

# Governance Rule

## Meeting Procedure

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<b>Approved by</b>	Council
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<b>Date of last revision</b>	
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<b>Responsible Manager</b>	Executive Manager Governance, Communications and Engagement

Unless replaced, this policy will still apply beyond the review date.

<b>Related internal policies, procedures and guidelines</b>	<ul style="list-style-type: none"> <li>• Governance Rules</li> <li>• Public Transparency Principles</li> <li>• Community Engagement Policy</li> </ul>
<b>Related legislation</b>	<ul style="list-style-type: none"> <li>• <i>Charter of Human Rights and Responsibilities Act 2006</i></li> <li>• <i>Local Government Act 2020</i></li> <li>• <i>Equal Opportunity Act 2010</i></li> </ul>

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## Part 1 - Preliminary

### 1. Objectives

The objectives of this Governance Rule are to:

- a) Regulate proceedings at Council meetings, or a delegated Committee meeting and other meetings conducted by or on behalf of Council where Council has resolved that the provision of this meeting procedure are to apply;
- b) Facilitate community engagement by providing opportunities at meetings for community members to express their views;
- c) Ensure the efficient and orderly conduct of meetings; and
- d) Ensure the peace, order and good government of the municipal district.

### 2. Power to make this Governance Rule

This meeting procedure is made in accordance with section 60 of the *Local Government Act 2020*.

### 3. Operational date

This meeting procedure operates from 1 September 2020.

### 4. Scope of this Governance Rule

This meeting procedure shall apply to and have operation throughout the whole of the Municipal District of the Nillumbik Shire Council.

### 5. Definitions

Unless inconsistent with the subject matter, the following words have the meaning indicated:

Words	Meaning
Act	<i>Local Government Act 2020</i>
Agenda	a document, electronic or paper, in the form of a notice which specifies the date, time and place of a Meeting and the business to be transacted at the Meeting and includes any accompanying documents
Absolute majority	The votes of the number of Councillors which is greater than half the total number of the Councillors of a Council
Authorised Officer	a person appointed by the Council under section 224 of the <i>Local Government Act 1989</i>
Business days	Monday to Friday inclusive of each week except for Public Holidays

<b>Words</b>	<b>Meaning</b>
Chairperson	the Chairperson of a meeting and includes an acting or temporary Chairperson
Chief Executive Officer	the Chief Executive Officer of Council, and includes a person acting as Chief Executive Officer
Clause	a clause of this Governance Rule
Committee Meeting	a meeting of a Special Committee
Council	Nillumbik Shire Council
Councillor	a Councillor of Nillumbik Shire Council
Council Meeting	any meeting of Council
Delegated Committee	a delegated Committee established by Council under section 63 of the <i>Local Government Act 2020</i>
Deputy Mayor	the Deputy Mayor of Council and any person acting as Deputy Mayor
Mayor	the Mayor of Council and any person acting as Mayor
Meeting	includes a Council meeting or a delegated committee meeting
Minutes	the official written record of the proceedings and decisions of a meeting which have been signed by the Mayor/Chairperson
Motion	a proposal framed in a way that will result in the opinion of the Council being expressed or a Council decision being made
Municipal district	the area from time to time comprising the municipal district of Council
Notice of Motion	a notice setting out the text of a motion which a Councillor or a Committee member proposes to move at the next relevant meeting
Point of order	a procedural point, not involving the substance of a matter before a meeting
Procedural Motion	a motion which relates to a procedural matter only and which is not designed to produce any substantive result but used merely as a formal procedural measure.
Resident	a person who has a place of residence within the municipal district

<b>Words</b>	<b>Meaning</b>
Visitor	any person (other than a Councillor or member of Council staff) who is in attendance at a Council Meeting or a delegated committee meeting
Written	includes duplicated, photocopied, photographed, transmitted by facsimile, transmitted electronically, printed or typed

## **Part 2 – Conduct of Meetings**

### **6. Notices and Agendas**

#### **6.1 Date, time and place of meetings**

The dates, times and places of Council Meetings are within the discretion of Council.

Council may, by resolution, at a Meeting alter the day and time upon which any Meeting shall be held.

A Meeting must start within 30 minutes of the advertised start time.

A Meeting may not continue after 10.30pm unless a Majority of Councillors present vote in favour of its continuance. In the absence of such continuance, a Meeting must stand adjourned to a time, date and place announced by the Chairperson immediately before the standing Meeting is adjourned.

#### **6.2 Notice of Meeting**

The Chief Executive Officer must give notice including on Council's website of the date, time and place of a meeting giving adequate time for members of the municipal community to make arrangements to attend the meeting or view the meeting via the livestream unless urgent or extraordinary circumstances prevent compliance with this clause.

The Chief Executive Officer must ensure that the agenda for any Meeting is provided to every Councillor or delegated committee member with adequate time for Councillors or members to prepare adequately for the meeting.

#### **6.3 Attendance at meetings**

In accordance with section 66(1) of the Act, all Meetings of Council must be open to members of the public unless section 66(2) of the Act applies.

Council may resolve, in accordance with section 66(2) of the Act, that its Meeting be closed to members of the public because:

- a) the meeting is to consider confidential information; or
- b) security reasons; or
- c) it is necessary to do so to enable the meeting to proceed in an orderly manner.

## 6.4 Business to be transacted

No business shall be transacted at a Council Meeting unless it appears on the agenda.

Notwithstanding the above, an item of business which has:

- a) been referred to Council by a delegated committee which has met since the agenda was prepared; or
- b) arisen since the preparation of the agenda, and is of such importance that deliberation by Council cannot be delayed,

may be considered by Council only if admitted in accordance with the provisions of clause 57 – Urgent Business.

## 7. Quorum

The quorum in relation to Council Meetings is an absolute majority.

The quorum in relation to delegated committee meetings is the number of members, which is greater than half the total number of members of the committee.

### 7.1 Failure to raise or maintain a quorum

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

- a) those Members present; or
  - b) if there are no Members present, the Chief Executive Officer; or,
  - c) in the absence of the Chief Executive Officer, an Authorised Officer,
- must adjourn the Meeting for a period within four (4) weeks from the date of the Meeting.

### 7.2 Council decision making where quorum cannot be maintained

If the meeting cannot be maintained due to the temporary absence of Councillors, the Chairperson can temporarily adjourn the meeting for up to 15 minutes.

If during any Council Meeting it becomes apparent to the Chairperson that it will not be possible to maintain a quorum due to the number of Councillors who have disclosed a conflict of interest in an item of business and will be unable to vote Council must consider whether:

- a) the decision can be made in an alternative manner by dealing with the matter in separate parts; or
- b) by making decisions on component parts in which conflicts arise before the overall decision is voted upon.

If not, Council must decide to establish a delegated committee to make the decision in accordance with s 67(4) of the Act.

If during any Meeting or any adjournment of the Meeting, a quorum cannot be maintained for any other reason:

- c) those Councillors present; or



- d) if there are no Councillors present, the Chief Executive Officer; or,
- e) in the absence of the Chief Executive Officer, an Authorised Officer,
- f) must adjourn the Meeting for a period not exceeding seven (7) days from the date of the Meeting.

## **8. Adjourned meetings**

Council may, by Resolution, adjourn any Meeting to a later time on the same day, or for a period not exceeding seven (7) days.

The Chief Executive Officer, or an Authorised Officer, must give notice to each Councillor of the date, time and place to which the Meeting stands adjourned and of the business remaining to be considered.

## **9. Extraordinary Meeting**

The Mayor or at least 3 Councillors may by a written notice call an extraordinary Council Meeting;

- a) The notice must specify the date and time of the extraordinary Council meeting and the business to be transacted;
- b) The Chief Executive Officer must call the extraordinary meeting as specified in the notice;
- c) Unless all Councillors are present and unanimously agree to deal with another matter, only the business specified in the notice is transacted.

## **10. Chairperson**

The Mayor must preside at all Meetings at which he or she is present, in the role of Chairperson.

In the absence of the Mayor, the Deputy Mayor must preside at any Meeting at which he or she is present, in the role of Chairperson.

In the event that both the Mayor and Deputy Mayor are absent, Council must elect a Chairperson to preside at that Meeting, in accordance with the provisions of the Governance Rule – Election of the Mayor and Deputy Mayor 1.1.

## **11. Duties and responsibilities of the Chairperson**

The duties and responsibilities of the Chairperson are to:

- a) formally declare a Meeting open, after ascertaining that a quorum is present, and to welcome guest speakers and other visitors;
- b) preside over and control the Meeting, and to conduct it impartially and according to the rules to ensure the smooth passage of business;
- c) sign Minutes of Meetings as correct when they have been confirmed;
- d) ensure that debates are conducted in the correct manner;
- e) declare the results of all votes;
- f) give rulings on Points of Order and other questions of procedure;

- g) preserve order, and if necessary, “name” offending Councillors;
- h) adjourn (when so resolved) or formally declare the Meeting closed when all business has been concluded.

## **12. Order of Business of a Council Meeting**

The order in which business is listed on the agenda is determined by the Chief Executive Officer in consultation with the Mayor and should be kept consistent from meeting to meeting in order to facilitate and maintain open, efficient and effective processes of government.

The Chief Executive Officer may include any matter on the agenda that he or she believes should be considered by the Council.

The order of business of any Council Meeting will be as follows:

1. Welcome
2. Acknowledgement of Country
3. Good Governance Pledge
4. Prayer
5. Apologies
6. Declarations of Conflict of Interest
7. Presentations
8. Confirmation of Minutes
9. Petitions
10. Questions from the Gallery
11. Reports of Advisory Committees
12. Officers' Reports
13. Notices of Motion
14. Delegates' Reports
15. Supplementary and Urgent Business
16. Confidential Reports

Once an Agenda has been sent to Councillors, the order of business for that meeting may be altered with the consent of the majority of the Councillors at that Meeting.

## **13. Councillor Leave of Absence and Absence from Meeting**

Any Councillor seeking leave of absence from Council duties must do so in writing addressed to the Chief Executive Officer. Applications for leave shall be listed for consideration at the next Ordinary Meeting of Council and the Council must not unreasonably refuse to grant the request for leave of absence.

Where leave of absence has been granted to a Councillor, the Chief Executive Officer must record the leave of absence in the Minutes of the Ordinary Meeting held during the period of the leave of absence.

If Councillor intends to be absent from a Meeting, the Councillor must give the Chairperson of that Meeting a notice of apology prior to the Meeting.

If a Councillor is an apology at a Council Meeting, or delegated committee meeting the apology will be noted by resolution in the minutes.

#### **14. Recording of Meetings**

The Chief Executive Officer (or another person authorised by the Chief Executive Officer) will record, using electronic recording equipment, and livestream the proceedings of a Council Meeting or Delegated Committee Meeting. Recordings must be retained for a minimum period of three months from the date of the Meeting.

Media representatives may with consent of the Chairperson be permitted to record, using electronic recording equipment, any part of the proceedings of a Council Meeting or Delegated Committee Meeting. The consent of the Chairperson must not be unreasonably withheld, but may be revoked at any time during the course of the relevant meeting.

Subject to this clause, members of the public must not operate electronic recording equipment (including mobile phones) at any Council Meeting or Delegated Committee Meeting without the prior written consent of Council. Such consent may be given only after receipt of a written application and may at any time during the course of such meeting be revoked by the Chairperson.

Members of the public are to be advised if the Meeting is being recorded (audio and video) by venue signage.

#### **15. Record of Proceedings**

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 Delegated Committee Meeting and those minutes must record:

- a) the names of the Councillors and/or committee members present and the names of the Councillors and/or committee members who have submitted apologies or have been granted leave of absence;
- b) the names of staff members present at the meeting;
- c) arrivals and departures (including temporary departures of Councillors and/or committee members during the course of the meeting);
- d) declarations of conflict of interest;
- e) each motion and amendment moved (including motions and amendments that lapse for the want of a seconder) and motions and amendments withdrawn by resolution or with the consent of both the mover and seconder of the motion or amendment;
- f) whether motions or amendments lapsed or were withdrawn, carried or lost;
- g) the vote cast (if any) by each Councillor and/or committee member upon a division, either for, against or abstaining, and the declaration of the result of the division on the motion or amendment;
- h) questions from the gallery and responses to those questions;
- i) the failure of a quorum;

- j) closure of the meeting to members of the public in accordance with the provisions of section 66(2) of the Act;
- k) when specifically requested by a Councillor or delegated committee member, a record of their support or opposition for any motion;
- l) a summary of all committee reports presented to Council;
- m) the time and reason for any adjournment of the meeting or suspension of standing orders; and
- n) any other matter which the Chief Executive Officer (or other person authorised by the Chief Executive Officer) thinks should be recorded to clarify the intention of the meeting or the reading of the minutes.
- o) The minutes must be documented and each item numbered consecutively.

## 16. Confirmation of Minutes

At every Meeting the Minutes of the preceding Meeting must be dealt with as follows:

- a) a copy of the Minutes must be delivered to each Councillor no later than 72 hours before the next Meeting;
- b) if no Councillor indicates opposition, the Minutes must be declared to be confirmed;
- c) subject to clause 17, if a Councillor indicates opposition to the Minutes:
  - i. he or she must specify the item(s) to which he or she objects;
  - ii. the objected item(s) must be considered separately and in the order in which they appear in the Minutes;
  - iii. the Councillor objecting must move accordingly without speaking to the motion;
  - iv. the motion must be seconded;
  - v. the Chairperson must ask:
 

*"Is the motion opposed?"*
  - vi. if no Councillor indicates opposition, the Chairperson must declare the motion carried without discussion and ask the second question described in paragraph x.;
  - vii. if a Councillor indicates opposition, the Chairperson must call on the mover to address the Meeting;
  - viii. after the mover has addressed the Meeting, the seconder may address the Meeting;
  - ix. after the seconder has addressed the Meeting (or after the mover has addressed the Meeting if the seconder does not), the Chairperson 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;
  - x. if, after the mover has addressed the Meeting, the Chairperson invites debate and no Councillor speaks to the motion, the Chairperson must put the motion and, after all objections have been dealt with, ultimately ask:

*"That the Minutes be confirmed" or*

*"That the Minutes, as amended, be confirmed",*

and he or she must then put the question to the vote.

- xi. a Resolution of Council must confirm the Minutes and the Minutes must, if practicable, be signed by the Chairperson of the Meeting at which they have been confirmed.

## **17. No debate on confirmation of minutes**

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

## **18. Publication of minutes**

Council will endeavour to provide the Minutes of its Meetings on the Nillumbik Shire Council's website within three (3) business days of the meeting.

## **19. Record of Informal Meetings of Councillors**

If there is a meeting of Councillors that:

- a) is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- b) is attended by at least one member of Council staff; and
- c) 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 is:

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

## **20. Declaration of Conflicts of Interests**

Conflicts of Interest are to be disclosed in accordance with Governance Rule – Procedure for Disclosure of Conflicts of Interest.

## **21. Presentations**

At each Council Meeting, presentations of monetary grants, certificates of appreciation or other acknowledgements that recognise the outstanding achievements of local individuals and organisations who have made a significant contribution to Nillumbik, may be made by the Mayor or Councillors.

## **22. Petitions**

A person may lodge a petition with Council, provided that if the petition is lodged one week prior to the next Council Meeting it will be included in the Council agenda for that meeting.

A person lodging a petition is to ensure that the petition contains:

- a) a clear and concise statement identifying the subject matter;
- b) a heading on each page indicating the subject matter;
- c) a brief statement on each page of the subject matter and the action requested;
- d) a statement specifying the number of signatories; and

the full printed name, address and signature of the person lodging the petition at the end of the petition.

Petitions must not be indecent, abusive or objectionable in language or substance.

Every page of the petition must bear the wording of the whole of the petition or request and include the name, address and signature of petitioners.

Signatures appearing on a page of a petition which does not bear the wording of the whole of the petition or request, must not be considered by Council.

Petitions presented to Council must be written (other than Pencil). Any resident of Victoria may sign a petition.

The Council may, by resolution, accept genuine electronic petitions if it is satisfied that the petition is authentic and has been received from a legitimate website.

A petition will be presented by a Councillor at the Council Meeting

The Councillor presenting the petition:

- e) shall identify the issue;
- f) shall state the number of signatures attached to the petition;
- g) shall read the petition in full or precis form; and
- h) may move 'That the petition be received and noted' and any other action appropriate.

In the case of a petition containing fewer than 15 signatures, it will not be presented at the Council meeting and will, instead, be forwarded to the relevant Director or Executive Manager for response.

