



HEPBURN SHIRE COUNCIL
SPECIAL MEETING OF COUNCIL
PUBLIC MINUTES

TUESDAY 14 JULY 2020

ONLINE VIA VIDEO CONFERENCE
A LIVE STREAM OF THE MEETING CAN BE VIEWED
VIA [COUNCIL'S FACEBOOK PAGE](#)

6:00PM

MINUTES

TUESDAY 14 JULY 2020

ONLINE VIA VIDEO CONFERENCE

Commencing 6:00PM

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EVAN KING

CHIEF EXECUTIVE OFFICER

14 JULY 2020

1. ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

We would like to acknowledge we are meeting on Jaara people country, of which members and elders of the Dja Dja Wurrung community and their forebears have been custodians for many centuries.

On this land, the Jaara people have performed age old ceremonies of celebration, initiation and renewal.

We acknowledge their living culture and their unique role in the life of this region.

2. SAFETY ORIENTATION

Emergency exits and convenience facilities at the venue to be highlighted to members of the public in attendance.

3. OPENING OF MEETING

The meeting commenced at 6:01pm.

PRESENT: Cr Don Henderson, Cr Neil Newitt, Cr Licia Kokocinski, Cr John Cottrell, Cr Greg May, Cr Fiona Robson and Cr Kate Redwood AM

IN ATTENDANCE: Mr Evan King - Chief Executive Officer, Mr Bradley Thomas - Director Community and Corporate Services, Mr Bruce Lucas - Director Infrastructure and Development Services, Mr Chris Whyte – Manager Information and Communication Technology, Ms Krysten Forte - Manager Governance and Risk

STATEMENT OF COMMITMENT

“WE THE COUNCILLORS OF HEPBURN SHIRE
DECLARE THAT WE WILL UNDERTAKE ON EVERY OCCASION
TO CARRY OUT OUR DUTIES IN THE BEST INTERESTS OF THE
COMMUNITY
AND THAT OUR CONDUCT SHALL MAINTAIN THE STANDARDS OF THE
CODE OF GOOD GOVERNANCE
SO THAT WE MAY FAITHFULLY REPRESENT AND UPHOLD THE TRUST
PLACED IN THIS COUNCIL BY THE PEOPLE OF HEPBURN SHIRE”

4. APOLOGIES

Nil.

5. DECLARATIONS OF CONFLICTS OF INTEREST

Nil.

6. OFFICERS' REPORTS

6.1. HEPBURN SHIRE COUNCIL DRAFT GOVERNANCE RULES DIRECTOR COMMUNITY AND CORPORATE SERVICES

In providing this advice to Council as the Manager Governance and Risk, I Krysten Forte have no interests to disclose in this report.

PURPOSE

The purpose of this report is to:

1. Inform Council and the Hepburn Shire Community regarding Council's obligations under the *Local Government Act 2020* for Council to prepare Draft Governance Rules that is to include an Election Period Policy and requirements for the Council to undertake a community consultation process on the Draft Rules;
2. Present to Council the Draft Governance Rules & Election Period Policy for their consideration and adoption in draft form;
3. For Council to inform the Hepburn Shire Council Community that a community consultation process will be undertaken from 15 July 2020 to 12 August 2020, inviting the community to provide their feedback and comment on the Draft Governance Rules via a 'Have your Say' process as advertised on Council's website and advise to the community that all submissions received (with redactions made to personal affairs information) will be made available on Council's website to view;
4. Inform Council and the Community that officers will take into account all submissions received, and where appropriate incorporate feedback, to prepare and present The Governance Rules at a scheduled Special Council Meeting on 25 August 2020 at 6pm for adoption to ensure that Council comply with its' statutory obligations under the *Local Government Act 2020*.

BACKGROUND

Local Government Act 2020 development – background and context

- The 2020 Act received Royal Assent on 24 March 2020 and became Law.
- The 1989 Act is over 30 years old and is deemed no longer reflective of the community expectations with respect to council operations.
- The Explanatory Memorandum says that the Act is intended to achieve: "...a contemporary legislative framework for local government in Victoria that enhances democracy, council transparency, and responsiveness to community and the State..."

