



**Colac Otway**  
SHIRE

**COUNCIL MEETING**

**AGENDA**

**Wednesday 28 September 2022**

**at 4:00 PM**

**COPACC**

**95 - 97 Gellibrand Street, Colac**

**Next Council Meeting: 26 October 2022**



# COLAC OTWAY SHIRE COUNCIL MEETING

Wednesday 28 September 2022

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## COLAC OTWAY SHIRE COUNCIL MEETING

NOTICE is hereby given that the next **COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held at COPACC on Wednesday 28 September 2022 at 4:00 PM.

### AGENDA

#### **1 DECLARATION OF OPENING OF MEETING**

##### **OPENING PRAYER**

*Almighty God, we seek your blessing and guidance in our deliberations on behalf of the people of the Colac Otway Shire. Enable this Council's decisions to be those that contribute to the true welfare and betterment of our community.*

*AMEN*

#### **2 PRESENT**

#### **3 APOLOGIES AND LEAVE OF ABSENCE**

#### **4 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY**

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past, present and emerging and welcomes any descendants here today.

##### **RECORDING AND PUBLICATION OF MEETINGS**

Please note: All Council meetings will be live streamed and recorded when the meeting is held either at COPACC or online. This includes the public participation sections of the meetings. When meetings are held in other locations, Council will endeavour to make an audio recording of the meeting for community access. Matters identified as confidential items in the Agenda will not be live streamed or recorded regardless of venue or mode.

By participating in open Council meetings, individuals consent to the use and disclosure of the information they share at the meeting (including any personal and/or sensitive information).

As soon as practicable following each open Council meeting, the live stream recording will be accessible on Council's website. Recordings are also taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy. Live stream and audio recordings will be retained by Council for a period of four years.

As stated in the Governance Rules, other than an official Council recording, no video or audio recording of proceedings of Council Meetings will be permitted without specific approval by resolution of the relevant Council Meeting.

This meeting will be livestreamed to the public via Council's YouTube channel (search Colac Otway Shire Council at [www.youtube.com](http://www.youtube.com)).

## **5 QUESTION TIME**

A maximum of 30 minutes is allowed for question time. Any person wishing to participate in public question time by videoconference will need to register their intention to do so by contacting the shire prior to 5pm on Monday 26 September 2022. To ensure that each member of the gallery has the opportunity to ask questions, it may be necessary to allow a maximum of two questions from each person in the first instance. You must ask a question. Question time is not a forum for public debate or statements.

1. Questions received in writing prior to the meeting. Written questions must be received by 5pm on Monday 26 September 2022.
2. Questions via videoconference by prior arrangement.
3. Questions from the floor.

## **6 PETITIONS / JOINT LETTERS**

Nil

## **7 DECLARATIONS OF INTEREST**

A Councillor who has declared a conflict of interest, must leave the meeting and remain outside the room while the matter is being considered, or any vote is taken.

## **8 CONFIRMATION OF MINUTES**

- Council meeting held on 27 July 2022.
- Council meeting held on 24 August 2022.

### ***RECOMMENDATION***

***That Council confirm the minutes of the Council meeting held on 27 July 2022 and the Council meeting held on 24 August 2022.***

## Item: 9.1

# Lake Colac Caravan Park Lease - Public Submissions

<b>OFFICER</b>	James Myatt
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Community and Economy
<b>ATTACHMENTS</b>	Nil

## 1. PURPOSE

To consider the public exhibition process undertaken regarding Council's intention to lease the land at 51 Fyans Street Colac, known as the Lake Colac Caravan Park.

## 2. EXECUTIVE SUMMARY

At the 27 July 2022 Council meeting, Council resolved to release an Expression of Interest (EOI) for the lease of 51 Fyans Street Colac, known as the Lake Colac Caravan Park, whilst simultaneously seeking public submissions on Council's intention to lease the land.

Council's intention to lease the Lake Colac Caravan Park was advertised from 29 July 2022 to 9 September 2022 and no public submissions were received.

## 3. RECOMMENDATION

**That Council:**

- 1. Notes that its intention to lease land at 51 Fyans Street, Colac (known as the Lake Colac Caravan Park), was advertised in accordance with the Local Government Act 2020 and no submissions were received.**
- 2. Confirms its intention to lease the land at 51 Fyans Street, Colac (Lake Colac Caravan Park).**
- 3. Authorises the Chief Executive Officer or their nominee, to determine a preferred proponent for the future lease of 51 Fyans Street, Colac (Lake Colac Caravan Park), through a review of Expressions of Interest received and following a discussion with Councillors at a Briefing Session.**

- 4. Authorises the Chief Executive Officer or their nominee, to negotiate proposed lease conditions with preferred proponent/s before presenting a final lease to Council for approval in accordance with the provisions of the Local Government Act 2020.***

## **4. KEY INFORMATION**

Lake Colac Caravan Park is one of the main providers of visitor accommodation to the township of Colac alongside a number of small motels. The site is located on the Lake Colac foreshore beside the beautiful Colac Botanic Gardens and Barongarook Creek. The site is a short walk from a regional playground, the Lake View Café (within the Botanic Gardens), a bird sanctuary and a 900m walk from the Colac CBD.

The Lake Colac Caravan Park is currently leased to C & L Hill under a 21-year lease that expires on 26 January 2023. At the 27 July 2022 Council meeting, Council resolved:

***That Council:***

- 1. Acknowledges that the land located at 51 Fyans Street Colac, known as the Lake Colac Caravan Park, has operated as a caravan park for many years.***
- 2. Notes that the current lease for the Lake Colac Caravan Park expires on 26 January 2023.***
- 3. Advertises its intention to lease the land known as the Lake Colac Caravan Park in accordance with the Local Government Act 2020, seeking feedback from the community from 29 July 2022 to 9 September 2022.***
- 4. Schedules a Submissions Committee meeting for 21 September 2022 if required to hear submitters that wish to be heard in relation to their submission.***
- 5. Considers any submissions to its proposal to lease the land known as the Lake Colac Caravan Park before resolving to enter into a lease.***
- 6. Approves the Lake Colac Caravan Park Expression of Interest document, inclusive of the proposed key lease terms, to be released on 29 July 2022 with a submission deadline of 2:00pm on 23 September 2022.***
- 7. Requires the Expression of Interest document to acknowledge that Council will consider community feedback on its intention to lease the land known as the Lake Colac Caravan Park before determining to lease the land.***
- 8. Should Council determine to lease the land known as the Lake Colac Caravan Park, authorises officers to enter negotiations with preferred proponent/s before presenting a final lease to Council for approval in accordance with the provisions of the Local Government Act 2020.***
- 9. Notes that Council will consider proposals that request alterations to key terms proposed in the Expression of Interest document.***

Council's intention to lease the land known as Lake Colac Caravan Park was advertised from 29 July to 9 September 2022 through social media, print media, and online. No public submissions were received.

## 5. CONSIDERATIONS

### **Overarching Governance Principles (s(9)(2) LGA 2020)**

- a) priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- b) the municipal community is to be engaged in strategic planning and strategic decision making.
- c) the transparency of Council decisions, actions and information is to be ensured.

### **Policies and Relevant Law (s(9)(2)(a) LGA 2020)**

The consideration of a new lease for the Lake Colac Caravan Park will be conducted in accordance with relevant laws and policies including the *Local Government Act 2020* and Council's Leasing Policy.

S115 of the *Local Government Act 2020* provides Councils with the power to lease land. Should a lease be ten years or more, Council must either include the proposal in its budget or alternatively engage with its community in respect of the proposal before entering into a lease. The site has been leased for many years with the lease income included in Council's annual budget.

Council advertised its intention to lease the land seeking feedback from the community concurrently with seeking EOI's for the lease of the site. No submissions were received.

As the site is Crown land, with Council as the delegated Committee of Management, the consideration of a new lease will be undertaken in accordance with the Victorian Government's Best Practice Management Guidelines for Committees of Management Managing Caravan and Camping Parks on Crown Land and the Crown Land Caravan Parks Policy Update 2019.

### **Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)**

Not applicable to this report.

### **Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)**

Council's intention to lease the land known as Lake Colac Caravan Park was advertised from 29 July to 9 September 2022 through social media, print media, and online. No public submissions were received.

### **Public Transparency (s58 LGA 2020)**

The consideration of a new lease for the Lake Colac Caravan Park will be determined through an open and transparent process via an Expression of Interest. Proposals will be considered and a decision to be made by Council at an open Council Meeting.

### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 4: Colac Otway Shire is a destination to visit

### **Financial Management (s101 Local Government Act 2020)**

Not applicable to this report.

### **Service Performance (s106 Local Government Act 2020)**

Not applicable to this report.

**Risk Assessment**

Not applicable to this report.

**Communication/Implementation**

If the recommendation is approved by Council, officers will proceed to enter negotiations with preferred proponent(s) who submit proposals to the EOI before presenting a final lease to Council for approval.

**Human Rights Charter**

Not applicable, no public submissions received.

**Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

**Options****Option 1 – Confirms its intention to lease land at 51 Fyans Street, known as the Lake Colac Caravan Park**

This option is recommended by officers as it will allow the Lake Colac Caravan Park EOI process to proceed without delay, providing sufficient time to attract a suitable tenant for the site.

**Option 2 – Determine not to lease land at 51 Fyans Street, known as the Lake Colac Caravan Park**

This option is not recommended by officers as it will hinder attaining a suitable tenant for Lake Colac Caravan Park, which is an important component of the overall provision of accommodation in Colac.

## Item: 9.2

# Governance Rules Review - Consideration of Submissions and Adoption

<b>OFFICER</b>	Marlo Emmitt
<b>GENERAL MANAGER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Summary of submissions received Governance Rules September 2022 docx [9.2.1 - 5 pages]</li><li>2. Further proposed changes to Exhibited Colac Otway Shire Council Governance Ru [9.2.2 - 43 pages]</li></ol>

## 1. PURPOSE

The purpose of this report is for Council to consider the submissions received and make a decision in relation to the revised Governance Rules.

## 2. EXECUTIVE SUMMARY

On 27 July 2022, the Council considered proposed changes to its Governance Rules to comply with changes to legislation and facilitate the continuation of electronic attendance and participation at council meetings and delegated committee meetings. Council endorsed the proposed draft and marked-up Governance Rules for the purpose of public consultation and determined the public consultation process would invite written submissions only and be for a period of six (6) weeks from public notice (29 July 2022).

On 24 August 2022, the Council resolved to schedule a Submissions Committee meeting at Colac Otway Performing Arts and Cultural Centre (COPACC) on 21 September 2022, commencing at 4pm, to hear any submitters wishing to be heard in support of their written submission. Council also resolved to include a further proposed change to the Governance Rules to amend the way in which public questions and responses are recorded in the minutes of the meeting (from a summary to full questions and responses).

The proposed change was placed on public exhibition from Friday 26 August to Tuesday 13 September 2022 (inclusive), and members of the public were provided with an opportunity to make written submissions on the proposal and be heard at the Submissions Committee meeting on 21 September 2022, if they wished to.

In response to the two public consultation processes, Council received eight written submissions and four requests from submitters to address the Submissions Committee, in support of their written submission.

A summary of the key points made in the submissions (categorised), along with an officer response is provided at Attachment 1.

Further discussions have been held with Councillors at Briefing Sessions. Additional changes that had strong support from Councillors present have been incorporated into the exhibited document and are presented as Attachment 2. Text recommended for deletion is highlighted yellow and text recommended for inclusion is highlighted in green.

### 3. RECOMMENDATION

***That Council:***

- 1. Thanks submitters for their written submissions and acknowledges and notes the verbal comments made in support of written submissions at the Submissions Committee meeting held on 21 September 2022.***
- 2. Adopts the revised Governance Rules (as at Attachment 2).***
- 3. Declares that the Governance Rules adopted through this resolution come into force the day following the date of this resolution.***
- 4. Authorises the officers to make any necessary alterations to the numbering and appendices to ensure consistency and accuracy within the adopted documents.***

### 4. KEY INFORMATION

The proposed changes to the current Governance Rules have been informed by the Regulatory Legislation Amendment (Reform) Act 2022, the Ministerial Good Practice Guideline (MGPG-3) Virtual Meetings and Local Government Sector guidance.

#### **Electronic attendance and participation**

The *COVID-19 Omnibus (Emergency Measures) Act 2020*, which permitted councils to temporarily hold meetings virtually, expired on 2 September 2022.

The *Regulatory Legislation Amendment (Reform) Act 2022* (Reform Act) provided for changes to the *Local Government Act 2020* (Act) to facilitate ongoing electronic attendance and participation in council meetings and delegated committee meetings on a permanent basis.

The Reform Act introduced provisions into Part 3 Division 2 of the Act (section 60) that require a council to develop, adopt and keep in force Governance Rules relating to:

- the conduct of council (and delegated committees) held by electronic means of communication; and
- the requesting and approval of attendance by members at council meetings and meetings of delegated committees by electronic means of communication.

For Council to have the ability to hold Council and delegated committee meetings by electronic means of communication clauses addressing the above points needed to be included in the Governance Rules and adopted by Council.

Following endorsement by Council, these proposed changes were promoted on the 'Have Your Say' section of Council's website, via the Colac Herald and Council's social media platforms. The public consultation (limited in scope to electronic attendance and participation) commenced on Friday 29 July 2022 and concluded on Friday 9 September 2022 (period of six weeks).

### **Public questions and responses**

On 24 August 2022, Council resolved to include a further proposed change to the Governance Rules around how public questions and responses are minuted.

Council has sought feedback from the community on the following proposed change to rule 67.1.13:

"67.1.13 [the full text](#) a ~~brief summary~~ of any public questions and [the full responses](#) provided by the [Mayor](#), Chief Executive Officer or their nominee; and"

The proposed change was promoted on the 'Have Your Say' section of Council's website, via the Colac Herald and Council's social media platforms. The consultation (limited in scope to how public questions and responses are minuted) commenced on Thursday 25 August and concluded on Tuesday 13 September 2022.

At the 24 August 2022 Council meeting it was also determined that Council would hear any submitters wishing to speak in support of their written submission at the Submissions Committee meeting scheduled to be held at 4pm on 21 September 2022.

Eight written submissions were received in total, a summary of which is provided at Attachment 1. Four submitters also requested the opportunity to be heard by the Submissions Committee, in support of their written submission.

Further discussions have been held with Councillors at Briefing Sessions. Additional changes that had strong support from Councillors present have been incorporated into the exhibited document and are presented as Attachment 2

## **5. CONSIDERATIONS**

### **Overarching Governance Principles (s(9)(2) LGA 2020)**

The Governance Principles have been considered throughout the Governance Rules review process, with the following principles being regarded as having particular relevance:

- s9(2)(a) – Council decisions are to be made and actions taken in accordance with the relevant law. The proposed changes to the current Governance Rules have been informed by the Regulatory Legislation Amendment (Reform) Act 2022, the Ministerial Good Practice Guideline (MGPG-3) Virtual Meetings and Local Government Sector guidance.
- s(9)(2)(i) the transparency of Council decisions, actions and information is to be ensured. The proposed Governance Rules will be subject to a public exhibition and community engagement

process. Any feedback received from members of the public will be considered prior to Council adopting the Governance Rules.

**Policies and Relevant Law** (s(9)(2)(a) LGA 2020)

The proposed changes to the current Governance Rules have been informed by the *Regulatory Legislation Amendment (Reform) Act 2022*, the Ministerial Good Practice Guideline (MGPG-3) Virtual Meetings and Local Government Sector guidance.

**Environmental and Sustainability Implications** (s(9)(2)(c) LGA 2020)

Not applicable.

**Community Engagement** (s56 LGA 2020 and Council's Community Engagement Policy)

The revised Governance Rules were exhibited for public consultation as follows:

- Electronic attendance and participation: Friday 29 July 2022 to Friday 9 September 2022.
- Public questions and responses: Thursday 25 August 2022 to Tuesday 13 September 2022.

A meeting of the Submissions Committee was subsequently scheduled for 21 September 2022 to hear any person wishing to speak at the Committee meeting in support of their written submission.

**Public Transparency** (s58 LGA 2020)

Public transparency has been ensured through the public exhibition and community engagement process.

**Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

**Financial Management** (s101 Local Government Act 2020)

Not applicable.

**Service Performance** (s106 Local Government Act 2020)

Not applicable.

**Risk Assessment**

There are no identified Workplace Health and Safety implications associated with this report.

**Communication/Implementation**

The outcome of the Governance Rules review will be published on Council's website and individuals who made a submission during the exhibition period will be informed of the outcome separately.

**Human Rights Charter**

Nothing in the proposed draft Governance Rules limits a person's human rights.

**Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

## **Options**

### Option 1 – Adopt the revised Governance Rules

This option is recommended by officers as the *COVID-19 Omnibus (Emergency Measures) Act 2020*, which permitted councils to temporarily hold meetings via electronic means, expired on 2 September 2022.

### Option 2 – Do not adopt the revised Governance Rules

This option is not recommended by officers as Council will be unable to hold council or delegated committee meetings via electronic means of communication. All meetings will require Councillors to attend in-person.

### Option 3 – Defer the matter

If this option is endorsed, then the period during which Council is unable to hold council or delegated committee meetings via electronic means of communication will be extended. All meetings will require Councillors to attend in-person.

## Governance Rules - Summary of submissions received

### Electronic attendance and participation

Summary of feedback	Officer response
<p><u>'In camera'/closed session items</u> (raised in one submission)</p> <p>Concern that Council is moving to authorise that all meetings be conducted online.</p> <p>Concern that electronic communications have only made communications more secret.</p> <p>Decisions made 'in camera'/in closed session increases the distrust in Council decisions and the respect for Councillors in the community.</p>	<p>The proposed electronic attendance and participation rules do not apply to 'livestreaming/recording' meetings where the meeting is discussing confidential matters (whether they be fully online or a combination of in-person and online).</p>
<p><u>Requesting and approval of 'electronic' attendance</u> (issues raised in five submissions)</p> <p>Concern that the Mayor has the final say on whether a Councillor is permitted to attend a meeting remotely/electronically.</p> <p>The Mayor should not be able to refuse a request to attend a meeting electronically unless there is a compelling reason or in extreme circumstances.</p> <p>Suggested amendment to state the Mayor should <i>act reasonably</i> and only be able to reject an application for <i>significant or substantial reasons</i>.</p> <p>Giving the Mayor the power to veto a Councillor attending electronically is an out-dated idea.</p> <p>Allowing participants to attend electronically saves travelling time for those who don't live in or near Colac and will encourage more people from all parts of the Shire to consider running for election.</p> <p>Concern over a workplace where a leader has the power to force you to attend in person unless they decide that your request to attend online meets the test of "appropriate seriousness or severity".</p>	<p>The Mayor makes their decision in consultation with the Chief Executive Officer (not in isolation).</p> <p>Councillors have previously agreed that their preferred default position is to hold Council meetings 'in-person'.</p> <p>In considering requests to attend via electronic means of communication, the Mayor should also give consideration to other relevant legislation, such as the <i>Equal Opportunity Act 2010</i> and <i>Gender Equality Act 2020</i>.</p>
<p><u>Accessibility of Council meeting to Councillors</u> (raised in two submissions)</p> <p>Concerned that Clause 75 in its current form will make meetings more inaccessible for Councillors with caring responsibilities and Councillors unable to attend in person due to health reasons, especially if factors arise less than six hours before the meeting that prevent in-person attendance.</p>	<p>Refer to response above.</p>

## Public questions and responses

Summary of feedback	Officer response
<p><u>Quality of responses to questions</u> (raised in five submissions)</p> <p>Request that both Councillors and officers be required to engage actively in forming a full response to questions from the public (submitted in writing), providing responses that include all relevant information required to answer a question.</p> <p>Responses need to provide a clear statement addressing the point raised by the question submitter.</p> <p>The more direct and thorough the answer, the more effective and meaningful to the public it will be.</p>	<p>This is outside the scope of the consultation.</p> <p>Councillors are provided with a copy of officer responses to written questions prior to the meeting.</p>
<p><u>Questions and responses in minutes</u> (raised in four submissions)</p> <p>Responses to be published in full in the minutes so that the public is also informed of Council's position on matters of concern to the community.</p>	<p>This is a matter for the Council to decide.</p>
<p><u>Councillors receiving copies of questions</u> (raised in one submission)</p> <p>Councillors should receive copies of the questions when they are submitted so that they are aware of the issues that ratepayers are concerned about.</p>	<p>This is outside the scope of the consultation.</p> <p>Councillors do receive copies of the questions and officer responses prior to the meeting.</p>
<p><u>Item 56.1 – form of question</u> (raised in one submission)</p> <p>Amend the last sentence of item 56.1 to read: 'Question time is specifically for <del>succinct</del> questions in form and character, rather than forums for making statements and discussion.'</p>	<p>This is outside the scope of the consultation.</p> <p>Council only sought feedback on matters relating to 'electronic attendance and participation at meetings' and 'how public questions and responses are recorded in the minutes of meetings'.</p>
<p><u>Item 56.3 - Extension of question time</u> (raised in one submission)</p> <p>Add a sentence to item 56.3 that reads: 'Time may be extended longer than thirty minutes at the discretion of the Mayor.'</p>	<p>This is outside the scope of the consultation.</p> <p>Council only sought feedback on matters relating to 'electronic attendance and participation at meetings' and 'how public questions and responses are recorded in the minutes of meetings'.</p>
<p><u>Item 56.4 - Time and word limit</u> (raised in one submission)</p> <p>Amend item 56.4 to read:</p>	<p>This is outside the scope of the consultation.</p> <p>Council only sought feedback on matters relating to 'electronic attendance and participation at meetings' and 'how public questions and responses are recorded in the minutes of meetings'.</p>

<p>'Each question asked/submitted must not be greater than <del>90</del> 120 seconds in duration (or <del>225</del> 500 words if in writing).'</p> <p>Amend item 56.6 to read:</p> <p>'A time limit of <del>five</del> three minutes per question per person applies, irrespective of the number of questions submitted/asked by that person. If a person has submitted or wants to ask more questions at a meeting than can be answered in the meeting <del>five minutes allocated</del>, their remaining questions may:...'</p>	<p>Refer to response provided above.</p>
<p><u>Questions not answered at the meeting</u> (raised in one submission)</p> <p>Amend 56.6.3 to read:</p> <p>'where questions have not been asked and answered at the relevant Council meeting, a response will be provided in writing <del>after</del> within three business days from the meeting and the full text of the questions and answers be recorded in the meeting minutes.'</p>	<p>This is outside the scope of the consultation.</p> <p>Council only sought feedback on matters relating to 'electronic attendance and participation at meetings' and 'how public questions and responses are recorded in the minutes of meetings'.</p> <p>Questions not answered at the meeting are not (nor should they be) included in the minutes. The minutes are a record of the proceedings (what happened at the meeting).</p> <p>People who submit questions in writing receive a written response, regardless of whether it is read out at the meeting or not.</p>
<p><u>Item 68.1 - Right to address Council</u> (raised in one submission)</p> <p>Amend item 68.1 to read:</p> <p>'Members of the public <del>do not</del> have a the right to address Council <del>and may only do so</del> with the consent of the Chair or by prior arrangement.'</p>	<p>This is outside the scope of the consultation.</p> <p>Council only sought feedback on matters relating to 'electronic attendance and participation at meetings' and 'how public questions and responses are recorded in the minutes of meetings'.</p>
<p><u>Clarification of questions</u> (raised in one submission)</p> <p>The highly structured Council rules prevent citizens from clarifying answers to a question other than by asking another question. At times this additional question has to wait until all other questions for the meeting have been asked, thus losing continuity.</p> <p>Amend rule 56.18 to read:</p> <p>'56.18 All questions and answers must be as brief as possible, and no discussion may be allowed other than by Councillors or the questioner for the purposes of clarification.'</p>	<p>This is outside the scope of the consultation.</p> <p>Council only sought feedback on matters relating to 'electronic attendance and participation at meetings' and 'how public questions and responses are recorded in the minutes of meetings'.</p>

## Other feedback

Summary of feedback	Officer response
<p><u>Visibility of text at Council meetings</u> (raised in one submission)</p> <p>Request that provision be made in the rules to ensure that text displayed on screens in Council meetings be made readable to those viewing proceedings from the public gallery.</p>	<p>Officers are currently investigating whether this can be achieved with our current technology. The text is however visible on the livestream and livestream recordings.</p>
<p><u>Video recordings of Council meetings</u> (raised in one submission)</p> <p>It would be useful for full video recordings of Council meetings to be made available online for those who are working at the time of the meeting.</p>	<p>The livestream of the meeting is available in real-time (30 second delay) and a recording available on Council's website a day or two following the meeting.</p>
<p><u>Item 20 – setting of agenda</u> (raised in one submission)</p> <p>Amend item 20 to read:</p> <p>'The agenda for and the order of business for a Council meeting is to be determined by the Chief Executive Officer, following consultation with Councillors six days before the meeting date the Mayor, so as to facilitate and maintain open, efficient and effective processes of government.'</p>	<p>This is outside the scope of the consultation.</p> <p>Council only sought feedback on matters relating to 'electronic attendance and participation at meetings' and 'how public questions and responses are recorded in the minutes of meetings'.</p> <p>Nonetheless, section 18 of the <i>Local Government Act 2020</i> defines the role of the Mayor, which includes providing advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings.</p>
<p><u>Item 25.1 – Notice of Motion</u> (raised in one submission)</p> <p>Amend 25.1 to read:</p> <p>'A notice of motion must be in writing signed by a Councillor, and be lodged with or sent to the Chief Executive Officer the Mayor and a copy to General Manager Governance to provide opinion on adherence to Council Governance rules least eight days prior to the Council meeting, to allow sufficient time for the Mayor to notify the Chief Executive Officer to include the notice of motion in the agenda papers for a Council meeting.'</p>	<p>This is outside the scope of the consultation.</p> <p>Council only sought feedback on matters relating to 'electronic attendance and participation at meetings' and 'how public questions and responses are recorded in the minutes of meetings'.</p>
<p><u>Motions</u> (raised in one submission)</p> <p>Request to insert a item (27.3) to read:</p> <p>'No alternative motion can be introduced before a written report is considered by Council and any motion moved in relation to such report. A Councillor may introduce an alternative motion after the report is discussed.'</p>	<p>This is outside the scope of the consultation.</p> <p>Council only sought feedback on matters relating to 'electronic attendance and participation at meetings' and 'how public questions and responses are recorded in the minutes of meetings'.</p>

Open Forums (raised in one submission)

Request for an open forum session to be held immediately after questions time for an allocated time of 45 minutes.

