



GANNAWARRA

Shire Council

Wednesday, 19 August 2020

6:30pm

Council Chambers

Kerang

AGENDA

Council Meeting

Council is operating in accordance with the new *COVID-19 Omnibus (Emergency Measures) Act 2020* which operates for a Prescribed Period from 1 May to 1 November.

During this Prescribed Period the following arrangements will apply until 1 November 2020:

- Ordinary Council Meetings will be closed to the public
- Meetings will be live-streamed via Council's website which can be accessed at this link (gannawarra.vic.gov.au/Council/Council-Meetings/Meeting-livestream)

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	Nil	

Tom O'Reilly
CHIEF EXECUTIVE OFFICER

1 WELCOME TO COUNTRY

I would like to acknowledge the Traditional Owners of the land on which we meet today, their rich culture and connection to Country. I pay my respects to Elders past, present and emerging and acknowledge Elders from other communities who may be meeting with us today.

2 OPENING DECLARATION

We, the Councillors of the Shire of Gannawarra, declare that we will undertake the duties of the office of Councillor, in the best interests of our community, and faithfully, and impartially, carry out the functions, powers, authorities and discretions vested in us, to the best of our skill and judgement.

3 APOLOGIES AND LEAVE OF ABSENCE

4 CONFIRMATION OF MINUTES

Meeting - 15 July 2020

5 DECLARATION OF CONFLICT OF INTEREST

A Councillor, member of a special committee, or member of Council staff has a conflict of interest in a matter if he or she has a *direct interest* or an *indirect interest* in that matter.

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

A person has an indirect interest in a matter if the person has:

- a close association in the matter because a family member, a relative or a member of their household has a direct or indirect interest in the matter
- an indirect financial interest in the matter
- a conflicting duty – although there are circumstances where a person does not have an indirect interest because of a conflicting duty
- received an ‘applicable gift’
- become an interested party in the matter by initiating civil proceedings or becoming a party to civil proceedings in relation to the matter.
- Because their residential amenity is likely to be altered if the matter is decided in a particular way.

Disclosure of conflict of interest

If a Councillor or member of a special committee has a conflict of interest in a matter which is to be or is likely to be considered at a meeting of the Council or special committee, the Councillor or member must:

-
- if he or she will be present at the meeting, make a full disclosure of that interest by advising of the class and nature of the interest to either –
 - the Council or special committee immediately before the matter is considered at the meeting, *or*
 - in writing to the Chief Executive Officer (CEO). Where the disclosure is made to the CEO in writing, the Councillor or member need only disclose the class of interest to the meeting, immediately before the matter is considered.
 - The CEO must keep written disclosures in a secure place for three years after the date the Councillor or member of the special committee who made the disclosure ceases to be a Councillor or member, and destroy the written disclosure when the three year period expires.
 - While the matter is being considered or any vote taken, the Councillor or member of a special committee with the conflict of interest must leave the room and notify the Mayor or Chairperson of the special committee he or she is doing so. The Mayor or Chairperson must notify the Councillor or member that he or she may return to the room after consideration of the matter and all votes have been cast.
 - A CEO or Chairperson of a special committee must record in the minutes of the meeting the declaration of the conflict of interest, the class of the interest and, if the Councillor or member has disclosed the nature of the interest to the meeting, the nature of the interest.
 - A failure by a Councillor or member to comply with Section 79 of the Act may result in a penalty of up to 120 penalty units and disqualification under Section 29(2) of the Act.

6 ASSEMBLY OF COUNCILLORS

6.1 ASSEMBLY OF COUNCILLORS 15 JULY TO 18 AUGUST, 2020

Author: Mel Scott, Executive Assistant - Chief Executive Office

Authoriser: Tom O'Reilly, CEO

Attachments: 1 [Assembly of Councillors - 10 August 2020](#) [↓](#)

RECOMMENDATION

That Council note the records of Assemblies of Councillors from 15 July to 18 August, 2020.

EXECUTIVE SUMMARY

This report presents to Council written records of Assembly of Councillors in accordance with Section 80A of the *Local Government Act 1989*.

DECLARATIONS OF CONFLICT OF INTEREST

In accordance with Section 80B of the *Local Government Act 1989*, the Officer preparing this report declares no conflict of interest in regards to this matter.

COUNCIL PLAN

Council Plan 2017-2021: Good Governance and a Healthy Organisation.

BACKGROUND INFORMATION

In accordance with Section 80A of the *Local Government Act 1989* a written record of assembly of councillors must be reported at an Ordinary Council meeting and minuted as soon as practicable.

The record must include:

1. The names of all Councillors and members of Council staff attending
2. The matters considered
3. Any conflict of interest disclosures made by a councillor attending
4. Whether a councillor who has disclosed a conflict of interest left the assembly.

CONSULTATION

Consultation with Councillors and staff has occurred to ensure the accuracy of the Assemblies of Councillors records.


CONCLUSION

To ensure compliance with Section 80A of the *Local Government Act 1989*, it is recommended that Council note the Assembly of Councillors records as outlined in this report.



Assembly of Councillors Record Form

Date:	Monday, 10 August, 2020
Time:	9:05am – 11:15am
Location:	Zoom - Videoconference
In Attendance: (Councillors)	Cr Lorraine Learmonth Cr Charlie Gillingham Cr Brian Gibson Cr Jenny Fawcett Cr Jodie Basile Cr Andrew Gibbs (from 10:23am)
Apologies:	Cr Steve Tasker
Absent:	
In Attendance: (Officers)	Tom O'Reilly, Phil Higgins, Geoff Rollinson, Stacy Williams, Lisa Clue, Mel Scott, Wade Williams, Roger Griffiths, Paul Fernee, Brent Heitbaum
In Attendance: (Other)	Nil
Matters Discussed:	<p>Council Agenda Reports:</p> <ol style="list-style-type: none"> 1.1 Community Asset Committees 1.2 Draft Governance Rules and Public Transparency Policy 1.3 Policy Review – Policy No. 092 – Councillor Allowances and Support 1.4 Audit Committee – 4 August, 2020 Meeting 1.5 Instrument of Appointment and Authorisation (Planning and Environment Act 1987) 1.6 Delegation Update – Council to Members of Council Staff 1.7 Fees and Charges Review COVID-19 Response 1.8 G03-2020 Wet and Dry Plant Hire and Civil Works <p>Councillor Updates:</p> <ul style="list-style-type: none"> • Corporate Performance Reporting Framework Quarterly Report • Council Plan 2017-2021 Progress Report • Long Term Financial Plan
	Break 9:53am to 10:10am
Matters Discussed:	<p>Councillor Strategic Briefing Update:</p> <ul style="list-style-type: none"> • 2019/2020 Year in Review • 2019/2020 Capital Works Program Update • Strategic Projects – Towards 2025 <p>Councillor Issues Raised</p>

Conflict of Interest Disclosures		
Matter No.	Councillor/Officer making disclosure	Councillor/Officer left meeting Yes/No
1.1 Community Asset Committees	Cr Charlie Gillingham	No
Completed By:	Tom O'Reilly –Chief Executive Officer 	

7 BUSINESS REPORTS FOR DECISION

7.1 COMMUNITY ASSET COMMITTEES

Author: Lisa Clue, Manager Governance

Authoriser: Phil Higgins, Director Corporate Services

Attachments: Nil

RECOMMENDATION

That Council:

- 1. in exercise of the power conferred by s 65 of the *Local Governance Act 2020*, resolves that:**
 - 1.1 From 1 September 2020, there be established as Community Asset Committees the-**
 - 1.1.1 Leitchville War Memorial Swimming Pool Community Asset Committee**
 - 1.1.2 Quambatook Caravan Park Community Asset Committee**
 - 1.1.3 Community Halls Community Asset Committee.**
 - 1.2 The purpose of each Committee is to manage the respective community asset in such a way as to meet the needs of the local community and the requirements of Council.**
 - 1.3 The members of each Committee shall remain the members appointed by Council to special committees under section 86 of the *Local Government Act 1989* at its Ordinary meeting on 20 November 2019.**
- 2. revokes the Deeds of Delegation of Council's powers and functions, effective on 1 September 2020, to the following Committees established pursuant to the provisions of section 86 of the *Local Government Act 1989*:**
 - 2.1 Leitchville War Memorial Swimming Pool Special Committee**
 - 2.2 Quambatook Caravan Park Special Committee**
 - 2.3 Community Halls Special Committee.**

EXECUTIVE SUMMARY

A number of assets located on land owned or managed by Council are currently managed and maintained by special committees established by Council under section 86 of the *Local Government Act 1989* (the 1989 Act).

The recently enacted *Local Government Act 2020* (the 2020 Act) does not provide for special committees however it does contain specific provisions for the establishment of Community Asset Committees for the purpose of managing a community asset in the municipal district.

This report seeks to establish, and appoint members to the following three Community Asset Committees, previously established under section 86 of the 1989 Act:

1. Leitchville Memorial Swimming Pool Community Asset Committee
2. Quambatook Caravan Park Community Asset Committee
3. Gannawarra Community Halls Community Asset Committee.

PURPOSE

This report seeks to establish, and appoint members to three Community Asset Committees.

ATTACHMENTS

Nil.

DISCUSSION

The following assets located on land owned or managed by Council are currently managed and maintained by special committees established by Council under section 86 of the 1989 Act:

1. Leitchville Memorial Swimming Pool
2. Quambatook Caravan Park
3. Community Halls (Murrabit, Lake Charm, Myall, Koroop, Gannawarra and Dingwall)

Council delegated a range of functions, duties and powers to each Committee, and in accordance with section 86(4) of the 1989 Act, specifically excluded the power of delegation; the power to borrow money; and the power to enter into contracts above a specified value.

The 2020 Act does not provide for special committees however it does contain specific provisions for the establishment of Community Asset Committees for the purpose of managing community assets in the municipal district.

Further, section 47 of the 2020 Act makes provision for the Chief Executive Officer, by instrument of delegation, to delegate any power, duty or function of the Council that has been delegated to the Chief Executive Officer, to members of a Community Asset Committee, subject to terms and conditions specified by the Chief Executive Officer, which must include the following –

- (a) the specified limit on any financial delegation and the specified purpose for which the financial delegation may be used;
- (b) compliance with specified governance requirements to ensure appropriate standards of probity are met;
- (c) specified monitoring and reporting of the activities and performance of the Community Asset Committees.

Following establishment by Council of the three Community Asset Committees, Instruments of Delegation from the Chief Executive Officer to each person who is from time to time appointed as a member of each Committee will be executed, based on requirements of the 2020 Act, previous delegations and terms of reference documents which address matters such as meetings procedures, insurance, safety and risk management.

RELEVANT LAW

Local Government Act 2020 – sections 65 (Community Asset Committee) and 47 (Delegations by Chief Executive Officer).

RELATED COUNCIL DECISIONS

The Leitchville War Memorial Swimming Pool Committee was established by Council resolution prior to 1998.

The Quambatook Caravan Park Committee was established by Council resolution on 9 June 2004.

The Community Halls Committee was established by Council resolution on 20 September 2017.

At its Ordinary meeting on 20 November 2019, Council resolved to appointment members of the Leitchville War Memorial Swimming Pool and Quambatook Caravan Park Committees for the ensuing 12 months and members of the Community Halls Committee for a two year period. Council also resolved to exempt members of each committee from the requirement to submit primary and ordinary returns of interest in accordance with section 81 of the 1989 Act.

This report seeks resolution of Council to revoke the existing Deeds of Delegation to each Special Committee described above.

There is no requirement in the 2020 Act for members of Community Asset Committees to submit interest returns.

OPTIONS

Community Asset Committees must be established by 1 September 2020 as committees established under the 1989 Act will no longer be in force after that time.

SUSTAINABILITY IMPLICATIONS

Not applicable.

COMMUNITY ENGAGEMENT

Council officers have held discussions with some members of each Committee regarding required changes and will continue to work with the Committees into the future.

INNOVATION AND CONTINUOUS IMPROVEMENT

Not applicable.

COLLABORATION

Council officers have been involved in 2020 Act implementation remote access workshops with Victorian councils and Local Government Victoria through the Engage Vic platform and have had discussions with officers from other councils regarding Community Asset Committees.

FINANCIAL VIABILITY

Not applicable.

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

Not applicable

COUNCIL PLANS AND POLICIES

Not applicable

TRANSPARENCY OF COUNCIL DECISIONS

This report will be considered in an open Council meeting.

CONFLICT OF INTEREST

The officer preparing this report declares that they have no conflict of interest in regards to this matter.

7.2 DRAFT GOVERNANCE RULES AND PUBLIC TRANSPARENCY POLICY

Author: Lisa Clue, Manager Governance
Authoriser: Phil Higgins, Director Corporate Services
Attachments: 1 Governance Rules [↓](#)
2 Policy No. 141 - Public Transparency [↓](#)

RECOMMENDATION

That Council:

1. **Adopt the following documents as presented and attached to this report:**
 - Gannawarra Shire Governance Rules**
 - Policy No. 114 – Public Transparency**
2. **Authorise the Chief Executive Officer to make amendments to the documents to correct any minor drafting errors that do not materially alter their intent.**

EXECUTIVE SUMMARY

Section 60 of the *Local Government Act 2020* (the Act) requires Council to adopt and apply Governance Rules which describe the way it will conduct Council meetings and make decisions on or before 1 September 2020.

Section 57 of the Act requires Council to adopt and maintain a public transparency policy that gives effect to the public transparency principles contained with the Act; describes the way in which Council information is to be made publicly available; and specifies Council information that must be publicly available. This policy must also be adopted by Council on or before 1 September 2020.

At its July meeting, Council resolved to endorse for community consultation and engagement Draft Governance Rules and Draft Public Transparency Policy and to receive a report at its August meeting to consider final drafts of both documents.

Community feedback was sought on Draft Governance Rules and Draft Public Transparency Policy for 21 days from 16 July 2020, however no feedback was received.

This report seeks Council consideration of several minor amendments and formal adoption of the documents to take immediate effect.

PURPOSE

This report seeks Council consideration of several minor amendments and formal adoption of the Draft Governance Rules and Draft Public Transparency Policy to take immediate effect.

ATTACHMENTS

Gannawarra Shire Council Governance Rules
Council Policy No. 114 – Public Transparency

DISCUSSION

The Act received Royal Assent on 24 March 2020 and is being implemented in four stages. A number of provisions that came into operation on 1 May 2020 require documents to be adopted by Council on or before 1 September 2020, including Governance Rules and a Public Transparency Policy.

Governance Rules

Section 60(7) of the Act provides that a Council must adopt the first Governance Rules on or before 1 September 2020. Prior to adoption, Council must ensure a process of community engagement is followed in development of the Governance Rules.

The Draft Governance Rules as presented to Council in July include a revised version of the Meetings Procedure, incorporated by reference into Council's Governance Local Law 2018. This ensures that, in the most part meeting procedures currently undertaken remain in place. A number of adjustments have been made to comply with the new legislation (eg inclusion of Conflict of Interest disclosure procedures and the Election Period Policy), others have been made to align to Draft Model Governance Rules and best practice examples considered during Local Government Victoria (LGV) and other local government sector Local Government Act 2020 implementation engagement processes.

Council last reviewed its Election Period Policy (Council Policy No. 118) in December 2019. Given its relatively recent review, the key changes proposed to this policy for its inclusion in the Draft Governance Rules are reflective primarily of the Local Government Act changes.

No response was received to Council's invitation for community feedback on the Draft Governance Rules, however some minor amendments have been made to clause 7 to reflect the requirement for meetings to elect a Mayor to be chaired by the Chief Executive Officer under section 25 of the *Local Government Act 2020* and clause 5.6 of the Election Period Policy, reflecting the repeal of section 55D of the *Local Government Act 1989*.

Public Transparency Policy

A Public Transparency Policy must be adopted by Council to comply with the requirements of the Act on or before 1 September 2020, giving effect to the Public Transparency Principles at section 58 of the Act.

The draft Policy was developed considering a Draft Model Public Transparency Policy and best practice examples considered during a Local Government Victoria (LGV) and other local government sector Local Government Act 2020 implementation engagement processes.

The draft Policy outlines Council's commitment to transparency and lists the types of documents and information available from Council via the website and on request. It provides guidance for the public on how to make requests and how to seek redress if not satisfied with Council's response.

The draft Policy also outlines some Council information that may not be publicly available for example where:

- it is confidential by virtue of the Local Government Act 2020 or any other Act; or
- its release would not comply with the *Privacy and Data Protection Act 2014*; or
- its release would be contrary to the public interest.

No response was received to Council's invitation for community feedback on the Draft Public Transparency Policy, however the requirement to review the policy has been changed from within two months of a general election to within twelve months of a general election.

RELEVANT LAW

Section 60(7) of the Local Government Act 2020 states that a Council must adopt the first Governance Rules on or before 1 September 2020.

Section 57(3) of the Local Government Act 2020 requires Council to adopt the first Public Transparency Policy on or before 1 September 2020.

RELATED COUNCIL DECISIONS

At its Ordinary Meeting on 19 December 2018, Council adopted its new Governance Local Law 2018. The Local Law incorporated by reference a Procedure for Election of Mayor and Meeting Procedures and commenced operation on 4 January 2019.

Council Policy No. 118 – Election Period was most recently reviewed and endorsed by Council at its Ordinary Meeting on 18 December 2019.

At its July 2020 meeting, Council resolved to endorse for community consultation and engagement Draft Governance Rules and Draft Public Transparency Policy and to receive a report at its August meeting to consider final drafts of both documents.

OPTIONS

To ensure legislative compliance, the Governance Rules and Public Transparency Policy must be adopted by Council on or before 1 September 2020.

SUSTAINABILITY IMPLICATIONS

Not applicable

COMMUNITY ENGAGEMENT

Section 60(4) of the Act requires a Council to ensure a process of community engagement is followed in the development or amendment of Governance Rules. Whilst there is no similar specific requirement in the Act relating to a Public Transparency Policy, feedback from the community was sought on both documents for a period of 21 days from 16 July 2020.

The community engagement process was advertised in local media and on Council's website. The documents were available from the website and Council's Customer Service Centres. Members of the community were able to provide feedback via an online form on the website, by email or post.

INNOVATION AND CONTINUOUS IMPROVEMENT

The Draft Governance Rules incorporate a revised version of the Meetings Procedure, incorporated by reference into Council's Governance Local Law 2018. Adjustments made reflect identified improvement in the context of the conduct of Gannawarra Shire Council meetings; the requirements of the Act; and local government sector experience and discussion.

The Draft Public Transparency Policy has been developed considering the requirements of the Act and local government sector experience and discussion, as well as to enhance existing processes that support access to Council information.

COLLABORATION

These documents have been developed based on Council's Governance Local Law 2018 and/or Draft Model Governance Rules and Public Transparency Policy and best practice examples considered during a Local Government Victoria Local Government Act 2020 implementation engagement process.

FINANCIAL VIABILITY

There are no financial implications associated with the adoption of the Governance Rules or Public Transparency Policy.

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

Not applicable.

COUNCIL PLANS AND POLICIES

- Gannawarra Shire Council Plan 2017-2021 – Good Governance and a Healthy Organisation
- Governance Local Law 2018
- Policy No. 118 – Election Period
- Policy No. 074 – Information Privacy and Health Records.

TRANSPARENCY OF COUNCIL DECISIONS

This report will be considered in an open Council meeting.

CONFLICT OF INTEREST

The officer preparing this report declares that they have no conflict of interest in regards to this matter.



GANNAWARRA SHIRE COUNCIL GOVERNANCE RULES

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PART 1 - PRELIMINARY

1. Purpose

The purpose of these Governance Rules is to provide for:

- a) the conduct of Council meetings;
- b) the conduct of meetings of delegated committees;
- c) the form and availability of meeting records;
- d) the election of the Mayor and Deputy Mayor;
- e) the appointment of an Acting Mayor;
- f) an election period policy;
- g) the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee at a meeting of the Council or a delegated committee;
- h) the procedure for the disclosure of a conflict of interest by a Councillor at a meeting under the auspices of Council that is not a meeting of the Council or a delegated committee;
- i) the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter;
- j) the consideration and making of decisions on any matter being considered by Council fairly and on the merits;
- k) the institution of decision-making processes to ensure that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered; and
- l) any other matters prescribed by regulations made under the Act.

2. Role of Council

- 1) The role of Council is to provide good governance in its municipal district for the benefit and wellbeing of the Gannawarra municipal community.
- 2) Council will provide good governance through —
 - a) the performance of its role in accordance with the overarching governance principles and supporting principles of the Act; and
 - b) the Councillors of the Council performing their roles in accordance with the requirements of the Act.
- 3) In performing its role, Council may—
 - a) perform any duties or functions or exercise any powers conferred on Council by or under the Act or any other Act; and
 - b) perform any other functions that Council determines are necessary to enable Council to perform its role.
- 4) If it is necessary to do so for the purpose of performing its role, Council may perform a function outside its municipal district.

3. Overarching governance principles and supporting principles

- 1) Council will in the performance of its role give effect to the overarching governance principles.
- 2) The following are the overarching governance principles—
 - a) Council decisions are to be made and actions taken in accordance with the relevant law;

- b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;
 - c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
 - d) the municipal community is to be engaged in strategic planning and strategic decision making;
 - e) innovation and continuous improvement is to be pursued;
 - f) collaboration with other Councils and Governments and statutory bodies is to be sought;
 - g) the ongoing financial viability of the Council is to be ensured;
 - h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making; and
 - i) the transparency of Council decisions, actions and information is to be ensured.
- 3) In giving effect to the overarching governance principles, Council will take into account the following supporting principles—
- a) the community engagement principles;
 - b) the public transparency principles;
 - c) the strategic planning principles;
 - d) the financial management principles; and
 - e) the service performance principles.

4. Council decision making

- 1) Council must consider, and make decisions on, any matter being considered by Council fairly and on the merits.
- 2) Any person whose rights will be directly affected by a decision of the Council is entitled to:
 - a) communicate their views by written submission; and
 - b) have their interests considered.
- 3) For the purposes of subclauses (1) and (2), a decision of Council means the following—
 - a) a resolution made at a Council meeting;
 - b) a resolution made at a meeting of a Delegated Committee; or
 - c) the exercise of a power or the performance of a duty or function of Council by a member of Council staff or a Community Asset Committee under delegation.

5. Definitions

In these Governance Rules, unless inconsistent with the context:

Words	Meaning
Act	The <i>Local Government Act 2020</i>
Agenda	A document containing the date, time and place of a meeting and a list of business to be transacted at the meeting
Business days	Monday to Friday, excluding public holidays
Chair	The Chairperson

Words	Meaning
Chairperson	The person who chairs a meeting of Council, a Delegated Committee or a Community Asset Committee, and includes a person acting as Chairperson, a temporary Chairperson or a substitute Chairperson.
Chief Executive Officer	The person occupying the office of Chief Executive Officer of Council, including a person acting in that office
Clause	A clause of these Governance Rules
Committee Meeting	A meeting of a Delegated Committee or a Community Asset Committee
Common Seal	The Common Seal of Council
Community Asset Committee	A Community Asset Committee established by Council under section 65 of the Act
Council	The Gannawarra Shire Council
Councillor	A Councillor of Council
Council Meeting	A meeting of Council convened in accordance with these Governance Rules
Delegate	A member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation
Delegated Committee	A Delegated Committee established by Council under section 63 of the Act
Deputy Mayor	The Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor
Division	A formal count and recording of those for and those against a motion
Mayor	The Mayor of Council and any person appointed by Council to be acting as Mayor
Meeting	A meeting of Council, a Delegated Committee or a Community Asset Committee
Member	A person who is entitled to vote at a meeting of Council, a Delegated Committee or a Community Asset Committee
Minutes	The official record of the proceedings and decisions of a meeting
Motion	A proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted
Notice of Motion	A notice setting out the text of a motion which is proposed to be moved at the next relevant meeting
Notice of Rescission	A Notice of Motion to rescind a resolution made by Council
Procedural Motion	A Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure
Suspension of Standing Orders	The suspension of the meetings provisions of the Governance Rules to facilitate full discussion on a matter without formal constraints

PART 2 – THE MAYOR, DEPUTY MAYOR AND ACTING MAYOR

6. When a Mayor is to be elected

- 1) A Mayor is to be elected:
 - a) as soon as practicable after the declaration of the result of the election; or
 - b) where the position of Mayor otherwise becomes vacant, as soon as practicable after the vacancy has occurred.
- 2) Before the election of the Mayor, Council must determine by resolution whether the Mayor is to be elected for a one or two year term.
- 3) If the Mayor is elected for a one year term, the next election of the Mayor must be held on a day to be determined by Council that is as close to the end of the one year term as is reasonably practicable.
- 4) If the Mayor is elected for a two year term, the next election of the Mayor must be held on a day to be determined by Council that is as close to the end of the two year term as is reasonably practicable.
- 5) The election of a Mayor after the period specified in this clause does not invalidate the election.
- 6) A Councillor elected to fill a vacancy in the office of Mayor caused other than by the expiration of a one or two year term serves the remaining period of the previous Mayor's term.

7. Election of Mayor

- 1) Any meeting to elect the Mayor must be chaired by the Chief Executive Officer.
- 2) The election of the Mayor must be undertaken by a show of hands.
- 3) In determining the election of the Mayor, the following will apply:
 - a) Subject to paragraphs c) and d), the Mayor must be elected by an absolute majority of the Councillors.
 - b) If an absolute majority of the Councillors cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date.
 - c) However, if only one Councillor is a candidate for Mayor, the meeting must declare that Councillor to be duly elected as Mayor.
 - d) In this clause, absolute majority means the number of Councillors which is greater than half the total number of the Councillors of a Council.
 - e) where there are more than two nominations received and the result has not been determined under paragraphs (b) or (c) the nominee with the fewest number of votes cast must be eliminated (and if more than one of them, the nominee determined by lot) and the names of the remaining nominees must be put to the vote again.
 - f) the procedure in paragraph (e) must be repeated until the circumstances in paragraph (c) apply or until there are only two nominees remaining in which case a further vote must be taken and the nominee with a majority will be declared elected.
- 4) If the Mayor is temporarily absent, including being unable to attend a Council meeting for any reason, the Deputy Mayor is the appointed Acting Mayor unless there is no elected Deputy Mayor or such person is unavailable in which case an Acting Mayor is to be appointed.

8. Deputy Mayor

Any election by Council of a Deputy Mayor will follow the same procedure as that for an election of the Mayor with the exception of clause 1).

9. Acting Mayor

Any appointment of an Acting Mayor will be in accordance with section 20B of the Act.

PART 3 – COUNCIL MEETINGS

Division 1 – General

10. Purpose of Council meetings

- 1) Council holds scheduled meetings and, when required, unscheduled meetings to conduct the business of Council.
- 2) Council is committed to transparency in decision making and, in accordance with the Act, Council and Delegated Committee meetings are open to the public including by:
 - a) allowing members of the community to attend the meetings;
 - b) where practicable, livestreaming the meetings;
 - c) making a recording of the meeting proceedings available on Council's website; and/or
 - d) making available the agenda and minutes of the meetings, except to the extent that these documents contain confidential information or information which is contrary to the public interest to release.
- 3) Meetings will only be closed to members of the public if:
 - a) the meeting is to consider confidential information as defined in the Act; or
 - b) a meeting is required to be closed for security reasons; or
 - c) the meeting is required to be closed for the protection of Councillors, or the public consistent with state or federal government guidelines or public health considerations; or
 - d) it is necessary to enable the meeting to proceed in an orderly manner.
- 4) If a meeting is closed to the public for the reasons outlined in subclause 3(b), 3(c) or 3(d), the meeting will continue to be livestreamed. In the event a livestream is not available the meeting may be adjourned, or a recording of the proceedings may be available on Council's website.
- 5) If it has been determined that a meeting is to be closed to the public to consider confidential information, the minutes of the meeting that are available for public inspection must record:
 - a) the ground or grounds for determining to close the meeting to the public by reference to the grounds specified in the definition of confidential information in clause 3(1) of the Act; and
 - b) an explanation of why the specified ground or grounds have been applied.

11. Apologies and absences

- 1) Councillors and members of Delegated Committees who are unable to attend a meeting may submit an apology:
 - a) in writing to the Chairperson, who will advise the meeting; or
 - b) by seeking another Councillor or member of a Delegated Committee to submit it at the meeting on their behalf.
- 2) An apology submitted to a meeting will be recorded in the minutes.
- 3) A Councillor intending to take a leave of absence should submit it in writing to the Mayor.
- 4) The Mayor will seek to have any leave of absence request received included in the agenda of the next Council meeting.
- 5) A leave of absence not included in a Council meeting agenda may still be considered by Council if a written request has been received by the Mayor prior to the meeting.
- 6) Council will not unreasonably withhold its approval of a leave of absence request.

- 7) A Councillor who has not submitted an apology or had a leave of absence approved who is not in attendance at a Council or Delegated Committee meeting will be recorded as absent.

Division 2 - Notice of meetings and availability of agendas

12. Date, time and place of Council meetings

- 1) At or before the last meeting each calendar year, Council must fix the date, time and place of all scheduled Council meetings and any Delegated Committee meetings for the following calendar year.
- 2) Council by resolution, or the Chief Executive Officer may change the date, time and place of, or cancel any meeting which has been fixed and must provide notice of the change to the public.

13. Unscheduled Council meetings

- 1) Council may by resolution call an unscheduled meeting of the Council.
- 2) The Mayor, or three Councillors may by written notice call an unscheduled meeting of the Council.
- 3) The Chief Executive Officer, following consultation with the Mayor, may call an unscheduled meeting of the Council.
- 4) A written notice to call an unscheduled meeting must:
 - a) specify the business to be transacted; and
 - b) be delivered to the Chief Executive Officer or Delegate in sufficient time to enable notice to be given in accordance with clause 14).
- 5) The Chief Executive Officer must determine the time and date for the meeting, giving consideration to:
 - a) the urgency of the business to be transacted;
 - b) the availability of Councillors; and
 - c) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted.
- 6) The Chief Executive Officer must arrange for notice of the meeting on Council's website.
- 7) Any resolution of Council to call an unscheduled meeting must specify the date and time of the unscheduled meeting and the business to be transacted. The date and time of the unscheduled meeting must not be prior to 6pm on the day following the Council meeting at which the resolution was made.
- 8) The Chief Executive Officer must call an unscheduled meeting to elect a Mayor following a Council election declaration, in accordance with the Act.
- 9) The unscheduled meeting for the election of a Mayor following an election may also consider the role of Deputy Mayor and any other matters as determined by the Chief Executive Officer.
- 10) Only the business specified in the Council resolution, or written notice, may be considered at an unscheduled meeting, unless Council, by unanimous resolution determines to admit another matter.