- Section 8(1) of the 2020 Act states that the role of Council is to provide good governance in its municipal district for the benefit and the wellbeing of the municipal community.
- Through the new legislation Councils will be more engaged with and accountable to their communities.
- Currently the 2020 Act operates simultaneously with 1989 Act. As different stages come into operation, corresponding sections of the 1989 Act will be repealed.
- The objectives of the Act are to ensure that:
 1. Local Government continues to be constituted as a democratically elected tier of Government in Victoria;
 2. Councils are constituted as representative bodies that are accountable, transparent, collaborative, efficient and engaged with their communities;
 3. Councils have the functions and powers necessary to enable Councils to perform their role.
- The 2020 Act was developed with 5 major themes in mind when it was reviewed and passed from a Bill into legislation this year. The themes include:
 - Improved service delivery – allow councils to focus on better financial management and engagement with their communities to deliver better services.
 - Improved councillor conduct – set minimum requirements for candidates and councillors and clearer standards of behaviour with stronger mechanisms to address poor conduct.
 - Stronger local democracy – increase council and councillors direct accountability to the community.
 - Community confidence – reforms election processes and candidate requirements to increase transparency
 - New relationships – removal of any unnecessary Ministerial approvals and arbitrary powers to build a new relationship between the State, local government and communities.
- The Act is being implemented in four key stages.
- The first stage was proclaimed on 6 April.
- The second stage, and first tranche of documents required by Council to adopt is to implement by 1 September 2020.

Governance Rules – 2020 Act

- The development of the Governance Rules has been based off a template prepared by Maddocks Lawyers.
- The template represents a ‘standard’ form of Governance Rules that are capable of satisfying the requirements of Section 60(1) of the 2020 Act.
- Many Councils are utilising this model template to meet their statutory obligations.

- Section 60 of the 2020 Act states that a Council must develop, adopt and keep in force Governance Rule for or with respect to the following:
 - The conduct of council meetings;
 - The conduct of meetings of delegated committees;
 - The form and availability of meeting records;
 - The election of the Mayor and Deputy Mayor;
 - The appointment of an Acting Mayor;
 - The election period policy in accordance with section 69;
 - the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under section 130;
 - the procedure for the disclosure of a conflict of interest by a Councillor under section 131;
 - the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section 126(1); and
 - any other matters prescribed by the regulations.
- The Governance Rules must provide for a Council to:
 - consider and make decisions on any matter being considered by the Council fairly and on the merits; and
 - institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.
- Council may amend its' Governance Rules.
- Pursuant to section 60(4) of the 2020 Act Council must ensure that that a process of community engagement is followed in developing or amending its Governance Rule, unless Council is developing and adopting or amending a Governance Rule that only adopts a good practice guideline issued by the Minister under section 87.
- The 2020 Act is silent how long Councils should seek feedback on the Governance Rules, however Council have determined to follow a 4-week community consultation process to be undertaken to provide for as much opportunity for the community to engage with Council as possible.
- The 2020 Act states that a Council must comply with its' Governance Rules.
- A Council must adopt its' Governance Rules by 01 September 2020.
- A Council's first Governance rules will replace the meeting procedure as detailed in Councils current Local Law no. 1 – Meeting Procedure Local Law.
- The preparation of the Governance Rules provides an opportunity to improve not just the rules but the way meetings are conducted.
- Specific improvements relate to:

- Aligning decision-making processes with principle-based approaches of the new Act;
- Making meeting procedures easier for councillors to understand and apply;
- Ensuring that decision-making processes are more transparent for the community;
- Generally simplifying decision making; and
- Making it easier to update meeting procedures.
- As the 2020 Act is a principle based legislation, with section 9 expressly stating that Councils must, in its' performance of its' role give effect to the overarching governance principles. These principles are:
 - (a) Council decisions are to be made and actions taken in accordance with the relevant law;
 - (b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;
 - (c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
 - (d) the municipal community is to be engaged in strategic planning and strategic decision making;
 - (e) innovation and continuous improvement is to be pursued;
 - (f) collaboration with other Councils and Governments and statutory bodies is to be sought;
 - (g) the ongoing financial viability of the Council is to be ensured;
 - (h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
 - (i) the transparency of Council decisions, actions and information is to be ensured.
- The 2020 Act also states that in giving effect to the overarching governance principles, a Council must take into account the following supporting principles:
 - (a) the community engagement principles;
 - (b) the public transparency principles;
 - (c) the strategic planning principles;
 - (d) the financial management principles;
 - (e) the service performance principles
- The Governance Rules are divided into an Introduction and 7 Chapters.

