to be a Councillor is not capable of acting as a Councillor until the person has read the Councillor Code of Conduct and made a declaration stating that they will abide by the Councillor Code of Conduct. It is the personal responsibility of Councillors to ensure that they are conversant with, and comply with, the provisions of this Code.

3(a) Role of Mayor & Councillors

The role of Councillors and Mayors is clearly spelt out in the Local Government Act 1989 (the Act). The Act also describes the primary objective of Council in section 3C(1), to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions.

The role of Council as set out in section 3D(2) of the Act is as follows;

- a) acting as a representative government by taking into account the diverse needs of the local community in decision making;
- b) providing leadership by establishing strategic objectives and monitoring their achievement;

- c) maintaining the viability of Council by ensuring that resources are managed in a responsible and accountable manner;
- d) advocating for the interests of the local community to other communities and government;
- e) acting as a responsible partner in government by taking into account the needs of other communities; and
- f) fostering community cohesion and encouraging active participation in civic life.

Role of a Councillor

West Wimmera Shire Council has five democratically elected Councillors who collectively constitute the Council.

The role of a Councillor as set out in section 65(1) of the Act is as follows;

- (a) to participate in the decision making of the Council; and
- (b) to represent the local community in that decision making; and
- (c) to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

In performing the role of a Councillor in accordance with section 65(2) of the Act, a Councillor must;

- (a) consider the diversity of interests and needs of the local community; and
- (b) observe principles of good governance and act with integrity; and
- (c) provide civic leadership in relation to the exercise of the various functions and responsibilities of the Council under this Act and other Acts; and
- (d) participate in the responsible allocation of the resources of Council through the annual budget; and
- (e) facilitate effective communication between the Council and the community.

The role of a Councillor is to act for the entire community and advocate on their behalf. A Councillor plays a key role in facilitating communication with the community and encouraging engagement with the activities of Council. Councillors collectively constitute the Council. As an individual, a Councillor cannot direct or bind the organisation to any actions or decisions.

Role of the Mayor

The role of the Mayor is set out in section 73AA of the Local Government Act 1989 (the Act). The functions described in the Act include;

- (a) providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under section 65, and the observation of the Councillor conduct principles and the Councillor Code of Conduct by Councillors under sections 76B, 76BA and 76C; and
- (b) acting as the principal spokesperson for the Council; and
- (c) supporting good working relations between Councillors; and
- (d) carrying out the civic and ceremonial duties of the office of Mayor.

While having no additional statutory power other than as specified in the Act, the following duties are carried out by the Mayor by convention;

- Being a leader and a positive advocate for the community,
- Encouraging participation of Councillors in the decision-making process,
- Maintaining a close working relationship with the Chief Executive Officer,
- Leading and providing guidance to Councillors in relation to their role,
- Sustaining partnerships and advocating for Council's interests and pursuing opportunities for the Shire in line with relevant adopted policies, strategies and plans,
- Acting as a representative of the Shire where required.

4. CONDUCT OBLIGATIONS

The Act places obligations on Councillors in relation to the way they should act. The Act also prohibits certain conduct by Councillors and prescribes penalties for Councillors who contravene these provisions. As Councillors of West Wimmera Shire Council, we undertake to comply with the various provisions of the Act and with this Code of Conduct.

Section 76B of the Act sets out the primary principle of Councillor Conduct as follows:

"It is the primary principle of Councillor conduct that, in performing the role of a Councillor, a Councillor must:

- (a) act with integrity; and
- (b) impartially exercise his or her responsibilities in the interests of the local community; and
- (c) not improperly seek to confer an advantage or disadvantage on any person."

4(a) Functions of the Chief Executive Officer

Under section 94A of the Act, the Chief Executive Officer is responsible for the operation of the organisation, all staffing related matters, the implementation of Council policy and decisions, operational policy and procedures, service delivery and providing professional advice to Council. The Chief Executive Officer also maintains a close working relationship with the Mayor.

This code endeavours to support the aforementioned legislated powers of the Chief Executive Officer to manage all staffing matters and West Wimmera Shire Councillors will;

- Respect the role of Council staff and treat them in a way that builds mutual respect (as also required by the Staff Code of Conduct);
- Observe the Councillor – Staff contact protocols (included in this Code);
- Respect and support the role of the Chief Executive Officer to provide Council with timely and reliable advice about its legal obligations under the Act or any other relevant Act;
- Understand that there is no capacity to individually direct members of staff to carry out particular functions, or exercise powers or discretions in any particular way; and
- Refrain from using the position of Councillor to improperly influence members of staff in their duties or functions (including the preparation of Council reports or recommendations to Council) or seek to gain advantage for themselves or others.

The functions as included in the Local Government Act 1989 (the Act) are as follows;

The Chief Executive Officer is responsible for:

- (a) establishing and maintaining an appropriate organisational structure for the Council; and
- (b) ensuring that the decisions of the Council are implemented without undue delay; and
- (c) the day to day management of the Council's operations in accordance with the Council Plan; and
- (d) developing, adopting and disseminating a Code of Conduct for Council staff; and
- (e) providing timely advice to the Council; and
- (f) ensuring that the Council receives timely and reliable advice about its legal obligations under this Act and any other Act;
- (g) supporting the Mayor in the performance of the Mayor's role as Mayor;
- (h) carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the Accident Compensation Act 1985 or the Workplace Injury Rehabilitation and Compensation Act 2013; and
- (i) performing any other function or duty of the Chief Executive Officer specified in this Act or any other Act.

The Chief Executive Officer is responsible for managing interactions between Council staff and Councillors including by ensuring that appropriate policies, practices and protocols are in place defining appropriate arrangements for interaction between Council staff and Councillors.

We, the Councillors of West Wimmera Shire, undertake to respect the functions of the Chief Executive Officer and to comply with the policies, practices and protocols defining appropriate arrangements for interaction between Council staff and Councillors that are put in place by the Chief Executive Officer.

4(b) Councillor / Staff Contact Protocols

West Wimmera Shire Council developed the following set of protocols in October 2016 to assist in managing the working relationship between Councillors and Staff. Councillors agree to abide by these protocols and will report any inappropriate staff contact to the Chief Executive Officer. The following are the agreed protocols;

Background:

The following protocols are provided as guidelines to ensure that contact with West Wimmera Shire Council staff is undertaken in a consistent and orderly fashion.

As Councillors would be aware, providing direction to staff is prohibited under the Local Government Act for staff other than the CEO. It is the responsibility of the CEO to manage the staff resources of the organisation and inappropriate direction is in breach of the Act.

The following protocols are not designed to prevent contact between staff and Councillors but are designed to provide staff with the confidence that their conversations will not be used to form an argument in a debate.

It will also assist in Councillors avoiding the accusation that they are inappropriately involving themselves in operational activities.

Reasons for Councillor / Staff Contact:

There are many reasons that direct contact with staff will assist Councillors in undertaking their civic duties, these may include but not limited to the following;

- Questions around planning permit reports prior to making a decision
- Finding information to answer question of a constituent
- Financial information
- Status reports on various programs
- Assistance with travel arrangements
- Discussions on meeting minutes etc.

Process for Receiving Information:

The process for Councillors to follow when seeking information that a staff member may be able to assist with is as follows;

A request to the CEO or relevant Director to provide the information or a request to the CEO or relevant Director to meet with the staff member. These requests can be as simple as a phone call or email.

Staff should not be approached directly at their work station as a request from a Councillor may trigger a re-prioritisation of their activities. If a re-prioritisation occurs in an area that is required to meet statutory timelines (such as planning or finance), it could potentially put the organisation at risk of non-compliance with regulations or legislation.

The only exception is Councillor contact with the Governance Officer (GO). Councillors may have direct contact with the GO on a daily basis or as required, as the GO provides direct administrative and organisational support to Councillors including coordinating meeting and event RSVP's, meeting and event attendance, provision of agendas and minutes, travel and accommodation arrangements.

4(c) Expectations and Obligations of Councillors and Staff

In accordance with the Councillor / Staff Contact Protocols, listed in section 4(b), an agreed set of expectations are provided in the table below;

<p style="text-align: center;">Councillors expect that officers will:</p> <ul style="list-style-type: none"> • <i>Act professionally and honestly with a good sense of humour</i> • <i>Provide recommendations that are accurate, timely and outline alternatives and their implications</i> • <i>Act devoid of bias</i> • <i>Make recommendations that are consistent with the Council Plan</i> • <i>Be accessible within reason and respond in a timely manner</i> 	<p style="text-align: center;">Officers expect that Councillors will:</p> <ul style="list-style-type: none"> • <i>Convey principles and Council values</i> • <i>Say when they don't understand something and ask for clarification</i> • <i>Not interfere in operational matters – advice and questions will be directed to the CEO and Directors</i> • <i>Have a vision for the Council and represent the community's interest</i> • <i>Share information early</i> • <i>Respect and trust professional opinion</i>
<p style="text-align: center;">Councillors agree to give to officers:</p> <ul style="list-style-type: none"> • <i>Professional and honest behaviour</i> • <i>Diversity – A broad range of skills, perceptions and opinions</i> • <i>Trust, good judgement and vision</i> • <i>Community linkages</i> • <i>Healthy productive debate</i> 	<p style="text-align: center;">Officers agree to give to Councillors:</p> <ul style="list-style-type: none"> • <i>Frank and fearless advice</i> • <i>The whole story</i> • <i>Acknowledge mistakes</i> • <i>Full support</i> • <i>The same advice will be provided to all Councillors</i> • <i>Benefit of experience and expertise</i>

4(d) Gifts and Benefits or Hospitality

We will scrupulously avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to gain favourable treatment from an individual Councillor or from the Council.

We will take all reasonable steps to ensure that our immediate family members (parents, spouse, children and siblings) do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.

Where a gift is received on behalf of the Council, the gift becomes the property of the Council. For transparency and accountability purposes, these gifts will be recorded in the Councillor Gifts Register with a notation that it is the property of Council.

Councillors and Senior Staff will be required to attend events periodically where there is a clear value to the work of the Council (community engagement sessions, meeting with State and Federal members and state and regional Local Government functions). Invariably these functions will be paid for by West Wimmera Shire Council and therefore not categorised as individual hospitality.