- 5 minutes per person who wishes to address Council.
- Members of the public who have given prior notice will be heard first.
- No discussion or debate with attendees to the open forum, however, Councillors may ask questions of clarification of the attendee.
- Minutes to record the full text of the open forum and responses provided by the Mayor, Councillors, the Chief Executive Officer or their nominee.

This is outside the scope of the consultation.

Council only sought feedback on matters relating to 'electronic attendance and participation at meetings' and 'how public questions and responses are recorded in the minutes of meetings'.



# GOVERNANCE RULES

Adopted by Council: 27 April 2022



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## GOVERNANCE RULES

### Introduction

#### 1. Nature of Rules

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

#### 2. Date of Commencement

These Governance Rules commence on 1 September 2020.

#### 3. Contents

These Governance Rules are divided into the following Chapters:

Chapter	Name
Chapter 1	Governance Framework
Chapter 2	Meeting Procedure for Council Meetings
Chapter 3	Meeting Procedure for Delegated Committees
Chapter 4	Meeting Procedure for Community Asset Committees
Chapter 5	Disclosure of Conflicts Of Interest
Chapter 6	Miscellaneous
Chapter 7	Election Period Policy

#### 4. Definitions

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

*Act* means the *Local Government Act 2020*.

*Chief Executive Officer* includes an Acting Chief Executive Officer.

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

*Council* means Colac Otway Shire Council.

*Council meeting* ~~has the same meaning as in the Act~~ means a meeting of the Council convened in accordance with the Act and these Governance Rules and includes scheduled and unscheduled meetings (whether held in-person attendance or by electronic means of communication).

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

*Delegated Committee meeting* means a meeting of a Delegated Committee convened in accordance with these Governance Rules and includes scheduled and unscheduled meetings (whether held in-person attendance or by electronic means of communication).

*Mayor* means the Mayor of Council.

*Meetings by electronic means of communication* include meetings where all members attend electronically, or where some members attend in-person and some attend via electronic means of communication.



Open meetings to the public means in the case of a council meeting or joint meetings of councils, or a delegated or joint delegated committee:

- Either attendance in person by members of the public, or a meeting that is livestreamed (broadcast live) on the Internet site of the Council; or
- A meeting that is recorded and published on the Internet site of the Council as soon as practicable after the meeting (in the case of a delegated or joint delegated committee only); or
- Any other prescribed means of meeting.

*Unscheduled Council Meeting* means a *Council meeting* not fixed by *Council*.

*these Rules* means these Governance Rules.

## Chapter 1 – Governance Framework

### 1. Context

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

- (a) the overarching governance principles specified in section 9(2) of the *Act*; and
- (b) the following documents adopted or approved by *Council*:
  - (i) Council Plan;
  - (ii) Councillor Code of Conduct;
  - (iii) Public Transparency Policy; and
  - (iv) Livestreaming and Recording of Council and Planning Committee Meetings Policy.

### 2. Decision Making

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



## Chapter 2 – Meeting Procedure for Council Meetings

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## Part A – Introduction

### 1. Title

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

### 2. Purpose of this Chapter

The purpose of this Chapter is to:

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

### 3. Definitions and Notes

3.1 In this Chapter:

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

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

"*joint letter*" means a formal application to Council in the form of a letter which has been signed by at least 12 people or executive/committee representatives from ten separate entities whose names and physical addresses also appear on the letter. A letter from a single entity or organisation that is signed by multiple parties from that organisation or entity will not be classed as a joint letter.

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

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

"*notice of motion*" means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;

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

"*petition*" means a formal written application addressed to Council, submitted in printed or electronic format without erasure, signed or electronically endorsed by at least 12 people whose names and physical addresses also appear, and on which each page of the petition bears the wording of the whole of the petition; and

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

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



## Part B – Election of Mayor

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

### 4. Election of the *Mayor*

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

### 5. Method of Voting

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

### 6. Determining the election of the *Mayor*

- 6.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- 6.2 Any nominations for the office of *Mayor* must be seconded by another Councillor.
- 6.3 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:
- 6.3.1 if there is only one nomination, the candidate nominated must be declared to be duly elected;
- 6.3.2 if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;
- 6.3.3 in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
- 6.3.4 in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
- 6.3.5 if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;
- 6.3.6 in the event of two or more candidates having an equality of votes and one of them having to be declared:
- (a) a defeated candidate; and
- (b) duly elected
- the declaration will be determined by lot.
- 6.3.7 if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:

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

**7. Election of Deputy Mayor and Chairs of Delegated Committees**

Any election for:

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

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

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

**8. Appointment of Acting Mayor**

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

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



## Part C – Meetings Procedure

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

### Division 1 – Notices of Meetings and Delivery of Agendas

#### 9. Dates and Times of Meetings Fixed by *Council* (*Scheduled Meetings*)

Subject to Rule 11, *Council* must from time to time fix the date, time and place of all *Council meetings*.

#### 10. *Council* May Cancel or Alter Meeting Dates

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

#### 11. *Meetings Not Fixed by Council* (*Unscheduled Meetings*)

11.1 The *Council* may by resolution, call an unscheduled meeting of the *Council*. The resolution must specify the date, time and place of the meeting and the business to be transacted.

11.2 The *Mayor* or at least three Councillors may by a *written* notice call an *unscheduled Council meeting*.

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

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

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

#### 12. Notice of Meeting

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

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

12.3 Reasonable notice of each *Council meeting* must be provided to the public at least seven days before the meeting. *Council* may do this:

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

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



- (a) in each of its Customer Service Centres; and/or
- (b) in at least one newspaper generally circulating in the *municipal district*.

- 12.4 If urgent or extraordinary circumstances prevent Council from complying with sub-Rule 12.3, the Council must:
- 12.4.1 give such notice as is practicable; and
  - 12.4.2 specify the urgent or extraordinary circumstances which prevented the Council from complying with sub-Rule 12.3 in the minutes of the meeting.

### 13. Prohibition of Unauthorised Recording of Meetings

Other than an official *Council* recording, no video or audio recording of proceedings of *Council meetings* will be permitted without specific approval by resolution of the relevant *Council meeting*.

### 14. Availability of Council Meeting Documentation

- 14.1 All endeavours will be made to make Council meeting documentation available:
- 14.1.1 to Councillors and relevant staff members six days prior to a scheduled meeting;
  - 14.1.2 on Council's website five days prior to a scheduled meeting and hard copies provided at its Customer Service centres; and
  - 14.1.3 to Councillors and relevant staff members seven days prior to a scheduled meeting when the Council meeting is to be held on a Wednesday and the Monday or Tuesday immediately prior to the scheduled meeting is a public holiday; and
- 14.2 Council may, on occasion, be unable to comply with sub-Rule 14.1, where the meeting is an unscheduled meeting.

## Division 2 – Quorums

[A Councillor may attend and be present at a Council meeting by electronic means of communication.](#)

### 15. Inability to Obtain a Quorum

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

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



## 16. Inability to Maintain a Quorum

- 16.1 If during any *Council meeting*, a quorum cannot be maintained then Rule 15 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 16.2 Sub-Rule 15.1 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered, or where prior notification has been given that the meeting will not proceed and there was no opportunity for Council to formally resolve to cancel it.

## 17. Adjourned Meetings

- 17.1 *Council* may adjourn any meeting to another date or time but cannot in the absence of disorder or a threat to the safety of any Councillor or member of Council staff adjourn a meeting in session to another place.
- 17.2 The *Chief Executive Officer* must give *written* notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 17.3 If it is impracticable for the notice given under sub-Rule 17.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.

## 18. Time Limits for Meetings

- 18.1 The Chair will pause a Council meeting after four hours and the Council will consider if it wants to continue. A majority of *Councillors* present must vote in favour of its continuance.
- 18.2 In the absence of a continuance, the meeting must stand adjourned to a time and date to be announced by the Chair, immediately prior to the meeting standing adjourned and where possible, within two business days.
- 18.3 No meeting is to continue past six hours. In that event, the provisions of sub-Rules 17.2 and 17.3 will apply.
- 18.4 The Council may adjourn for a short break every hour, after a period of two hours, or at the Chair's discretion.

## 19. Cancellation or Postponement of a Meeting

- 19.1 The *Chief Executive Officer* may, in the case of an emergency necessitating the cancellation or postponement of a *Council meeting*, cancel or postpone a *Council meeting*.
- 19.2 The *Chief Executive Officer* must present to the immediately following *Council meeting* a *written* report on any exercise of the power conferred by sub-Rule 19.1.

## Division 3 – Business of Meetings

### 20. Agenda and the Order of Business

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



## 21. Change to Order of Business

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

## 22. En Bloc Voting

- 22.1 Subject to sub-Rule 22.4 below, Council may move agenda items *en bloc*, so long as the *motion* is moved, seconded and carried unanimously.
- 22.2 During discussion on any items to be moved *en bloc*, the Chair will ask Councillors if any of the items to be considered are:
- 22.2.1 Items where the motion is expected to be different to the officer recommendation?
- 22.2.2 Items where a disclosure of conflict of interest is to be declared by a Councillor?
- 22.2.3 Items where a Councillor would like the recommendation to be considered separately?
- 22.3 If a Councillor indicates an item falls within sub-Rule 22.2, then the Chair will request the item be removed from the group of items to be considered *en bloc*.
- 22.4 The following items must not be considered *en bloc*:
- 22.4.1 Items that relate to planning matters or that involve statutory third-party rights;
- 22.4.2 Items of a controversial nature which may attract a large amount of interest; and
- 22.4.3 Items where a special majority vote is required (eg Councillor Code of Conduct is required to be passed at a meeting by at least two-thirds of the total number of Councillors elected to the Council).
- 22.5 Questions/discussion from Councillors are permitted on the items moved *en bloc*.
- 22.6 The minutes of the meeting must clearly identify which matters are decided *en bloc* and each individual resolution must be recorded in full.

## 23. Urgent Business

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

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

## Division 4 – Motions and Debate

### 24. Councillors May Give Notice of Motions

Councillors may ensure that a matter is considered by a scheduled Council meeting by giving *Notice of a Motion*.



## 25. Notice of Motion

- 25.1 A *notice of motion* must be in *writing* signed by a Councillor, and be lodged with or sent to the *Chief Executive Officer* at least eight days prior to the Council meeting, to allow sufficient time for the *Chief Executive Officer* to include the *notice of motion* in the agenda papers for a *Council meeting*.
- 25.2 The *Chief Executive Officer* may reject any *notice of motion* which:
- 25.2.1 is vague or unclear in intention
  - 25.2.2 it is beyond *Council's* power to pass; or
  - 25.2.3 if passed would result in *Council* otherwise acting invalidly
- but must:
- 25.2.4 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
  - 25.2.5 notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.
- 25.3 The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda* and include an officer comment. No officer comment will be provided for a *notice of rescission*.
- 25.4 The *Chief Executive Officer* must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.
- 25.5 Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were entered in the notice of motion register.
- 25.6 Where a *notice of motion* is listed on an agenda, the *Chair* will first invite the Councillor who gave the *notice of motion* to move it, in accordance with clause 25.
- 25.7 No material changes may be made to a Notice of Motion at the meeting.
- 25.8 If a Councillor who has given a *notice of motion* is absent from the meeting or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- 25.9 If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.
- 25.10 Unless Council resolves to re-list at a future *Council meeting* a *notice of motion* which has been lost, a similar motion must not be put before Council for at least three months from the date it was lost.

## 26. Chair's Duty

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

- 26.1 defamatory;
- 26.2 objectionable in language or nature;



- 26.3 vague or unclear in intention;
  - 26.4 outside the powers of *Council*; or
  - 26.5 irrelevant to the item of business on the *agenda* and has not been admitted as urgent, or purports to be an amendment but is not,
- must not be accepted by the *Chair*.

**27. Introducing a Report**

- 27.1 Before a *written* report is considered by *Council* and any motion moved in relation to such report, a member of Council staff may introduce the report if invited by the *Chair* by indicating:
  - 27.1.1 its background; or
  - 27.1.2 the reasons for any recommendation which appears.
- 27.2 Unless *Council* resolves otherwise, a member of Council staff need not read any written report to *Council* in full.

**28. Introducing a Motion or an Amendment**

The procedure for moving any motion or amendment is:

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

*"Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"*
- 28.4 if no Councillor indicates opposition or a desire to speak to it, the *Chair* may declare the motion or amendment carried without discussion;
- 28.5 if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- 28.6 after the mover has addressed the meeting, the seconder may address the meeting;
- 28.7 after the seconder has addressed the meeting, or has, without speaking on the motion, reserved their address until later in debate (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion, prior to the seconder addressing the meeting, if they chose to reserve their address;
- 28.8 the mover of the original motion retains the right of reply to that motion; and
- 28.9 if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.



## **29. Right of Reply**

- 29.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
- 29.2 After the right of reply has been taken but subject to any Councillor exercising their right to ask any question concerning or arising out of the motion, the motion must be put to the vote without any further discussion or debate.

## **30. Moving an Amendment**

- 30.1 Subject to sub-Rule 30.2 a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- 30.2 A motion to confirm a previous resolution of *Council* cannot be amended.
- 30.3 An amendment must not be directly opposite to the motion.

## **31. Who May Propose an Amendment**

- 31.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- 31.2 Any one Councillor cannot move more than two amendments in succession without the leave of the *Chair* and that leave will not be unreasonably withheld.

## **32. How Many Amendments May be Proposed**

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

## **33. An Amendment Once Carried**

- 33.1 If the amendment is carried, the motion as amended then becomes the motion before the meeting (substantive motion), and may be debated before it is put.
- 33.2 Debate on the substantive motion doesn't recommence. Only Councillors who didn't speak to the original motion have a right to speak to the substantive motion.
- 33.3 The mover of the original motion retains the right of reply to that motion.

## **34. Foreshadowing Motions**

- 34.1 At any time during debate a Councillor may foreshadow a motion so as to inform *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.
- 34.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chair* being resolved in a certain way, a Councillor intends to move an alternative or additional motion.



34.3 The *Chief Executive Officer* or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.

**35. Withdrawal of Motions**

Before any motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of *Council*.

**36. Separation of Motions**

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

**37. Chair May Separate Motions**

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

**38. Priority of address**

Outside of the specific application of Rule 28 in the case of competition for the right to speak, the *Chair* must decide the order in which the Councillors concerned will be heard.

**39. Motions in Writing**

39.1 The *Chair* may require that a complex or detailed motion be in writing.

39.2 *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.

**40. Repeating Motion and/or Amendment**

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

**41. Debate Must Be Relevant to the Motion**

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

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

41.3 A speaker to whom a direction has been given under sub-Rule 41.2 must comply with that direction.

**42. Speaking Times**

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

42.1.1 the mover of a motion or an amendment which has been opposed: five minutes and three minutes if no opposition;

42.1.2 any other Councillor: three minutes; and



42.1.3 the mover of a motion exercising a right of reply/closing statement: two minutes.

42.2 Where the *Chair* allows discussion on an item, the maximum speaking time for a Councillor will be three minutes.

**43. Addressing the Meeting**

If the *Chair* so determines:

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

43.1.1 Mayor; or

43.1.2 Chair or Acting Chair;

as the case may be;

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

**Cr** .....(name).

43.3 all members of Council staff, must be addressed as

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

**44. Right to Ask Questions**

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

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

**Division 5 – Procedural Motions**

**45. Procedural Motions**

45.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.

45.2 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:




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**PROCEDURAL MOTIONS TABLE**

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



Procedural Motion	Form	Mover	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
<b>4. Deferral of a matter (to a future meeting)</b>	'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral) ...'	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of the Mayor/Deputy Mayor; (b) During the election of a Chairperson; or (c) When another Councillor is speaking	Consideration/debate on the motion and/or amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future meeting, where a fresh motion may be put and debated	Debate continues unaffected	Yes
<b>5. Laying a motion on the table (pausing debate)</b>	'That the motion be laid on the table'	A Councillor who has not spoken for/against the motion	During the election of the Mayor/Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same meeting	Debate continues unaffected N	No
<b>6. Take a motion from the table (resume debate on a matter)</b>	'That the motion in relation to xx be taken from the table'	Any Councillor	When no motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
<b>7. Alter the order of business</b>	'That the item listed at xx on the agenda be considered before/after the item listed as xy'	Any Councillor	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the Agenda	No
<b>8. Suspension of Meetings Procedure</b>	'That the Meetings Procedure be suspended to ...' (reason must be provided)	Any Councillor		The rules of the meeting are temporarily suspended for the specific reason given in the motion. No debate or decision on any matter, other than a decision to resume Meetings Procedure, is permitted	The meeting continues unaffected	No



Procedural Motion	Form	Mover	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
<b>9. Resumption of Meetings Procedure</b>	'That the Meetings Procedure be resumed'	Any Councillor	When Meeting Procedures have not been suspended	The temporary suspension of the rules of the meeting is removed	The meeting cannot continue	No
<b>10. Consideration of confidential matter(s) (Close the meeting to members of the public)</b>	That, in accordance with Section 66(2)(a) of the <i>Local Government Act 2020</i> the meeting be closed to members of the public for the consideration of item xx is confidential as it relates to [insert reason]	Any Councillor	During the election of the Mayor/Deputy Mayor	The meeting is closed to members of the public	The meeting continues to be open to the public	Yes
<b>11. Reopen the meeting</b>	'That the meeting be reopened to members of the public'	Any Councillor		The meeting is reopened to the public	The meeting remains closed to the public	No



## Division 6 – Rescission Motions

### 46. Notice of Rescission

- 46.1 A Councillor may give notice of a motion to rescind a previous resolution of Council provided:
- 46.1.1 the resolution proposed to be rescinded has not been acted on;
  - 46.1.2 the effect of rescinding the resolution will not place the Council at significant legal, financial or other risk, including non-compliance with statutory obligations; and
  - 46.1.3 the *Notice of Rescission* is delivered to the *Chief Executive Officer* within three months of the resolution having been made setting out -
    - (a) the resolution to be rescinded; and
    - (b) the meeting and date when the resolution was carried.

*It should be remembered that a notice of rescission is a form of notice of motion. Accordingly, all provisions in this Chapter regulating notices of motion equally apply to notices of rescission.*

- 46.2 A resolution will be deemed to have been acted on if:
- 46.2.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or
  - 46.2.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- 46.3 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:
- 46.3.1 has not been acted on; and
  - 46.3.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 46.1.3,
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.
- 46.4 This section does not apply to an officer recommendation or Councillor Notice of Motion to supersede a previous resolution of Council.

### 47. If Lost

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



**48. If Not Moved**

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

**49. May be Moved by any Councillor**

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

**50. When Not Required**

50.1 A motion for rescission is not required where *Council* wishes to change policy.

**Division 7 – Points of Order**

**51. Valid Points of Order**

A point of order may be raised in relation to a motion, amendment or statement made that:

- 51.1 is contrary to *these Rules*;
- 51.2 is defamatory;
- 51.3 is irrelevant to the matter under consideration or offensive;
- 51.4 is outside *Council's* legal powers;
- 51.5 constitutes improper behaviour;
- 51.6 constitutes a tedious repetition of something already said;
- 51.7 a motion, which, under Rule 26, or a question which, under Rule 56, should not be accepted by the *Chair*;
- 51.8 a question of procedure; or
- 51.9 any act of disorder.

Expressing a difference of opinion or to contradict a speaker is not a valid point of order.

**52. Procedure for Point of Order**

- 52.1 A Councillor raising a point of order must:
  - 52.1.1 state the point of order; and
  - 52.1.2 state any section, Rule, paragraph or provision of *these Rules* or the Councillor Code of Conduct relevant to the point of order.
- 52.2 A Councillor who is interrupted by another Councillor calling for a point of order must immediately stop speaking and remain silent until the Councillor raising the point of order has been heard and the question disposed of by the *Chair*.



### 53. Chair May Adjourn to Consider

- 53.1 The Chair may adjourn the meeting to consider a point of order which has been raised but otherwise must rule on it as soon as it is raised.
- 53.2 All other questions or matters before the meeting are suspended until the point of order is decided.

### 54. Chair to Decide

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

### 55. Final Ruling on a Point of Order

- 55.1 The decision of the Chair in respect of a point of order raised will not be open for discussion and will be final and conclusive unless the majority of Councillors present carry a motion of dissent.
- 55.2 A motion of dissent on a point of order must contain the provision, rule, practice or precedent in substitution for the *Chair's* ruling.
- 55.3 A motion of dissent in relation to a point of order is not a motion of dissent in the Chair, and the Chair must at all times remain in the Chair and they will retain their right to a second vote.
- 55.4 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 *Chair*.

## Division 8 – Public Question Time

### 56. Question Time

- 56.1 Unless Council resolves differently, there must be a public question time at every *Council meeting* fixed under Rule 9 or every *Unscheduled Council Meeting* fixed under Rule 11 to enable members of the public to submit written questions and to ask verbal questions of *the meeting*. Question time is specifically for succinct questions in form and character, rather than forums for making statements and discussion.
- 56.2 Sub-Rule 56.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the *Act*.

#### *Scheduled meetings*

- 56.3 A 30 minute period shall be provided for questions at the beginning of *Scheduled Council meetings*.
- 56.4 Each question asked/submitted must not be greater than 90 seconds in duration (or 225 words if in writing).
- 56.5 During public question time, members of the public may either:
- 56.5.1 Raise their hand and ask their question from the public gallery;
- 56.5.2 Register by no later than 5pm two days prior to the scheduled meeting to join the meeting virtually or by phone to ask their question.



- 56.5.3 Submit a question (online, by post or hand delivered to our Customer Service centre) by no later than 5pm two days prior to the *Scheduled Council meeting*, to be read out at the meeting.
- 56.6 A time limit of five minutes per person applies, irrespective of the number of questions submitted/asked by that person. If a person has submitted or wants to ask more questions at a meeting than can be answered in the five minutes allocated, their remaining questions may:
- 56.6.1 at the discretion of the Chair, be dealt with after all other persons have had their questions asked and answered (or their five minutes has expired), time permitting; or
- 56.6.2 not be asked and answered if the time allotted for public question time has expired; and
- 56.6.3 where questions have not been asked and answered at the relevant Council meeting, a response will be provided in writing after the meeting.
- 56.7 The Chair or a member of Council staff nominated by the Chair may read to those present at the meeting a question which has been submitted in accordance with this Rule.

*Unscheduled meetings*

- 56.8 A 15 minute period shall be provided for questions at the beginning of *Unscheduled Council meetings*.
- 56.9 Only questions related to the agenda for that meeting will be accepted for *Unscheduled Council Meetings*.
- 56.10 Sub-Rules 56.4 to 56.7 apply to questions at *Unscheduled Council meetings*.
- 56.11 Public question time may be extended at the discretion of the *Chair*.
- 56.12 Written questions submitted to *Council* will be given preference and will take precedence at the *Council meeting*. Written questions must state the name and address (and organisation if applicable), of the person submitting the question, and generally be in a form approved or permitted by Council.
- 56.13 If a member of the public intends to ask a question that is unrelated to an item on the agenda, they are encouraged to register a question, in writing, prior to the relevant *Scheduled Council meeting* so that a better-researched and more complete response can be provided.
- 56.14 The *Chair* will exercise discretion so that the maximum number of people present will be permitted to ask their questions within the time available for public question time.
- 56.15 The Chair of the meeting may disallow any question on the ground that it is repetitive of a question already asked (including at previous meetings), objectionable, irrelevant, raises an issue that is the type of information deemed confidential (including questions relating to compliance or enforcement matters or other legal proceedings), is asked to embarrass a Councillor or member of the administration.
- 56.16 Any question which has been disallowed by the *Chair* must be made available to any other Councillor upon request.



- 56.17 Any member of the public asking a question of *Council* must extend due courtesy and respect to *Council* and the processes under which it operates, and must take direction from the *Chair* whenever called upon to do so.
- 56.18 All questions and answers must be as brief as possible, and no discussion may be allowed other than by *Councillors* for the purposes of clarification.
- 56.19 Like questions may be grouped together and a single answer provided.
- 56.20 Questions from the public gallery or virtually/by phone, shall be addressed to the Chair. The Chair will then ask the Chief Executive Officer to determine who will answer the question. The *Chief Executive Officer*, or a senior officer may be nominated to respond to a question.
- 56.21 If the *Chair* so permits, a second speaker may support or add to an answer given, but questions shall not be debated by *Council* during public question time.
- 56.22 The *Chief Executive Officer* may require a question to be put on notice. If a question is put on notice, a *written* copy of the answer will be sent to the person who asked the question and will be included in the minutes of the following *Council meeting*.
- 56.23 The *Chief Executive Officer* may advise *Council* that it is his or her opinion that the reply to a question should be given in a meeting closed to members of the public. The *Chief Executive Officer* must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given.

## Division 9 – Petitions and Joint Letters

### 57. Petitions and Joint Letters

- 57.1 A petition or joint letter must be presented to the next available scheduled meeting of Council where the petition or joint letter is received at least 10 days before the Council meeting.
- 57.2 Unless *Council* determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition or joint letter until the next *Council meeting* after that at which it has been presented.
- 57.3 Every petition or joint letter presented to *Council*:
- 57.3.1 must be in *writing* (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 12 people;
  - 57.3.2 must be addressed to the *Council, Mayor*, a Councillor or Councillors, containing a request for action to be taken by *Council*;
  - 57.3.3 may be submitted electronically, by post or delivered in person;
  - 57.3.4 must be in the English language, or accompanied by a translation, which will need to be certified by the *Chief Executive Officer* who will present it to be correct;
  - 57.3.5 must not be defamatory or objectionable in language or nature; and



- 57.3.6 must not relate to matters outside the powers of Council or relate to neighbourhood disputes/issues;
- 57.3.7 must be received by Council in its original form 10 days prior to a Council meeting and, if it is not, will be presented at the next Council meeting; and
- 57.3.8 may, at the discretion of the *Chief Executive Officer*, be refused if the same, or substantially the same, petition is received more than once in a twelve (12) month period during the course of a term of *Council*.
- 57.4 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- 57.5 Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- 57.6 Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 57.7 If a petition or joint letter relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.
- 57.8 If a petition relates to:
  - 57.8.1 a 'planning matter' which is the subject of a public notification process under the *Planning and Environment Act 1987*; or
  - 57.8.2 a 'statutory matter' which is the subject of a community engagement process;

the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).
- 57.9 The Chief Executive Officer may accept electronic petitions received via online websites if they are satisfied that the petition is authentic and from a legitimate website and provided that the electronic petition has been closed and a copy has been forwarded to Council.
- 57.10 A petition or joint letter shall not be presented at a meeting of Council or received by Council unless it meets the definition under these Governance Rules, unless it is specifically resolved by Council to receive the petition or joint letter in a non-conforming format. Only the wording of the request and the number of signatories will be included in the public agenda for a Council meeting.
- 57.11 If the petition or joint letter relates to any item already on the agenda for the Council meeting at which the petition or joint letter is submitted, the *Chair* may decide that the petition or joint letter will be dealt with in conjunction with that agenda item.
- 57.12 A petition or joint letter may nominate a person to whom a reply must be sent, but if no person is nominated or if it is not obvious who the intended contact person is, Council will reply to the first signatory who appears on the petition or joint letter.