14. Notice of meeting

- 1) A notice of meeting incorporating or accompanied by an agenda of the business to be dealt with must be provided electronically to every Councillor:
 - a) for a Council meeting that is not an unscheduled meeting, at least five business days before the meeting. A period of less than five business days may be justified if exceptional circumstances exist; and

- b) for an unscheduled meeting at least 48 hours before the meeting. A period of less than 48 hours may be justified if exceptional circumstances exist.
- 2) A notice may be handed personally to a Councillor in any location within the time required, or may be delivered to another destination, provided a written authorisation of the relevant Councillor is held by the Chief Executive Officer.
- 3) An Agenda for each Council meeting, that is not an unscheduled meeting, will be made available on Council's website no less than 48 hours before the Council meeting.
- 4) Notice of an unscheduled meeting must be published on Council's website as soon as practicable after the time and date of the meeting has been determined.
- 5) An Agenda for an unscheduled meeting will be made available on Council's website no less than 24 hours before the unscheduled meeting.
- 6) A schedule of Council meetings must be prepared and published ensuring it is available to a broad section of the community, including on Council's website at least once each year and with such greater frequency as the Chief Executive Officer determines. The schedule of Council meetings must also be available from Council's Customer Service Centres.

15. Leave of Absence

It will not be necessary for a notice of meeting or agenda to be served on any Councillor who has been granted leave of absence, unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting to be held during the period of their absence.

16. Emergency meetings

- 1) In the case of an emergency, the Chief Executive Officer or, in their absence, a senior officer, may call or postpone a meeting of the Council, without the necessity to comply with clauses 13 to 15 provided reasonable attempts are made to notify every Councillor.
- 2) The Chief Executive Officer or senior officer must submit a full written report of the circumstances requiring their action to the next meeting of the Council.

Division 3 - Quorums

17. Council meetings

The quorum required for Council meetings will be a majority of the councillors capable of being elected to Council (as currently constituted).

18. Unscheduled or emergency meetings

The quorum required for unscheduled or emergency meetings will be the same as for a Council meeting.

19. Meetings of Delegated Committees and Community Asset Committees

The quorum for a meeting of a Delegated Committee or a Community Asset Committee will be determined by Council for each committee, but in the absence of Council's determination, the quorum required will be not less than a majority of members.

20. Inability to gain a quorum

If a quorum cannot be obtained within 30 minutes of the scheduled starting time of any meeting or adjournment the Chairperson, or if the Chairperson is not present, those Councillors present, or if there are no Councillors present, the Chief Executive Officer, or in their absence, a senior officer may adjourn the meeting for a period not exceeding seven days from the date of the adjournment.

21. Inability to maintain a quorum

If during any meeting or any adjournment of the meeting, a quorum cannot be maintained, the Chairperson, or if the Chairperson is not present, those Councillors present, or if there are no Councillors present, the Chief Executive Officer, or in their absence, a senior officer may adjourn the meeting for a period not exceeding seven days from the date of the adjournment.

22. Inability to achieve or maintain a quorum due to conflicts of interest of Councillors

- 1) The Chairperson may defer an item of business in respect of which there is, or is likely to be, a disclosure of a conflict of interest by one or more Councillors that will cause a quorum to be lost, and direct the Chief Executive Officer to include that item of business on an agenda for a future Council meeting.
- 2) If during any meeting or adjournment a quorum cannot be achieved or maintained due to the number of declarations of conflicts of interest by Councillors, Council will:
 - a) determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
 - b) determine to make decisions on separate parts of the matter at a meeting where quorum can be maintained, before making a decision on the whole matter at a meeting for which quorum can be maintained.
- 3) If during any meeting or adjournment a quorum cannot be achieved or maintained due to the number of declarations of conflicts of interest by Councillors and the matter cannot be separated into component parts or prior decisions made, Council will delegate the decision to be made:
 - a) by the Chief Executive Officer; or
 - b) by a Delegated Committee, established for the purpose of determining the matter, comprised of all the Councillors who have not disclosed a conflict of interest and any other person(s) the Council considers suitable.
- 4) A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council meeting.

23. Notice for adjourned meeting

The Chief Executive Officer may provide written notice of an adjourned meeting but where that is not practicable because time does not permit that to occur, then provided a reasonable attempt is made to contact each Councillor, notice by telephone, facsimile, in person or by some other means will be sufficient.

Division 4 – Conduct of business**24. Business at meetings and Order of Business**

- 1) The order of business of Council meetings will be determined by the Chief Executive Officer, in consultation with the Mayor, to facilitate and maintain open, efficient and effective processes of government.
- 2) Although preparation should aim at consistent agendas from meeting to meeting, this should not preclude altering the order of business to enhance the fluent and open process of government of the Council, to meet identified needs of Council or to take advantage of opportunities which may arise from time to time.
- 3) No business can be dealt with at a meeting unless it is:
 - a) contained on the agenda; or
 - b) admitted as Urgent Business in accordance with Clause 27).

- 4) In determining the agenda, the Chief Executive Officer should consider:
 - a) the general attitude of the Council;
 - b) convenience to the community and interested community groups particularly in relation to the administration of the municipal district;
 - c) the sensitivity of issues;
 - d) the interest of the community and community groups; and
 - e) any other relevant factor which may impact on the fluent and open processes of the government of the Council.
- 5) As a guide, the Chief Executive Officer should list items, giving priority as follows:
 - a) Procedural and protocol matters, which may include:
 - An Acknowledgement of, or Welcome to Country
 - Opening Declaration or Prayer
 - Receipt of apologies
 - Requests for leave of absence
 - Confirmation of minutes
 - Declarations of Conflict of Interest
 - Questions from the public
 - Petitions
 - b) Reports for Council decision
 - c) Other matters, which may include:
 - Notices of Motion
 - Urgent Business
 - Council Delegates Reports.

25. Change to Order of Business

Once an agenda has been sent to Councillors, the order of business for that meeting may only be altered by resolution of the Council.

26. Chief Executive Officer may include items on an agenda

The Chief Executive Officer may include any matter on an agenda which they think should be considered by the meeting following consultation with the Mayor.

27. Urgent Business

- 1) Business cannot be admitted as Urgent Business other than by resolution of Council and only then if:
 - a) it relates to or arises out of a matter which has arisen since distribution of the agenda; and
 - b) deferring the item until the next meeting will mean a decision on the item will not have any effect on the matter; or
 - c) the item involves a matter of urgency as determined by the Chief Executive Officer; and
 - d) it cannot be addressed through an operational service request process.

Provided the matter does not:

- Substantially affect the levels of Council service;
- Commit Council to significant expenditure not included in the adopted budget;
- Establish or amend Council policy; or
- Commit Council to any contractual arrangement.

- 2) A Councillor proposing a matter be admitted as urgent business must lodge it in writing to the Chief Executive Officer no later than 12 pm on the day of the meeting.
- 3) The Chief Executive Officer will advise the Mayor of any matter he or she determines appropriate for Council to consider admitting as urgent business.

28. Time limits for meetings

- 1) A meeting must not continue after three hours from the time it commences unless a majority of Councillors present vote in favour of its extension.
- 2) In the absence of such an extension, the meeting must stand adjourned to a date, time and place to be then and there announced by the Chairperson.
- 3) The Chief Executive Officer must give notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.

29. Meetings of Delegated Committees and Community Asset Committees

The agenda for a meeting of a Delegated Committee or a Community Asset Committee will be relevant to the issues which are to be raised at the meeting and any reference to Councillors extends to non-Councillor members of a Delegated Committee or Community Asset Committee and any reference to the Council is to be read as referring to the Community Asset Committee or Delegated Committee.

Division 5 – Disclosure of conflicts of interest

30. Procedure for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee at a meeting of the Council or a delegated committee

- 1) If a Councillor or member of a delegated committee has a conflict of interest in a matter which is to be considered or discussed at a meeting of the council or the delegated committee, the Councillor or member must, if they are attending the meeting, disclose the conflict of interest in accordance with subclause 2), and if applicable, subclause 3) below.
- 2) A councillor or member of a delegated committee who has a conflict of interest and is attending the meeting of the Council or delegated committee must make a full disclosure of that interest by either advising:
 - a) the Council or delegated committee at the meeting immediately before the matter is considered at the meeting; or
 - b) the Chief Executive Officer in writing before the meeting –
whether the interest is a general conflict of interest or a material conflict of interest; and the nature of the interest.
- 3) If the Councillor or member advised the Chief Executive Officer of the details under paragraph (b) of subclause 2) above, the Councillor or member must make a disclosure of the class of interest only to the meeting immediately before the matter is considered at the meeting.
- 4) The Chief Executive Officer must –
 - a) keep written disclosures received under this clause in a secure place for three years after the date the Councillor or member of a delegated committee who made the disclosure ceases to be a Councillor or member of a delegated committee; and
 - b) destroy the written disclosure when the three year period referred to in paragraph (a) has expired.
- 5) While the matter is being considered or any vote is taken in relation to the matter, the Councillor or member of a delegated committee must –
 - a) leave the meeting and notify the Mayor or the Chairperson of the delegated committee of their departure; and

- b) remain outside the room and any gallery or other area in view or hearing of the meeting.
- 6) The Mayor or the Chairperson of the delegated committee must cause the Councillor or member of a delegated committee to be notified that they may return to the meeting after –
 - a) consideration of the matter; and
 - b) all votes have been cast on the matter.
- 7) If a Councillor or member of a delegated committee discloses a conflict of interest, the Chief Executive Officer or the Chairperson must record in the minutes of the meeting –
 - a) the declaration of the conflict of interest; and
 - b) the classification of the interest that has given rise to the conflict; and
 - c) if the Councillor or member has disclosed the nature of the interest to the meeting, the nature of the interest.

31. Procedure for the disclosure of a conflict of interest by a Councillor at a meeting under the auspices of Council that is not a meeting of Council or a delegated committee

- 1) At a meeting under the auspices of Council that is not a meeting of the Council or delegated committee, the Chief Executive Officer must ensure that a written record is kept of –
 - a) the names of all Councillors and members of Council staff attending;
 - b) the matters considered;
 - c) any conflict of interest disclosures made by a Councillor attending under subclause 3);
 - d) whether a Councillor who has disclosed a conflict of interest as required by subclause 3) leaves the meeting.
- 2) The Chief Executive Officer must ensure that the written record of a meeting held under this clause is, as soon as practicable –
 - a) reported at a meeting of the Council; and
 - b) incorporated in the minutes of that Council meeting.
- 3) If a Councillor attending a meeting held under this clause knows, or would reasonably be expected to know, that a matter being considered by the meeting is a matter that, were the matter to be considered and decided by Council, the Councillor would have to disclose a conflict of interest, the Councillor must, at the time set out in subclause 4), disclose to the meeting that they have a conflict of interest and leave the meeting whilst the matter is being considered by the meeting.
- 4) A Councillor must disclose the conflict of interest either –
 - a) immediately before the matter in relation to which the Councillor has a conflict of interest is considered; or
 - b) if the Councillor realises that they have a conflict of interest after consideration of the matter has begun, as soon as the Councillor becomes aware that they have a conflict of interest.

32. Disclosure of a conflict of interest by a member of Council staff

- 1) A member of Council staff who is providing information to:
 - a) a meeting of Council, a delegated committee or a community asset committee; or
 - b) another member of Council staff exercising a power of delegation or performing a statutory function –

and who has a conflict of interest in a matter to which the information relates, must disclose the conflict of interest when providing the information and before the information is considered by the applicable meeting referred to in paragraph a) or another member of staff referred to in paragraph b).

- 2) A disclosure made by a person under subclause 1) must be recorded:
 - a) in the minutes of the applicable meeting referred to in paragraph a); or
 - b) in a conflict of interest disclosure register maintained by the Chief Executive Officer if the information is provided to another member of Council staff referred to in paragraph b).
- 3) A member of Council staff who has a conflict of interest in a matter in which they also have delegated power, duty or function must –
 - a) not exercise the power or discharge the duty or function; and
 - b) in the case of the Chief Executive Officer, disclose the type of interest and the nature of the interest to –
 - i. the Mayor, in writing, as soon as they become aware of the conflict of interest in the matter; and
 - ii. the Council by no later than the next meeting of the Council; and
 - c) in the case of another member of staff, disclose the type of interest and the nature of the interest to the Chief Executive Officer, in writing, as soon as they become aware of the conflict of interest in the matter.
- 4) The Chief Executive Officer does not have a conflict of interest in a matter if the matter only relates to –
 - a) the adoption or amendment of a policy relating to Council staff generally;
 - b) the adoption of a code of conduct for Council staff; or
 - c) a decision to delegate a power, duty or function to a member of Council staff.

Division 6 - Minutes

33. Keeping of minutes

The Chief Executive Officer is responsible for arranging the keeping of minutes on behalf of the Council.

34. Contents of minutes

- 1) In keeping the minutes of any meeting, the Chief Executive Officer must arrange the recording of minutes so as to show:
 - a) the date, time, place, duration and nature of the Council meeting;
 - b) the names of Councillors present;
 - c) apologies and leaves of absence;
 - d) the titles of the members of Council staff present who are not part of the gallery;
 - e) the number of media and gallery attendees;
 - f) any conflicts of interest that a Councillor or Council officer has declared in relation to an item (or items) of business listed on the agenda;
 - g) a record of any meetings held under the auspices of Council that are not meetings of Council or a delegated committee since the previous meeting of Council;
 - h) the arrival and departure times of Councillors during the course of the meeting (including any temporary departures or arrivals);
 - i) every motion and amendment moved, including the mover (and seconder if relevant) of such motion or amendment;

- j) the outcome of every motion, that is, whether it was put to the vote and the result of either CARRIED, LOST, WITHDRAWN, LAPSED or AMENDED;
 - k) procedural motions (which may be highlighted);
 - l) where a valid division is called, the names of every Councillor and the way their vote was cast; either FOR or AGAINST, or whether they ABSTAINED;
 - m) when requested by a Councillor, a record of that Councillor's support of, opposition to or abstention from voting on any motion noting that under section 61(5) of the Act, a councillor present at the meeting who does not vote is taken to have voted against the question;
 - n) details of failure to achieve or maintain a quorum and any adjournment whether as a result or otherwise;
 - o) a summary of any question asked and the response provided as part of public question time;
 - p) details of any petitions made to the Council;
 - q) the time and reason for any adjournment of the meeting or suspension and resumption of standing orders;
 - r) disclosure by a Councillor of a conflict of interest and the details associated with that disclosure required by section 130 and 131 of the Act and any disclosure of conflict of interest by the Chief Executive Officer required by section 126 of the Act;
 - s) closure of the meeting to members of the public and the reasons for such closure; and
 - t) any other matter which the Chief Executive Officer thinks should be recorded to clarify the intention of the meeting or the reading of the minutes.
- 2) In addition, the minutes should:
- a) bear the date and time the meeting was commenced, adjourned, resumed and concluded;
 - b) be page numbered;
 - c) contain consecutive item numbers which are clearly headed with a subject title and where appropriate sub-titles and file references; and
 - d) contain an index which lists every item in the minutes.

35. Confirmation of Minutes

- 1) The minutes as recorded by the Chief Executive Officer, or delegate, will be made available as the proposed minutes to:
 - a) Councillors, within seven business days;
 - b) members of the public, by publishing them on Council's website, within nine business daysof the Council meeting they relate to.
- 2) At every Council meeting, the minutes of the preceding Council meeting(s) must be dealt with as follows:
 - a) A motion will be moved to confirm the minutes in the following terms: *'That the Minutes of the _____ Meeting held on _____ 20___ be confirmed.'*

36. 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 the proceedings of the meeting to which they relate is questioned.

37. Objection to Confirmation of Minutes

- 1) If a Councillor is dissatisfied with the accuracy of the minutes, then they must:
 - a) state the item or items with which they are dissatisfied; and
 - b) propose a motion to rectify the alleged error(s) in the minutes by adding the following words to the motion in clause 35 ‘... *subject to the following alterations(s)*’
_____’.

38. Deferral of Confirmation of Minutes

Council may defer the confirmation of minutes until later in the meeting or until the next meeting as appropriate.

39. Record Keeping

Following confirmation, the minutes will be captured into Council’s Electronic Content Management System, in accordance with the requirements of the *Public Records Act 1973* and clause 8.4.1 of the Retention & Disposal Authority for Records of Local Government Functions (PROS 09/05).

40. Availability of Minutes

The Chief Executive Officer will make available confirmed minutes of open meetings of Council and Delegated Committees together with relevant reports on Council’s website.

41. Recording of meetings

- 1) The Chief Executive Officer (or other person authorised by the Chief Executive Officer) may record with appropriate recording equipment the proceedings of a Council meeting.
- 2) Subject to sub-clause 1), a person must not operate any visual or sound recording equipment at any Council meeting without first obtaining the consent of Council or the Chairperson. Such consent may be at any time during the course of such meeting be revoked by Council or the Chairperson.

Division 7 – Voting at Meetings**42. How determined**

To determine a matter before a meeting, the Chairperson will first call for those in favour of the motion and then those opposed to the motion and will declare the result to the meeting.

43. By show of hands

Voting on any matter will be by show of hands.

44. Casting vote

In the event of a tied vote, the Chairperson may exercise the casting vote.

45. When a division permitted

- 1) A division may be requested by any Councillor on any matter.
- 2) The request must be made to the Chairperson either immediately prior to or immediately after the vote has been taken but cannot be requested after the next item of business has commenced.

46. Procedure for a division

- 1) Once a division has been requested, the Chairperson will call for a show of hands by those Councillors voting for the motion and then those Councillors opposed to the motion.

- 2) The Chairperson shall name those Councillors voting for the motion, those Councillors voting against the motion, and any Councillor abstaining from voting, and the names shall be recorded in the minutes of the meeting.

47. Change between the original vote and the division

No Councillor is prevented from changing their original vote at the voting on the division, and the voting by division will determine Council's resolution on the issue.

48. No discussion once declared

Once a vote on a motion has been taken, no further discussion relating to the motion will be allowed unless the discussion is:

- (a) for a Councillor to request that his or her opposition to the motion be recorded in the minutes; or
- (b) a Councillor foreshadowing a notice of rescission where a resolution has just been made, or a positive Motion where a resolution has just been rescinded.

49. Addressing the meeting

- 1) Any Councillor or person who addresses the meeting may remain seated and shall direct all remarks through the Chair.
- 2) Any person addressing the Chairperson should refer to the Chairperson as:
 - Madam Mayor/Chairperson; or
 - Mr Mayor/Chairperson -as the case may be.
- 3) All Councillors, other than the Mayor, should be addressed as Cr _____ (surname).
- 4) All Officers, should be addressed as Mrs, Ms, Miss or Mr _____ (surname) or their official title.

PART 4 – DELEGATED COMMITTEE MEETINGS

50. Schedule 1 applies to the conduct of Delegated Committee meetings.



PART 5 – OTHER MEETING PROCEDURES

Division 1 – Matters not provided for

51. Matters not provided for

Where a situation has not been provided for under these Governance Rules, Council may determine the matter by resolution.

Division 2 – Motions

52. Chairperson's duty

- 1) The Chairperson must not accept any motion or amendment which:
 - a) is defamatory; or
 - b) is objectionable in language or nature; or
 - c) is vague or unclear in its intention; or
 - d) is outside the powers of Council; or
 - e) is not relevant to an item of business on the agenda and has not been admitted as urgent business; or
 - f) purports to be an amendment but is not.

53. Moving a motion

- 1) The procedure for any motion is:
 - a) the mover must state the motion without speaking to it;
 - b) unless the motion is a procedural motion, it must be seconded by a Councillor other than the mover;
 - c) if the motion is not seconded and is not a procedural motion, the motion will lapse for want of a seconder;
 - d) if the motion is seconded, the Chairperson must ask: "*Is the motion opposed?*";
 - e) if no Councillor indicates opposition, and no Councillor desires to speak for the motion, the motion must be declared to be carried without being voted on and will be treated as being passed unanimously;
 - f) if a Councillor indicates opposition to the motion, then the Chairperson must call:
 - i. the mover to address the meeting on the motion; and
 - ii. the seconder to address the meeting on the motion (who may, without speaking on the motion, reserve their address until later in debate); and
 - iii. any Councillor opposed to debate the motion; and
 - iv. any other Councillors for and against the motion to debate in turn.
 - g) the Chairperson will determine the order of Councillors debating the motion.

54. Right of reply

- 1) The mover of a motion which has not been amended may, once debate has been exhausted, have a right of reply to matters raised during debate but cannot introduce any new material.
- 2) After the right of reply has been exercised, the motion must be immediately put to the vote without any further discussion or debate.

55. No right of reply for amendments

No right of reply is available where an amendment is before the Council.

56. Moving an amendment

A motion having been moved and seconded may be amended by leaving out, inserting or adding words which must be relevant to the original motion and framed so as to complement it as an intelligible and consistent whole.

57. Who may propose an amendment

An amendment may be proposed or seconded by any Councillor, other than the mover or seconder of the motion.

58. Who may debate an amendment

A Councillor may address the meeting once on any amendment, whether or not they have spoken to the motion but debate must be confined to the terms of the amendment.

59. How many amendments may be proposed

- 1) Any number of amendments may be proposed to a motion but only one amendment may be accepted by the Chair at any one time. No second or subsequent amendment, whether to the motion or an amendment of it, can be taken into consideration until the previous amendment has been dealt with.
- 2) A Councillor cannot move more than two amendments in succession.

60. An amendment once carried

If the amendment is adopted, it becomes the substantive motion and, as such, shall be put to the vote by the Chairperson but only after Councillors who did not speak to the motion have exercised their right to do so.

61. Foreshadowing motions

- 1) At any time during debate, a Councillor may foreshadow a motion to inform the Council of their intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 2) A motion foreshadowed may be prefaced with a statement that, in the event that a particular motion before the meeting is resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- 3) A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the meeting.
- 4) The Chief Executive Officer is not required to record foreshadowed motions in the minutes, but may do if it is thought appropriate.

62. Withdrawal of motions

The mover of a motion may withdraw it only if the meeting gives leave (unanimous consent) to do so and if it has not already been amended.

63. Separation of motions

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

64. Chairperson may separate motions

The Chairperson may decide to put any motion to the vote in separate parts.

65. Motions in writing

- 1) The Chairperson may require any motion to be submitted in writing where it is lengthy, unclear or for any other reason.
- 2) The Chairperson may suspend the meeting while the motion is being written or may request the Council to defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

66. Debating the motion

- 1) Debate must always be relevant to the motion before the meeting, and if not, the Chairperson may request the speaker to confine debate to the subject motion.
- 2) If after being requested to confine debate to the motion before the Chair, the Councillor continues to debate irrelevant matters, the Chairperson may require the Councillor to not speak further in respect of the motion before the Chairperson.
- 3) Adequate debate is required where a matter is contentious in nature. In such a case, every Councillor should be given an opportunity to debate.
- 4) A motion has not been sufficiently debated if opposing views (where they exist) have not been sufficiently put, not so much the number of those who have spoken, but whether all minority opposing views have not been put.
- 5) Once the views put are representative of the views of all Councillors, the debate would be regarded as sufficient.

67. When a resolution is acted upon

- 1) The Chief Executive Officer or other senior officer may initiate action or cause action to be initiated on any Council resolution at any time after the close of the meeting at which it was carried.
- 2) A resolution will be considered as having been acted upon once its details have been formally communicated to a person affected by or reliant on the resolution or where a statutory procedure has been actioned.

68. Suspension of standing orders

- 1) The provisions of these Governance Rules may be suspended for a particular purpose by resolution of Council.
- 2) The suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal meeting procedure.
- 3) The motion to suspend standing orders should include reference the purpose, eg '*That Standing Orders be suspended to enable discussion on.....*'.
- 4) Once the discussion has taken place, and before any motion can be put, the resumption of Standing Orders will be necessary.

69. No motions may be accepted during the suspension of standing orders

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

70. Interruption for point of order

A Councillor who is addressing the meeting must not be interrupted unless called to order when they must remain silent until the Councillor raising the point of order has been heard and the point of order determined by the Chairperson.

Division 3 – Speaking times**71. Speaking times**

Unless a motion for an extension of time has been carried, the maximum speaking times will be:

- a) the mover of a motion - 3 minutes;
- b) the mover of a motion when exercising his or her right of reply - 3 minutes;
- c) any other Councillor - 3 minutes.

72. Extension of speaking times by resolution of Council

An extension of speaking time may be granted by resolution of the Council but only one extension is permitted for each speaker on any question.

73. When an extension can be proposed

A motion for an extension of speaking time must be proposed:

- a) immediately before the speaker commences debate;
- b) during the speaker's debate; or
- c) immediately after the speaker has concluded debate.

74. No extension after next speaker has commenced

A motion for an extension of speaking time cannot be accepted by the Chair if another speaker has commenced his or her debate.

75. Length of extension

Any extension of speaking time must not exceed three minutes.

Division 4 – Points of order and other procedural matters**76. Points of Order**

A Point of Order is an objection that the motion, amendment or statement made is:

- a) contrary to these Governance Rules or the provisions of the Act;
- b) defamatory or disloyal;
- c) irrelevant;
- d) improper;
- e) obscene; or
- f) outside Council's legal powers.

77. Raising a Point of Order

A Councillor raising a Point of Order must:

- a) Identify the point or order; and
- b) The reason for bringing it to the attention of the Chair.

78. Chairperson to decide

- 1) The Chairperson may adjourn the meeting to consider a Point of Order, otherwise the Chairperson must rule on it as soon as it is raised.
- 2) The Chairperson will decide all points of order by stating the provision, rule, practice or precedent which they consider applicable to the Point of Order raised without entering into any discussion or comment.

79. Disagreeing with the Chairperson's ruling on a Point of Order

- 1) The decision of the Chairperson in respect to a Point of Order raised will not be open for discussion and will be final and conclusive unless the majority of Councillors present vote in favour of a motion of dissent.
- 2) A motion of dissent on a Point of Order must contain a provision, rule, practice or precedent in substitution for the Chairperson's ruling.
- 3) A motion of dissent in relation to a Point of Order is not a motion of dissent in the Chair and the Chairperson must at all times remain in the Chair and they will maintain their right to a second vote.
- 4) A motion of dissent on a point of order will take precedence over all other business and if carried must be acted on instead of the ruling given by the Chairperson.

80. Adjournment and resumption of meeting

- 1) The Chairperson or the Council may adjourn any meeting until a time and place to be determined at the time of the adjournment.
- 2) For the purpose of stating the time to which the meeting is adjourned, that time may be indicated as at the adjournment or conclusion of another meeting or event.

81. Procedural motions

- 1) Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the Chairperson.
- 2) Procedural motions are not required to be seconded.
- 3) The mover of a procedural motion must not have moved, seconded or spoken to the question before the Chair or any amendment of it.
- 4) A procedural motion cannot be moved by the Chairperson.
- 5) Unless otherwise provided, debate on a procedural motion is not permitted and the mover does not have a right of reply.
- 6) Unless otherwise provided, a procedural motion cannot be amended.

82. The Closure

- 1) A motion "*That the motion be now put*"-
 - a) is a procedural motion which if carried in respect to an original motion, requires that the original motion must be put to the vote immediately without any further debate, discussion or amendment; and

- b) if carried in respect to an amendment, requires that the amendment be put to the vote immediately without any further debate or discussion and allows debate on the original motion to continue; and
 - c) if lost, allows debate to continue unaffected; and
- 2) The Chairperson has the discretion to reject such a motion for closure if the motion upon which it is proposed has not been sufficiently debated.
 - 3) Sufficient debate arises when those possessing different views have been given an opportunity to state them.

83. Adjourning the debate

- 1) A motion moved *"That the motion and amendments now before the meeting be adjourned until....."*.
 - a) is a procedural motion which cannot be moved while any person is speaking or during the election of a Chairperson; and
 - b) may be debated but may only be amended in relation to the time, date and place of the proposed adjournment;
 - c) should provide a date or time to which the adjournment is sought but if no date or time is included, it may be relisted at the discretion of the Chief Executive Officer or upon a subsequent resolution of Council.

Division 5 – Notice of Motion

84. Must be listed on agenda

Councillors may give advance notice of their intention to move a particular motion at a forthcoming meeting by giving a Notice of Motion.

A Notice of Motion cannot be accepted by the Chairperson unless it has been listed on the agenda for the meeting at which it is proposed to be moved.

85. Procedure

- 1) A Notice of Motion must be in writing, signed by the Councillor (including by electronic means) and be given to the Chief Executive Officer no later than 12 noon ten business days before the Meeting at which it is intended to be considered to ensure its inclusion in the agenda.
- 2) The Chief Executive Officer must inform Councillors about any legal and/or cost implications of any proposed Notice of Motion. The Chief Executive Officer may suggest revised wording to the draft Notice of Motion to facilitate compliance with the requirements for Notices of Motion under these Governance Rules.
- 3) A Notice of Motion must relate to the objectives, role and functions of Council as outlined in the Act.
- 4) A Notice of Motion must call for a Council report if the Notice of Motion proposes any action that:
 - impacts the levels of Council services;
 - proposes to establish, amend or extend Council policy;
 - commits Council to significant expenditure not included in the adopted budget;
 - proposes to impact the rights of any person who has not had the opportunity to contribute their views;
 - commits Council to any contractual arrangement; or
 - concerns any litigation in respect of which Council is a party.

86. Rejection of a vague notice

- 1) The Chief Executive Officer:
 - a) must reject any notice of motion that is vague, defamatory, prejudicial to any person or Council, is objectionable in language or nature, or is outside the powers of Council;
 - b) may reject a proposed Notice of Motion that relates to a matter able to be addressed through operational processes or a matter that has previously been resolved by Council or acted upon.
 - c) must notify the relevant Councillor of any notice of motion which has been rejected no later than eight business days before the Meeting at which it is intended to be considered, and give the reasons for its rejection.

87. Listing notice on agenda

Unless the notice specifies a particular meeting date, the Chief Executive Officer must list the Notice of Motion and if more than one, in the order they were received, on the next appropriate meeting agenda.

The Chief Executive Officer may designate a Notice of Motion to be confidential in accordance with relevant grounds as contained in the Act, in which case, the Notice of Motion will be considered in the part of the relevant Council meeting that is closed to members of the public.

88. Register of notices

The Chief Executive Officer must cause every Notice of Motion received to be sequentially numbered and maintained in a register.

89. May be moved by any Councillor and amended

A notice of motion listed on a meeting agenda may be moved by any Councillor present and, except where the notice of motion is to confirm a previous resolution of the Council, may be amended.

90. If lost

Unless the Council resolves to re-list at a future meeting a notice of motion which has been lost, a similar motion must not be put before the Council for at least three months from the date it was last lost.

Division 6 – Notice of Amendment or Rescission**91. Procedure**

- 1) A Councillor may propose a motion to amend or rescind a decision of Council provided:
 - a) the decision has not been acted upon; and
 - b) a notice is delivered to the Chief Executive Officer outlining:
 - i. the decision proposed to be amended or rescinded; and
 - ii. the meeting and date when the decision was made.
- 2) Any Councillor providing a Notice of Rescission Motion is required to provide written justification that must include one or more of the following:
 - a) the vote may not have accurately reflected the opinion held by the meeting due to the misunderstanding of the motion or for some other reason; or
 - b) new information or vital information that had been overlooked.
- 3) Once a Notice of Rescission Motion has been given, no further action is to be taken on the decision.