### **23. Public Question Time**

There shall be a public question time at every Council Meeting to enable members of the public to address questions to Council. Questions may be delivered to the Civic Centre or submitted electronically through Council's website. All such questions must be received by the Chief Executive Officer or other person authorised for this purpose by the Chief Executive Officer no later than 5pm on the day prior to the advertised date of the Council Meeting.

Questions are limited to a maximum of two questions per individual. Questioners are expected to disclose any personal or professional interests in the subject matter of their questions on the question forms available at the Civic Centre or on Council's website.

All such questions must be received in writing and must include the name of the person asking the question. Where there are more than two questions received from any person, the Chief Executive Officer will determine the two questions to be read and answered at the meeting.

A question will only be read to the meeting if the Chairperson and/or Chief Executive Officer has determined that the question:

- a) is a question and not a statement or opinion;
- b) is not indecent, abusive or objectionable in language or obscene;
- c) is not repeating a question already answered whether at the same or an earlier meeting;
- d) is not, in the opinion of the Chairperson or Chief Executive Officer, asked to embarrass a Councillor or an officer; and
- e) does not relate to a matter which the Council has discussed in camera or proposes to discuss after closing the meeting to members of the public in accordance with section 66(2) of the Act.

The procedure and sequence for dealing with a question is that the Chairperson:

- f) shall name the questioner and enquire if they are present in the gallery;
- g) shall read out the question provided the questioner is present; and
- h) may answer the question or direct the question as he/she deems appropriate.

Questions must be answered, taken on notice or disallowed. All questions and answers shall be as brief as possible.

Question time shall be limited to a period of up to 30 minutes.

Council will allocate a reasonable time to each person who wishes to address a question to Council having regard to:

- i) the nature of the matter to be discussed;
- j) the priorities in relation to other Council business;
- k) other members of the community present who also wish to address a question to Council, and
- l) the overall time limit for question time.

#### **24. Submissions by public under section 223 of the *Local Government Act 1989***

A delegated committee must hear any person wishing to be heard in respect of their submission to Council under section 223 of the *Local Government Act 1989*.

Committee members may question any submitter in relation to their submission.

Each speaker is allowed three minutes to speak to their submission.

The Chairperson may use his/her discretion to allow an extension of time for up to a further one minute.

Anyone making a submission and not wishing to appear in person can be represented by another person in accordance with the *Local Government Act 1989*. Submitters will be requested to disclose any personal or professional interests in the subject matter of their submission.

#### **25. Other public submissions**

In addition to section 223 submissions under the *Local Government Act 1989*, delegated committees may also hear any person on any items listed on the delegated committee agenda where the person has made application to speak to an item in accordance with



Council's procedures. This indicates any person whose rights will be directly affected by a decision of Council, even if Council has not invited public submissions or if the person has not already lodged a written submission.

In respect of these submissions, the Chairperson may, in the case where there are several people representing a common position, encourage the submitters to nominate a single person to speak on the matter.

A person can speak on their own behalf for up to three minutes. They may also speak on behalf of one organisation/company for a further period of up to three minutes. No person may speak on behalf of more than one other person or organisation/company, unless Council or the Committee specifically resolves to allow them to do so.

No person is permitted to speak on behalf of an absent submitter or organisation/company unless he/she is authorised in writing by the absent submitter or by an authorised officer of the organisation/company to address Council on their behalf, such document to be tabled by the speaker. Any person so authorised may only read from a written statement prepared by the absent submitter.

## **26. Addressing the Meeting**

Except for the Chairperson, any Councillor or person who addresses the meeting must direct all remarks through the Chair.

Any person addressing the Chair must refer to the Chairperson as:

- a) Mayor; or
  - b) Mr Mayor; or
  - c) Madam Mayor; or
  - d) Chair; or
  - e) Mr Chairperson; or
  - f) Madam Chairperson
- as appropriate.

Councillors and members of Council staff in speaking must address each other by their titles of Councillor or officer as the case may be.

## **27. Form of Motions or Amendments**

A motion or an amendment:

- a) must relate to the powers or functions of Council;
- b) may be in writing or oral however, the Chairperson may require that complex or detailed motions be in writing and tabled when the motion or amendment is moved; and
- c) except in the case of urgent business, must be relevant to an item of business on the agenda.

The Chairperson may temporarily adjourn the Meeting while the motion is being written or may defer the matter in the order of business, until the motion has been written.

A motion or amendment must be clear and unambiguous and must not be defamatory or objectionable in language or nature.



The Chairperson may refuse to accept any motion or amendment which contravenes this clause.

## **28. Introducing a Motion**

The procedure for moving any motion at a Meeting is as follows:

- a) the mover must state the subject and nature of the motion and not speak to it;
- b) the motion must be seconded by a Councillor other than the mover. If there is no seconder for a motion, the Chairperson must declare the motion to have lapsed;
- c) if the motion is moved and seconded the Chairperson must ask whether the motion is opposed and/or whether any Councillor wishes to speak to the motion;
- d) if no Councillor indicates opposition or a desire to speak to the motion, the Chairperson may declare the motion carried without discussion;
- e) if a Councillor indicates opposition or a desire to speak to the motion :
  - i. the Chairperson must call the mover to address Council upon it;
  - ii. after the mover has spoken, the Chairperson must call upon the seconder to address the meeting;
  - iii. after the seconder has addressed the meeting (or after the mover if the seconder does not wish to speak) the Chairperson must call upon the first speaker in opposition to address the meeting;
  - iv. after the mover, seconder and first speaker in opposition have had the opportunity to address the Meeting the Chairperson will call for speakers for and against the motion or amendment in alternate sequence until the sequence of speakers is exhausted; and
  - v. a Councillor may only speak once on the motion or amendment.

A Councillor calling the attention of the Chairperson to a Point of Order is not regarded as speaking to the motion.

## **29. Moving an Amendment**

A motion which has been moved and seconded, in accordance with clause 28 a) and b) may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.

An amendment may be moved or seconded by any Councillor, except the mover or seconder of the original motion;

If any Councillor intends to move an amendment, he or she must give notice of that intention prior to the right of reply being exercised.

A motion to confirm a previous Resolution of Council cannot be amended.

An Amendment must not be the negative of, or substantially contrary to, the original motion.

The mover of an amendment may with the consent of the seconder, change the wording of the proposed amendment.

If an amendment is adopted it becomes the substantive motion and, unless subject to further amendment and debate, must be put to the vote by the Chairperson.

### **30. Right of Reply and Debate of Motion or Amendment**

If there has been any opposition to a motion, the mover of a motion has the right of reply to these issues.

The mover of an amendment has no right of reply.

Subject to any Councillor exercising his or her right to ask any question concerning or arising out of a motion, the Chairperson must put the motion to the vote immediately after the mover of the motion has spoken in reply.

Any one Councillor cannot move more than two (2) amendments in succession.

Any Councillor can debate an amendment irrespective of whether the Councillor has spoken or proposes to speak to the original motion.

Debate on an amendment must be confined to the terms of the amendment.

### **31. How Many Amendments may be proposed**

Any number of Amendments may be proposed to a motion but only one (1) Amendment may be accepted by the Chairperson at any one (1) time.

No second or subsequent Amendment, whether to the motion or an Amendment of it, may be taken into consideration until the previous Amendment has been dealt with.

### **32. An Amendment Once Carried**

If the Amendment is carried, the amended motion then becomes the substantive motion before the Meeting and can be further amended.

The mover of the original motion retains the right of reply to the substantive motion.

### **33. Foreshadowing Motions**

At any time during debate a Councillor may foreshadow a motion to inform the Meeting of his or her intention to move a motion at a later stage in the Meeting. This does not extend to any special right to the foreshadowed motion.

A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the Chairperson being resolved in a certain way, a Councillor intends to move an alternative or additional motion.

A foreshadowed motion has no procedural standing and is merely a means of assisting the flow of a Meeting, the Chief Executive Officer or an authorised officer is not required to record foreshadowed motions in the minutes.

### **34. Withdrawal of Motions**

Subject to this clause, only with the leave of the Chairperson, and the consent of the mover and seconder, can a motion or amendment to a motion be withdrawn.

If the majority of Councillors objects to the withdrawal of the motion, it may not be withdrawn.

### **35. Priority of Address and Right to Speak to Motion**

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

A Councillor may speak once on a motion and once on an amendment, except for the mover of a motion who has the right to speak in reply to any opposition to the motion.

### **36. Debate of the Motion**

Debate must always be relevant to the motion before the Chairperson, and, if not, the Chairperson must request the speaker to confine the debate to the motion.

If the speaker continues to debate irrelevant matters after being requested to confine debate the Chairperson may direct the speaker to be seated and not to speak further in respect of the motion before the Chairperson.

A speaker to whom a direction has been given under this clause must comply with that direction.

Councillors may remain seated to address the Chairperson, to move or second a motion or amendment, or to take part in a debate.

The Councillor acknowledged by the Chairperson is to speak and must not be interrupted unless:

- a) he or she is called to order; or
- b) his or her speaking time has expired; or
- c) a Point of Order is raised.

Councillors must address each other by their official titles during debate and throughout a Meeting.

### **37. Debate from the Chair**

The Chairperson should seek to refrain from debate on motions. The Chairperson may however choose to exercise a right to speak in favour of or against a motion and where this is the case, the Chairperson must advise the Council of their intention and stand while speaking to the matter under discussion.

Where the Chairperson wishes to move or second a motion, they must temporarily vacate the Chair before the motion is considered by Council. A temporary Chairperson must be elected in the same manner as the second temporary chairperson is elected in accordance with Governance Rule – Election of Mayor and Deputy Mayor Clause 1.1.

### **38. Resumption of adjourned debate**

The business to which the debate relates must be placed on the Agenda of the meeting to which it is adjourned. Adjourned business should have priority over any other business except formal business.

If a debate is adjourned by motion, the Councillor moving the adjournment has the right to be the first speaker upon the resumption of debate unless he or she has already spoken to the motion or amendment.

### **39. Lost Motions**

Councillors should move a motion detailing further requirements or actions after any motion which is lost.

### **40. Separation of a Motion**

Where a motion contains more than one part, a Councillor may request the Chairperson to put the motion to the vote in separate parts. If the Chairperson does not consent to the request then Council may determine the matter in accordance with clause 52 - Disagreement with the Chairperson's ruling.

### **41. Deferral of a Motion**

Council may defer an item until later in the meeting or until another meeting as appropriate if further consideration or clarification is required prior to a decision being made. The decision to defer an item is a substantive motion, and may be debated.

### **42. Time limits**

A Councillor must not speak longer than the time set out below, unless granted an extension by the Chairperson;

- a) the mover of a motion or an amendment five (5) minutes;
- b) the seconder of a motion or an amendment three (3) minutes;
- c) any other Councillor three (3) minutes; and
- d) the mover of a motion exercising a right of reply two (2) minutes.

### **43. Voting**

Voting shall be in accordance with the Act. A matter will be determined in the affirmative if the majority of Councillors at a meeting at the time the vote is taken vote in favour of it.

A Councillor has the right to abstain from voting.

Councillors must remain seated in silence while a vote is being taken.

Unless Council resolves otherwise, voting on any matter will be by a clear show of hands so that the Chairperson can easily record the count.

Section 61(5)(e) of the Act provides that in determining the result of a vote, a Councillor present at the meeting who does not vote is to be taken to have voted against the matter.

### **44. Recount of vote**

The Chairperson may direct that the vote be re-counted as often as may be necessary for him or her to satisfy himself or herself of the result.

### **45. Casting Vote**

In the event of an equality of votes, the Chairperson has a casting vote.

This clause does not apply in the event of an equal number of votes in respect of the election of the Mayor or Deputy Mayor or in cases where the Act provides that a matter is to be determined by lot.

## **46. Division**

Immediately after any matter is voted upon and before the next item of business has commenced, a Councillor may call for a division.

When a division is called, the vote already taken must be treated as a nullity and the voting by division shall decide the motion or amendment. Any Councillor may change their original vote at the voting on the division.

When a division is called, the Chairperson must:

- a) 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 must raise one of his or her hands. The Chairperson must then state, and the Chief Executive Officer (or any person authorised by the Chief Executive Officer to attend the meeting and take the minutes of such meeting) must record the names of those Councillors voting in the affirmative; and
- b) 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 Chairperson must then state, and the Chief Executive Officer (or any person authorised by the Chief Executive Officer to attend the meeting and take the minutes of such meeting) must record the names of those Councillors voting in the negative; and
- c) if required, then ask each Councillor wishing to abstain from voting to raise a hand and, upon such request being made, each Councillor wishing to abstain from voting must raise one of his or her hands. The Chairperson must then state, and the Chief Executive Officer (or any person authorised by the Chief Executive Officer to attend the meeting and take the minutes of such meeting), must record the names of those Councillors abstaining from voting.

In determining the result of a vote, an abstention is counted as a vote in the negative.

## **47. Declaration of vote**

The Chairperson must declare the result of the vote as soon as it is taken.

## **48. Resolution not to be discussed after it is carried**

Except in the case of a motion of rescission or alteration or a Councillor wishing to have his or her opposition to the motion recorded, no resolution may be discussed after the vote upon it has been declared.

## **49. Recording of opposition to motion**

Any Councillor may ask that his or her opposition to a motion adopted by the meeting be recorded. It must then be recorded in the minutes of the meeting.

## **50. Points of order**

A point of order is taken when a Councillor officially draws the attention of the Chairperson to an alleged irregularity in the proceedings that contravenes this Governance Rule, any other Governance Rule or the Act.

Councillors raising a Point of order must:

- a) state the Point of order; and
- b) state any section, clause, paragraph or provision relevant to the Point of order.

A Councillor may raise a Point of order by drawing the attention of the Chairperson to:

- c) the fact that a Councillor or Councillor is out of order; or
- d) an act of disorder, despite the fact that the Chairperson or a Councillor is speaking at the time.

When called to order, a Councillor must sit down and remain silent until the Point of order is decided unless he or she is requested by the Chairperson to provide an explanation.

The Chairperson may raise a Point of order without it having been raised by a Councillor.

A Point of order takes precedence over all other business, including procedural motions.

### **51. Chairperson to decide Point of order**

The Chairperson may adjourn the meeting to consider a Point of order, but must otherwise rule upon it as soon as it is taken.

If called upon to do so by a Councillor, the Chairperson must, when ruling on a point of order, state the provision of this Rule, another Governance Rule or the Act which is relied on in support of the ruling.

### **52. Disagreement with Chairperson's ruling**

A Councillor may move that the meeting disagree with the Chairperson's ruling on a point of order.

When a motion in accordance with this clause is moved and seconded the Chairperson must leave the Chair and a temporary Chairperson, being the Deputy Mayor if present at the meeting, must take his or her place. If Council has not elected a Deputy Mayor or the Deputy Mayor is absent from a meeting of Council, the Chief Executive Officer must take the Chair and invite nominations for a temporary Chairperson. If there is only one nomination (which must be moved and seconded), the candidate nominated is deemed to have been duly elected. If there is more than one nomination, the procedure for the election of the Mayor in Governance Rule – Election of Mayor and Deputy Mayor should be followed.

The temporary Chairperson must invite the mover to state the reasons for his or her dissent and the Chairperson may then reply.

The temporary Chairperson then puts a motion in the following form:

‘That the Chairperson’s ruling be upheld’.

If the vote is in the:

- a) affirmative, the Chairperson resumes the Chair and the meeting proceeds.
- b) negative, the Chairperson resumes the Chair, reverses his or her previous ruling and the meeting proceeds.

The defeat of the Chairperson’s ruling is in no way a motion of censure or no-confidence and should not be regarded as such by the meeting.

### 53. Procedural Motions

A procedural motion is one dealing with the conduct of the meeting itself, and takes precedence over a substantive motion.

A procedural motion may be moved at any time and must be dealt with immediately by the Chairperson in accordance with the procedural motion table below.

A procedural motion requires a seconder.

The mover of a procedural motion must not have moved or seconded the question before the Chair or any amendment of it.

A procedural motion cannot be moved by the Chairperson.

The mover has the right or obligation to justify the procedural motion, thereafter debate is not permitted unless allowed at the discretion of the Chairperson and the mover does not have a right of reply.

A procedural motion cannot be amended.

The procedural motions in the following table are the only procedural motions to be moved.