It is considered acceptable for Councillors to accept hospitality up to the value of \$50, on the condition that it can in no way advantage the provider of the hospitality. **The value of \$50 is not an accumulative amount and is to interpreted as \$50 per event.** When hospitality is paid for by Council for an individual Councillor, the expense will be recorded as a Councillor expense. Councillors may also wish to pay for the hospitality themselves, which would therefore not be recorded as a Councillor expense.

We recognise that gifts equal to or above the gift disclosure threshold (\$50), received in the twelve months prior to election from a person or body that has a direct interest in a matter may give rise to an indirect interest because of receipt of an applicable gift.

We will record all campaign donations in our "Campaign Donation Return".

4(e) Communication

We recognise that as representatives of the local community, we have a primary responsibility to be responsive to community views and to adequately communicate the position and decisions of Council.

Councillors play a key role in communicating the decisions of Council as well as promoting services and projects that will be of interest to the broader community. Communication with the public can be undertaken in a variety of formats. These range from informal meetings with groups or individual residents, to sharing information via the Council web-site or social media platforms. Formal comments to the media are also included. When communicating Councils position on a specific topic or issue, Councillors will;

- Take all possible steps (such as seeking briefing information and updates from officers) to ensure that the most accurate and up to date information (not bound by confidentiality) is being presented;
- Recognise that in their Council role as community leaders, Councillors have a responsibility to communicate Council related issues with a view to minimising misinformation or content that could mislead or create confusion within the community;
- Communicate respectfully and clearly;
- Recognise the role of the Mayor as the principle spokesperson of the organisation;
- Where delegated by the Mayor to comment formally, consult with Council's communications department or the CEO, where practicable;
- Ensure that when expressing an opinion that may contradict the formal position of Council, that Councillors make it clear that the comment does not represent the position of Council.
- When expressing personal points of view, Councillors will ensure that their comments do not cause reputational damage or would likely cause embarrassment to Council, the organisation, staff members or another Councillor; and
- Recognise the reach of social media platforms and ensure that Councillors manage their individual profiles to avoid confusion between their public / private lives (e.g. Councillor's should not be commenting on Council issues via their personal profiles).

If Councillors choose not to adhere to the above mentioned protocols, they will be classified as being in breach of this Code of Conduct. The process for handling an alleged breach is included within section 8 – Dispute Resolution Procedures.

Accepting or Declining Invitations to Meetings and Events

In addition to the above points regarding communication, Councillors agree to the following principles regarding the provision of a timely RSVP for meetings and events.

Councillors will respond to invitations and meeting requests in a timely manner and inform the Governance and Executive Support Officer of any invitations or requests that are received directly by the Councillor, to enable the Councillor Diary to be kept as accurate as possible.

This will ensure that invitations are managed in a professional manner, travel arrangements can be made (car bookings, car-pooling arrangements, flights or public transport), accommodation bookings completed and for catering purposes.

To enable the smooth management of Councillor invites and bookings, Councillors commit to the following;

- Check email invites received from West Wimmera Shire Council officers daily;
- Assess invitations listed within the Councillor Diary as it is circulated (twice weekly);
- Advise the Governance and Executive Support Officer of their availability in a timely manner, either via email to eso@westwimmera.vic.gov.au or by phone to 5585 9900;

- Advise the Governance and Executive Support Officer of their intention to attend meetings for which they are the nominated Council representative;
- Liaise with the Governance and Executive Support Officer regarding travel arrangements, registrations for training or conferences, accommodation needs and dietary requirements for catering purposes.

5. COUNCILLOR CONDUCT PRINCIPLES

Councillor Conduct Principles are separated into two categories, firstly a set of (a) “Agreed Behavioural Values” and (b) a set of “Statutory Conduct Requirements” (which explain what constitutes unacceptable conduct).

5(a) Agreed Behavioural Principles

The following list of behavioural traits provides guidance in relation to ethical decision-making and expected Councillor standards.

i. Integrity

We must not place ourselves under any financial or other obligation to any individual or organization that might reasonably be thought to influence us in the performance of our duties

Integrity is the consistent commitment to apply ethical behaviour, encompassing honesty, openness and respect.

ii. Respect

We will treat others with courtesy and respect at all times. This will be achieved by:

- not using derogatory terms towards others,
- observing the rights of other people,
- treating people with courtesy and recognizing the different roles others play in local government decision-making.
- Treating fellow Councillors with respect, even when disagreeing with their views or decisions

Respect is being conscious and aware of others’ values, beliefs and opinions, appreciating that they could be different from our own and treating them accordingly.

iii. Selflessness

We have a duty to make decisions in the public interest. We must not act in order to gain financial or other benefits for ourselves, our family, friends or business interests. This means making decisions because they benefit the public, not because they benefit the decision maker.

iv. Openness

We have a duty to be as open as possible about our decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands.

Section 76BA of the Act sets out the general principles of councillor conduct as follows:

"In addition to acting in accordance with the primary principle of Councillor conduct specified in section 76B, in performing the role of a Councillor, a Councillor must:

- (a) avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- (b) act honestly and avoid statements (whether orally or in writing) or actions that will or are likely to mislead or deceive a person;
- (c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;
- (d) exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that it is appropriate to his or her office;
- (e) endeavour to ensure that public resources are used prudently and solely in the public interest;
- (f) act lawfully and in accordance with the trust placed in him or her as an elected representative;
- (g) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor."

Councillors are required to conduct themselves in observance of the primary principle and the general principles. We undertake to do this.

v. Community Focus

Councillors are committed to work in the best interests of the residents of the entire West Wimmera Shire.

In decision making, Councillors will consider the diversity of the community, the strategic direction of the Council, responsible resource allocation and provide consistent governance across the municipality.

vi. Objectivity

All decisions and actions made by Council are accountable to the public. Councillors will therefore make decisions solely on merit and in accordance with their statutory obligations. Councillors will pay particular attention to section 3D(a) of the Act that requires Councillors to take into consideration the diverse needs of the local community, when making decisions.

vii. Leadership

Leadership is the creation of an environment that empowers individuals, the organisation and the community to achieve the vision of Council.

Councillors will promote and support the conduct principles through leading by example. Councillors will conduct themselves in a manner that best represents the values of West Wimmera Shire Council and instils community confidence in the office of Councillor.

viii. Teamwork

Teamwork is best described as the ability of a group of individuals to work collaboratively to achieve outcomes that are agreed by the team.

Councillors will work together constructively to enable properly constituted Council meeting processes to be adhered to, which ultimately lead to thorough and optimal decision making.

Conduct that negatively impacts on the group's ability to receive information or prevent opinions being shared, is not in keeping with the values contained within this Code of Conduct.

5(b) Statutory Conduct Requirements

The Local Government Act 1989 has specific provisions that prohibit Councillors from certain conduct. This conduct relates to:

- Misuse of position
- Improper direction and improper influence
- Confidential information
- Conflict of interest

These matters are set out below in order to provide a complete picture of the obligations on Councillors. While these matters are not of a nature to be addressed as a contravention of the Councillor Code of Conduct, Councillors will undertake to comply with the prohibitions on Councillor conduct set out below. These matters should more properly be the subject of an application to a Councillor Conduct Panel for a finding of serious misconduct or a complaint to the Local Government Inspectorate or the Independent Broad-based Anti-corruption Commission depending on the nature of the allegation.

(Note: Serious misconduct by a Councillor(s) means:

- (a) the failure of a Councillor to attend a Councillor Conduct Panel hearing formed to make a finding in respect of that Councillor; or*
- (b) the failure of a Councillor to give a Councillor Conduct Panel any information the Councillor Conduct Panel has requested the Councillor to give; or*

- (c) *the failure of a Councillor to comply with a direction of a Councillor Conduct Panel; or*
- (d) *continued or repeated misconduct by a Councillor after a finding of misconduct has already been made in respect of the Councillor by a Councillor Conduct Panel; or*
- (e) *bullying of another Councillor or member of Council staff by a Councillor; or*
- (f) *conduct by a Councillor in respect of a member of Council staff in contravention of section 76E; or*
- (g) *the release of confidential information by a Councillor.)*

The following provides detail on the various topics of Statutory Conduct Requirements (prohibited conduct).

i. Misuse of Position

Section 76 of the Act states that Councillors will not use their position, or knowledge gained in their role, to disadvantage Council or someone else, or advantage themselves or someone else. Therefore a Councillor must not misuse his or her position to;

- Gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person;
- Cause or attempt to cause detriment to the Council or another person;
- Direct or improperly influence a Council officer;
- Exercise, perform or purport to, a power, duty or function that they are not authorised to perform;
- Use public funds or resources in a manner that is improper or unauthorised;
- Fail to disclose a conflict of interest;
- Make improper use of information acquired as a Councillor; or
- Disclose information that is confidential as designated by the CEO.

ii. Improper Direction

Under section 76E of the Act, a Councillor must not direct, or seek to direct Council officers;

- In the exercise of a delegated power, or the performance of a delegated duty or function of the Council; or
- In the exercise of a power or the performance of a duty or function exercise or performed by the member as an authorised officer under this Act or any other Act; or
- 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 another Act; or
- In relation to advice provided to the Council or a special committee, including advice in a report to the Council or special committee.

iii. Breach of Confidentiality

A Councillor must not disclose information that he or she knows, or should reasonably know, is confidential information.

Councillors must observe the confidentiality of the information that is provided to them in the course of performing their duties and must not convey (electronically, verbally, or in writing) information they know, or should reasonably know is confidential.

Under section 77 of the Act, information is considered confidential when;

- It was provided to Council in relation to a matter considered in a meeting closed to the public in accordance with s82(2) of the Act and Council has not resolved to classify the information as not confidential;
- Has been designated as confidential information by a resolution of Council, which specifies the relevant grounds under s89(2) of the Act and Council has resolved that the information is not confidential;
- Has been designated in writing as confidential information by the Chief Executive Officer, specifying the grounds applying under s89(2) of the Act and Council has not resolved that the information is not confidential.