92. Listing notice on agenda

- 1) Unless the notice specifies a particular meeting date, the Chief Executive Officer must list the notice of amendment or rescission, and if more than one, in the order they were received, on the next appropriate meeting agenda, together with a brief report outlining the criteria required for the motion to be amended or rescinded.
- 2) The Chief Executive Officer must inform the Councillor whether or not the motion has met the above criteria and any grounds for refusal at the earliest opportunity.

93. Criteria to amend or rescind a motion

For a decision of the Council to be amended or rescinded, the motion for amendment or rescission must be carried by a majority of the votes cast.

94. If lost

Unless Council resolves to relist at a future meeting, a notice to amend or rescind which has been lost, a similar motion must not be put before Council for at least three months from the date it was lost.

95. If not moved

If a notice of amendment or rescission is not moved at the meeting for which it is listed, it will lapse.

96. May be moved by any Councillor

A notice of amendment or rescission listed on a meeting agenda may be moved by any Councillor present but cannot be amended.

97. When not required

A notice of amendment or rescission is not required where Council wishes to change a previous decision relating to policy of the Council.

98. Register of notices

The Chief Executive Officer must cause every notice of amendment or rescission received to be sequentially numbered and to be maintained in a register.

Division 7 – Public Participation**99. Question Time**

- 1) At every meeting of Council, with the exception of unscheduled or emergency meetings, time may be allocated to enable any member of the community to address Council.
- 2) Sub-clause 1) does not apply during any period when the Council has resolved to close the meeting in respect of a matter under section 66 of the Act.
- 3) Questions must be submitted on a Question Time form to the Chief Executive Officer or a person authorised for this purpose by the Chief Executive Officer no later than 5.00 pm on the day prior to the Council meeting.
- 4) Council may allocate reasonable time to each person who wishes to address the Council having regard to:
 - (a) the nature of the matter to be discussed;
 - (b) priorities in relation to other Council business;
 - (c) other members of the community present who also wish to address the Council;
 - (d) whether such an opportunity has already been provided to the person.

- 5) Council may decide to defer discussion to a later date and the views of the person addressing the Council should be sought concerning that other date.
- 6) Question Time guidelines are provided in Schedule 2.

100. Addressing Council during meetings

Any member of the public or community addressing the Council must extend due courtesy and respect to those present and the processes under which Council operates and must take direction from the Chairperson whenever called upon to do so.

101. Chairperson may remove

- 1) The Chairperson has the discretion to cause the removal of any person including a Councillor who disrupts any meeting or fails to comply with a direction.
- 2) Any member of Victoria Police may remove from the Chamber any person who acts in breach of these Governance Rules.

102. Petitions and Joint Letters

- 1) A petition or joint letter presented to Council must lay on the table until the next meeting of the Council and no motion, other than to receive the petition or joint letter may be accepted by the Chairperson, unless the Council agrees to deal with it earlier.
- 2) Any Councillor presenting a petition or joint letter will be responsible for ensuring that –
 - a) they are familiar with the contents and purpose of the petition or joint letter; and
 - b) the petition or joint letter is not derogatory or defamatory.
- 3) Guidelines for Petitions and Joint Letters are provided in Schedule 3.

Division 8 – Additional Duties of Chairperson

103. The Chairperson's duties and discretions

In addition to other duties and discretions provided in these Governance Rules, the Chairperson-

- a) must not accept any motion, question or statement which appears to the Chairperson to be derogatory, defamatory or embarrassing to any Councillor, member of staff, ratepayer or member of the public; and
- b) must call to order any person who is disruptive or unruly during any meeting.

PART 6 – COMMON SEAL

104. The Council's Common Seal

- 1) The Chief Executive Officer must ensure the security of Council's common seal at all times.
- 2) Council's common seal may only be used on the authority of Council given either generally or specifically unless the matter has been previously approved by Council and every document to which the seal is affixed must be signed by the Chief Executive Officer or some other senior officer authorised by him or her.
- 3) The use of the Common Seal must be recorded in a register maintained by the Chief Executive Officer or a member of Council staff to whom this duty has been delegated.

SCHEDULE 1 – MEETING PROCEDURE FOR DELEGATED COMMITTEES

1. Notices and agendas

- 1) The date, time and place of all delegated committee meetings are determined on an annual basis by the committee and at least seven days' notice must be provided to the public.
- 2) The delegated committee may change the date, time and place of any committee meeting which has been fixed and must provide at least seven days' notice of the changes to the members.
- 3) The agenda for the delegated committee meeting will be set by the Chairperson.

2. Quorums

- 1) The quorum required for delegated committee meetings will be not less than half the total number of elected committee members.
- 2) If after 30 minutes of the scheduled starting time of any meeting or adjournment a quorum cannot be obtained, those committee members present may adjourn the meeting for a period not exceeding seven days from the date of the adjournment.

3. Minutes

- 1) The Secretary is responsible for the keeping of minutes on behalf of the delegated committee.
- 2) No discussion or debate on the confirmation of minutes will be permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.
- 3) If a committee member is dissatisfied with the accuracy of the minutes, then they must:
 - a) state the item or items with which they are dissatisfied; and
 - b) propose a motion clearly outlining the alternative wording to amend the minutes.

4. Business of the meeting

- 1) The order of business will be determined by the Secretary to facilitate and maintain open, efficient and effective processes of governance and must include the opportunity for members to declare any conflict of interest on items on the agenda.
- 2) Once an agenda has been sent to committee members, the order of business for that meeting may only be altered by resolution of the delegated committee.

5. Voting

- 1) To determine a matter before a meeting, the Chair will first call for those in favour of the motion and then those opposed to the motion, and will declare the result of the motion.
- 2) Unless the committee resolves otherwise, voting on any matter will be by a show of hands.
- 3) If there is an equal number of votes, the Chair has a second, casting vote.

6. Addressing the meeting

- 1) Except for the Chair, any committee member or person who addresses the delegated committee meeting must address all remarks through the Chair.
- 2) A committee member who is speaking must not be interrupted unless called to order when they must remain silent until the committee member raising the point of order has been heard and the Chairperson has ruled on the point of order.

7. Motions and amendments

- 1) Any motion or amendment which is –
 - a) defamatory; or
 - b) objectionable in language or nature; or
 - c) outside the powers of the delegated committee; or
 - d) stated to be an amendment but is notmust not be accepted by the Chairperson.
- 2) The procedure for any motion is –
 - a) the mover must state the motion without speaking to it;
 - b) it must be seconded by a committee member other than the mover;
 - c) if a motion is not seconded, the motion will lapse for want of a seconder; and
 - d) if the motion is seconded, the Chair must ask if the mover wishes to address the committee on the motion and if the seconder wishes to address the committee on the motion or if they wish to reserve their address until later in the debate.
- 3) The Chair will then ask if any committee member is opposed to the motion and if they wish to speak. Other committee members for and against the motion can then debate in turn.
- 4) The mover of a motion shall have a right of reply after the debate, after which the motion shall be immediately put to the vote. No right of reply is available where an amendment is before the delegated committee.
- 5) An amendment may be proposed or seconded by a committee member, except the mover or seconder of the original motion. An amendment shall not be a direct negative of the motion.
- 6) A committee member may address the meeting once on any amendment, whether or not they have spoken to the original motion but debate must be confined to the terms of the amendment.
- 7) Any number of amendments may be proposed to a motion but only one amendment may be accepted by the Chair at any one time. No second or subsequent amendment, whether to the original motion or an amendment of it, can be taken into consideration until the previous amendment has been dealt with.
- 8) If the amendment motion is carried, it then becomes the final motion before the Chair.
- 9) At any time during debate a committee member may foreshadow a motion to inform the committee of his or her intention to move a motion at a later stage in the meeting.
- 10) Before any motion is put to the vote it may be withdrawn with leave of the mover and seconder.
- 11) The Chairperson may require any complicated or lengthy motion to be submitted in writing.
- 12) Debate must always be relevant to the question before the Chair and, if not, the Chairperson will request the speaker to confine debate to the subject motion.
- 13) If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters the Chairperson may require the speaker not speak further in respect of the matter then before the Chair.
- 14) Unless a motion for an extension of time has been carried, the maximum speaking times will be:
 - a) The mover of a motion – 5 minutes
 - b) The mover of a motion when exercising their right of reply – 2 minutes
 - c) Any other committee member – 3 minutes.

8. Other matters

If the committee is required to deal with:

- a) divisions;
- b) formal motions;
- c) separation of motions;
- d) points of order;
- e) adjournment of a meeting;
- f) suspension of standing orders;
- g) a notice of motion;
- h) a notice of rescission motion;
- i) maintenance of order;
- j) suspension; or
- k) removal of the meeting –

these matters should be dealt with in accordance with the relevant Governance Rules applying to the meeting.

SCHEDULE 2 – QUESTION TIME GUIDELINES

Question time at Council meetings provides an opportunity for members of the public in the gallery to ask questions of Gannawarra Shire Council.

- Questions must be submitted on a Question Time form, available from Council's website and the Kerang and Cohuna Customer Service Centres.
- A maximum number of two questions may be asked by any one person at each Council meeting.
- Completed Questions Time forms must be submitted to the Chief Executive Officer or a person authorised for this purpose by the Chief Executive Officer no later than 5.00 pm on the day prior to the Council meeting.
- Questions will be read by the Mayor or Chief Executive Officer.
- The Mayor or Chief Executive Officer may indicate that they require further time to research an answer. In this case, an answer will be provided in writing generally within ten days.
- Questions will be answered at the meeting, or later in writing, unless the Mayor or Chief Executive Officer has determined that the relevant question seeks confidential information defined in section 3 of the Act such as:
 - Council business information;
 - security information;
 - land use planning information;
 - law enforcement information;
 - legal privileged information;
 - personal information;
 - private commercial information;
 - confidential meeting information;
 - internal arbitration information;
 - Councillor Conduct Panel confidential information.
 - an issue outside the Gannawarra Shire Council core business.or if the questions is:
 - defamatory, indecent, abusive or objectionable in language or substance
 - repetitive of a question already answered (whether at the same or an earlier meeting)
 - asked to embarrass a Councillor or Council officer
- No debate or discussion of questions or answers shall be permitted and all questions and answers shall be as brief as possible.

SCHEDULE 3 – GUIDELINES FOR PETITIONS AND JOINT LETTERS

What is a petition?

A petition is a formal written request for action. For example, petitions may ask council to change a decision, policy or local law, or take action for a certain purpose or for the benefit of particular persons.

Presenting a petition to Council

The following information has been prepared to assist people who wish to lodge a petition with Council. It explains the rules governing petitions and provides a link to a petition template.

Alternatives to petitioning Council

Before commencing a petition, consider whether it is the most effective means of dealing with a grievance. In the first instance Council encourages persons to attempt to resolve a matter by contacting customer service staff on (03) 5450 9333. Additionally, councillors are always available to speak with persons on matters of concern.

Using a petition to have your view heard

Notwithstanding the above alternatives, petitions are one way the community can ensure its views are heard by Council.

Should the petition be sent to Council?

Check with Council that the matter comes under its jurisdiction. In other words does Council have the power to act to address the matter, or is it a matter for the state or federal government.

Writing a petition

- Prepare a clear message about what's wrong with the situation, why it needs to change, and how things can get better. For example:

The residents and ratepayers of Gannawarra Shire Council draw to the attention of the Council that there is a problem with speeding motorists at the intersection of ABC Street and XYZ Road.

Drivers coming along XYZ Road typically speed through this busy intersection at 70 km/h, endangering the lives of other motorists and pedestrians.

We therefore request that council replace the give way sign with a stop sign on XYZ Road.

- Choose language that is respectful and non-emotive. This is more likely to gain the support of others who share your view on the topic.
- State the request **on each page** of the petition.
- Don't attach any other documents to the petition – all the information being presented to the petitioners when they sign is all the information that is required.
- Make sure the signatories include their name, signature and address on the sheet.
- Don't let someone sign for anyone else, not even friends or family (unless they are incapable of signing).

Processing a petition

Petitions should be forwarded to the Chief Executive Officer. The CEO will provide a copy of petitions to all councillors and submit the petition to the next Council meeting.

The first named petitioner or the person submitting the petition will be advised of the outcome.

A pro-forma for petitions is available for download from the council's website at www.gannawarra.vic.gov.au.

For further information about the process for presenting petitions, please contact the Council's governance staff on (03) 5450 9333.

SCHEDULE 4 – ELECTION PERIOD POLICY

COUNCIL POLICY NO. 118

1. INTRODUCTION

Councils must comply with special arrangements during the election period in the lead up to a general election.

Election policy provisions contained within the *Local Government Act 2020* (the Act) are intended to ensure councils do not interfere with the integrity or probity of the election process.

The Act regulates council activity in two ways. It prohibits councils from making certain types of decisions and it requires that materials produced by councils must not contain matter that will affect voting at the election.

The 'election period' as defined by the Act for the 2020 local government elections will commence on 22 September 2020 and end at 6 pm on election day, 24 October 2020.

2. POLICY PURPOSE

The purpose of this policy is to specify procedures intended to prevent Council from making inappropriate decisions or using resources inappropriately during the election period before the 2020 general election; the limits on public consultation and the scheduling of Council events; and procedures to ensure that access to information held by Council is made equally available to candidates during the election.

3. DEFINITIONS

Term	Definition	Source
Advertising sign	Means any board, notice, structure, banner or other similar device used for the purposes of soliciting sales or notifying people of the presence of an adjacent property or other address, whether real, internet-based or otherwise electronic and where goods or services may be obtained.	Community Amenity Local Law
Candidate	Means a person who has nominated as a candidate for an election under section 256 of the Act.	Act s.3(1)
Council land	Means any land owned or vested in, or under the control and management of the Council, including, but not limited to Roads, Municipal Reserves, watercourses and reservations.	Community Amenity Local Law
Councillor Candidate	Means a current Councillor who has nominated, or is considering nominating for election in the 24 October 2020 Council elections.	Policy
Electioneering	Means any action, statement and/or publication that contains material directly related to, or likely to influence, a Councillor's re-election or a candidate's election.	Policy
Election Manager	Means – (a) the VEC; or (b) a person appointed in writing by the VEC.	Act s.3(1)
Electoral Material	Means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting.	Act s.3(1)

Term	Definition	Source
Electoral Matter	<p>Means matter which is intended or likely to affect voting in an election, but does not include any electoral material produced by or on behalf of the election manager for the purposes of conducting an election.</p> <p>Without limiting the generality of the definition of electoral matter, matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on-</p> <p>(a) The election; or (b) A candidate in the election; or (c) An issue submitted to, or otherwise before, the voters in connection with the election.</p>	<p>Act s.3(4)</p> <p>Act s.3(5)</p>
Election Period	<p>Means the period that-</p> <p>(a) starts at the time that nominations close on nomination day; and (b) ends at 6 pm on election day.</p>	Act s.3(1)
Nomination Day	Means the last day on which nominations to be a candidate at a Council election may be received in accordance with the Act and the regulations.	Act s.3(1)
Publication	<p>Means:</p> <p>a) A published work in any form (eg hardcopy or digital) including but not limited to brochures, articles, letters, posters, policies, strategies, papers, commentary. b) The act or process of publishing.</p>	Policy
Publish	Means publish by any means including by publication on the Internet.	Act s.3(1)
Public consultation	Means a process which involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy, and includes discussion of that matter with the public.	Policy
Significant decision	Means an irrevocable decision that significantly affects the municipality	Policy

4. ACCOUNTABILITY

4.1 Council

Council will function in accordance with this Election Period Policy during the election period.

4.2 Chief Executive Officer

In addition to the Chief Executive Officer's statutory responsibilities, the Chief Executive Officer will:

- Prior to an election period, ensure that Councillors and Council staff are advised in regard to the application of this Policy.
- Ensure as far as possible, that matters of Council business requiring significant decisions are scheduled for Council to consider prior to the commencement of the election period, or deferred where appropriate for determination by the incoming Council.
- Not include in the agenda for any Ordinary Council meeting scheduled during the election period, any matters requiring major policy decisions or matters that could be considered inappropriate decisions.

5. POLICY

5.1 Decision making

- 5.1.1 In accordance with Section 69 of the Act Council is prohibited from making any decision during the election period for a general election that:
- relates to the appointment or remuneration of the CEO, but not to the appointment or remuneration of an Acting CEO;
 - commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year;
 - the Council considers could be reasonably deferred until the next Council is in place; or
 - the Council considers should not be made during an election period.
- 5.1.2 Council is prohibited from making any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.
- 5.1.3 A Council decision made in contravention of a) or b) above is invalid.
- 5.1.4 Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of point 3 above is entitled to compensation from Council for that loss or damage.
- 5.1.4 During the Election Period, the Council, a Committee of Council, the CEO or a Council employee acting under delegation will not:
- approve, amend or repeal any policy, plan or strategy, including those contained in or related to the Gannawarra Shire Planning Scheme, which has been adopted by Council; or
 - use their position to influence Council officers, or access Council resources of information, in support of any election campaign or candidacy.

5.2 Extraordinary Circumstances

If Council considers that there are extraordinary circumstances which require the making of a decision during the Election Period that in doing so would breach the Act, Council may apply in writing to the Minister for Local Government for an exemption from the application of this prohibition.

5.3 Council Resources

Application of Resources

Councillors will continue to be provided with resources and receive information during the election period to continue to perform their elected role.

Council resources such as office space, staff, email services, equipment, branding and stationery are only to be used for normal Council business during the election period and not for any election campaign activities.

Information and briefing material prepared and provided to Councillors must be necessary to the carrying out of the Councillor's role and must not be used for election purposes.

Councillor-candidates should be mindful to manage any perceived conflicts even where a direct expense is not incurred, this may include for example:

- Where campaign-related calls are received on a Council device, provide and encourage the caller to use a non-council number for future calls.
- Where campaign-related emails are received in a Council email account, send any responses from a private email and encourage the correspondent to use that account in future.

Council staff

Council staff must not be asked to undertake any tasks connected directly or indirectly with the election campaign of a councillor standing for re-election.

Councillors' Entitlement to Reimbursement

Reimbursements of councillors' out-of-pocket expenses during the election period will only apply to expenses incurred in the performance of normal Council duties, and not for expenses that support, or are connected with a candidate's election campaign.

5.4 Public Consultation

Public consultations will be avoided during the election period.

Council will not continue or commence public consultation on major policy decisions, contentious or potentially sensitive matters after the commencement of the election period.

Public consultation associated with activities and decisions which are the subject of statutory processes, for example

- Applications under the *Planning and Environment Act 1987*
- Consultation required under Section 223 of the *Local Government Act 1989*

can be expected to continue through the election period to ensure Council does not breach its statutory obligations.

Public consultation not associated with activities and decisions which are the subject of statutory processes shall only proceed if prior approval is given by the Chief Executive Officer.

Where community engagement has occurred prior to the election period but a related report has not yet proceeded to a Council meeting, results of the consultation will also not be provided to a Council meeting until the election period has concluded.

Any public consultation that does proceed during the election period will be vetted for electoral matter and express or implicit links to the election.

Postponing consultation

In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the election period, Council reserves the right where possible and practicable, to postpone public consultation and any associated decisions where the matter is considered likely to affect voting in the election.

5.5 Council Events

Normal Council events are not prohibited during the election period however Council will keep these events to a minimum.

Any civic or ceremonial Council event held during the election period should meet one or more of the following criteria:

- It is a planned event endorsed by the current Council Plan;
- It is routinely held at the same time of year;
- It is a commemorative or anniversary event held on or near the anniversary date;
- It demonstrates a clear community benefit, or services an educational or welfare purpose; or
- It contributes to cultural development, social awareness or sense of community identify.

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

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

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

5.6 Information

With respect to Council held information, Councillor candidates will be treated in the same way as other candidates.

Councillors may continue to automatically access Council held documents during the election period, but only as is necessary for them to perform their current role and functions. Information routinely provided to Councillors will include:

- Information that is publicly and freely available, eg Council Plans, Annual Reports, strategies, policies.
- Information and advice provided by Council officers as part of Council meeting agendas.
- Briefing papers in relation to matters to be decided upon at forthcoming Council meetings. It is likely that the briefing information provided to Councillors during the election period will be of a more routine nature than normal, given the approach to decision making during the election period.

All requests received by Council staff for information about Council projects, programs or services will be responded to in a 'business as usual' manner. This means up to date responses will be provided about progress on Council projects or services to Councillors, candidates or the public.

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

All election related enquiries from candidates or prospective candidates will be directed to the Election Manager.

Information Request Register

An Information Request Register will be maintained by the Manager Governance during the election period. This Register will be a public document and records requests by persons who identify themselves as candidates when seeking information relating to electoral matters or when making other general enquiries. The register will also record the responses provided.

Any candidate may, upon request, obtain information about the recorded requests made by another candidate as recorded in the Information Request Register and a copy of information given in response to the request.

The Manager Governance may, at his or her discretion, automatically circulate to all candidates, the response to any request recorded in the Information Request Register.

5.7 Council Publications

Council is prohibited from printing, publishing or distributing any advertisement, handbill, pamphlet or notice during an election period unless it has been certified, in writing, by the Chief Executive Officer, Manager Governance or their delegate.

The prohibition not apply to the publishing of any document published before the election period commences, or publication of any document required to be published in accordance with, or under any Act or regulation.

Certification of Publications

New publications to be printed, published or distributed during the election period must first be certified by the Chief Executive Officer, Manager Governance or their delegate.

The certification will be in writing on or affixed to a copy of the publication and be in the following form:

‘Certified in accordance with Gannawarra Shire Council Governance Rules’

Copies of all certified documents will be retained on Council records.

Publications which require certification may include:

- Brochures, pamphlets, handbills and flyers
- Reports (other than agenda papers and minutes required under the Act for Council meetings)
- Advertisements and notices, except newspaper notices of meetings
- New website material
- Social media publications (which includes Facebook and Twitter posts)
- Emails with multiple addresses, used for broad communication with the community
- Mass mail outs or identical letters sent to many people by or on behalf of Council
- Media releases
- Material to publicise a function or event
- Any publication or distribution of councillors’ speeches.

Documents permitted or required under legislation (such as rate notices, food premises registrations and parking fines) are not publications for the purposes of the prohibition and do not require certification.

Council publications including Councillor Information

References to councillors who are standing for re-election in Council publications printed, published or distributed during the election period could be considered electoral matter and will be carefully vetted during the certification process.

Existing publications

Existing publications, including material published on Council's website in advance of the election period, are not subject to certification requirements.

Existing publications will be reviewed at the start of the election period. Publications or material which is prominently displayed and might be regarded as likely to influence how people vote may be temporarily removed from display. Any material so removed may still be provided to members of the community upon request.

In the context of Council's website, prominently displayed means content visible on the Gannawarra Shire Council's website: www.gannawarra.vic.gov.au and all pages contained within.

During the election period, Councillor profile pages will be limited to names, contact details and date elected.

Annual Report

Council is required by the Act to produce and put on public display a copy of its Annual Report. The 2019-20 Annual Report may be published during the election period with the approval of the CEO. The Annual Report will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual councillors.

The Annual Report does not require certification by the Chief Executive Officer, however any publication of an extract or summary of the Annual Report will require certification.

Council and Delegated Committee Meetings

Council's Governance Rules require Council to:

- Give public notice of Council meetings and Delegated Committee meetings; and
- Produce and make available agendas and minutes of Council meetings and Delegated Committee meetings.

No Delegated Committee meetings will be scheduled during the election period.

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

Social Media

At the start of the election period, a message will be posted on Council's social media channels and website stating these channels will have no new content added until after the election period unless it relates to existing Council services.

Any new publication on social media channels including Facebook, Twitter, Instagram, blogs and wiki pages created by Council during the election period must be certified by the Chief Executive Officer, Manager Governance or their delegate.

As public comments posted on Council's social media channels could be considered electoral matter, staff responsible for administering social media channels will, where possible, disable public commenting. Where public commenting cannot be disabled, staff will monitor their respective channels during the election period and where possible, remove electoral matter as soon as reasonably practicable after it is posted.

5.8 Media Services

Restriction on services

During the election period, Council resources must not be used in any way that might promote a councillor as an election candidate.

New Council publicity during the election period will be restricted to communicating normal Council activities and initiatives and subject to certification by the Chief Executive Officer.

Media Releases/Spokespersons

Media releases during the election period 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 Chief Executive Officer will be consulted.

Media releases will require certification by the Chief Executive Officer.

Councillors

Councillors must not use their position as an elected representative or their access to Council resources to gain media attention during the election period in support of an election campaign.

5.9 Assistance to Candidates

All election 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 Chief Executive Officer.

Council staff

Upon becoming a candidate in a Gannawarra Shire Council election, the Council staff member must:

- Inform the Chief Executive Officer
- Take leave from their duties at least for the duration of the election period (in accordance with s29 *Local Government Act 1989*)
- Return any Council equipment (including but not limited to motor vehicles, telephones and computers), documents or information that is not available to the public at least for the duration of the election period; and
- If elected, immediately resign from their employed position at Council (in accordance with s29 *Local Government Act 1989*).

5.10 Advertising signage

Candidates and their supporters are not permitted to affix, attach or place advertising signs on Council land or a Council road during election campaigns including during the election period.

Advertising signs must be erected or placed in accordance with Gannawarra Shire Council Local Law No. 1 Community Amenity and the Gannawarra Planning Scheme.

Gannawarra Planning Scheme - Clause 52.05-10 (Signs not requiring a permit):

A sign with a display area not exceeding 5 square metres publicising a local educational, cultural, political, religious, social or recreational event not held for commercial purposes. Only one sign may be displayed on the land, it must not be an animated or internally illuminated sign and it must not be displayed longer than 14 days after the event is held or 3 months, whichever is sooner. A sign publicising a local political event may include information about a candidate for an election.

6. RELATED LEGISLATION/POLICIES

Local Government Act 2020



Public Transparency

COUNCIL POLICY NO. 141

1. POLICY PURPOSE

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. OBJECTIVE

To give effect to the public transparency principles set out in the Act and promote:

- a) greater clarity in Council's decision making processes;
- b) increased confidence and trust in the community through greater understanding and awareness;
- c) access to information that is easily accessible and disseminated in a timely manner;
- d) reassurance to the community that Council is spending public monies wisely.

3. SCOPE

This policy applies to Gannawarra Shire Councillors and Council staff.

4. DEFINITIONS

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

Closed meetings	Under section 66(5) of the Act, Council may determine that a meeting is to be closed to the public to consider confidential information. A meeting may therefore be closed to the public if Council resolves to close the meeting, in order to consider a confidential matter regarding issues of a legal, contractual or personnel nature and other issues not deemed in the public interest.
Municipal Community	Defined under section 3 of the Act to include people who live in the municipal district of the Council; people and bodies who are ratepayers of the Council; traditional owners of land in the municipal district of the Council; and people and bodies who conduct activities in the municipal district of the Council.
Public Participation	Encompasses a range of public involvement and can include, but is not limited to, simply informing people about what Council is doing, delegating decisions to public groups, consulting with members of the community about their views on certain issues, community activities and projects addressing the common good, membership on Council reference groups or committees or volunteering activities.
Transparency	Transparency occurs when there is a lack of hidden agendas or conditions and all the information needed in order to collaborate, cooperate and make decisions effectively is available. Importantly, transparency is also a human right under the <i>Charter of Human Rights and Responsibilities Act 2006</i> , namely 'the right to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives.

Public Interest test

Council is not required to make information publicly available 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 *Freedom of Information Act 1982*. Information may not be released if Council is satisfied that the harm to the 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, Council will only concern itself with harm to the community or members of the community. Potential harm to 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 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, particularly where their release may mislead the public;
- Directions to Council staff regarding negotiations in contractual or civil liability matters, where release may damage Council's capacity to negotiate the best outcome for the community;
- Correspondence with members of the community, where release may inappropriately expose a person's private dealings.

5. POLICY

TRANSPARENCY

Principles for Transparency

Council commits to the following principles for Public Transparency as detailed with the Act:

- (a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;
- (b) Council information must be publicly available unless—
 - (i) the information is confidential by virtue of this Act or any other Act; or
 - (ii) public availability of the information would be contrary to the public interest;
- (c) Council information must be understandable and accessible to members of the municipal community;
- (d) public awareness of the availability of Council information must be facilitated.

What will Council be transparent with?

Decision making at Council meetings:

- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy (required to be developed prior to 1 March 2021).
- Will be undertaken in accordance with the Act and Council's 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 made fairly and on the merits of the issue at hand. Where any person whose rights will be directly affected by a decision of Council, that person will be entitled to communicate their views and have their interests considered.

Council Information

Council delivers a range of services to residents, business and visitors to the municipality and our services and functions are documented. Council will publish information about Council services and administration activities on Council's website or will make it available upon request:

Documents such as:

- Plans and reports adopted by Council;
- Council Policies;
- Project and service plans;
- Grant applications, 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 developed by Council
- 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 and Delegated Committee meeting agendas and minutes
- Reporting from Community Asset Committees to Council
- Audit and Risk Committee Performance Reporting;
- Details of Delegated and Community Asset Committees;
- Registers of gifts, benefits and hospitality offered to Councillors and Council staff;
- Registers of overseas and interstate travel undertaken by Councillors or Council staff;
- Registers of Conflicts of Interest disclosed by Councillors and Council staff;
- Submissions made by Council to State or Federal processes;
- 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;
- Summary of Election Campaign Donation Returns;
- Summary of Personal Interest Returns;
- Any other Registers or Records required by legislation or determined to be in the public interest.

Council will make a number of **records available for inspection**, including but not limited to:

- Summary of Personal Interest Returns ('Register of Interests' until 24 October 2020);
- Summary of submissions received under Section 223 of the *Local Government Act 1989* until its repeal.

Publications

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to Council. These can be downloaded from www.gsc.vic.gov.au or by calling Council on 03 5450 9333 for a copy. Some of these publications are also available at Council's libraries and the Gateway to Gannawarra visitor centre.

ACCESS TO INFORMATION

Information will be made available:

- On Council's website, Council offices or by request.
- In accordance with the Part II statement made under the Freedom of Information Act 1982.

Members of the public can make different kinds of information requests to Council (eg informal requests for documents and information or formal Freedom of Information requests).

Consideration will be given to accessibility and cultural requirements.

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

Freedom of Information applications

The *Freedom of Information Act 1982* gives members of the public the right to access documents that Council holds. If you can't find the document you require on our website, call us before you make an FOI application as we may be able to make it available as part of an informal release process.