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## Procedural Motion Table

Procedural Motion	Form	Mover and seconder	When Motion prohibited	Effect if carried	Effect if lost	Debate permitted on Motion
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or * date	Any Councillor who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	<ul style="list-style-type: none"> <li>a. During the election of a Chairperson;</li> <li>b. When another Councillor is speaking</li> </ul>	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
2. Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	<ul style="list-style-type: none"> <li>a. During the election of a Chairperson;</li> <li>b. When another Councillor is speaking; or</li> <li>c. When the motion would have the effect of causing Council to be in breach of a legislative requirement</li> </ul>	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 substantive	During nominations for Chairperson	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate subject to	Debate continues unaffected	No



Procedural Motion	Form	Mover and seconder	When Motion prohibited	Effect if carried	Effect if lost	Debate permitted on Motion
		motion or otherwise spoken to the substantive motion		any Councillor exercising his or her right to ask any question concerning or arising out of the motion		
6. 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; and c. Must be put to the vote as soon as seconded	Any Councillor who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	a. During the election of a Chairperson; b. When another Councillor is speaking; or c. When a motion would have the effect of causing Council be in in a breach of a legislative requirement	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 Council Meeting	Debate continues unaffected	No

## 54. Repetitious Motions

Once a Meeting has rejected a motion, with or without amendment, similar motions to the same effect, even in a different form, are considered to be out of order at that Meeting. A motion similar to an amendment to a motion already dealt with at a Meeting is also not permissible. However, the matter can be legitimately raised again at a subsequent Meeting in accordance with the provisions of this Meeting Procedure.

## 55. Notices of motion

Subject to clause 6.4 of this Rule, a Councillor may move a motion if notice of such motion has been given in accordance with this Rule.

A Notice of Motion must be lodged with the Chief Executive Officer in writing by 12 noon one week prior to the Council Meeting at which it is to be considered. Any Notice of Motion received after that time must, be included on the agenda for the following Council Meeting, unless withdrawn in writing.

A Councillor may also give a Notice of Motion at a Council Meeting in which case, the item will be listed at the next following Meeting of Council.

The full text of the proposed motion must be included on the agenda. No other explanatory information will be included on the agenda.

The Chief Executive Officer may reject a Notice of Motion if he or she is of the opinion that it is:

- a) defamatory;
- b) objectionable in language or nature;
- c) vague or unclear in intention;
- d) is identical or substantially similar to a Notice of Motion or other motion that has been considered by Council in the preceding two (2) months;
- e) may be prejudicial to any person or Council;
- f) can be addressed through the operational service request process;
- g) outside the powers of Council.

If the Chief Executive Officer rejects a Notice of Motion under this clause the Chief Executive Officer must:

- h) Give the Councillor who lodged it an opportunity to amend it, if practical to do so; and
- i) If the Notice of Motion cannot be amended to the satisfaction of the Chief Executive Officer, notify the Councillor who lodged it that it will be rejected and explain the reasons for the rejection.
- j) 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 are received.

Except by leave of the Council, each Notice of Motion before any meeting must be considered in the order in which it was entered in the Notice of Motion Register.

If a Councillor who has given a Notice of Motion:

- k) is absent from the meeting; or
- l) fails to move the motion when called upon by the Chairperson;

any other Councillor may move the motion.

If the motion is not moved and seconded then the Notice of Motion lapses. If a Notice of Motion is lost or lapses a similar motion may not be submitted for two (2) months from the date it was lost or lapsed.

If a Councillor proposing a Notice of Motion wishes to amend the Notice of Motion he/she may do so by seeking leave of Council to amend the Notice of Motion prior to it being seconded.

Except where the Notice of Motion is to confirm a previous resolution of Council, the Notice of Motion may be amended by resolution of Council.

If a Notice of Motion, whether amended or not, is lost, a similar motion cannot again be put before Council for a period of two calendar months from the date it was lost.

A preamble to a Notice of Motion is an explanatory statement that explains the purpose of the Notice of Motion. A Councillor lodging a Notice of Motion must ensure that the content of any preamble provided remains factual.

## **56. Notice of Rescission or Amendment**

A notice of rescission or amendment is a form of Notice of Motion. Accordingly, all provisions in this Governance Rule relating to Notice of Motion equally apply to notices of rescission and amendment.

A rescission motion is a motion to rescind or vary a previous decision of Council.

Motions to rescind or amend a previous resolution must be submitted to the Chief Executive Officer in writing by a minimum of two Councillors and must:

- a) identify the resolution which is proposed to be rescinded or amended; and
- b) the date of the meeting that the resolution was carried.

The Chief Executive Officer must include the notice of rescission on the agenda for the next Council Meeting provided that:

- c) The notice of rescission has been submitted no later than 12 noon 7 days prior to the next Council Meeting; and
- d) The resolution proposed to be rescinded has not already been acted upon.

The Chief Executive Officer or an appropriate member of Council staff may implement a resolution at any time after the close of the meeting at which it was made. A resolution will therefore be deemed to have been acted on if:

- e) its contents have or substance has been formally communicated to a person whose interests are materially affected by it; or
- f) a statutory process has been commenced

so as to vest enforceable rights in or obligations on Council or any other person.

Under section 19(1)(c) of the Act, the Mayor has the power to require the CEO to report to Council on the implementation of a Council decision.

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

- g) has not been acted on; and
- h) is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with this clause.

unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

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

A second or subsequent notice to rescind or alter an earlier resolution must not be accepted by the Chief Executive Officer until a period of two (2) months has elapsed since the date of the Meeting at which the original motion of rescission or alteration was dealt with, unless Council resolves that the matter be dealt with at a future meeting.

This clause will not apply if the CEO, in consultation with the Mayor, considers that significant new information has become available since the previous rescission motion that warrants inclusion of the subsequent rescission motion in the agenda.

If the rescission motion is not moved and seconded then the rescission notice lapses. If a rescission notice is lost or lapses a similar motion may not be submitted for two (2) months from the date it was lost or lapsed.

## **57. Urgent business**

Business can only be admitted as urgent business by Resolution of the Meeting. A majority of Councillors present at a Council Meeting, or delegated committee meeting must vote in favour of admitting the item as urgent business.

Even if the required Councillors carry the motion, it still will not be accepted as urgent business unless it:

- a) relates to or arises out of a matter which has arisen since distribution of the Agenda; and
- b) cannot be deferred until the next Meeting without having a negative impact on the Council, and the local community; and
- c) The Chief Executive Officer will advise the Chairperson of any matter that he or she determines to be appropriate for Council to consider admitting as urgent business.

## **58. Suspension of this Rule**

The provisions of this Rule applicable to a Council Meeting or delegated committee meeting may be suspended for a particular purpose upon the affirmative vote of the majority of Councillors in a Council Meeting, or members present in a delegated committee meeting present.

The suspension of such provisions should be used to enable full discussion of any major issue without the constraints of formal meeting procedure. Suspension of this Rule should not be used purely to dispense with the processes and protocols of this Rule.

Once the discussion has taken place, and before any motions can be put, the resumption of the Rule will be necessary.

No motion may be accepted by the Chairperson or be lawfully dealt with during any suspension of the Rule other than a motion to resume the operation of this Rule.

## **59. Adjournments**

Once a Council Meeting is declared open, Council may, from time to time, resolve to adjourn the meeting:

- a) if the meeting becomes excessively disorderly and order cannot be restored; or
- b) to allow for additional information to be presented to a meeting; or
- c) in any other situation where an adjournment could aid the progress of the meeting.

No discussion is allowed on any motion for adjournment of the meeting, but if on being put the motion is lost, the subject then under consideration must be resolved before any subsequent motion for adjournment is made.

## **60. Notice for Adjourned Council Meeting**

If a Council Meeting is adjourned, the Chief Executive Officer must ensure that the agenda for such a meeting is identical to the Agenda for the meeting which was resolved to be adjourned.

Except where a meeting is adjourned until later on the same day, the Chief Executive Officer must give all Councillors written notice of a new date for the continuation of the adjourned meeting and every reasonable attempt must be made to advise the public of the new meeting date.

Where it is not practical to provide written notice to Councillors because time does not permit that to occur then a reasonable attempt will be made to contact each Councillor, by telephone, electronic medium, or in person.

If circumstances prevent a meeting continuing until all business has been considered, then unless adjourned, the meeting will lapse and any unfinished business will be included on the agenda for the next meeting.

## **61. Priority of address**

In the case of competition for the right to speak, the Chairperson must decide the order in which the Councillors concerned will be heard consistent with this Rule.

A Councillor may request at a Council Meeting, the production of any documents in Council's keeping and relevant to the business being considered.

Upon any request being made the Chief Executive Officer must use his or her best endeavours to produce the documents.

## **Part 3 - Conduct during Council Meetings**

### **62. Councillor conduct**

A Councillor must comply with the Councillor Code of Conduct during the course of any meeting.

### **63. Ordering withdrawal of remark**

The Chairperson may require a Councillor to withdraw any remark which is defamatory, indecent, abusive or offensive in language or substance, or that is disorderly or capable of being applied offensively to any other Councillor or member of Council staff, and/or make a satisfactory apology to the Meeting.

A Councillor required to withdraw a remark and/or make an apology must do so immediately without qualification or explanation.

A Councillor must not fail to withdraw a remark or make an apology if twice called to do so by the Chairperson.

### **64. Removal from Chamber**

Under section 19 of the Act, the Mayor has the power to direct a Councillor, subject to any procedures or limitations in this Rule, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

If a person (including a Councillor) does not leave the meeting when ordered to leave under clause 65 or clause 66, the Chairperson may request a member of Victoria Police to remove that person.

### **65. Suspensions**

If the procedure specified in this clause is followed, Council may suspend a Councillor from a meeting and for the balance of the meeting.

A Councillor must not be suspended unless:

- a) the Chairperson has warned the Councillor that his or her actions are disrupting the business of Council and impeding its orderly conduct; and
- b) the Mayor directs the Councillor to leave the meeting because the behaviour of the Councillor is preventing the Council from conducting its business.

A Councillor must not refuse to leave a meeting when ordered to do so in accordance with this clause.

### **66. Gallery to be silent**

Visitors must not interject or take part in any debate or in any other way interrupt the business of the meeting.

Members of the gallery must be silent at all times.

If any visitor is called to order by the Chairperson and thereafter again acts in breach of this Rule, the Chairperson may order him or her to leave the gallery.

A person must not refuse or neglect to leave a meeting when ordered to do so under this clause.

### **67. Questions from Councillors**

At the discretion of the Chairperson, questions from Councillors to Council Officers or to other Councillors, may be disallowed if it is considered they are asked for purposes other than the simple soliciting of information.

## **68. Procedure not provided in this Rule**

In all cases not specifically provided for by this Rule, the matter may be determined by Council resolution.

## **Part 4 Committees**

### **69. Delegated Committees**

A delegated committee means a committee established by Council under section 63 of the Act, or a joint delegated committee established by 2 or more Councils under section 64, or a committee (other than a community asset committee) exercising any power of a Council under the Act or any other Act delegated to the committee under the Act or any other Act.

Council may from time to time establish one or more delegated committees comprising the following:

- a) at least 2 Councillors; and
- b) may include any other persons appointed to the delegated committee by the Council who are entitled to vote. If Council establishes a delegated committee, this Rule will apply to meetings of the delegated committee with any necessary modifications.

For this purpose:

- c) a Council Meeting is to be read as a reference to a meeting of the delegated committee;
- d) a Councillor is to be read as a reference to a member of the delegated committee.
- e) the Mayor is to be read as a reference to the Chairperson of the delegated committee.

A meeting of a delegated committee established by Council must be chaired by a Councillor, appointed by the Council or the Mayor, to chair meetings.

The Mayor may appoint a Councillor to be the chair of a delegated committee overriding any prior Council appointment.

If Council establishes a delegated committee subject to the Act, Council may resolve that a provision of this Rule does not apply to that Committee.

The agenda for delegated committees will be relevant to the issues which are to be raised at the relevant meeting.

Minutes of meetings of delegated committees will be taken.

If the minutes of any meeting of a delegated committee include a recommendation to Council, the Chief Executive Officer must ensure that such recommendation is reported to the next convenient Council Meeting.

### **70. Joint Council Meeting**

Council may resolve to participate in a Joint Council meeting.

If council has resolved to participate in a Joint Council Meeting, the Chief Executive Officers (or delegates) will facilitate agreement on governance rules with the participating Councils.

Where the participating Councils agree Nillumbik will chair a Joint Council Meeting, the Mayor will be nominated to Chair the Joint Council Meeting.

## **71. Community Asset Committees**

The Governance Rules will apply to any Community Asset Committee established by Council.

Council may resolve, in establishing a Community Asset Committee, which the meeting procedure chapter of these Governance Rules does not apply.

A Community Asset Committee must report the minutes of the Committee Meetings to the next practicable Council meeting.

A Community Asset Committee must act in accordance with its adopted Charter, Instrument of Delegation and any Terms of Reference adopted by Council.

The governance arrangements for these committees are specified by the chief executive (s 47(4)). These terms and conditions must include the limits and purpose of any financial delegation that can be exercised by the committee; governance arrangements; and monitoring and reporting requirements.



## APPENDIX 1

### 1. Cross-Reference to *Local Government Act 2020*

Meeting Procedure clause	Subject	Section of <i>Local Government Act 2020</i>
2	Power to make this Governance Rule	<p><b>60 Governance Rules</b></p> <p>(1) A Council must develop, adopt and keep in force Governance Rules for or with respect to the following—</p> <ul style="list-style-type: none"> <li>(a) the conduct of Council meetings;</li> <li>(b) the conduct of meetings of delegated committees;</li> <li>(c) the form and availability of meeting records;</li> </ul>
5	Definitions “Authorised Officer”	<p><b>Local Government Act 1989</b></p> <p><b>224 Authorised officers</b></p> <p>(1) A Council may appoint any person other than a Councillor to be an authorised officer for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council.</p> <p>(1A) A Council must maintain a register that shows the names of all people appointed by it to be authorised officers.</p> <p>(2) The Council must issue an identity card to each authorised officer.</p> <p>(3) An identity card must—</p> <ul style="list-style-type: none"> <li>(a) contain a photograph of the authorised officer; and</li> <li>(b) contain the signature of the authorised officer; and</li> <li>(c) be signed by a member of Council staff appointed for the purpose.</li> </ul> <p>(3A) If a Council appoints a police officer to be an authorised officer under subsection (1), for the purposes of this section the police officer's certificate of identity is deemed to be an identity card issued under section 224(2) and is deemed to comply with section 224(3).</p>

Meeting Procedure clause	Subject	Section of <i>Local Government Act 2020</i>
		<p>(4) An authorised officer must produce his or her identity card upon being requested to do so.</p> <p>(5) An action taken or thing done by an authorised person is not invalidated by the failure of an authorised officer to produce his or her identity card.</p> <p>(6) For the purposes of this section, an authorised officer may demand the name and address of a person who has committed, or who the authorised officer reasonably suspects has committed or is about to commit, an offence against any Act, regulation or local law in respect of which he or she is appointed.</p> <p>(6A) In making such a demand, the authorised officer must inform the person of the grounds on which the demand is made in sufficient detail to enable the person to understand the nature of the offence or suspected offence. 10 penalty units.</p> <p>(7) An authorised officer may enter any land or building in the municipal district at any reasonable time to carry out and enforce this or any other Act or any regulation or local law.</p> <p>(8) A person is guilty of an offence and liable to a fine not exceeding 60 penalty units if he or she—</p> <ul style="list-style-type: none"> <li>(a) refuses to give his or her name and address upon demand by an authorised officer; or</li> <li>(b) obstructs or hinders an authorised officer while performing his or her duty; or</li> <li>(c) falsely represents himself or herself to be an authorised officer.</li> </ul>
5	Definitions “Delegated Committee”	<p><b>63 Delegated committees</b></p> <p>(1) A delegated committee established by a Council—</p> <ul style="list-style-type: none"> <li>(a) must include at least 2 Councillors; and</li> <li>(b) may include any other persons appointed to the delegated committee by the Council who are entitled to vote.</li> </ul>

Meeting Procedure clause	Subject	Section of <i>Local Government Act 2020</i>
		<p>(2) A meeting of a delegated committee established by a Council must be chaired by—</p> <ul style="list-style-type: none"> <li>(a) a Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee; or</li> <li>(b) if the Councillor appointed by the Council or the Mayor to chair meetings of the delegated committee is not present at the meeting, a Councillor who is present at the meeting and is appointed by the members of the delegated committee who are present at the meeting.</li> </ul> <p>(3) Section 61 applies to a meeting of a delegated committee as if the members were Councillors.</p>
6.3	Attendance at meetings	<p><b>66 Meetings to be open to the public unless specified circumstances apply</b></p> <p>66(1) A Council or delegated committee must keep a meeting open to the public unless the Council or delegated committee considers it necessary to close the meeting to the public because a circumstance specified in subsection (2) applies.</p> <p>(2) The circumstances are—</p> <ul style="list-style-type: none"> <li>(a) the meeting is to consider confidential information; or</li> <li>(b) security reasons; or</li> <li>(c) it is necessary to do so to enable the meeting to proceed in an orderly manner.</li> </ul> <p>(3) If the circumstance specified in subsection (2)(b) or (2)(c) applies, the meeting can only be closed to the public if the Council or delegated committee has made arrangements to enable the proceedings of the meeting to be viewed by members of the public as the meeting is being held.</p> <p>(4) For the purposes of subsection (3), the arrangements may include provision to view the proceedings on the Internet or on closed circuit television.</p> <p>(5) If a Council or delegated committee determines that a meeting is to be closed to the public to consider confidential information, the Council or</p>