A Councillor may disclose information that he or she knows is confidential information in the following circumstances:

- for the purposes of any legal proceedings arising out of this Act;
- to a court or tribunal in the course of legal proceedings;
- pursuant to an order of a court or tribunal;
- to the Chief Municipal Inspector to the extent reasonably required by the Chief Municipal Inspector;
- to a Councillor Conduct Panel in the course of a hearing and for the purposes of the hearing;
- to a Municipal Monitor to the extent reasonably required by the Municipal Monitor;
- to the extent reasonably required for any other law enforcement purposes.

iv Disclosure of Conflict of Interest.

If a Councillor has a conflict of interest in a matter which is to be considered or discussed at a meeting of the Council or special committee, an Assembly of Councillors, an Audit Committee or a Section 223 committee, the Councillor must, if he or she is attending the meeting, disclose the conflict of interest in accordance with the provisions of the Act (unless any of the exemptions apply).

A Councillor has a direct interest in a matter if there is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the Councillor would be directly altered if the matter is decided in a particular way. This includes where there is a reasonable likelihood that the person will receive a direct benefit or loss that can be measured in financial terms and where the Councillor, or together with a member or

members of the person's family have a controlling interest in a company or other body that has a direct interest in the matter.

It is important for Councillors to be aware of possible perceptions of conflicts of interest. For the purposes of this code, *conflict of interest*, has the meaning specified in the Act. The decision as to whether to declare a conflict of interest, or whether a conflict exists, rests entirely with the individual Councillor. It is therefore the responsibility of Councillors to ensure they familiarise themselves with the various issues within meeting agendas and determine whether a conflict exists.

Council as an organisation can provide basic advice on conflicts of interest, however, Councillors must make their own determination as to whether to exclude themselves from debate and decision due to conflict of interest.

Councillors are required to comply with all provisions contained within sections 77A-79B and 80A of the Act with respect to conflicts of interest, in particular;

- If a Councillor has a conflict of interest in a matter which is to be, or is likely to be, considered or discussed at a meeting of the Council or an Assembly of Councillors, the Councillor must **if he or she is intends to be present at the meeting**, disclose the conflict of interest in accordance with section 79(2) of the Act, by either;
 - Advising Council at the meeting of the details required under section 79(2)(b) and (c) of the Act before a matter is considered at the meeting; or
 - Advising the Chief Executive Officer in writing of the details required under section 79(2)(d) of the act in advance of the meeting.

*** *Statement of disclosure of conflict of interest form is attached to this Code of Conduct.***

- A Councillor who has a conflict of interest in a matter which is to be, or is likely to be, considered or discussed at a meeting of the Council or an Assembly of Councillors and **intends on not being present for the consideration of the matter must**;
 - Classify the type of interest that has given rise to the conflict as either
 - i. Direct interest; or
 - ii. An indirect interest, specifying the particular type of indirect interest under section 78, 78A, 78B, 78C, or 78D; and describe the nature of the interest.

It is important to note that being absent from an Ordinary Meeting of Council or Assembly of Councillors, does not exempt a Councillor from disclosing a conflict of interest to a specific item.

The following provides a guide in relation to the determination of conflicts of interest.

TYPE OF INTEREST		DETAIL
		Reasonably likely that your benefits, obligations, opportunities or circumstances will be directly altered
Direct Interest		Reasonably likely to receive a direct benefit or loss measurable in financial terms
(s77B)		Person has, or the person together with a member(s) of their family have a controlling interest in a company or other body that has a direct interest
	Close Association (s.78)	A member of your family has a direct interest or an indirect interest
		A relative has a direct interest
		A member of your household has a direct interest
		Likely to receive a benefit or incur a loss, measurable in money, resulting from a change to another person's interests
	Indierect Financial Interest (s.78A)	Holding shares in a company or body that has a direct interest (subject to threshold - \$10,000 value of shares if company shares issued exceeds \$10 million)
		When a person with a direct interest owes you money
		Manager or member of the governing body of an organisation with a direct interest
Indirect Interest	Conflict of Duty (s78B)	Partner, consultant, contractor, agent or employee of person, company or body with a direct interest
		Trustee for a person with a direct interest
		Past dealings in relations to the matter as duty to another person or body
		Election donations valued at or above \$500 in previous 5 years
	Applicable Gift (s. 78C)	Other Gifts valued at or above \$500 over a 5 year period excluding reasonable hospitality received when attending in an official capacity and a gift received 12 months before becoming a Councillor
	Party to the Matter (s.78D)	Intiated or became party to civil proceedings in relation to the matter
	Impact on Residential Amenity (s. 78E)	Reasonably likely that your residential amenity will be directly altered
Conflicting Personal Interest	Conflicting with Public Duty (s.79B)	Personal interest is in conflict with Councillor's public duty in relation to the matter. Application needs to be made to the Council / Special Committee to be exempted from voting. Council / Special Committee cannot reasonable withhold its consent

6. COMMUNICATION PRINCIPLES

We recognise that as representatives of the local community, we have a primary responsibility to be responsive to community views and to adequately communicate the position and decisions of Council.

We undertake to comply with Council's media policy and respect the functions of the Mayor and Chief Executive Officer to be the spokespersons for Council in accordance with our policy.

We acknowledge that individual Councillors may have a personal view / opinion on certain matters that is contrary to Council's formal position and may wish to express this view / opinion via the local media. Where Councillors choose to do so, they will make it clear that such comment is a personal view / opinion and does not represent the position of Council. We undertake to ensure that any such comment is devoid of comments that could reasonably be construed as being derogatory, offensive or insulting to any person, or to Council as an organisation.

Councillors agree to abide by the principles on communication as set out in section 4(e) of this code of conduct.

6(a) Community Engagement

As representatives of the community, Councillors are required to listen to the community's views, be responsive to them and adequately communicate the positions and decisions of Council.

Council should also ensure that they participate in formal and informal community engagement initiatives across the entire municipality, to assist them in understanding the needs of the entire community.

There is a statutory obligation for Councillors to represent the diverse views of the community and understand the community sentiment beyond immediate networks and their own personal views.

There will be times when a Councillor has an individual view that is in disagreement with a majority decision of Council. When expressing their own views on a topic in a community engagement exercise, Councillors will acknowledge that;

- As a member of Council, they respect the decision making process of Council, which is based on the principle of majority vote; and
- The opinion expressed by the individual is a personal view and not an endorsed position of the Council. It is the responsibility of the individual Councillor to ensure that there is no level of confusion amongst the community and the community could not be considered to be misled due to their communication (the communication can take the form of social media, print media, direct dialogue or email to residents).

6(b) Communication Protocols

Councillors will be provided with relevant information to help them make informed decisions and fulfil their duties. This information may be publicly available, or in some instances, restricted or confidential. Councillors will act in accordance with the confidentiality requirements of s.77 of the Act and the guidance provided in s5(b)iii of this Code, when requesting a briefing from Council officers or requesting information from official Council records.

A Councillor will only request operational or confidential information in order to gain a broader understanding of an issue that falls under their role and responsibilities, or if it relates to matter before Council (or is expected to come before Council for decision).

All requested information will be provided to all Councillors, unless the Chief Executive Officer determines that providing the information is likely to be a breach of privacy, prejudice Council or any person, would undermine legal privilege or would otherwise be inappropriate.

The Chief Executive Officer will provide all Councillors with information on any declined requests for information, including the reason the information was not able to be provided.

6(c) Candidature of Councillors for State & Federal Elections

- A Councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as an independent candidate for a state or federal election (a prospective candidate), will provide written advice to the CEO, as soon as practicable; the CEO will then advise all Councillors
- A Councillor who is a prospective candidate, will declare their candidacy at a meeting of Council as soon as practicable after notifying the CEO.
- A Councillor who nominates as a candidate for a state or federal election (a nominated candidate), will apply for leave of absence from the Council and this leave will commence upon the announcement of the election and the commencement of the formal campaign period. The leave of absence will conclude at the close of voting. During this period, a Councillor who is on leave of absence will not attend meetings of Council or otherwise act as a Councillor.
- The staff Councillor Contact Protocols that form part of this Code of Conduct will be observed by the nominated candidate. This will apply to the close of counting for the election.
- A Councillor who is a prospective candidate or a nominated candidate, will take care to differentiate between their role as a state or federal election candidate and their role as a Councillor when making any public comment.
- A Councillor who is a prospective candidate or a nominated candidate, will not use Council resources, including Council equipment and facilities in relation to their candidacy.

- A Councillor who is a prospective or nominated candidate, will not attend Council activities (Council meetings or Council sanctioned events) in relation to their candidacy.

7. INFORMATION AND RESOURCES

7(a) Use of Council Provided Resources

As Councillors, we commit to using Council resources effectively and economically. We will;

- maintain adequate security over Council property, facilities and resources provided to us to assist in performing our role and will comply with any Council policies applying to their use;
- ensure any expense claims that we submit are in compliance with the relevant legislative provisions and Council policy;
- not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate; and
- not use public funds or resources in a manner that is improper or unauthorised.

Councillors will also commit to reviewing and where necessary updating the Councillor Expenses and Entitlement Policy. This policy details the facilities and support that is provided to Councillors to assist them in the performance of their civic duties.

Councillors should understand the limitations required during election periods to ensure that there is not a reality or perception that Council resources are used for electoral purposes. This includes IT Equipment, Motor Vehicles and Office Equipment such as Printers and Copiers.

7(b) Access to information

Councillors will be provided with relevant information to help them make informed decisions and fulfil their duties. This information may be publicly available, or in some instances, restricted or confidential. Councillors will act in accordance with the confidentiality requirements of s.77 of the Act and the guidance provided in s5(b)iii of this code, when requesting a briefing from Council officers or requesting information from official Council records.

A Councillor will only request operational or confidential information in order to gain a broader understanding of an issue that falls under their role and responsibilities or if it relates to a matter before Council (or is expected to come before Council for decision).

All requested information will be provided to all Councillors, unless the Chief Executive Officer determines that providing the information is likely to be a breach of privacy, prejudice Council or any person, would undermine legal privilege or would otherwise be inappropriate.

The Chief Executive Officer will provide all Councillors with information on any declined requests for information, including the reason the information was not able to be provided.

7(c) Appraisal of Governance Performance

The value of effective governance practices is acknowledged by Councillors as critical to the ongoing delivery of services to the community and achievement of Council Plan objectives.

It is also acknowledged that measuring the effectiveness of governance provides a clear indication of the quality of the performance of the Council. Measuring governance performance also provides an early warning on any emerging issues that may need to be discussed or resolved.