Information not available

Some Council information may not be made publicly available. This will only occur if the information is confidential information or 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
Council business information	Information that would prejudice the Council's position in commercial negotiations if prematurely released.
Security information	Information that is likely to endanger the security of Council property or the safety of any person if released.
Land use planning information	Information that is likely to encourage speculation in land values if prematurely released.
Law enforcement information	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.
Legal privileged information	Information to which legal professional privilege or client legal privilege applies.
Personal information	Information which would result in the unreasonable disclosure of information about any person or their personal affairs if released.
Private commercial information	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.
Confidential meeting information	Records of a Council and delegated committee meetings that are closed to the public to consider confidential information.
Internal arbitration information	Confidential information relating to internal arbitration about an alleged breach of the councillor code of conduct.
Councillor Conduct Panel confidential information	Confidential information relating to a Councillor Conduct Panel matter.
Confidential information under the 1989 Act	Information that was confidential information for the purposes of section 77 of the Local Government Act 1989.

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 or if releasing the information is likely to cause harm to any person or it is not in the public interest to do so.

Where information is not confidential, and not already available, Council will apply the principles of a public interest test with consideration also of the resources required to respond to the request.

Responsibilities

It is the responsibility of every Councillor and Council officer to promote and facilitate access to Council information in accordance with this policy and the Public Transparency Principles outlined in the Act. The following table outlines the roles and responsibilities of Councillors and Council staff.

Party/parties	Roles and responsibilities
Council	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.
Executive Leadership Team	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.
Management Team	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.
All staff	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 this policy.
Manager Governance/Governance and Compliance Coordinator	Monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.

6. NON-COMPLIANCE WITH THIS POLICY

If a member of the 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 still not satisfied and would like to contest the decision, this can be reported to the Manager Governance.

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.

6. 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.

7. RELATED POLICIES AND LEGISLATION

Council policies:

- Governance Rules
- Public Transparency Principles
- Community Engagement Policy (required to be developed prior to 1 March 2021)
- Policy No. 074 – Information Privacy and Health Records

Legislation:

- Charter of Human Rights and Responsibilities Act 2006
- Freedom of Information Act 1982
- Local Government Act 2020
- Local Government Act 1989
- Privacy and Data Protection Act 2014
- Equal Opportunity Act 2010

8. POLICY REVIEW

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. In any event, the policy must be reviewed within twelve months after a general election of the Council.

This policy has been developed and reviewed against, and complies with section 13 of the *Victorian Charter of Human Rights and Responsibilities Act 2006*. The policy recognises a person's right to participate in the conduct of public affairs and takes into consideration an individual's right not to have their privacy unlawfully or arbitrarily interfered with.

9. FURTHER INFORMATION

Members of the public may inspect all policies at Gannawarra Shire Council's Kerang and Cohuna office or online at www.gannawarra.vic.gov.au.

Any enquiries in relation to this policy should be directed to the Director Corporate Services on (03) 5450 9333.

ECM Folder: 3.000518
Originally adopted by Council: 19/08/2020
To be reviewed by 24/10/2021

7.3 POLICY REVIEW - POLICY NO. 092 - COUNCILLOR ALLOWANCES AND SUPPORT**Author:** Lisa Clue, Manager Governance**Authoriser:** Phil Higgins, Director Corporate Services**Attachments:** 1 Policy No. 092 - Councillor Allowances and Support [↓](#)**RECOMMENDATION****That Council:**

1. Endorse reviewed Policy No. 092 – Councillor Allowances and Support.
2. Authorise the Chief Executive Officer to make amendments to the document to correct any minor drafting errors that do not materially alter the intent of the policy.

EXECUTIVE SUMMARY

Section 41 of the *Local Government Act 2020* (the 2020 Act) requires councils to adopt a Council expenses policy on or before 1 September 2020. The policy must apply to both councillors and members appointed to delegated committees and specifically include reimbursement of childcare costs and costs incurred by those who are carers within the meaning of the *Carers Recognition Act 2012*.

Council officers have reviewed and made necessary adjustments to existing Council Policy No. 092 – Councillor Allowances and Support to comply with the requirements of the 2020 Act in relation to Council expenses.

This report seeks adoption of the revised policy.

PURPOSE

The purpose of this report is to seek adoption of revised Council Policy No. 092 – Councillor Allowances and Support.

ATTACHMENTS

Policy No. 092 – Councillor Allowances and Support

DISCUSSION**Reimbursement of expenses of Councillors and members of a delegated committee**

Section 40 of the 2020 Act states that a council must reimburse a Councillor or a member of a delegated committee for out-of-pocket expenses which the Council is satisfied are bona fide expenses; have been reasonably incurred in the performance of the role of Councillor or member of a delegated committee; and are reasonably necessary for the Councillor or member of a delegated committee to perform that role. This section of the 2020 Act further states that a council must provide details of all such reimbursements to the Audit and Risk Committee.

Council expenses policy

Section 41 of the 2020 Act requires councils to adopt and maintain an expenses policy in relation to the reimbursement of out-of-pocket expenses for Councillors and members of delegated committees, by 1 September 2020. The policy must specify procedures to be followed in applying for reimbursement and in reimbursing expenses; comply with any requirements prescribed by

regulations in relation to the reimbursement of expenses; provide for the reimbursement of child care costs reasonably required for a Councillor or member of a delegated committee to perform their role; and have particular regard to expenses incurred by a Councillor who is a carer in a care relationship within the meaning of section 4 of the *Carers Recognition Act 2012*.

Resources and facilities for the Mayor and Councillors

Section 42 of the 2020 Act requires a council to make available to the Mayor and the councillors the resources and facilities reasonably necessary to enable them to effectively perform their role. A Council must consider support that may be required by a Mayor, Deputy Mayor or Councillor because of a disability and have particular regard to the support that may be required by a Councillor who is a carer in a care relationship within the meaning of section 4 of the *Carers Recognition Act 2012*.

Review of Council Policy No. 092 – Councillor Allowances and Support

Council officers have reviewed and made necessary adjustments to existing Council Policy No. 092 – Councillor Allowances and Support, which was last reviewed in February 2020, to comply with the requirements of the 2020 Act. The review considered discussion and a draft model policy presented during the Local Government Victoria (LGV) Local Government Act 2020 implementation engagement process.

The table below summarises proposed adjustments to the policy:

Heading	Proposed Change
Purpose	The purpose aligns to the LGV draft policy template
Scope	New section aligned to the LGV draft policy template and includes reference to members of delegated committees
Definitions	New heading aligned to the LGV draft policy template to specifically link the definition of a carer to the <i>Carers Recognition Act 2012</i> and Delegated Committee to the <i>Local Government Act 2020</i>
Policy	<p>Opening section – aligned to the LGV draft policy template</p> <p>Councillor’s Allowances – inclusion of reference to Victorian Independent Remuneration Tribunal future determination of allowances</p> <p>Carer and dependent-related expenses – aligned to LGV draft policy template, relating to section 41(2) of the Act</p> <p>General Travel Expenses – No change</p> <p>Seminars, conferences, professional development and training expenses – No change</p> <p>Information technology expenses – Includes reference to Council Policy No. 083 – Email, Internet and Intranet and Employee Policy No. 047 – Information Communications Technology (ICT) Access and Security</p> <p>Additional facilities for the office of Mayor – No change</p> <p>Insurance – No change</p> <p>Council pool vehicles and private use vehicles – Inclusion of arrangements for members of delegated committees</p>
Procedure	Picks up relevant content from ‘Payment of Expenses – General’ section of previous policy version, aligned to the LGV draft policy template

Heading	Proposed Change
Monitoring, evaluation and review	New section aligned to the LGV draft policy template
Related Policies and Legislation	Aligned to the LGV draft policy template
Policy Review	Aligned to the LGV draft policy template
Further Information	No change

RELEVANT LAW

Local Government Act 2020 – Sections 40 (Reimbursement of expenses of Councillors and members of a delegated committee; 41 (Council expenses policy); and 42 (Resources and facilities for the Mayor and Councillors).

RELATED COUNCIL DECISIONS

Council last reviewed and resolved to endorse Policy No. 092 – Councillor Allowances and Support in February 2020.

OPTIONS

In order to comply with the 2020 Act, this revised policy must be adopted by Council by 1 September 2020.

SUSTAINABILITY IMPLICATIONS

Not applicable.

COMMUNITY ENGAGEMENT

Not applicable.

INNOVATION AND CONTINUOUS IMPROVEMENT

The Policy has been reviewed considering the requirements of the 2020 Act and local government sector discussion and good practice policy examples presented during the LGV Local Government Act 2020 implementation engagement process.

COLLABORATION

Review of the policy considered a draft model Expenses Policy and best practice examples presented during the LGV Local Government Act 2020 implementation engagement process.

FINANCIAL VIABILITY

Not applicable.

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

Not applicable.

COUNCIL PLANS AND POLICIES

Gannawarra Shire Council Plan 2017 – 2021 – Good Governance and a Healthy Organisation

Council Policy No. 083 – Email, Internet and Intranet

Employee Policy No. 047 – Information Communications Technology (ICT) Access and Security

TRANSPARENCY OF COUNCIL DECISIONS

This report will be considered in an open Council meeting.

CONFLICT OF INTEREST

The officer preparing this report declares that they have no conflict of interest in regards to this matter.



Councillor Allowances and Support

COUNCIL POLICY NO. 092

1. POLICY PURPOSE

This policy supports councillors and members of delegated committees to perform their role, as defined in the *Local Government Act 2020* (the Act), by ensuring that expenses reasonably incurred in the performance of their role are reimbursed. This policy also provides guidance on:

- allowances
- entitlements
- processes for reimbursement
- reporting requirements.

The policy is intended to ensure that councillors and members of delegated committees are supported to perform their duties without disadvantage.

2. SCOPE

This Policy applies to:

- councillors of the Gannawarra Shire Council
- members of delegated committees of the Gannawarra Shire Council.

Councillor duties are those performed by a councillor as a necessary part of their role, in achieving the objectives of Council. These duties may include (but are not limited to):

- attendance at meetings of Council and its committees
- attendance at briefing sessions, workshops, civic events or functions convened by Council
- attendance at conferences, workshops and training programs related to the role of councillor, mayor or deputy mayor
- attendance at meetings, events or functions representing Council
- duties in relation to constituents concerning Council business.

Members of delegated committees exercise powers of councillors, under delegation. This policy also applies to those members in the course of undertaking their role as delegated committee members.

3. DEFINITIONS

Carer	As defined under section 4 of the <i>Carers Recognition Act 2012</i>
Delegated Committee	As defined under section 63 of the <i>Local Government Act 2020</i>

4. POLICY

Councillors and members of delegated committees are entitled, under section 40 of the Act, to reimbursement of expenses reasonably incurred in the performance of their duties.

This policy ensures that the reimbursement of these expenses is in accordance with the Act and meets the Act's principles of public transparency; achieving the best outcomes for the municipal community; and ensuring the ongoing financial viability of the council.

Councillors and members of delegated committees will be reimbursed for out-of-pocket expenses that are:

- bona fide expenses; **and**
- have been reasonably incurred in the performance of the role of councillor or member of a delegated committee; **and**
- are reasonably necessary for the councillor or member of a delegated committee to perform this role.

COUNCILLOR'S ALLOWANCES

1. Section 39 of the Act covers allowances for mayors, deputy mayors and councillors. Allowances are set by determination of the Victorian Independent Remuneration Tribunal under the *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019*. (Note – in accordance with section 39(6) of the Act, allowances will be set by the Victorian Government until the first determination of the Tribunal.)
2. In accordance with the provisions contained in Australia Tax Office Interpretive Decision 2007/205, Council may enter into a voluntary arrangement with a Councillor under which the Councillor agrees to forego all or part of their Councillors Allowance, including Mayoral Allowance if applicable, in exchange for the Council making contributions to Vision Super, or such other complying superannuation fund nominated by the Councillor and agreed to by the Chief Executive Officer, on their behalf of the amount foregone by the Councillor.
3. Mayor and Councillor allowances will be paid by EFT, in advance, on a monthly basis.

EXPENSES

Carer and dependent-related expenses

Council will provide reimbursement of costs where the provision of childcare is reasonably required for a councillor or delegated committee member to perform their role. This applies to the care of a dependent, while the councillor or delegated committee member is undertaking their official duties; and may include expenses such as hourly fees and booking fees, if applicable.

Council will provide reimbursement of costs where the provision of carer services is reasonably required when a councillor or delegated committee member who is a carer (see **Definitions**) incurs reasonable expenses in the performance of their duties.

Payments for childcare and carer services will not be made to a person who resides with the councillor or delegated committee member; has any financial or pecuniary interest with the councillor or delegated committee member; or has a relationship with the councillor, delegated committee member or their partner.

General Travel Expenses

1. Council will provide the following to Councillors and delegated committee members attending approved activities and events:
 - a. Breakfast, lunch and dinner (excluding alcohol) within reasonable limits for the duration of the stay;
 - b. Accommodation – appropriate accommodation as selected, after consultation, by the Chief Executive's office. Any additional accommodation costs as a result of the attendance of Councillors or delegated committee members partners or family members will be met by the Councillor or delegated committee member, with the exception of the Mayor's partner;
 - c. Transportation – Council will cover the cost of transportation to, during and from the event. This applies to any of the following forms of travel:
 - i. return economy class air. All overseas travel is to be authorised by resolution of Council;
 - ii. private vehicle with reimbursement as specified in this policy;
 - iii. economy class train, tram or bus travel; and
 - iv. taxi.
 - d. Car parking – fees will be reimbursed in respect of hotel/motel parking and airport parking.
2. Reasonable limits - wherever possible, relevant benchmark rates will be utilised for example, the Australian Taxation Office determinations relating to meals, accommodation and transportation.
3. All arrangements are to be handled through the Chief Executive's office.

Seminars, conferences, professional development and training expenses

1. Council recognises the need for Councillors and delegated committee members to attend seminars, conferences, professional development and training in order to be kept fully informed on Local Government matters and to assist them to perform their roles as Councillors and delegated committee members.
2. The annual budget will cover the cost of seminars, conferences, professional development and training attendance by Councillors and delegated committee members including registration, course or sessional fees.
3. Councillors and delegated committee members will be required to submit a written report in respect of any conference or seminar attended except for the ALGA Annual Conference, the Local Government Managers Association National Congress, the MAV Councillor Development Weekend and the VLGA Mayors Weekend. Where more than one Councillor or delegated committee member attends an interstate or overseas conference or seminar, a joint report may be submitted.

Information communication technology expenses**Computer facilities**

1. Internet – Councillors will be provided with an internet enabled device to allow access to email and internet.
2. Email – Councillors will be provided with an email account managed by Gannawarra Shire Council. Councillors' email addresses will use the domain name: gsc.vic.gov.au.
3. Document management – Councillors are responsible for ensuring all corporate information is forwarded to Gannawarra Shire Council for capturing in the electronic content management system. This refers to, but is not limited to, formal letters in Microsoft Word and emails.
4. Personal use – Personal use of Council provided equipment is permitted as long as it does not affect the primary use of the device. Councillors will not install any non-approved non-Council products on the device.
5. Further information is available from Council Policy No. 083 – Email, Internet and Intranet and Employee Policy No. 047 – Information Communications and Technology (ICT) Access and Security.

Telecommunications via Smartphone

Councillors have two (2) options regarding provision of Smartphones:

1. Councillors can elect for Council to provide a Smartphone for their Council business use only. The Smartphone is provided on the basis that personal calls are to be kept to a minimum. It is acknowledged that on occasion personal calls may be required, for example when a Councillor is on Council business outside normal business hours. Personal calls in these situations and in urgent and/or emergency situations are acceptable. Personal calls outside the situations referred to above are not permitted.

The Council telephone number will be made available to the public, and should only be answered by the relevant Councillor or the built-in message bank service.

Councillors may be required to reimburse Gannawarra Shire Council for excess charges if this policy is not followed.

2. Alternatively, Councillors may choose to use their own Smartphone i.e. 'Bring Your Own Equipment' and receive a monthly allowance of \$25 as reimbursement for the notional data and phone usage charges relating to Council business undertaken on their own Smartphone. Where a Councillor wishes to use their own Smartphone for Council business, Councillors must make their personal mobile number available for publication. Note; Council takes no responsibility for loss, breakage, failure, repair or misplaced 'Bring Your Own Equipment'.

Information Communication Technology Support

1. The Corporate Services Directorate will provide familiarisation training for Councillors in addition to documentation aiding Councillors in relation to using the ICT systems provided. Council will provide Councillors with application specific training where necessary through a local training provider.
2. The Corporate Services Directorate will update the software on each Council provided device. Any non-approved non-Council software will be uninstalled during maintenance.
3. The Corporate Services Directorate will provide ICT support in line with that provided to Council officers.
4. All Council provided equipment is to be returned to the Corporate Services Directorate on the conclusion of the Councillor's term, or in the event the Councillor resigns from the position earlier.

5. Faulty equipment or issues are to be reported to the Corporate Services Directorate as soon as possible. All repairs to equipment can only be undertaken by Council and only apply to Council provided equipment.
6. In the event that equipment is lost, stolen or misplaced, the Corporate Service Directorate is to be informed as soon as possible to put in place all preventative measures.

Equipment

1. Councillors will be issued with the following equipment:
 - One (1) only iPad, Tablet, Notebook, Laptop or equivalent (with mobile internet capabilities), charger and protective cover
 - Mobile telephone and charger (with the exception of councillors choosing to bring their own equipment).
2. Councillors will have access to the following for Council business:
 - Printing equipment
 - Audio visual equipment

Councillors Insignia of Office

Councillors will be provided with the following, upon request:

- Business Cards
- A supply of Council logo metal lapel badges (small)
- A Council tie or scarf
- A Council badge for Councillors and partners

ADDITIONAL FACILITIES FOR THE OFFICE OF THE MAYOR**Mayoral Vehicle**

Council will provide at its cost to the Mayor, a fully registered, insured and maintained vehicle for official and personal use during the mayoral term if he/she so requires. The vehicle will be of a similar standard to the vehicle available to the Chief Executive Officer.

Office Support

The Mayor will be provided with appropriate administrative support during normal business hours to undertake the duties of the Mayor.

Travel Expenses and Accommodation

Council will reimburse travelling expenses for the Mayor's partner whilst accompanying the Mayor on official business.

INSURANCE

1. Councillors and delegated committee members are covered by the following insurance policies while performing the duties of civic office including attendance at meetings of external bodies as Council's representative – Personal Accident, Public Liability, Professional Indemnity and Councillors and Officers Liability insurances.
2. Council will pay the insurance policy excess in respect of any claim made against a Councillor or delegated committee member arising from Council business where any claim is accepted by Council's Insurers, whether defended or not.

COUNCIL POOL VEHICLES AND PRIVATE USE VEHICLES

1. When available, Councillors and delegated committee members are required to use a Council vehicle to attend events that form part of the Councillor's or delegated committee member's official duties outside of the Gannawarra Shire Council boundaries.

2. In the absence of a Council vehicle, a **Councillor** will be reimbursed for the use of their own private vehicle for:
 - a. attendance at Ordinary and Special Meetings of Council and Councillor Briefing Sessions;
 - b. attendance at Delegated Committee meetings;
 - c. attendance at committee or sub-committee meetings of State, Regional or local organisations or bodies where the Councillor has, by Council resolution been elected as a Council delegate;
 - d. attendance at meetings and civic or ceremonial functions convened by the Mayor or the Council;
 - e. attendance at a meeting, function or other official role as a representative of the Mayor;
 - f. attendance at a meeting or function falling within the Councillors ward, if outside of the Councillors ward, Chief Executive Officer or delegate approval is required.
 - g. attendances at conferences, seminars, professional development and training where the attendance has been approved by the Council or the Chief Executive Officer or delegate;
 - h. travel to and from the airport, rail or bus station or other point where travel to conferences, seminars, professional development and training commences.
3. In the absence of a Council vehicle, a **delegated committee member** will be reimbursed for the use of their own private vehicle for:
 - a. attendance at conferences, seminars, professional development and training where the attendance has been approved by the Council or the Chief Executive Officer or delegate;
 - b. travel to and from the airport, rail or bus station or other point where travel to conferences, seminars, professional development and training commences.
4. Reimbursement for private vehicle use will be paid in accordance with the prevailing 'cents per kilometre' rate prescribed by the Australian Taxation Office as varied from time to time.
5. Council will not reimburse the cost of any infringements incurred by Councillors or delegated committee members.

5. PROCEDURE

REIMBURSEMENT OF EXPENSES

1. Making a claim for reimbursement:
 - a. All Councillor claims must be made on a Councillor Claim Form, available from SharePoint or the Chief Executive's Office.
 - b. All delegated committee member claims must be made on a Delegated Committee Member Claim Form, available from the Chief Executive's Office.
 - c. Original receipts must be attached to all claims (credit card receipts will not be accepted).
 - d. Where the provider of the goods or service is registered for GST, a tax invoice must be obtained and provided (without this the GST component of the cost cannot be reimbursed).
 - e. Claims must be lodged on a monthly basis as they are incurred. Claims for expenses during the prior month should be submitted by the last working day of the following month. This enables monitoring of expenditure against budget and accurate and meaningful reporting. All claims relating to each financial year are to be submitted by 15 July of the immediately following financial year.
2. Reimbursements will be provided monthly by electronic funds transfer.

6. MONITORING, EVALUATION AND REVIEW

Quarterly reports of all councillor and delegated committee member expenses will be provided to Council's Audit and Risk Committee.

The report will include:

- Expenses incurred by Councillors during the quarter
- Reimbursement claims made by councillors during the quarter
- Reimbursements made by delegated committee members during the quarter.

Council commits to monitoring processes and decision making to understand the overall success of the policy's implementation.

7. RELATED POLICIES AND LEGISLATION

Council policies:

- Governance Rules
- Policy No. 141 - Public Transparency
- Policy No. 074 - Information Privacy and Health Records
- Policy No. 078 - Code of Conduct and Values for Elected Members
- Policy No. 083 – Email, Internet and Intranet.

Legislation:

- *Carers Recognition Act 2012*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Freedom of Information Act 1982*
- *Local Government Act 2020*
- *Privacy and Data Protection Act 2014*
- *Equal Opportunity Act 2010*
- *Gender Equity Bill 2020.*

8. POLICY REVIEW

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. In any event, the policy must be reviewed within 12 months after a general election of the Council.

At the time it was reviewed, this policy was compliant with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

9. FURTHER INFORMATION

Members of the public may inspect all policies at Gannawarra Shire Council's Kerang and Cohuna office or online at www.gannawarra.vic.gov.au.

Any enquiries in relation to this policy should be directed to the Director Corporate Services on (03) 5450 9333.

Records – Document Profile No. 14/00459

Altus Folder: 3.000518

Originally adopted: 2006

Reviewed: 22/04/2009

Reviewed: 17/09/2014

Reviewed: 21/12/2016

Reviewed: 19/02/2020

Reviewed: 19/08/2020

To be reviewed by 24/10/2022

Minute Book Reference: 7387

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Minute Book Reference: 12478

7.4 AUDIT COMMITTEE - 4 AUGUST, 2020 MEETING

Author:	Phil Higgins, Director Corporate Services
Authoriser:	Tom O'Reilly, CEO
Attachments:	1 Draft Audit and Risk Committee Charter ↓
	2 Annual Work Plan ↓
	3 Internal Control Environment Plan ↓

RECOMMENDATION

That Council:-

- (a) Establish an Audit and Risk Committee in accordance with Section 53 of the *Local Government Act 2020*;
- (b) Appoint John Campbell until 1 September 2023, Brad Tarr until 27 June 2021 and Deanne Van der Drift until 20 December 2020, as independent members of the Audit and Risk Committee;
- (c) Appoint Cr Brian Gibson and Cr Charlie Gillingham as councillor members of the Audit and Risk Committee;
- (d) Approve the Audit and Risk Committee Charter in accordance with Section 54 of the *Local Government Act 2020*; and
- (e) Approve the Audit and Risk Committee Annual Work Plan and Internal Control Environment Plan.

EXECUTIVE SUMMARY

The Gannawarra Shire Council Audit Committee met on Wednesday, 4 August, 2020 to consider the requirements of the *Local Government Act 2020* (the Act). The Act requires the establishment of an Audit and Risk Committee and the development of a new Audit and Risk Committee Charter to guide the governance and operation of the committee.

PURPOSE

This report will approve the commencement of the Audit and Risk Committee under the Act.

ATTACHMENTS

Draft Audit and Risk Committee Charter

Annual Work Plan

Internal Control Environment Plan

DISCUSSION

Details of the 4 August, 2020 Audit Committee Meeting:

Member attendees:

John Campbell – Independent Member – Chairperson

Bradley Tarr – Independent Member

Deanne Van der Drift – Independent Member

Cr Charlie Gillingham – Councillor Representative

Also in attendance:

Phil Higgins – Director Corporate Services

Sid Hutchinson – Manager Finance

Allison Peace – Administration Officer

Apologies:

Cr Brian Gibson – Councillor Representative

Tom O'Reilly – Chief Executive Officer

Lisa Clue – Manager Governance

The following items were considered by the Audit Committee at the meeting:

Report	Discussion	Recommendation/Outcome
Audit and Risk Committee Charter	Establishes the framework and parameters for the committee's operations. Minor changes made by the Committee	Adopt the draft Charter
Annual Work Plan and Internal Control Environment Plan	These provide the details to the responsibility clause of the Charter	Adopt the draft Annual Work Plan and Internal Control Environment Plan

RELEVANT LAW

Section 53 and 54 *Local Government Act 2020*.

RELATED COUNCIL DECISIONS

At Council's 10 June, 2020 meeting, the need to conduct an extra Audit Committee meeting prior to 1 September, 2020 was identified.

OPTIONS

The Council needs to establish an Audit and Risk Committee and develop an Audit and Risk Committee Charter. The draft Audit and Risk Committee Charter is guided by the templates developed by Local Government Victoria and the existing Council Charter.

SUSTAINABILITY IMPLICATIONS

The Act gives the Audit and Risk Committee a broader focus and a stronger emphasis on key responsibility areas in financial and performance reporting, internal control environment (ICE), risk management, fraud prevention, internal audit, external audit and compliance management risks.

COMMUNITY ENGAGEMENT

The three independent members on the Audit and Risk Committee ensure that there is involvement by key community members.

Communication with the three independent members has occurred about their involvement on the Audit and Risk Committee. The involvement is based on them continuing their existing term to their retirement date and thereby ensuring the retention of corporate knowledge.

INNOVATION AND CONTINUOUS IMPROVEMENT

As stated under the “Sustainability Implications”.

COLLABORATION

The draft Audit and Risk Committee Charter is guided by the templates developed by Local Government Victoria in consultation with various councils across the state.

FINANCIAL VIABILITY

The new Audit and Risk Committee will operate in accordance with the audit budget for 2020/21.

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

The Audit and Risk Committee is a requirement of the new Act.

COUNCIL PLANS AND POLICIES

The Audit and Risk Committee Charter will replace the existing Audit Committee Charter.

TRANSPARENCY OF COUNCIL DECISIONS

This report will be considered in an open Council meeting.

CONFLICT OF INTEREST

The officer preparing this report declares that they have no conflict of interest in regards to this matter.



AUDIT AND RISK COMMITTEE CHARTER

1. PURPOSE

The Gannawarra Shire Council (GSC) has established an Audit and Risk Committee (the Committee) pursuant to Section 53 of the *Local Government Act 2020* (the Act) to support Council in discharging its oversight responsibilities related to financial and performance reporting, risk management, fraud prevention systems and control, maintenance of a sound internal control environment, assurance activities including internal and external audit and Council's performance with regard to compliance with its policies and legislative and regulatory requirements. It acts in this capacity by monitoring, reviewing, endorsing and advising on the above matters as set out in this Charter. This Charter has been developed in accordance with Section 54 of the Act.

The appointment of independent members to the Committee as outlined in this Charter enables the Committee to provide advice to Council on matters related to its responsibilities based on broader skills and experience than might otherwise be the case and in so doing bring additional benefits to Council.

The Committee has no executive authority and no delegated financial responsibilities and is therefore independent of management.

2. AUTHORITY

The Committee is directly responsible to Council for discharging its responsibilities as set out in this Charter. The Committee has no delegated authority from Council unless specifically provided by Council from time to time and any such authority shall be temporary and may only relate to specific matters as directed by Council.

The Committee has the authority to:

- Endorse key documents and reports that must be approved by Council, including annual financial reports, annual performance statements, new or revised policies and other documents that assist in maintaining a strong internal control environment;
- Review and endorse internal and external audit plans that must be approved by Council;
- Provide advice and make recommendations to Council on matters within its areas of responsibility;
- Retain counsel of relevant independent experts where it considers that is necessary in order to execute its responsibilities, subject to prior agreement with the Chief Executive Officer;
- Seek any relevant information it requires from Council (who is expected to co-operate with the Committee's requests) and external parties;
- Meet with internal and external auditors and other parties as required to discharge its responsibilities.

The Committee will, through the Chief Executive Officer, have access to appropriate management support to enable it to discharge its responsibilities effectively.

3. MEMBERSHIP AND TENURE

The Committee will consist of five members appointed by Council, three of whom must be independent members. Council employees cannot be members of the Committee. Details of membership and tenure are set out below:

Independent Members

- 3.1 Independent members will generally be appointed for three year terms. This may vary for the initial term of independent members to stagger the retirement time of independent members;
- 3.2 Independent members may be reappointed for two additional three-year terms subject to satisfactory performance, that is, a maximum of nine consecutive years;
- 3.3 Independent members must collectively have expertise in financial management and reporting and risk management and also experience in public sector management;
- 3.4 Independent members' terms of appointment will be set so that as far as possible only one member retires at a time in order to minimise the loss of knowledge of Council's business that may occur on change of membership;
- 3.5 Remuneration will be paid to independent members as approved by Council from time to time, subject to their attendance at Committee meetings;
- 3.6 Independent members may be removed from the Committee if they fail to attend three meetings in a financial year.

Councillor Members

- 3.7 Councillor members will be appointed to the Committee by Council annually;
- 3.8 Should an appointed Councillor member not be able to attend a Committee meeting, Council may appoint an alternate member to act in such circumstances, either on a meeting by meeting basis or for the entire year;

Chairperson

- 3.9 The Chairperson of the Committee must be an independent member;
- 3.10 The Committee will appoint the Chairperson of the Committee;
- 3.11 If the Chairperson is unable to attend a meeting, the members in attendance at the meeting will appoint a Chairperson for that meeting from among the attending independent members;

Quorum for Meetings

- 3.12 A quorum shall comprise a majority of three (3) members of the Committee, one (1) of which must be an independent representative and one (1) of which must be a Councillor.

4. MEETINGS

The Committee will meet at least four times a year, with authority to convene additional meetings as circumstances require.