## **Division 10 – Voting**

### **58. How Motion Determined**

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

### **59. Silence**

Voting must take place in silence.

### **60. Recount**

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

### **61. Casting Vote**

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

61.2 In the event of an item first coming before Council having an equality of votes, Council's expectation is that the Chair will generally vote in the negative unless there is an imminent deadline that requires an immediate decision.

61.3 Council's expectation is that the item should then be listed for the next Council meeting. If there is an equality of votes when the item is re-presented to Council, then the expectation is that the Chair will use the casting vote to finally resolve the matter.

61.4 Council acknowledges that the Chair is always free to exercise the casting vote as they see fit, notwithstanding the expectations outlined in sub-Clauses 61.2 and 61.3.

### **62. By Show of Hands**

Voting on any matter is by show of hands.

### **63. Procedure for a Division**

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

63.2 When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.

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

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

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



#### 64. No Discussion Once Declared

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

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

### Division 11 – Minutes

#### 65. Confirmation of Minutes

- 65.1 At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
  - 65.1.1 a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;
  - 65.1.2 no discussion or debate on the confirmation of the minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned;
  - 65.1.3 following the moving and seconding of the minutes, if no Councillor indicates opposition, the question is put to the vote; and
  - 65.1.4 a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed.

#### 66. Deferral of Confirmation of Minutes

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

#### 67. Form and Availability of Minutes

- 67.1 The *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer* to attend the meeting and to take the minutes of such meeting) must keep minutes of each *Council meeting*, and those minutes must record:
  - 67.1.1 the date, place, time and nature of the meeting;
  - 67.1.2 the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
  - 67.1.3 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5;
  - 67.1.4 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
  - 67.1.5 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);



- 67.1.6 the outcome of every motion, that is, whether it was put to the vote and the result of either carried, lost, withdrawn, lapsed, amended, etc.;
  - 67.1.7 the vote cast by each Councillor upon a division;
  - 67.1.8 the vote cast by any Councillor who has requested that his or her vote be recorded in the minutes;
  - 67.1.9 questions upon notice;
  - 67.1.10 the failure of a quorum;
  - 67.1.11 any adjournment of the meeting and the reasons for that adjournment;
  - 67.1.12 the time at which standing orders were suspended and resumed;
  - 67.1.13 ~~the full text a brief summary~~ of any public questions and ~~the full~~ responses provided by the Mayor, Chief Executive Officer or their nominee; and
  - 67.1.14 any other matter which the Chief Executive Officer thinks should be recorded to clarify the intention of the *Council meeting* or the recording of the minutes.
- 67.2 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are:
- 67.2.1 published on *Council's* website; and
  - 67.2.2 available for inspection at *Council's* office during normal business hours.
- 67.3 Nothing in sub-Rule 67.2 requires *Council* or the *Chief Executive Officer* to make public any minutes relating to a *Council meeting* or part of a *Council meeting* closed to members of the public in accordance with section 66 of the *Act*.

## Division 12 – Behaviour

### 68. Public Addressing the Meeting

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

### 69. Chair May Remove

The *Chair* may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 68.2.

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



**70. Chair may adjourn disorderly meeting**

If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, the *Chair* may adjourn the meeting to a later time on the same day or to some later day as the *Chair* thinks proper. In that event, the provisions of sub-Rules 17.2 and 17.3 apply.

**71. Removal from Chamber**

The *Chair*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer* or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the gallery under Rule 69.

**Division 13 – Additional Duties of Chair**

**72. The Chair's Duties and Discretions**

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

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

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

**Division 14 – Suspension of Meetings Procedure**

**73. Suspension of Meetings Procedure**

73.1 To expedite the business of a meeting, *Council* may suspend meetings procedure.

*The suspension of meetings procedure should be used to enable full discussion of any issue without the constraints of formality.*

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

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

"That meetings procedure be suspended to enable discussion on....."

73.3 No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of meetings procedure.

73.4 Once the discussion has taken place and before any motions can be put, the resumption of meetings procedure will be necessary. An appropriate motion would be:

"That meetings procedure be resumed."



## Division 15 – Miscellaneous

### 74. Meetings Conducted Remotely via Electronic Means of Communication

If:

~~74.1 — by law a meeting may be conducted electronically; and~~

~~74.2 — Council decides that a meeting is to be conducted electronically,~~

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

74.1 Council is permitted by the Act to hold meetings by electronic means of communication, and a Council meeting will be open to the public if members of the public are able to attend it in person, or if it is livestreamed (broadcast live) on Council's internet site.

74.2 Where a Councillor attends a Council meeting conducted by electronic means, the Councillor must be able to:

74.2.1 Hear the proceedings of the Council meeting; and

74.2.2 See all Councillors attending the Council meeting; and

74.2.3 Be seen all the time by Councillors; and

74.2.4 Be heard by all Councillors when they speak; and

74.2.5 Be seen and heard by members of the public **either in attendance and/or** on the livestream (or recording for Delegated Committee meetings).

74.3 If the conditions of sub-rule 74.2 cannot be met by one or more Councillors attending a Council meeting conducted by electronic means, whether because of technical difficulties or otherwise, but a quorum is still present, the:

74.3.1 Council meeting will continue; and

74.3.2 Councillor (or Councillors) will be treated as being absent from the Council meeting, unless the Council meeting is adjourned in accordance with these Rules.

74.4 Nothing in this Rule prevents a Councillor from joining (or re-joining) a Council meeting conducted by electronic means at the time that they achieve compliance with sub-rule 74.2, even if the Council meeting has already commenced or continued in their absence.

74.5 The Chief Executive Officer must ensure that a Council meeting conducted via electronic means is livestreamed continuously on Council's website (or a recording made available to the public for Delegation Committee meetings).

74.6 Nothing in sub-rule 74.2 requires any portion of a Council meeting conducted via electronic means that is closed to the public under section 66(1) of the Act to be livestreamed on Council's internet site.



74.7 If the livestream of a Council meeting conducted via electronic means is disrupted for any reason, the Chief Executive Officer must immediately inform the Chair of the meeting and the Council meeting will be adjourned for up to 30 minutes. If the technical issue cannot be resolved within 30 minutes and a quorum of in-person attendees cannot be maintained, an unscheduled meeting must be called as soon as practicable following the meeting to deal with the remaining business on the agenda.

## **75. Requesting and Approval of 'electronic' attendance**

Council and Delegated Committee meetings will be conducted face-to-face (in-person) at a set location, unless the Mayor approves an alternative in accordance with the following sub-rules.

75.1 A Councillor or member of a Delegated Committee may request to attend a meeting by electronic means of communication (virtually) by submitting a request to the Mayor and Chief Executive Officer, not less than six hours prior to the meeting commencement time.

75.2 A request to attend a meeting via electronic means of communication should only be made for a reason of appropriate seriousness or severity, such as (but not limited to) any risk to the health and safety of Councillors, staff or the community or where a level of travel restriction has been imposed by government. Whether a reason is deemed to be of appropriate seriousness or severity will be at the discretion of the Mayor. For the avoidance of doubt, a Councillor's personal preference to participate by electronic means of communication does not constitute sufficient grounds for making a request. Approval of a request will be at the discretion of the Mayor. The Mayor will not unreasonably deny a Councillor request to attend a meeting electronically and will take into consideration all of the reasons provided.

75.3 The request must be made in writing and state the reasons the Councillor or member of a Delegated Committee wishes to attend the meeting via electronic means.

75.4 The Mayor, in consultation with the Chief Executive Officer, will provide a response to the request not less than four hours prior to the meeting commencement time, and notify all Councillors or members of a Delegated Committee of the decision.

75.5 Requests to participate by electronic means of communication must be on a 'per meeting basis' specify the meeting date/s and type/s relevant to the request.

75.6 It is the responsibility of the Councillor or member attending the meeting via electronic means to ensure they have the required access and environment suitable for participation (including a secure location when deliberations involve confidential information).

75.7 The Councillor or member attending via electronic means will be deemed absent from the meeting for any time that they are unable to both be heard and seen by all participants and hear and see all participants.

75.8 If the Mayor is absent from a meeting conducted by electronic means of communication due to technical difficulties, the role of Chair will be filled in accordance with section 61(3) of the Act for the period of the Chairperson's absence.

75.9 Despite anything in these Rules, the Mayor (in consultation with the Chief Executive Officer and Councillors) may determine that a meeting be conducted



wholly by electronic means of communication, with consideration of, but not limited to, the following:

75.9.1 Any health or safety risk to Councillors, staff and the community; or

75.9.2 A request from an absolute majority of Councillors to hold the meeting wholly by electronic means; or

75.9.3 Any other extraordinary circumstances.

#### **76. Other matters not provided for**

Where any of these Rules has not been expressly modified, and requires modification, to operate at a Council meeting conducted via electronic means, the Chair with the cooperation of the meeting, may modify so much of these Rules as is necessary to permit the Council meeting conducted by electronic means to proceed and to facilitate the more efficient and effective transaction of the business.

#### **75-77. Recording Proceedings**

75.177.1 The proceedings of open Council meetings will be audio recorded to facilitate the preparation of the minutes of the meeting and to ensure their accuracy.

75.277.2 Where practicable, the proceedings of open Council meetings will be streamed live on Colac Otway Shire Council's website so that interested parties can watch the proceedings in real time. A recording of the live stream will be made available on the Colac Otway Shire's website the day following the meeting.

75.377.3 The Chief Executive Officer has the discretion and authority to delay publication of a recording in instances where comments made by members of the public at the meeting are considered to be objectionable, offensive, defamatory or inappropriate.

75.477.4 The Council is authorised to resolve that audio and live stream recordings of meetings be edited by the deletion of comments from the public which the Council considers to be objectionable, offensive, defamatory or inappropriate.

#### **76-78. Criticism of members of Council staff**

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

76.278.2 A statement under sub-Rule 7678.1 must be made by the *Chief Executive Officer*, through the *Chair*, as soon as it practicable after the Councillor who made the statement has resumed his or her seat.



## Chapter 3 – Meeting Procedure for Delegated Committees

### 1. Appointing Chairs of Delegated Committees

The Act provides the Mayor with specific power to appoint a Councillor to be the Chair of a Delegated Committee.

The Council may also resolve to appoint a Councillor to be Chair of a Delegated Committee (however the appointment by the Mayor prevails).

### 2. Meeting Procedure Generally

If *Council* establishes a *Delegated Committee*:

- 2.1 all of the provisions of Chapter 2 apply to meetings of the *Delegated Committee*; and
- 2.2 any reference in Chapter 2 to:
  - 2.2.1 a *Council meeting* is to be read as a reference to a *Delegated Committee* meeting;
  - 2.2.2 a Councillor is to be read as a reference to a member of the *Delegated Committee*; and
  - 2.2.3 the Mayor is to be read as a reference to the Chair of the *Delegated Committee*.

### 3. Meeting Procedure Can Be Varied

Notwithstanding Rule 2, if *Council* establishes a *Delegated Committee* that is not composed solely of Councillors:

- 3.1 *Council* may; or
- 3.2 the *Delegated Committee* may, with the approval of *Council*

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

### 4. Requests to address a Delegated Committee

Where the Instrument of Delegation specifically permits, a person may request to be heard at a Delegated Committee meeting, comprising all Councillors, in relation to a matter listed on the Agenda.

### 5. No Public Question Time

There will be no public question public time at Delegated Committee meetings.



## **Chapter 4 – Meeting Procedure for Community Asset Committees**

### **1. Introduction**

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

### **2. Meeting Procedure**

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



## Chapter 5 – Disclosure of Conflicts of Interest

### 3. Definition

In this Chapter:

- 3.1 “meeting conducted under the auspices of *Council*” means a meeting of the kind described in section 131(1) of the Act, and is a meeting of Councillors that is a scheduled or planned meeting for the purpose of discussing the business of Council or briefing Councillors, which is attended by at least one member of Council staff, and is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting; and
- 3.2 a member of a *Delegated Committee* includes a Councillor.

### 4. Disclosure of a Conflict of Interest at a Council Meeting

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

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

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

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

### 5. Disclosure of Conflict of Interest at a Delegated Committee Meeting

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

- 5.1 are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Delegated Committee* meeting immediately before the matter is considered; or



5.2 intends to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the Delegated Committee meeting commences a written notice:

5.2.1 advising of the conflict of interest;

5.2.2 explaining the nature of the conflict of interest; and

5.2.3 detailing, if the nature of the conflict of interest involves a member of a *Delegated Committee's* relationship with or a gift from another person the:

(a) name of the other person;

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

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

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

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

## 6. Disclosure of a Conflict of Interest at a Community Asset Committee Meeting

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

6.1 are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Community Asset Committee* meeting immediately before the matter is considered; or

6.2 intends to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:

6.2.1 advising of the conflict of interest;

6.2.2 explaining the nature of the conflict of interest; and

6.2.3 detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:

(a) name of the other person;

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

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

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



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

#### **7. Disclosure at a Meeting Conducted Under the Auspices of Council**

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

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

#### **8. Disclosure by Members of Council Staff Preparing Reports for Meetings**

- 8.1 A member of Council staff who, in their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a Report for the consideration of a:
  - 8.1.1 *Council meeting*;
  - 8.1.2 *Delegated Committee* meeting;
  - 8.1.3 *Community Asset Committee* meeting

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

- 8.2 The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 8.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.
- 8.3 If the member of Council staff referred to in sub-Rule 8.1 is the *Chief Executive Officer*:
  - 8.3.1 the written notice referred to in sub-Rule 8.1 must be given to the *Mayor*; and
  - 8.3.2 the obligation imposed by sub-Rule 8.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

#### **9. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power**

- 9.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.
- 9.2 If the member of Council staff referred to in sub-Rule 9.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.



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

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

10.2 If the member of Council staff referred to in sub-Rule 10.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

**11. Retention of Written Notices**

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



## Chapter 6 – Miscellaneous

### 1. Informal Meetings of Councillors

If there is a meeting of Councillors that:

- 1.1 is scheduled or planned for the purpose of discussing the business of *Council* or briefing Councillors;
- 1.2 is attended by at least one member of Council staff; and
- 1.3 is not a *Council meeting*, *Delegated Committee* meeting or *Community Asset Committee* meeting

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

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

### 2. Confidential Information

- 2.1 Where the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the *Act*, they may advise the information is confidential and advise Councillors and/or members of Council staff in writing accordingly. If not advised then the information may still be confidential by virtue of the *Act*.
- 2.2 Information which has been advised by the *Chief Executive Officer* as confidential information within the meaning of the *Act*, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.
- 2.3 Notwithstanding sub-Clauses 2.1 and 2.2, *Council* may resolve to release confidential information within the meaning of the *Act*, or that which has been advised by the *Chief Executive Officer* as confidential information within the meaning of the *Act*.

### Item: 9.3

## Review of Council's Audit and Risk Committee Charter

<b>OFFICER</b>	Marlo Emmitt
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. 16.1 Audit and Risk Advisory Committee Charter - Adopted 26 August 2020 - For Revocation [9.3.1 - 13 pages]</li><li>2. Audit and Risk Advisory Committee Charter - Review option #2 - first principles approach - watermark [9.3.2 - 10 pages]</li></ol>

### 1. PURPOSE

To present the revised Audit and Risk Committee Charter to Council for endorsement (refer Attachment 2).

### 2. EXECUTIVE SUMMARY

Council's current Audit and Risk Committee Charter (Charter) was adopted by Council on 26 September 2020.

Following officer review of the current Charter, two options for improvement were identified. These options were presented to the Audit and Risk Committee meeting on 10 August 2022, at which the Audit and Risk Committee strongly supported Option 2.

The two options were then discussed at the Councillor Briefing session held on 7 September 2022, along with the associated annual work plan. General support for Option 2 was also given.

### 3. RECOMMENDATION

**That Council:**

- 1. Notes the Audit and Risk Committee:**
  - 1.1. Has reviewed two options to make improvements to its Charter to ensure that the Committee is effective in fulfilling its responsibilities as outlined in the Local Government Act 2020 and as determined by Council.**
  - 1.2. Has reviewed draft work plans for the 2023 year to ensure that the Committee's efforts align to the responsibilities outlined in its Charter.**
  - 1.3. Recommends that Council consider adoption of an updated Charter (and associated Work Plan), consistent with Option 2 (refer Attachment 2).**
- 2. Adopts the revised Audit and Risk Committee Charter attached to this report (refer Attachment 2).**
- 3. Notes that the Charter will be reviewed by the Audit and Risk Committee in 12 months.**
- 4. Revokes the Audit and Risk Committee Charter at Attachment 1.**

### 4. KEY INFORMATION

Council adopted an updated Audit and Risk Committee Charter (Charter) on 26 September 2020 as part of its transition to the *Local Government Act 2020* (LGA 2020).

Following a review of the current Charter by officers, opportunities for improvement were identified, including but not limited to:

- Clearer alignment to the role and responsibilities set out in Sections 53 and 54 of the LGA 2020.
- Processes to ensure that Council received advice from the Audit and Risk Committee in a timelier manner.
- Greater support for the role of the Chair of the Audit and Risk Committee.
- Improved readability and removal of unnecessary or duplicated information, including content preceding the LGA Act 2020 as it is not directly relevant or necessary to the current Audit and Risk Committee.
- Removal of secretariat and support details that are unnecessary in the Charter while retaining clear commitment of support to be provided by management and the organisation.

The revised Charter has also been informed by Charters from the following Councils, many of which are very similar to each other:

- City of Greater Bendigo
- Shire of Campaspe
- City of Melbourne
- Golden Plains Shire
- Wodonga City Council
- Surf Coast Shire
- City of Monash.

As a result of officers' review, the following two options were prepared and presented to the 10 August 2022 Audit and Risk Committee meeting for consideration:

- Option 1: retain the current Charter as a base document and make edits.
- Option 2: start afresh (refer Attachment 2).

While the suggested changes under Option 1 aimed to improve the readability and relevance of the Charter, officers prepared an Option 2 as it was considered that a 'fresh start' provided greater opportunity to create a better quality and more effective document.

Officers also prepared two draft Works Plans to enable the Audit and Risk Committee to consider these concurrently with the suggested changes to the Charter options. The Audit and Risk Committee strongly supported Option 2.

## 5. CONSIDERATIONS

### **Overarching Governance Principles** (s(9)(2) LGA 2020)

Both Charters have been reviewed and are consistent with Section 53 of the Local Government Act 2020 (LGA 2020). While neither option contradicts Section 54 of the LGA 2020, Option 2 is considered to more clearly reflect this section with respect to the Audit and Risk Committee's responsibilities.

The review of the Charter reflects the innovation and continuous improvement that is to be pursued, as per Section 9(2)(e) of the LGA 2020.

### **Policies and Relevant Law** (s(9)(2)(a) LGA 2020)

*Local Government Act 2020*

### **Environmental and Sustainability Implications** (s(9)(2)(c) LGA 2020)

No impact.

### **Community Engagement** (s56 LGA 2020 and Council's Community Engagement Policy)

Not applicable.

### **Public Transparency** (s58 LGA 2020)

The adopted Charter will be published on Council's website.

### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

### **Financial Management** (s101 Local Government Act 2020)

There are no budget or resource implications associated with this report. Council has an allocation in its 2022-23 Budget that is consistent with the support needed to be provided to the Audit and Risk Committee in accordance with the suggested charters.

### **Service Performance** (s106 Local Government Act 2020)

Not applicable.

### **Risk Assessment**

Not applicable.

### **Communication/Implementation**

The adopted Audit and Risk Committee Charter and associated work plan will be communicated to the Audit and Risk Committee and relevant officers.

### **Human Rights Charter**

The suggested changes contained in Option 2 of the Charter include recognition of the importance of gender equality when considering committee composition. Gender neutral language has also been used through the document. No impact to human rights has been identified.

### **Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

### **Options**

#### Option 1 – Adopt the Audit and Risk Committee Charter – Option 2

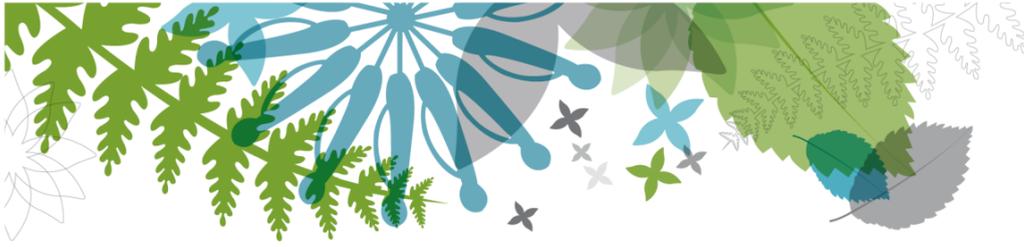
This option is recommended by officers as it has been recommended by the Audit and Risk Committee meeting.

#### Option 2 – Adopt the Audit and Risk Committee Charter – Option 2 - with amendments

This option is not recommended by officers as no changes were recommended by the Audit and Risk Committee.

#### Option 3 – Do not adopt the Audit and Risk Committee Charter – Option 2

This option is not recommended by officers as a thorough review of the current Charter has been conducted and the Audit and Risk Committee recommended the adoption of Option 2.



## AUDIT AND RISK COMMITTEE CHARTER

### 1. PREFACE

Section 53(1) of the Local Government Act 2020 (the Act) states that “a Council must establish an Audit and Risk Committee”. Section 54(1) of the Act states “a Council must prepare and approve an Audit and Risk Committee Charter.”

This Charter has been developed in response to the Act requirements. It has been developed with reference to the model Audit Charter provided by the Institute of Internal Auditors North America, as recommended in “*Audit Committees - A Guide to Good Practice for Local Government*” issued by Local Government Victoria in January 2011.

### 2. INTRODUCTION

The Audit and Risk Committee (ARC) plays an important role in providing oversight of Colac Otway Shire Council’s governance, risk management, internal control practices, internal and external audit functions<sup>1</sup>. This oversight mechanism also serves to provide confidence in the integrity of these practices.

### 3. BACKGROUND

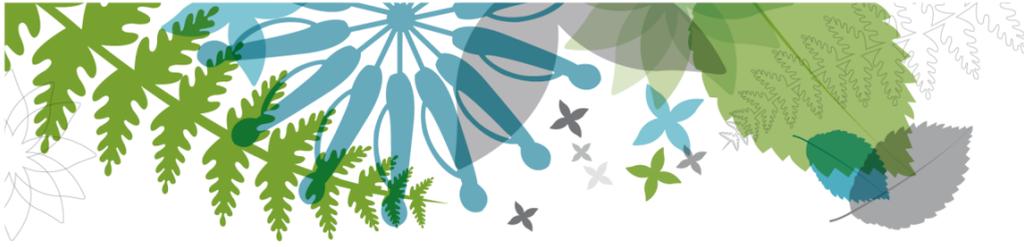
The ARC’s previous Charter was reviewed and approved by Council on 22 April 2015. This Charter has been developed in accordance with the Section 54(7) of LG Act 2020, which states: *A Council must approve the first Audit and Risk Committee Charter and establish the first Audit and Risk Committee on or before 1 September 2020.*

### 4. PURPOSE

The purpose of the ARC is to provide a structured, systematic oversight of Council’s governance, risk management and internal control practices. The ARC assists the Council and management by providing advice and guidance on the adequacy of initiatives for:

- Values and behaviours (What We Stand For)
- Governance structure
- Risk management
- Internal control framework
- Oversight of the internal audit activity, external auditors and other providers of assurance
- Financial and performance statements and public accountability reporting.

<sup>1</sup> Section 54(2)(d) of the Local Government Act 2020



## AUDIT AND RISK COMMITTEE CHARTER

In broad terms, the ARC reviews each of the items noted above and provides the Council with independent advice and guidance regarding the adequacy and effectiveness of management's practices and potential improvements to those practices.

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### 5. MANDATE

The ARC has been established under Section 53 of the Local Government Act 2020 (and previously Section 139 of the Local Government Act 1989). The Act states that the ARC is not a delegated committee.<sup>2</sup>

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### 6. AUTHORITY

The ARC Charter sets out the authority of the ARC to carry out the responsibilities established for it by the Council as articulated within the ARC Charter.

In discharging its responsibilities, the ARC will be supported by the General Manager Corporate Services (GMCS), who can facilitate provision of relevant information, records data and reports it considers necessary to discharge its duties. Some information may be denied due to legal or confidentiality reasons.

The ARC is entitled to receive any explanatory information that it deems necessary to discharge its responsibilities. The GMCS will facilitate ARC requests.

The ARC may request engagement of counsel or other advisors it deems necessary to carry out its duties.

The ARC is empowered to:

- Appoint and oversee all audit and non-audit services performed by the internal audit contractor. As the annual financial audit is undertaken by the Auditor-General Victoria or his/her appointed contractor the ARC has no ability to appoint the external auditor.
- Resolve any disagreements between management and the internal auditor or external auditor regarding financial reporting and other matters.
- Preapprove all internal auditing services performed by the internal audit contractor.

The ARC, through the independent ARC members, will assist the GMCS in the:

Assessment of tenders for the internal audit contract and recruitment process for new independent ARC members.

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<sup>2</sup> Section 53(2) of the Local Government Act 2020



## AUDIT AND RISK COMMITTEE CHARTER

The ARC will receive recommendation reports, which after formal acceptance, will be provided to the Council. Only the Council can formally appoint internal audit contractors and independent ARC members, which will be subject to a resolution at a Council meeting.