Councillors agree to reflect on and evaluate the collective performance of the organisation from a governance perspective. As part of this evaluation Councillors commit to;

- Hold periodic “debrief sessions” where applicable to work through issues or concerns;
- Conduct a mid–term review to assess whether Council and personal goals are being achieved; and
- Annually review governance performance through an annual “Governance Assessment” conducted by an external entity and commit to implementing recommendations from the review.

8. DISPUTE RESOLUTION PROCEDURES

In order for any disputes to be managed and resolved in a respectful manner it is important for Councillors to commit to follow the procedures set out in this section of the Code of Conduct.

The various steps / phases of the dispute resolution listed in the Code of Conduct provide sufficient detail to ensure a thorough process is adhered to and all parties receive natural justice and a suitable hearing.

8(a) Internal Dispute Resolution Process

Before commencing any formal dispute resolution process, the Councillors who are parties to a dispute are expected to use their best endeavours to resolve the matter in a courteous and respectful manner between themselves. Where, after these endeavours have been exhausted, the matter still remains unresolved the parties may resort to any or all of the Council’s multi-phase dispute resolution process.

This is not intended to resolve differences in policy or strategy development and direction, as this is appropriately resolved through discussion, debate and ultimately voting at meetings.

8(b) Hierarchy of Conduct Standards and who Manages Complaints / Disputes

The Victoria Parliament adopted a number of reforms in the *Local Government Amendment (Improved Governance) Act 2015*. These reforms provide a hierarchy to guide the management of Councillor conduct issues and allegations, by providing the following breakdown;

- Councils dealing with alleged breaches of Council Codes of Conduct
- Councillor Conduct Panels dealing with the majority of escalated cases, and
- The Victorian Civil and Administrative Tribunal (VCAT) dealing with exceptional cases.

The adopted reforms also provide the hierarchy and definitions of misconduct, serious misconduct and gross misconduct as included within this code and they are summarised in the table below, along with who is responsible for managing the various matters.

Degree of Seriousness	Definition	Responsible Authority
Conduct inconsistent with standards Councils set and agreed to	Breaches of Council Code of Conduct	West Wimmera Shire Council
Misconduct	Failing to comply with Council internal resolution procedure, including failure to abide by any decision of Council in relation to a breach of the Code and repeated breaches of Councillor Conduct Principles	Councillor Conduct Panel
Serious Misconduct	Failing to comply with panel processes, bullying, improperly directing staff, releasing confidential information and repeated misconduct	Councillor Conduct Panel
Gross Misconduct	Behaviour that demonstrates lack of character to be a Councillor	VCAT

8(c) Disputes Between Councillors

Councillors will be mindful that having a differing or opposing view on an issue is a normal function of the process of democratic Local Government. Providing the freedom to express different views leads to well informed and considered debate, which provides confidence in decision making. All Councillors have the right to have an influence over decisions through quality debate.

It is a natural part of functioning as a Local Government Authority that disputes and disagreements will occur. To ensure that Council is able to function professionally and provide leadership to the community, Councillors must ensure that disputes and disagreements do not become personal or affect the decision making process of Council.

Councillors who are parties to any disagreement will take responsibility to explore, every avenue possible to resolve the conflict or dispute, before entering into any formal process.

Councillors acknowledge that if a pattern of unsubstantiated or vexatious / frivolous complaints are experienced and continue to be lodged, the Principal Conduct Officer may refuse to allocate any resources to investigate the complaints. In these circumstances, the CEO will inform the full Council of the decisions and the reasons the items were not taken any further. Also if the complainant is not willing to have their identity disclosed, this will further limit any action that may be taken or progressing the matter further.

Where Councillors are unable to resolve a dispute between themselves, the Mayor may be requested to convene a meeting of the parties. To commence the process of resolving disputes between Councillors, the following steps will be taken to enable the Mayor to convene a meeting (Direct Negotiation) of the parties in dispute.

- The party requesting the direct negotiation will provide the Mayor – via the Principal Conduct Officer, with a written request.
- Where the request relates to an allegation of a breach of the Code of Conduct, the request must contain the following;
 - Specify the name of the Councillor alleged to have breached the Code;
 - Specify the provision(s) of the Code that is alleged to have been breached;
 - Include evidence in support of the allegation;
 - Where the allegation is provided by a group of Councillors, name the Councillor who will act as the appointed representative; and
 - Be signed and dated by the Councillor requesting the Direct Negotiation meeting or representative of group requesting the meeting.

The Mayor via the Principal Conduct Officer will notify the other party of the request for the meeting, provide them with a copy of the written request and arrange the meeting (venue and time). Provided all parties agree to meet, the meeting will be convened within 5 working days of all parties agreeing to meet.

If the other party is not prepared to attend a Direct Negotiation meeting, the Mayor, via the Principal Conduct Officer will notify the requestor and no further action is required of the Mayor at this time.

The Mayor may present the parties with guidelines, in advance of the meeting or at the meeting, to help facilitate the smooth management of the meeting.

The role of the Mayor at the meeting is to provide guidance to Councillors about what is expected of a Councillor in accordance with section 65 of the Act and to observe the conduct principles as included in this Code.

Any agreement that may be reached is to be documented and copies provided to both parties. If either party chooses not to comply with the agreement, the other party has recourse to seek external mediation. Failure to comply with the agreement struck at the meeting will constitute a contravention of the Code of Conduct.

If the parties cannot resolve the dispute at the meeting, a further meeting may be convened with the consent of both parties. Where the dispute remains unresolved, either or both parties have recourse to external mediation or the internal resolution procedure where, the matter relates to an alleged contravention of the Councillor Code of Conduct.

External Mediation

In the event that reconciliation of the dispute is not possible after internal mediation (Direct Negotiation), or the internal mediation is not conducted, a Councillor or group of Councillors may apply to the Principal Conduct Officer, for the dispute to be referred for external mediation.

This request must be provided in writing, indicating the reason for the dispute, the name(s) of those involved in the dispute, the provisions of this code that are alleged to have been breached and any evidence to support the allegation(s). The other party must also be notified of the request and a copy of the application for external mediation is to be provided to them.

The Principal Conduct Officer is required to ascertain the availability of or willingness of the other party to participate and if they decline, they must provide the reasons to the Principal Conduct Officer. These reasons may be taken into account if the matter is the subject of a Councillor Conduct Panel at a later date. Declining to attend external mediation does not constitute a breach of this code; however declining to participate does in anyway resolve the dispute.

If the other party does agree to participate in the external mediation process, the Principle Conduct Officer will advise the applicant, the Mayor and the Chief Executive Officer. The Principal Conduct Officer will then engage the services of a suitably credentialed independent mediator to conduct the mediation at the earliest possible opportunity.

The external mediator will document any agreed outcomes from the mediation and provide copies to all parties. In the event that one party does not comply with the agreed outcomes or mediation does not reach a satisfactory outcome, either party has the option for further action.

If the dispute remains unresolved, the mediator will be required to provide a written report to Councillors and the parties involved in the dispute as to why the process did not result in a resolution.

Internal Resolution Procedure by an Independent Arbiter

If a conflict or dispute arises from an alleged contravention or breach of this Code and has not been resolved through any of the aforementioned internal resolution processes, then a Councillor or group of Councillors (the applicant(s)) may apply to the Principal Conduct Officer for internal resolution by independent arbiter, alleging that a Councillor (or Councillors) has contravened this Code of Conduct.

The application must be in writing, specify the name(s) of the Councillor(s) alleged to have contravened the Code, specify the provisions that have allegedly been contravened and any evidence to support the allegation.

An application for an internal resolution procedure cannot be submitted during a Council election period and any process underway will be suspended for the duration of the election period.

On receiving an application, the Principal Conduct Officer will:

- a) Advise the Mayor and Chief Executive Officer of the application without any undue delay;
- b) Provide a copy of the application to the Councillor who the allegations have been levelled at, no later than two working days from receipt of the application;
- c) Refer to the Legal Services Panel or contact the Law Institute of Victoria to appoint an arbiter;
- d) Obtain from the proposed arbiter written advice that they have no conflict of interest in relation to the Councillors involved in the matter;
- e) Notify the parties of the name of the proposed arbiter and provide them with the opportunity (two working days) to object to the person proposed to be the arbiter;
- f) Consider the grounds of any objection (2 working days) and either appoint the proposed arbiter, or appoint another arbiter;
- g) Provide a copy of the application to the arbiter as soon as practicable after the opportunity for the parties to object has expired (two working days);
- h) After consultation with the arbiter, advise the applicant and the respondent of the time and place for the hearing; and
- i) Attend any hearings and assist the arbiter in the administration of the process.

The role of the arbiter is to:

- a) Consider applications alleging a contravention of this Code by a Councillor;
- b) Make findings in relation to any application alleging a contravention of this Code which the arbiter must provide to Council;
- c) Give a written statement of reasons supporting their findings to Council; and
- d) Recommend an appropriate sanction or sanctions where the arbiter has found that a Councillor has contravened this Code.

In considering an application alleging a contravention of this Code, an arbiter will:

- a) In consultation with the Principal Conduct Officer, fix a time and place to hear the application;
- b) Authorise the Principal Conduct Officer to formally notify the applicant and the respondent of the time and place of the hearing;
- c) Hold as many meetings as deemed necessary to properly consider the application. The arbiter may also hold a directions hearing;
- d) Have discretion to conduct the hearing(s) as they deem fit while also ensuring that the hearing(s) are conducted with as little formality and technicality as due and proper consideration of the applications allows;
- e) Ensure that parties to and affected by an application are given an opportunity to be heard directly by the arbiter;
- f) Consider an application by a respondent to have legal representation at the hearing(s) to ensure that the hearing is conducted fairly and may, in the arbiters absolute discretion, grant the application or deny the application;
- g) Ensure that the rules of natural justice are observed and applied in the hearing of the application; and
- h) Ensure that hearings are closed to the public and outcomes are to remain confidential.

Where an application to have legal representation is granted by an arbiter, the costs associated with representation are to be borne entirely by the Councillor.