Governance Rules:

- Attachment provides for the Draft Governance Rules incorporating at Chapter 7 an Election Period Policy.
- Attachment provides for a summary of the key elements of Hepburn Shire Council's Draft Governance Rules.
- The table below provides a summary of the Chapters and details within each.

Item	Details
Introduction	
Chapter 1	Governance Framework
Chapter 1 <i>Rule 1</i>	Council's position on the Governance Rules in context of other Council documents.
Chapter 1 <i>Rule 2</i>	Attempts to ensure compliance with s 60(2) of the Act. Imposes obligations on those involved in decision-making including members of Council staff under delegation.
Chapter 2	Meeting Procedure Contains rules relating to meeting procedure at Council meetings. <ul style="list-style-type: none"> - Election of Mayor & any Deputy Mayor - Appointment of Acting Mayor - Form and availability of meeting records (in the form of meeting minutes at Council Meetings) Majority of Councils provisions relating to existing meeting procedure local law no. 1 are transferred over in this chapter.
Chapter 3 <i>Rule 1</i>	Meeting procedure for Delegated Committees
Chapter 3 <i>Rule 2</i>	Allows for flexibility either Council or Delegated Committees to resolve that any provision in the Governance Rules (n Chapter 2) relating to a Council Meeting be modified in its application of a meeting of a relevant Delegated Committee.

Chapter 4	<p>Meeting Procedure for Community Asset Committees</p> <p>This is open for the CEO to provide for how Community Asset Committee meetings are conducted in their Instruments of Sub-Delegation delegating various duties, functions and powers to the Community Asset Committees.</p> <p>As an alternative this allows the community asset committees to set its own meeting procedure.</p>
Chapter 5	<p>Disclosure of Conflicts of Interest</p> <p>These are set out in a single chapter.</p> <p>Identical disclosure procedures in relation to Council meetings and delegated committee meetings.</p> <p>Modified procedure is then provided for councillors who are present at a community asset committee meeting.</p> <p>Procedure is detailed for meetings held under Auspice of Council – for example advisory committees, project reference committees (assembly of councillors).</p> <p><i>***no rules in this chapter become operative until Division 1A of Part 4 of the 1989 Act is repealed (24 October 2020).</i></p> <p><i>Until then the existing provisions pertaining to conflict of interest declaration under the Local Government Act 1989 will continue and disclosure will be regulated by ss 79, 80A and 80B and 80C of the 1989 Act.</i></p> <p><i>Rule 1 in Chapter 5 makes it clear that the following Rules in the Chapter only commence when the provisions in the 1989 Act are repealed**</i></p>
Chapter 5 Rule 8 & 9	<p>Members of Council staff are subject to disclosure obligations when exercising delegated powers or performing statutory functions s 130(1)(d) and (e) of 2020 Act.</p>
Chapter 6	<p>Provides for miscellaneous information</p>

	<p>**no rule can conflict any provision in the 2020 Act**</p> <p>Addresses 2 matters:</p> <p>*Records of information meetings of councillors (formally known as assemblies of councillors in 1989 Act)</p> <p>*The Chief Executive Officer's designation of information as confidential information.</p>
Chapter 6 <i>Rule 2</i>	<p>Once section 77(2)(c) of the 1989 Act is repealed, the CEO's will have no legislative power to designate information as 'confidential information'.</p> <p>Designation creates a presumption that the information designated <i>is</i> confidential. The Rule cannot go beyond that – it can do no more than allow the CEO to express – through his/her designation – an opinion that the particular information satisfies the definition in section 3(1) of the 2020 Act.</p> <p>It is hoped that Councillors and staff will respect this and treat the information as confidential on this basis.</p> <p>Rule 2 will not be operative until s 77(2)(c) of the 1989 Act is repealed on the 24 October 2020.</p>
Chapter 7	<p>Election Period Policy</p> <p>Council's election period policy must be included in the Governance Rules and is stated in s 69(1) of the 2020 Act.</p> <p>This is included as an attachment.</p>

- When the Governance Rules are adopted in their final form following a period of consultation, the Rules will replace meeting procedure for Council and delegated committees as detailed in Council's current Local Law no. 1 – Meeting Procedure Local Law.
- Unlike Local Laws, Governance Rules are not determined to be 'subordinate' legislation so misuse under the Rules would not attract a penalty.

- Council's Meeting Procedure Local Law no. 1 will continue to govern the regulation of the common seal and the conduct of meetings with respect to penalties and offences.
- Council officers propose to review its' Meeting Procedure Local Law no. 1 in early 2021.