### 7. COMPOSITION OF THE COMMITTEE

#### Composition of the Committee<sup>3</sup>

The ARC will be comprised of five members as follows:

- Two Councillors.
- Three independent members.
- Consist of a majority of members who are not Councillors of the Council.

The Act has specific requirements about the ARC collectively having expertise in financial management and risk<sup>4</sup> and experience in public sector management<sup>5</sup>. In addition, ARC members should collectively possess sufficient knowledge of audit, specific industry knowledge, IT, law, governance, and control. The Act precludes any person who is a member of Council staff of the Council<sup>6</sup> from being an ARC member.

Because the responsibilities of the ARC evolve in response to regulatory, economic, and reporting developments, it is important to periodically reevaluate members' competencies and the overall balance of skills on the ARC in response to emerging needs.

### 8. CHAIR OF THE COMMITTEE

The Chair of the ARC must not be a Councillor of the Council.<sup>7</sup> The whole ARC will recommend appointment of the Chair to the Council. Only the Council can formally appoint the Chair, which will be subject to a resolution at a Council meeting.

Should the appointed chair be unavailable at an ARC meeting, a chair will be appointed from the independent ARC members in attendance by all the ARC members in attendance.

<sup>3</sup> Section 53(3) of the Local Government Act 2020: An Audit and Risk Committee must— (a) include members who are Councillors of the Council; and (b) consist of a majority of members who are not Councillors of the Council

<sup>4</sup> Section 53(3)(b)(i) of the Local Government Act 2020

<sup>5</sup> Section 53(3)(b)(ii) of the Local Government Act 2020

<sup>6</sup> Section 53(3)(c) of the Local Government Act 2020

<sup>7</sup> Section 53(4) of the Local Government Act 2020: A chairperson of an Audit and Risk Committee must not be a Councillor of the Council.



## AUDIT AND RISK COMMITTEE CHARTER

The ARC may choose to recommend appointment of a Deputy Chair. Only the Council can formally appoint the Deputy Chair, which will be subject to a resolution at a Council meeting.

### 9. TERMS OF OFFICE

#### **Councillors**

Councillor ARC members shall be appointed annually by the Council.

#### **Independent Committee Members**

Independent ARC members shall be appointed for an initial term of three years. They have a right of reappointment after the first term, by application of the ARC member. The maximum term of an independent ARC member is three terms or nine years.

The terms of each independent ARC member will be arranged so that there is an orderly rotation of membership, with the turnover and replacement of independent members programmed to maintain the integrity of the ARC. Unless there is a substantive reason not to, the terms of appointment will commence at the first meeting after the review of the Annual Financial and Performance Statements.

The current term schedule has been endorsed by the current ARC to bring all current members back in line with the commencement requirement above. Current terms of Independent ARC members are as follows:

Member	Initial appointment	End of current term	Proposed new term
Michael Said	1 December 2005	25 January 2021	
Brian Keane	5 December 2018	5 December 2021	
Member 3			

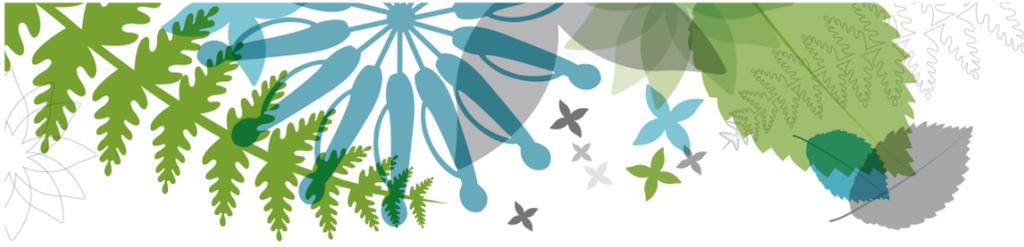
### 10. QUORUM

A quorum of any meeting will be at least two independent ARC members and at least one Councillor.

### 11. OPERATIONAL PRINCIPLES

#### **ARC Values**

The ARC will conduct itself in accordance with the “What We Stand For” code of values and behaviours of the Council and in accordance with Section 53(5) of the Local Government Act 2020.



## AUDIT AND RISK COMMITTEE CHARTER

### **Communications**

The ARC expects that all communication with management and staff of the organisation, as well as with any external assurance providers, will be direct, open, and complete.

### **Work Plan**<sup>8</sup>

The ARC will collaborate with the GMCS to establish a work plan to ensure that the responsibilities of the ARC are scheduled and will be carried out.

### **Meeting Agenda**

The Manager Governance and Communications (MGC) will establish agendas for ARC meetings in consultation with the Chair.

The MGC will circulate the agenda and supporting documentation to members of the Committee at least 5 days in advance of each meeting in electronic data format e.g. email.

### **Information Requirements**

The ARC will establish and communicate its requirements for information, which will include the nature, extent, and timing of information. Information that is scheduled on an agenda will be provided to the ARC with the circulation of the agenda. Information that is sought at an ARC meeting will be provided at the next meeting unless requested otherwise.

### **Preparation and Attendance**

ARC members are obligated to prepare for and participate in meetings. Participation can be in person, via teleconference or video conference. If attendance is via teleconference or videoconference the member will retain full voting rights.

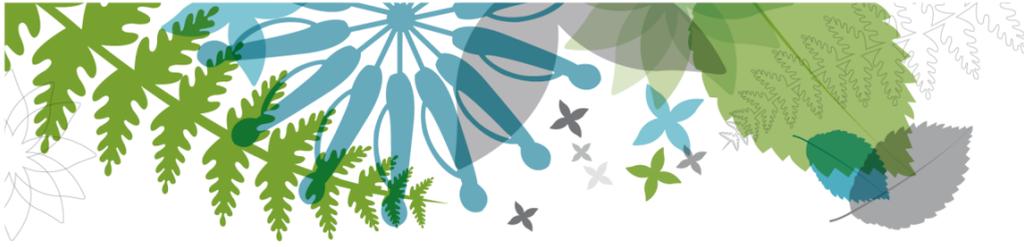
### **Conflict of Interest, Misuse of Position and Confidential Information**

Section 123 (misuse of position), 125 (confidential information) and Division 2 of Part 6 (conflict of interest) of the Act apply to an ARC member who is not a Councillor as if the member were a member of a delegated committee.<sup>9</sup>

All ARC members are expected to be aware of these provisions of the Local Government Act 2020. Failure to comply with the provisions of the Act may result in the ARC member's appointment being terminated.

<sup>8</sup> Section 54(3) of the Local Government Act 2020

<sup>9</sup> Sections 53(5) of the Local Government Act 2020



## AUDIT AND RISK COMMITTEE CHARTER

### ***Conflict of Interest***

ARC members must disclose any conflicts of interest to the Chair of the ARC. Where the conflict is related to the Chair of the ARC it must be disclosed to the Mayor.

Once a conflict of interest is identified the ARC member must:

1. Disclose the conflict of interest immediately before the matter is considered in the meeting, including the:
  - a) Type of interest and class; and
  - b) The nature of the interest.
2. Notify the Chair that they are leaving the meeting.
3. Leave the room and vicinity while the matter is being considered and await the Chair's direction to return.
4. Notify the Chair prior to the meeting if they are not going to be present at the meeting.

If details are private in nature, then the nature of the interest can be declared to the Chair in writing prior to the meeting and the disclosure will simply be the type of interest and class.

Disclosure of conflicts of interest must be minuted.

Independent ARC members will be required to sign an Initial Personal Interest Form upon commencement of their term, and a biannual Personal Interests Return as required under the Local Government Act 2020.

### ***Misuse of Position***

ARC members must not intentionally misuse their position to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person, or cause, or attempt to cause, detriment to Council or another person.

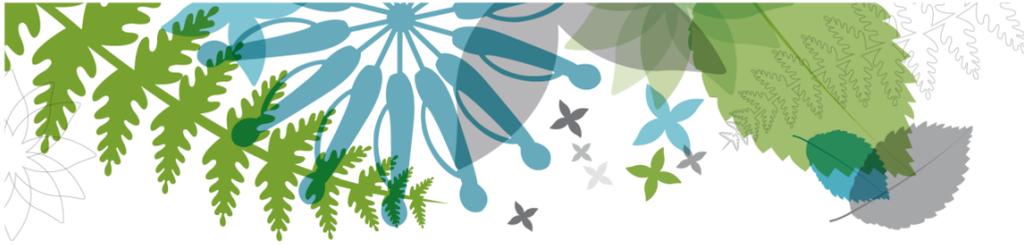
### ***Confidential Information***

ARC members must not intentionally or recklessly disclose information that they know, or should reasonably know, is confidential information.

Independent ARC members will be required to sign a Confidentiality Agreement upon commencement of their term.

### ***Orientation and Training***

ARC members will receive formal orientation training on the purpose and mandate of the ARC and on the organisation's objectives. A process of continuing education will be established.



## AUDIT AND RISK COMMITTEE CHARTER

### 12. OPERATIONAL PROCEDURES

#### **Meetings**

Meetings shall be held not less than four times per annum and timing will be set to ensure that the ARC can properly discharge its responsibilities pursuant to this Charter. ARC members are expected to attend every meeting of the ARC.

Special meetings may be convened as required. The GMCS will convene a meeting at the request of the Chairperson, an ARC member, the external or internal auditors.

Where a matter is required to be dealt with by the ARC between meetings, it will be undertaken by circulating the resolution. The report outlining the matter and a request to vote on the item will be sent via email.

#### **Minutes**

Draft minutes of ARC meetings will be prepared and circulated to all ARC members within 3 weeks of each meeting. Finalised minutes will be included in the following ARC meeting agenda. Upon acceptance of the minutes by the ARC, they will be presented to the next Council meeting.

#### **Required Attendance**

The Chief Executive Officer and GMCS are required to attend every meeting. Officers who have authored reports will be required to attend to speak to their reports, but are not required to attend the whole meeting. Attendance can be in person, via teleconference or video conference.

#### **Secretariat Services**

Secretarial and administrative support will be provided to the ARC by a member of the Governance Team.

#### **Remuneration of Committee Members**

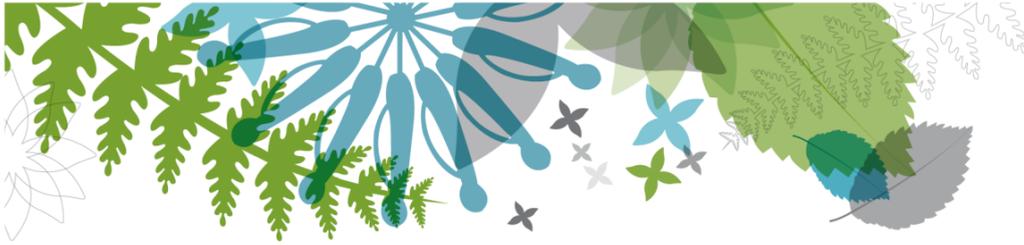
Councillor ARC Members are not remunerated for their role on the ARC.

Remuneration will be paid to each Independent ARC member<sup>10</sup>. The basis of the fee may be an annual fee, a set fee per meeting, or some other basis negotiated with the Chief Executive Officer.

A Letter of Offer must be signed by Independent ARC members and Council. The Letter of Offer must describe any remuneration arrangements and be signed prior to appointment.

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<sup>10</sup> Section 53(6) of the Local Government Act 2020: A Council may pay a fee to a member of an Audit and Risk Committee who is not a Councillor of the Council.



## AUDIT AND RISK COMMITTEE CHARTER

The chair will receive an additional allowance as negotiated and determined by the Chief Executive Officer.

The Chief Executive Officer will review the remuneration annually in accordance with the terms of appointment.

### **Responsibilities**

It is the responsibility of the ARC to provide Council with independent, objective advice on the adequacy of management's arrangements with respect to the following aspects of the management of the organisation:

### ***Values and Ethics***

To obtain reasonable assurance with respect to the organisation's values and ethics practices, the ARC will:

- Review and assess the policies, procedures, and practices established to monitor conformance with the code of conduct and ethical policies by all managers and staff.
- Provide oversight of the mechanisms established by management to establish and maintain high ethical standards for all managers and staff.
- Review and provide advice on the systems and practices established by management to monitor compliance with laws, regulations, policies, and standards of ethical conduct and identify and deal with any legal or ethical violations.

### ***Organisational Governance***

To obtain reasonable assurance with respect to governance process, the ARC will:

- review and provide advice on the governance process established and maintained within the organisation and the procedures in place to ensure that they are operating as intended.
- monitor compliance of policies and procedures with the overarching governance principles, the Local Government Act 2020, relevant regulations and any Ministerial directions<sup>11</sup>.
- Monitor financial and performance reporting.<sup>12</sup>
- Monitor any ongoing legal matters until the matter is determined.

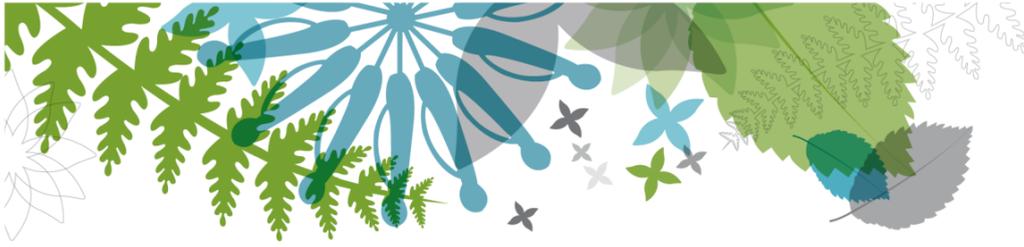
### ***Risk Management***

To obtain reasonable assurance with respect to risk management practices, the ARC will:

- Provide oversight on significant strategic and operational risk exposures and control issues, including fraud and corruption risks, governance issues, and other matters needed or requested by senior management and the Council.
- Review and provide advice on the risk management processes established and maintained by management and the procedures in place to ensure that they are operating as intended.
- Review the risk profile at least annually.

<sup>11</sup> Section 54(2)(a)(i) and (ii) of the Local Government Act 2020

<sup>12</sup> Section 54(2)(b) of the Local Government Act 2020



## AUDIT AND RISK COMMITTEE CHARTER

- Obtain an annual report on management’s implementation and maintenance of an appropriate enterprise wide risk management process.
- Business Continuity Plans and the IT Disaster Recovery Plan will be reviewed at least annually with regard to risk management.
- Occupational Health and Safety Action Plan will be reviewed at least annually with regard risk management.
- Provide oversight of the adequacy of the combined assurance being provided.

### ***Fraud and corruption***

To obtain reasonable assurance with respect to procedures for the prevention and detection of fraud, and corruption the ARC will:

- Oversee management’s arrangements for the prevention and deterrence of fraud and corruption.
- Ensure that appropriate action is taken in respect of any suspected fraud or corruption matter.
- The Chair should be advised immediately of suspected fraud or corruption, and the proposed course of action.
- The ARC will be advised, in camera, at the next ARC meeting of the progress of investigations into suspected fraud and corruption.
- Challenge management and internal and external auditors to ensure that appropriate anti-fraud and corruption programs and controls are in place to identify potential fraud and ensure that investigations are undertaken if fraud is detected.

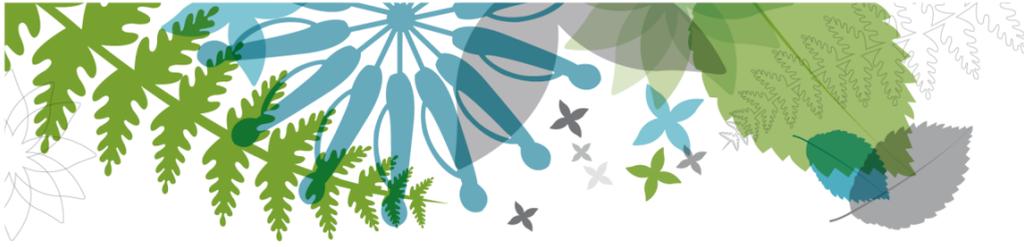
### ***Control***

To obtain reasonable assurance with respect to the adequacy and effectiveness of controls in responding to risks within the governance, operations and information systems, the ARC will:

- Consider the effectiveness of the control framework, including risk management, fraud prevention<sup>13</sup>, and information technology security and control.
- Review and provide advice on the control of the organisation as a whole and its individual units.
- Receive reports on all matters of significance arising from work performed by other providers of financial and internal control assurance to senior management and the Council.
- Business Continuity Plans and the IT Disaster Recovery Plan will be reviewed at least annually.

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<sup>13</sup> Section 54(2)(c) of the Local Government Act 2020



## AUDIT AND RISK COMMITTEE CHARTER

### **Compliance**

The ARC will:

- Review the effectiveness of the system for monitoring compliance with laws, regulations and Council policies, and the results of management's investigation and follow up of any instances of non-compliance.
- Review the observations and conclusions of internal and external auditors and the findings of any regulatory agencies.
- Review the process for communicating the code of conduct to staff and for monitoring compliance.
- Obtain regular updates from management regarding compliance matters.

### **Charter Review**

This Charter will be reviewed by the ARC on a biennial basis, and the ARC will provide a report to the Council recommending that the Council approve the Charter. The Charter can only be adopted by a resolution of Council.

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## 13. OVERSIGHT OF INTERNAL AUDIT ACTIVITY AND OTHER ASSURANCE PROVIDERS

### **Internal Audit Activity**

To obtain reasonable assurance with respect to work of the internal audit activity, the ARC will provide oversight related to:

#### **Internal Audit Control**

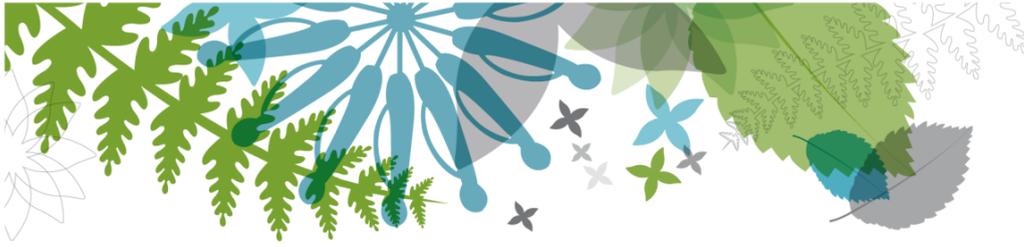
- Review and endorse the Internal Audit Control at least annually to ensure that it accurately reflect the ARC's purpose, authority, and responsibility.
- Provide the Internal Audit Control to the Council for adoption.

#### **Strategic Internal Audit Plan**

- Review and provide input on the internal audit activity's strategic plan, objectives, performance measures, and outcomes.
- Review and approve proposed risk-based internal audits and make recommendations concerning internal audit projects.
- Review and approve the Internal Audit Plan and engagement work program, including reviewing internal audit resources necessary to achieve the plan.
- Review the internal auditor performance relative to the Internal Audit Plan.

#### **Internal Audit Engagement and Follow Up**

- Review internal audit reports and other communications to management.
- Review and track management's action plans to address the results of internal audit engagements.



## AUDIT AND RISK COMMITTEE CHARTER

- Review and advise management on the results of any special investigations.
- Enquire of the Chief Executive Officer whether any internal audit engagements or non-audit engagements have been completed but not reported to the ARC; if so, enquire whether any matters of significance arose from such work.
- Enquire of the Chief Executive Officer whether any evidence of fraud has been identified during internal audit engagements and evaluate what additional actions, if any, should be taken.

### **External Auditors**

To obtain reasonable assurance with respect to work of the external auditors, the ARC will meet with the external auditors during the planning phase of the engagement, the presentation of the audited financial statements, and the discussion of the results of engagements and recommendations for management.

The ARC will:

- Review the external auditors' proposed audit scope and approach, including coordination of audit effort with the internal audit activity.
- Have exclusive meetings with external auditors and internal auditors to discuss sensitive matters.
- Meet separately with both the internal auditor and the external auditor at least annually.
- Monitor management's progress on action plans.

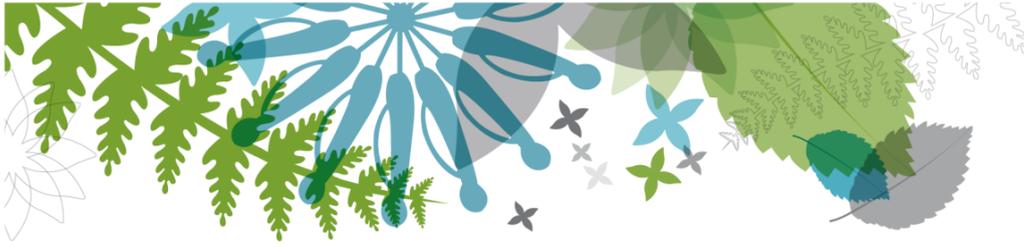
To obtain reasonable assurance that management has acted on the results and recommendations of internal and external audit engagements, the ARC will regularly review reports on the progress of implementing approved management actions plans and audit recommendations resulting from completed audit engagements, internal and external.

### **Financial Statements and Public Accountability Reporting**

The ARC is responsible for oversight of the independent audit of the financial statements and performance statements, including but not limited to overseeing the resolution of audit findings in areas such as internal control, legal, regulatory compliance, and ethics.

The ARC will:

- Review with management and the external auditors the results of audit engagements, including any difficulties encountered.
- Review significant accounting and reporting issues, concluding complex or unusual transactions and highly technical areas, and recent professional and regulatory pronouncements, and understand their impact on the financial statements.
- Review the annual financial statements and performance statement, and consider whether they are complete, consistent with information known to ARC Members, and reflect appropriate accounting standards.



## AUDIT AND RISK COMMITTEE CHARTER

- Review with management and the external auditors all matters required to be communicated to the ARC under generally accepted external auditing standards.
- Understand strategies, assumptions and estimates that management has made in preparing the financial statements, budgets, and strategic and financial plans (Part 4 – Planning and Financial Management, Local Government Act 2020)
- Review interim financial reports with management and consider whether they are complete and consistent with the information known to ARC Members.

### **Other Responsibilities**

In addition, the ARC will:

- Perform other activities related to this Charter as requested by the Council.
- Institute and oversee special investigations as needed.
- On an annual basis undertake an assessment of its performance against the Charter and provide a copy of the annual assessment to the Chief Executive Officer for tabling at the next Council meeting<sup>14</sup>.

### **Reporting on Audit Committee Performance**

The ARC will prepare a biannual audit and risk report that describes the ARC's activities and includes its findings and recommendations and provide a copy of the biannual report to the Chief Executive Officer for tabling at the next Council meeting<sup>15</sup>.

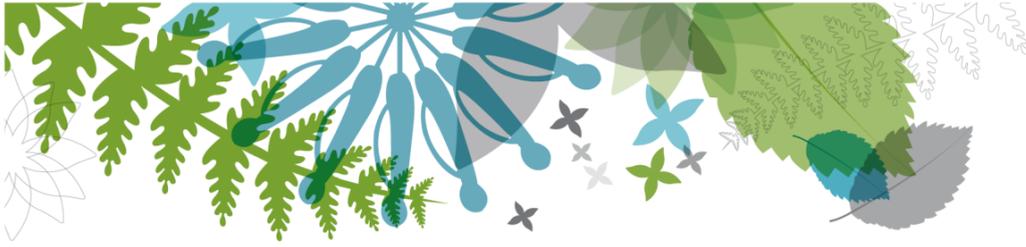
The report should include:

- A summary of the work the ARC performed to fully discharge its responsibilities.
- A summary of management's progress in addressing the results of internal and external audit engagement reports.
- An overall assessment of management's risks, controls, and compliance processes, including details of any significant emerging risks or legislative changes impacting the organisation.
- Details of meetings, including the number of meetings held during the relevant period and the number of meetings each member attended.
- Provide information required, if any, by new or emerging corporate governance developments.

The ARC may report to the Council at any time regarding any other relevant matter it deems of sufficient importance.

<sup>14</sup> Section 54(4)(a) and (b) of the Local Government Act 2020

<sup>15</sup> Section 54(5)(a) and (b) of the Local Government Act 2020



## AUDIT AND RISK COMMITTEE CHARTER

### APPROVAL

Charter approved by Council	26 August 2020
Signed by the Chief Executive Officer	 Date: 27 August 2020

For Revocation



## AUDIT AND RISK COMMITTEE CHARTER

### 1 PURPOSE OF THIS CHARTER

The Colac Otway Shire Council (Council) has established an Audit and Risk Committee (the Committee) pursuant to Section 53 of the Local Government Act 2020 (the Act).

The purpose of this charter is to facilitate the operation of the Committee.

This charter is prepared and approved by Council pursuant to section 54 (1) of the Act.

### 2 AUTHORITY

The Committee acts in an advisory capacity to the Council only and reports directly to the Council.

The Committee is not a delegated committee of Council.

The Committee does not have any delegated financial responsibility.

Pursuant to section 53(2) of the Act, the Committee does not have and therefore cannot exercise any executive powers, or management functions.

To empower the Committee to discharge its responsibilities as set out in this charter, Council authorises the Committee to:

- Provide advice and make recommendations to Council on matters within the Committee's areas of responsibility as set out in legislation, this Charter or by specific resolution of Council;
- Review 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 recommend to Council for its approval the three-year rolling strategic internal audit plan, the annual internal audit plan and any major changes to them, ensuring the proposed strategic internal audit plan appropriately considers Council's strategic risks and allocated budget for the internal audit plan;
- Review and approve proposed scopes for each review in the annual internal audit plan;
- Meet solely with the Internal Auditor at least once per year;
- Meet solely with the External Auditor at least once per year; and
- Request, through the Chief Executive Officer:
  - appropriate management support to enable the Committee to discharge its responsibilities effectively; and
  - the attendance of Council officers at meetings, and request the attendance of internal audit, external audit or other assurance providers, where appropriate.
- Recommend directly to the Council, the appointment of relevant independent experts where the Committee considers that it is necessary in order to execute its responsibilities.



## AUDIT AND RISK COMMITTEE CHARTER

The scope, functions and responsibilities of the Committee are set out in this Charter. Any request made to Officers by the Committee that falls outside of the express provisions of this Charter will be assessed at the discretion of the Chief Executive Office.

### 3 MEMBERSHIP AND TENURE

#### **Composition**

- 3.1 The Committee will consist of five members appointed by Council, three of whom must be independent members and two members will be Councillors.
- 3.2 In accordance with section 53(3)(c) of the Act, the Committee will not include any person who is a member of Council staff.