An arbiter:

- a) May find that a Councillor who is a respondent to an internal resolution procedure application has not contravened the Code; or
- b) May find that a Councillor who is a respondent to an internal resolution procedure has contravened the Code; and
- c) Will suspend consideration of an internal resolution procedure

The arbiter is to provide a copy of their findings and statement of reasons to Council, the applicant and the respondent. At the same time as the arbiter provides their findings and statement of reasons, where a Councillor has been found to have contravened this Code, they will recommend an appropriate sanction or sanctions for the consideration of Council.

A copy of the arbiters' report, including any recommended sanctions is to be provided to the next Ordinary Meeting of Council (in confidential) for the consideration of Council.

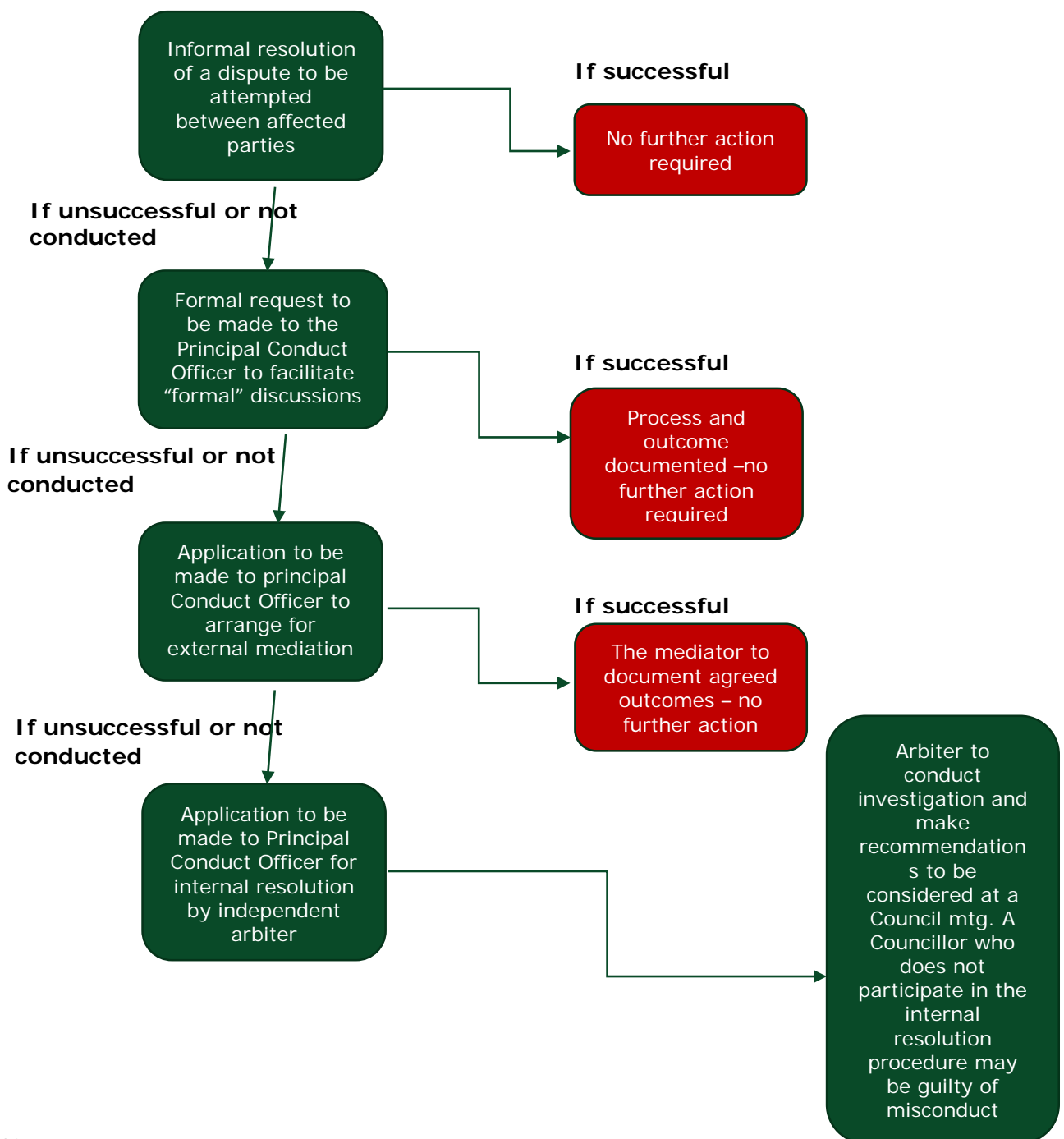
If an arbiter has found that a contravention of this Code has occurred, Council may, after considering the arbiters' findings, statement of reasons and recommendations for sanctions, give any of the following written directions to the Councillor;

- a) Direct the Councillor to make an apology in a form or manner specified by Council;
- b) Direct the Councillor not to attend up to, but not exceeding, two meetings of Council (as per the meeting schedule agreed at the Annual Statutory meeting)

- c) Direct that for a period of up to, but not exceeding, two months on a date specified by Council, the Councillor;
 - Be removed from any position where the Councillor represents Council; and
 - Not chair or attend any Committee Meetings or an Assembly of Councillors or any other meeting specified in the direction.

A Councillor who does not participate in the internal resolution procedure may be guilty of misconduct.

West Wimmera Shire Council Internal Dispute Resolution Flowchart



8(d) Councillor Misconduct

Councillor misconduct is defined in section 3 of the Act (see misconduct, serious misconduct and gross misconduct). Allegations of misconduct are heard on application by a Councillor Conduct Panel as outlined in section 81B of the Act and Councillor Conduct Panels are established under and regulated by, Division 1D of the Act.

Applications for a Councillor Conduct Panel to make a finding of misconduct against a Councillor may be made by Council (following a resolution of Council), a Councillor or a group of Councillors.

Applications for a Councillor Conduct Panel to make a finding of serious misconduct against a Councillor may be made by Council (following resolution of Council), a Councillor, a group of Councillors or the Chief Municipal Inspector.

Applications for a Councillor Conduct Panel must be made directly to the state-appointed Principal Councillor Conduct Registrar. Depending on the allegation and outcome, a Councillor Conduct Panel may;

- a) Discipline a Councillor by reprimand, direct an apology or require the Councillor to take up to two months leave of absence;
- b) Direct that the Councillor is ineligible to take up the position of Mayor for a period specified by the Panel;
- c) Require remedial action, including mediation, training or counselling;
- d) Suspend the Councillor from office for a period not exceeding six months; or refer a matter to VCAT if the Panel considers gross misconduct has been conducted by a Councillor.

9. Councillor Declaration: Cr Jodie Pretlove

I hereby declare that I have read the Councillor Code of Conduct for West Wimmera Shire Council, as reviewed on 20 June 2019 and declare that I will abide by this code in compliance with sections 76C(6A) and 76C(6B) of the Local Government Act 1989.

Signed by:



Councillor Jodie Pretlove

Date: 20 June 2019

Witnessed by:



David Leahy, Chief Executive Officer
West Wimmera Shire Council

Date: 20 June 2019

10. Councillor Declaration: Cr Trevor Domaschenz

I hereby declare that I have read the Councillor Code of Conduct for West Wimmera Shire Council, as reviewed on 20 June 2019 and declare that I will abide by this code in compliance with sections 76C(6A) and 76C(6B) of the Local Government Act 1989.

Signed by:



Date: 20 June 2019

Councillor Trevor Domaschenz

Witnessed by:



Date: 20 June 2019

David Leahy, Chief Executive Officer

West Wimmera Shire Council

11. Councillor Declaration: Cr Bruce Meyer

I hereby declare that I have read the Councillor Code of Conduct for West Wimmera Shire Council, as reviewed on 20 June 2019 and declare that I will abide by this code in compliance with sections 76C(6A) and 76C(6B) of the Local Government Act 1989.

Signed by:



Councillor Bruce Meyer

Date: 28-6-2019

Witnessed by:



David Leahy, Chief Executive Officer
West Wimmera Shire Council

Date: 28/6/2019

12. Councillor Declaration: Cr Tom Houlihan

I hereby declare that I have read the Councillor Code of Conduct for West Wimmera Shire Council, as reviewed on 20 June 2019 and declare that I will abide by this code in compliance with sections 76C(6A) and 76C(6B) of the Local Government Act 1989.

Signed by:

Councillor Tom Houlihan

Date:.....June 2019

Witnessed by:

David Leahy, Chief Executive Officer
West Wimmera Shire Council

Date:.....June 2019

13. Councillor Declaration: Cr Richard Hicks

I hereby declare that I have read the Councillor Code of Conduct for West Wimmera Shire Council, as reviewed on 20 June 2019 and declare that I will abide by this code in compliance with sections 76C(6A) and 76C(6B) of the Local Government Act 1989.

Signed by:



Councillor Richard Hicks

Date: 20 June 2019

Witnessed by:



David Leahy, Chief Executive Officer
West Wimmera Shire Council

Date: 20 June 2019

These Governance Rules were adopted by West Wimmera Shire Council at a Council Meeting held at 2.00pm on Wednesday 19 August 2020

**THE COMMON SEAL of WEST WIMMERA
SHIRE COUNCIL was hereunto affixed in the
presence of:**

_____ Councillor

_____ Councillor

_____ Chief Executive Officer



LOCAL LAW NO.8 OF 2020

Use of the Common Seal

To be adopted by Council: 19 August 2020

Date of commencement: 1 September 2020

West Wimmera Shire Council Local Law No.8 of 2020

Use of the Common Seal

Part 1 – Preliminary Provisions

1. Title

This Local Law is the West Wimmera Shire Council Local Law No.8 of 2020 – Use of the Common Seal.

2. Objectives

The objectives of this Local Law are to:

- a) Revoke the Meeting Procedure and Common Seal Local Law No.7 of 2017;
- b) Regulate the use of the Common Seal; and
- c) Prohibit unauthorised use of the Common Seal or any device resembling the Common Seal.

3. Authorising Provisions

This Local Law is made under section 111 of the Local Government Act 1989 and section 14 of the Local Government Act 2020.

4. Period of Operation

This Local Law:

- a) Commences on 1 September 2020; and
- b) Unless it is revoked sooner, ceases to operate on 31 August 2030.

5. Revocation of other Local Laws

On the commencement of this Local Law, the Meeting Procedure and Common Seal Law No.7 of 2017 is revoked.