Meeting Procedure clause	Subject	Section of <i>Local Government Act 2020</i>
		<p>delegated committee must record in the minutes of the meeting that are available for public inspection—</p> <p>(a) the ground or grounds for determining to close the meeting to the public by reference to the grounds specified in the definition of <b>confidential information</b> in section 3(1); and</p> <p>(b) an explanation of why the specified ground or grounds applied.</p>
7.1	Failure to raise or maintain a quorum	<p><b>67 Council decision making where quorum cannot be maintained</b></p> <p>(1) This section applies if a Council cannot maintain a quorum because of the number of Councillors who have a conflict of interest in a decision in regard to a matter.</p> <p>(2) The Council must consider whether the decision can be made by dealing with the matter in an alternative manner.</p> <p>(3) For the purposes of subsection (2), an <b>alternative manner</b> may include—</p> <p>(a) resolving to split the matter into 2 or more separate parts, so that a quorum can be maintained for each separate part; or</p> <p>(b) making prior decisions on component parts of the matter at a meeting for which a quorum can be maintained, before deciding the overall matter at a meeting for which a quorum can be maintained.</p> <p>(4) Subject to complying with any requirements under any other Act, if a Council is unable to use an alternative manner, the Council must decide to establish a delegated committee to make the decision in regard to the matter consisting of—</p> <p>(a) all the Councillors who have not disclosed a conflict of interest in regard to the matter; and</p> <p>(b) any other person or persons that the Council considers suitable.</p> <p>(5) Section 63(2) applies to a delegated committee established under subsection (4) to the extent</p>

Meeting Procedure clause	Subject	Section of <i>Local Government Act 2020</i>
		possible after excluding all the Councillors who have disclosed a conflict of interest in regard to the matter.
14(j)	Record of Proceedings	<p><b>66 Meetings to be open to the public unless specified circumstances apply</b></p> <p>(2) The circumstances are—</p> <p>(a) the meeting is to consider confidential information; or</p> <p>(b) security reasons; or</p> <p>(c) it is necessary to do so to enable the meeting to proceed in an orderly manner.</p>
21(e)	Public Question Time	<p><b>66 Meetings to be open to the public unless specified circumstances apply</b></p> <p>(2) The circumstances are—</p> <p>(a) the meeting is to consider confidential information; or</p> <p>(b) security reasons; or</p> <p>(c) it is necessary to do so to enable the meeting to proceed in an orderly manner.</p>
43	Voting	<p><b>61 Council meetings</b></p> <p>(5) A question before a Council meeting is to be determined as follows—</p> <p>(e) for the purpose of determining the result of a vote, a Councillor present at the meeting who does not vote is to be taken to have voted against the question.</p>
64	Removal from Chamber	<p><b>19 Specific powers of the Mayor</b></p> <p>(1) The Mayor has the following specific powers—</p> <p>(b) to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.</p>
70	Joint Council Meetings	<b>62 Joint Meetings of Council</b>

Meeting Procedure clause	Subject	Section of <i>Local Government Act 2020</i>
		<p>(1) Two or more Councils may determine to hold a joint meeting.</p> <p>(2) A joint meeting is a Council meeting of each Council for the purposes of this Act and the provisions of this Act, except section 61(3), (4) and (5)(d), apply accordingly.</p> <p>(3) A joint meeting is to be constituted by the Councillors of the Councils holding the joint meeting consisting of—</p> <p style="padding-left: 40px;">(a) the total number of Councillors determined by the Councils holding the joint meeting; and</p> <p style="padding-left: 40px;">(b) at least 3 Councillors from each of the Councils holding the joint meeting.</p> <p>(4) A quorum at a joint meeting is constituted by the number of Councillors that is equal to at least a majority of the Councillors from each of the Councils holding the joint meeting.</p> <p>(5) Subject to subsections (2) and (6), the procedures for conducting a joint meeting are to be determined by the Councils holding the joint meeting.</p> <p>(6) A joint meeting must comply with any requirements prescribed by the regulations.</p>
71	Committee Asset Committee	<p><b>65 Community Asset Committee</b></p> <p>(1) A Council may establish a Community Asset Committee and appoint as many members to the Community Asset Committee as the Council considers necessary to enable the Community Asset Committee to achieve the purpose specified in subsection (2).</p> <p>(2) A Council may only establish a Community Asset Committee for the purpose of managing a community asset in the municipal district.</p> <p><b>Note</b> Delegation of Power, Duties and Functions to members of a Community Asset Committee is provided for in Section 47 of the Act.</p>

Meeting Procedure clause	Subject	Section of <i>Local Government Act 2020</i>
		<p>(1) The Chief Executive Officer may by instrument of delegation delegate any power, duty or function of the Council that has been delegated to the Chief Executive Officer by the Council to—</p> <ul style="list-style-type: none"> <li>(a) a member of Council staff; or</li> <li>(b) the members of a Community Asset Committee.</li> </ul> <p>This mean Council may not delegate directly to a Community Asset Committee.</p>

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## Governance Rule

# Election of Mayor and Deputy Mayor

<b>Version Number</b>	
<b>Approved by</b>	Council
<b>Approval date</b>	
<b>Effective date</b>	1 September 2020
<b>Date of last revision</b>	
<b>Date of next review*</b>	

\*Unless replaced, this policy will still apply beyond the review date.

<b>Related internal policies, procedures and guidelines</b>	<ul style="list-style-type: none"><li>• Councillor Code of Conduct</li><li>• Code of Conduct for Members of Council Staff</li></ul>
<b>Related legislation</b>	<ul style="list-style-type: none"><li>• <i>Local Government Act 2020</i></li></ul>



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## 1. Election of Mayor and Deputy Mayor

### 1.1. Election of Mayor and Deputy Mayor

Subject to section 167 (determinations by a Councillor Conduct Panel) of the Act, a Councillor is eligible for election or re-election to the office of Mayor.

The Councillors must elect a Councillor to be the Mayor at a meeting specifically convened for the purpose and held in accordance with the Act as soon as possible after any vacancy in the office of the Mayor occurs.

The agenda for the meeting to elect the Mayor must include:

- a) the appointment of a temporary chairperson; and
- b) the election of the Mayor.

The Chief Executive Officer will be the first temporary Chairperson of the meeting at which the election of Mayor is to be conducted but will have no voting rights.

The Chief Executive Officer must invite nominations for a second temporary Chairperson. If there is only one nomination, the candidate nominated is deemed to have been elected. If there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates by show of hands and the candidate receiving a majority of the votes must be declared to have been duly elected.

The second temporary Chairperson must invite nominations for the office of Mayor.

If there is only one nomination (which must be seconded), the candidate nominated is deemed to be elected until the next meeting held to elect the Mayor or the next general election (whichever happens sooner).

If there is more than one nomination (each of which must be seconded), a vote must be taken to elect one of the candidates by a show of hands. In the event of a candidate receiving an absolute majority\*, that candidate is declared to have been elected.

In the event that no candidate receives an absolute majority, the candidate with the fewest number of votes is declared to be a defeated candidate. A further vote will then be taken for the remaining candidates by show of hands.

If one of the remaining candidates receives an absolute majority, he or she is duly elected. If none of the candidates receives an absolute majority, the process of declaring the candidate with the fewest number of votes a defeated candidate and voting for remaining candidates by a show of hands (or by such other method as Council determines) must be repeated until one of the candidates receives an absolute majority. That candidate must then be declared to have been duly elected.

The temporary Chairperson shall not have a second or casting vote.

If an absolute majority cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date.

*\* In the procedure for the election of the Mayor **absolute majority** means the number of Councillors which is greater than half the total number of the Councillors of a Council (Section 25(7) of the Act).*

### **1.2. Mayor to take Chair**

After the election of the Mayor is determined, the Mayor must take the Chair.

The Mayor must take the Chair at all meetings of Council at which he or she is present, unless precluded from doing so because of a conflict of interest.

### **1.3. Absence of Mayor or Chairperson**

If the Mayor is absent from a Council Meeting or is required to temporarily vacate the Chair under the Governance Rules, the Deputy Mayor, shall take the Chair. If the Deputy Mayor is absent from a meeting of Council, a temporary Chairperson shall be elected in accordance with the procedure for the election of the Mayor.

If the Chairperson of a delegated committee is absent from a delegated committee meeting or is required to temporarily vacate the Chair under the Governance Rules, then the temporary Chairperson shall be:

- a) the Mayor;
- b) the Deputy Mayor (if the Mayor is also absent); or
- c) if both the Mayor and Deputy Mayor are also absent, the delegated committee shall elect a temporary Chairperson in accordance with the procedure for the election of the Mayor.

### **1.4. Procedure for election of Deputy Mayor**

To elect a Deputy Mayor, Council must follow the procedure for the election of Mayor with such adaptations as necessary.

The Mayor shall take the Chair for the election of a Deputy Mayor.

### **1.5. Removal of a 2 year term Mayor or Deputy Mayor**

Council in accordance with section 23 of the Act may declare the office of Mayor vacant, if the motion is passed by a majority of at least three-quarters of all of the Councillors in office.

# Governance Rule

## Election Period Policy

Version Number	1
Approved by	Council
Approval date	xx xx 2020
Effective date	1 September 2020
Date of last revision	
Date of next review*	1 August 2024

\*Unless replaced, this policy will still apply beyond the review date.

Related internal policies, procedures and guidelines	<ul style="list-style-type: none"><li>• Councillor Code of Conduct</li><li>• Code of Conduct for Members of Council Staff</li></ul>
Related legislation	<ul style="list-style-type: none"><li>• <i>Local Government Act 2020</i></li></ul>

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## Purpose

The Election Period Policy (**Policy**) has been developed in order to ensure that the general election for Nillumbik Shire Council on Saturday 24 October 2020 and subsequent elections are conducted in a manner that is ethical, fair and equitable, and are publicly perceived as such.

The Policy ensures that the ordinary business of Council continues throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established 'caretaker' conventions.

## Scope

Council will function in accordance with this Policy during the election period commencing at 12.00am on Tuesday 22 September 2020 and concluding at 6:00pm on Saturday 24 October 2020.

The Policy addresses the legal requirements by providing guidance at an operational level to ensure compliance, and builds on the minimum statutory standards to enhance the transparency and accountability of Councillors and Council officers during the election period.

This Policy overrides any prior Council policy or document that refers to a 'caretaker' or election period.

## Legislative Context

The *Local Government Act 2020* (the Act) sets out the provision regarding the responsibilities, functions and powers of Council in the period leading up to a general election.

Section 60 of the Act requires councils to adopt and maintain an Election Period Policy in accordance with section 69 in relation to procedures to be applied by Council during the election period for a general election.

A copy of this Policy should be given to each Councillor as soon as practicable after it is adopted, and be made available for public inspection at Council offices and Council's website.

## Policy

### 1. Council Decision Making

Matters of Council business requiring major policy decisions or significant decisions are scheduled to enable a Council resolution prior to the commencement of the election period, or deferred where appropriate, for determination of the incoming Council.

#### 1.1 Prohibited decisions

Section 69 of the Act prohibits any Council decision during the election period for a general election:

- a) Relating to the employment or remuneration of a Chief Executive Officer (CEO), but not to the appointment or remuneration of an Acting CEO;
- b) That commits the Council to expenditure which exceeds 1%\* of the Council's income from general rates, municipal charges and service rates levied in the preceding financial ; or
- c) The Council considers could be reasonably deferred until the next Council is in place; or
- d) The Council considers should not be made during an election period.

\*For the purposes of the 2020 election period, 1% of revenue from rates and charges of the adopted 2019/2020 Budget.

A Council decision made in contravention of paragraph (a) or (b) above, is invalid and any person who suffers loss or damage as a result of acting in good faith on that decision is entitled to compensation from Council for the loss or damage.

#### 1.2 Decisions enabling use of Council resources

During the election period for a general election or by-election Council is prohibited from making a decision that would enable the use of Council resources in a way intended to influence, or likely to influence voting at the election.

### 2. Public consultation and Council events

Limits are placed on public consultation and the scheduling of Council events during the election period.

#### 2.1 Public consultation

Public consultation is a process that involves an invitation to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy, and includes discussion of that matter with the public.

Public consultation should be avoided during the election period, unless required under the *Planning and Environment Act 1987*.

Some public consultation activities may be necessary during the election period to facilitate the day-to-day business of Council and ensure matters continue to be proactively managed. Any such public consultations will avoid express or implicit links to the election and must receive prior approval from the CEO.



In view of the potential for a matter to become contentious or politically sensitive in the course of the election period, Council reserves the right to postpone a matter if the issue is likely to affect voting at the election.

Where public consultation commences prior to the election period, the results of that consultation will not be reported until after the election period, unless approved by the CEO.

## **2.2 Council events**

**Council will not schedule any special events such as official openings or launches during the election period.**

Annual, recurring shire-wide community events that are scheduled to take place during the election period will proceed, but there will be no formal role for Councillors at these events.

All other Council events will be scheduled to take place outside of the election period. Any publicity materials related to these events will be subject to the publication constraints outlined in Clause 3 of the Rule.

Councillors may continue to attend external events and functions during the election period, however speeches, background briefings and other Council resources will not be provided by Nillumbik Shire Council.

## **3. Council publications**

### **3.1 Prohibition on publishing material**

In light of the major commitment of Council resources that is required during an election period to assess whether or not Council documents contain electoral matter, there will be restrictions placed on the number of Council documents published during the election period.

Only publications deemed essential to the day-to-day operations of Council during the election period will be assessed for compliance with section 304(2) of the Act. These publications would include information to communicate a change or disruption to a Council service or an emergency which impacts on the health and wellbeing of community members.

All other documents must only be published either before or after the election period and not during that period. Council officers are to be given timely notification of the publication requirements of this Rule, and are required to schedule the publication of non-essential documents to a date outside of the election period.

### **3.2 Certification of publications**

Publications to be printed, published or distributed during the election period must be assessed as to whether they contain electoral matter.

Publications which require assessment include:

- Brochures, pamphlets, handbills, flyers, magazines, e-newsletters and books;

- Reports (other than agenda papers and minutes as outlined in clause 3.7);
- Advertisements and notices except newspaper notices of meetings;
- New website material;
- Social media posts (including Facebook and Twitter);
- Emails with multiple addressees, used for broad communication with the community;
- Mass mail outs or identical letters sent to a large number of people by or on behalf of Council;
- Media releases;
- Material to publicise a function or event; and
- Any publication or distribution of Councillor speeches.

### **3.3 Prohibited material**

Electoral matter as defined in the Act means any matter which intended or likely to affect voting in an election, but does not include any material produced by or on behalf of the election manager for the purposes of conducting an election.

A publication is taken to contain electoral matter if it contains an express or implicit reference to, or comment on:

- The election; or
- A candidate in the election; or
- An issue submitted to, or otherwise before, the voters in connection with the election.

Electoral matter includes material which:

- Publicises the strengths or weaknesses of a candidate;
- Advocates the policies of the Council or of a candidate;
- Responds to claims made by a candidate;
- Publicises the achievements of the elected Council.

### **3.4 Council publications containing Councillor information**

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

### **3.5 Council's website**

Material published on Council's website in advance of the election period is not subject to assessment, however existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that may be considered electoral matter, were it to be published during the election period.

Councillor contact information will remain available on the website during the election period, but Councillors' profiles will be removed.

No new material is to be published on Council's website during the election period unless it is considered to be essential to the operation of Council during that period.

### **3.6 Social media**

Any publication on Council's corporate social media accounts including Facebook, Twitter, Instagram and the like during the election period must be assessed by Council staff.

No material is to be posted on any of Council's social media accounts during the election period, unless it is considered essential to the day-to-day operations of Council during that period.

Council officers responsible for administering individual social media accounts will monitor their respective accounts during the election period and must use moderation features where available to ensure no electoral matter is posted on these accounts.

The restrictions imposed by this Policy do not apply to the personal social media accounts of Councillors, provided that they do not use Council resources such as photographs taken by Nillumbik Shire Council.