#### **Independent Members**

- 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 will be appointed for an initial period not exceeding three years. Members may be re-appointed for a further period. Members will not be appointed for more than three consecutive terms.
- 3.5 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.
- 3.6 Independent members will have full voting rights.
- 3.7 Independent members will receive an annual allowance as approved by Council, having reviewed the allowance once every four years with like sized rural councils. The Chair will receive an additional allowance to be determined by Council. The approved allowances will be increased annually by the average rate revenue increase determined by Council through its adopted budget.
- 3.8 An independent member that is absent for two consecutive meetings, without submitting an apology or been granted a leave of absence, will create a casual vacancy.

#### **Councillor Members**

- 3.9 Councillor members will be appointed to the Committee by Council annually.
- 3.10 Councillors who are not appointed as members of the Committee, may attend any meeting of the Committee as an observer. For clarity, only Councillors appointed by Council to the Committee have voting rights.

#### **Chair**

- 3.11 The Chair will be appointed by Council resolution.
- 3.12 In accordance with section 53(4) of the Act, the Chair must be an independent member of the Committee as it must not be a Councillor.
- 3.13 The Committee will make a recommendation to Council about the appointment of the Chair.
- 3.14 The Chair must not exceed any two-year continuous period;



## AUDIT AND RISK COMMITTEE CHARTER

3.15 The Committee is authorised to appoint an Acting Chair, from the independent members, when required.

3.16 The role of the Committee Chair includes:

- Assisting in determining the Agenda for Committee meetings.
- Chairing meetings of the Committee in accordance with the meeting Agenda.
- Preparation of a biannual audit and risk report that is to be provided to the Chief Executive Officer for tabling at the next practicable Council meeting. The report must describe the activities of the Audit and Risk Committee and includes its findings and recommendations
- Circulating the annual self-assessment, and collating and sharing the results with Committee members and with the Chief Executive Officer for tabling at the next practicable Council meeting.

3.17 The Chair shall have a casting vote on occasions where there is an equal tally of votes on a matter.

### **Quorum**

3.18 A quorum of any meeting will comprise at least two independent members and at least one Councillor member.

### **Induction**

3.19 All Committee members will receive an induction to the purpose and responsibilities of the Committee and will receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities.

### **Removal of a Member**

3.20 If Council proposes to remove a member of the Committee prior to the conclusion of their term, it must give written notice of its intention to do so and afford the member an opportunity to respond and be heard at a Council meeting if the affected member so chooses. The Council meeting to hear the response will be open to the public.

### **Recruitment**

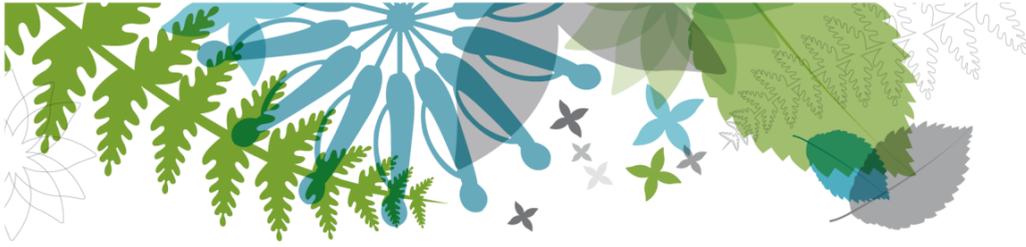
3.21 At the completion of each term of an independent member the position will be made vacant. An outgoing independent member will be eligible to re-nominate for the position, subject to the maximum allowable term.

3.22 If a casual vacancy exists, the vacancy will be filled as if the appointment term of the vacating member had been fulfilled.

3.23 All vacancies of independent members will be advertised sufficiently to attract the required skills, but as a minimum within the Colac Otway Shire.

3.24 A selection panel, comprising one independent member and one Councillor member of the Committee and the Chief Executive Officer, will conduct a selection process to identify candidates suitable to recommend to Council for appointment.

3.25 The criteria for the appointment of independent members will be experience and qualifications to meet the collective skills mix of the Committee.



## AUDIT AND RISK COMMITTEE CHARTER

- 3.26 The Council will appoint Committee members. In appointing members to the Committee, the Council will consider gender balance.
- 3.27 If there are more applications than positions vacant, the selection panel should consider and give weight to the following points when recommending appointments to Council;
- a) Individuals who have already served on the Committee and not reached the maximum term, who have demonstrated a valuable and consistent contribution to the Committee;
  - b) Individuals who demonstrate skills, qualifications and experience in more than two of the identified fields of expertise; and
  - c) Individuals who live and/or work within the Colac Otway Shire.
- 3.28 The selection panel, when recommending a preferred applicant for appointment to the Committee will also have regard to the skill mix of the currently appointed independent members and when possible, ensure at least one independent member has a sound knowledge and understanding of the local government sector and its roles and responsibilities.

### **Insurance**

- 3.29 Members of the committee are covered by Council's insurance policies.

## 4 MEETINGS

### **Frequency and Attendance**

- 4.1 The Committee will meet at least four times a year, with authority to convene additional meetings, as circumstances require.
- 4.2 A schedule of meetings will be developed annually and agreed by members. The schedule will ensure that the annual work program for the forthcoming year enables the Committee to cover all the functions and responsibilities outlined in this charter.
- 4.3 Additional meetings may be called by the Committee Chair, or at the request of the Mayor or Chief Executive Officer.
- 4.4 All Committee members are expected to attend each meeting in person as often as possible, although members can attend through electronic means. The Chair and Chief executive Officer will be provided notice of electronic attendance with sufficient time to ensure technology and support is suitable. Any member attending via electronic means will retain full voting rights.
- 4.5 The Chief Executive Officer will ensure that there is secretariat support for the meetings of the Committee and invite members of management, internal and external auditors or others to attend meetings as observers and to provide pertinent information, as necessary. The Chief Executive Officer, General Manager Corporate Services, Manager Governance and Communications and the Manager Finance will attend all meetings.
- 4.6 Committee meetings are closed to the public.



## AUDIT AND RISK COMMITTEE CHARTER

- 4.7 The Committee may ask staff members, other than the Chief Executive Officer to leave the meeting to discuss a confidential item. If the Committee wishes to discuss a confidential item without the Chief Executive Officer, the Committee must resolve to close the meeting to all Council employees.

### **Agenda and Minutes**

- 4.8 Meeting agendas will be prepared and provided to the Chair at least eight working days for their review before distributing the agenda to all members at least five working days in advance of the Committee meeting. Supplementary material may be provided after the issuance of the agenda where this accommodates up to date information from Council management or auditors.
- 4.9 Agendas will be distributed to Councillors for information within 24 hours of the distribution to Committee members.
- 4.10 Minutes will be taken at each meeting.
- 4.11 Draft minutes of Committee meetings will be prepared and circulated to members within ten working days of each meeting.
- 4.12 Draft minutes, without attachments, will be presented as “*Unconfirmed Committee Minutes*” to the next practicable Council meeting to ensure that Council receives the Committee’s advice in a timely manner. A copy of the Committee Agenda, inclusive of attachments to reports, will be presented as a Confidential Attachment to the same Council Meeting.
- 4.13 The Committee will confirm its minutes at the next Committee meeting and will become the Final Minutes.
- 4.14 Final Minutes will only be presented to a Council Meeting if there are changes made from the draft minutes, other than minor administrative changes.

## 5 ROLE OF THE COMMITTEE

The role of the Committee is 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.

The Committee acts in this capacity by monitoring, reviewing, endorsing and advising on the above matters as set out in this Charter.

The Committee seeks also to add to the credibility of Council by promoting ethical standards through its work.



## AUDIT AND RISK COMMITTEE CHARTER

### 6 RESPONSIBILITIES OF THE COMMITTEE

The Committee's functions and responsibilities, in accordance with section 54(2) of the Act, are to:

- (a) monitor the compliance of Council policies and procedures with—
  - (i) the overarching governance principles; and
  - (ii) the Act and the regulations, and any Ministerial directions;
- (b) monitor Council financial and performance reporting;
- (c) monitor and provide advice on risk management and fraud prevention systems and controls;
- (d) oversee internal and external audit functions.

To achieve this, the Committee will review and advise Council on specific internal systems and activities of Council through:

- Assessing Council policies to monitor compliance with the Act, including with the overarching governance principles as set out in section 9 of the Act;
- Ensuring the appropriate application of Council's accounting policies, including ensuring compliance with the financial management principles set out in section 101 of the Act;
- Assessing and ensuring reliable and complete financial and performance reporting;
- Appraising the level and effectiveness of Business Continuity Plans and Enterprise Risk Management practices, including risks and risk controls and mitigations recorded in the risk register;
- Assessing implemented internal fraud and corruption controls and the results of any control testing undertaken;
- Ensuring that internal and external auditors provide independent and objective analysis and reporting on internal corporate governance, risk management, internal control and compliance.

#### **Financial and Performance Reporting**

- 6.1 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.
- 6.2 At least annually review changes to the Local Government Performance Reporting Framework and understand the impact of those changes on Council's performance indicators.
- 6.3 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.
- 6.4 Review with management and the external auditors the results of the audit, including any difficulties encountered by the auditors and how they were resolved.
- 6.5 Recommend the adoption of the annual financial report and annual performance statement to Council.



## AUDIT AND RISK COMMITTEE CHARTER

- 6.6 Review the appropriateness of the format and content of periodic management financial reports and performance statements to Council as required.

### **Internal Control Environment**

- 6.7 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 and in accordance with approved review dates.
- 6.8 Determine whether systems and controls are reviewed regularly and updated where required.
- 6.9 Monitor significant changes to systems and controls to assess whether those changes significantly impact Council's risk profile.
- 6.10 Ensure that a programme is in place to test compliance with systems and controls.
- 6.11 Assess whether the control environment is consistent with the Governance Principles defined within the Local Government Act 2020.

### **Risk Management**

- 6.12 Review annually the effectiveness of Council's risk management framework.
- 6.13 Review Council's risk appetite statement and the degree of alignment with Council's risk profile.
- 6.14 Review Council's risk profile and the changes occurring in the profile from meeting to meeting.
- 6.15 Review every two years Council's treatment plans for significant risks, including the timeliness of mitigating actions and progress against those plans.
- 6.16 Review the insurance programme prior to renewal of insurance policies.
- 6.17 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**

- 6.18 Review Council's Fraud Prevention policies and controls, including the Fraud Control Plan and fraud awareness programmes at least every two years
- 6.19 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.
- 6.20 Review reports by management about the actions taken by Council to report such matters to the appropriate integrity bodies.

### **Internal Audit**

- 6.21 Review the specifications for the Provision of Internal Audit Services prior to issuance to the market seeking internal audit services to determine that it provides an appropriate functional and organisational framework to enable Council's internal audit function to operate effectively and without limitations.



## AUDIT AND RISK COMMITTEE CHARTER

- 6.22 Review and approve the three year strategic internal audit plan, the annual internal audit plan and any significant changes to them.
- 6.23 Review progress on delivery of the annual internal audit plan.
- 6.24 Review and approve proposed scopes for each review in the annual internal audit plan.
- 6.25 Review reports on internal audit reviews, including recommendations for improvement arising from those reviews.
- 6.26 Meet with the leader of the internal audit function at least annually in the absence of management
- 6.27 Monitor action by management on internal audit findings and recommendations.
- 6.28 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.
- 6.29 Recommend to Council the appointment of an internal audit service provider.
- 6.30 Recommend to Council, if necessary, the termination of the internal audit contractor.

### **External Audit**

- 6.31 Annually review and provide feedback on the external audit scope and plan proposed by the external auditor for their consideration.
- 6.32 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.
- 6.33 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.
- 6.34 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 through Council.
- 6.35 Consider the findings and recommendations of any relevant performance audits undertaken by VAGO and monitor Council's responses to them.
- 6.36 Meet with the external auditor at least annually in the absence of management.

### **Compliance Management**

- 6.37 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.
- 6.38 Obtain briefings on any significant compliance matters.
- 6.39 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 Government Inspectorate, etc. and monitor Council's responses.



## AUDIT AND RISK COMMITTEE CHARTER

### 7 PERFORMANCE EVALUATION

The Committee must 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.

Independent ARC members will be required to sign an Initial Personal Interest Form upon commencement of their term, and a Personal Interests Return biannually.

### 9 REVIEW OF CHARTER

The Committee will 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.

For Adoption



## AUDIT AND RISK COMMITTEE CHARTER

### Appendix A

#### Committee Member Regulatory Obligations

##### Guidance to Members

LGA Section	LGA Requirement
<b>Misuse of Position</b>	
125	A Committee member must not intentionally misuse their position to: <ul style="list-style-type: none"> <li>a) Gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or</li> <li>b) Cause, or attempt to cause, detriment to the Council or another person</li> </ul>
123(3)	Circumstances involving misuse of a position by a member of the Committee include: <ul style="list-style-type: none"> <li>a) Making improper use of information acquired as a result of being a member of the Committee; or</li> <li>b) Disclosing information that is confidential information; or</li> <li>c) Directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or</li> <li>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</li> <li>e) Using public funds or resources in a manner that is improper or unauthorised; or</li> <li>f) Participating in a decision on a matter in which the member has a conflict of interest.</li> </ul>
<b>Confidential Information</b>	
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.
<b>Conflicts of Interest</b>	
125	A member of the Committee has a conflict of interest if the member has: <ul style="list-style-type: none"> <li>a) A general conflict of interest as described in Section 127; or</li> <li>b) A material conflict of interest as described in Section 128.</li> </ul>
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><b>Please Note</b></p> <p>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.</p>	

## Item: 9.4

# Update S6 Instrument of Delegation Council to Council Staff

<b>OFFICER</b>	Belinda Rocka
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	1. S6 Instrument of Delegation Council to Members of Council Staff For Adoption Aug [9.4.1 - 127 pages]

## 1. PURPOSE

To present an updated S6 Instrument of Delegation from Council to Members of Staff (S6 Instrument) for each of the relevant Acts and Regulations as a result of biannual update to legislation as advised by Maddocks legal services.

In addition to further update position titles as a result of the recent organisational restructure and to rectify previous S6 Instrument endorsed by Council in June 2022 with relevant amendments.

## 2. EXECUTIVE SUMMARY

There are a number of Acts and Regulations where Council has express powers of delegation, and delegation of those powers, duties and functions, subject to the limitations and conditions contained in the Instrument of Delegation must be directly to staff and cannot be sub-delegated through the Chief Executive Officer.

Maddocks provides a bi-annual update to any legislative changes that may affect items that are delegated from Council to members of staff. These regular updates are provided in January and July of each year.

The below table summarises new provisions as advised through the July update from Maddocks:

Delegation Source	Provision	Item Delegated	Delegate	Condition and Limitations
<i>Planning and Environment Act 1987</i>	S22(2)	Power to consider a late submission Duty to consider a late	MPSF, CSPMP, CSP and SP	

Delegation Source	Provision	Item Delegated	Delegate	Condition and Limitations
		submission, if directed by the Minister		
<i>Planning and Environment Act 1987</i>	S185B(1)	Duty to comply with a request from the Minister to provide the name, address, email address or telephone number of any person to whom the Minister is required to give notice	MPSF, CSPMP, CSP, SP, PLO, CPBA and PC	

Please note there were also updates to sections 46V(3), 46V(4), 46V(5) and 46V(6) that apply to the Melbourne Airport Environs Strategy Plan. These were not included as they are not relevant to Colac Otway Shire Council.

The below table summarises changed provisions as advised through the July update from Maddocks:

Delegation Source	Provision	Item Delegated	Delegate	Condition and Limitations
<i>Planning and Environment Act 1987</i>	s 4l(2)	Duty to make and copy of the Victorian Planning Provisions and other documents available in accordance with public availability requirements	MPSF, CPBA, CSP, CSPMP, GMCE, PLO, PA	
<i>Planning and Environment Act 1987</i>	s 18	Duty to make amendment etc. available in accordance with public availability requirements	MPSF, CPBA, CSP, CSPMP, GMCE, PA, PLO	Until the proposed amendment is approved or lapsed
<i>Planning and Environment Act 1987</i>	s 21(2)	Duty to make submissions available in accordance with public availability requirements	MPSF, CPBA, CSP, CSPMP, GMCE, CSO, PA	Until the end of 2 months after the amendment comes into operation or lapses
<i>Planning and Environment Act 1987</i>	s 22(1)	Duty to consider all submissions received before the date specified in the notice	MPSF, CSP, CSPMP, GMCE, PLO	Except submissions which request a change to the items in s 22(5)(a) and (b)

Delegation Source	Provision	Item Delegated	Delegate	Condition and Limitations
<i>Planning and Environment Act 1987</i>	s 26(2)	Duty to keep report of panel available in accordance with public availability requirements	MPSF, CPBA, CSP, CSPMP, GMCE, CSO, PA, PLO	During the inspection period
<i>Planning and Environment Act 1987</i>	s 96J	Duty to issue permit as directed by the Minister	MPSF, CSP, CSPMP, CEO, GMCE, PLO	

The following position titles have been updated since Council endorsed the updated S6 at the June 2022 Council meeting:

- Municipal Emergency Management Coordinator (MEMC) is now known as Coordinator Emergency Management (CEM).
- Health Protection Coordinator (HPC) is now known as Coordinator Environmental Health (CEH).
- Local Laws/Community Safety Coordinator (LLCSC) is now known as Coordinator Local Laws Community Safety (CLLCS).
- Planning and Building Administration Coordinator (PBAC) is now known as Coordinator Planning and Building Administration (CPBA).
- Statutory Planning Coordinator (SPC) is now known as Coordinator Statutory Planning (CSP).
- Strategic Planning and Major Projects Coordinator is now known as Coordinator Strategic Planning and Major Projects (CSPMP).

The S6 Instrument also needs to be updated to address an administrative oversight. In certain provisions, the position of Manager Healthy Environments (MHE) had inadvertently been included when in fact it should have been the position of Manager Planning and Strategic Focus (MPSF). The relevant provisions were under the *Planning and Environment Act 1987*, *Residential Tenancies Act 1997*, *Planning and Environment Regulations 2015* and *Planning and Environment (Fees) Regulations 2016*.

### 3. RECOMMENDATION

***That Council:***

- 1. In the exercise of the powers conferred by the legislation referred to in the attached Instrument of Delegation, delegates to the members of Council staff holding, acting in or performing the duties of the officers or positions referred to in that instrument, the powers, duties and functions set out in the Instrument, subject to the conditions and limitations specified in that Instrument.***
- 2. Authorises the Chief Executive Officer to execute the S6 Instrument of Delegation.***
- 3. Approves the use of the common seal in accordance with Colac Otway Shire Council's Governance Local Law No 4 – 2020.***

4. ***Notes that on the coming into force of the S6 Instrument of Delegation, the previous S6 Instrument of Delegation from Council to members of Council staff is revoked.***
5. ***Notes the duties and functions set out in the Instrument must be performed and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that from time to time be adopted.***

## 4. KEY INFORMATION

Council normally reviews and updates its S6 Instrument biannually to address new or changed provisions. Due to a restructure planned to commence on 1 July 2022, Council endorsed changes to the S6 Instrument at its meeting on 29 June 2022. No changes to conditions or limitations on delegations were changed at that time and as much as possible it was a “like for like” translation to address changes in position titles and reporting hierarchies.

Maddocks has now distributed new and changed provisions to Councils who subscribe to their services, and S6 Instruments will enable Council officers to make decisions or actions on behalf of Council under these provisions.

## 5. CONSIDERATIONS

### **Overarching Governance Principles (s(9)(2) LGA 2020)**

The overarching governance principle is that Council decisions are to be made and actions taken in accordance with the relevant legislation.

### **Policies and Relevant Law (s(9)(2)(a) LGA 2020)**

Not applicable.

### **Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)**

Not applicable.

### **Community Engagement (s56 LGA 2020 and Council’s Community Engagement Policy)**

Not applicable.

### **Public Transparency (s58 LGA 2020)**

The Instrument of Delegation from Council to members of Council staff relating to Council powers, duties and functions within various Acts and Regulations is attached to this report.

### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

Council’s policy framework and specific policy decisions provides guidance to staff in executing their delegated powers.

**Financial Management** (s101 *Local Government Act 2020*)

The cost for annual subscription to both Maddocks and RelianSys services has been included in Council's annual budget considerations.

**Service Performance** (s106 *Local Government Act 2020*)

Not applicable.

**Risk Assessment**

The subscribed services provided by Maddocks and RelianSys reduce the resource requirement and the risk of non-compliance for Council to ensure our legislative compliance with over 90 different applicable statutes.

**Communication/Implementation**

Council Officers will be sent updated copies of their delegations on completion of all updates.

**Human Rights Charter**

Not applicable.

**Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

**Options**Option 1 – Adopt the updated S6 Instrument of Delegation

This option is recommended by officers in order to align the Instrument with the requirements of the Act and confer these duties to the relevant officers enabling enforcement of the statutory powers and responsibilities required within legislation.

Option 2 – Not to adopt the updated S6 Instrument of Delegation

This option is not recommended by officers as it will render officers' unable to carry out enforcement of the statutory powers and responsibilities required within legislation and will impact delivery of Council services.



# Colac Otway

SHIRE

COLAC OTWAY SHIRE

INSTRUMENT OF DELEGATION

S6 INSTRUMENT OF DELEGATION - MEMBERS OF  
STAFF

17 AUGUST 2022

Colac Otway Shire

**S6 Instrument of Delegation – Council to Members of Staff**

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 detailed in the below table labelled 'Positions'

3. declares that:

3.1 this Instrument of Delegation is authorised by a resolution of Council passed on 24 August 2022; 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; or

(b) strategy

adopted by Council;

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 )  
COLAC OTWAY SHIRE COUNCIL was )  
Hereunto affixed in the presence of: )

\_\_\_\_\_  
Anne Howard  
Chief Executive Officer

\_\_\_\_\_  
Date

Colac Otway Shire

### Delegation Sources

- Domestic Animals Act 1994
- Food Act 1984
- Heritage Act 2017
- Local Government Act 1989
- Planning and Environment Act 1987
- Residential Tenancies Act 1997
- Road Management Act 2004
- Planning and Environment Regulations 2015
- Planning and Environment (Fees) Regulations 2016
- Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020
- Road Management (General) Regulations 2016
- Road Management (Works and Infrastructure) Regulations 2015

### Positions

Abbreviation	Position
CEO	Chief Executive Officer
CEM	Coordinator Emergency Management
CEH	Coordinator Environmental Health
CLLCS	Coordinator Local Laws Community Safety
CPBA	Coordinator Planning and Building Administration
CRS	Coordinator Revenue Services
CSP	Coordinator Statutory Planning
CSPMP	Coordinator Strategic Planning and Major Projects
EHTO1	Environmental Health Technical Officer 1
EHTO2	Environmental Health Technical Officer 2

## Colac Otway Shire

<b>Abbreviation</b>	<b>Position</b>
GMCE	General Manager Community and Economy
GMCS	General Manager Corporate Services
GMIO	General Manager Infrastructure and Operations
HPSO	Health Protection Support Officer
MAES	Manager Assets and Engineering
MCC	Manager Connected Communities
MFS	Manager Financial Services
MHE	Manager Healthy Environments
MPC	Manager People and Culture
MPSF	Manager Planning and Strategic Focus
MSO	Manager Services and Operations
N/A	Not Applicable
PBA4	Planning and Building Administrator 4
PBA1	Planning and Building Administrator 1
PBA2	Planning and Building Administrator 2
PBA3	Planning and Building Administrator 3
PCofC	Planning Committee of Council

## Colac Otway Shire

Abbreviation	Position
PRMC	Project Management Coordinator
SP2	Statutory Planner 2
SP6	Statutory Planner 6
SP1	Statutory Planners 1
SP3	Statutory Planners 3
SP4	Statutory Planners 4
SP5	Statutory Planners 5
SP	Strategic Planner

## Positions Groups

Positions Group	Position	Positions
All GMs	All GMs	GMCS, GMCE, GMIO
CAO	Compliance Administration Officers	CAO1, CAO2, CAO3, CAO4
CO	Compliance Officers	LLR4, LLR2, LLR3, LLR4, LLR1
CSO	Customer Services Officers	CSSO, TLCS, CSO5, CSO6, CCCS, CSO1, CSO2, CSO3, CSO4, CSO7, CSO8, CSO9, CSO10, CSO11, CSO12
HPO	Health Protection Officers	EHO2, EHO1

Colac Otway Shire

Positions Group	Position	Positions
PA	Planning Administrators	PBA4, PBA2, PBA3, PBA1
PLO	Planning Officers	SP2, SP3, SP, SP4, SP5, SP1, SP6

Colac Otway Shire

**S6 Instrument of Delegation - Members of Staff**

<b>Domestic Animals Act 1994</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 41A(1)	Power to declare a dog to be a menacing dog	CLLCS, CO	Council may delegate this power to a Council authorised officer

<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 19(2)(a)	Power to direct by written order that the food premises be put into a clean and sanitary condition	EHTO1, CEH, HPSO, EHTO2, HPO	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	EHTO1, CEH, HPSO, EHTO2, HPO	If s 19(1) applies

Colac Otway Shire

<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
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	EHTO1, CEH, EHTO2, HPO	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	EHTO1, CEH, HPSO, EHTO2, HPO	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	EHTO1, CEH, HPSO, EHTO2, HPO	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	EHTO1, CEH, HPSO, EHTO2, HPO	If s 19(1) applies

Colac Otway Shire

<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 19AA(2)	Power to direct, by written order, that a person must take any of the actions described in (a)-(c).	EHTO1, CEH, HPSO, EHTO2, HPO	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	EHTO1, CEH, HPSO, EHTO2, HPO	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	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 19CB(4)(b)	Power to request copy of records	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 19E(1)(d)	Power to request a copy of the food safety program	EHTO1, CEH,	Where Council is the registration authority

Colac Otway Shire

<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
		HPSO, EHTO2, HPO	
s 19EA(3)	Function of receiving copy of revised food safety program	EHTO1, CEH, HPSO, EHTO2, HPO	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	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s19IA(1)	Power to form opinion that the food safety requirements or program are non-compliant.	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 19IA(2)	Duty to give written notice to the proprietor of the premises	EHTO1, CEH, EHTO2, HPO	Where Council is the registration authority Note: Not required if Council has taken other appropriate action in relation to deficiencies (see s 19IA(3))

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<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 19M(4)(a) & (5)	Power to conduct a food safety audit and take actions where deficiencies are identified	EHTO1, CEH, EHTO2, HPO	Where Council is the registration authority
s 19N(2)	Function of receiving notice from the auditor	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 19NA(1)	Power to request food safety audit reports	EHTO1, CEH, HPSO, EHTO2, HPO	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	EHTO1, CEH, EHTO2, HPO	
s 19UA	Power to charge fees for conducting a food safety assessment or inspection	EHTO1, CEH, HPSO, EHTO2, HPO	Except for an assessment required by a declaration under s 19C or an inspection under ss 38B(1)(c) or 39.