6. Application and Scope of the Local Law

This Local Law applies to the whole of the municipal district of Council.

7. Definitions

Unless the contrary intention appears in this Local Law, the following words are defined to mean:

"the Act" means the Local Government Act 2020.

"Chief Executive Officer" means the Chief Executive Officer of the Council and includes a person acting in that position.

"Council" means West Wimmera Shire Council.

"Penalty Units" has the same meaning as in section 110 of the Sentencing Act 1991.

Part 2 – The Common Seal

8. Use of the Common Seal

The Common Seal may only be used on the authority of the Council in accordance with this Local Law.

9. Custody of the Common Seal

The Chief Executive Officer must keep the Common Seal in safe custody.

10. Signatures to accompany the Common Seal

Every document to which the Common Seal is affixed must be signed as required by:

- a) Two Councillors and the Chief Executive Officer; or
- b) In the absence of the Chief Executive Officer, or where the document relates to a matter in which the Chief Executive Officer has an interest, by two Councillors and any other member of staff authorised by Council.

11. Unauthorised Use of the Common Seal

- a) A person must not use the Common Seal or any device resembling the Common Seal without the authority of Council.
- b) Any person who fraudulently uses the Common Seal is guilty of an offence.

Penalty: 10 Penalty Units.

12. Delegation

Council delegates to the Chief Executive Officer the power to authorize the use of the Common Seal on behalf of Council subject to the following:

- a) The Common Seal must not be used for matters for which the Chief Executive Officer is not delegated power, as detailed in the conditions and limitations of the Instrument of Delegation from Council to the Chief Executive Officer.
- b) The Chief Executive Officer must not authorise the use of the Common Seal if the document proposed to be sealed relates to a matter in which the Chief Executive Officer has an interest.
- c) The Chief Executive Officer must first be satisfied that any provisions of the Act or the Local Government Act 1989 required to be complied with in relation to the subject matter of the document have been complied with.

The resolution for making this Local Law was made by West Wimmera Shire Council on 19 August 2020.

The resolution to sign and seal this Local Law was made by West Wimmera Shire Council on 19 August 2020.

THE COMMON SEAL of WEST WIMMERA

SHIRE COUNCIL was hereunto affixed in the

presence of:

_____ Councillor

_____ Councillor

_____ Chief Executive Officer

Public Notices of the proposal to make and confirmation of the making of this Local Law were published in the:

1. West Wimmera Shire Council Website on 16/08/2020 and
2. West Wimmera Advocate on 22/08/2020 and
3. Kaniva Times/Nhill Free Press on 22/08/2020 and
4. Wimmera Mail Times on 22/08/2020 and

Notices of the proposal to make and confirmation of the making of this Local Law were published in the Victorian Government Gazette dated 23/08/2020 and

A copy of this Local Law was sent to the Victorian Minister for Local Government on

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WEST
WIMMERA
SHIRE COUNCIL

LOCAL LAW NO.7-2017

MEETING PROCEDURE AND COMMON SEAL LOCAL LAW

Reviewed : 15 February 2017

WEST WIMMERA SHIRE COUNCIL

MEETING PROCEDURE AND COMMON SEAL LOCAL LAW NO. 7 2017

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PART 1- PRELIMINARY PROVISIONS

1. Title

This Local Law is the Meeting Procedure and Common Seal Local Law No.7 of 2017.

2. Objectives

The objectives of this Local Law are to:

- (a) regulate the use of the Common Seal;
- (b) prohibit unauthorised use of the common seal or any device resembling the common seal;
- (c) regulate proceedings for the election of Mayor and Chairs of various committees;
- (d) regulate proceedings of Council meetings, special committee meetings and advisory committee meetings, and other meetings conducted by or on behalf of Council where Council has resolved that the provisions of this Local Law will apply.

3. Authorising Provision

This Local Law is made under sections 5, 91 and 111 of the **Local Government Act 1989**.

4. Period of Operation

This Local Law:

- (a) commences on 15 February 2017; and
- (b) unless it is revoked sooner, ceases to operate on 15 February 2026

5. Repeal of other Local Laws

From the date of operation of this Local Law the Meeting Procedure Local Law No.1 will cease to operate and is repealed.

6. Application and scope of the Local Law

- (1) This local Law operates throughout the whole of the municipal district.
- (2) This Local Law applies to:
 - (a) special committee meetings, advisory committee meetings and other meetings where the Council has resolved that the provisions of this Local Law must apply, with any necessary modifications.

- (b) meetings of residents and other public meetings called by the Mayor or Council, with appropriate modifications.

7. Definitions

Unless the contrary intention appears in this Local Law, the following words are defined to mean:

"the Act" means the Local Government Act 1989.

"advisory committee" means an advisory committee appointed by the Council.

"agenda" means the notice of the meeting setting out the business to be transacted at the meeting.

"Chair" means the Chair of the meeting.

"Chief Executive Officer" means the Chief Executive Officer of the Council.

"committee meeting" means a meeting of a special or advisory Committee.

"Council meeting" includes the meeting at which the Mayor is elected an ordinary or special meeting of the Council.

"member" means a Councillor or a member of a special committee or Advisory Committee.

"municipal district" means the municipal district of the West Wimmera Shire Council.

"notice of motion" means a notice setting out the text of a motion which it is

"ordinary meeting" means an Ordinary meeting of the Council.

"Penalty Unit" has the same meaning as the Sentencing Act 1991.

"special committee" means a special committee established by the Council under section 86 of the Act.

"special meeting" means a special meeting of the Council established under section 86 of the Act.

PART 2 -THE COMMON SEAL

8. Use of the Common Seal

The Common Seal may only be used on the authority of the Council.

9. Custody of the Common Seal

The Chief Executive Officer must keep the Common Seal in safe custody.

10. Signatures to accompany the Common Seal

Every document to which the Common Seal is affixed must be signed as required by:

- (a) two Councillors and the Chief Executive Officer or, in the absence of the Chief Executive Officer, by two Councillors and any other member of staff authorised by Council.
- (b) The Chief Executive Officer or an officer nominated by the Chief Executive Officer where the document is not required to be signed by Councillors.

Unauthorised use of the Common Seal will attract up to 10 penalty units

11. Unauthorised Use of the Common Seal

- a) A person must not use the Common Seal or any device resembling the Common Seal without the authority of Council.
- b) Any person who fraudulently uses the common seal is guilty of an offence.

12. Delegation

Council delegates to the Chief Executive Officer the power to authorize the use of the common seal on behalf of Council subject to the following:

- a) The seal must not be used for matters for which the Chief Executive Officer is not delegated power as detailed in the conditions and limitations of the Instrument of Delegation from Council to the Chief Executive Officer
- b) The Chief Executive Officer is first satisfied that any provisions of the Act required to be complied with in relation to the subject matter of the document have been complied with.

PART 3-THE COUNCIL

13. When the Mayor Is to be elected

- (1) The Councillors must elect a Councillor to be the Mayor.
- (2) The Mayor is to be elected at a Special Meeting held within the period prescribed by section 71 of the Act.

14. Procedure for the election of the Mayor

- (1) The Agenda for the meeting at which the Mayor is to be elected must include:

- (a) the election of the Mayor;
 - (b) fixing allowances for the Mayor and Councillors under section 74 of the Act;
 - (c) the appointment of Councillors to special committees, advisory committees and any external bodies that the Council considers necessary to best represent the interests of the Council.
- (2) Any Councillor is eligible for the election or re-election to the office of Mayor.
- (3) The Chief Executive Officer will be the first temporary Chair of the meeting at which the election of the Mayor is to be conducted.
- (4) The Chief Executive Officer must invite nominations for a second temporary Chair. If there is only one nomination, the candidate is deemed to have been elected.
- (5) If there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates by a show of hands and the candidate receiving the majority of votes must be declared to have been duly elected.
- (6) The second temporary Chair must invite nominations for the election of Mayor. If there is only one nomination, which must be seconded, the candidate nominated will be declared elected as Mayor.
- (?) If there is more than one nomination, each of which must be seconded, the Councillors must vote by a show of hands and the candidate receiving the absolute majority of votes will be declared elected as Mayor.
- (8) If no candidate receives an absolute majority of votes, the candidate with the fewest number of votes is eliminated from the count and a further poll must be conducted between the remaining candidates until one of the candidates receives an absolute majority of votes.
- (9) If for the purpose of eliminating the candidate with the least number of votes, two or more candidates have the same least number of votes, the candidate to be eliminated must be determined by simple majority vote.
- (10) If there is an equality of votes with respect to the candidate to be eliminated, the candidate to be eliminated must be determined by lot.

15. Determining the election of Mayor by lot

If a lot is required, the Chief Executive Officer will conduct the lot and the following provisions will apply:

- (a) each candidate will draw one (1) lot.
- (b) the order of drawing lots must be determined by the alphabetical order of the

surname of the Councillors who received an equal number of votes, except that if two (2) or more such Councillors' surnames are identical, the order must be determined by the alphabetical order of the Councillors' first names.

- (c) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a container by the Chief Executive Officer.
- (d) if the lot is being conducted to determine which candidate is a defeated candidate, the word "Defeated" must be written on 1 of the pieces of paper and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates); or
- (e) if the lot is being conducted to determine which candidate is to be elected, the word "Elected" must be written on 1 of the pieces of paper, and the Councillor who draws the paper with the word "Elected" written on it must be declared to have been duly elected.

PART 4- PROCEDURES APPLYING TO MEETINGS

16. Conduct at Meetings

Councillors will have regard to the Councillor Code of Conduct in their participation in any meeting and adhere to the principles of the code by treating fellow Councillors with respect and not making any defamatory, indecent, abusive, offensive or disorderly statements or comments

17. Public Notice of Dates and Times of Meetings

- (1) At the statutory meeting the Council, the Council must fix the date, time and place of all Council and Special Committee meetings of the Council, which may be amended where the circumstances require.
- (2) The Council must provide at least 7 days notice of ordinary meetings and special meetings of the Council and meetings of any special committees comprised solely of Councillors unless urgent or extraordinary circumstances prevent the Council from doing so in which case, the Council must give public notice that is practicable for the circumstances which includes advice of the reasons why the 7 days notice of the meeting could not be given.
- (3) The Council may change the date, time and place of any Council meeting and Special Committee meetings which has been fixed and must provide reasonable notice of the changes to the public.
- (4) Where meeting dates are changed details should be published in the local paper, at each of the Council's Customer Service centres and on the website. However, if time does not allow for details to be published in the local newspapers then the posting of a notice setting out the details should be placed in as many public places as is practicable (Council's Customer Service Centres, website) to inform the public of the change.