### **3.7 Council and Committee business papers**

**Council will not schedule any Council Meetings, Future Nillumbik Committee meetings or delegated committee meetings during the election period.**

The agenda papers and minutes of any Council or committee meetings which may need to be scheduled during the election period as a matter of urgency do not require assessment by Council staff unless they are printed or published for a wider distribution than normal.

### **3.8 Annual Report**

Council is required under section 98 of the Act to produce its Annual Report. The 2019-2020 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.

## **4. Council resources**

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

## **4.1 Role of officers**

The Executive Assistant to the Mayor and Councillors, Governance staff, or any other officers, must not be asked to undertake any tasks connected directly or indirectly with the election campaign of a Councillor standing for re-election.

## **4.2 Use of Council equipment by Councillors**

Councillors may continue to use any Council equipment provided to them to facilitate their performance of normal Council duties, subject to existing protocols and terms of use. Councillors standing for re-election must not use Council equipment (including mobile phones, tablets, laptops, computers or printers) as a resource to assist with election campaigns.

The allocated Mayoral motor vehicle must only be used for normal Mayoral activities during the election period and not to assist, or give the perception of assisting, an election campaign.

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

## **4.3 Councillor reimbursement**

Reimbursements of Councillors' out-of-pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that support or are connected with an election campaign.

## **4.4 Ward-specific publications and activities**

No Ward meetings are to be held during the election period. Ward-specific publications or Councillor profiles and articles in the media, will not be arranged or published by Council during the election period.

## **4.5 Officer discretion**

Council will ensure that due propriety is observed in the use of all Council resources. Officers are required to exercise appropriate discretion in that regard. Where the use of Council resources appears to relate to the election campaign of a Councillor standing for re-election, the matter must be referred to the CEO or his or her delegate.

# **5. Media and publicity**

## **5.1 Restriction on services**

Council's Communications and Engagement team undertakes the promotion of Council activities and initiatives.

During the election period, this team's services must not be used in any way that might promote a Councillor as an election candidate.

Council publicity during the election period will be restricted to communicating essential information.

## **5.2 Media releases / Spokespersons**

Media releases will minimise references to specific Councillors and will not identify any Councillor in a manner that could promote a Councillor as an election candidate. Where it is necessary to identify a spokesperson, the CEO or his or her delegate will be consulted.

Media releases will require assessment by the Executive Manager Governance Communications and Engagement.

## **5.3 Councillors**

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

## **5.4 Council officers**

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

# **6. Information**

## **6.1 Candidate information**

All election candidates have equal rights to information relevant to their election campaigns from the Council administration. While it is important that sitting Councillors continue to receive information that is necessary to fulfil their existing elected roles, neither Councillors nor candidates will receive information or advice (including any internal Council publications) from Council officers that may improperly advantage candidates in the election.

In conjunction with external organisations such as Victorian Electoral Commission, Municipal Association of Victoria, and Victorian Local Governance Association, where appropriate, Council officers will assist with the facilitation of candidate information sessions for election candidates or potential election candidates.

## **6.2 Election Campaign Return**

Further to section 306 of the Act, candidates will be advised of the requirements to complete and submit an Election Campaign Return to the CEO within 40 days after the election day. The Return must contain details of any campaign donation or gift valued at, or greater than the gift disclosure threshold, received.

## **6.3 Information Request Register**

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

## **6.4 Role of Returning Officer**

All election-related enquiries from candidates, whether sitting Councillors or not, will be directed to the election manager or, where the matter is outside the responsibilities of the election manager, to the CEO or his or her delegate.

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## Governance Rule

# Procedure for Disclosure of Conflict of Interests

<b>Version Number</b>	1
<b>Approved by</b>	Council
<b>Approval date</b>	August 2020
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<b>Date of last revision</b>	
<b>Date of next review*</b>	August 2024
<b>Responsible Manager</b>	Executive Manager Governance, Communications and Engagement

\*Unless replaced, this policy will still apply beyond the review date.

<b>Related internal policies, procedures and guidelines</b>	<ul style="list-style-type: none"><li>• Governance Rules</li><li>• Public Transparency Principles</li><li>• Councillor Code of Conduct</li></ul>
<b>Related legislation</b>	<ul style="list-style-type: none"><li>• <i>Local Government Act 2020</i></li></ul>

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## 1 Definition

Sections 127 & 128 of the *Local Government Act 2020* (the Act) define when a Councillor will have a conflict of interest either general, or material. The onus is on the Councillor to identify any conflicts of interest in matters before Council or a delegated committee.

## 2 Conflict of interest (sections 126 – 131)

- **General conflict of interest** based on assessment of an impartial, fair-minded person (private interests conflicting with public duty)
- **Material conflict of interest** based on an **affected person** gaining a benefit or suffering a loss
- General **exemptions apply**

## 3 Material conflict of interest (section 128)

- **Affected person** would gain a benefit or suffer a loss depending on the outcome of the matter
- The benefit/loss can be-
  - direct or indirect
  - pecuniary or non-pecuniary
- Affected person can be a Councillor, staff member and committee member or a family member, body corporate, employer, business partner, consultant, contractor, agent, trustee or recipient of a **disclosable gift**

## 4 Conflict of interest exemptions

- Remote or insignificant
- Interest held in common with a **substantial proportion** of residents, ratepayers or electors
- Reasonably unaware of circumstances
- Council representative on not-for-profit organisation
- Membership of sporting club or community body
- Member of body that has expressed an opinion or advocated for an outcome
- Matter prescribed to be exempt for Councillors only

Councillors must comply with the requirements of sections 130 and 131 (Disclosure of conflict of interest) of the Act.

A Councillor or member of a delegated committee who has a conflict of interest in a matter before Council or a delegated committee, or a community asset committee or which arises in the exercise of a delegates power by a council staff member or a statutory function under any Act:

- a) should complete a 'Disclosure of Conflict of Interest Form' and lodge it with the Chief Executive Officer prior to the commencement of the Meeting;
- b) must disclose any conflict of interest which he/she has in an item of business at the time specified on the Agenda;
- c) must immediately before the consideration of the relevant matter, classify the conflict of interest as either a general conflict of interest or a material conflict of interest, specifying the particular kind of any material conflict of interest and describing the nature of the interest;
- d) must leave the Chamber prior to discussion on the matter;
- e) must notify the Chairperson that he/she is leaving the Chamber; and
- f) must remain outside the Chamber or any other area in view or hearing of the Chamber until the vote has been taken.

In the event that the Chairperson has disclosed a conflict of interest, he/she must vacate the Chair and a temporary Chairperson must be elected in accordance with subrule 1.3 of the Governance Rule – Election of the Mayor and Deputy Mayor.

Where a Councillor has vacated the Chamber after disclosing a conflict of interest, the Councillor must be called back into the Chamber before the meeting can advance to the next item of business.

Disclosure of Conflict of Interest at other meeting by a Councillor is subject to these rules and section 131 of the *Local Government Act 2020*. A member of Council staff must comply with section 130 of the *Local Government Act 2020*.

# Governance Rule

## Decision-making Policy

<b>Version Number</b>	1
<b>Approved by</b>	Council
<b>Approval date</b>	August 2020
<b>Effective date</b>	1 September 2020
<b>Date of last revision</b>	
<b>Date of next review*</b>	August 2024
<b>Responsible Manager</b>	Executive Manager Governance, Communications and Engagement

\*Unless replaced, this policy will still apply beyond the review date.

<b>Related internal policies, procedures and guidelines</b>	<ul style="list-style-type: none"> <li>• Governance Rules</li> <li>• Public Transparency Principles</li> <li>• Councillor Code of Conduct</li> <li>• Code of Conduct for Members of Council Staff</li> </ul>
<b>Related legislation</b>	<ul style="list-style-type: none"> <li>• <i>Charter of Human Rights and Responsibilities Act 2006</i></li> <li>• <i>Local Government Act 2020</i></li> <li>• <i>Equal Opportunity Act 2010</i></li> </ul>

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## Introduction

In accordance with the *Local Government Act 2020* (the Act), Council's role is to provide governance and leadership for the Nillumbik community through advocacy, decision-making and action.

Adherence to Governance Rules will assist Council in achieving this role.

This Governance Rule has been developed to meet Council's goal of good governance in its municipal district for the benefit and wellbeing of the municipal community. It incorporates those overarching and supportive governance principles to which Council is committed.

Council has a separate Councillor Code of Conduct in accordance with section 139 of the Act which includes the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions as Councillors, including prohibiting discrimination, harassment and vilification.

## Definitions

When the following terms are used they mean:

Administration	The paid employees of the Council, headed by the Chief Executive Officer
CEO	Chief Executive Officer, the most senior position in the Administration. This position is directly accountable to Council.
Councillor	Elected community representative
Council	Elected representatives sitting as Council
Mayor	The elected leader of the Councillors
The Act	<i>Local Government Act 2020</i> , one of the two primary pieces of State Government legislation under which local government operates, the other being the <i>Local Government Act 1989</i> .
Local Law	Under the Act, local governments have the power (and in some cases the requirement) to develop local legislation to cover certain areas.

## Key roles

We believe that an understanding and agreement of the different roles within a local government helps us govern better. At Nillumbik, the key roles are as follows.

### Council

The Act defines the role of a Council as:

1. A Council is elected to provide leadership for the good governance in its municipal district for the benefit and wellbeing of the municipal community.
2. The Council provides good governance if it performs in accordance with the overarching governance principles and supporting principles summarised as:
  - a) Valid decision making and implementation
  - b) Best outcomes for the municipal community
  - c) Economic, social and environmental sustainability

- d) Engagement of the municipal community in strategic planning and strategic decision making
- e) Innovation and continuous improvement
- f) Collaboration with other Councils and governments, and statutory bodies
- g) Ongoing financial viability
- h) Strategic planning and decision making must consider regional, state and national plans and policies
- i) Transparency of Council decisions, actions and information

## Mayor

At Nillumbik, we recognise that the Mayor is the leader of Council and the local government as a whole. We also understand that the Mayor does not have any statutory authority over other Councillors and that the leadership roles of the position can only exist if all Councillors accept this role.

### Section 18 of the of the Act - Role of the Mayor

- (1) The role of the Mayor is to—
- (a) **chair** Council meetings; and
  - (b) be the **principal spokesperson** for the Council; and
  - (c) **lead engagement** with the municipal community on the development of the Council Plan; and
  - (d) report to the municipal community, at least once each year, on the implementation of the Council Plan; and
  - (e) **promote behaviour** among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct; and
  - (f) assist Councillors to understand their role; and
  - (g) take a **leadership role** in ensuring the regular review of the performance of the Chief Executive Officer; and
  - (h) provide **advice** to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings; and
  - (i) perform civic and ceremonial duties on behalf of the Council.
- (2) The Mayor is not eligible to be elected to the office of Deputy Mayor.

### Section 19 of the Act - Specific powers of the Mayor

- (1) The Mayor has the following specific powers—
- (a) to **appoint** a Councillor to be the chair of a delegated committee;
  - (b) to **direct** a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business;
  - (c) to **require** the Chief Executive Officer to report to the Council on the implementation of a Council decision.

- (2) An appointment under subsection 1(a) prevails over any appointment of a chair of a delegated committee by the Council.

## **Councillors**

Section 28 of the Act provides that the role of a Councillor is:

- To participate in the decision-making of the Council.
- To represent the municipal community in that decision-making 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 Councillor, a Councillor must:

- Consider the diversity of interests and needs of the local community
- To participate in Council decision making
- To represent the interests of the municipal community (not personal) in that decision making
- To acknowledge and support the role of the Mayor
- To act in accordance with the standards of conduct
- To comply with procedures required for good governance
  - Not involve themselves in the CEO's responsibilities and functions – particularly operational matters

The role of Councillor does not include the performance of any responsibilities or functions that are specified as functions of the Chief Executive Officer.

Councillors agree to comply with the requirements of section 28 of the Act.

## **Deputy Mayor**

The Deputy Mayor's roles are:

- To deputise for the Mayor in his/her absence
- To provide support for the Mayor as agreed between the Mayor and Deputy Mayor and by the Council.
- To perform the role of the Mayor and may exercise any of the powers of the Mayor if—
  - the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting
  - the Mayor is **incapable** of performing the duties of the office of Mayor for any reason, including illness
  - the office of Mayor is vacant

## **Chief Executive Officer**

The CEO is responsible for managing interactions between Council staff and Councillors including by ensuring that appropriate Governance Rules, policies, practices and

protocols are in place defining appropriate arrangements for interaction between Council staff and Councillors.

Councillors undertake to respect the functions of the CEO and to comply with the Governance Rules, policies, practices and protocols defining appropriate arrangements for interaction between Council staff and Councillors that are put in place by the CEO.

The Act describes the responsibilities of the CEO as:

- establishing and maintaining an appropriate organisational structure for the Council
- ensuring that the decisions of the Council are implemented without undue delay
- the day to day management of the Council's operations in accordance with the Council Plan
- developing, adopting and disseminating a code of conduct for Council staff
- providing timely advice to the Council
- ensuring that the Council receives timely and reliable advice about its legal obligations under this Act and any other Act
- supporting the Mayor and the Councillors in the performance of their roles
- 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 *Workplace Injury Rehabilitation and Compensation Act 2013*
- performing any other function or duty of the CEO specified in this Act or any other

The functions of the CEO include –

- Setting the agenda for Council meetings after consulting the Mayor
- Managing interactions between Councillors and staff
- Maintaining a workforce plan which:
  - Describes the organisational structure
  - Specifies the projected staffing requirements for a period of at least 4 years
  - Promotes gender equity, diversity and inclusiveness

In addition to these functions, s46 of the Act states that the CEO in the Workplace Plan to operate from 1 January 2022:

- may appoint as many members of Council staff as are required to enable the functions of the Council under the Act or any other Act to be carried out and to enable the CEO to carry out her or his functions
- is responsible for appointing, directing, managing and dismissing Council staff and for all other issues that relate to Council staff
- is responsible for managing interactions between Council staff and Councillors including by ensuring that appropriate Governance Rules policies, practices and protocols are in place defining appropriate arrangements for interaction between Council staff and Councillors.

## **Administration**

Key roles of the Administration are:

- Delivery of programs and services (within budgets)



- Through the CEO, providing support, advice and information to Council and Councillors
- Implementing Council decisions
- Ensuring compliance with relevant legislation.

The Administration recognises that its functions should support good governance and will always strive to do so.

## Key relationships

At Nillumbik, we believe that good working relationships are a key factor in helping us govern well. All relationships at Nillumbik should be characterised by our values and an understanding of everyone's different roles. The key relationships and their characteristics are as follows.

### Mayor/Councillors

A good relationship between the Mayor and Councillors will help us work together to deliver the Council Plan. It will also increase the public credibility of the organisation.

The role of the Mayor is to:

- Chair Council meetings; and
- Be the principal spokesperson for the Council; and
- Lead engagement with the municipal community on the development of the Council Plan; and
- Report to the municipal community, at least once each year, on the implementation of the Council Plan; and
- Assist Councillors to understand their role; and
- Take a leadership role in ensuring the regular review of the performance of the CEO; and
- Provide advice to the CEO when the CEO is setting the agenda for Council meetings; and
- Perform civic and ceremonial duties on behalf of the Council.
- The Mayor should be an early contact point if there are disputes between Councillors and has the responsibility for promoting behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct.

### Councillors/Councillors

Councillors need to work with each other to achieve their individual and collective goals. Good relationships between Councillors will assist in achieving a successful Council, a pleasant working environment and a Council with public credibility.

- While they may have different views, Councillors should treat each other with respect and courtesy.
- Disagreements, if they must be aired, should be expressed in a way that causes no detriment to individual Councillors or the Council as a whole.
- Councillors should adhere to the 'no surprises' principle in their relationships with each other.

- Debate and discussions should focus on issues and not on personalities.

### **Mayor/CEO**

This important relationship can assist in the smooth running of the local government through good communication and anticipation of issues. It should be outward looking – that is focused on how the elected representatives and the organisation can be supported to best achieve Nillumbik’s goals.

- The Mayor and CEO need to work closely together and must strive for a good working relationship.
- The relationship between the Mayor and CEO needs to be characterised by consistency, openness and good communication. Each has the responsibility to keep the other informed about important and relevant issues. Good communication should ensure that an understanding develops about what is important and relevant.
- The Mayor and the CEO understand that each has different roles and authorities. At Nillumbik, we understand that, while the Mayor is the leader of the local government, this position has no statutory authority (other than to chair meetings of Council) while the CEO has specific authorities. The relationship between the Mayor and the CEO is sensitive to this issue.
- The CEO is conscious of the Mayor’s role in assisting Councillors to address their issues and achieve their goals and should always be looking to support this.
- At Nillumbik, the relationship between the Mayor and the CEO aims to facilitate involvement and inclusion amongst the elected representatives and the Administration. It does not seek to concentrate power in the relationship.
- At Nillumbik, the Mayor and the CEO recognise the importance of consistent communication, and to support, this will have regular meetings.