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<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 19W	Power to direct a proprietor of a food premises to comply with any requirement under Part IIIB	EHTO1, CEH, HPSO, EHTO2, HPO	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	EHTO1, CEH, HPSO, EHTO2, HPO	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	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
	Power to register or renew the registration of a food premises	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority  Refusal to grant or renew the registration of a food premises must be ratified by Council or the CEO (see s 58A(2))

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<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 36A	Power to accept an application for registration or notification using online portal	CEH, HPO	Where Council is the registration authority
s 36B	Duty to pay the charge for use of online portal	MHE, CEH	Where Council is the registration authority
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	EHTO1, CEH, HPSO, EHTO2, HPO	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)	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 38A(4)	Power to request a copy of a completed food safety program template	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority

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<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 38B(1)(a)	Duty to assess the application and determine which class of food premises under s 19C the food premises belongs	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 38B(1)(b)	Duty to ensure proprietor has complied with requirements of s 38A	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 38B(2)	Duty to be satisfied of the matters in s 38B(2)(a)-(b)	EHTO1, CEH, HPSO, EHTO2, HPO	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	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 38D(2)	Duty to be satisfied of the matters in s 38D(2)(a)-(d)	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority

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<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 38D(3)	Power to request copies of any audit reports	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 38E(2)	Power to register the food premises on a conditional basis	EHTO1, CEH, HPSO, EHTO2, HPO	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	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 38F(3)(b)	Power to require proprietor to comply with requirements of this Act	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 38G(1)	Power to require notification of change of the food safety program type used for the food premises	CEH, HPO	Where Council is the registration authority

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<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 38G(2)	Function of receiving notice from proprietor if there is a change of the food safety program type used for the food premises	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 38G(4)	Power to require the proprietor of the food premises to comply with any requirement of the Act	CEH, HPO	Where Council is the registration authority
s 39(2)	Duty to carry out an inspection of the premises during the period of registration before the registration of the food premises is renewed	EHTO1, CEH, HPSO, EHTO2, HPO	
s 39A	Power to register, or renew the registration of a food premises despite minor defects	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority  Only if satisfied of matters in s 39A(2)(a)-(c)
s 39A (6)	Duty to comply with a direction of the Secretary	EHTO1, CEH,	

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<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
		HPSO, EHTO2, HPO	
s 40(1)	Duty to give the person in whose name the premises is to be registered a certificate of registration	EHTO1, CEH, EHTO2, HPO	Where Council is the registration authority
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	EHTO1, CEH, HPSO, EHTO2, HPO	
s 40C(2)	Power to grant or renew the registration of food premises for a period of less than 1 year	EHTO1, CEH, HPSO, EHTO2, HPO	Where Council is the registration authority
s 40D(1)	Power to suspend or revoke the registration of food premises	CEH	Where Council is the registration authority
s 40E	Duty to comply with direction of the Secretary	EHTO1, CEH,	

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<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
		HPSO, EHTO2, HPO	
s 40F	Power to cancel registration of food premises	MHE, CEH	Where Council is the registration authority
s 43	Duty to maintain records of registration	EHTO1, CEH, HPSO, EHTO2, HPO	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 or renewing registration of a component of a food business	EHTO1, CEH, HPSO, EHTO2, HPO	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	EHTO1, CEH, EHTO2, HPO	Where Council is the registration authority

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<b>Food Act 1984</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 45AC	Power to bring proceedings	CEH, HPO	
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	EHTO1, CEH, EHTO2, HPO	Where Council is the registration authority

<b>Heritage Act 2017</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 116	Power to sub-delegate Executive Director's functions, duties or powers	GMCE	<p>Must first obtain Executive Director's written consent</p> <p>Council can only sub-delegate if the Instrument of Delegation from the Executive Director authorises sub-delegation</p>

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<b>Local Government Act 1989</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 185L(4)	Power to declare and levy a cladding rectification charge	CEO	

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 4B	Power to prepare an amendment to the Victorian Planning Provisions	CSP, CSPMP, GMCE, MPSF	If authorised by the Minister
s 4G	Function of receiving prescribed documents and a copy of the Victorian Planning Provisions from the Minister	CSP, CSPMP, GMCE, MPSF	
s 4H	Duty to make amendment to Victoria Planning Provisions available in accordance with public availability requirements	CPBA, CSP, CSPMP, GMCE, MPSF, PLO	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 4I(2)	Duty to make and copy of the Victorian Planning Provisions and other documents available in accordance with public availability requirements	CPBA, CSP, CSPMP, GMCE, MPSF, PLO	
s 8A(2)	Power to prepare amendment to the planning scheme where the Minister has given consent under s 8A	MPSF	
s 8A(3)	Power to apply to Minister to prepare an amendment to the planning scheme	CPBA, CSP, CSPMP, GMCE, MPSF	
s 8A(5)	Function of receiving notice of the Minister's decision	CPBA, CSP, CSPMP, GMCE, MPSF	
s 8A(7)	Power to prepare the amendment specified in the application without the Minister's authorisation if no response received after	CSP, CSPMP, GMCE, MPSF	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	10 business days		
s 8B(2)	Power to apply to the Minister for authorisation to prepare an amendment to the planning scheme of an adjoining municipal district	GMCE, MPSF	
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	CSP, CSPMP, GMCE, MPSF	
s 12B(1)	Duty to review planning scheme	CSP, CSPMP, GMCE, MPSF	
s 12B(2)	Duty to review planning scheme at direction of Minister	CSP, CSPMP, GMCE, MPSF	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.12B(5)	duty to report findings of review of planning scheme to Minister without delay	CSP, CSPMP, GMCE, MPSF	
s 14	Duties of a Responsible Authority as set out in s 14(a) to (d)	CPBA, CSP, CSPMP, GMCE, MPSF, PLO	
s 17(1)	Duty of giving copy amendment to the planning scheme	CPBA, CSP, CSPMP, GMCE, MPSF, CSO, PA, PLO	
s 17(2)	Duty of giving copy s 173 agreement	CPBA, CSP, CSPMP, GMCE, MPSF, CSO, PA, PLO	
s 17(3)	Duty of giving copy amendment, explanatory report and relevant documents to the Minister within 10 business days	CPBA, CSP, CSPMP, GMCE,	

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		MPSF, CSO, PA, PLO	
s 18	Duty to make amendment etc. available in accordance with public availability requirements	CPBA, CSP, CSPMP, GMCE, MPSF, PA, PLO	Until the proposed amendment is approved or lapsed
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	CPBA, CSP, CSPMP, GMCE, MPSF, PA, PLO	
s 19	Function of receiving notice of preparation of an amendment to a planning scheme	CPBA, CSP, CSPMP, GMCE, MPSF, PA, PLO	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.

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 20(1)	Power to apply to Minister for exemption from the requirements of s 19	CSP, CSPMP, GMCE, MPSF	Where Council is a planning authority
s 21(2)	Duty to make submissions available in accordance with public availability requirements	CPBA, CSP, CSPMP, GMCE, MPSF, CSO, PA	Until the end of 2 months after the amendment comes into operation or lapses
s 21A(4)	Duty to publish notice	CPBA, CSP, CSPMP, GMCE, MPSF, PA, PLO	
s 22(1)	Duty to consider all submissions received before the date specified in the notice	CSP, CSPMP, GMCE, MPSF	Except submissions which request a change to the items in s 22(5)(a) and (b)
s 22(2)	Power to consider a late submission	SP, CSP, CSPMP, MPSF	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	Duty to consider a late submission, if directed by the Minister		
s 23(1)(b)	Duty to refer submissions which request a change to the amendment to a panel	CSP, CSPMP, GMCE, MPSF	
s 23(2)	Power to refer to a panel submissions which do not require a change to the amendment	CSP, CSPMP, GMCE, MPSF	
s 24	Function to represent Council and present a submission at a panel hearing (including a hearing referred to in s 96D)	CSP, CSPMP, GMCE, MPSF, PLO	
s 26(1)	Power to make report available for inspection in accordance with the requirements set out in s 197B of the Act	CPBA, CSP, CSPMP, GMCE, MPSF, PA, PLO	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 26(2)	Duty to keep report of panel available in accordance with public availability requirements	CPBA, CSP, CSPMP, GMCE, MPSF, CSO, PA, PLO	During the inspection period
s 27(2)	Power to apply for exemption if panel's report not received	CSP, CSPMP, GMCE, MPSF	
s 28(1)	Duty to notify the Minister if abandoning an amendment	CSP, CSPMP, GMCE, MPSF	Note: the power to make a decision to abandon an amendment cannot be delegated
s 28(2)	Duty to publish notice of the decision on Internet site	CPBA, CSP, CSPMP, GMCE, MPSF, PA, PLO	
s 28(4)	Duty to make notice of the decision available on Council's Internet site for a period of at least 2 months	CPBA, CSP, CSPMP, GMCE, MPSF, PA, PLO	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 30(4)(a)	Duty to say if amendment has lapsed	CPBA, CSP, CSPMP, GMCE, MPSF	
s 30(4)(b)	Duty to provide information in writing upon request	CPBA, CSP, CSPMP, GMCE, MPSF	
s 32(2)	Duty to give more notice if required	CPBA, CSP, CSPMP, GMCE, MPSF	
s 33(1)	Duty to give more notice of changes to an amendment	CPBA, CSP, CSPMP, GMCE, MPSF	
s 36(2)	Duty to give notice of approval of amendment	CPBA, CSP, CSPMP, GMCE, MPSF	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 38(5)	Duty to give notice of revocation of an amendment	CPBA, CSP, CSPMP, GMCE, MPSF	
s 39	Function of being a party to a proceeding commenced under s 39 and duty to comply with determination by VCAT	CSP, CSPMP, GMCE, MPSF	
s 40(1)	Function of lodging copy of approved amendment	CPBA, CSP, CSPMP, GMCE, MPSF	
s 41(1)	Duty to make a copy of an approved amendment available in accordance with the public availability requirements during inspection period	CPBA, CSP, CSPMP, GMCE, MPSF, CSO, PA, PLO	
s 41(2)	Duty to make a copy of an approved amendment and any documents lodged with it available in person in accordance with the requirements set out in s 197B of the Act after the inspection	CPBA, CSP, CSPMP, GMCE, MPSF, CAO, PA,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	period ends	PLO	
s 42(2)	Duty to make copy of planning scheme available in accordance with the public availability requirements	CPBA, CSP, CSPMP, GMCE, MPSF, CSO, PA, PLO	
s 46AW	Function of being consulted by the Minister	CEO, GMCE, MPSF	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  Power to endorse the draft Statement of Planning Policy	CSP, CSPMP, CEO, GMCE, MPSF	Where Council is a responsible public entity
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	CSP, CSPMP, CEO, GMCE, MPSF	Where Council is a responsible public entity

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
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	CSP, CSPMP, CEO, GMCE, MPSF	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	MFS, CEO, GMCS, GMCE, MPSF	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	MFS, CEO, GMCS, GMCE, MPSF	
s 46GK	Duty to comply with a Minister's direction that applies to Council as the planning authority	MFS, CEO, GMCS, GMCE, MPSF	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 46GN(1)	Duty to arrange for estimates of values of inner public purpose land	MFS, CEO, GMCS	
s 46GO(1)	Duty to give notice to owners of certain inner public purpose land	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	
s 46GP	Function of receiving a notice under s 46GO	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	
s 46GR(1)	Duty to consider every submission that is made by the closing date for submissions included in the notice under s 46GO	MFS, CSP, CSPMP, CEO, GMCS, GMCE,	

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		MPSF	
s 46GR(2)	Power to consider a late submission  Duty to consider a late submission if directed to do so by the Minister	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	
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	MFS, CEO, GMCS, GMCE, MPSF	
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	MFS, CEO, GMCS, GMCE, MPSF	
s 46GT(2)	Duty to pay half of the fee fixed by the valuer-general for arranging and attending the conference	MFS, CEO, GMCS	

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GT(4)	Function of receiving, from the valuer-general, written confirmation of the agreement between the planning authority's valuer and the affected owner's valuer as to the estimated value of the inner public purpose land	MFS, CEO, GMCS	
s 46GT(6)	Function of receiving, from the valuer-general, written notice of a determination under s 46GT(5)	MFS, CEO, GMCS	
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	CSP, CSPMP, CEO, GMCS, GMCE, MPSF	
s 46GV(3)	fFunction 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	CSP, CSPMP, CEO, GMCS, GMCE, MPSF	Where Council is the collecting agency
s 46GV(3)(b)	Power to enter into an agreement with the applicant	CSP, CSPMP, CEO, GMCS,	Where Council is the collecting agency

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		GMCE, MPSF	
s 46GV(4)(a)	Function of receiving the inner public purpose land in accordance with s 46GV(5) and (6)	CSP, CSPMP, CEO, GMCE, MPSF	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)	CSP, CSPMP, CEO, GMCE, MPSF	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	CSP, CSPMP, CEO, GMCE, MPSF	
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	CSP, CSPMP, CEO, GMCE, MPSF	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	MFS, CSP, CSPMP, CEO, GMCS, GMCE,	Where Council is the collecting agency

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	contribution payable	GMIO, MPSF	
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	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	Where Council is the collecting agency
s 46GY(1)	Duty to keep proper and separate accounts and records	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	Where Council is the collecting agency
s 46GY(2)	Duty to keep the accounts and records in accordance with the Local Government Act 2020	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	Where Council is the collecting agency under an approved infrastructure contributions plan

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			This duty does not apply where Council is that planning authority
s 46GZ(2)(a)	Function of receiving the monetary component	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	Where the Council is the planning authority  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	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 46GZ(2)(b)	Function of receiving the monetary component	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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)	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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 agency specified in the approved infrastructure contributions plan to that development agency	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 46GZ(5)	Function of receiving any part of a land equalisation amount required for the acquisition of outer public purpose land	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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)

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
			<p>Where Council is the collecting agency under an approved infrastructure contributions plan</p> <p>This duty does not apply where Council is also the development agency</p>
s 46GZ(9)	Function of receiving the fee simple in the land	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	<p>Where Council is the development agency under an approved infrastructure contributions plan</p> <p>This duty does not apply where Council is also the collecting agency</p>
s 46GZA(1)	Duty to keep proper and separate accounts and records	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	Where Council is the development agency under an approved infrastructure contributions plan

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 46GZA(2)	Duty to keep the accounts and records in accordance with the Local Government Act 2020	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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)	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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
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)	MFS, CSP, CSPMP, CEO, GMCS, GMCE,	Where Council is the development agency under an approved infrastructure contributions plan

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		MPSF	
s 46GZD(3)	Duty to follow the steps set out in s 46GZD(3)(a) and (b)	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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)	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	Where Council is the development agency under an approved infrastructure contributions plan  This duty does not apply where Council is also the collecting agency

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GZE(2)	Function of receiving the unexpended land equalisation amount	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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)	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	Where Council is the collecting agency under an approved infrastructure contributions plan
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	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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)	MFS, CSP, CSPMP, CEO, GMCS, GMCE,	Where Council is the development agency under an approved infrastructure contributions plan

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		MPSF	
s 46GZF(3)	Function of receiving proceeds of sale	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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)	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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)	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	Where Council is the collecting agency under an approved infrastructure contributions plan

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
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	MFS, CEO, MPSF	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZI	Duty to prepare and give a report to the Minister at the times required by the Minister	CEO, GMCS, GMCE, MPSF	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	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	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)	MFS, CSP, CSPMP, CEO, GMCS, GMCE, MPSF	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 46N(1)	Duty to include condition in permit regarding payment of development infrastructure levy	CSP, CSPMP, GMCE, MPSF	
s 46N(2)(c)	Function of determining time and manner for receipt of development contributions levy	CSP, CSPMP, GMCE, MPSF	
s 46N(2)(d)	Power to enter into an agreement with the applicant regarding payment of development infrastructure levy	GMCE, MPSF	
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	GMCE, MPSF	
s 46O(1)(d) & (2)(d)	Power to enter into agreement with the applicant regarding payment of community infrastructure levy	CSP, CSPMP, GMCE, MPSF	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 46P(1)	Power to require payment of amount of levy under s 46N or s 46O to be satisfactorily secured	CSP, CSPMP, GMCE, MPSF	
s 46P(2)	Power to accept provision of land, works, services or facilities in part or full payment of levy payable	CSP, CSPMP, CEO, GMCE, MPSF	
s 46Q(1)	Duty to keep proper accounts of levies paid	MFS, CSP, CSPMP, GMCS, GMCE, MPSF	
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	MFS, CSP, CSPMP, GMCS, GMCE, MPSF	
s 46Q(2)	Duty to apply levy only for a purpose relating to the provision of	CSP, CSPMP,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	plan preparation costs or the works, services and facilities in respect of which the levy was paid etc	CEO, GMCE, MPSF	
s 46Q(3)	Power to refund any amount of levy paid if it is satisfied the development is not to proceed	CSP, CSPMP, GMCE, MPSF	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)	CSP, CSPMP, CEO, GMCE, MPSF	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	CSP, CSPMP, CEO, GMCE, MPSF	Must be done in accordance with Part 3

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s46Q(4)(e)	Duty to expend that amount on other works etc.	CSP, CSPMP, CEO, GMCE, MPSF	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	MFS, CSP, CSPMP, GMCE, MPSF	
s 46QD	Duty to prepare report and give a report to the Minister	MFS, CSP, CSPMP, GMCE, MPSF	Where Council is a collecting agency or development agency
s 47	Power to decide that an application for a planning permit does not comply with that Act	CSP, CSPMP, CEO, GMCE, MPSF	
s 49(1)	Duty to keep a register of all applications for permits and determinations relating to permits	CPBA, CSP, CSPMP, CEO,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
		GMCE, MPSF, PA, PLO	
s 49(2)	Duty to make register available for inspection in accordance with the public availability requirements	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, CSO, PA, PLO	
s 50(4)	Duty to amend application	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 50(5)	Power to refuse to amend application	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 50(6)	Duty to make note of amendment to application in register	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 50A(1)	Power to make amendment to application	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 50A(4)	Duty to note amendment to application in register	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	
s 51	Duty to make copy of application available for inspection in accordance with the public availability requirements	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, CSO, PA, PLO	
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	CPBA, CSP, CSPMP, CEO, GMCE, MPSF,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	not cause material detriment to any person	PLO	
s 52(1)(b)	Duty to give notice of the application to other municipal council where appropriate	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 52(1)(c)	Duty to give notice of the application to all persons required by the planning scheme	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	
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	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	
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	CPBA, CSP, CSPMP, CEO,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	to remove or vary the covenant	GMCE, MPSF, PLO	
s 52(1)(d)	Duty to give notice of the application to other persons who may be detrimentally effected	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s.52(1AA)	Duty to give notice of an application to remove or vary a registered restrictive covenant	CPBA, CSP, CSPMP, CEO, GMCE, MPSF	
s 52(3)	Power to give any further notice of an application where appropriate	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	CPBA, CSP, CSPMP, CEO, GMCE, MPSF,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
		PLO	
s 53(1A)	Power to require the applicant to give the notice under s 52(1AA)	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 54(1)	Power to require the applicant to provide more information	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 54(1A)	Duty to give notice in writing of information required under s 54(1)	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 54(1B)	Duty to specify the lapse date for an application	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 54A(3)	Power to decide to extend time or refuse to extend time to give required information	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 55(1)	Duty to give copy application, together with the prescribed information, to every referral authority specified in the planning scheme	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	
s 57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	CSP, CSPMP, CEO, GMCE, MPSF	
s 57(3)	Function of receiving name and address of persons to whom notice of decision is to go	CPBA, CSP, CSPMP, CEO,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
		GMCE, MPSF, PA, PLO	
s 57(5)	Duty to make a copy of all objections available in accordance with the public availability requirements	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, CSO, PA, PLO	
s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	
s 57A(5)	Power to refuse to amend application	CSP, CSPMP, CEO, GMCE, MPSF	
s 57A(6)	Duty to note amendments to application in register	CPBA, CSP, CSPMP, CEO, GMCE, MPSF,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
		PA, PLO	
s 57B(1)	Duty to determine whether and to whom notice should be given	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 57B(2)	Duty to consider certain matters in determining whether notice should be given	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 57C(1)	Duty to give copy of amended application to referral authority	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	
s 58	Duty to consider every application for a permit	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 58A	Power to request advice from the Planning Application Committee	CSP, CSPMP,	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		CEO, GMCE, MPSF	
s 60	Duty to consider certain matters	CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	<p>Save where the proposed use and/or development:</p> <ul style="list-style-type: none"> <li>• Results in four (4) or more objections having been lodged against the grant of a permit.</li> <li>• Or where the application may have an affect on the broader community.</li> <li>• Or if the application seeks approval for works which had commenced under a lawful planning permit, where:                             <ul style="list-style-type: none"> <li>• the works had not been completed prior to the expiry of the permit; and</li> <li>• the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act</li> </ul> </li> <li>• Or where the land is in the Farming or Rural Conservation Zones and the officer recommendation is to refuse an application to use or develop land for a dwelling (except where a determining referral authority</li> </ul>

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			under the planning scheme has recommended refusal of the application).
s 60(1A)	Duty to consider certain matters	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 60(1B)	Duty to consider number of objectors in considering whether use or development may have significant social effect	CSP, CSPMP, GMCE, MPSF, PLO	
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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	The permit must not be inconsistent with a cultural heritage management plan under the Aboriginal Heritage Act 2006  Save where the proposed use and/or development: • Results in four (4) or more objections having been lodged against the grant of a permit.

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			<ul style="list-style-type: none"> <li>• Or where the application may have an affect on the broader community.</li> <li>• Or if the application seeks approval for works which had commenced under a lawful planning permit, where:                             <ul style="list-style-type: none"> <li>• the works had not been completed prior to the expiry of the permit; and</li> <li>• the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act</li> </ul> </li> <li>• Or where the land is in the Farming or Rural Conservation Zones and the officer recommendation is to refuse an application to use or develop land for a dwelling (except where a determining referral authority under the planning scheme has recommended refusal of the application).</li> </ul> <p>Save where the application may have an affect on the broader community.</p> <p>The permit must not be inconsistent with a cultural heritage management plan under the Aboriginal Heritage</p>

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			Act 2006.
s 61(2)	Duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit	CSP, CSPMP, CEO, GMCE, MPSF	
s 61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	CSP, CSPMP, CEO, GMCE, MPSF	
s 61(3)(a)	Duty not to decide to grant a permit to use coastal Crown land without Minister's consent	CSP, CSPMP, CEO, GMCE, MPSF	
s 61(3)(b)	Duty to refuse to grant the permit without the Minister's consent	CSP, CSPMP, CEO, GMCE, MPSF	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	CSP, CSPMP, CEO, GMCE, MPSF	
s 62(1)	Duty to include certain conditions in deciding to grant a permit	CSP, CSPMP, CEO, GMCE, MPSF, PLO	<p>Save where the proposed use and/or development:</p> <ul style="list-style-type: none"> <li>• Results in four (4) or more objections having been lodged against the grant of a permit.</li> <li>• Or where the application may have an affect on the broader community.</li> <li>• Or if the application seeks approval for works which had commenced under a lawful planning permit, where:                             <ul style="list-style-type: none"> <li>• the works had not been completed prior to the expiry of the permit; and</li> <li>• the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act</li> </ul> </li> <li>• Or where the land is in the Farming or Rural Conservation Zones and the officer recommendation is</li> </ul>

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			to refuse an application to use or develop land for a dwelling (except where a determining referral authority under the planning scheme has recommended refusal of the application).
s 62(2)	Power to include other conditions	CSP, CSPMP, CEO, GMCE, MPSF, PLO	<p>Save where the proposed use and/or development:</p> <ul style="list-style-type: none"> <li>• Results in four (4) or more objections having been lodged against the grant of a permit.</li> <li>• Or where the application may have an affect on the broader community.</li> <li>• Or if the application seeks approval for works which had commenced under a lawful planning permit, where: <ul style="list-style-type: none"> <li>• the works had not been completed prior to the expiry of the permit; and</li> <li>• the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act</li> </ul> </li> <li>• Or where the land is in the Farming or Rural Conservation Zones and the officer recommendation is</li> </ul>

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			to refuse an application to use or develop land for a dwelling (except where a determining referral authority under the planning scheme has recommended refusal of the application).
s 62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	<p>Save where the proposed use and/or development:</p> <ul style="list-style-type: none"> <li>• Results in four (4) or more objections having been lodged against the grant of a permit.</li> <li>• Or where the application may have an affect on the</li> </ul>

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			<p>broader community.</p> <ul style="list-style-type: none"> <li>• Or if the application seeks approval for works which had commenced under a lawful planning permit, where: <ul style="list-style-type: none"> <li>• the works had not been completed prior to the expiry of the permit; and</li> <li>• the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act</li> </ul> </li> <li>• Or where the land is in the Farming or Rural Conservation Zones and the officer recommendation is to refuse an application to use or develop land for a dwelling (except where a determining referral authority under the planning scheme has recommended refusal of the application).</li> </ul>
s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 62(6)(a)	Duty not to include a permit condition requiring a person to pay an	CSP, CSPMP,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	amount for or provide works except in accordance with ss 46N(1), 46GV(7) or 62(5)	CEO, GMCE, MPSF, PLO	
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)	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 64(1)	Duty to give notice of decision to grant a permit to applicant and objectors	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	This provision applies also to a decision to grant an amendment to a permit - see s 75
s 64(3)	Duty not to issue a permit until after the specified period	CPBA, CSP, CSPMP, CEO,	This provision applies also to a decision to grant an

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
		GMCE, MPSF, PA, PLO	amendment to a permit - see s 75
s 64(5)	Duty to give each objector a copy of an exempt decision	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	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	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	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	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	
s 66(1)	Duty to give notice under s 64 or s 65 and copy permit to relevant	CPBA, CSP, CSPMP, CEO,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	determining referral authorities	GMCE, MPSF, PA, PLO	
s 66(2)	Duty to give a recommending referral authority notice of its decision to grant a permit	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	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
s 66(4)	Duty to give a recommending referral authority notice of its decision to refuse a permit	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	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	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA	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	CPBA, CSP,	