18. Special CouncilH meetings

- (1) The notice necessary to call a meeting in accordance with section 84 of the Act must be delivered to the Chief Executive Officer in sufficient time to ensure that at least 2 clear business days notice is given to Councillors unless urgent or extraordinary circumstances have necessitated the Special Council meeting.
- (2) The notice must specify the date and time of the Special Meeting and the business to be transacted.
- (3) The Chief Executive Officer must convene the Special **Meeting** as specified in the notice.
- (4) Unless all Councillors are present and unanimously agree to deal with another matter, only the business specified in the notice is to be transacted.

19. Notice of meeting to Councillors

- (1) Unless urgent or extraordinary circumstances have necessitated the meeting, a notice of meeting incorporating or accompanied by an agenda of the business to be dealt with must be provided to every Councillor:
 - (a) for an ordinary meeting at least 48 hours before the meeting;
 - (b) for a special Council meeting at least 48 hours before the meeting; and
 - (c) for a special committee meeting at least two (2) clear days before the meeting.
- (2) The notice on agenda for any meeting must state the date, time and place of the meeting and the business to be dealt with and must be sent by post, messenger, facsimile or email to each Councillor's place of residence or usual place of business (if applicable) or as otherwise specified by the Councillor.
- (3) Despite anything contained in this Local Law, the Chief Executive Officer must, in respect, of an Ordinary Meeting, include in the agenda any matter which the Chief Executive Officer thinks should be the subject of consideration at the meeting.
- (4) No business may be transacted at an Ordinary Meeting unless it appears on the agenda except where:
 - (a) the business has been referred to Council by a special committee which has met since the agenda was prepared; or
 - (b) arisen since the preparation of the agenda and is of such importance that consideration by Council cannot be delayed -

Provided that

- (i) the business is the subject of a written supplementary report by a member of Council staff; or
- (ii) Council resolves to admit it as urgent business.

20. Quorums required for meetings

- (1) The quorum required for a Council meeting is a majority of Councillors.
- (2) The quorum required for meetings of special committees and advisory committees is a majority of the number of persons who comprise the committee and who are entitled to vote.

21. Failure to Raise a Quorum

If a quorum is not present within 30 minutes of the time appointed for the commencement of a Council meeting:

- (a) the meeting may be adjourned for not more than seven (7) days by:
 - (i) a majority of the Councillors present; or
 - (ii) the Chief Executive Officer; and
- (b) the Chief Executive Officer must give all Councillors notice of the adjourned meeting.

22. Inability to Achieve or Maintain a Quorum due to Conflict of Interest of Councillors

If during any meeting or adjournment a quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by the majority of Councillors, the Chief Executive Officer, or in his or her absence, a senior officer, must adjourn the meeting for a length of time sufficient to enable dispensation for the affected Councillors to be obtained from the Minister administering the Act.

23. When Meeting Lapses

If a quorum falls after a Council Meeting has begun, the meeting lapses.

24. Business of a Lapsed Meeting

If a Council meeting lapses, the undisposed of business must, unless it has already been disposed of at a special meeting, be included in the agenda for the next ordinary meeting.

25. Order of Business

- a) The order of business appearing on an agenda will be determined by the Chief Executive Officer to facilitate and maintain efficient and effective processes of government.
- b) The order of business appearing on agendas will be as consistent as possible from

meeting to meeting, but may be subject to minor alterations at the discretion of the Chief Executive Officer to assist in providing a fluent process of government. Alterations to the order will be made to meet the needs of the Council or to take advantage of opportunities that may arise from time to time.

26. Minutes of Council meetings

- (1) The Chief Executive Officer must ensure that:
 - (a) minutes are kept of all Council meetings and special committee meetings of the Council; and
 - (b) a written record is kept of any assembly of Councillors and submitted to the Council in accordance with section 80A of the Act.

- (2) The minutes of any Council meeting must contain the details of the proceedings including:
 - (a) the date, place, time, duration and nature of the meeting;
 - (b) the names of the Councillors and/or members present;
 - (c) arrivals and departures (including temporary departures) of Councillors and/or members during the course of the meeting;
 - (d) each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
 - (e) the vote cast by each Councillor or member upon a division;
 - (f) questions upon notice;
 - (g) the failure of a quorum;
 - (h) disclosure by a Councillor of a conflict of interest and the details associated with that disclosure required by section 79 of the Act and any disclosure of conflict of interest by the Chief Executive Officer required by section 80B of the Act; and
 - (i) any other matter which the Chief Executive Officer thinks should be recorded to clarify the intention of the meeting or the reading of the minutes.

- (3) If a Councillor is dissatisfied with the accuracy of the minutes, then he or she must:
 - (a) state the item or items with which he or she is dissatisfied; and

- (b) propose a motion clearly outlining the alternative wording to amend the minutes.

27. Meetings open to the public

All meetings of the Council must be open to members of the public except where the Council resolves to close the meeting because it is discussing:

- (a) personnel matters;
- (b) the personal hardship of any resident or ratepayer;
- (c) industrial matters;
- (d) contractual matters;
- (e) proposed developments;
- (f) legal advice;
- (g) any other matter which Council or the Special Committee considers would prejudice Council or any person; or
- (h) a resolution to close the meeting to members of the public.

28. Urgent Business

Business must not be admitted as urgent business unless it:

- (i) relates to or arises out of a matter which has arisen since distribution of the agenda; and
- (ii) cannot safely or conveniently be deferred until the next Ordinary Meeting.

29. Notices of Motion

- (1) A Councillor wanting to have a notice of motion included in the agenda must give written notice to the Chief Executive Officer in sufficient time for each Councillor to be given at least 7 days notice of the notice.
- (2) The Chief Executive Officer may reject any notice of motion that is too vague because the intention of the motion is not clear, but before rejecting it must give the Councillor delivering the notice an opportunity to amend it.
- {3} The full text of any such notice of motion must be included on the agenda.
- {4} The Chief Executive Officer must cause all notices of motion to be numbered, dated and entered in the notice of motion book in the order in which they were received.

- (5) Except by leave of the Council, notices of motion before any meeting must be considered in the order in which they were entered in the notice of motion book.
- (6) If a Councillor who has given a notice of motion:
 - (a) is absent from the meeting; or
 - (b) fails to move the motion when called upon by the Chairperson any other Councillor may himself or herself move the motion.

30. Form of Motions

- (1) A motion or an amendment must:
 - (a) relate to the powers or functions of Council;
 - (b) be in writing; and
 - (c) except in the case of urgent business, be relevant to an item of business on the agenda.
- (2) A motion or amendment must not be defamatory or objectionable in language or nature.
- (3) The Chairperson may refuse to accept any motion or amendment which contravenes this clause.

31. Withdrawing Motions

A motion or amendment cannot be withdrawn without the consent of the meeting.

32. Motion to be Moved and Seconded

The procedure for any motion is-

- (a) the mover must state the motion without speaking to it;
- (b) the Chairperson must call for a seconder unless the motion is a call to enforce a point of order;
- (c) unless the motion is a formal motion, it must be seconded by a Councillor other than the mover;
- (d) if a motion is not seconded and is not a formal motion, the motion will lapse for want of a seconder;
- (e) if the motion is seconded, the Chairperson must ask: "Is the motion opposed¹¹;

- (f) if no Councillor indicates opposition, the motion must be declared to be carried without being voted on and will be treated as being passed unanimously. After declaring the motion carried the Chairperson must ask the mover if they wish to speak on the motion;
- (g) if a Councillor indicates opposition to the motion, then the Chairperson must call the mover to address the meeting;
- (h) after the mover has addressed the meeting the seconder may address the meeting;
- (i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting) the Chairperson may call upon any Councillor who wishes to speak against the motion;
- (j) after a Councillor has spoken against the motion the Chairperson may call upon any other Councillor to speak for or against the motion;
- (k) a Councillor may speak once on the motion except for the mover of the motion who has a right of reply after which the motion must be put to the meeting for decision;
- (l) a Councillor may be permitted by the Chairperson or by resolution to speak more than once to explain that the Councillor has been misrepresented or misunderstood;
- (m) a Councillor calling the attention of the Chairperson to a Point of Order is not regarded as speaking to the motion or the amendment; and
- (n) motions must be clear and unambiguous and not be defamatory or objectionable in language or in nature.

33. Amendment of motions

- (1) If a Councillor proposes an amendment to a motion, the procedure is:
 - (a) the mover and seconder of a motion cannot move or second an amendment to it;
 - (b) the mover of an amendment has no right of reply;
 - (c) a second or subsequent amendment cannot be moved until the immediately preceding amendment is disposed of;
 - (d) if any Councillor intends to move a second or subsequent amendment he or she must give notice of that intention prior to the right of reply being exercised;
 - (e) if an amendment is adopted it becomes the substantive motion and, as such, must be put to the vote by the Chairperson.

- (2) A Councillor cannot move more than two (2) amendments in succession.

34. Time Limits

A Councillor must not speak for longer than the time set out below, unless granted an extension of time by the meeting:

- (a) the mover of a motion or an amendment: 5 minutes;
and any other member: 3 minutes
- (b) the mover of a motion exercising a right of reply: 2 minutes.

35. Rescission or Amendment of a decision

- (1) A Councillor may propose a motion to rescind or amend a decision of the Council provided the motion to be rescinded or amended has not been acted upon.
- (2) The motion must be given to the Chief Executive Officer in sufficient time to enable the Chief Executive Officer to give 7 days notice to all Councillors;
- (3) The motion will be deemed to have been withdrawn if it is not moved at the next meeting at which such business may be transacted; and
- (4) If the motion is a second or subsequent motion to rescind or alter an earlier resolution, it must not be accepted by the Chief Executive Officer until a period of 1 month has elapsed since the date of the meeting at which the first or last motion of rescission or alteration was dealt with.