- 4.1 A schedule of meetings will be developed annually and agreed to by members;
- 4.2 It is preferred all Committee members attend each meeting in person, although in certain circumstances members can attend through electronic means by negotiation with the Chairperson;
- 4.3 The Committee may invite members of Council's executive leadership and management teams, the internal and external auditors and other personnel as appropriate to attend meetings. The Chief Executive Officer and the Director Corporate Services will attend all meetings, except for confidential matters;

- 4.4 Committee members and the internal and external auditors may request the Chairperson to convene additional meetings if they feel that is justified, to address unexpected matters that may have arisen;
- 4.5 Meeting agendas and appropriate briefing materials will be provided to members at least one week prior to each meeting;
- 4.6 Minutes will be prepared for all meetings.

5. RESPONSIBILITIES

The Committee has the following responsibilities:

Financial and Performance Reporting

- 5.1 At least annually review significant accounting and external reporting issues, including complex or unusual transactions, transactions and balances in areas where judgement is required, changes to accounting policies, recent accounting, professional and regulatory pronouncements and legislative changes, and understand their effect on the annual financial report and the audit thereof;
- 5.2 At least annually review changes to the Local Government Performance Reporting Framework and understand the impact of those changes on Council's performance indicators;
- 5.3 Review the annual financial report and annual performance statement and consider whether they are complete, consistent with information known to Committee members, reflect appropriate accounting treatments and adequately disclose Council's financial performance and position;
- 5.4 Review with management and the external auditors the results of the audit, including any difficulties encountered by the auditors and how they were resolved;
- 5.5 Recommend the adoption of the annual financial report and annual performance statement to Council; and
- 5.6 Review the appropriateness of the format and content of periodic management financial reports and performance statements to Council as required.

Internal Control Environment

- 5.7 Review the adequacy and effectiveness of key policies, systems and controls for providing a sound internal control environment. This should be done on a rotational basis over a four year period;
- 5.8 Determine whether systems and controls are reviewed regularly and updated where required;
- 5.9 Monitor significant changes to systems and controls to assess whether those changes significantly impact Council's risk profile;
- 5.10 Ensure that a programme is in place to test compliance with systems and controls; and
- 5.11 Assess whether the control environment is consistent with Council's Governance Principles.

Risk Management

- 5.12 Review annually the effectiveness of Council's risk management framework;
- 5.13 Review Council's risk appetite and the degree of alignment with Council's risk profile;
- 5.14 Review annually Council's risk profile and the changes occurring in the profile;
- 5.15 Review Council's treatment plans for significant risks, including the timeliness of mitigating actions and progress against those plans;
- 5.16 Review the insurance programme annually; and
- 5.17 Review the approach to business continuity planning arrangements, including whether business continuity and disaster recovery plans have been regularly updated and tested.

Fraud Prevention Systems and Controls

- 5.18 Review Council's fraud prevention policies and controls, including the Fraud Control Plan and fraud awareness programmes at least every four years;
- 5.19 Receive reports from management about actual or suspected instances of fraud or corruption including analysis of the underlying control failures and action taken to address each event; and
- 5.20 Review reports by management about the actions taken by Council to report such matters to the appropriate integrity bodies.

Internal Audit

- 5.21 Review the Internal Audit Charter regularly to determine that it provides an appropriate functional and organisational framework to enable Council's internal audit function to operate effectively and without limitations;
- 5.22 Review the three year strategic internal audit plan, the annual internal audit plan and any significant changes to them;
- 5.23 Review progress on delivery of annual internal audit plan;
- 5.24 Review proposed scopes for each review in the annual internal audit plan;
- 5.25 Review reports on internal audit reviews, including recommendations for improvement arising from those reviews;
- 5.26 If necessary, meet with the internal auditor at least annually in the absence of management;
- 5.27 Monitor action by management on agreed internal audit findings and recommendations;
- 5.28 Review the effectiveness of the internal audit function and ensure that it has appropriate authority within Council and has no unjustified limitations on its work;
- 5.29 Ensure that the Committee is aware of, and appropriately represented with regard to any proposed changes to the appointment of the internal audit service provider, including being appropriately briefed on the need for any proposed change; and
- 5.30 Recommend to Council, if necessary, the termination of the internal audit contractor.

External Audit

- 5.31 Annually review the external audit scope and plan proposed by the external auditor;
- 5.32 Discuss with the external auditor any audit issues encountered in the normal course of audit work, including any restriction on scope of work or access to information;
- 5.33 Ensure that significant findings and recommendations made by the external auditor, and management's responses to them, are appropriate and are acted upon in a timely manner;
- 5.34 Review the effectiveness of the external audit function and ensure that the Victorian Auditor General's Office (VAGO) is aware of the Committee's views;
- 5.35 Consider the findings and recommendations of any relevant performance audits undertaken by VAGO and monitor Council's responses to them; and
- 5.36 If necessary, meet with the external auditor at least annually in the absence of management.

Compliance Management

- 5.37 Review the systems and processes implemented by Council for monitoring compliance with relevant legislation and regulations and the results of management's follow up of any instances of non-compliance;
- 5.38 Review the processes for communicating Council's Employee Code of Conduct to employees and contractors and for monitoring compliance with the Code;
- 5.39 Obtain briefings on any significant compliance matters; and

- 5.40 Receive reports from management on the findings of any examinations by regulatory or integrity agencies (whether related to investigations at Council or other agencies), such as the Ombudsman, IBAC, Victoria Local Government Inspectorate, etc. and monitor Council's responses.

6. REPORTING TO COUNCIL

- 6.1 Minutes of Committee meetings will be provided to Council at the first available opportunity after clearance by the Committee Chairperson following each Committee meeting;
- 6.2 The Committee Chairperson will prepare a report to Council through the Chief Executive Officer on the Committee's activities twice per annum. One of these reports will be prepared after the meeting at which the annual financial report and the annual performance statement have been considered and recommended to Council for adoption, such report indicating how the Committee has discharged its responsibilities as set out in this Charter for the previous year.

7. PERFORMANCE EVALUATION

The Committee shall undertake a process to evaluate its performance annually and report the outcomes of the evaluation process to Council through the Chief Executive Officer, including recommendations for any opportunities for improvement. The evaluation will include feedback from both Committee members and senior officers who have regular interactions with the Committee.

8. COMMITTEE MEMBER REGULATORY OBLIGATIONS

Committee members are expected to be aware of their obligations under Section 53 of the Act. These obligations relate to misuse of position as a member of the Committee (Section 123), confidential information (Section 125) and conflict of interest (Sections 126 to 131). Details about these obligations are included in Appendix A to this Charter.

9. REVIEW OF CHARTER

The Committee shall review and assess the adequacy of the Charter every two years or earlier if necessary and submit requests to Council through the Chief Executive Officer for revisions and improvements for approval.



Appendix A

Committee Member Regulatory Obligations

Guidance to Members

LGA Section	LGA Requirement
Misuse of Position	
123(1)	A Committee member must not intentionally misuse their position to: <ul style="list-style-type: none"> a) Gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or b) Cause, or attempt to cause, detriment to the Council or another person.
123(3)	Circumstances involving misuse of a position by a member of the Committee include: <ul style="list-style-type: none"> a) Making improper use of information acquired as a result of being a member of the Committee; or b) Disclosing information that is confidential information; or c) Directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or d) Exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform; or e) Using public funds or resources in a manner that is improper or unauthorised; or f) Participating in a decision on a matter in which the member has a conflict of interest.
Confidential Information	
125	A member of the Committee must not intentionally or recklessly disclose information that the member knows, or should reasonably know, is confidential information. There are some exemptions to this requirement, the key one being that if the information disclosed by the member has been determined by Council to be publicly available.
Conflicts of Interest	
126	A member of the Committee has a conflict of interest if the member has: <ul style="list-style-type: none"> a) A general conflict of interest as described in Section 127; or b) A material conflict of interest as described in Section 128.
127	A member of the Committee has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the members private interests could result in that member acting in a manner that is contrary to their public duty as a member of the Committee.
128	A member of the Committee has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.
<p>Please Note</p> <p><i>The above guidance is not verbatim from the Act and does not include all details as explained in Part 6, Division 1 of the Act. For a full understanding of the requirements of the Act in relation to the matters summarised above, members are expected to make themselves fully aware of the requirements of the Act.</i></p>	

Gannawarra Shire Council Audit & Risk Committee Annual Work Plan - Year Ending 30 June 2021							
No	Charter Requirement	Charter Ref	Timing	Sep	Nov	Feb	May
Financial & Performance Reporting							
1	Review changes in significant accounting policies and disclosures	5.1	Annually				✓
2	Review LGPRF changes	5.2	Annually				✓
3	Review annual financial report and annual performance statement	5.3	Annually	✓			
4	Review outcomes of the external audit with management and the auditors	5.4	Annually	✓			
5	Recommend adoption of annual financial report and performance report	5.5	Annually	✓			
6	Review management finance reports and performance statements	5.6	As Required		✓	✓	✓
Internal Control Environment							
7	Review key policies	5.7, 5.8	Half Yearly		✓		✓
8	Review significant changes to key systems and consider impact of changes on Council's risk profile	5.9	Half Yearly		✓		✓
9	Ensure a program is in place to test compliance with systems and controls	5.10	Half Yearly	✓		✓	
10	Assess whether the control environment is consistent with Council's Governing Principles	5.11	Half Yearly		✓		✓
Risk Management							
11	Review effectiveness of Council's risk management framework	5.12	Annually			✓	
12	Review Council's risk appetite	5.13	Annually			✓	
13	Review Council's risk profile and significant changes thereto	5.14	Quarterly	✓	✓	✓	✓
14	Review Council's treatment plans for significant risks	5.15	Half Yearly		✓		✓
15	Review Council's insurance programme	5.16	Annually				✓
16	Review BCP framework and testing regime	5.17	Annually			✓	
Fraud Prevention Systems & Controls							
17	Review Council's fraud prevention policy and controls	5.18	Annually			✓	
18	Review Council's fraud control plan and awareness programme	5.18	Annually			✓	
19	Review reports on any instances of unethical behaviour, fraud and corruption	5.19	Quarterly	✓	✓	✓	✓
20	Review actions taken to report any incidents of fraudulent or corrupt behaviour	5.20	Quarterly	✓	✓	✓	✓
Internal Audit							
21	Review Internal Audit Charter and revise if required	5.21	Annually			✓	
22	Review strategic & annual internal audit plans	5.22	Annually				✓
23	Review status of delivery of annual internal audit plan	5.23	Quarterly	✓	✓	✓	✓
24	Review scopes of proposed internal audit reviews	5.24	Quarterly	✓	✓	✓	✓
25	Review reports on internal audit reviews	5.25	Quarterly	✓	✓	✓	✓
26	Meet with internal auditor in the absence of management (if needed)	5.26	Annually		✓		
27	Review progress by management on open audit recommendations	5.27	Quarterly	✓	✓	✓	✓
28	Review effectiveness of the internal audit function	5.28	Annually			✓	
29	Committee involvement in appointment of internal audit service provider	5.29, 5.30	As Required		✓		
External Audit							
30	Review external audit scope and plan	5.31	Annually			✓	
31	Discuss any audit issues encountered during the course of the audit	5.32	Annually	✓			
32	Ensure that management responses to any audit findings are appropriate and timely	5.33	Quarterly	✓	✓	✓	✓
33	Review performance of external auditor	5.34	Annually	✓			
34	Review other VAGO reports for impacts on Council	5.35	Quarterly	✓	✓	✓	✓
35	Meet with external auditor in absence of management (if needed)	5.36	Annually	✓			
Compliance Management							
36	Review systems and processes to monitor compliance with legislation and regulations and management follow up of instances of non compliance	5.37	Annually	✓			
37	Review processes for communicating Council's Employee Code of Conduct to employees and contractors and for monitoring compliance	5.38	Annually			✓	
38	Obtain briefings on any significant compliance matters	5.39	Quarterly	✓	✓	✓	✓
39	Consider reports by regulatory and integrity agencies on investigations and relevance for Council	5.40	Quarterly	✓	✓	✓	✓
40	Review Report on Gifts, Benefits and Hospitality		Annually		✓		
Reporting to Council							
41	Provide Minutes to Council	6.1	Quarterly	✓	✓	✓	✓
42	Report on activities to Council	6.2	Half Yearly	✓		✓	
Performance Evaluation							
43	Assessment of Committee performance	7	Annually		✓		
Review of Charter							
44	Review of Committee Charter	9	Annually			✓	
Other Matters							
45	Committee member induction		As Required				
46	Consider other matters referred by Council		As Required	✓	✓	✓	✓
Meeting Schedule							
47	Set Committee meeting schedule		Annually		✓		

Gannawarra Shire Council Audit & Risk Committee Review of Internal Control Environment - Rolling Four Year Plan					
No.	Item to be Reviewed	2021	2022	2023	2024
Governance					
	Delegations of Authority	✓			
	Councillor Code of Conduct		✓		
	Data Privacy Policy			✓	
	Child Safe Policy				✓
	Data Governance & Security Policy	✓			
	Protected Disclosure Policy		✓		
	Governance Principles			✓	
	Council Committee Policy				✓
	Council Owned/Controlled Entity Policy	✓			
Human Resource Management					
	Employee Code of Conduct	✓			
	Employee Recruitment Policy		✓		
	Employee On-Boarding Policy			✓	
	Employment Terms & Conditions				✓
	Industrial Relations Policy	✓			
	Employee Performance Assessment Policy		✓		
	Employment Counselling Policy			✓	
	Employee Assistance Programme				✓
	Employee Termination Policy	✓			
	Occupational Health & Safety		✓		
Finance & Accounting					
	Banking & Investment Policy	✓			
	Asset Accounting Policy		✓		
	Procurement Policies for all forms of Procurement			✓	
	Quotations Required				✓
	Full Tender Required	✓			
	Purchasing Card Procurement		✓		
	Fuel Card Procurement			✓	
	Councillor Expense Reimbursements				✓
	Employee Expense Reimbursement	✓			
	Capital Works Procurement Policy		✓		
	Contract for Outsourced Services Policy			✓	
	Accounts Payable Processes				✓
	Debt Management/Borrowing Policy	✓			
	Rates Management Policy		✓		
	Accounts Receivable Management Policy			✓	
	Budget Development, Management & Reporting Policy				✓
	Period End Reconciliations for Significant Accounts in the Finance System	✓			
	Period End Financial Reports including Budget Variance Analysis		✓		
	Payment of Salary and Wage Procedures			✓	
	Chart of Accounts				✓
Risk Management					
	Risk Management Policy	✓			
	Risk Management Framework		✓		
	Procurement Policy			✓	
	Outstanding Debt, Rate Relief, Special Rates & Special Charges Scheme, Rates Subsidy, Council Future Use Investments				✓
	Fraud Risk Self Assessment	✓			
	Business Continuity Plans		✓		
	Disaster Recovery Plans			✓	
	ICT Access and Security, Email Internet and Intra net				✓
	Insurance Programme	✓			
Fraud Prevention Systems & Controls					
	Fraud and Corruption Prevention Policy		✓		
	Fraud Control Plan			✓	
	Fraud Risk Self Assessment				✓
Compliance Management					
	Compliance Policy	✓			
	Compliance Management Plan		✓		
	Corporate Purchase Card Policy			✓	
	Code of Conduct				✓

7.5 INSTRUMENT OF APPOINTMENT AND AUTHORISATION (PLANNING AND ENVIRONMENT ACT 1987)

Author: Alissa Harrower, Governance & Compliance Coordinator

Authoriser: Phil Higgins, Director Corporate Services

Environment Act 1987) [↓](#)

RECOMMENDATION

That Council, in the exercise of powers conferred by section 224 of the *Local Government Act 1989* (the 1989 Act) and other legislation referred to in the attached Instrument of Appointment and Authorisation (the Instrument), resolves that;

1. The members of Council staff referred to in this Instrument be appointed and authorised as set out in the instrument;
2. The Instrument comes into force immediately the common seal is affixed to the instrument and remains in force until Council determines to vary or revoke it.
3. The Instrument be sealed.

EXECUTIVE SUMMARY

Gannawarra Shire Council has functions and duties which it must perform and powers which it may exercise, pursuant to the *Local Government Act 1989* (the 1989 Act) and the *Local Government Act 2020* (the 2020 Act) as well as a range of other Acts.

The appointment of authorised officers enables appropriate staff within the organisation to administer and enforce various Acts, regulations or local laws in accordance with the powers granted to them under legislation or local law.

This report addresses the appointment and authorisation of officers under the *Planning and Environment Act 1987*.

PURPOSE

The purpose of this report is for Council to consider the appointment and authorisation of officers under the *Planning and Environment Act 1987*.

ATTACHMENTS

Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*)

DISCUSSION

Instruments of Appointment and Authorisation are prepared based on templates and advice from Maddocks Lawyers. Whilst the majority of appointments and authorisations of officers under relevant legislation are undertaken by the Chief Executive Officer under delegation, the power to authorise an officer under planning legislation cannot be delegated and must be by resolution of Council.

Section 224 of the 1989 Act continues to be the authorisation provision for the Instrument of Appointment and Authorisation at this point in time. However the power for authorised officers

to commence proceedings, formally provided under section 232 of the 1989 Act, now comes from section 313 of the 2020 Act.

The Instrument of Appointment and Authorisation for Council staff under the *Planning and Environment Act 1987* has been reviewed to reflect changes within Council's Planning Department and section 313 of the 2020 Act.

RELEVANT LAW

Local Government Act 1989 – s224 – Authorised Officers

Local Government Act 2020 s313 - Proceedings

Planning and Environment Act 1987 s147(4) – General Provisions

RELATED COUNCIL DECISIONS

At its Ordinary meeting on 19 September 2018, Council resolved to appoint three Council officers as Authorised Officers under the *Planning and Environment Act 1987*.

This report seeks to update the Instrument of Appointment and Authorisation (Planning and Environment Act 1987) reflecting changes within Council's Planning Department and the implementation of the 2020 Act.

OPTIONS

Instruments of Appointment and Authorisation must be regularly reviewed to maintain compliance with legislation.

SUSTAINABILITY IMPLICATIONS

Not applicable.

COMMUNITY ENGAGEMENT

Not applicable.

INNOVATION AND CONTINUOUS IMPROVEMENT

Not applicable.

COLLABORATION

Not applicable.

FINANCIAL VIABILITY

Not applicable.

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

Not applicable.

COUNCIL PLANS AND POLICIES

Not applicable.

TRANSPARENCY OF COUNCIL DECISIONS

This report will be considered in an open Council meeting.

CONFLICT OF INTEREST

The officer preparing this report declares they have no conflict of interest in regards to this matter.

**Instrument of Appointment and Authorisation
(Planning and Environment Act 1987)**

In this instrument "officers" mean -

Kellie Burmeister
Stevie Pearce

By this instrument of appointment and authorisation Gannawarra Shire Council -

1. under section 147(4) of the *Planning and Environment Act 1987* - appoints the officers to be authorised officers for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under section 313 of the *Local Government Act 2020* authorises the officers generally or in a particular case to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that this instrument -

- (a) comes into force immediately the common seal is affixed to the instrument;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of the Gannawarra Shire Council on 19 August 2020.

The Common Seal of the GANNAWARRA SHIRE COUNCIL
was hereunto affixed in accordance with its Governance
Local Law 2018 In the presence of:

_____ Chief Executive Officer

_____ Date

7.6 DELEGATION UPDATE - COUNCIL TO MEMBERS OF COUNCIL STAFF

Author: Alissa Harrower, Governance & Compliance Coordinator

Authoriser: Phil Higgins, Director Corporate Services

Attachments: 1 Instrument of Delegation - Members of Staff [↓](#)

RECOMMENDATION

That Council in the exercise of the powers conferred by the legislation referred to in the attached instrument of delegation, resolves that:

1. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached *Instrument of Delegation to members of Council staff*, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.
2. The instrument comes into force immediately the common seal of Council is affixed to the instrument.
3. On the coming into force of the instrument all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.
4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

EXECUTIVE SUMMARY

Gannawarra Shire Council has functions and duties which it must perform and powers which it may exercise, pursuant to the *Local Government Act 1989* (the 1989 Act), the *Local Government Act 2020* (the 2020 Act) as well as a range of other Acts. Legislation referred to in the attached instrument of delegation provides for Council to delegate certain powers, duties or functions to members of staff rather than having all functions and duties dealt with by Council resolution.

Delegations are regularly reviewed to reflect changes in legislation, regulations and Council's organisational structure.

This report addresses delegations to members of council staff.

PURPOSE

The purpose of this report is for Council to consider delegations to members of Council staff.

ATTACHMENTS

Instrument of Delegation to Members of Council Staff.

DISCUSSION

As a statutory entity, Council is only able to do those things which it is authorised by statute to do. As a legal entity and not a 'natural person', Council can act in only one of two ways: by resolution or through others acting on its behalf. The power for Council to act by resolution is set out in section 59 of the 2020 Act.

“59(1) Where a Council is empowered to do any act, matter or thing, the decision to do the act, matter or thing is to be made by a resolution of the Council.”

Alternatively, a Council can act through others. Legislation referred to in the attached Instrument of Delegation provides for Council to delegate certain powers, duties or functions to members of Council staff.

Where this is to occur, appointments are formalised through a written ‘instrument of delegation’.

This report seeks to update the Instrument of Delegation to Members of Council Staff to reflect the commencement of the 2020 Act and some changes to the *Residential Tenancies Act 1997*.

RELEVANT LAW

Cemeteries and Crematoria Act 2003

Cemeteries and Crematoria Regulations 2015

Domestic Animals Act 1994

Environment Protection Act 1970

Food Act 1984

Heritage Act 2017

Local Government Act 1989

Local Government Act 2020

Planning and Environment (Fees) Regulations 2016

Planning and Environment Act 1987

Planning and Environment Regulations 2015

Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2010

Residential Tenancies Act 1997

Road Management (General) Regulations 2016

Road Management (Works and Infrastructure) Regulations 2015

Road Management Act 2004

RELATED COUNCIL DECISIONS

Council most recently reviewed delegations to Council staff at its Ordinary meeting on 18 March 2020.

OPTIONS

The delegation to members of Council staff must be regularly reviewed to maintain compliance with relevant legislation.

SUSTAINABILITY IMPLICATIONS

Not applicable.

COMMUNITY ENGAGEMENT

Not applicable.

INNOVATION AND CONTINUOUS IMPROVEMENT

Not applicable.

COLLABORATION

Not applicable.

FINANCIAL VIABILITY

Not applicable.

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

Not applicable.

COUNCIL PLANS AND POLICIES

Not applicable.

TRANSPARENCY OF COUNCIL DECISIONS

This report will be considered in an open Council meeting.

CONFLICT OF INTEREST

The officer preparing this report declares that they have no conflict of interest in regards to this matter.

S6. Instrument of Delegation – Members of Staff

Gannawarra Shire Council

Instrument of Delegation

to

Members of Council Staff

Instrument of Delegation

In exercise of the powers conferred by the legislation referred to in the attached Schedule, the Council:

1. delegates each duty and/or function and/or power described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position described opposite each such duty and/or function and/or power in column 3 of the Schedule;

2. record that references in the Schedule are as follows:

CEO means Chief Executive Officer
DCS means Director Corporate Services
DCW means Director Community Wellbeing
DID means Director Infrastructure and Development
EHO means Environmental Health Officer
GCC means Governance and Compliance Coordinator
LLO1 means Local Laws Team Leader
LLO2 means Local Laws Officer
LRP means Legal Representative/Professional
MBS means Municipal Building Surveyor
MCH means Manager Community Health
MF means Manager Finance
MG means Manager Governance
MOS means Manager Operational Services
MAD means Manager Assets and Design
MPP means Manager Projects and Property
MPRS means Manager Planning and Regulatory Services
PO means Planning Officer
Provision Not Delegated means the function and/or power in column 3 of the Schedule remains with Council

3. declares that:

3.1 this Instrument of Delegation is authorised by a resolution of Council passed on 19 August 2020; and

- 3.2 the delegation:

- 3.2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
- 3.2.2 remains in force until varied or revoked;
- 3.2.3 is subject to any conditions and limitations set out in sub-paragraph 3.3, and the Schedule; and
- 3.2.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and

- 3.3 the delegate must not determine the issue, take the action or do the act or thing:

- 3.3.1 if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;
- 3.3.2 if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a
 - (a) policy;
 - (b) strategyadopted by Council; or

- 3.3.3 if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation; or
- 3.3.4 the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff or delegated committee.

The Common Seal of the GANNAWARRA SHIRE COUNCIL)
was hereunto affixed in accordance Gannawarra Shire)
Council Governance Rules on the _____ day of)
_____ 2020.)

_____ Chief Executive Officer
(signature)

_____ Full name

Delegation Sources

- Cemeteries and Crematoria Act 2003
- Domestic Animals Act 1994
- Environment Protection Act 1970
- Food Act 1984
- Heritage Act 2017
- Local Government Act 1989
- Planning and Environment Act 1987
- Residential Tenancies Act 1997
- Road Management Act 2004
- Cemeteries and Crematoria Regulations 2015
- Planning and Environment Regulations 2015
- Planning and Environment (Fees) Regulations 2016
- Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2010
- Road Management (General) Regulations 2016
- Road Management (Works and Infrastructure) Regulations 2015

S6 Instrument of Delegation - Members of Staff

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 8(1)(a)(ii)	Power to manage one or more public cemeteries	Provision Not Delegated	Where Council is a Class B cemetery trust
s 12(1)	Function to properly and efficiently manage and maintain each public cemetery for which responsible and carry out any other function conferred under this Act	Provision Not Delegated	Where Council is a Class B cemetery trust
s 12(2)	Duty to have regard to the matters set out in paragraphs (a) - (c) in exercising its functions	Provision Not Delegated	Where Council is a Class B cemetery trust
s 12A(1)	Function to do the activities set out in paragraphs (a) - (n)	Provision Not Delegated	Where Council is a Class A cemetery trust
s 12A(2)	Duty to have regard to matters set out in paragraphs (a) - (e) in exercising its functions	Provision Not Delegated	Where Council is a Class A cemetery trust
s 13	Duty to do anything necessary or convenient to enable it to carry out its functions	Provision Not Delegated	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 14	Power to manage multiple public cemeteries as if they are one cemetery.	Provision Not Delegated	
s 15(1) and (2)	Power to delegate powers or functions other than those listed	Provision Not Delegated	
s 15(4)	Duty to keep records of delegations	GCC, MG	
s 17(1)	Power to employ any persons necessary	Provision Not Delegated	
s 17(2)	Power to engage any professional, technical or other assistance considered necessary	GCC, MG	
s 17(3)	Power to determine the terms and conditions of employment or engagement	Provision Not Delegated	Subject to any guidelines or directions of the Secretary
s 18(3)	Duty to comply with a direction from the Secretary	GCC, MG	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 18B(1) & (2)	Duty to establish governance committees within 12 months of becoming a Class A cemetery trust and power to establish other governance committees from time to time	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18C	Power to determine the membership of the governance committee	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18D	Power to determine procedure of governance committee	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18D(1)(a)	Duty to appoint community advisory committee for the purpose of liaising with communities	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18D(1)(b)	Power to appoint any additional community advisory committees	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18D(2)	Duty to establish a community advisory committee under section 18D(1)(a) within 12 months of becoming a Class A cemetery trust.	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18D(3)	Duty to include a report on the activities of the community advisory committees in its report of operations under Part 7 of the Financial Management Act 1994	Provision Not Delegated	Where Council is a Class A cemetery trust

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 18F(2)	Duty to give preference to a person who is not a funeral director of a stonemason (or a similar position) when appointing a person to a community advisory committee	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18H(1)	Duty to hold an annual meeting before 30 December in each calendar year	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18I	Duty to publish a public notice of annual meeting in a newspaper, a reasonable time before the date of the annual meeting	Provision Not Delegated	Where Council is a Class A cemetery trust
s.18J	Duty to provide leadership, assistance and advice in relation to operational and governance matters relating to cemeteries (including the matters set out in s 18J(2))	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18L(1)	Duty to employ a person as the chief executive officer (by whatever title called) of the Class A cemetery trust	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18N(1)	Duty to prepare an annual plan for each financial year that specifies the items set out in paragraphs (a)-(d)	Provision Not Delegated	Where Council is a Class A cemetery trust

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 18N(3)	Duty to give a copy of the proposed annual plan to the Secretary on or before 30 September each year for the Secretary's approval	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18N(5)	Duty to make amendments as required by the Secretary and deliver the completed plan to the Secretary within 3 months	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18N(7)	Duty to ensure that an approved annual plan is available to members of the public on request	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18O(1)	Duty to prepare a strategic plan and submit the plan to the Secretary for approval	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18O(4)	Duty to advise the Secretary if the trust wishes to exercise its functions in a manner inconsistent with its approved strategic plan	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18O(5)	Duty to ensure that an approved strategic plan is available to members of the public on request	Provision Not Delegated	Where Council is a Class A cemetery trust
s 18Q(1)	Duty to pay an annual levy on gross earnings as reported in the annual financial statements for the previous financial year.	Provision Not Delegated	Where Council is a Class A cemetery trust