ISSUE/DISCUSSION

- Council are required to adhere to the legislative requirements in the *Local Government Act 2020*.
- Where community consultation or feedback received is not in line with good governance or Council's legislative requirements Council will not incorporate the feedback into the documents.
- Council are committed to genuinely hearing what the Community have to say, and will incorporate where appropriate the feedback into the documents. It is important to note that it may not be feasible to incorporate all feedback that is received through the Have Your Say Process.

COUNCIL PLAN/LEGISLATIVE COMPLIANCE

This report aligns to the strategic objective in the Council Plan 2017: 2021 'High Performing Organisation' in *delivering good governance and integrity in all our actions, and take steps to improve organisational efficiency including regular process improvements*.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

RISK IMPLICATIONS

Council are committed to making the Draft documents available at Council Customer Service Centres and Libraries to allow for community members without access to the documents electronically to view.

However, Council will continue to its commitment in ensuring that it follows the Government directives with respect to the best practice advise in handling documents in light of the COVID-19 pandemic to minimise the transmission of COVID-19 as far as possible. Council may remove documents for viewing should there be concern that the transition of COVID-19 may be transmissible through handling of paper and documents.

ENVIRONMENTAL/SOCIAL/ECONOMIC IMPLICATIONS

There are no environmental, social or economic implications associated with this report.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

The following provides for the proposed community engagement plan:

Step 1	Method	Consultation Period
Council adopts its Draft Governance Rules (including the Election Period Policy) and places the Rules out for community consultation at the Special Council Meeting for 14 July 2020	<p>Have your say on Council's website</p> <p>Document socialised on Councils Facebook</p> <p>Regular social media posts</p> <p>Draft available at customer service centres and libraries pending cautious COVID-19 requirements.</p> <p>Copies of submissions as received will be placed on Councils website with personal affairs information of submitters redacted.</p>	<p>Commences on Wednesday 15 July and concludes on Wednesday 12 August 2020 (4 weeks) – in line with best practice community engagement period</p> <p><i>**timeframe not legislated*</i></p>
Step 2	Method	Councillor review
Council officers take into account and where appropriate incorporate feedback received and align it to Governance Rules and 2020 Act.	Review submissions	Councillors will be provided the re-draft including a summary of submissions received.
Step 3	Re-engagement process	Finalisation
Council officers prepare the Final Draft of Governance Rules (including Election Period Policy) for adoption at a Special	Officers write to those who put in writing submissions advising that that the final draft will be presented at the Special Council	Adopted and come into effect for the next Ordinary Council meeting for September 2020.

<p>Council meeting on 25 August 2020 to meet 01 September statutory deadlines</p>	<p>meeting on 25 August 2020.</p>	<p>Govern the meeting procedure as detailed in the Chapters.</p> <p><i>**Meeting Procedure Local Law no. 1 continues to govern the regulation of the common seal and conduct of meetings with respect to penalties and offences**</i></p>
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CONCLUSION

Council must prepare and adopt a set of Governance Rules, incorporating a revised Election Period Policy by the statutory deadline of 1 September 2020.

The Governance Rules will come into effect from the date of adoption.

Council must undertake a process of community consultation on the Draft Governance Rules.

OFFICER'S RECOMMENDATION

That Council:

6.1.1. Note the Draft Governance Rules, including the Election Period Policy at Chapter 7;

6.1.2. Endorse Council to enact a process of community consultation and for this to be undertaken commencing on Wednesday 15 July 2020 and concluding on Wednesday 12 August 2020 via Council's website;

6.1.3. Invite the community to provide their feedback and comment on the Draft Governance Rules via a 'Have your Say' process as advertised on Council's website;

6.1.4. Note that a final Governance Rules with feedback incorporated where appropriate, will be present to Council for adoption at a Special Council Meeting scheduled for Tuesday 25 August 2020 at 6:00pm.