36. Formal Motions

- (1) A formal motion may be moved at any time and must be dealt with immediately by the Chairperson.
- (2) Formal motions are not required to be seconded.
- (3) A formal motion cannot be moved by the Chairperson.
- (4) A formal motion and the effect of such a motion is in Appendix A to this Local Law.

37. Points of Order and Procedures

- (1) A point of order is an objection that the motion, amendment or a statement made is:
- (a) contrary to this Local Law or the provisions of the Act;
- (b) defamatory or disloyal;
- (c) irrelevant;
- (d) improper;

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- (e) obscene;
 - (f) outside Council's legal powers.
- {2} A Councillor may make a point of order by stating, "Point of Order", at which time the Chairperson must suspend the debate and request the Councillor to state the point of order.
- (3) A Councillor raising a point of order must:
- (a) state the point of order; and
 - (b) the reason for bringing it to the attention of the Chairperson.
- (4) If called to order, a Councillor must remain silent until the point of order is decided unless he or she is requested by the Chairperson to provide an explanation.
- (5) 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.
- (6) The Chairperson will decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the point raised without entering into any discussion or comment.
- (7) All matters before the Council are to be suspended until the point of order is decided.
- (8) Expressing a difference of opinion or contradicting a speaker is not to be treated as making a point of order.
- (9) The Chairperson's ruling on a point of order is final.

38. Disagreeing with Chairperson's Ruling

- (1) 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 move a motion of dissent.
- (2) A motion of dissent on a point of order must contain a provision, rule, practice or precedent in substitution for the Chairperson's ruling.
- (3) A motion of dissent in relation to a point of order is not a motion of dissent in the Chair and the Chairperson must at all times remain in the Chair and he or she will maintain his or her right to a second vote.
- (4) A motion of dissent on a point of order will take precedence over all other business and if carried will be acted on instead of the ruling given by the Chairperson.

39. Division

- (1) Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.

- (2) When a division is called for, the vote already taken must be treated as a nullity and the division will decide the question, motion or amendment.
- (3) When a division is called for, the Chairperson must call for a show of hands by those Councillors voting for the motion and then those Councillors opposed to the motion.
- (4) The Chairperson will name those Councillors voting for the motion and those Councillors voting against the motion and the names must be recorded in the Minutes of the Meeting.
- (5) Once a vote on a motion has been taken, no further discussion relating to the motion will be allowed unless the discussion is-
 - (a) for a Councillor to request that his or her opposition to the motion be recorded in the minutes; or
 - (b) where a subsequent notice of motion follows a rescission motion.

40. Public participation at meetings

- (1) At every ordinary meeting of the Council, time may be allocated to enable any member of the community to ask a question of the Council.
- (2) Sub-clause (1) does not apply during any period when the Council has resolved to close the meeting in respect of a matter under section 89(2) of the Act.
- (3) The Council may allocate reasonable time to each person who wishes to ask a question of the Council having regard to-
 - (a) the nature of the matter to be discussed;
 - (b) priorities in relation to other Council business;
 - (c) other members of the community present who also wish to ask a question of the Council;
 - (d) whether such an opportunity has already been provided to the person.
- (4) The Council may decide to defer a response to a later date and the views of the person asking the question of Council should be sought concerning that other date.
- (5) Any member of the public or community 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 Chairperson whenever called upon to do so.

41. Suspension of Standing Orders

- (1) Subject to clause 39, the provisions of this Local Law may be suspended for a particular purpose by resolution of the Council.
- (2) The suspension of such provisions (suspension of standing orders) should be used to enable full discussion of any issue without the constraints of formal meeting procedure.
- (3) The purpose of suspending standing orders is to enable the formalities of meeting procedure to be temporarily disposed of while an issue is discussed.
- (4) The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of the Council.
- (5) Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary.

42. Gallery to be Silent

- (1) Any member of the public asking a question of the Council or in attendance in the gallery must extend due courtesy and respect to the Council and the processes under which it operates
- (2) Visitors must not interject or take part in the debate and must take direction from the Chairperson whenever called upon to do so.

43. Ejection of Disorderly Visitors

If any visitor is called to order by the Chairperson and thereafter again acts in breach of this Local Law, the Chairperson may order him or her to be removed from the gallery.

44. Chairperson May Adjourn Disorderly Meeting

If the Chairperson is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the meeting, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper.

45. Time Limit for Meetings

A Council meeting must not continue four hours unless a majority of Councillors present vote in favour of the meeting continuing.

46. Recording Proceedings

- (1) The Chief Executive Officer (or other person authorised by the Chief Executive Officer) may record all the proceedings of a Council or special committee meeting. Recordings must be retained for a period of three months from the date of the meeting.
- (2) Any other person, including those representing the media may, with the prior written consent of Council or the special committee be permitted to record any part of the proceedings of a Council or special committee meetings.

- {3) The consent of Council may be revoked at any time during the meeting.
- (4) If a person records a meeting of the Council or special committee without first obtaining the consent of the Council he or she will be guilty of an offence against this Local Law.

47. Procedure Not Provided in Local Law

If a procedural matter is not specifically provided for by this Local Law, consideration may be given to the rules, forms and usages of the Victorian Parliament.

48. Suspension of Procedure

Any provisions of this Local Law applicable to a Council meeting, special committee meeting or an advisory committee meeting may be suspended by a resolution of the Council or the committee and the application of the Local Law may be resumed by a resolution of the Council.

PART 5 - OFFENCES

49. Offences against the Local Law

It is an offence:

- (a) for a Councillor to not withdraw an expression which is considered by the Chairperson to be defamatory, indecent, abusive, offensive, disorderly or objectionable, and to not satisfactorily apologise when called upon twice by the Chairperson to do so.

Penalty: 20 Penalty Units

- (b) for any person, not being a Councillor, who is guilty of any improper or disorderly conduct to not leave the meeting when requested by the Chairperson to do so.

Penalty: 20 Penalty Units

- (c) for any person to fail to obey a direction of the Chairperson relating to the conduct of the meeting and the maintenance of order.

Penalty: 20 Penalty Units

- (d) for a Councillor to refuse to leave the chamber or suspension.

Penalty: 20 Penalty Units.

- (e) for a person to record the proceedings of the Council or a Special Committee without first obtaining the prior written consent of the Council or Special Committee.

Penalty: 20 Penalty Units

West Wimmera Shire Council
MEETING PROCEDURE AND COMMON SEAL LOCAL LAW 2017

The resolution for making this Local Law was agreed to by the Council of the West Wimmera Shire on 15 February 2017.

The resolution to sign and seal this Local Law was agreed to by the Council of West Wimmera Shire on 16 June 2017

THE **COMMON SEAL** of THE WEST **WIMMERA** SHIRE COUNCIL was hereunto affixed in the presence of:



..7..... Councillor

..... Councillor

..... Chief Executive Officer

Notice of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette dated 4 May 2017 and

Public Notice of the proposal to make and confirmation of the making of the Local Law were inserted in the:

1. West Wimmera Advocate on 1 March 2017 and
2. Kaniva Times on 1 March 2017 and

A copy of this Local Law was sent to the Minister for Local Government on.....

APPENDIX A - FORMAL MOTIONS

Formal Motion	Form	Mover & Seconder	Matter in Respect of Which Motion May be Moved	When Motion Prohibited	Effect if Carried	Effect if Lost
1.	Adjournment of debate to later hour and/or date	Any Councillor.	Any matter.	(a) During the election of a Chairperson; (b) When another Councillor is speaking.	Motion and amendments postponed to the stated time and/or date.	Debate continues unaffected.
2.	Adjournment of debate indefinitely.	Any Councillor.	Any matter except: (a) Election of a Chairperson; (b) A matter in respect of which a call of the Council has been made for that meeting.	(a) During the election of a Chairperson; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the Council has been made.	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected.
3.	Adjournment of meeting to later hour or date.	Any Councillor	Any meeting.	(a) During the election of a Chairperson. (b) When another Councillor is speaking.	Meeting adjourns immediately until the stated time and/or date.	Debate continues unaffected.

West Wimmera Shire Council
MEETING PROCEDURE AND COMMON SEAL LOCAL LAW 2017

4.	Adjournment of meeting indefinitely.	That this meeting be adjourned until further notice.	Any Councillor	(a) Any matter except election of a Chairperson; (b) During a meeting which is a call of the Council; (c) When another Councillor is speaking.	(a) During the election of a Chairperson; (b) During a meeting which is a call of the Council; (c) When another Councillor is speaking.	Meeting adjourns until an agenda is delivered under clause 19.	Debate continues unaffected.
5.	The closure.	That the motion be now put.	A Councillor who has not spoken to the motion or any amendment of it.	Any matter.	During nominations for Chairperson.	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion	Debate continues unaffected.
6.	Laying question on the table.	That the question lie on the table.	A Councillor who has not spoken to the motion or amendment of it.	Any matter.	(a) During the election of a Chairperson; (b) During a meeting which is a call of the Council.	Motion and amendments not further discussed or voted on until: (a) Council resolves to take the question from the table at the same meeting; (b) The matter is placed on an agenda and Council resolves to take the question from the table.	Debate continues unaffected.

West Wimmera Shire Council
MEETING PROCEDURE AND COMMON SEAL LOCAL LAW 2017

7.	Previous Question	That the question be not now put.	A Councillor who has spoken to the motion or any amendment of it.	Any matter except: (a) Election of a Chairperson; (b) A matter in respect of which a call of the Council has been made for that meeting.	(a) During the election of a Chairperson; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the Council has been made; (d) When an amendment is before Council.	(a) No vote or further discussion on the motion until it is placed on an agenda for a later meeting; (b) Proceed to next business	Motion (as amended up to that time) put immediately without further amendment or debate.
8.	Proceeding to next business	That the meeting proceed to the next business. Note: This Motion: (a) May not be amended; (b) May not be debated; (c) Must be put to the vote as soon as seconded.	A Councillor who has spoken to the motion or any amendment of it.	Any matter except: (a) Election of a Chairperson; (b) A matter in respect of which a call of the Council has been made for that meeting.	(a) During the election of a Chairperson; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the Council has been made.	If carried in respect of: (a) An amendment - Council considers the motion without reference to the amendment; (b) A motion - no vote or further discussion on the motion until it is placed on an agenda for a later meeting.	Debate continues unaffected