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 19	Power to carry out or permit the carrying out of works	GCC, MG	
s 20(1)	Duty to set aside areas for the interment of human remains	Provision Not Delegated	
s 20(2)	Power to set aside areas for the purposes of managing a public cemetery	Provision Not Delegated	
s 20(3)	Power to set aside areas for those things in paragraphs (a) - (e)	Provision Not Delegated	
s 24(2)	Power to apply to the Secretary for approval to alter the existing distribution of land	Provision Not Delegated	
s 36	Power to grant licences to enter and use part of the land or building in a public cemetery in accordance with s 36	Provision Not Delegated	Subject to the approval of the Minister
s 37	Power to grant leases over land in a public cemetery in accordance with s 37	Provision Not Delegated	Subject to the Minister approving the purpose
s 40	Duty to notify Secretary of fees and charges fixed under s 39	GCC, MG	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 47	Power to pay a contribution toward the cost of the construction and maintenance of any private street adjoining or abutting a cemetery	Provision Not Delegated	Provided the street was constructed pursuant to the Local Government Act 1989
s 57(1)	Duty to submit a report to the Secretary every financial year in respect of powers and functions under the Act	MG	Report must contain the particulars listed in s 57(2)
s 59	Duty to keep records for each public cemetery	GCC, MG	
s 60(1)	Duty to make information in records available to the public for historical or research purposes	GCC, MG	
s 60(2)	Power to charge fees for providing information	GCC, MG	
s 64(4)	Duty to comply with a direction from the Secretary under s 64(3)	GCC, MG	
s 64B(d)	Power to permit interments at a reopened cemetery	Provision Not Delegated	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 66(1)	Power to apply to the Minister for approval to convert the cemetery, or part of it, to a historic cemetery park	Provision Not Delegated	The application must include the requirements listed in s 66(2)(a)-(d)
s 69	Duty to take reasonable steps to notify of conversion to historic cemetery park	DCS, MG	
s 70(1)	Duty to prepare plan of existing places of interment and make a record of any inscriptions on memorials which are to be removed	GCC, MG	
s 70(2)	Duty to make plans of existing place of interment available to the public	GCC, MG	
s 71(1)	Power to remove any memorials or other structures in an area to which an approval to convert applies	Provision Not Delegated	
s 71(2)	Power to dispose of any memorial or other structure removed	DCS, MG	
s 72(2)	Duty to comply with request received under s 72	GCC, MG	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 73(1)	Power to grant a right of interment	GCC, MG	
s 73(2)	Power to impose conditions on the right of interment	DCS, GCC, MG	
s 75	Power to grant the rights of interment set out in s 75(a) and (b)	GCC, MG	
s 76(3)	Duty to allocate a piece of interment if an unallocated right is granted	GCC, MG	
s 77(4)	Power to authorise and impose terms and conditions on the removal of cremated human remains or body parts from the place of interment on application	GCC, MG	
s 80(1)	Function of receiving notification and payment of transfer of right of interment	MG	
s 80(2)	Function of recording transfer of right of interment	GCC, MG	
s 82(2)	Duty to pay refund on the surrender of an unexercised right of interment	GCC, MG	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 83(2)	Duty to pay refund on the surrender of an unexercised right of interment (sole holder)	GCC, MG	
s 83(3)	Power to remove any memorial and grant another right of interment for a surrendered right of interment	GCC, MG	
s 84(1)	Function of receiving notice of surrendering an entitlement to a right of interment	GCC, MG	
s.85(1)	Duty to notify holder of 25 year right of interment of expiration at least 12 months before expiry	GCC, MG	The notice must be in writing and contain the requirements listed in s 85(2)
s 85(2)(b)	Duty to notify holder of 25 year right of interment of expiration of right at least 12 months before expiry	GCC, MG	Does not apply where right of interment relates to remains of a deceased veteran.
85(2)(c)	Power to leave interred cremated remains undistributed in perpetuity and convert right of interment to perpetual right of interment or;	DCS, MG	May only be exercised where right of interment relates to cremated human remains of a deceased identified veteran, if right of interment is not extended or converted to a perpetual right of interment

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	remove interred remains and re-inter at another location within cemetery grounds and remove any memorial at that place and re-establish at new or equivalent location.		
s 86	Power to remove and dispose of cremated human remains and remove any memorial if no action taken by right holder within time specified	Provision Not Delegated	
s 86(2)	Power to leave interred cremated human remains undisturbed or convert the right of interment to a perpetual right of interment	Provision Not Delegated	
s 86(3)(a)	Power to leave interred cremated human remains undisturbed in perpetuity and convert the right of interment to a perpetual right of interment	Provision Not Delegated	
s 86(3)(b)	Power to remove interred cremated human remains and take further action in accordance with s 86(3)(b)	Provision Not Delegated	
s.86(4)	power to take action under s.86(4) relating to removing and re-interring cremated human remains	Provision Not Delegated	
s.86(5)	duty to provide notification before taking action under s.86(4)	GCC, MG	
s 86A	Duty to maintain place of interment and any memorial at place of interment, if action taken under s 86(3)	GCC, MG	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 87(3)	Duty, if requested, to extend the right for a further 25 years or convert the right to a perpetual right of interment	GCC, MG	
s 88	Function to receive applications to carry out a lift and re-position procedure at a place of interment	MG	
s 91(1)	Power to cancel a right of interment in accordance with s 91	GCC, MG	
s 91(3)	Duty to publish notice of intention to cancel right of interment	GCC, MG	
s 92	Power to pay refund or grant a right of interment in respect of another place of interment to the previous holder of the cancelled right of interment	GCC, MG	
s 98(1)	Function of receiving application to establish or alter a memorial or a place of interment	GCC, MG	
s 99	Power to approve or refuse an application made under s 98, or to cancel an approval	GCC, MG	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 99(4)	Duty to make a decision on an application under s 98 within 45 days after receipt of the application or within 45 days of receiving further information where requested	GCC, MG	
s 100(1)	Power to require a person to remove memorials or places of interment	GCC, MG	
s 100(2)	Power to remove and dispose a memorial or place of interment or remedy a person's failure to comply with s 100(1)	GCC, MG	
s 100(3)	Power to recover costs of taking action under s 100(2)	DCS	
s 101	Function of receiving applications to establish or alter a building for ceremonies in the cemetery	GCC, MG	
s 102(1)	Power to approve or refuse an application under section 101, if satisfied of the matters in (b) and (c)	GCC, MG	
s 102(2) & (3)	Power to set terms and conditions in respect of, or to cancel, an approval granted under s 102(1)	GCC, MG	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 103(1)	Power to require a person to remove a building for ceremonies	GCC, MG	
s 103(2)	Power to remove and dispose of a building for ceremonies or remedy the failure to comply with s 103(1)	GCC, MG	
s 103(3)	Power to recover costs of taking action under s 103(2)	DCS	
s 106(1)	Power to require the holder of the right of interment of the requirement to make the memorial or place of interment safe and proper or carry out specified repairs	MG	
s 106(2)	Power to require the holder of the right of interment to provide for an examination	GCC, MG	
s 106(3)	Power to open and examine the place of interment if s 106(2) not complied with	GCC, MG	
s 106(4)	Power to repair or - with the approval of the Secretary - take down, remove and dispose any memorial or place of interment if notice under s 106(1) is not complied with	GCC, MG	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 107(1)	Power to require person responsible to make the building for ceremonies safe and proper or carry out specified repairs	DID	
s 107(2)	Power to repair or take down, remove and dispose any building for ceremonies if notice under s 107(1) is not complied with	MG	
s 108	Power to recover costs and expenses	DCS, MG	
s 109(1)(a)	Power to open, examine and repair a place of interment	GCC, MG	Where the holder of right of interment or responsible person cannot be found
s 109(1)(b)	Power to repair a memorial or, with the Secretary's consent, take down, remove and dispose of a memorial	DCS, MG	Where the holder of right of interment or responsible person cannot be found
s 109(2)	Power to repair the building for ceremonies or, with the consent of the Secretary, take down, remove and dispose of a building for ceremonies	DCS, MG	Where the holder of right of interment or responsible person cannot be found
s 110(1)	Power to maintain, repair or restore a memorial or place of interment from other funds if unable to find right of interment holder. with consent of the Secretary	DCS, MG	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 110(2)	Power to maintain, repair or restore any building for ceremonies from other funds if unable to find responsible person and with consent of the Secretary	DCS, MG	
s 110A	Power to use cemetery trust funds or other funds for the purposes of establishing, maintaining, repairing or restoring any memorial or place of interment of any deceased identified veteran	DCS, MG	
s 111	Power to enter into agreement with a holder of the right of interment to maintain a memorial or place of interment	GCC, MG	
s 112	Power to sell and supply memorials	Provision Not Delegated	
s 116(4)	Duty to notify the Secretary of an interment authorisation granted	GCC, MG	
s 116(5)	Power to require an applicant to produce evidence of the right of interment holder's consent to application	MG	
s 118	Power to grant an interment authorisation if satisfied that the requirements of Division 2 of Part 8 have been met	Provision Not Delegated	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 119	Power to set terms and conditions for interment authorisations	Provision Not Delegated	
s 131	Function of receiving an application for cremation authorisation	GCC, MG	
s 133(1)	Duty not to grant a cremation authorisation unless satisfied that requirements of s 133 have been complied with	Provision Not Delegated	Subject to s 133(2)
s 145	Duty to comply with an order made by the Magistrates' Court or a coroner	GCC, MG	
s 146	Power to dispose of bodily remains by a method other than interment or cremation	GCC, MG	Subject to the approval of the Secretary
s 147	Power to apply to the Secretary for approval to dispose of bodily remains by a method other than interment or cremation	GCC, MG	
s 149	Duty to cease using method of disposal if approval revoked by the Secretary	GCC, MG	

Cemeteries and Crematoria Act 2003			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 150 & 152(1)	Power to authorise the interment or cremation of body parts if the requirements of Division 1 of Part 11 are met	GCC, MG	
s 151	Function of receiving applications to inter or cremate body parts	MG	
s 152(2)	Power to impose terms and conditions on authorisation granted under s 150	Provision Not Delegated	
sch 1 cl 8(3)	Power to permit members to participate in a particular meeting by telephone, closed-circuit television or any other means of communication	GCC, MG	
sch 1 cl 8(8)	Power to regulate own proceedings	DCS, MG	Subject to cl 8
sch 1A cl 8(3)	Power to permit members to participate in a particular meeting by telephone, closed-circuit television or any other means of communication	Provision Not Delegated	Where Council is a Class A cemetery trust
sch 1A cl 8(8)	Power to regulate own proceedings	Provision Not Delegated	Where Council is a Class A cemetery trust Subject to cl 8

Domestic Animals Act 1994			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 41A(1)	Power to declare a dog to be a menacing dog	DID, LLO1, LLO2, MPRS	Council may delegate this power to a Council authorised officer

Environment Protection Act 1970			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 53M(3)	Power to require further information	EHO	
s 53M(4)	Duty to advise applicant that application is not to be dealt with	EHO	
s 53M(5)	Duty to approve plans, issue permit or refuse permit	EHO	Refusal must be ratified by Council or it is of no effect
s 53M(6)	Power to refuse to issue septic tank permit	EHO	Refusal must be ratified by Council or it is of no effect
s 53M(7)	Duty to refuse to issue a permit in circumstances in (a)-(c)	Provision Not Delegated	Refusal must be ratified by Council or it is of no effect

Food Act 1984			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 19(2)(a)	Power to direct by written order that the food premises be put into a clean and sanitary condition	EHO	If s 19(1) applies
s 19(2)(b)	Power to direct by written order that specified steps be taken to ensure that food prepared, sold or handled is safe and suitable	EHO	If s 19(1) applies
s 19(3)	Power to direct by written order that the food premises not be kept or used for the sale, or handling for sale, of any food, or for the preparation of any food, or for any other specified purpose, or for the use of any specified equipment or a specified process	EHO	If s 19(1) applies Only in relation to temporary food premises or mobile food premises
s 19(4)(a)	Power to direct that an order made under s 19(3)(a) or (b), (i) be affixed to a conspicuous part of the premises, and (ii) inform the public by notice in a published newspaper or otherwise	EHO	If s 19(1) applies
s 19(6)(a)	Duty to revoke any order under section 19 if satisfied that an order has been complied with	EHO	If s 19(1) applies
s 19(6)(b)	Duty to give written notice of revocation under section 19(6)(a) if satisfied that an order has been complied with	EHO	If s 19(1) applies

Food Act 1984			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 19AA(2)	Power to direct, by written order, that a person must take any of the actions described in (a)-(c).	EHO	Where Council is the registration authority
s 19AA(4)(c)	Power to direct, in an order made under s 19AA(2) or a subsequent written order, that a person must ensure that any food or class of food is not removed from the premises	EHO	Note: the power to direct the matters under s 19AA(4)(a) and (b) not capable of delegation and so such directions must be made by a Council resolution
s 19AA(7)	Duty to revoke order issued under s 19AA and give written notice of revocation, if satisfied that that order has been complied with	EHO	Where Council is the registration authority
s 19CB(4)(b)	Power to request copy of records	Provision Not Delegated	Where Council is the registration authority
s 19E(1)(d)	Power to request a copy of the food safety program	EHO	Where Council is the registration authority
s 19GB	Power to request proprietor to provide written details of the name, qualification or experience of the current food safety supervisor	EHO	Where Council is the registration authority
s 19M(4)(a) & (5)	Power to conduct a food safety audit and take actions where deficiencies are identified	Provision Not Delegated	Where Council is the registration authority

Food Act 1984			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 19NA(1)	Power to request food safety audit reports	EHO	Where Council is the registration authority
s 19U(3)	Power to waive and vary the costs of a food safety audit if there are special circumstances	DCW	
s 19UA	Power to charge fees for conducting a food safety assessment or inspection	EHO	Except for an assessment required by a declaration under s 19C or an inspection under ss 38B(1)(c) or 39.
s 19W	Power to direct a proprietor of a food premises to comply with any requirement under Part IIIB	EHO	Where Council is the registration authority
s 19W(3)(a)	Power to direct a proprietor of a food premises to have staff at the premises undertake training or instruction	EHO	Where Council is the registration authority
s 19W(3)(b)	Power to direct a proprietor of a food premises to have details of any staff training incorporated into the minimum records required to be kept or food safety program of the premises	EHO	Where Council is the registration authority
	Power to register, renew or transfer registration	EHO	Where Council is the registration authority

Food Act 1984			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
			refusal to grant/renew/transfer registration must be ratified by Council or the CEO (see s 58A(2))
s 38AA(5)	Power to (a) request further information; or (b) advise the proprietor that the premises must be registered if the premises are not exempt	EHO	Where Council is the registration authority
s 38AB(4)	Power to fix a fee for the receipt of a notification under s 38AA in accordance with a declaration under s 38AB(1)	EHO	Where Council is the registration authority
s 38A(4)	Power to request a copy of a completed food safety program template	Provision Not Delegated	Where Council is the registration authority
s 38B(1)(a)	Duty to assess the application and determine which class of food premises under s 19C the food premises belongs	EHO	Where Council is the registration authority
s 38B(1)(b)	Duty to ensure proprietor has complied with requirements of s 38A	EHO	Where Council is the registration authority

Food Act 1984			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 38B(2)	Duty to be satisfied of the matters in s 38B(2)(a)-(b)	EHO	Where Council is the registration authority
s 38D(1)	Duty to ensure compliance with the applicable provisions of s 38C and inspect the premises if required by s 39	EHO	Where Council is the registration authority
s 38D(2)	Duty to be satisfied of the matters in s 38D(2)(a)-(d)	EHO	Where Council is the registration authority
s 38D(3)	Power to request copies of any audit reports	EHO	Where Council is the registration authority
s 38E(2)	Power to register the food premises on a conditional basis	EHO	Where Council is the registration authority not exceeding the prescribed time limit defined under s 38E(5)
s 38E(4)	Duty to register the food premises when conditions are satisfied	EHO	Where Council is the registration authority
s 38F(3)(b)	Power to require proprietor to comply with requirements of this Act	EHO	Where Council is the registration authority

Food Act 1984			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 39A	Power to register, renew or transfer food premises despite minor defects	EHO	Where Council is the registration authority Only if satisfied of matters in s 39A(2)(a)-(c)
s 40(2)	Power to incorporate the certificate of registration in one document with any certificate of registration under Part 6 of the Public Health and Wellbeing Act 2008	EHO	
s 40C(2)	Power to grant or renew the registration of food premises for a period of less than 1 year	EHO	Where Council is the registration authority
s 40D(1)	Power to suspend or revoke the registration of food premises	DCW	Where Council is the registration authority
s 43F(6)	Duty to be satisfied that registration requirements under Division 3 have been met prior to registering, transferring or renewing registration of a component of a food business	EHO	Where Council is the registration authority
s 43F(7)	Power to register the components of the food business that meet requirements in Division 3 and power to refuse to register the components that do not meet the requirements	EHO	Where Council is the registration authority

Food Act 1984			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 46(5)	Power to institute proceedings against another person where the offence was due to an act or default by that other person and where the first person charged could successfully defend a prosecution, without proceedings first being instituted against the person first charged	EHO	Where Council is the registration authority

Heritage Act 2017			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 116	Power to sub-delegate Executive Director's functions, duties or powers	Provision Not Delegated	Must first obtain Executive Director's written consent Council can only sub-delegate if the Instrument of Delegation from the Executive Director authorises sub-delegation

Local Government Act 1989			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 181H	Power to enter into an environmental upgrade agreement on behalf of Council and declare and levy an environmental upgrade charge	Provision Not Delegated	Agreement can only be entered into by CEO.
s 185L(4)	Power to declare and levy a cladding rectification charge	DCS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 4B	Power to prepare an amendment to the Victorian Planning Provisions	DID, MPRS	If authorised by the Minister
s 4G	Function of receiving prescribed documents and a copy of the Victorian Planning Provisions from the Minister	DID, MPRS	
s 4H	Duty to make amendment to Victoria Planning Provisions available	DID, MPRS	
s 4I	Duty to keep Victorian Planning Provisions and other documents available	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 8A(2)	Power to prepare amendment to the planning scheme where the Minister has given consent under s 8A	DID, MPRS	
s 8A(3)	Power to apply to Minister to prepare an amendment to the planning scheme	Provision Not Delegated	
s 8A(5)	Function of receiving notice of the Minister's decision	DID, MPRS	
s 8A(7)	Power to prepare the amendment specified in the application without the Minister's authorisation if no response received after 10 business days	DID, MPRS	
s 8B(2)	Power to apply to the Minister for authorisation to prepare an amendment to the planning scheme of an adjoining municipal district	Provision Not Delegated	
s 12(3)	Power to carry out studies and do things to ensure proper use of land and consult with other persons to ensure co-ordination of planning scheme with these persons	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 12A(1)	Duty to prepare a municipal strategic statement (including power to prepare a municipal strategic statement under s19 of the Planning and Environment (Planning Schemes) Act 1996)	DID, MPRS	
s 12B(1)	Duty to review planning scheme	DID, MPRS	
s 12B(2)	Duty to review planning scheme at direction of Minister	DID, MPRS	
s.12B(5)	duty to report findings of review of planning scheme to Minister without delay	DID, MPRS	
s 14	duties of a Responsible Authority as set out in s 14(a) to (d)	DID, MPRS, PO	
s 17(1)	Duty of giving copy amendment to the planning scheme	DID, MPRS, PO	
s 17(2)	Duty of giving copy s 173 agreement	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 17(3)	Duty of giving copy amendment, explanatory report and relevant documents to the Minister within 10 business days	DID, MPRS	
s 18	Duty to make amendment etc. available	DID, MPRS, PO	
s 19	Power to give notice, to decide not to give notice, to publish notice of amendment to a planning scheme and to exercise any other power under s 19 to a planning scheme	DID, MPRS	
s 19	Function of receiving notice of preparation of an amendment to a planning scheme	DID, MPRS	Where Council is not the planning authority and the amendment affects land within Council's municipal district; or Where the amendment will amend the planning scheme to designate Council as an acquiring authority.
s 20(1)	Power to apply to Minister for exemption from the requirements of s 19	DID, MPRS	
s 21(2)	Duty to make submissions available	DID, MPRS, PO	
s 21A(4)	Duty to publish notice	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 22	Duty to consider all submissions	DID, MPRS	Except submissions which request a change to the items in s 22(5)(a) and (b)
s 23(1)(b)	Duty to refer submissions which request a change to the amendment to a panel	DID, MPRS	
s 23(2)	Power to refer to a panel submissions which do not require a change to the amendment	Provision Not Delegated	
s 24	Function to represent Council and present a submission at a panel hearing (including a hearing referred to in s 96D)	DID, MPRS	
s 26(1)	Power to make report available for inspection	DID, MPRS, PO	
s 26(2)	Duty to keep report of panel available for inspection	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 27(2)	Power to apply for exemption if panel's report not received	DID, MPRS	
s 28	Duty to notify the Minister if abandoning an amendment	DID, MPRS	Note: the power to make a decision to abandon an amendment cannot be delegated
s 30(4)(a)	Duty to say if amendment has lapsed	DID, MPRS	
s 30(4)(b)	Duty to provide information in writing upon request	DID, MPRS	
s 32(2)	Duty to give more notice if required	DID, MPRS	
s 33(1)	Duty to give more notice of changes to an amendment	DID, MPRS	
s 36(2)	Duty to give notice of approval of amendment	DID, MPRS	
s 38(5)	Duty to give notice of revocation of an amendment	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 39	Function of being a party to a proceeding commenced under s 39 and duty to comply with determination by VCAT	DID, MPRS	
s 40(1)	Function of lodging copy of approved amendment	DID, MPRS	
s 41	Duty to make approved amendment available	DID, MPRS, PO	
s 42	Duty to make copy of planning scheme available	DID, MPRS, PO	
s 46AAA	Duty to prepare an amendment to a planning scheme that relates to Yarra River land that is not inconsistent with anything in a Yarra Strategic Plan which is expressed to be binding on the responsible public entity	Provision Not Delegated	Where Council is a responsible public entity and is a planning authority Note: this provision is not yet in force, and will commence on the day on which the initial Yarra Strategic Plan comes into operation. It will affect a limited number of councils
s 46AW	Function of being consulted by the Minister	DID, MPRS	Where Council is a responsible public entity
s 46AX	Function of receiving a draft Statement of Planning Policy and written direction in relation to the endorsement of the draft Statement of Planning Policy	DID, MPRS	Where Council is a responsible public entity

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	Power to endorse the draft Statement of Planning Policy		
s 46AZC(2)	Duty not to prepare an amendment to a declared area planning scheme that is inconsistent with a Statement of Planning Policy for the declared area that is expressed to be binding on the responsible public entity	DID, MPRS	Where Council is a responsible public entity
s 46AZK	Duty not to act inconsistently with any provision of the Statement of Planning Policy that is expressed to be binding on the public entity when performing a function or duty or exercising a power in relation to the declared area	DID, MPRS	Where Council is a responsible public entity
s 46GI(2)(b)(i)	Power to agree to a lower rate of standard levy for a class of development of a particular type of land than the rate specified in a Minister's direction	DID, MPRS	Where Council is the planning authority, the municipal Council of the municipal district in which the land is located and/or the development agency
s 46GJ(1)	Function of receiving written directions from the Minister in relation to the preparation and content of infrastructure contributions plans	DID, MPRS	
s 46GK	Duty to comply with a Minister's direction that applies to Council as the planning authority	DID, MPRS	
s 46GN(1)	Duty to arrange for estimates of values of inner public purpose land	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 46GO(1)	Duty to give notice to owners of certain inner public purpose land	DID, MPRS	
s 46GP	Function of receiving a notice under s 46GO	DID, MPRS	Where Council is the collecting agency
s 46GQ	Function of receiving a submission from an affected owner who objects to the estimated value per hectare (or other appropriate unit of measurement) of the inner public purpose land	DID, MPRS	
s 46GR(1)	Duty to consider every submission that is made by the closing date for submissions included in the notice under s 46GO	DID, MPRS	
s 46GR(2)	Power to consider a late submission Duty to consider a late submission if directed to do so by the Minister	DID, MPRS	
s 46GS(1)	Power to accept or reject the estimate of the value of the inner public purpose land in a submission made under s 46GQ	DID, MPRS	
s 46GS(2)	Duty, if Council rejects the estimate of the value of the inner public purpose land in the submission, to refer the matter to the valuer-general, and notify the affected owner of the rejection and that the matter has been referred to the valuer-general	DID, MPRS	
s 46GT(2)	Duty to pay half of the fee fixed by the valuer-general for arranging and attending the conference	DID, MPRS	
s 46GT(4)	Function of receiving, from the valuer-general, written confirmation of the agreement between the planning authority's	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	valuer and the affected owner's valuer as to the estimated value of the inner public purpose land		
s 46GT(6)	Function of receiving, from the valuer-general, written notice of a determination under s 46GT(5)	DID, MPRS	
s 46GU	Duty not to adopt an amendment under s.29 to an infrastructure contributions plan that specifies a land credit amount or a land equalisation amount that relates to a parcel of land in the ICP plan area of the plan unless the criteria in s 46GU(1)(a) and (b) are met	DID, MPRS	
s 46GV(3)	Function of receiving the monetary component and any land equalisation amount of the infrastructure contribution Power to specify the manner in which the payment is to be made	DID, MPRS	Where Council is the collecting agency
s 46GV(3)(b)	Power to enter into an agreement with the applicant	DID, MPRS	Where Council is the collecting agency
s 46GV(4)(a)	Function of receiving the inner public purpose land in accordance with s 46GV(5) and (6)	DID, MPRS	Where Council is the development agency
s 46GV(4)(b)	Function of receiving the inner public purpose land in accordance with s 46GV(5) and (6)	DID, MPRS	Where Council is the collecting agency
s 46GV(7)	Duty to impose the requirements set out in s 46GV(3) and (4) as conditions on the permit applied for by the applicant to develop the land in the ICP plan area	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 46GV(9)	Power to require the payment of a monetary component or the provision of the land component of an infrastructure contribution to be secured to Council's satisfaction	DID, MPRS	Where Council is the collecting agency
s 46GX(1)	Power to accept works, services or facilities in part or full satisfaction of the monetary component of an infrastructure contribution payable	DID, MPRS	Where Council is the collecting agency
s 46GX(2)	Duty, before accepting the provision of works, services or facilities by an applicant under s 46GX(1), to obtain the agreement of the development agency or agencies specified in the approved infrastructure contributions plan	DID, MPRS	Where Council is the collecting agency
s 46GY(1)	Duty to keep proper and separate accounts and records	DID, MPRS	Where Council is the collecting agency
s 46GY(2)	Duty to keep the accounts and records in accordance with the Local Government Act 2020	DID, MPRS	Where Council is the collecting agency
s 46GZ(2)(a)	Duty to forward any part of the monetary component that is imposed for plan preparation costs to the planning authority that incurred those costs	DID, MPRS	Where Council is the collecting agency under an approved infrastructure contributions plan This duty does not apply where Council is that planning authority
s 46GZ(2)(a)	Function of receiving the monetary component	DID, MPRS	Where the Council is the planning authority

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
			This duty does not apply where Council is also the collecting agency
s 46GZ(2)(b)	Duty to forward any part of the monetary component that is imposed for the provision of works, services or facilities to the development agency that is specified in the plan, as responsible for those works, services or facilities	DID, MPRS	Where Council is the collecting agency under an approved infrastructure contributions plan This provision does not apply where Council is also the relevant development agency
s 46GZ(2)(b)	Function of receiving the monetary component	DID, MPRS	Where Council is the development agency under an approved infrastructure contributions plan This provision does not apply where Council is also the collecting agency
s 46GZ(4)	Duty to use any land equalisation amounts to pay land credit amounts under s 46GZ(7), except any part of those amounts that are to be forwarded to a development agency under s 46GZ(5)	DID, MPRS	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZ(5)	Duty to forward any part of a land equalisation amount required for the acquisition of outer public purpose land by a development	DID, MPRS	Where Council is the collecting agency under an approved infrastructure contributions plan

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	agency specified in the approved infrastructure contributions plan to that development agency		This provision does not apply where Council is also the relevant development agency
s 46GZ(5)	Function of receiving any part of a land equalisation amount required for the acquisition of outer public purpose land	DID, MPRS	Where Council is the development agency specified in the approved infrastructure contributions plan This provision does not apply where Council is also the collecting agency
s 46GZ(7)	Duty to pay to each person who must provide an infrastructure contribution under the approved infrastructure contributions plan any land credit amount to which the person is entitled under s 46GW	DID, MPRS	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZ(9)	Duty to transfer the estate in fee simple in the land to the development agency specified in the approved infrastructure contributions plan as responsible for the use and development of that land	DID, MPRS	If any inner public purpose land is vested in Council under the Subdivision Act 1988 or acquired by Council before the time it is required to be provided to Council under s 46GV(4) Where Council is the collecting agency under an approved infrastructure contributions plan

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
			This duty does not apply where Council is also the development agency
s 46GZ(9)	Function of receiving the fee simple in the land	DID, MPRS	Where Council is the development agency under an approved infrastructure contributions plan This duty does not apply where Council is also the collecting agency
s 46GZA(1)	Duty to keep proper and separate accounts and records	DID, MPRS	Where Council is the development agency under an approved infrastructure contributions plan
s 46GZA(2)	Duty to keep the accounts and records in accordance with the Local Government Act 2020	DID, MPRS	Where Council is a development agency under an approved infrastructure contributions plan
s 46GZB(3)	Duty to follow the steps set out in s 46GZB(3)(a) – (c)	DID, MPRS	Where Council is a development agency under an approved infrastructure contributions plan
s 46GZB(4)	Duty, in accordance with requirements of the VPA, to report on the use of the infrastructure contribution in the development agency's annual report and provide reports on the use of the infrastructure contribution to the VPA	DID, MPRS	If the VPA is the collecting agency under an approved infrastructure contributions plan Where Council is a development agency under an approved infrastructure contributions plan

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 46GZD(2)	Duty, within 6 months after the date on which the approved infrastructure contributions plan expires, to follow the steps set out in s 46GZD(2)(a) and (b)	DID, MPRS	Where Council is the development agency under an approved infrastructure contributions plan
s 46GZD(3)	Duty to follow the steps set out in s 46GZD(3)(a) and (b)	DID, MPRS	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZD(5)	Duty to make payments under s 46GZD(3) in accordance with ss 46GZD(5)(a) and 46GZD(5)(b)	DID, MPRS	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZE(2)	Duty to forward the land equalisation amount back to the collecting agency within 6 months after the expiry date if any part of a land equalisation amount paid or forwarded to a development agency for acquiring outer public purpose land has not been expended by the development agency to acquire that land at the date on which the approved infrastructure contributions plan expires	DID, MPRS	Where Council is the development agency under an approved infrastructure contributions plan This duty does not apply where Council is also the collecting agency
s 46GZE(2)	Function of receiving the unexpended land equalisation amount	DID, MPRS	Where Council is the collecting agency under an approved infrastructure contributions plan This duty does not apply where Council is also the development agency
s 46GZE(3)	Duty, within 12 months after the date on which the approved infrastructure contributions plan expires, to follow the steps set out in s 46GZE(3)(a) and (b)	DID, MPRS	Where Council is the collecting agency under an approved infrastructure contributions plan

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 46GZF(2)	Duty, within 12 months after the date on which the approved infrastructure contributions plan expires, to use the public purpose land for a public purpose approved by the Minister or sell the public purpose land	DCS, DID	Where Council is the development agency under an approved infrastructure contributions plan
s.46GZF(3)	Duty, if land is sold under s.46GZF(2)(b), to follow the steps in s.46GZF(3)(a) and (b)	DID, MPRS	Where Council is the development agency under an approved infrastructure contributions plan
s 46GZF(3)	s 46GZF(3)(a) function of receiving proceeds of sale	DCS, DID	Where Council is the collection agency under an approved infrastructure contributions plan This provision does not apply where Council is also the development agency
s 46GZF(4)	Duty to divide the proceeds of the public purpose land among the current owners of each parcel of land in the ICP plan area and pay each current owner a portion of the proceeds in accordance with s 46GZF(5)	DID, MPRS	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZF(6)	Duty to make the payments under s 46GZF(4) in accordance with s 46GZF(6)(a) and (b)	DID, MPRS	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZH	Power to recover the monetary component, or any land equalisation amount of the land component, payable under Part 3AB as a debt in any court of competent jurisdiction	DCS, DID	Where Council is the collecting agency under an approved infrastructure contributions plan