MOTION

That Council:

- 6.1.1. Note the Draft Governance Rules, including the Election Period Policy at Chapter 7;*
- 6.1.2. Endorse Council to enact a process of community consultation and for this to be undertaken commencing on Wednesday 15 July 2020 and concluding on Wednesday 12 August 2020 via Council's website;*
- 6.1.3. Invite the community to provide their feedback and comment on the Draft Governance Rules via a 'Have your Say' process as advertised on Council's website;*
- 6.1.4. Note that a final Governance Rules with feedback incorporated where appropriate, will be present to Council for adoption at a Special Council Meeting scheduled for Tuesday 25 August 2020 at 6:00pm.*

Moved: Cr Don Henderson

Seconded: Cr John Cottrell

Carried

**ATTACHMENT 1 - SUMMARY TABLE - GOVERNANCE RULES
CHANGES**

Governance Rule	Major change /deviation from detail in Meeting Procedure Local Law # 1 (MPLL)
INTRODUCTION	<p>Differentiation between how a local law and Governance Rules are made.</p> <p>Insertion of review date of 4 years – change from 10th anniversary from date of commencement in MPLL.</p> <p>Governance Rules are set out in Chapters to convey the requirements of the LG Act 2020.</p>
<p>Chapter 1 Governance Framework</p> <p>Included – set out the decision making framework for Council and Council staff.</p>	<p>New framework included in Governance Rules</p> <p>Insertion of mandated considerations in decision making.</p>
Chapter 2 – Meeting Procedure for Council Meetings and contents	
Chapter 2 – Part A	Provides for election of the Mayor and any Deputy Mayor, appointment of Acting Mayor & procedures governing the conduct of Council meetings.
<p>Chapter 2</p> <p>Part B – Election of the Mayor</p>	<p>MPLL referred to the ability of CEO to open the meeting and at any meeting to elect the Mayor, a Councillor may be appointed as a temporary chairperson. 2020 Act expressly states the election must be chaired by the CEO, this is reflected in the Rules.</p> <p>Key difference with respect to timeframe of election of Mayor each term – reasonable (2020 Act) v prescriptive timeframe in 1989 Act as referenced in the MPLL.</p> <p>Provides for the appointment of an Acting Mayor if no Deputy Mayor.</p>

	<p>Also provides for the process in appointing Chairs to Delegated Committees of Council.</p> <p>Provides for Appointing of Acting Mayor.</p>
<p>Chapter 2 Part C- Meetings Procedure Division 1</p>	<p>Council may alter meeting dates – change to ‘reasonable notice to public’ from must provide 7 days notice in MPLL as this was mandated in section 89(4) 1989 Act. This requirement of 7 days is no longer required. The 2020 Act aims to be less prescriptive and more enabling hence ‘reasonable notice’ included.</p> <p>Insertion of calling Special Council Meetings. This was not referenced in the MPLL and was in the 1989 Act under section 84 which governed the way in which Councils could call meetings that were not fixed. Calling of a Special Council meeting is not replicated in the 2020 Act. Term ‘special council meeting’ carried over to Governance Rules to avoid confusion for councillors and community. This clause proceeds the interim Calling of a Special Council Meeting Policy that was adopted when section 84 in the 1989 Act was repealed.</p> <p>Notice of meeting must be provided to the public. Change from 7 days notice to ‘reasonable notice’ as section 89(4).</p>
<p>Chapter 2 Part C- Meetings Procedure Division 2 - Quorums</p>	<p>MPLL stated adjournment of meeting date set for a period not exceeding 7 days from date of adjournment.</p> <p>Quorum is an absolute majority of Council (half + 1).</p> <p>Removal on limit on adjournment of meetings.</p> <p>Inclusion for Council to have the discretion to adjourn a meeting to another date or time <u>but can not</u> in the absence of disorder or threat to the safety of any Councillor or member of Council staff adjourn to a meeting in session to another place.</p> <p>Insertion of time limits for meetings – bench marking of other Councils is 3 hours and – provides for the opportunity for Council via resolution to extend the continuation of the meeting post this time.</p> <p>Simplification of reasons for cancelling or postponing a meeting to ‘in the case of an emergency’.</p>