### **Councillors/CEO**

Good relationships between Councillors and the CEO assist good governance. The CEO is often able to assist Councillors in addressing constituent issues. Councillors can help keep the CEO informed about what is happening in the community. Good relationships between the CEO and Councillors can improve liaison between Councillors and the Administration.

The CEO is also accountable to Councillors when they sit as Council. Councillors sitting as Council are also responsible for performance management of the CEO.

- At Nillumbik, we recognise that performance management of the CEO is important to Nillumbik achieving its goals. We understand that setting the goals for the CEO as leader of the administration and assessing performance against these goals is very important. Councillors commit themselves to spending the necessary time to set the goals as well as assessing their achievement;
- We understand that the relationship between Councillors and the CEO is based on a good understanding of each other’s roles
- Councillors understand that the CEO can be a source of advice and support and that good communication between Councillors and the CEO can assist the CEO’s role; and
- Councillors and the CEO will make time to meet periodically (usually monthly).

## **Councillors/Administration**

At Nillumbik an open organisation is encouraged, with good communication and understanding between Councillors and the Administration. Everyone should have a good understanding of overall goals. However, good and open relationships require that the nature of the relationships and communication are well understood and backed by accountability and responsible conduct.

Councillor/Administration relationships should incorporate the following understandings:

- An understanding of the complexity of both the elected representatives and Administration's roles. Every effort should be made to understand where the other is coming from
- Although the CEO and senior management recognise that Councillors will contact staff on routine matters, Councillors need to understand that formal advice to elected representatives and Council should only come from the CEO and/or senior management. This is the only advice against which the Administration can be held accountable
- Communication on important matters will always involve the Mayor and/or Councillors and the CEO and/or General Managers
- Communication should be characterised by straight talking
- It is preferable that, if Councillors are dissatisfied with the outcome of an initial contact, the issue be escalated upwards, either through the organisation, or to the Mayor
- Relationships between Councillors and the Administration should incorporate the 'no surprises' principle
- Councillors do not have the authority to direct staff members
- Communication will be based on respect for each other and will not be used to undermine other Councillors or staff members (refer to the Councillor Code of Conduct developed in accordance with section 139 of the Act)
- Any information which is provided to an individual Councillor should be such that it is, or could be, copied to all Councillors
- Staff members should inform their Manager about any contacts with Councillors at which policies or programs were discussed in order to ensure that Councillors are receiving validated information
- A Councillor who wishes to discuss an officer's conduct should speak only with the CEO or the relevant senior manager
- As a principle, officers will discuss all significant conversations with Councillors (including emails) with their Managers beforehand to ensure accountability requirements are met
- Staff approaching Councillors about organisational issues should be referred to their Manager and reminded about Nillumbik's complaints policy and public interest disclosures procedures
- If staff, in dealing with Councillors, feel any discomfort resulting from the nature of the Councillors' enquiries, relative to what might be expected in dealing with a member of the public, then the staff member will refer the Councillor to senior management.

Councillors and the Administration recognise the importance of appropriate and productive relationships and will always strive to support and maintain these relationships.

### **Councillor Portfolios**

Council assigns individual portfolio responsibilities to individual Councillors. The primary point of contact with the Administration on matters relating to each portfolio is with senior management and undertaken in accordance with the relationship set out above between Councillors/Administration.

The portfolio areas are:

- Community Services
- Economic Development and Marketing
- Environment and Sustainability
- Finance and Governance
- Infrastructure
- Planning.
- Social Infrastructure

The Future Nillumbik Committee, a delegated committee established under sections 11 and 63 of the Act, has responsibilities that include all matters within portfolio areas. The Terms of Reference for the Committee contains detailed portfolio descriptions.

The agenda for the Committee identifies which items of business relate to the respective portfolio. The Chairperson for each particular item shall be the Councillor with the relevant portfolio responsibility. Once the items for each portfolio have been concluded, the meeting will then be chaired by the Councillor with portfolio responsibility for the subsequent items.

This section should be read in conjunction with the Future Nillumbik Committee Terms of Reference.

## **Decision-making process**

Nillumbik recognises that good decisions are more likely to be made if good decision-making processes are used.

The key features of Nillumbik's decision-making process are:

### **Agenda setting**

- Councillors understand that the main way of having issues considered by Council is through the Council Plan and Budget processes together with the development and review of policies and strategies.
- If issues arise during the year which Councillors believe require Council consideration, Councillors can work with each other, the Mayor and the Administration to put them forward for Council's consideration. If Councillors are seeking assistance in getting their issues up for consideration, they should approach senior management, the CEO or the Mayor.

- If Councillors wish to put items onto the Agenda as notices of motion, the procedures of Nillumbik's Governance Rule – Meeting Procedure are to be followed.

Councillors and the Administration will use appropriate channels to raise issues. They will adhere to the 'no surprises' principle and ensure that no attempt is made to 'ambush' anyone.

### **Information gathering**

- Councillors recognise that they will seek and obtain information from various sources including community members, and understand the difference between formal advice from the Administration and community members and other stakeholders and take this into account in assessing the information received.
- Councillors believe that decisions should be based on the best possible data and expect the Administration to provide Council with quality research.
- Councillors understand that the views of those affected by their decisions are an important source of information for elected members and that is why any person whose rights will be directly affected by a Council decision are entitled to communicate their views and have their interests considered.

Councillors recognise the importance of acting on the basis of validated information and will make every attempt to ensure that they do.

### **Opinion formation**

#### **Officer briefings of Councillors**

- At Nillumbik briefing sessions are used to help Councillors make up their minds about important issues.
- Briefing sessions offer Councillors the opportunity to ask questions, seek further information and float issues and options which are necessary for them to form their opinions on issues.
- The Administration must ensure that the necessary accurate information is made available to Councillors at briefing sessions.
- Discussion at briefing sessions is in no way a substitute for debate in open Council meetings. In order to fully explore options, issues and information needs, it is necessary for briefing sessions to be closed to the public. Briefing papers are not intended for public distribution. Transparency requirements are met through the way in which issues are openly addressed by Council at its formal meetings.
- Briefing sessions should prevent the necessity for Council to defer issues which are on the Agenda due to Councillors feeling that they do not have enough information to make a decision.
- Appropriate use of briefing sessions should result in no surprises occurring at Council meetings or other public forums.
- Minutes of discussions and matters presented at briefing sessions will be kept by the relevant senior manager or the CEO and filed on the corresponding file.
- Briefing sessions build trust and respect among Councillors and between the administration and can be used as brainstorming opportunities with all views being accepted and worked through, such is the nature of opinion forming. Councillors

and staff will therefore participate fully in briefing sessions. It is the responsibility of Councillors to raise all of their information requests and any other matters which are necessary for them to make up their minds.

- Briefings are run according to the Officer Briefings of Councillors Protocol, (see **Attachment 1** to this Policy).

### **Pre-meeting briefings**

- Pre-meetings scheduled prior to the Council and Committee meetings will aim to be completed 15 minutes prior to the scheduled break for a meal. This will allow any final informal discussion amongst Councillors in respect to forming their opinion and if necessary making final amendments to any draft motions that they wish to use for the purpose of debate during the meeting.
- Council officers should clarify information in officer reports and provide relevant background information if required, but should not participate in pre-meeting Councillor persuasive discussions about Council motions. These discussions should be held in private by Councillors. When required, input from the CEO or senior managers can assist with the final drafting of Councillor motions.
- Officers when requested will assist Councillors to draft motions. These draft motions are the responsibility of the Councillor to distribute to colleague Councillors should they wish to use them.

### **Advisory Committees**

Advisory Committees play a key role connecting community views and experts with the decision-making process of Council. These Committees provide advice to Council and to Council officers exercising delegation to make decisions or implement policy.

These committees are usually comprised of community members and Councillors, and may sometimes include representation of community organisations. These Committees are essential forums to provide input to the development of Council policy and decision-making in their areas of focus.

Reports of these Committees to Council is a transparent mechanism that facilitates good governance.

### **Role and Term of Advisory Committees**

In the first year of each Council term, Council will establish its Advisory Committees for the next four years.

Advisory Committees established by Council will be consulted for input on related policy, strategy or major operational proposals.

Advisory Committees established by Council will be chaired by a Councillor appointed with relevant Terms of Reference.

Each Advisory Committee will be established in accordance with a model Terms of Reference determined by the Chief Executive Officer that at a minimum will prescribe;

- a. Membership terms that provide for renewal of membership and continuity of contribution, with provision of initial appointments to support rotation of memberships.

- b. Inclusive and transparent recruitment processes for community member membership and participation.
- c. Requirements for disclosures of conflicts of interest.
- d. A description of the roles of members including attendance and participation requirements, role of the Committee, Councillor chair, reporting requirements and confidentiality.

Any person appointed to an Advisory Committee that nominates for election to Council, State Parliament or Federal Parliament must take leave of absence from their Committee position from the time of declaring they have nominated (or intended to nominate). Upon election, they will be deemed to have resigned from the Committee.

In order to maintain transparency of Advisory Committee operations, the following information is to be published on Council's website in respect of each Advisory Committee:

- a. The Terms of Reference
- b. The names of all members
- c. Reports of Committee activities (in minutes of Council meetings)

All Advisory Committees established by Council, except the Audit and Risk Committee, will sunset on 30 June following each Council election, unless they have been re-established in the new Council term.

### **Appointment of Councillors to Committees**

At the next Council Meeting after the meeting at which the Mayor is elected, or at a Council Meeting held as soon as practicable after that meeting, Council must:

- a. Appoint Councillors as members of, or representatives on, Committees established by Council;
- b. Appoint Councillors as delegates to external committees and organisations; and
- c. Appoint 'Councillors Responsible For', for the ensuing year.

### **The role of a 'Councillor Responsible For'**

The role of a Councillor Responsible For includes;

- a. Liaising with the members of the relevant Advisory Committee to ensure effective coordination of individual issues and projects;
- b. Facilitating good Council/Councillor/administration coordination and communication on key issues;
- c. Advising and reporting to colleagues on project issues and to facilitate briefings of Councillors where necessary, allowing for the testing of views on particular projects prior to more formal proposals being developed;
- d. Providing input from Councillors to the Chief Executive Officer on relevant projects; and
- e. With the consent of the Mayor, acting as a spokesperson, on behalf of Council, in respect of the project in question.

## **Reports by Advisory Committees**

Minutes of Council's Advisory Committees must be presented for inclusion in the Agenda of the next practicable Ordinary Council Meeting.

Written reports of Advisory Committees must include any disclosures of conflicts of interest and record whether or not the person who disclosed a conflict of interest left the meeting for the relevant discussion.

## **Decision-making**

- Councillors understand that their decision-making needs to be transparent. The community needs to understand how they come to the decisions they make. Therefore, while Councillors may have discussed an important issue in a briefing session, they will fully debate these matters when they come before Council at the formal Council meeting.
- Councillors recognise that, at times, different Councillors will interpret the same set of information in different ways. Councillors will respect the differences and will treat each other with courtesy at Council meetings.
- Council decisions should be made in such a way that Councillors are as participative as possible. Chairing and meeting procedures should recognise and encourage participation by all Councillors.
- Councillors will maximise participation of all Councillors in decision-making. In debating, Councillors will focus on the issues rather than on each other.

## **Implementation**

- Once Council has made a decision, it becomes the collective decision of Council. While it is recognised that some Councillors may not have supported the decision, it is highly desirable that Councillors do not seek to undermine or publicly denigrate the decision
- If a Councillor believes that their accountability to constituents requires an expression of dissent this should be done carefully and with respect. Councillors must bear in mind that post-decision dissent weakens the Council in the eyes of the community
- Council decisions should be implemented promptly and professionally by the Administration.

The Administration will implement all Council decisions promptly and professionally. Councillors will not denigrate or undermine Council decisions once made, even if they disagree with them.

## **Confidential information**

- Councillors receive confidential information in accordance with section 66(2) and section 125 of the Act.
- Section 125 directs that a person who is, or has been, a Councillor, a member of a delegated committee, or of Council staff must not disclose information that the person knows, or should reasonably know, is confidential information, save that a Councillor may disclose that information
- For legal proceedings arising out of the Act.



- To a court or tribunal.
- Due to a court or tribunal order.
- In and for the internal arbitration process.
- In and for a Councillor Conduct Panel hearing.
- To a Municipal Monitor, Chief Municipal Inspector, Commission of Inquiry, or law enforcement agency.
- **Confidential** information means:
  - Council business information, that is, information that would prejudice the Council’s position in commercial negotiations if prematurely released;
  - Security information, that is, information that if released is likely to endanger the security of Council property or the safety of any person;
  - Land use planning information, that is, being information that if prematurely released is likely to encourage speculation in land values;
  - Law enforcement information;
  - Legal privileged information;
  - Personal information, that is, information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
  - Private commercial information, that is, information provided by a business, commercial or financial undertaking that:
    - Relates to trade secrets; or
    - If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;
  - Confidential meeting information, that is the records of meetings closed to the public;
  - Internal arbitration information;
  - Specified information related to a Councillor Conduct Panel;
- And, under the *Local Government Act 1989* still includes:
  - Information provided to the Council or a special committee in relation to a matter considered by the Council or special Committee at a meeting closed to members of the public and the Council or special committee had not passed a resolution that the information was not confidential.
  - Information designed as confidential information by a resolution of the Council or special committee which specified the relevant ground or grounds applying under section 89(2) of that Act and the Council or special committee had not passed a resolution that the information was not confidential.
  - Information designated in writing as confidential information by the CEO specifying the relevant ground or grounds applying under section 89(2) of that Act and the Council had not passed a resolution that the information was not confidential.

## **Officer Briefings of Councillors Protocol**

### **Purpose**

Officer briefings of Councillors are intended to:

- Provide complex information to Councillors.
- Provide Councillors with the opportunity to ask questions and comment on issues.
- Give Councillors the opportunity to discuss complex and controversial issues in an environment which enables a free and frank exchange of views.
- Inform the Administration of Councillor views to assist in the preparation of formal advice to Council.

### **Process**

The process being undertaken at briefings is in the first instance, the CEO or their delegate providing information to Councillors. Councillors then have the opportunity to ask questions, put forward their views and discuss the issue/s.

### **Agenda**

The briefing agenda should be determined by the CEO, in consultation with the Mayor. This includes items, order of presentation and time allocation.

### **Chairing**

Briefings should be chaired by the Mayor or his or her delegate.

### **Outcomes**

The range of possible outcomes of briefings includes:

- Councillors having greater knowledge and understanding of the issue/s in question.
- Officers being more aware of the range of Councillor views.
- An understanding around further advice or information which is required before a decision can be made.
- A common understanding of the processes to be followed to bring an issue to decision.

They are not intended to provide a means to reach consensus or make a decision on issues. This is more properly done in Committee or Council meetings.

### **Attendance**

Councillors, Directors, Managers and other staff as required. Consultants and any other presenters as invited.

### **Conduct**

- Conduct in all Council forums should be based on the Councillor Code of Conduct and Governance Rules and the values they contain. There should be respect all round to the individuals at the briefing.
- The Administration has a responsibility to provide concise, relevant and comprehensive briefing material in a way which provides the maximum opportunity for Councillors to absorb and consider the information. Time should be used efficiently and time limits adhered to.

- Briefing material is provided on behalf of the CEO and the Administration. It is not put to a briefing without at least the endorsement of the relevant Director or and CEO. A manager providing a briefing is doing so on behalf of the Administration.
- Councillors should have every opportunity to ask questions and make comments. These are fundamental to the briefing process. However, there should be prior agreement as to whether this occurs during or at the end of a presentation by officers.
- Questions and discussions should be characterised by respect, honesty, thoughtfulness and the desire to achieve the best possible outcomes.
- Non-presenting senior managers can participate in discussions as appropriate.
- It is everyone's responsibility to ensure that there is appropriate conduct and respect in the briefings and to speak up if they believe breaches are occurring.

DRAFT

## Governance

# Public Transparency Policy

<b>Version Number</b>	1
<b>Approved by</b>	Council
<b>Approval date</b>	August 2020
<b>Effective date</b>	1 September 2020
<b>Date of last revision</b>	
<b>Date of next review*</b>	August 2024
<b>Responsible Manager</b>	Executive Manager Governance, Communications and Engagement

\*Unless replaced, this policy will still apply beyond the review date.