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 46GZI	Duty to prepare and give a report to the Minister at the times required by the Minister	DID, MPRS	Where Council is a collecting agency or development agency
s 46GZK	Power to deal with public purpose land which has vested in, been acquired by, or transferred to, Council	DID, MPRS	Where Council is a collecting agency or development agency
s 46LB(3)	Duty to publish, on Council's Internet site, the payable dwelling amount for a financial year on or before 1 July of each financial year for which the amount is adjusted under s 46LB (2)	DCS, DID	
s 46N(1)	Duty to include condition in permit regarding payment of development infrastructure levy	DID, MPRS, PO	
s 46N(2)(c)	Function of determining time and manner for receipt of development contributions levy	DCS, DID, MPRS	
s 46N(2)(d)	Power to enter into an agreement with the applicant regarding payment of development infrastructure levy	DCS, DID, MPRS	
s 46O(1)(a) & (2)(a)	Power to ensure that community infrastructure levy is paid, or agreement is in place, prior to issuing building permit	DCS, DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 46O(1)(d) & (2)(d)	Power to enter into agreement with the applicant regarding payment of community infrastructure levy	DCS, DID, MPRS	
s 46P(1)	Power to require payment of amount of levy under s 46N or s 46O to be satisfactorily secured	DCS, DID, MPRS	
s 46P(2)	Power to accept provision of land, works, services or facilities in part or full payment of levy payable	DCS, DID	
s 46Q(1)	Duty to keep proper accounts of levies paid	DCS, MF	
s 46Q(1A)	Duty to forward to development agency part of levy imposed for carrying out works, services, or facilities on behalf of development agency or plan preparation costs incurred by a development agency or plan preparation costs incurred by a development agency	DCS, DID, MPRS	
s 46Q(2)	Duty to apply levy only for a purpose relating to the provision of plan preparation costs or the works, services and facilities in respect of which the levy was paid etc	DCS, DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 46Q(3)	Power to refund any amount of levy paid if it is satisfied the development is not to proceed	DID, MPRS	Only applies when levy is paid to Council as a 'development agency'
s 46Q(4)(c)	Duty to pay amount to current owners of land in the area if an amount of levy has been paid to a municipal council as a development agency for plan preparation costs incurred by the Council or for the provision by the Council of works, services or facilities in an area under s 46Q(4)(a)	DID, MPRS	Must be done within six months of the end of the period required by the development contributions plan and with the consent of, and in the manner approved by, the Minister
s 46Q(4)(d)	Duty to submit to the Minister an amendment to the approved development contributions plan	DID, MPRS	Must be done in accordance with Part 3
s46Q(4)(e)	Duty to expend that amount on other works etc.	DID, MPRS	With the consent of, and in the manner approved by, the Minister
s 46QC	Power to recover any amount of levy payable under Part 3B	Provision Not Delegated	
s 46QD	Duty to prepare report and give a report to the Minister	DID, MPRS	Where Council is a collecting agency or development agency

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 47	Power to decide that an application for a planning permit does not comply with that Act	DID, MPRS	
s 49(1)	Duty to keep a register of all applications for permits and determinations relating to permits	DID, MPRS, PO	
s 49(2)	Duty to make register available for inspection	DID, MPRS, PO	
s 50(4)	Duty to amend application	DID, MPRS, PO	
s 50(5)	Power to refuse to amend application	DID, MPRS	
s 50(6)	Duty to make note of amendment to application in register	DID, MPRS	
s 50A(1)	Power to make amendment to application	DID, MPRS	
s 50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 50A(4)	Duty to note amendment to application in register	DID, MPRS, PO	
s 51	Duty to make copy of application available for inspection	DID, MPRS, PO	
s 52(1)(a)	Duty to give notice of the application to owners/occupiers of adjoining allotments unless satisfied that the grant of permit would not cause material detriment to any person	DID, MPRS, PO	
s 52(1)(b)	Duty to give notice of the application to other municipal council where appropriate	DID, MPRS, PO	
s 52(1)(c)	Duty to give notice of the application to all persons required by the planning scheme	DID, MPRS, PO	
s 52(1)(ca)	Duty to give notice of the application to owners and occupiers of land benefited by a registered restrictive covenant if may result in breach of covenant	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 52(1)(cb)	Duty to give notice of the application to owners and occupiers of land benefited by a registered restrictive covenant if application is to remove or vary the covenant	DID, MPRS, PO	
s 52(1)(d)	Duty to give notice of the application to other persons who may be detrimentally effected	DID, MPRS, PO	
s.52(1AA)	Duty to give notice of an application to remove or vary a registered restrictive covenant	DID, MPRS, PO	
s 52(3)	Power to give any further notice of an application where appropriate	DID, MPRS, PO	
s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	DID, MPRS, PO	
s 53(1A)	Power to require the applicant to give the notice under s 52(1AA)	DID, MPRS, PO	
s 54(1)	Power to require the applicant to provide more information	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 54(1A)	Duty to give notice in writing of information required under s 54(1)	DID, MPRS, PO	
s 54(1B)	Duty to specify the lapse date for an application	DID, MPRS	
s 54A(3)	Power to decide to extend time or refuse to extend time to give required information	DID, MPRS	
s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	DID, MPRS	
s 55(1)	Duty to give copy application, together with the prescribed information, to every referral authority specified in the planning scheme	DID, MPRS, PO	
s 57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	DID, MPRS	
s 57(3)	Function of receiving name and address of persons to whom notice of decision is to go	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 57(5)	Duty to make available for inspection copy of all objections	DID, MPRS, PO	
s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	DID, MPRS	
s 57A(5)	Power to refuse to amend application	DID, MPRS	
s 57A(6)	Duty to note amendments to application in register	DID, MPRS, PO	
s 57B(1)	Duty to determine whether and to whom notice should be given	DID, MPRS, PO	
s 57B(2)	Duty to consider certain matters in determining whether notice should be given	DID, MPRS, PO	
s 57C(1)	Duty to give copy of amended application to referral authority	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 58	Duty to consider every application for a permit	DID, MPRS, PO	
s 58A	Power to request advice from the Planning Application Committee	DID, MPRS	
s 60	Duty to consider certain matters	DID, MPRS, PO	
s 60(1A)	Duty to consider certain matters	DID, MPRS	
s 60(1B)	Duty to consider number of objectors in considering whether use or development may have significant social effect	DID, MPRS	
s 61(1)	Power to determine permit application, either to decide to grant a permit, to decide to grant a permit with conditions or to refuse a permit application	DID, MPRS	The permit must not be inconsistent with a cultural heritage management plan under the Aboriginal Heritage Act 2006 Power to refuse a permit application 61(1)(c) can only be undertaken by Council
s 61(2)	Duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit	Provision Not Delegated	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	Provision Not Delegated	
s 61(3)(a)	Duty not to decide to grant a permit to use coastal Crown land without Minister's consent	Provision Not Delegated	
s 61(3)(b)	Duty to refuse to grant the permit without the Minister's consent	Provision Not Delegated	
s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	Provision Not Delegated	
s 62(1)	Duty to include certain conditions in deciding to grant a permit	DID, MPRS	
s 62(2)	Power to include other conditions	DID, MPRS	
s 62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	DID, MPRS	
s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 62(5)(b)	Power to include a permit condition that specified works be provided on or to the land or paid for in accordance with s 173 agreement	DID, MPRS	
s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	DID, MPRS	
s 62(6)(a)	Duty not to include a permit condition requiring a person to pay an amount for or provide works except in accordance with ss 46N(1), 46GV(7) or 62(5)	DID, MPRS	
s 62(6)(b)	Duty not to include a permit condition requiring a person to pay an amount for or provide works except a condition that a planning scheme requires to be included as referred to in s 62(1)(a)	DID, MPRS	
s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	DID, MPRS	
s 64(1)	Duty to give notice of decision to grant a permit to applicant and objectors	DID, MPRS, PO	This provision applies also to a decision to grant an amendment to a permit - see s 75

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 64(3)	Duty not to issue a permit until after the specified period	DID, MPRS	This provision applies also to a decision to grant an amendment to a permit - see s 75
s 64(5)	Duty to give each objector a copy of an exempt decision	DID, MPRS, PO	This provision applies also to a decision to grant an amendment to a permit - see s 75
s 64A	Duty not to issue permit until the end of a period when an application for review may be lodged with VCAT or until VCAT has determined the application, if a relevant recommending referral authority has objected to the grant of a permit	DID, MPRS	This provision applies also to a decision to grant an amendment to a permit - see s 75A
s 65(1)	Duty to give notice of refusal to grant permit to applicant and person who objected under s 57	DID, MPRS, PO	
s 66(1)	Duty to give notice under s 64 or s 65 and copy permit to relevant determining referral authorities	DID, MPRS, PO	
s 66(2)	Duty to give a recommending referral authority notice of its decision to grant a permit	DID, MPRS, PO	If the recommending referral authority objected to the grant of the permit or the responsible authority decided not to include a condition on the permit recommended by the recommending referral authority

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 66(4)	Duty to give a recommending referral authority notice of its decision to refuse a permit	DID, MPRS, PO	If the recommending referral authority objected to the grant of the permit or the recommending referral authority recommended that a permit condition be included on the permit
s 66(6)	Duty to give a recommending referral authority a copy of any permit which Council decides to grant and a copy of any notice given under s 64 or 65	DID, MPRS, PO	If the recommending referral authority did not object to the grant of the permit or the recommending referral authority did not recommend a condition be included on the permit
s 69(1)	Function of receiving application for extension of time of permit	DID, MPRS, PO	
s 69(1A)	Function of receiving application for extension of time to complete development	DID, MPRS, PO	
s 69(2)	Power to extend time	DID, MPRS	
s 70	Duty to make copy permit available for inspection	DID, MPRS, PO	
s 71(1)	Power to correct certain mistakes	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 71(2)	Duty to note corrections in register	DID, MPRS, PO	
s 73	Power to decide to grant amendment subject to conditions	DID, MPRS	
s 74	Duty to issue amended permit to applicant if no objectors	DID, MPRS	
s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	DID, MPRS, PO	
s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	DID, MPRS, PO	
s 76A(2)	Duty to give a recommending referral authority notice of its decision to grant an amendment to a permit	DID, MPRS, PO	If the recommending referral authority objected to the amendment of the permit or the responsible authority decided not to include a condition on the amended permit recommended by the recommending referral authority
s 76A(4)	Duty to give a recommending referral authority notice of its decision to refuse a permit	DID, MPRS, PO	If the recommending referral authority objected to the amendment of the permit or the recommending referral authority recommended that a permit condition be included on the amended permit

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 76A(6)	Duty to give a recommending referral authority a copy of any amended permit which Council decides to grant and a copy of any notice given under s 64 or 76	DID, MPRS, PO	If the recommending referral authority did not object to the amendment of the permit or the recommending referral authority did not recommend a condition be included on the amended permit
s 76D	Duty to comply with direction of Minister to issue amended permit	DID, MPRS	
s 83	Function of being respondent to an appeal	DID, MPRS, PO	
s 83B	Duty to give or publish notice of application for review	DID, MPRS, PO	
s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	DID, MPRS	
s 84(2)	Duty not to issue a permit or notice of decision or refusal after an application is made for review of a failure to grant a permit	DID, MPRS	
s 84(3)	Duty to tell principal registrar if decide to grant a permit after an application is made for review of its failure to grant a permit	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 84(6)	Duty to issue permit on receipt of advice within 3 working days	DID, MPRS	
s 84AB	Power to agree to confining a review by the Tribunal	DID, MPRS	
s 86	Duty to issue a permit at order of Tribunal within 3 working days	DID, MPRS	
s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	DID, MPRS	
s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	DID, MPRS, PO	
s 91(2)	Duty to comply with the directions of VCAT	DID, MPRS, PO	
s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs	DID, MPRS	
s 92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 93(2)	Duty to give notice of VCAT order to stop development	DID, MPRS, PO	
s 95(3)	Function of referring certain applications to the Minister	DID, MPRS	
s 95(4)	Duty to comply with an order or direction	DID, MPRS, PO	
s 96(1)	Duty to obtain a permit from the Minister to use and develop its land	DID, MPRS, PO	
s 96(2)	Function of giving consent to other persons to apply to the Minister for a permit to use and develop Council land	Provision Not Delegated	
s 96A(2)	Power to agree to consider an application for permit concurrently with preparation of proposed amendment	DID, MPRS, PO	
s 96C	Power to give notice, to decide not to give notice, to publish notice and to exercise any other power under s 96C	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 96F	Duty to consider the panel's report under s 96E	Provision Not Delegated	
s 96G(1)	Power to determine to recommend that a permit be granted or to refuse to recommend that a permit be granted and power to notify applicant of the determination (including power to give notice under s 23 of the Planning and Environment (Planning Schemes) Act 1996)	Provision Not Delegated	
s 96H(3)	Power to give notice in compliance with Minister's direction	DID, MPRS, PO	
s 96J	Power to issue permit as directed by the Minister	DID, MPRS	
s 96K	Duty to comply with direction of the Minister to give notice of refusal	DID, MPRS, PO	
s 96Z	Duty to keep levy certificates given to it under ss 47 or 96A for no less than 5 years from receipt of the certificate	DID, MPRS, PO	
s 97C	Power to request Minister to decide the application	Provision Not Delegated	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 97D(1)	Duty to comply with directions of Minister to supply any document or assistance relating to application	DID, MPRS, PO	
s 97G(3)	Function of receiving from Minister copy of notice of refusal to grant permit or copy of any permit granted by the Minister	DID, MPRS, PO	
s 97G(6)	Duty to make a copy of permits issued under s 97F available for inspection	DID, MPRS, PO	
s 97L	Duty to include Ministerial decisions in a register kept under s 49	DID, MPRS, PO	
s 97MH	Duty to provide information or assistance to the Planning Application Committee	DID, MPRS, PO	
s 97MI	Duty to contribute to the costs of the Planning Application Committee or subcommittee	DID, MPRS	
s 97O	Duty to consider application and issue or refuse to issue certificate of compliance	DID, MPRS	
s 97P(3)	Duty to comply with directions of VCAT following an application for review of a failure or refusal to issue a certificate	DID, MPRS, PO	
s 97Q(2)	Function of being heard by VCAT at hearing of request for amendment or cancellation of certificate	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 97Q(4)	Duty to comply with directions of VCAT	DID, MPRS, PO	
s 97R	Duty to keep register of all applications for certificate of compliance and related decisions	DID, MPRS, PO	
s 98(1)&(2)	Function of receiving claim for compensation in certain circumstances	DID, MPRS	
s 98(4)	Duty to inform any person of the name of the person from whom compensation can be claimed	DID, MPRS	
s 101	Function of receiving claim for expenses in conjunction with claim	DID, MPRS	
s 103	Power to reject a claim for compensation in certain circumstances	DID	
s.107(1)	function of receiving claim for compensation	DID, MPRS	
s 107(3)	Power to agree to extend time for making claim	DID, MPRS	
s 114(1)	Power to apply to the VCAT for an enforcement order	DID, MPRS, PO	
s 117(1)(a)	Function of making a submission to the VCAT where objections are received	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 120(1)	Power to apply for an interim enforcement order where s 114 application has been made	DID, MPRS, PO	
s 123(1)	Power to carry out work required by enforcement order and recover costs	DID, MPRS	
s 123(2)	Power to sell buildings, materials, etc salvaged in carrying out work under s 123(1)	Provision Not Delegated	Except Crown Land
s 129	Function of recovering penalties	DID, MPRS, PO	
s 130(5)	Power to allow person served with an infringement notice further time	DID, MPRS	
s 149A(1)	Power to refer a matter to the VCAT for determination	DID, MPRS, PO	
s 149A(1A)	power to apply to VCAT for the determination of a matter relating to the interpretation of a s.173 agreement	DID, MPRS	
s 156	Duty to pay fees and allowances (including a payment to the Crown under s 156(2A)), and payment or reimbursement for reasonable costs and expenses incurred by the panel in carrying out its functions unless the Minister directs otherwise under s 156(2B)power to ask for contribution under s 156(3) and power to abandon amendment or part of it under s 156(4)	DCS, DID, MPRS	Where Council is the relevant planning authority

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 171(2)(f)	Power to carry out studies and commission reports	DID	
s 171(2)(g)	Power to grant and reserve easements	DID, MPRS	
s 172C	Power to compulsorily acquire any outer public purpose land that is specified in the approved infrastructure contributions plan	DCS, DID	Where Council is a development agency specified in an approved infrastructure contributions plan
s 172D(1)	Power to compulsorily acquire any inner public purpose land that is specified in the plan before the time that the land is required to be provided to Council under s 46GV(4)	DCS, DID	Where Council is a collecting agency specified in an approved infrastructure contributions plan
s 172D(2)	Power to compulsorily acquire any inner public purpose land, the use and development of which is to be the responsibility of Council under the plan, before the time that the land is required to be provided under s 46GV(4)	DCS, DID	Where Council is the development agency specified in an approved infrastructure contributions plan
s 173(1)	Power to enter into agreement covering matters set out in s 174	Provision Not Delegated	
s 173(1A)	Power to enter into an agreement with an owner of land for the development or provision of land in relation to affordable housing	Provision Not Delegated	Where Council is the relevant responsible authority
	Power to decide whether something is to the satisfaction of Council, where an agreement made under s 173 of the Planning	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
	and Environment Act 1987 requires something to be to the satisfaction of Council or Responsible Authority		
	Power to give consent on behalf of Council, where an agreement made under s 173 of the Planning and Environment Act 1987 requires that something may not be done without the consent of Council or Responsible Authority	DID, MPRS	
s 177(2)	Power to end a s 173 agreement with the agreement of all those bound by any covenant in the agreement or otherwise in accordance with Division 2 of Part 9	Provision Not Delegated	
s 178	power to amend a s 173 agreement with the agreement of all those bound by any covenant in the agreement or otherwise in accordance with Division 2 of Part 9	Provision Not Delegated	
s 178A(1)	Function of receiving application to amend or end an agreement	DID, MPRS, PO	
s 178A(3)	Function of notifying the owner as to whether it agrees in principle to the proposal under s 178A(1)	DID, MPRS	
s 178A(4)	Function of notifying the applicant and the owner as to whether it agrees in principle to the proposal	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 178A(5)	Power to propose to amend or end an agreement	Provision Not Delegated	
s 178B(1)	Duty to consider certain matters when considering proposal to amend an agreement	DID, MPRS	
s 178B(2)	Duty to consider certain matters when considering proposal to end an agreement	DID, MPRS	
s 178C(2)	Duty to give notice of the proposal to all parties to the agreement and other persons who may be detrimentally affected by decision to amend or end	DID, MPRS	
s 178C(4)	Function of determining how to give notice under s 178C(2)	DID, MPRS	
s 178E(1)	Duty not to make decision until after 14 days after notice has been given	DID, MPRS	
s.178E(2)(a)	Power to amend or end the agreement in accordance with the proposal	Provision Not Delegated	If no objections are made under s 178D

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
			Must consider matters in s 178B
s 178E(2)(b)	Power to amend or end the agreement in a manner that is not substantively different from the proposal	Provision Not Delegated	If no objections are made under s 178D Must consider matters in s 178B
s 178E(2)(c)	Power to refuse to amend or end the agreement	Provision Not Delegated	If no objections are made under s 178D Must consider matters in s 178B
s 178E(3)(a)	Power to amend or end the agreement in accordance with the proposal	Provision Not Delegated	After considering objections, submissions and matters in s 178B
s 178E(3)(b)	Power to amend or end the agreement in a manner that is not substantively different from the proposal	Provision Not Delegated	After considering objections, submissions and matters in s 178B
s.178E(3)(c)	power to amend or end the agreement in a manner that is substantively different from the proposal	Provision Not Delegated	After considering objections, submissions and matters in s.178B

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 178E(3)(d)	Power to refuse to amend or end the agreement	Provision Not Delegated	After considering objections, submissions and matters in s 178B
s 178F(1)	Duty to give notice of its decision under s 178E(3)(a) or (b)	DID, MPRS	
s 178F(2)	Duty to give notice of its decision under s 178E(2)(c) or (3)(d)	DID, MPRS	
s 178F(4)	Duty not to proceed to amend or end an agreement under s 178E until at least 21 days after notice has been given or until an application for review to the Tribunal has been determined or withdrawn	DID, MPRS	
s 178G	Duty to sign amended agreement and give copy to each other party to the agreement	Provision Not Delegated	
s 178H	Power to require a person who applies to amend or end an agreement to pay the costs of giving notices and preparing the amended agreement	DID, MPRS	
s 178I(3)	Duty to notify, in writing, each party to the agreement of the ending of the agreement relating to Crown land	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 179(2)	Duty to make available for inspection copy agreement	DID, MPRS, PO	
s 181	Duty to apply to the Registrar of Titles to record the agreement and to deliver a memorial to Registrar-General	DID, MPRS	
s 181(1A)(a)	Power to apply to the Registrar of Titles to record the agreement	DID, MPRS, PO	
s 181(1A)(b)	Duty to apply to the Registrar of Titles, without delay, to record the agreement	DID, MPRS, PO	
s 182	Power to enforce an agreement	DID, MPRS, PO	
s 183	Duty to tell Registrar of Titles of ending/amendment of agreement	DID, MPRS, PO	
s 184F(1)	Power to decide to amend or end an agreement at any time after an application for review of the failure of Council to make a decision	Provision Not Delegated	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 184F(2)	Duty not to amend or end the agreement or give notice of the decision after an application is made to VCAT for review of a failure to amend or end an agreement	Provision Not Delegated	
s 184F(3)	Duty to inform the principal registrar if the responsible authority decides to amend or end an agreement after an application is made for the review of its failure to end or amend the agreement	Provision Not Delegated	
s 184F(5)	Function of receiving advice from the principal registrar that the agreement may be amended or ended in accordance with Council's decision	DID, MPRS, PO	
s 184G(2)	Duty to comply with a direction of the Tribunal	DID, MPRS, PO	
s 184G(3)	Duty to give notice as directed by the Tribunal	DID, MPRS, PO	
s 198(1)	Function to receive application for planning certificate	DID, MPRS, PO	
s 199(1)	Duty to give planning certificate to applicant	DID, MPRS, PO	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 201(1)	Function of receiving application for declaration of underlying zoning	DID, MPRS, PO	
s 201(3)	Duty to make declaration	DID, MPRS	
	Power to decide, in relation to any planning scheme or permit, that a specified thing has or has not been done to the satisfaction of Council	DID, MPRS	
	Power, in relation to any planning scheme or permit, to consent or refuse to consent to any matter which requires the consent or approval of Council	DID, MPRS	
	Power to approve any plan or any amendment to a plan or other document in accordance with a provision of a planning scheme or condition in a permit	DID, MPRS	
	Power to give written authorisation in accordance with a provision of a planning scheme	DID, MPRS	

Planning and Environment Act 1987			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 201UAB(1)	Function of providing the Victoria Planning Authority with information relating to any land within municipal district	Provision Not Delegated	
s 201UAB(2)	Duty to provide the Victoria Planning Authority with information requested under s 201UAB(1) as soon as possible	Provision Not Delegated	

Residential Tenancies Act 1997			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 91ZU(1)	Power to give a renter a notice to vacate rented premises	DID, MPP	Where Council is a public statutory authority engaged in the provision of housing
s 91ZZC(1)	Power to give a renter a notice to vacate rented premises	DID, MPP	Where Council is a public statutory authority authorised to acquire land compulsorily for its purposes
s 91ZZE(1)	Power to give a renter a notice to vacate rented premises	DID, MPP	Where Council is a public statutory authority engaged in the provision of housing

Residential Tenancies Act 1997			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 91ZZE(3)	Power to publish Council’s criteria for eligibility for the provision of housing	DID, MPP	Where Council is a public statutory authority engaged in the provision of housing
s 142D	Function of receiving notice regarding an unregistered rooming house	EHO	
s 142G(1)	Duty to enter required information in Rooming House Register for each rooming house in municipal district	Provision Not Delegated	
s 142G(2)	Power to enter certain information in the Rooming House Register	Provision Not Delegated	
s 142I(2)	Power to amend or revoke an entry in the Rooming House Register if necessary to maintain the accuracy of the entry	Provision Not Delegated	
s 206AZA(2)	Function of receiving written notification	DID, MPP	
s 207ZE(2)	Function of receiving written notification	DID, MPP	
s 311A(2)	Function of receiving written notification	DID, MPP	

Residential Tenancies Act 1997			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 317ZDA(2)	Function of receiving written notification	DID, MPP	
s 518F	Power to issue notice to caravan park regarding emergency management plan if determined that the plan does not comply with the requirements	Provision Not Delegated	
s 522(1)	Power to give a compliance notice to a person	EHO, MBS	
s 525(2)	Power to authorise an officer to exercise powers in s 526 (either generally or in a particular case)	Provision Not Delegated	
s 525(4)	Duty to issue identity card to authorised officers	MG	
s 526(5)	Duty to keep record of entry by authorised officer under s 526	EHO	
s 526A(3)	Function of receiving report of inspection	Provision Not Delegated	
s 527	Power to authorise a person to institute proceedings (either generally or in a particular case)	EHO, MBS	

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 11(1)	Power to declare a road by publishing a notice in the Government Gazette	DID, MAD	Obtain consent in circumstances specified in s 11(2)
s 11(8)	Power to name a road or change the name of a road by publishing notice in Government Gazette	DID	
s 11(9)(b)	Duty to advise Registrar	DID	
s 11(10)	Duty to inform Secretary to Department of Environment, Land, Water and Planning of declaration etc.	DID, MAD	Subject to s 11(10A)
s 11(10A)	Duty to inform Secretary to Department of Environment, Land, Water and Planning or nominated person	DID, MAD	Where Council is the coordinating road authority
s 12(2)	Power to discontinue road or part of a road	Provision Not Delegated	Where Council is the coordinating road authority
s 12(4)	Power to publish, and provide copy, notice of proposed discontinuance	DID, MAD	Power of coordinating road authority where it is the discontinuing body

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
			Unless s 12(11) applies
s 12(5)	Duty to consider written submissions received within 28 days of notice	Provision Not Delegated	Duty of coordinating road authority where it is the discontinuing body Unless s 12(11) applies
s 12(6)	Function of hearing a person in support of their written submission	Provision Not Delegated	Function of coordinating road authority where it is the discontinuing body Unless s 12(11) applies
s 12(7)	Duty to fix day, time and place of meeting under s 12(6) and to give notice	DID, MAD	Duty of coordinating road authority where it is the discontinuing body Unless s 12(11) applies
s 12(10)	Duty to notify of decision made	DID, MAD	Duty of coordinating road authority where it is the discontinuing body Does not apply where an exemption is specified by the regulations or given by the Minister
s 13(1)	Power to fix a boundary of a road by publishing notice in Government Gazette	DID, MAD	Power of coordinating road authority and obtain consent under s 13(3) and s 13(4) as appropriate

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 14(4)	Function of receiving notice from the Head, Transport for Victoria	DID	
s 14(7)	Power to appeal against decision of the Head, Transport for Victoria	DID	
s 15(1)	Power to enter into arrangement with another road authority, utility or a provider of public transport to transfer a road management function of the road authority to the other road authority, utility or provider of public transport	DID	
s 15(1A)	Power to enter into arrangement with a utility to transfer a road management function of the utility to the road authority	DID	
s 15(2)	Duty to include details of arrangement in public roads register	DID, MAD	
s 16(7)	Power to enter into an arrangement under s 15	DID	
s 16(8)	Duty to enter details of determination in public roads register	DID, MAD, MOS	

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 17(2)	Duty to register public road in public roads register	DID, MAD, MOS	Where Council is the coordinating road authority
s 17(3)	Power to decide that a road is reasonably required for general public use	Provision Not Delegated	Where Council is the coordinating road authority
s 17(3)	Duty to register a road reasonably required for general public use in public roads register	DID, MAD, MOS	Where Council is the coordinating road authority
s 17(4)	Power to decide that a road is no longer reasonably required for general public use	Provision Not Delegated	Where Council is the coordinating road authority
s 17(4)	Duty to remove road no longer reasonably required for general public use from public roads register	DID, MAD, MOS	Where Council is the coordinating road authority
s 18(1)	Power to designate ancillary area	DID	Where Council is the coordinating road authority, and obtain consent in circumstances specified in s 18(2)
s 18(3)	Duty to record designation in public roads register	DID, MAD	Where Council is the coordinating road authority

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 19(1)	Duty to keep register of public roads in respect of which it is the coordinating road authority	DID, MAD	
s 19(4)	Duty to specify details of discontinuance in public roads register	DID, MAD	
s 19(5)	Duty to ensure public roads register is available for public inspection	DID, MAD	
s 21	Function of replying to request for information or advice	DID, MAD	Obtain consent in circumstances specified in s 11(2)
s 22(2)	Function of commenting on proposed direction	DID	
s 22(4)	Duty to publish a copy or summary of any direction made under s 22 by the Minister in its annual report.	DID	
s 22(5)	Duty to give effect to a direction under s 22	DID	
s 40(1)	Duty to inspect, maintain and repair a public road.	DID, MAD, MOS	

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 40(5)	Power to inspect, maintain and repair a road which is not a public road	DID	
s 41(1)	Power to determine the standard of construction, inspection, maintenance and repair	DID, MAD, MOS	
s 42(1)	Power to declare a public road as a controlled access road	Provision Not Delegated	Power of coordinating road authority and sch 2 also applies
s 42(2)	Power to amend or revoke declaration by notice published in Government Gazette	Provision Not Delegated	Power of coordinating road authority and sch 2 also applies
s 42A(3)	Duty to consult with VicRoads before road is specified	DID, MAD	Where Council is the coordinating road authority If road is a municipal road or part thereof
s 42A(4)	Power to approve Minister's decision to specify a road as a specified freight road	DID	Where Council is the coordinating road authority

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
			If road is a municipal road or part thereof and where road is to be specified a freight road
s 48EA	Duty to notify the owner or occupier of land and provider of public transport on which rail infrastructure or rolling stock is located (and any relevant provider of public transport)	DID	Where Council is the responsible road authority, infrastructure manager or works manager
s 48M(3)	Function of consulting with the relevant authority for purposes of developing guidelines under s 48M	DID, MAD	
s 49	Power to develop and publish a road management plan	Provision Not Delegated	
s 51	Power to determine standards by incorporating the standards in a road management plan	Provision Not Delegated	
s 53(2)	Power to cause notice to be published in Government Gazette of amendment etc of document in road management plan	DID, MOS	
s 54(2)	Duty to give notice of proposal to make a road management plan	DID, MOS	

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 54(5)	Duty to conduct a review of road management plan at prescribed intervals	DID	
s 54(6)	Power to amend road management plan	Provision Not Delegated	
s 54(7)	Duty to incorporate the amendments into the road management plan	DID	
s 55(1)	Duty to cause notice of road management plan to be published in Government Gazette and newspaper	DID, MOS	
s 63(1)	Power to consent to conduct of works on road	DID, MAD, MOS	Where Council is the coordinating road authority
s 63(2)(e)	Power to conduct or to authorise the conduct of works in, on, under or over a road in an emergency	DID, MAD, MOS	Where Council is the infrastructure manager
s 64(1)	Duty to comply with cl 13 of sch 7	DID, MAD, MOS	Where Council is the infrastructure manager or works manager