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		CSPMP, CEO, GMCE, MPSF, CSO, PA, PLO	
s 69(1A)	Function of receiving application for extension of time to complete development	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, CSO, PA, PLO	
s 69(2)	Power to extend time	CSP, CSPMP, CEO, GMCE, MPSF, PLO	<p>Delegation to officers applies save where the development has commenced lawfully under the planning permit and:</p> <ul style="list-style-type: none"> <li>o the application seeks approval for an extension of time to complete the works; and</li> <li>o the officer recommendation is for refusal, unless that recommendation is made due to the recommendation of a referral authority under Section 55 of the Act.</li> </ul>

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 70	Duty to make copy permit available for inspection in accordance with the public availability requirements	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, CSO, PA, PLO	
s 71(1)	Power to correct certain mistakes	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 71(2)	Duty to note corrections in register	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	
s 73	Power to decide to grant amendment subject to conditions	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 74	Duty to issue amended permit to applicant if no objectors	CSP, CSPMP, CEO, GMCE,	

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		MPSF, PLO	
s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	
s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	
s 76A(2)	Duty to give a recommending referral authority notice of its decision to grant an amendment to a permit	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	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	CPBA, CSP, CSPMP, CEO, GMCE, MPSF,	If the recommending referral authority objected to the amendment of the permit or the recommending referral authority recommended that a permit condition be

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
		PA, PLO	included on the amended permit
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	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 83	Function of being respondent to an appeal	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 83B	Duty to give or publish notice of application for review	CSP, CSPMP, CEO, GMCE, MPSF, PLO	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	CSP, CSPMP, CEO, GMCE, MPSF	<p>Save where the proposed use and/or development:</p> <ul style="list-style-type: none"> <li>• Results in four (4) or more objections having been lodged against the grant of a permit.</li> <li>• Or where the application may have an affect on the broader community.</li> <li>• Or if the application seeks approval for works which had commenced under a lawful planning permit, where:                             <ul style="list-style-type: none"> <li>• the works had not been completed prior to the expiry of the permit; and</li> <li>• the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act</li> </ul> </li> <li>• Or where the land is in the Farming or Rural Conservation Zones and the officer recommendation is to refuse an application to use or develop land for a dwelling (except where a determining referral authority under the planning scheme has recommended refusal of the application).</li> </ul>

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
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	CSP, CSPMP, CEO, GMCE, MPSF	
s 84(6)	Duty to issue permit on receipt of advice within 3 business days	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 84AB	Power to agree to confining a review by the Tribunal	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 86	Duty to issue a permit at order of Tribunal within 3 business days	CSP, CSPMP, CEO, GMCE,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
		MPSF, PLO	
s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	CSP, CSPMP, CEO, GMCE, MPSF	
s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 91(2)	Duty to comply with the directions of VCAT	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 92	Duty to give notice of cancellation/amendment of permit by VCAT	CSP, CSPMP, CEO, GMCE,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	to persons entitled to be heard under s 90	MPSF, PLO	
s 93(2)	Duty to give notice of VCAT order to stop development	CSP, CSPMP, CEO, CLLCS, GMCE, MPSF, CO, PLO	
s 95(3)	Function of referring certain applications to the Minister	CSP, CSPMP, CEO, GMCE, MPSF	
s 95(4)	Duty to comply with an order or direction	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 96(1)	Duty to obtain a permit from the Minister to use and develop its land	CSP, CSPMP, CEO, GMCE, MPSF	

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 96(2)	Function of giving consent to other persons to apply to the Minister for a permit to use and develop Council land	CSP, CSPMP, CEO, GMCE, MPSF	
s 96A(2)	Power to agree to consider an application for permit concurrently with preparation of proposed amendment	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 96C	Power to give notice, to decide not to give notice, to publish notice and to exercise any other power under s 96C	CSP, CSPMP, CEO, GMCE, MPSF	
s 96F	Duty to consider the panel's report under s 96E	CSP, CSPMP, CEO, GMCE, MPSF	
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	CSP, CSPMP, CEO, GMCE, MPSF	Save where the proposed use and/or development: • Results in four (4) or more objections having been

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	under s 23 of the Planning and Environment (Planning Schemes) Act 1996		<p>lodged against the grant of a permit.</p> <ul style="list-style-type: none"> <li>• Or where the application may have an affect on the broader community.</li> <li>• Or if the application seeks approval for works which had commenced under a lawful planning permit, where:                             <ul style="list-style-type: none"> <li>• the works had not been completed prior to the expiry of the permit; and</li> <li>• the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act</li> </ul> </li> <li>• Or where the land is in the Farming or Rural Conservation Zones and the officer recommendation is to refuse an application to use or develop land for a dwelling (except where a determining referral authority under the planning scheme has recommended refusal of the application).</li> </ul>
s 96H(3)	Power to give notice in compliance with Minister's direction	CSP, CSPMP, CEO, GMCE, MPSF	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 96J	Duty to issue permit as directed by the Minister	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 96K	Duty to comply with direction of the Minister to give notice of refusal	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 97C	Power to request Minister to decide the application	CSP, CSPMP, CEO, GMCE, MPSF	
s 97D(1)	Duty to comply with directions of Minister to supply any document or assistance relating to application	CSP, CSPMP, CEO, GMCE,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
		MPSF, PLO	
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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 97G(6)	Duty to make a copy of permits issued under s 97F available in accordance with the public availability requirements	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, CSO, PA, PLO	
s 97L	Duty to include Ministerial decisions in a register kept under s 49	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	
s 97MH	Duty to provide information or assistance to the Planning Application Committee	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PA, PLO	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 97MI	Duty to contribute to the costs of the Planning Application Committee or subcommittee	CSP, CSPMP, GMCE, MPSF	
s 97O	Duty to consider application and issue or refuse to issue certificate of compliance	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 97P(3)	Duty to comply with directions of VCAT following an application for review of a failure or refusal to issue a certificate	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 97Q(2)	Function of being heard by VCAT at hearing of request for amendment or cancellation of certificate	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 97Q(4)	Duty to comply with directions of VCAT	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 97R	Duty to keep register of all applications for certificate of	CPBA, CSP,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	compliance and related decisions	CSPMP, CEO, GMCE, MPSF, PA, PLO	
s 98(1)&(2)	Function of receiving claim for compensation in certain circumstances	CEO, GMCE, MPSF	
s 98(4)	Duty to inform any person of the name of the person from whom compensation can be claimed	CEO, GMCE, MPSF	
s 101	Function of receiving claim for expenses in conjunction with claim	CEO, GMCE, MPSF	
s 103	Power to reject a claim for compensation in certain circumstances	CEO, GMCE, MPSF	
s.107(1)	function of receiving claim for compensation	CEO, GMCE, MPSF	
s 107(3)	Power to agree to extend time for making claim	CEO, GMCE,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
		MPSF	
s 113(2)	Power to request a declaration for land to be proposed to be reserved for public purposes	GMCE, MPSF	
s 114(1)	Power to apply to the VCAT for an enforcement order	MHE, CSP, CSPMP, CEO, CLLCS, GMCE, MPSF, CO	
s 117(1)(a)	Function of making a submission to the VCAT where objections are received	MHE, CSP, CSPMP, CEO, CLLCS, GMCE, MPSF, CO, PLO	
s 120(1)	Power to apply for an interim enforcement order where s 114 application has been made	MHE, CSP, CSPMP, CEO, CLLCS, GMCE, MPSF, CO	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 123(1)	Power to carry out work required by enforcement order and recover costs	MHE, CSP, CSPMP, CEO, CLLCS, GMCE, MPSF, CO	
s 123(2)	Power to sell buildings, materials, etc salvaged in carrying out work under s 123(1)	MHE, CEO, CLLCS, GMCE, MPSF	Except Crown Land
s 129	Function of recovering penalties	MFS, MHE, CEO, CLLCS, GMCE, MPSF, CO	
s 130(5)	Power to allow person served with an infringement notice further time	MHE, CSP, CSPMP, CEO, CLLCS, GMCE, MPSF, CO, PLO	
s 149A(1)	Power to refer a matter to the VCAT for determination	MHE, CSP, CSPMP, CEO, CLLCS, GMCE,	

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		MPSF, CO	
s 149A(1A)	power to apply to VCAT for the determination of a matter relating to the interpretation of a s.173 agreement	MHE, CSP, CSPMP, CEO, CLLCS, GMCE, MPSF, CO	
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)	MHE, CSP, CSPMP, CEO, GMCE, MPSF	Where Council is the relevant planning authority
s 171(2)(f)	Power to carry out studies and commission reports	CSP, CSPMP, CEO, GMCE, MPSF	
s 171(2)(g)	Power to grant and reserve easements	CSP, CSPMP, CEO, GMCE, MPSF	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 172C	Power to compulsorily acquire any outer public purpose land that is specified in the approved infrastructure contributions plan	CEO, GMCS, GMCE	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)	CEO, GMCS, GMCE	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)	CEO, GMCS, GMCE	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	CSP, CSPMP, CEO, GMCE, GMIO, MPSF	
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	CEO, GMCS, GMCE, GMIO, MPSF	Where Council is the relevant responsible authority

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	Power to decide whether something is to the satisfaction of Council, where an agreement made under s 173 of the Planning and Environment Act 1987 requires something to be to the satisfaction of Council or Responsible Authority	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
	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	CSP, CSPMP, CEO, GMCE, MPSF	
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	CSP, CSPMP, CEO, GMCE, MPSF	
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	CSP, CSPMP, CEO, GMCE, MPSF	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 178A(1)	Function of receiving application to amend or end an agreement	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 178A(3)	Function of notifying the owner as to whether it agrees in principle to the proposal under s 178A(1)	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 178A(4)	Function of notifying the applicant and the owner as to whether it agrees in principle to the proposal	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 178A(5)	Power to propose to amend or end an agreement	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 178B(1)	Duty to consider certain matters when considering proposal to	CSP, CSPMP, CEO, GMCE,	

<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	amend an agreement	MPSF, PLO	
s 178B(2)	Duty to consider certain matters when considering proposal to end an agreement	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 178C(4)	Function of determining how to give notice under s 178C(2)	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 178E(1)	Duty not to make decision until after 14 days after notice has been given	CSP, CSPMP, CEO, GMCE, MPSF, PLO	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.178E(2)(a)	Power to amend or end the agreement in accordance with the proposal	CSP, CSPMP, CEO, GMCE, MPSF, PLO	If no objections are made under s 178D  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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	After considering objections, submissions and matters in s 178B

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 178E(3)(b)	Power to amend or end the agreement in a manner that is not substantively different from the proposal	CSP, CSPMP, CEO, GMCE, MPSF, PLO	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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	After considering objections, submissions and matters in s.178B
s 178E(3)(d)	Power to refuse to amend or end the agreement	CSP, CSPMP, CEO, GMCE, MPSF, PLO	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)	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 178F(2)	Duty to give notice of its decision under s 178E(2)(c) or (3)(d)	CSP, CSPMP, CEO, GMCE, MPSF, PLO	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 178G	Duty to sign amended agreement and give copy to each other party to the agreement	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 178I(3)	Duty to notify, in writing, each party to the agreement of the ending of the agreement relating to Crown land	CSP, CSPMP, CEO, GMCE, MPSF, PLO	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 179(2)	Duty to make copy of each agreement available in accordance with the public availability requirements	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 181	Duty to apply to the Registrar of Titles to record the agreement and to deliver a memorial to Registrar-General	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 181(1A)(a)	Power to apply to the Registrar of Titles to record the agreement	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 181(1A)(b)	Duty to apply to the Registrar of Titles, without delay, to record the agreement	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 182	Power to enforce an agreement	CSP, CSPMP, CEO, GMCE, MPSF, PLO	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 183	Duty to tell Registrar of Titles of ending/amendment of agreement	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 184F(5)	Function of receiving advice from the principal registrar that the	CSP, CSPMP,	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	agreement may be amended or ended in accordance with Council's decision	CEO, GMCE, MPSF, PLO	
s 184G(2)	Duty to comply with a direction of the Tribunal	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 184G(3)	Duty to give notice as directed by the Tribunal	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 185B(1)	Duty to comply with a request from the Minister to provide the name, address, email address or telephone number of any person to whom the Minister is required to give notice	PBA4, PBA2, PBA3, SP3, SP, SP4, SP5, PBA1, CPBA, SP1, CSP, CSPMP, SP2, SP6, MPSF	
s 198(1)	Function to receive application for planning certificate	N/A	

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			Certificates not issued by Council
s 199(1)	Duty to give planning certificate to applicant	N/A	Certificates not issued by Council
s 201(1)	Function of receiving application for declaration of underlying zoning	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, CSO, PA, PLO	
s 201(3)	Duty to make declaration	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
	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	CSP, CSPMP, CEO, CLLCS, GMCE, MPSF, CO, PLO	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
	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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
	Power to give written authorisation in accordance with a provision of a planning scheme	CSP, CSPMP, CEO, GMCE, MPSF, PLO	
s 201UAB(1)	Function of providing the Victoria Planning Authority with information relating to any land within municipal district	CSP, CSPMP, CEO, GMCE, MPSF	

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<b>Planning and Environment Act 1987</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 201UAB(2)	Duty to provide the Victoria Planning Authority with information requested under s 201UAB(1) as soon as possible	CSP, CSPMP, CEO, GMCE, MPSF	

<b>Residential Tenancies Act 1997</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 518F	Power to issue notice to caravan park regarding emergency management plan if determined that the plan does not comply with the requirements	MHE, CEH, MPSF	
s 522(1)	Power to give a compliance notice to a person	MFS, MHE, CLLCS, CRS, MPSF, CO	
s 525(2)	Power to authorise an officer to exercise powers in s 526 (either generally or in a particular	MPSF, All GMs	

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<b>Residential Tenancies Act 1997</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	case)		
s 525(4)	Duty to issue identity card to authorised officers	MPSF, All GMs	
s 526(5)	Duty to keep record of entry by authorised officer under s 526	MFS, MHE, CLLCS, CRS, MPSF	
s 526A(3)	Function of receiving report of inspection	MFS, MHE, CLLCS, CRS, MPSF	
s 527	Power to authorise a person to institute proceedings (either generally or in a particular case)	MHE, CLLCS, MPSF, CO	

<b>Road Management Act 2004</b>
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## Colac Otway Shire

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 11(1)	Power to declare a road by publishing a notice in the Government Gazette	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMCS, CRS, GMIO, MAES	
s 11(9)(b)	Duty to advise Registrar	MHE, CLLCS, GMCS, CRS, GMIO, MAES	
s 11(10)	Duty to inform Secretary to Department of Environment, Land, Water and Planning of declaration etc.	MHE, CLLCS, CRS, GMIO, MAES	Subject to s 11(10A)
s 11(10A)	Duty to inform Secretary to Department of Environment, Land, Water and Planning or nominated person	MHE, MSO, CLLCS, GMIO, MAES	Where Council is the coordinating road authority
s 12(2)	Power to discontinue road or part of a road	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority

## Colac Otway Shire

s 12(4)	Duty to publish, and provide copy, notice of proposed discontinuance	MHE, CLLCS, GMIO, MAES	Power of coordinating road authority where it is the discontinuing body  Unless s 12(11) applies
s 12(5)	Duty to consider written submissions received within 28 days of notice	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES	Duty of coordinating road authority where it is the discontinuing body  Unless s 12(11) applies

## Colac Otway Shire

s 12(10)	Duty to notify of decision made	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES	Power of coordinating road authority and obtain consent under s 13(3) and s 13(4) as appropriate
s 14(4)	Function of receiving notice from the Head, Transport for Victoria	MHE, CLLCS, GMIO, MAES	
s 14(7)	Power to appeal against decision of the Head, Transport for Victoria	MHE, CLLCS, GMIO, MAES	
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	MHE, CLLCS, GMIO, MAES	
s 15(1A)	Power to enter into arrangement with a utility to transfer a road management	MHE, CLLCS,	

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	function of the utility to the road authority	GMIO, MAES	
s 15(2)	Duty to include details of arrangement in public roads register	MHE, CLLCS, GMIO, MAES	
s 16(7)	Power to enter into an arrangement under s 15	MHE, CLLCS, GMIO, MAES	
s 16(8)	Duty to enter details of determination in public roads register	MHE, CLLCS, GMIO, MAES	
s 17(2)	Duty to register public road in public roads register	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority
s 17(3)	Power to decide that a road is reasonably required for general public use	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority

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s 17(4)	Power to decide that a road is no longer reasonably required for general public use	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority
s 18(1)	Power to designate ancillary area	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority
s 19(1)	Duty to keep register of public roads in respect of which it is the coordinating road authority	MHE, CLLCS, GMIO, MAES	
s 19(4)	Duty to specify details of discontinuance in public roads register	MHE, CLLCS, GMIO, MAES	

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s 19(5)	Duty to ensure public roads register is available for public inspection	MHE, CLLCS, GMIO, MAES	
s 21	Function of replying to request for information or advice	MHE, CLLCS, GMIO, MAES	Obtain consent in circumstances specified in s 11(2)
s 22(2)	Function of commenting on proposed direction	MHE, CLLCS, GMIO, MAES	
s 22(4)	Duty to publish a copy or summary of any direction made under s 22 by the Minister in its annual report.	MHE, CLLCS, GMIO, MAES	
s 22(5)	Duty to give effect to a direction under s 22	MHE, CLLCS, GMIO, MAES	
s 40(1)	Duty to inspect, maintain and repair a public road.	MHE, MSO, CLLCS, GMIO, MAES	
s 40(5)	Power to inspect, maintain and repair a road which is not a public road	MHE, CLLCS, GMIO, MAES	

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s 41(1)	Power to determine the standard of construction, inspection, maintenance and repair	MHE, MSO, CLLCS, GMIO, MAES	
s 42(1)	Power to declare a public road as a controlled access road	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES	Power of coordinating road authority and sch 2 also applies
s 42A(3)	Duty to consult with Head, Transport for Victoria and Minister for Local Government before road is specified	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority  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	MHE, CLLCS, GMIO, MAES	Where Council is the responsible road authority, infrastructure manager or works manager

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	provider of public transport)		
s 48M(3)	Function of consulting with the relevant authority for purposes of developing guidelines under s 48M	GMIO, MAES	
s 49	Power to develop and publish a road management plan	MHE, CLLCS, GMIO, MAES	
s 51	Power to determine standards by incorporating the standards in a road management plan	MHE, CLLCS, GMIO, MAES	
s 53(2)	Power to cause notice to be published in Government Gazette of amendment etc of document in road management plan	MHE, CLLCS, GMIO, MAES	
s 54(2)	Duty to give notice of proposal to make a road management plan	MHE, CLLCS, GMIO, MAES	
s 54(5)	Duty to conduct a review of road management plan at prescribed intervals	MHE, CLLCS,	

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		GMIO, MAES	
s 54(6)	Power to amend road management plan	MHE, CLLCS, GMIO, MAES	
s 54(7)	Duty to incorporate the amendments into the road management plan	MHE, CLLCS, GMIO, MAES	
s 55(1)	Duty to cause notice of road management plan to be published in Government Gazette and newspaper	MHE, CLLCS, GMIO, MAES	
s 63(1)	Power to consent to conduct of works on road	MHE, MSO, CLLCS, GMIO, MAES	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	MHE, MSO, CEM, CLLCS, GMIO, MAES	Where Council is the infrastructure manager
s 64(1)	Duty to comply with cl 13 of sch 7	MHE, MSO, CLLCS, GMIO,	Where Council is the infrastructure manager or works manager

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		MAES	
s 66(1)	Power to consent to structure etc	MHE, CLLCS, GMIO, MAES, CO	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	MHE, CLLCS, GMIO, MAES, CO	Where Council is the coordinating road authority
s 67(3)	Power to request information	MHE, CLLCS, GMIO, MAES, CO	Where Council is the coordinating road authority
s 68(2)	Power to request information	MHE, CLLCS, GMIO, MAES, CO	Where Council is the coordinating road authority
s 71(3)	Power to appoint an authorised officer	MHE, CLLCS, GMCS, GMCE, GMIO, MAES	
s 72	Duty to issue an identity card to each authorised officer	MHE, MPC, CLLCS, GMCS, GMIO,	

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		MAES	
s 85	Function of receiving report from authorised officer	MHE, MSO, CLLCS, GMIO, MAES	
s 86	Duty to keep register re s 85 matters	MHE, CLLCS, GMIO, MAES	
s 87(1)	Function of receiving complaints	MHE, MSO, CLLCS, GMIO, MAES	
s 87(2)	Duty to investigate complaint and provide report	MHE, CLLCS, GMIO, MAES	
s 96	Power to authorise a person for the purpose of instituting legal proceedings	MHE, CEO, CLLCS, GMIO, MAES	
s 112(2)	Power to recover damages in court	MHE, MSO, CLLCS, GMIO, MAES	

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s 116	Power to cause or carry out inspection	MHE, MSO, CLLCS, GMIO, MAES	
s 119(2)	Function of consulting with the Head, Transport for Victoria	MHE, MSO, CLLCS, GMIO, MAES	
s 120(1)	Power to exercise road management functions on an arterial road (with the consent of the Head, Transport for Victoria)	MHE, MSO, CLLCS, GMIO, MAES	
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)	MHE, CLLCS, GMIO, MAES	
s 121(1)	Power to enter into an agreement in respect of works	MHE, CLLCS, GMIO, MAES	
s 122(1)	Power to charge and recover fees	MHE, CLLCS, GMIO, MAES	
s 123(1)	Power to charge for any service	MHE, CLLCS,	

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		GMIO, MAES	
sch 2 cl 2(1)	Power to make a decision in respect of controlled access roads	MHE, CLLCS, GMIO, MAES	
sch 2 cl 3(1)	Duty to make policy about controlled access roads	MHE, CLLCS, GMIO, MAES	
sch 2 cl 3(2)	Power to amend, revoke or substitute policy about controlled access roads	MHE, CLLCS, GMIO, MAES	
sch 2 cl 4	Function of receiving details of proposal from the Head, Transport for Victoria	MHE, CLLCS, GMIO, MAES	
sch 2 cl 5	Duty to publish notice of declaration	MHE, CLLCS, GMIO, MAES	
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	MHE, CLLCS, GMIO, MAES	Where Council is the infrastructure manager or works manager

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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	MHE, MSO, CLLCS, GMIO, MAES	Where Council is the infrastructure manager or works manager
sch 7 cla 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	MHE, CLLCS, GMIO, MAES	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	MHE, MSO, CLLCS, GMIO, MAES	Where Council is the infrastructure manager or works manager
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	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority

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sch 7 cl 12(3)	Power to take measures to ensure reinstatement works are completed	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority
sch 7 cl 12(4)	Duty to ensure that works are conducted by an appropriately qualified person	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority
sch 7 cl 12(5)	Power to recover costs	MFS, MHE, CLLCS, GMIO, MAES	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)	MHE, MSO, CLLCS, GMIO, MAES	Where Council is the works manager
sch 7 cl 13(2)	Power to vary notice period	MHE, MSO, CLLCS, GMIO, MAES	Where Council is the coordinating road authority
sch 7 cl 13(3)	Duty to ensure works manager has complied with obligation to give notice under sch 7 cl 13(1)	MHE, CLLCS, GMIO, MAES	Where Council is the infrastructure manager

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sch 7 cl 16(1)	Power to consent to proposed works	MHE, MSO, CLLCS, GMIO, MAES	Where Council is the coordinating road authority
sch 7 cl 16(4)	Duty to consult	MHE, MSO, CLLCS, GMIO, MAES	Where Council is the coordinating road authority, responsible authority or infrastructure manager
sch 7 cl 16(5)	Power to consent to proposed works	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority
sch 7 cl 16(6)	Power to set reasonable conditions on consent	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority
sch 7 cl 16(8)	Power to include consents and conditions	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority
sch 7 cl18(1)	Power to enter into an agreement	MHE, CLLCS, GMIO, MAES	Where Council is the coordinating road authority

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sch7 cl 19(1)	Power to give notice requiring rectification of works	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES, CO	Where Council is the coordinating road authority
sch 7A cl 2	Power to cause street lights to be installed on roads	MHE, CLLCS, GMIO, MAES	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	MHE, CLLCS, GMIO, MAES	Where Council is the responsible road authority
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	MHE, CLLCS, GMIO, MAES	Where Council is the responsible road authority

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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	MHE, CLLCS, GMIO, MAES	Duty of Council as responsible road authority that installed the light (re: installation costs) and where Council is relevant municipal council (re: operating costs)

Planning and Environment Regulations 2015			
Provision	Power 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	CSP, CSPMP, GMCE, MPSF	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	CSP, CSPMP, CEO, GMCE, MPSF, PLO	

<b>Planning and Environment Regulations 2015</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r.25(a)	duty to make copy of matter considered under section 60(1A)(g) available for inspection free of charge	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, CSO, PA, PLO	where Council is the responsible authority
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	CPBA, CSP, CSPMP, CEO, GMCE, MPSF, CSO, PA, PLO	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	CSP, CSPMP, CEO, GMCE, MPSF	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.