<b>Related internal policies, procedures and guidelines</b>	<ul style="list-style-type: none"><li>• Governance Rules</li><li>• Public Transparency Principles</li><li>• Community Engagement Policy</li><li>• Information Privacy Policy</li><li>• Health Records Policy</li></ul>
<b>Related legislation</b>	<ul style="list-style-type: none"><li>• <i>Charter of Human Rights and Responsibilities Act 2006</i></li><li>• <i>Freedom of Information Act 1982</i></li><li>• <i>Local Government Act 2020</i></li><li>• <i>Privacy and Data Protection Act 2014</i></li><li>• <i>Equal Opportunity Act 2010</i></li></ul>

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## 1. Purpose

This policy supports Council in its ongoing drive for good governance and the importance of open and accountable conduct and how council information is to be made publicly available. Council must adopt and maintain a public transparency policy under section 57 of the *Local Government Act 2020* (the Act). This policy gives effect to the *Public Transparency Principles* outlined in section 58 of the Act.

## 2. Objectives

The objective of Council's Public Transparency Policy is to formalise its support for transparency in its decision-making processes and the public awareness of the availability of Council information. As a result, this policy seeks to promote:

- a) Greater clarity in Council's decision-making processes;
- b) Increased confidence and trust in the municipal community through greater understanding and awareness;
- c) Enhanced decision making by the municipal community;
- d) Improve Council's performance;
- e) Access to information that is current, easily accessible and disseminated in a timely manner;
- f) Reassurance to the municipal community that Council is spending public monies wisely.

A transparency policy covers both documentary information, process information and how information will be made available to the public and is an integral part of council's good governance framework.

## 3. Scope

This policy applies to Councillors and Council staff of the Council.

## 4. Definitions

For the purposes of this policy, Council adopts the following definitions:

Type	Description
<b>Consultation</b>	The process of seeking input on a matter.
<b>Public Participation</b>	Encompasses a range of public involvement, from simply informing people about what government is doing, delegating decisions to the public and municipal community activity addressing the common good.

<b>Closed Meetings</b>	When Council resolves to close the meeting to the general public, in order to consider a confidential matter regarding issues of a legal, contractual or personnel nature and other issues deemed not in the public interest.
<b>Municipal community includes</b>	<ul style="list-style-type: none"> <li>• people who live in the municipal district of the Council; and</li> <li>• people and bodies who are ratepayers of the Council; and</li> <li>• traditional owners of land in the municipal district of the Council; and</li> <li>• people and bodies who conduct activities in the municipal district of the Council.</li> </ul>
<b>Transparency</b>	A lack of hidden agendas or conditions, and the availability of all information needed in order to collaborate, cooperate and make decisions effectively. Importantly, “transparency” is also human rights issue: the right to have the opportunity, without discrimination, to participate in public affairs (s.58 of The Act).

## 5. Council Transparency

### 5.1. Decision Making at Council Meetings

- Will be undertaken in accordance with the Act and the Governance Rules.
- Will be conducted in an open and transparent forum, unless in accordance with the provisions in the Act and Governance Rules.
- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy.
- Will be made fairly and on the merits, and where any person whose rights will be directly affected by a decision of the Council, that person will be entitled to communicate their views and have their interests considered.

### 5.2. Council Information

A list of available information is provided in the Part II Statement published in accordance the *Freedom of Information Act 1982* (FOI Act). Part II of the FOI Act requires government agencies and local councils to publish a number of

statements designed to assist members of the public in accessing the information it holds. This information includes but is not limited to:

- **Documents** such as:
  - Plans and Reports adopted by Council;
  - Policies;
  - Project and service plans;
  - Grant application, tenders and tender evaluation material;
  - Service agreements, contracts, leases and licences;
  - Council leases, permits and notices of building and occupancy; and
  - Relevant technical reports and / or research that informs decision making.
- **Process information** such as:
  - Practice notes and operating procedures;
  - Application processes for approvals, permits, grants, access to Council services;
  - Decision making processes;
  - Guidelines and manuals;
  - Community engagement processes;
  - Complaints handling processes.
- **Council records** will, at a minimum, be available on Council's website:
  - Council meeting agendas;
  - Reporting to Council;
  - Minutes of Council meetings;
  - Reporting from Advisory Committees to Council through reporting to Council;
  - Audit and Risk Committee Performance Reporting;
  - Terms of reference or charters for Advisory Committees;
  - Registers of gifts, benefits and hospitality offered to Councillors or Council Staff;
  - Registers of travel undertaken by Councillors or Council Staff;



- Registers of Conflicts of Interest disclosed by Councillors or Council Staff;
  - Submissions made by Council;
  - Registers of donations and grants made by Council;
  - Registers of leases entered into by Council, as lessor and lessee;
  - Register of Delegations;
  - Register of Authorised officers;
  - Register of Election campaign donations.
  - Summary of Personal Interests
  - Any other Registers or Records required by legislation or determined to be in the public interest.
- Consistent with the Part II statement, Council will make available the following records for inspection. Examples include but are not limited to:
    - Summary of Personal Interests ('Register of interests' until 24 October 2020); and
    - Submissions received under section 223 of the *Local Government Act 1989* until its repeal or received through a community engagement process undertaken by Council.

- **Publications**

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to council. You can download them from the website or call Council for a copy. Some of these publications are available at Council's Libraries.

## 6. Access to information

Information will be made available on the Council website, open data, at Council offices, or by request.

Members of the public can make different kinds of information requests to the council (e.g. informal requests for documents and information or formal FOI requests).

Consideration will be given to accessibility and cultural requirements.

Council will respond to requests for information in alignment with the Act including the Public Transparency Principles, and this policy.

In accordance with the Part II statement made under the FOI Act.

### 6.1. Freedom of information (FOI) applications

The FOI Act gives you right of access to documents that Council hold. If you can't find the document you require, call us before you make an FOI application as we may be able to make it available.

## 7. Information Not Available

Some Council information may not be made publicly available. This will only occur if the information is confidential information or if its release would be contrary to the public interest or not in compliance with the *Privacy and Data Protection Act 2014*.

"Confidential information" is defined in section 3 of the *Local Government Act 2020*. It includes the types of information listed in the following table.

Type	Description
<b>Council business information</b>	Information that would prejudice the Council's position in commercial negotiations if prematurely released.
<b>Security information</b>	Information that is likely to endanger the security of Council property or the safety of any person if released.
<b>Land use planning information</b>	Information that is likely to encourage speculation in land values if prematurely released.
<b>Law enforcement information</b>	Information which would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person if released.
<b>Legal privileged information</b>	Information to which legal professional privilege or client legal privilege applies.
<b>Personal information</b>	Information which would result in the unreasonable disclosure of information about any person or their personal affairs if released.
<b>Private commercial information</b>	Information provided by a business, commercial or financial undertaking that relates to trade secrets or that would unreasonably expose the business, commercial or financial undertaking to disadvantage if released.

<b>Confidential meeting information</b>	Records of a Council and delegated committee meetings that are closed to the public to consider confidential information
<b>Internal arbitration information</b>	Confidential information relating internal arbitration about an alleged breach of the councillor code of conduct.
<b>Councillor Conduct Panel confidential information</b>	Confidential information relating to a Councillor Conduct Panel matter
<b>Confidential information under the 1989 Act</b>	Information that was confidential information for the purposes of section 77 of the <i>Local Government Act 1989</i>

The Council may decide, in the interests of transparency, to release information to the public even though it is confidential under the Act. However, this will not happen if release is contrary to law in breach of contractual requirements or if releasing the information is likely to cause harm to any person or is not in the public interest to do so.

#### 7.1. Public interest test

Council is not required to make publicly available information if the release would be contrary to the public interest, in accordance with the Act. When considering public interest, Council will apply the test that exists in the FOI Act. Council may refuse to release information if it is satisfied that the harm to the municipal community likely to be created by releasing the information will exceed the public benefit in it being released.

When considering possible harm from releasing information, the Council will only concern itself with harm to the municipal community or members of the community. Potential harm to the Council will only be a factor if it would also damage the community, such as where it involves a loss of public funds or prevents the council from performing its functions.

Information that might be withheld because it is contrary to the public interest may include:

- internal working documents that have not been approved or submitted to Council, especially where their release may mislead the public;
- directions to Council staff regarding negotiations in contractual or civil liability matters, where release may damage the Council's capacity to negotiate the best outcome for the community; or

- correspondence with members of the community, where release may inappropriately expose a person's private dealings.

## 8. Responsibilities

It is everyone's role to promote and facilitate access to council information in accordance with the public transparency policy.

Party/parties	Roles and responsibilities	Timelines
<b>Council</b>	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.	Ongoing
<b>Executive Management Team</b>	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.	Ongoing
<b>Senior Management Team</b>	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.	Ongoing
<b>All Staff</b>	Public transparency is the responsibility of all employees as appropriate to their role and function. All staff respond to requests for information and facilitate provision of information in consultation with their manager and in alignment with the Policy.	Ongoing
<b>Executive Manager Governance</b>	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing
<b>Unit Manager Governance</b>	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing

## 9. Human Rights Charter

This policy has been reviewed against and complies with section 13 of the *Charter of Human Rights and Responsibilities Act 2006*, as this Policy aligns with and provides for the protection of an individual's right not to have their privacy unlawfully or arbitrarily interfered with. It is also in line with section 18 which recognises a person's right to participate in the conduct of public affairs.

## **10. Non-Compliance with This Policy**

If a member of the municipal community wishes to question a decision about the release of information, this should be raised directly with the officer handling the matter in the first instance. If the member is still not satisfied and would like to contest the decision, this can be reported to Council's Freedom of Information Officer.

If not satisfied with Council's response, the concerns can be raised directly with the Victorian Ombudsman's office on (03) 9613 6222 or via the website – [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au).

## **11. Monitoring, Evaluation and Review**

Council commits to monitoring processes, information sharing and decision making to understand the overall level of success in the Policy's implementation.

A periodic review of this policy will be undertaken to ensure any changes required to strengthen or update the policy are made in a timely manner.



## Friends of Nillumbik Inc.

PO Box 258, Eltham 3095 | [mail@friendsofnillumbik.org](mailto:mail@friendsofnillumbik.org) | [www.friendsofnillumbik.org](http://www.friendsofnillumbik.org)

*Friends of Nillumbik and its 1,000 supporters have been working for more than 20 years in the public interest to protect biodiversity, rural landscape, neighbourhood character and good governance, in a sustainable Green Wedge shire.*

### **Submission: Governance Rules & Public Transparency Policy**

Friends of Nillumbik is grateful to have the opportunity to provide feedback on this suite of policies. Transparency and good governance go hand in hand and it is for this reason we have provided a single submission on the six policies under consultation.

While Friends of Nillumbik notes that the introduction of these policies is required as part of the implementation of the new Local Government Act 2020 (the Act), we are pleased to see that Council has not simply met the minimum requirements and has produced comprehensive policies that largely provide clear boundaries for councillors, council staff and other parties.

This being said, we found an overall issue with the policies was a lack of information about the enforceability of the rules within. It is important to have these policies spell out the rules, but even more important that they are actively enforced, and that the community can have the confidence that they are enforced. A failure on this front renders the policies superficial.

It is regrettable that much of the onus for these policies is on the individual concerned, and a failing of the Act that self-regulation is the guiding approach to many of these rules. Whether accidental or deliberate, individuals are often not best placed to judge the suitability or appropriateness of their actions.

With relation to the Election of the Mayor and the Deputy Mayor policy, Public Transparency Policy, and Procedure for Disclosure of Conflicts of Interest, we have no particular suggestions for improvement. We do however ask Council to reflect on the enforceability of the Conflicts of Interest procedure, and the need for independent oversight of the issues discussed in the Public Transparency Policy, and in doing so consider advocacy to the Victorian Government for improvements to be made to the Act on these fronts.

#### **Election Period Policy**

Friends of Nillumbik believes the election period (and caretaker mode) should commence with the opening of nominations for the council elections, rather than with the closing of nominations. As the policy notes all candidates (regardless of incumbency) should be afforded equal rights for the elections. A logical extension of this should see Council commencing this period from the opening of nominations, to ensure an even playing field for recontesting councillors and challengers alike.

We also believe there is potential for confusion in the usage of the term 'midnight on Tuesday 22 September'. To a layperson this could be interpreted as the beginning of the day (the early morning) on Tuesday, i.e. twelve hours before the close of nominations at midday on Tuesday. For the avoidance of doubt, if Council is intending for the election period to start at the close of nominations we would suggest either using 11.59pm on Tuesday (twelve hours after the close of nominations) or midday on the Tuesday (the same time that nominations close).

### **Meeting Procedure**

Friends of Nillumbik asks that Council include in this procedure specific mention that meetings must open with an Acknowledgement of Country. The majority of the standard meeting agenda is included explicitly in the document and we believe it is important that the Acknowledgement also be included in this way.

We note that the procedure does not include any reference to the prayer that occurs at the start of each Council meeting. We believe that a Christian prayer is neither reflective of the diversity of the population of Nillumbik, nor is it appropriate in a local government setting.

Noting that the prayer often focuses on themes relating to good governance, Friends of Nillumbik believes it would be more inclusive to reintroduce the reading of the 'Good Governance Pledge' at council meetings. The reading of the pledge was unfortunately dropped at the beginning of this council term. We think that it would be a good addition to the start of meetings for councillors to take a moment to reflect on the values expressed in the pledge and the obligations they have in undertaking their work:

*As Councillors, we are mindful of our civic responsibilities and obligations. We pledge to take them seriously, and to carry them out with diligence and integrity.*

*We know the decisions we take will affect the people and environment of Nillumbik, now and in the future. We undertake, therefore, to make sound and principled decisions of lasting value, in a spirit of fairness and for the good of all.*

*We also pledge to serve the needs and wellbeing of the community and the environment, in an open and honest manner and to the best of our abilities.*

Section 13 of the procedure provides that the CEO (or other authorised person) 'may' record the proceedings of the meeting. We suggest that 'may' be replaced by 'must', as part of

Council's commitment to transparency. We further encourage Council to include in the procedure a requirement to livestream each Council and Delegated Committee Meeting.

Viewing figures from recent livestreamed Council meetings indicate that there is interest from the community in viewing the proceedings of Council, but that some may not be able to attend in person. Livestreaming makes it easier for residents from across the community to follow the Council's activities; it is an important transparency and accountability measure.

Section 20, relating to petitions, states that Council 'may, by resolution, accept electronic petitions' if they are satisfied it is 'authentic' and 'from a legitimate website'. These are understandable concerns, but they have the potential impact that genuine electronic petitions could be unfairly excluded.


Council should adopt the approach that the Commonwealth and Victorian Parliaments have introduced and develop an online petitions page on the Council website, where residents can easily create a petition, share it, and view other online petitions. A service of this kind would allow Council to ensure online petitions are of a standard form and structure, and that all necessary signatory details have been collected.

Section 42 outlines the process for calling a division and recording the vote of each councillor in the minutes. Friends of Nillumbik believes that this should be changed so that a record of every councillor's vote on every motion is recorded in the minutes. This would provide a much more transparent record of each councillor's voting record, and we do not believe this change presents much more effort on the part of the chair and council officers.

### **Decision Making Policy**

The concern we have with this policy is with enforceability. For example, we are pleased to see multiple references to the 'no surprises' principle throughout this policy, but it appears the policy is unable to provide a means for enforcing it (nor, to our understanding, does the Act).

Another example relates to the role of the Mayor. As the policy notes, 'the leadership roles of the [Mayoral] position can only exist if all Councillors accept this role'. This is the crux of the issue – while we agree that councillors should respect the authority of the Mayor, and that ideally this would be enough to ensure compliance, unfortunately there have been circumstances in the past where this has not occurred, or alternatively where a Mayor has not used their authority to respond to behaviour from councillors.

  
Friends of Nillumbik  
July 2020



[REDACTED]  
Australia

Phone [REDACTED]

## Submission

### Nillumbik Governance Rules and Local Government Act 2020

I support the submission on Nillumbik Shire's governance rules which I understand is being made by Friends of Nillumbik. However, I want to elaborate on the elements of that submission concerning meeting procedure

#### Reading of Prayer

Although the issue is not raised in the background material, I oppose the current practice of the reading of a prayer by an invited cleric at the beginning of Council meetings. I base my opposition on the following grounds.

**1]** Australia and its states and territories are secular states. That implies that citizens have separate and non-overlapping allegiances and/or responsibilities to their governments and to any faiths to which they may or may not adhere. Local government councils are agents of their respective governments and virtually all the activities of LGAs are governed by various statutes and regulations. In Victoria, at least, that state government control extends to the minutiae of regulated charges for many council services.