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 66(1)	Power to consent to structure etc	DID, MAD, MOS	Where Council is the coordinating road authority
s 67(2)	Function of receiving the name & address of the person responsible for distributing the sign or bill	DID, MPRS	Where Council is the coordinating road authority
s 67(3)	Power to request information	DID, MOS, MPRS	Where Council is the coordinating road authority
s 68(2)	Power to request information	DID, MOS, MPRS	Where Council is the coordinating road authority
s 71(3)	Power to appoint an authorised officer	Provision Not Delegated	
s 72	Duty to issue an identity card to each authorised officer	MG	
s 85	Function of receiving report from authorised officer	DID	
s 86	Duty to keep register re s 85 matters	DID, LLO1, MPRS	

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 87(1)	Function of receiving complaints	DID, LLO1, MAD, MOS, MPRS	
s 87(2)	Duty to investigate complaint and provide report	DID, LLO1, MAD, MOS, MPRS	
s 112(2)	Power to recover damages in court	DID	
s 116	Power to cause or carry out inspection	DID	
s 119(2)	Function of consulting with the Head, Transport for Victoria	DID	
s 120(1)	Power to exercise road management functions on an arterial road (with the consent of the Head, Transport for Victoria)	DID, MAD, MOS	
s 120(2)	Duty to seek consent of the Head, Transport for Victoria to exercise road management functions before exercising power in s 120(1)	DID, MAD, MOS	

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
s 121(1)	Power to enter into an agreement in respect of works	DID, MOS	
s 122(1)	Power to charge and recover fees	DCS, DID	
s 123(1)	Power to charge for any service	DCS, DID	
sch 2 cl 2(1)	Power to make a decision in respect of controlled access roads	Provision Not Delegated	
sch 2 cl 3(1)	Duty to make policy about controlled access roads	DID, MAD	
sch 2 cl 3(2)	Power to amend, revoke or substitute policy about controlled access roads	Provision Not Delegated	
sch 2 cl 4	Function of receiving details of proposal from the Head, Transport for Victoria	DID	

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
sch 2 cl 5	Duty to publish notice of declaration	DID, MAD, MOS	
sch 7 cl 7(1)	Duty to give notice to relevant coordinating road authority of proposed installation of non-road infrastructure or related works on a road reserve	DID, MAD, MOS	Where Council is the infrastructure manager or works manager
sch 7 cl 8(1)	Duty to give notice to any other infrastructure manager or works manager responsible for any non-road infrastructure in the area, that could be affected by any proposed installation of infrastructure or related works on a road or road reserve of any road	DID, MAD, MOS	Where Council is the infrastructure manager or works manager
sch 7 cl 9(1)	Duty to comply with request for information from a coordinating road authority, an infrastructure manager or a works manager responsible for existing or proposed infrastructure in relation to the location of any non-road infrastructure and technical advice or assistance in conduct of works	DID, MAD, MOS	Where Council is the infrastructure manager or works manager responsible for non-road infrastructure
sch 7 cl 9(2)	Duty to give information to another infrastructure manager or works manager where becomes aware any infrastructure or works are not in the location shown on records, appear to be in an unsafe condition or appear to need maintenance	DID, MAD, MOS	Where Council is the infrastructure manager or works manager

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
sch 7 cl 10(2)	Where Sch 7 cl 10(1) applies, duty to, where possible, conduct appropriate consultation with persons likely to be significantly affected	DID, MAD, MOS	Where Council is the infrastructure manager or works manager
sch 7 cl 12(2)	Power to direct infrastructure manager or works manager to conduct reinstatement works	DID, MAD, MOS	Where Council is the coordinating road authority
sch 7 cl 12(3)	Power to take measures to ensure reinstatement works are completed	DID, MAD, MOS	Where Council is the coordinating road authority
sch 7 cl 12(4)	Duty to ensure that works are conducted by an appropriately qualified person	DID, MAD, MOS	Where Council is the coordinating road authority
sch 7 cl 12(5)	Power to recover costs	DCS, DID	Where Council is the coordinating road authority
sch 7 cl 13(1)	Duty to notify relevant coordinating road authority within 7 days that works have been completed, subject to sch 7 cl 13(2)	DID, MAD, MOS	Where Council is the works manager
sch 7 cl 13(2)	Power to vary notice period	DID	Where Council is the coordinating road authority

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
sch 7 cl 13(3)	Duty to ensure works manager has complied with obligation to give notice under sch 7 cl 13(1)	DID	Where Council is the infrastructure manager
sch 7 cl 16(1)	Power to consent to proposed works	DID, MAD, MOS	Where Council is the coordinating road authority
sch 7 cl 16(4)	Duty to consult	DID, MAD, MOS	Where Council is the coordinating road authority, responsible authority or infrastructure manager
sch 7 cl 16(5)	Power to consent to proposed works	DID, MAD, MOS	Where Council is the coordinating road authority
sch 7 cl 16(6)	Power to set reasonable conditions on consent	DID, MAD, MOS	Where Council is the coordinating road authority
sch 7 cl 16(8)	Power to include consents and conditions	DID, MAD, MOS	Where Council is the coordinating road authority
sch 7 cl 17(2)	Power to refuse to give consent and duty to give reasons for refusal	DID, MAD	Where Council is the coordinating road authority

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
sch 7 cl18(1)	Power to enter into an agreement	DID	Where Council is the coordinating road authority
sch7 cl 19(1)	Power to give notice requiring rectification of works	DID, MAD, MOS	Where Council is the coordinating road authority
sch 7 cl 19(2) & (3)	Power to conduct the rectification works or engage a person to conduct the rectification works and power to recover costs incurred	DID, MAD, MOS	Where Council is the coordinating road authority
sch 7 cl 20(1)	Power to require removal, relocation, replacement or upgrade of existing non-road infrastructure	DID, LLO1, MAD, MOS, MPRS	Where Council is the coordinating road authority
sch 7A cl 2	Power to cause street lights to be installed on roads	DID, MAD	Power of responsible road authority where it is the coordinating road authority or responsible road authority in respect of the road
sch 7 cl 3(1)(d)	Duty to pay installation and operation costs of street lighting - where road is not an arterial road	DID	Where Council is the responsible road authority

Road Management Act 2004			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
sch 7A cl 3(1)(e)	Duty to pay installation and operation costs of street lighting - where road is a service road on an arterial road and adjacent areas	DID	Where Council is the responsible road authority
sch 7A cl (3)(1)(f)	Duty to pay installation and percentage of operation costs of street lighting - for arterial roads in accordance with cls 3(2) and 4	DID	Duty of Council as responsible road authority that installed the light (re: installation costs) and where Council is relevant municipal council (re: operating costs)

Cemeteries and Crematoria Regulations 2015			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r 24	Duty to ensure that cemetery complies with depth of burial requirements	DID, MOS	
r 25	Duty to ensure that the cemetery complies with the requirements for interment in concrete-lined graves	DID, MOS	
r 27	Power to inspect any coffin, container or other receptacle if satisfied of the matters in paragraphs (a) and (b)	DCS, DID	
r 28(1)	Power to remove any fittings on any coffin, container or other receptacle if the fittings may impede the cremation process or damage the cremator	Provision Not Delegated	

Cemeteries and Crematoria Regulations 2015			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r 28(2)	Duty to ensure any fittings removed or are disposed in an appropriate manner	Provision Not Delegated	
r 29	Power to dispose of any metal substance or non-human substance recovered from a cremator	Provision Not Delegated	
r 30(2)	Power to release cremated human remains to certain persons	Provision Not Delegated	Subject to any order of a court
r 31(1)	Duty to make cremated human remains available for collection within 2 working days after the cremation	Provision Not Delegated	
r 31(2)	Duty to hold cremated human remains for at least 12 months from the date of cremation	Provision Not Delegated	
r 31(3)	Power to dispose of cremated human remains if no person gives a direction within 12 months of the date of cremation	Provision Not Delegated	
r 31(4)	Duty to take reasonable steps notify relevant people of intention to dispose of remains at expiry of 12 month period	Provision Not Delegated	
r 32	Duty to ensure a mausoleum is constructed in accordance with paragraphs (a)-(d)	DID, MBS	
r 33(1)	Duty to ensure that remains are interred in a coffin, container or receptacle in accordance with paragraphs (a)-(c)	EHO, MCH	
r 33(2)	Duty to ensure that remains are interred in accordance with paragraphs (a)-(b)	DID, MG	

Cemeteries and Crematoria Regulations 2015			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r 34	Duty to ensure that a crypt space in a mausolea is sealed in accordance with paragraphs (a)-(b)	DID, MOS	
r 36	Duty to provide statement that alternative vendors or supplier of monuments exist	Provision Not Delegated	
r 40	Power to approve a person to play sport within a public cemetery	DCS, MG	
r 41(1)	Power to approve fishing and bathing within a public cemetery	DCS, MG	
r 42(1)	Power to approve hunting within a public cemetery	DCS, MG	
r 43	Power to approve camping within a public cemetery	DCS, MG	
r 45(1)	Power to approve the removal of plants within a public cemetery	DID, MG	
r 46	Power to approve certain activities under the Regulations if satisfied of regulation (1)(a)-(c)	DCS, MG	
r 47(3)	Power to approve the use of fire in a public cemetery	DID, MG	
r 48(2)	Power to approve a person to drive, ride or use a vehicle on any surface other than a road, track or parking area	DID, MG	
	Note: Schedule 2 contains Model Rules – only applicable if the cemetery trust has not made its own cemetery trust rules	Provision Not Delegated	

Cemeteries and Crematoria Regulations 2015			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
sch 2 cl 4	Power to approve the carrying out of an activity referred to in rules 8, 16, 17 and 18 of sch 2	DID, MG	See note above regarding model rules
sch 2 cl 5(1)	Duty to display the hours during which pedestrian access is available to the cemetery	GCC, MG	See note above regarding model rules
sch 2 cl 5(2)	Duty to notify the Secretary of, (a) the hours during which pedestrian access is available to the cemetery; and (b) any changes to those hours	GCC, MG	See note above regarding model rules
sch 2 cl 6(1)	Power to give directions regarding the manner in which a funeral is to be conducted	DCS, MG	See note above regarding model rules
sch 2 cl 7(1)	Power to give directions regarding the dressing of places of interment and memorials	GCC, MG	See note above regarding model rules
sch 2 cl 8	Power to approve certain mementos on a memorial	DCS, MG	See note above regarding model rules
sch 2 cl 11(1)	Power to remove objects from a memorial or place of interment	MG, MOS	See note above regarding model rules
sch 2 cl 11(2)	Duty to ensure objects removed under sub rule (1) are disposed of in an appropriate manner	MG, MOS	See note above regarding model rules
sch 2 cl 12	Power to inspect any work being carried out on memorials, places of interment and buildings for ceremonies	DCS, DID, GCC, MG	See note above regarding model rules
sch 2 cl 14	Power to approve an animal to enter into or remain in a cemetery	DID, MG	See note above regarding model rules

Cemeteries and Crematoria Regulations 2015			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
sch 2 cl 16(1)	Power to approve construction and building within a cemetery	DID, MG	See note above regarding model rules
sch 2 cl 17(1)	Power to approve action to disturb or demolish property of the cemetery trust	DID, MG	See note above regarding model rules
sch 2 cl 18(1)	Power to approve digging or planting within a cemetery	DID, MG	See note above regarding model rules

Planning and Environment Regulations 2015			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r.6	function of receiving notice, under section 19(1)(c) of the Act, from a planning authority of its preparation of an amendment to a planning scheme	DID, MPRS	where Council is not the planning authority and the amendment affects land within Council's municipal district; or where the amendment will amend the planning scheme to designate Council as an acquiring authority.
r.21	power of responsible authority to require a permit applicant to verify information (by statutory declaration or other written confirmation satisfactory to the responsible authority) in an application for a permit or to amend a permit or any information provided under section 54 of the Act	DID, MPRS, PO	
r.25(a)	duty to make copy of matter considered under section 60(1A)(g) available for inspection free of charge	DID, MPRS, PO	where Council is the responsible authority

Planning and Environment Regulations 2015			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r.25(b)	function of receiving a copy of any document considered under section 60(1A)(g) by the responsible authority and duty to make the document available for inspection free of charge	DID, MPRS, PO	where Council is not the responsible authority but the relevant land is within Council's municipal district
r.42	function of receiving notice under section 96C(1)(c) of the Act from a planning authority of its preparation of a combined application for an amendment to a planning scheme and notice of a permit application	DID, MPRS	where Council is not the planning authority and the amendment affects land within Council's municipal district; or where the amendment will amend the planning scheme to designate Council as an acquiring authority.

Planning and Environment (Fees) Regulations 2016			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r 19	Power to waive or rebate a fee relating to an amendment of a planning scheme	DID	
r 20	Power to waive or rebate a fee other than a fee relating to an amendment to a planning scheme	DID	
r 21	Duty to record matters taken into account and which formed the basis of a decision to waive or rebate a fee under r 19 or 20	DID, MPRS	

Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2010			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r 7	Function of entering into a written agreement with a caravan park owner	DID	
r 11	Function of receiving application for registration	EHO, MBS	
r 13(1)	Duty to grant the registration if satisfied that the caravan park complies with these regulations	EHO, MBS	
r 13(2)	Duty to renew the registration if satisfied that the caravan park complies with these regulations	EHO, MBS	
r.13(2)	power to refuse to renew the registration if not satisfied that the caravan park complies with these regulations	EHO, MBS	
r 13(4) & (5)	Duty to issue certificate of registration	EHO	
r 15(1)	Function of receiving notice of transfer of ownership	EHO	
r 15(3)	Power to determine where notice of transfer is displayed	EHO	
r 16(1)	Duty to transfer registration to new caravan park owner	EHO, MBS	
r 16(2)	Duty to issue a certificate of transfer of registration	EHO	
r 17(1)	Power to determine the fee to accompany applications for registration or applications for renewal of registration	Provision Not Delegated	

Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2010			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r 18	Duty to keep register of caravan parks	EHO	
r 19(4)	Power to determine where the emergency contact person's details are displayed	EHO	
r 19(6)	Power to determine where certain information is displayed	EHO	
r 22A(1)	Duty to notify a caravan park owner of the relevant emergency services agencies for the caravan park, on the request of the caravan park owner	EHO	
r 22A(2)	Duty to consult with relevant emergency services agencies	EHO, MBS	
r 23	Power to determine places in which caravan park owner must display a copy of emergency procedures	EHO	
r 24	Power to determine places in which caravan park owner must display copy of public emergency warnings	EHO	
r 25(3)	Duty to consult with relevant floodplain management authority	EHO, MBS	
r 26	Duty to have regard to any report of the relevant fire authority	EHO, MBS	
r 28(c)	Power to approve system for the collection, removal and disposal of sewage and waste water from a movable dwelling	EHO, MBS	

Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2010			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r 39	Function of receiving notice of proposed installation of unregistrable movable dwelling or rigid annexe	MBS	
r 39(b)	Power to require notice of proposal to install unregistrable movable dwelling or rigid annexe	MBS	
r 40(4)	Function of receiving installation certificate	MBS	
r 42	Power to approve use of a non-habitable structure as a dwelling or part of a dwelling	MBS	
sch 3 cl4(3)	Power to approve the removal of wheels and axles from unregistrable movable dwelling	MBS	

Road Management (General) Regulations 2016			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r 8(1)	Duty to conduct reviews of road management plan	DID	
r 9(2)	Duty to produce written report of review of road management plan and make report available	DID, MAD	
r 9(3)	Duty to give notice where road management review is completed and no amendments will be made (or no amendments for which notice is required)	DID	Where Council is the coordinating road authority
r.10	Duty to give notice of amendment which relates to standard of construction, inspection, maintenance or repair under s 41 of the Act	DID, MAD	
r 13(1)	Duty to publish notice of amendments to road management plan	DID	where Council is the coordinating road authority
r 13(3)	Duty to record on road management plan the substance and date of effect of amendment	DID, MAD, MOS	
r 16(3)	Power to issue permit	DID, MAD	Where Council is the coordinating road authority
r 18(1)	Power to give written consent re damage to road	DID, MAD	Where Council is the coordinating road authority

Road Management (General) Regulations 2016			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r 23(2)	Power to make submission to Tribunal	DID, MPRS	Where Council is the coordinating road authority
r 23(4)	Power to charge a fee for application under s 66(1) Road Management Act	DID	Where Council is the coordinating road authority
r 25(1)	Power to remove objects, refuse, rubbish or other material deposited or left on road	DID, LLO1, LLO2, MAD, MOS	Where Council is the responsible road authority
r 25(2)	Power to sell or dispose of things removed from road or part of road (after first complying with regulation 25(3))	DID, LLO1, LLO2, MAD, MOS	Where Council is the responsible road authority
r 25(5)	Power to recover in the Magistrates' Court, expenses from person responsible	DID	

Road Management (Works and Infrastructure) Regulations 2015			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r 15	Power to exempt a person from requirement under cl 13(1) of sch 7 of the Act to give notice as to the completion of those works	DID	Where Council is the coordinating road authority and where consent given under s 63(1) of the Act

Road Management (Works and Infrastructure) Regulations 2015			
Provision	Powers and Functions Delegated	Delegate	Conditions and Limitations
r 22(2)	Power to waive whole or part of fee in certain circumstances	DCS, DID	Where Council is the coordinating road authority

7.7 FEES AND CHARGES REVIEW COVID-19 RESPONSE

Author: Stacy Williams, Director Community Wellbeing

Authoriser: Tom O'Reilly, CEO

Attachments: Nil

RECOMMENDATION

That Council reduce the following fees and charges for the 2020-2021 financial year

- 1. Footpath Trading permit fees be waived**
- 2. Food Act 1984 and Public Health and Wellbeing Act 2008 Registration fees**
 - (a) Fees be waived for school canteens, swimming pools, community groups and sporting clubs;**
 - (b) A 50% fee reduction be applied to all Public Health and Wellbeing Act registered premises; and**
 - (c) A 50% fee reduction be applied to all Food Act Registered categories including Bakeries, Café/Restaurant, Coffee shop, Home based or mobile businesses, Low Risk Food Manufacturers, Takeaway shops and General Stores;**
- 3. That the timeline for re-registration of premises under the Food Act 1984 and Public Health and Wellbeing Act 2008 be extended from 31 August 2020 to 31 October 2020;**
- 4. Recreation Reserve User fees be reduced by 50%**

EXECUTIVE SUMMARY

As the community continues to respond to the COVID-19 pandemic business and community groups have had to adjust to State and Federal government imposed restrictions. Council has the opportunity to provide support to the community through a range of measures. This recommendation is that Council reduce the fees and charges outlined in this report to support small businesses and community groups during the ongoing COVID-19 Pandemic.

PURPOSE

To assist local businesses and community groups through reduced fees and charges in response to the ongoing COVID-19 pandemic.

ATTACHMENTS

Nil.

DISCUSSION

Under the COVID-19 restrictions a range of businesses and community groups have had their operations reduced or completely ceased.

Officers have completed a review of Council's fees and charges and recommend a range of fees and charges be reduced or waived.

Registration fees for food, health and accommodation premises are set by Council under the *Food Act 1984* and *Public Health and Wellbeing Act 2008*.

COVID-19 State and Federal Government Restrictions have impacted registered premises differently across the municipality. As such the following reductions or waivers have been recommended:

	Fee/charge type	Recommended change	Estimated reduction in income
Footpath trading permits	\$55.00 each	100% fee waiver for 2020-2021	\$3,740.00
Food Act Registrations	School canteens, Sporting clubs, Community groups and Swimming pools	100% fee waiver for 2020-21	\$2,850.00
	Bakery, Café/Restaurant, Coffee shop, Home based or mobile businesses, low risk Food manufacturers, takeaway shops and General Stores	50% fee reduction 2020-21	\$10,468.00
Public Health and Wellbeing Act Registrations	Beauty therapists, hairdressers and other health related premises	50% fee reduction 202-2021	\$6,674.00
Recreation Reserve User Fees	Cohuna Kangas	50% fee reduction 2020-21	\$2,600.00
	Leitchville Football	50% fee reduction 2020-21	\$1,725.00
	Cohuna Cricket- per year	50% fee reduction 2020-21	\$320.00
	Leitchville cricket - per year	50% fee reduction 2020-21	\$320.00
	Cohuna A. P. & H. Society - per year	50% fee reduction 2020-21	\$875.00
	Cohuna Little Athletics Club - per year	50% fee reduction 2020-21	\$320.00

RELEVANT LAW

S 136 *Local Government Act 1989* requires Council to implement the principles of sound financial management.

Food Act 1984 section 41A Registration fees

(1) The fees for registration, renewal of registration and transfer of registration are—

- a) if registration is made with a Council, as determined by resolution of the Council;

Public Health and Wellbeing Act 2008 Section 72 Registration fees

(1) The fees payable in respect of the issue, transfer or renewal of a registration are—

(a) if this Division applies in a municipal district, the fees as determined by a resolution of the Council of that municipal district.

RELATED COUNCIL DECISIONS

Council adopted the COVID-19 Hardship Policy at its Ordinary Meeting on 15 April 2020. Council received the COVID-19 Business Plan at the April Briefing Session, which included several fees and charges reductions and business support measures.

The Council's fees and charges for 2020/2021 were adopted by Council at its Ordinary Meeting on 18th March 2020.

Hall hire fees were reviewed and reduced by Council at its Ordinary Meeting on July 2020.

OPTIONS

The options open to Council are:-

- Adhere to the fees and charges that are adopted in the Budget 2020/2021;
- Deal with individual requests on a case by case basis;
- Provide some form of standard fees and charges relief.

SUSTAINABILITY IMPLICATIONS

The following advantages are expected:-

- Economic – small reduction in fees payable by small businesses in the municipality who have been adversely affected by COVID-19 restrictions.

COMMUNITY ENGAGEMENT

Some individual requests have been received by businesses and community groups seeking a reduction or wavier of fees and charges.

INNOVATION AND CONTINUOUS IMPROVEMENT

The reduction in fees and charges is driven by our response to COVID-19 and the need to find a variety of ways to reduce financial burden of our local communities. This is one small component of how Council can provide additional support to businesses and community groups operating in the Shire.

COLLABORATION

Not applicable.

FINANCIAL VIABILITY

This report contains implications to the 2020/21 Council Budget through a reduction in income of \$29,892.

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

The Council needs to continue to comply with the COVID-19 restrictions, and encourage and support local businesses to comply.

COUNCIL PLANS AND POLICIES

The fees and charges are adopted by Council annually and annexed to the budget.

TRANSPARENCY OF COUNCIL DECISIONS

This report will be considered in an open Council meeting.

CONFLICT OF INTEREST

The officer preparing this report declares that they have no conflict of interest in regards to this matter.

7.8 G03-2020 WET AND DRY PLANT HIRE AND CIVIL WORKS**Author:** Brenton Hall, Manager Operational Services**Authoriser:** Geoff Rollinson, Director Infrastructure and Development**Attachments:** Nil**RECOMMENDATION****That Council**

1. Appoint the following panel of Contractors as shown in Table 1 at the rates submitted for a period of three years subject to rise and fall for G03-2020 Wet and Dry Plant Hire and Civil Works.
2. Authorise the CEO, on behalf of Council to execute the documents required to finalise the panel of contractors.

Table 1 – List of Contractors

A1 Tree Workz	Miller Pipe and Civil
Adams Mobile Welding	Nev Murray Excavations Pty Ltd
Bitu-Mil (Vic) Pty Ltd	North & Sons Earth Moving Pty Ltd
Boyall Nicholds	Northern Tree Fellas
Cleanaway Co Pty Ltd	Porter Plant
Coates Hire Operations Pty Limited	Precision Grading Pty Ltd
Coburns Earthmoving	Road Maintenance Pty Ltd
Cohuna Garden Supplies	RSP Environmental Services
Danspec Civil	Sharpe Bros (AUST) Pty Ltd
Echuca Brick Paving	S & R Engineering & Construction Pty Ltd
Environmental Services Group	Shore Hire Pty Ltd
Gleeson Excavations	Standby Haulage
Gravelrash Grading	Tasker Motor Rep
Green Care Mulching Pty Ltd	Waddys Concrete
Guiney Excavations	Ward Bros Earthmoving (Aust) Pty Ltd
Joudi Enterprises Pty Ltd	Whitfield Excavations
Kevin O'Brien Excavations Pty Ltd	J & CA Wickham Pty Ltd
Kyabram and District Garden Supplies	Wilkinson Earthworks
Luxton Plant	

EXECUTIVE SUMMARY

To seek approval from Council to appoint all received tenders for G03-2020 Wet and Dry Plant Hire and Civil Works to a panel for a period of three years subject to rise and fall.

PURPOSE

The purpose of this report is to request Council to authorise the Chief Executive Office to execute the documents required to finalise the panel of contractors under the Wet and Dry Plant Hire and Civil Works tender.

ATTACHMENTS

Nil.

DISCUSSION

Council maintains and constructs a large number of assets including maintaining an extensive road network both sealed and unsealed throughout the municipality. The majority of works undertaken by Council on these assets is conducted using an in-house workforce with the addition specialised equipment or services that are covered by the Wet and Dry Plant Hire and Civil Works tender. The Wet and Dry Plant Hire and Civil Works tender will allow Council to use the services of Contractors in the areas of road construction and maintenance, tree maintenance, concrete works and storm water maintenance in addition to other construction projects.

Tenders were invited for G03-2020 Wet and Dry Plant Hire and Minor Civil Works through Council's E-Tendering Portal. Tender submissions opened on 8 July 2020 and closed on 29 July 2020. Thirty seven submissions were received through Council's E-Tendering Portal. Table 1 lists the Contractors who submitted a Tender along with their trading name not registered name.

Table 1 – List of Contractors

A1 Tree Workz	Miller Pipe and Civil
Adams Mobile Welding	Nev Murray Excavations Pty Ltd
Bitu-Mil (Vic) Pty Ltd	North & Sons Earth Moving Pty Ltd
Boyll Nicholds	Northern Tree Fellas
Cleanaway Co Pty Ltd	Porter Plant
Coates Hire Operations Pty Limited	Precision Grading Pty Ltd
Coburns Earthmoving	Road Maintenance Pty Ltd
Cohuna Garden Supplies	RSP Environmental Services
Danspec Civil	Sharpe Bros (AUST) Pty Ltd
Echuca Brick Paving	S & R Engineering & Construction Pty Ltd
Environmental Services Group	Shore Hire Pty Ltd
Gleeson Excavations	Standby Haulage
Gravelrash Grading	Tasker Motor Rep
Green Care Mulching Pty Ltd	Waddys Concrete
Guiney Excavations	Ward Bros Earthmoving (Aust) Pty Ltd

Joudi Enterprises Pty Ltd	Whitfield Excavations
Kevin O'Brien Excavations Pty Ltd	J & CA Wickham Pty Ltd
Kyabram and District Garden Supplies	Wilkinson Earthworks
Luxton Plant	

All tenders received were conforming to the specification. The Tender was advertised as a schedule of rates subject to rise and fall with a three year term. As Council requires a range of plant and equipment throughout the year the appointment of a panel of contractors with proven ability is recommended. By appointing all submitting tenders to the panel the supply of the required plant and equipment with a competent operator will be assured.

As the Tender required contractors to provide an hourly rate for the supply and operation of various plant and equipment it is recommended all Tender submissions be accepted. Tenders received, provide a variety of plant and equipment that Council may or may not utilise as required, in the performance of works. Under the terms of the contract there is no obligation on Council to use any of the submissions received. It was also made clear in the specification that there is no guarantee of a minimum quantity or period of work under this tender.

Of the 37 submissions received, 11 submissions were based in Gannawarra Shire, 12 submissions within the regional areas as defined by the Procurement Policy with 14 submissions throughout the rest of Victoria.

RELEVANT LAW

Section 186 A of the *Local Government Act* prescribes that Council must have a Procurement Policy and comply with it.

RELATED COUNCIL DECISIONS

Not applicable.

OPTIONS

By having a Panel of Contractors will allow for the efficient delivery of projects without comprising the Procurement Policy. It is possible that Council could receive external funding, as has occurred in previous years, with a short time period to deliver the works. A panel of contractors enables the seeking of quotes from pre-qualified suppliers.

Council could resolve to not authorise the Chief Executive Officer to execute the documents required to finalise the panel of contractors. This action would require the seeking of quotes for all projects and thereby delay the delivery of projects.

SUSTAINABILITY IMPLICATIONS

Gannawarra is committed wherever possible to utilise the services of Contractors who live within the Gannawarra Shire in the first instance. It is recognised that the type of work being undertaken may require the use of Contractors who are outside of the Gannawarra Shire.

COMMUNITY ENGAGEMENT

Not applicable.

INNOVATION AND CONTINUOUS IMPROVEMENT

Not applicable.

COLLABORATION

Not applicable.

FINANCIAL VIABILITY

All works undertaken through the Wet and Dry Plant Hire and Civil Works panel are funded from the adopted 2020/2021 Budget.

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

Not applicable.

COUNCIL PLANS AND POLICIES

Gannawarra Shire Council Policy 109 - Procurement prescribes the requirements relating to purchasing or procuring goods and services.

Gannawarra Shire Council Plan 2017-2021

Focus Area 3 - Sustainable natural and built environment:
Strategy 4: Implement Council's Capital Works Program

TRANSPARENCY OF COUNCIL DECISIONS

This Report will be considered in an open Council meeting.

CONFLICT OF INTEREST

The officer preparing this report declares that they have no conflict of interest in regards to this matter.

8 URGENT ITEMS**9 NOTICES OF MOTION**

Nil

10 DELEGATES REPORTS**10.1 DELEGATES REPORTS****Author:** Mel Scott, Executive Assistant - Chief Executive Office**Authoriser:** Tom O'Reilly, CEO**Attachments:** Nil**EXECUTIVE SUMMARY**

Council has memberships with peak Local Government associations, local and regional forums along with statutory committees. Some memberships require that a Councillor be appointed to act as a delegate to formally represent Council; typically in a voting capacity. This Agenda item provides an opportunity for Council appointed delegates to present a verbal update on any pertinent matters arising from Council's membership on the following associations.

Association	Appointed Council Delegate
Central Victorian Greenhouse Alliance	Cr Brian Gibson
Loddon Campaspe Group of Councils	Mayor
Loddon Mallee Waste and Resource Recovery Group (LMWRRG)	Cr Lorraine Learmonth
Municipal Association of Victoria	Cr Brian Gibson
Municipal Emergency Management Planning Committee (MEMPC)	Cr Brian Gibson
Municipal Fire Management Planning Committee (MFMPC)	Cr Steve Tasker
Murray River Group of Councils (MRGC)	Mayor

NB: * Audit Committee - no delegate report is required as the Audit Committee formally reports back separately to Council in accord with the Audit Committee Charter.

11 CONFIDENTIAL ITEMS

Nil