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<b>Planning and Environment (Fees) Regulations 2016</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 19	Power to waive or rebate a fee relating to an amendment of a planning scheme	CSP, CSPMP, CEO, GMCE, MPSF	
r 20	Power to waive or rebate a fee other than a fee relating to an amendment to a planning scheme	CSP, CSPMP, CEO, GMCE, MPSF	
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	CSP, CSPMP, CEO, GMCE, MPSF	

<b>Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 7	Function of entering into a written agreement with a caravan park owner	EHTO1, CEH, EHTO2, HPO	

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<b>Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 10	Function of receiving application for registration	EHTO1, CEH, HPSO, EHTO2, HPO	
r 11	Function of receiving application for renewal of registration	EHTO1, CEH, EHTO2, HPO	
r 12(1)	Duty to grant the registration if satisfied that the caravan park complies with these regulations	EHTO1, CEH, HPSO, EHTO2, HPO	
r 12(1)	Power to refuse to renew the registration if not satisfied that the caravan park complies with these regulations	EHTO1, CEH, EHTO2, HPO	
r 12(2)	Duty to renew the registration if satisfied that the caravan park complies with these regulations	EHTO1, CEH, HPSO, EHTO2, HPO	
r 12(2)	Power to refuse to renew the registration if not satisfied that the caravan park complies with these regulations	EHTO1, CEH, EHTO2, HPO	
r 12(3)	Duty to have regard to matters in determining an application for registration or an	EHTO1, CEH, EHTO2,	

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<b>Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	application for renewal of registration	HPO	
r 12(4) & (5)	Duty to issue certificate of registration	EHTO1, CEH, HPSO, EHTO2, HPO	
r 14(1)	Function of receiving notice of transfer of ownership	EHTO1, CEH, HPSO, EHTO2, HPO	
r 14(3)	Power to determine where notice of transfer is displayed	EHTO1, CEH, HPSO, EHTO2, HPO	
r 15(1)	Duty to transfer registration to new caravan park owner	EHTO1, CEH, HPSO, EHTO2, HPO	
r 15(2)	Duty to issue a certificate of transfer of registration	EHTO1, CEH, HPSO, EHTO2, HPO	
r 16(1)	Power to determine the fee to accompany applications for registration or applications for renewal of registration	EHTO1, CEH, EHTO2, HPO	

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<b>Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 17	Duty to keep register of caravan parks	EHTO1, CEH, HPSO, EHTO2, HPO	
r 18(4)	Power to determine where the emergency contact person's details are displayed	EHTO1, CEH, HPSO, EHTO2, HPO	
r 18(6)	Power to determine where certain information is displayed	EHTO1, CEH, HPSO, EHTO2, HPO	
r 22(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	EHTO1, CEH, HPSO, EHTO2, HPO	
r 22(2)	Duty to consult with relevant emergency services agencies	EHTO1, CEH, EHTO2, HPO	
r 23	Power to determine places in which caravan park owner must display a copy of emergency procedures	EHTO1, CEH, HPSO, EHTO2, HPO	
r 24	Power to determine places in which caravan park owner must display copy of public	EHTO1, CEH, HPSO,	

Colac Otway Shire

<b>Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
	emergency warnings	EHTO2, HPO	
r 25(3)	Duty to consult with relevant floodplain management authority	EHTO1, CEH, EHTO2, HPO	
r 26	Duty to have regard to any report of the relevant fire authority	EHTO1, CEH, EHTO2, HPO	
r 28(c)	Power to approve system for the collection, removal and disposal of sewage and waste water from a movable dwelling	EHTO1, CEH, HPSO, EHTO2, HPO	
r 40	Function of receiving notice of proposed installation of unregistrable movable dwelling or rigid annexe	EHTO1, CEH, HPSO, EHTO2, HPO	
r 40(b)	Power to require notice of proposal to install unregistrable movable dwelling or rigid annexe	EHTO1, CEH, HPSO, EHTO2, HPO	

Colac Otway Shire

<b>Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 41(4)	Function of receiving installation certificate	EHTO1, CEH, HPSO, EHTO2, HPO	
r 43	Power to approve use of a non-habitable structure as a dwelling or part of a dwelling	EHTO1, CEH, HPSO, EHTO2, HPO	
sch 3 cl 4(3)	Power to approve the removal of wheels and axles from unregistrable movable dwelling	EHTO1, CEH, HPSO, EHTO2, HPO	

<b>Road Management (General) Regulations 2016</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 8(1)	Duty to conduct reviews of road management plan	GMIO	

Colac Otway Shire

<b>Road Management (General) Regulations 2016</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 9(2)	Duty to produce written report of review of road management plan and make report available	GMIO	
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)	GMIO	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	GMIO	
r 13(1)	Duty to publish notice of amendments to road management plan	GMIO	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	GMIO	
r 16(3)	Power to issue permit	GMIO	Where Council is the coordinating road authority

Colac Otway Shire

<b>Road Management (General) Regulations 2016</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 18(1)	Power to give written consent re damage to road	GMIO	Where Council is the coordinating road authority
r 23(2)	Power to make submission to Tribunal	GMIO	Where Council is the coordinating road authority
r 23(4)	Power to charge a fee for application under s 66(1) Road Management Act	GMIO	Where Council is the coordinating road authority
r 25(1)	Power to remove objects, refuse, rubbish or other material deposited or left on road	GMIO	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))	GMIO	Where Council is the responsible road authority
r 25(5)	Power to recover in the Magistrates' Court, expenses from person responsible	GMIO	

Colac Otway Shire

<b>Road Management (Works and Infrastructure) Regulations 2015</b>			
<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
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	GMIO	Where Council is the coordinating road authority and where consent given under s 63(1) of the Act
r 22(2)	Power to waive whole or part of fee in certain circumstances	GMIO	Where Council is the coordinating road authority

## Item: 9.5

### Scheduling of Submissions Committee meetings

<b>OFFICER</b>	Tamzin McLennan and Doug McNeill
<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Community and Economy
<b>ATTACHMENTS</b>	Nil

#### 1. PURPOSE

To request the scheduling of meetings of the Submissions Committee to hear verbal submissions for the City Reserves Planning Project.

#### 2. EXECUTIVE SUMMARY

A requirement of the Submissions Committee Terms of Reference is that the dates and times for meetings are to be determined by Council. This report seeks Council's endorsement to schedule meeting date for the hearing of verbal submissions for the City Reserves Planning Project.

#### 3. RECOMMENDATION

*That Council schedules a meeting of the Submissions Committee to be held on Wednesday 12 October 2022, commencing at 3.30pm at the Colac Otway Performing Arts Centre, Colac, to hear people who indicated they wished to speak in support of their written submission to the City Reserves Planning Project.*

#### 4. KEY INFORMATION

##### City Reserves Planning Project

The draft documentation relating to the City Reserves Planning Project was considered at the July 2022 Council meeting and went on public exhibition on 1 August 2022. The Council resolution for the exhibition period included an opportunity for any person wishing to speak to their written submission to do so at a meeting of Council's Submissions Committee.

Council has received more than 15 submissions to the City Reserves Planning Project, and one submitter has asked to be heard in support of their submission.

## 5. CONSIDERATIONS

### **Overarching Governance Principles** (s(9)(2) LGA 2020)

This report aligns with Governance Principles A, B, D and F in that it seeks to ensure that those who wish to comment on Council direction, strategies and plans have the opportunity to do so.

### **Policies and Relevant Law** (s(9)(2)(a) LGA 2020)

This report complies with Council's Community Engagement Policy and Submissions Committee Terms of Reference.

### **Environmental and Sustainability Implications** (s(9)(2)(c) LGA 2020)

Not applicable.

### **Community Engagement** (s56 LGA 2020 and Council's Community Engagement Policy)

The documentation for the City Reserves Planning Project has been on public exhibition in accordance with Council's Community Engagement Policy. The resolution of Council for this project provided opportunities for submitters to speak in support of their submissions if requested.

### **Public Transparency** (s58 LGA 2020)

A Submissions Committee provides an opportunity for people to speak to their submission, providing further clarity and engagement around the key points they wish to convey to Councillors as well as any community members attending or listening to the meeting online. This assists with ensuring Council decision making is transparent to the public.

### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 3: Key infrastructure investment supports our economy and liveability

Objective 4: Colac Otway Shire is a destination to visit

### **Financial Management** (s101 Local Government Act 2020)

Not applicable.

### **Service Performance** (s106 Local Government Act 2020)

The projects that are the subject of this report aim to ensure Council's infrastructure provision is responsive to our community's needs, aligning with the service performance principles.

### **Risk Assessment**

Not applicable.

### **Communication/Implementation**

The community engagement process for the City Reserves Planning Project has been the subject of extensive community engagement. The Submissions Committee meeting will be open to the public and communicated in line with Council's standard protocols.

**Human Rights Charter**

Not applicable.

**Officer General or Material Interest**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

**Options****Option 1 – That Council schedules a Submission Committee meeting to hear submissions for the City Reserves Planning Project**

This option is recommended as it is consistent with Council's Community Engagement Policy and commitments.

**Option 2 – That Council does not schedule Submissions Committee meeting**

This option is not recommended as it is inconsistent with Council's Community Engagement Policy and commitments.

Item: 9.6

## Report of Informal Meetings of Councillors

<b>OFFICER</b>	Lyndal Redford
<b>CHIEF EXECUTIVE OFFICER</b>	Anne Howard
<b>DIVISION</b>	Executive
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Informal Meeting of Councillors - Friends of the Botanic Gardens - 20220811 [9.6.1 - 1 page]</li> <li>2. Informal Meeting of Councillors Record - Central Reserve Advisory Committee Meeting - 2022 August 17 [9.6.2 - 1 page]</li> <li>3. Informal Meeting of Councillors - Council meeting preparation - 24 August 2022 - CM 20220824 [9.6.3 - 2 pages]</li> <li>4. Informal Meeting of Councillors - Councillor Briefing - 7 September 2022 - CB 20220907 [9.6.4 - 2 pages]</li> <li>5. Informal Meeting of Councillors Record - Central Reserve Advisory Committee Special Meeting - 2022 S [9.6.5 - 1 page]</li> <li>6. Informal Meeting of Councillors - Councillor Briefing - 14 September 2022 - CB 20220914 [9.6.6 - 2 pages]</li> <li>7. Informal Meeting of Councillors - Planning Committee Meeting Preparation - 14 September 2022 - PCM 2 [9.6.7 - 1 page]</li> </ol>
<b>PURPOSE</b>	To report the Informal Meetings of Councillors

### 1. EXECUTIVE SUMMARY

#### INFORMAL MEETINGS OF COUNCILLORS

The Colac Otway Shire Governance Rules require that records of informal meetings of Councillors which meet the following criteria:

*If there is a meeting of Councillors that:*

- *is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;*

- *is attended by at least one member of Council staff; and*
- *is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting*

be tabled at the next convenient meeting of Council and recorded in the minutes of that Council meeting.

All relevant meetings have been recorded and documented, as attached.

## 2. REPORTING

*The Informal Meetings of Councillors are reported herewith.*

<b>1. Friends of the Botanic Gardens Committee Meeting</b>	<b>11 August 2022</b>
<b>2. Central Reserve Advisory Committee Meeting</b>	<b>17 August 2022</b>
<b>3. Council Meeting Preparation</b>	<b>24 August 2022</b>
<b>4. Councillor Briefing</b>	<b>7 September 2022</b>
<b>5. Central Reserve Advisory Committee Special Meeting</b>	<b>7 September 2022</b>
<b>6. Councillor Briefing</b>	<b>14 September 2022</b>
<b>7. Planning Committee Meeting Preparation</b>	<b>14 September 2022</b>

## 3. KEY INFORMATION

The following Informal Meetings of Councillors have been held and are attached to this report:

1. Friends of the Botanic Gardens Committee Meeting	11 August 2022
2. Central Reserve Advisory Committee Meeting	17 August 2022
3. Council Meeting Preparation	24 August 2022
4. Councillor Briefing	7 September 2022
5. Central Reserve Advisory Committee Special Meeting	7 September 2022
6. Councillor Briefing	14 September 2022
7. Planning Committee Meeting Preparation	14 September 2022

## 4. OFFICER DIRECT OR INDIRECT INTEREST

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.



## Informal Meeting of Councillors Record

This form must be completed by the attending Council Officer and the completed form must be provided to [governance@colacotway.vic.gov.au](mailto:governance@colacotway.vic.gov.au) for reporting at the next practicable Council Meeting.

Please refer to Chapter 5 (Disclosure of Conflict of Interest) and Chapter 6 (Informal Meetings of Councillors) of the Governance Rules and the guidelines over page.

### Meeting Details

**Meeting name:** Friends of Colac Botanic Gardens Special Meeting

**Date:** 11/08/2022      **Time:** 7 .30pm

**Meeting Location:** Colac Library Meeting Rooms

### Matter/s Discussed:

- New Council framework for Council committees and its implications for Colac Friends of Botanic Gardens.
- Local Government changes on purposes of committees and method of operating. Advisory committees abolished.
- Friends group – Special purpose Committee.
- Special purpose MoU to be negotiated.

(eg. Discussions with property owners and/or residents; Planning Permit Application No. xxxx re proposed development at No. xx Pascoe Street, Apollo Bay; Council Plan steering committee with Councillors and officers.)

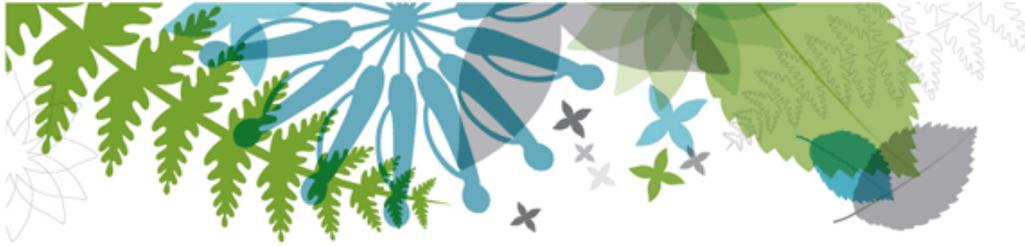
### In Attendance:

<b>Councillors:</b>
Cr Marg White
<b>Officers:</b>
Anne Howard CEO, Laurence Towers, Mark Robinson

### Conflict of Interest Disclosures for Councillors and Officers:

Name	Type of interest	Left meeting at	Returned to meeting at
Nil			

Completed by: Mark Robinson



## Informal Meeting of Councillors Record

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**Meeting Details**

**Meeting name:** Central Reserve Advisory Committee

**Date:** 17/08/2022      **Time:** 5:15pm

**Meeting Location:** Central Reserve – Upstairs Pavilion

**Matter/s Discussed:**

- Facilities and Grounds Maintenance Reports;
- City Reserves Planning Project (Central Reserve Master Plan) – project update;
- Update from User Groups;
- Central Reserve Bookings – upcoming and proposed ground and facility use – regular users and casual bookings;
- Central Reserve Advisory Committee – Terms of Reference and Committee member appointment update and Council’s draft Committees Policy;
- CDFNL Finals Series – dates and venue restrictions for user groups.

**In Attendance:**

<b>Councillors:</b>
Cr Chris Potter
<b>Officers:</b>
Nicole Frampton – Recreation and Open Space Coordinator

**Conflict of Interest Disclosures for Councillors and Officers:** (refer to over page for guidelines)

Name	Type of interest	Left meeting at	Returned to meeting at
Nil			

**Completed by:** Nicole Frampton – Recreation and Open Space Coordinator



## Informal Meeting of Councillors Record

### Council Meeting preparation

**Date:** 24 August 2022

**Time:** 2.00pm

**Meeting Location:** Meeting Rooms 1 and 2, COPACC and by videoconference

<b>Invitees:</b>
Cr Jamie Bell, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Joe McCracken, Cr Chris Potter, Cr Margaret White, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt, Lyndal McLean
<b>Attendees:</b>
Cr Jamie Bell, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart (by videoconference), Cr Joe McCracken, Cr Chris Potter, Cr Margaret White, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt, Lyndal McLean, James McDonald, Lenny Jenner, Doug McNeill, Bláithín Butler, Ravi Ayyagari, Erin Sonogo, Sally Conway (by videoconference), Kanishka Gunasekara (by videoconference), Rhassel Mhasho, Dani Wright
<b>External attendees:</b>
Nil
<b>Apologies:</b>
Nil
<b>Absent:</b>
Nil

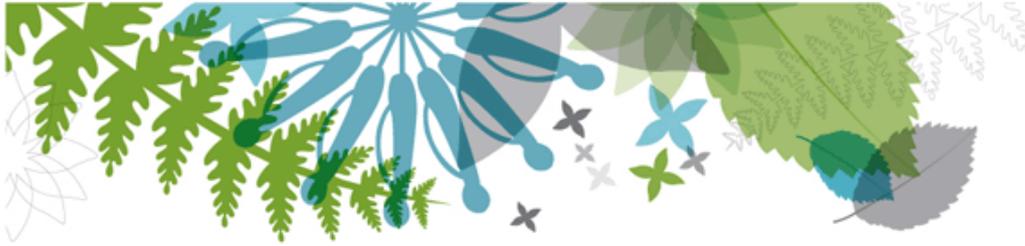
**Meeting Commenced at:** 2.05pm

### Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Cr Graham Costin	General	9.3 Combined Amendment C111cola and Planning Permit Application PP219/2020 - Consideration of Planning Panel Report	It has been suggested that I may have a conflict of interest in this matter, so I am declaring a General Conflict of interest until such time as the matter can be clarified.



Council Meeting preparation – 24 August 2022		
Time	Item	Attendees
2.05pm-3.15pm	<p>Council Meeting preparation</p> <p>Cr Costin left the meeting at 2.42pm; returned at 2.46pm.</p> <p>Having declared a conflict of interest Cr Costin left the meeting at 2.46pm prior to discussion taking place on item 9.3 Combined Amendment C111cola and Planning Permit Application PP219/2020 - Consideration of Planning Panel Report; returned at 2.53pm after discussion on this item concluded.</p> <p>Cr McCracken left the meeting at 2.55pm; returned to the meeting at 2.57pm.</p>	<p>James McDonald Lenny Jenner Doug McNeill Bláithín Butler Ravi Ayyagari Erin Sonogo Sally Conway (by videoconference) Kanishka Gunasekara (by videoconference) Rhassel Mhasho Dani Wright</p>
3.15pm	Meeting closed	



## Informal Meeting of Councillors Record

### Councillor Briefing

**Date:** 7 September 2022

**Time:** 11.15am

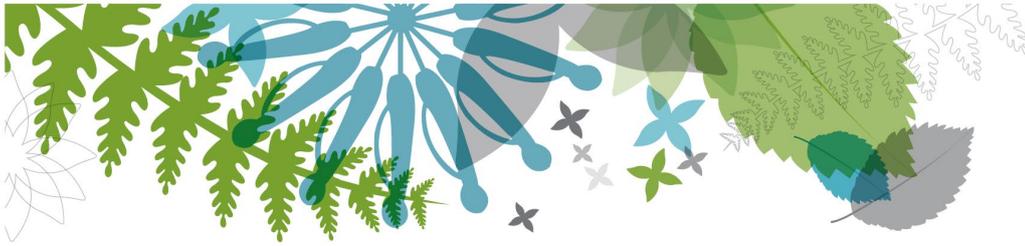
**Meeting Location:** Meeting Rooms 1 and 2, COPACC

<b>Invitees:</b>
Cr Jamie Bell, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart , Cr Chris Potter, Cr Margaret White, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt
<b>Attendees:</b>
Cr Jamie Bell, Cr Kate Hanson, Cr Chris Potter, Cr Margaret White, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt, Doug McNeill, Ravi Ayyagari, Peter Macdonald, Tamzin McLennan, Louise Harvey, Amanda Barber, Dora Novak
<b>External attendees:</b>
Nil
<b>Apologies:</b>
Cr Stephen Hart, Cr Graham Costin
<b>Absent:</b>
Cr Joe McCracken on Leave of Absence (Council resolution 24 August 2022)

**Meeting Commenced at:** 11.21am

### Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Nil			



Councillor Briefing – 7 September 2022		
Time	Item	Attendees
11.21am-11.37am	PP121/2020-1 - 640 Forrest Apollo Bay Road Barramunga - Use and Development of Land for a Dwelling	Doug McNeill Ravi Ayyagari
11.37am-11.46am	Youth Programs Update  Cr Jamie Bell attended the meeting at 11.42am.	Peter Macdonald Tamzin McLennan
11.46am-11.51am	Update to S6 Instrument of Delegation Council to Council Staff	Marlo Emmitt
11.51am—12.15pm	Financial Reporting: Review changes in significant accounting policies and disclosures – Estimated Asset revaluation reports	Amanda Barber
12.15pm-12.22pm	Councillor update from Committee Meetings	
12.22pm-12.28pm	Councillor and EA to CEO, Mayor and Councillors catch up	Louise Harvey
12.28pm-1.19pm	Break	
1.19pm-1.31pm	Review of Audit and Risk Committee Charter and Work Plan	Marlo Emmitt
1.31pm-1.38pm	Risk Management: Council's Strategic Risks	Marlo Emmitt
1.38pm-1.56pm	Revised Governance Rules - Discussion and Submissions	Marlo Emmitt
1.56pm-2.23pm	General Business: <ul style="list-style-type: none"> <li>• Timber Towns</li> <li>• Port of Apollo Bay and DELWP management update</li> <li>• Great Ocean Walk</li> <li>• Barwon South West Climate Alliance update</li> <li>• G21 update</li> <li>• State Government Advocacy document</li> <li>• Foot and mouth disease (FMD) and Lumpy skin disease (LSD) plan</li> </ul>	Dora Novak Doug McNeill
2.23pm	Meeting closed	



## Informal Meeting of Councillors Record

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Please refer to Chapter 5 (Disclosure of Conflict of Interest) and Chapter 6 (Informal Meetings of Councillors) of the Governance Rules and the guidelines over page.

### Meeting Details

**Meeting name:** Central Reserve Advisory Committee Special Meeting

**Date:** 7/09/2022      **Time:** 5:15pm

**Meeting Location:** Central Reserve – Upstairs Pavilion

**Matter/s Discussed:**

- Council’s Committees Policy and Framework discussion.

**In Attendance:**

<b>Councillors:</b>
Cr Chris Potter
<b>Officers:</b>
Nicole Frampton – Recreation and Open Space Coordinator Marlo Emmitt – Manager Governance and Communications Lyndal McLean – Governance Coordinator

**Conflict of Interest Disclosures for Councillors and Officers:** (refer to over page for guidelines)

Name	Type of interest	Left meeting at	Returned to meeting at
Nil			

**Completed by:** Nicole Frampton – Recreation and Open Space Coordinator



## Informal Meeting of Councillors Record

### Councillor Briefing

**Date:** 14 September 2022

**Time:** 1.00pm

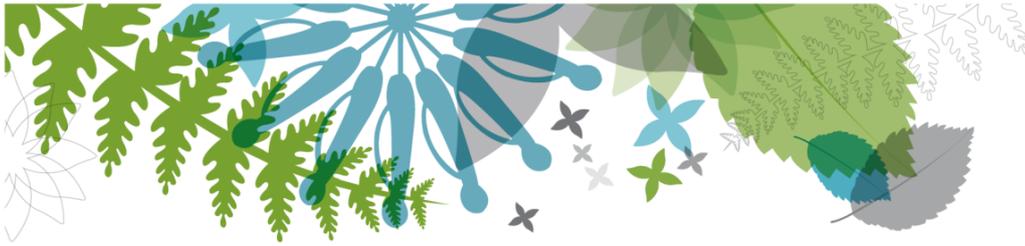
**Meeting Location:** Meeting Rooms 1 and 2, COPACC

<b>Invitees:</b>
Cr Jamie Bell, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart , Cr Chris Potter, Cr Margaret White, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt
<b>Attendees:</b>
Cr Jamie Bell, Cr Graham Costin, Cr Kate Hanson, Cr Joe McCracken, Cr Chris Potter, Cr Margaret White, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt, Tamzin McLennan, Sharyn Ryan, Doug McNeill, Bláithín Butler, Louise Harvey
<b>External attendees:</b>
Manager Media and Public Affairs -Powercor, Head of Field Services – Powercor, Field Operations Manager - Powercor
<b>Apologies:</b>
Cr Stephen Hart
<b>Absent:</b>
Cr Joe McCracken on Leave of Absence (Council resolution 24 August 2022)

**Meeting Commenced at:** 1.07pm

### Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Nil			



Councillor Briefing – 14 September 2022		
Time	Item	Attendees
1.07pm-1.37pm	Powercor presentation and discussion	Manager Media and Public Affairs –Powercor Head of Field Services – Powercor Field Operations Manager - Powercor
1.37pm-2.08pm	Apollo Bay Childcare Stakeholder Discussions (verbal report with presentation)	Tamzin McLennan Sharyn Ryan
2.08pm-2.26pm	Strategic Planning Update	Doug McNeill
2.26pm-2.34pm	Scope of Proposed 4 Yearly Planning Scheme Review	Doug McNeill
2.34pm-2.36pm	Councillor and EA to CEO, Mayor and Councillors catch up	Louise Harvey
2.36pm-2.39pm	Councillor update from Committee Meetings	
2.39pm-3.10pm	General Business: <ul style="list-style-type: none"> <li>• Falls Festival</li> <li>• Carbon emissions</li> <li>• Cats in the Otways</li> <li>• Native vegetation clearing</li> <li>• Community grants</li> <li>• City Deals</li> <li>• Local Laws review</li> </ul>	
3.10pm	Meeting closed	



## Informal Meeting of Councillors Record

### Planning Committee Meeting Preparation

**Date:** 14 September 2022

**Time:** 3.10pm

**Meeting Location:** Meeting Rooms 1 and 2, COPACC

<b>Invitees:</b>
Cr Jamie Bell, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt, Lyndal Redford
<b>Attendees:</b>
Cr Jamie Bell, Cr Graham Costin, Cr Kate Hanson, Cr Chris Potter, Cr Margaret White, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Lyndal McLean, Lyndal Redford, Bláithín Butler, Doug McNeill, Ravi Ayyagari
<b>External attendees:</b>
Nil
<b>Apologies:</b>
Cr Stephen Hart
<b>Absent:</b>
Cr Joe McCracken on Leave of Absence (Council resolution 24 August 2022)

**Meeting Commenced at:** 3.10pm

**Declarations of Interest:**

Name	Type of Disclosure	Item	Reason
Nil			

Planning Committee Meeting Preparation – 14 September 2022		
Time	Item	Attendees
3.10pm-3.22pm	Planning Committee Meeting preparation	Bláithín Butler Doug McNeill Ravi Ayyagari
3.22pm	Meeting closed	

## CLOSED SESSION

### RECOMMENDATION

***That pursuant to the provisions of Section 66 of the Local Government Act 2020, the meeting be closed to the public and Council move into Closed Session in order to deal with:***

<b>SUBJECT</b>	<b>REASON</b>	<b>SECTION OF ACT</b>
<b><i>Minutes of the Closed Session Council Meeting held on 23 February 2022 and Minutes of the Closed Session Council meeting held on 29 June 2022.</i></b>	This matter deals with confidential meeting information, being records of meetings closed to the public under section 66(2)(a).	Section 3(1)(h)
<b><i>Extension of Contract 1954-2 - Building Surveying and Inspection Services</i></b>	This matter deals with private commercial information, being information provided by a business, commercial or financial undertaking that - ... if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.	Section 3(1)(g)(ii)
<b><i>Extension of Contract 2006 - Waste Management Services</i></b>	This matter deals with private commercial information, being information provided by a business, commercial or financial undertaking that - ... if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.	Section 3(1)(g)(ii)