The reading of prayers before council meetings is, therefore, a practice contrary to the long-held acceptance in Australia of the separation of church and state in our affairs.

That separation is enshrined in Section 116 of the *Constitution of the Commonwealth of Australia*. According to Section 116:

*The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.*

The Commonwealth position is endorsed in *Victoria's Constitution Act 1975* which for an oath of office accepts an affirmation instead of a commitment made to a deity (Schedule 2).

**2]** The argument for abandoning the prayer has become even stronger due to the changes in the religion related characteristics of the population. These changes are summarised in the Table below.

**Religion Summary: Nillumbik Shire and Greater Melbourne**  
**Percentage of People Identifying as Indicated** (Enumerated Persons)

Religion totals	2016		1991		Change 1991 - 2016	
	Nillumbik	Greater Melbourne	Nillumbik	Greater Melbourne	Nillumbik	Greater Melbourne
Christian total	48.8	46.2	63.2	68.9	-22.7	-32.9
Non Christian total	2.2	13.3	0.9	4.5	162.3	193.0
Non-classifiable religion	0.7	0.7	0.5	0.3	54.1	132.3
All Religion	51.8	60.2	64.5	73.7	-19.7	-18.4
No religion	41.4	31.3	21.4	15.0	93.3	109.0
Not stated	6.8	8.5	14.1	11.3	-51.4	-24.7
Total Population	100.0	100.0	100.0	100.0	0.0	0.0

Source: Derived from ABS Census statistics.

The Table is based on census data and summarises the evolutionary trend over the 25 years to 2016 in Nillumbik and Greater Melbourne, as follows:

- The proportion of people professing any religion at all has declined appreciably and at 51.8% now represents barely a majority of the population;
- The proportion of people professing to be Christian has declined even more so that Christians now no longer represent a majority of the population as they did in 1991;
- By contrast, the proportion of people professing non-Christian faiths has increased and although still very small in Nillumbik, has doubled in our Shire since 1991;
- The proportion of people professing “no religion” has increased substantially.

It follows that the continuation of a Christian prayer at the beginning of Council’s meetings would be discriminatory of everyone but Christians who are making up a decreasing and now a minority proportion of the population in both Nillumbik and Greater Melbourne.

As an aside, the changes described in the Table are probably also evident Australia-wide.

I also believe the offering of a prayer at the beginning of Council’s meetings has been, and its continuation would be, hypocritical. I base my judgement on my attendance at many Council meetings and my observations of the behaviour of some councillors in the Chamber. Some of that behaviour involves bullying other councillors and members of the public, especially women, and telling untruths, either due to ignorance or by design.

If the prayer is to remain part of Council meetings I recommend that in a spirit of ecumenism and representing the community’s current religion related attitudes, clergy of other than Christian faiths – Islam, Buddhism, etc – as well as locally prominent people of no faith be invited regularly to deliver the prayer or something similar as the case may be.

However, it would be far better to abandon the prayer and in its place reintroduce the Good Governance Pledge abandoned at the beginning of this Council's term.

*As Councillors, we are mindful of our civic responsibilities and obligations. We pledge to take them seriously, and to carry them out with diligence and integrity.*

*We know the decisions we take will affect the people and environment of Nillumbik, now and in the future. We undertake, therefore, to make sound and principled decisions of lasting value, in a spirit of fairness and for the good of all.*

*We also pledge to serve the needs and wellbeing of the community and the environment, in an open and honest manner and to the best of our abilities.*

I suggest the above version of the Pledge is unnecessarily long and could be shortened to something along the following lines,

*As Councillors, we are mindful of our civic responsibilities and obligations to serve the needs and wellbeing of the community and the environment, in an open and honest manner and to the best of our abilities.*

*We pledge to take our responsibilities seriously, and to carry them out with diligence and integrity in order to make sound and principled decisions of lasting value, in a spirit of fairness for the good of all.*

## Video Recording of Meetings

Section 13 "Recording of Meetings" of the draft Governance Rule would allow for recordings of Council meetings at the discretion of the relevant decision maker.

I urge that the rule be amended to require recordings to be made and for meetings to be livestreamed.

In making this suggestion I note that it was a question of mine to Council that got us the audio recordings of meetings being made available on line. My purpose was to make Council activities more accessible to a wider group of people in the hope that that would improve transparency of Council activities and through that good governance.

At that time the notion of providing video recordings of meetings was a bridge too far. But now that the COVID-19 pandemic has made it necessary to video stream the meetings it would be Luddite to step back.

  
10 July 2020

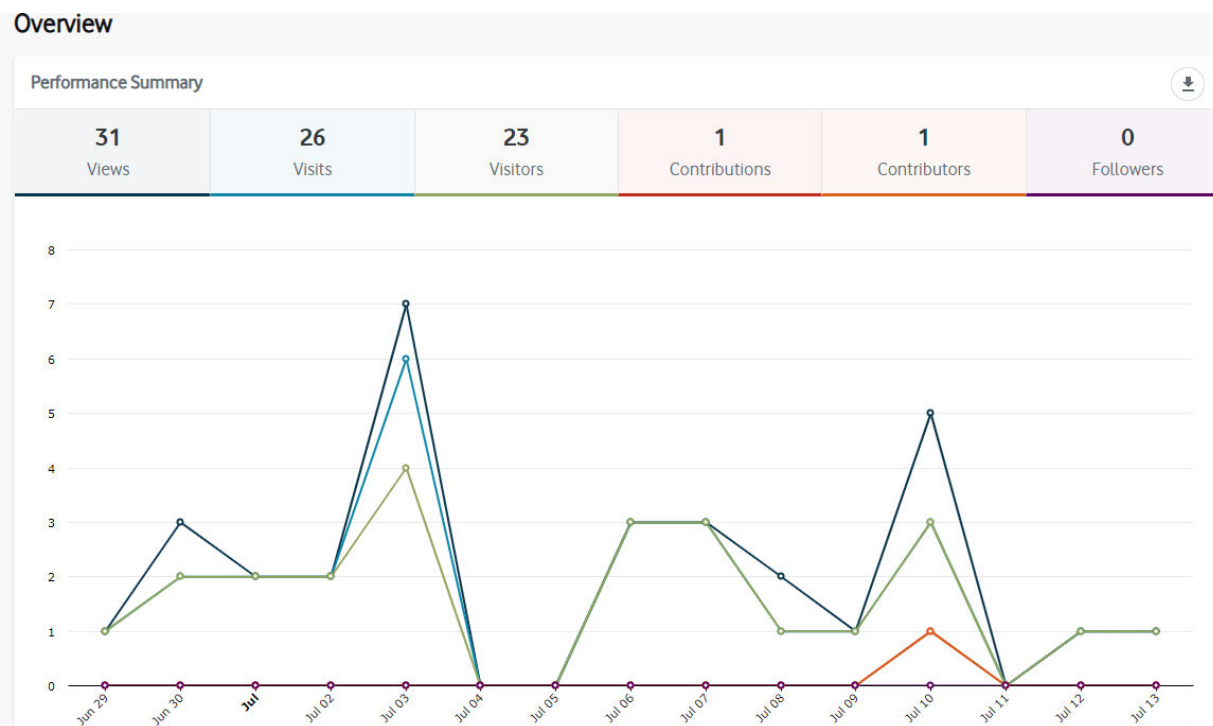
# Governance Rules and Public Transparency Policy

## Submissions summary

Consultation Period: 29-06-2020 - 10-06-2020

### Participate Nillumbik – visitation statistics

- Governance Rules



### 1. Thoughts on the Election Period Policy

	Response
1	okay

### 2. Thoughts on the Election of Mayor and Deputy Mayor

	Response
1	okay

### 3. Thoughts on the Procedure of Disclosure of Conflicts of Interest

	Response
1	Should be more formalised and penalties for non disclosure of Conflicts of Interest. There should be no excuses, if any Councillor has any hint of doubt of their status they must table it and clear the potential problem before voting. The residents deser.

#### 4. Thoughts on the Meeting Procedure

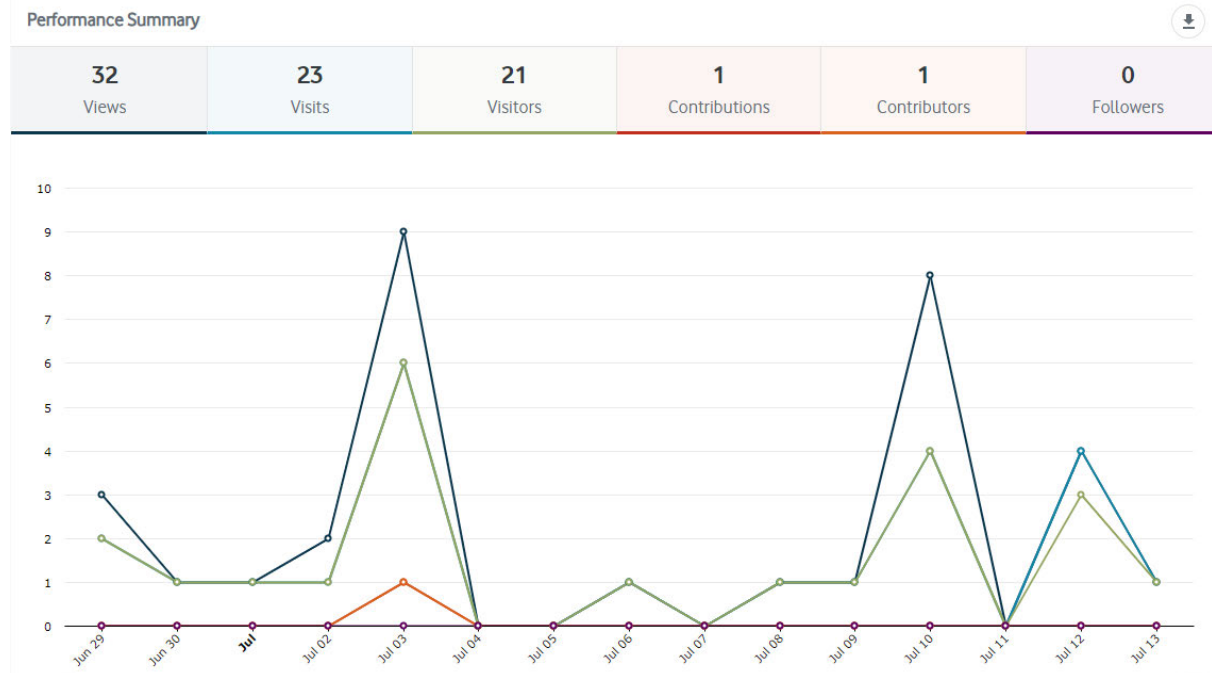
	<b>Response</b>
<b>1</b>	It must be available to be heard and preferably viewed remotely. This needs to be changed from "may be recorded"

#### 5. Thoughts on the Decision-Making Policy

	<b>Response</b>
<b>1</b>	okay

## Participate Nillumbik – visitation statistics

- Public Transparency Policy



### 1. Thoughts on the Public Transparency Policy

	Response
1	While conflict of interest is noted in the document, it does not state that those with conflicts will excuse themselves from both debate and related votes, including absenting themselves from same. I spent some years in the public service and university

TABLE OF ISSUES RAISED IN COMMUNITY ENGAGEMENT

Issue	Author	Comment
<b>MEETING PROCEDURE</b>		
Would like specific mention that meetings must start with Acknowledgement of Country	Friends of Nillumbik	Officers have changed the heading 'Reconciliation Statement' to 'Acknowledgement of Country' in the order of business in section 12.
More inclusive to have meeting begin with reflection on good governance through a pledge as was once the practice rather than a Christian prayer which is non-reflective of the diversity of the Nillumbik population	Friends of Nillumbik	Officers support this suggestion as it aligns with the overarching governance principals of the <i>Local Government Act 2020</i> and have therefore included the good governance pledge in the order of business in section 12.
Similar point made as above with an additional alternative that in the spirit of ecumenism clergy of other faiths or prominent persons of no faith could take turns with Christian clergy in the prayer or an equivalent.	Henry Haszler	Officers currently source other faiths in addition to the Christian clergy. Officers have retained the Prayer in the order of business in section 12.
Recordings of meetings at the discretion of the CEO or an authorised person should be changed to make recording mandatory in the interests of transparency	Friends of Nillumbik Henry Haszler Cindy Allen	Officers have changed the word 'may' to 'will' in clause 14.  Recordings would exclude closed (parts of) meetings.
Meetings, including delegated committee meetings, should be livestreamed	Friends of Nillumbik Henry Haszler	Officers have amended clause 14 to include the word 'livestreamed'  Recordings would exclude closed (parts of) meetings.
Petitions - Council may by resolution accept electronic petitions if they appear 'authentic' and 'from a legitimate website'	Friends of Nillumbik	Officers included the word 'genuine' in clause 22 to address the submitters concerns.

Issue	Author	Comment
<b>MEETING PROCEDURE</b>		
potentially may exclude genuine petitions. Quoting Victorian & Commonwealth Parliament example, suggest Council develop a Council online petition template to be used on the Council website.		
Process for recording votes on divisions in the minutes, should include each Councillor's vote to provide a transparent record of each councillor's voting record.		The requirement to record the names of Councillors voting for or against is addressed in clause 46 (a) and (b).  Note: an abstention is now required to be recorded as a negative in the counting of votes - s.61(5)(e) of the 2020 Act).
<b>ELECTION OF THE MAYOR AND DEPUTY MAYOR</b>		
For whole of the Governance Rule One "Okay" response on Participate Nillumbik	Cindy Allen	
<b>ELECTION PERIOD POLICY</b>		
Period should commence with the opening rather than the closing of nominations to ensure equal rights to recontesting councillors and potential candidates	Friends of Nillumbik	Commencement date it driven by legislation. The Act specifics the date of commencement of the caretaker period. Officers do not see an issue with the suggested change only to note that the adoption of this policy will occur on 25 August and nomination open in mid-August.
Use of "midnight" is confusing in defining start of election period, preferable to use 11.59 pm on Tuesday 22 September or noon (midday) on that day.	Friends of Nillumbik	Officers have replaced midnight with 12:00am so it clear that it starts the morning of 22 September.
Whole of the Governance Rule - "Okay" response from Participate Nillumbik	Cindy Allen	
<b>PROCEDURE FOR DISCLOSURE OF CONFLICTS OF INTEREST</b>		
Lack of enforceability	Friends of Nillumbik	Submitter recognises that this is a matter for the State



Issue	Author	Comment
<b>MEETING PROCEDURE</b>		
		Government and the Local Government legislation or regulation, requests advocacy by Council. Officers have noted the comments. Enforceability by way of penalties is a matter for the State Government and the Local Government legislation or regulation. This is not provided for in the new <i>Local Government Act 2020</i> .
"Should be more formalised & penalties for non-disclosure of conflicts of interest. There should be no excuses, if any Councillor has only a hint of doubt of their status, they must table it and clear the potential problem before voting".	Cindy Allen	The disclosure of a conflict of interest is wholly dependent on each Councillor. Apart from Register of Interests, it would be difficult for officers to know all Councillors' interests. Enforceability by way of penalties is not provided for in the new <i>Local Government Act 2020</i> . Conflicts of interest are dealt with in the Governance Rule on Disclosure of Conflicts of Interest.
<b>DECISION MAKING POLICY</b>		
No means to enforce the policy - Policy (and Act) --unable to provide a means to enforce the "no surprises" principle throughout the Policy  -hard to ensure respect of the Mayor's leadership role	Friends of Nillumbik	Enforceability by way of penalties is a matter for the State Government and the Local Government legislation or regulation. This is not provided for in the new <i>Local Government Act 2020</i> .  The new Act recognised the importance of Mayor's role being a leadership role and has strengthened the Mayors powers under s.19 of the Act.
For whole of the Governance Rule – Comment is 'Okay'	Cindy Allen	No comment required
<b>PUBLIC TRANSPARENCY POLICY</b>		
"While conflict of interest is noted in the document, it does not state that those with conflicts will excuse themselves from	Phillip Tannenbaum	Noted. The disclosure of a conflict of interest is wholly dependent on each Councillor.

Issue	Author	Comment
<b>MEETING PROCEDURE</b>		
both debate and related votes, including absenting themselves from same”		Conflicts of interest are dealt with in the Governance Rule on Disclosure of Conflicts of Interest.
Lack of information about enforceability of the Rules	Friends of Nillumbik	Enforceability by way of penalties is a matter for the State Government and the Local Government legislation or regulation. This is not provided for in the new <i>Local Government Act 2020</i> .