Chapter 2 Part C- Meetings Procedure Division 3 Business of Meetings	
Chapter 2 Part C- Meetings Procedure Division 4 – Motions and Debate	<p>23.2 Notice of motion – insertion of reasons why a CEO may reject any notice of motion, namely ‘it is beyond Council’s power to pass and if passed would result in Council otherwise acting invalidly’.</p> <p>23.4. - Insertion that the CEO must cause for all notices of motion to be numbered, dated and entered into a notice of motion register in the order that they were received.</p>
Chapter 2 Part C- Meting Procedure Division 5 - Procedural Motions	Insertion of Procedural motions table for guidance.
Chapter 2 Part C- Meetings Procedure Division 6 – Motions and Debate	<p>Notice of rescission - new requirement for the requirement that a rescission motion is proposed that it has to be signed and dated by at least three councillors. MPLL stated that it required to be signed and dated by at least one other Councillor.</p> <p>Inclusion that the notice of rescission is required to be delivered to the Chief Executive Officer with 24 hours of the resolution having been made. MPLL did not have a time limit on it.</p> <p>Governance Rules state that for a lost rescission motion, a similar motion may not be put forward Council for at least three months from the date it was lost, unless Council resolves that the notice of motion be re-listed at a future meeting. The MPLL reference was for a least one month.</p>
Chapter 2 Part C- Meetings Procedure Division 7 – Points of Order	
Chapter 2 Part C _ Meeting Procedure Division 8 - Public Question Time	Change of date of receipt of questions from members of the Public to 10am the day before the Council meeting as opposed to 12pm on the day of the Council meeting. Current timeframe as set out in MPLL proves to be incredibly tight and provides for more time for administration to prepare thorough

	<p>answers. This is the same for requests to address Council and requests to address Council for statutory planning reports for both objectors and applicants to be submitted to Council by 10am the day before .</p> <p>Inclusion of conditions in which the Chair can determine whether a question is disallowed or not.</p> <p>Additional criteria in determining such include whether the question:</p> <ul style="list-style-type: none"> - Relates to personnel matters - Relates to the personal hardship of any resident or ratepayer - Relates to industrial matters - Relates to contractual matters - Relates to proposed developments - Relates to legal advice - Relates to matters affecting the security of Council property - Relates to any other matter which Council considers would prejudice Council or any person. <p>Inclusion that a Councillor or the CEO may advise Council that it is his or her opinion that the reply to a question should be given to a meeting closed to the public. A councillor or CEO 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.</p> <p>Provision for 'like questions' if received, to be grouped together and a single answer provided.</p>
<p>Chapter 2 Part C _ Meeting Procedure Division 9 - Petitions and Joint Letters</p>	<p>Insertion of requirement that unless Council determines to consider it as an item or urgent business, no motion (other than the motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next Council meeting after that at which it has been presented.</p> <p>Inserted provision for electronic petitions in the correct format to be accepted for example change.org.</p>
<p>Chapter 2 Part C – Meeting Procedure Division- 10 Voting</p>	<p>Insertion that voting must take place in silent.</p> <p>Insertion that the Chair may direct that a vote be recounted to satisfy himself or herself of the result.</p>

<p>Chapter 2 Part C – Meeting Procedure Division- 11 Confirmation of Minutes</p>	<p>Change from the Chairperson of the Council meeting at which the minutes were confirmed, with or without amendment must subsequently sign the confirmed meeting minutes.</p> <p>Inclusion of that the meeting minutes must, if practicable, be signed by the Chair of the meeting which they have been confirmed. Provides for instances where confirmation by resolution has been achieved, but physical signing is not practicable in the circumstance.</p> <p>Provides for more direction around the process of a councillor objecting to the confirmation of minutes.</p> <p>Inclusion that no discussion or debate on the confirmation of minutes is permitted except where the accuracy as a record of the proceedings of the meeting to which they relate is questioned.</p> <p>Inclusion that unless otherwise required by law, minutes of a Delegated committee requiring confirmation by Council must not be available to the public until confirmed by Council.</p> <p>Includes a requirement of Council to enter the minutes into the minute book and that each item in the minute book must be entered consecutively.</p> <p>Inclusion that the Chief Executive Officer must ensure that the minutes of any Council meeting are:</p> <ul style="list-style-type: none"> - Published on Council’s website - Available for inspection at Council’s normal business hours.
<p>Chapter 2 Part C – Meeting Procedure Division 12 – Behaviour</p>	<p>MPLL referenced that if the Chairperson is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the meeting, he or she may adjourn the meeting to a later time on that same day, or a later day as he or she thinks appropriate up to seven days later than the date stated in the Agenda for the commencement of the meeting.</p> <p>The Governance rules removes the requirement for the meeting to be adjourned up to seven days later and is replaced with ‘at some later day as he or she thinks is appropriate’.</p>
<p>Chapter 2</p>	

<p>Part C – Meeting Procedure Division 13 – Additional duties of the Chair</p>	
<p>Chapter 2 Part C – Meeting Procedure Division 14 – Suspension of Standing Orders</p>	
<p>Chapter 2 Part C – Meeting Procedure Division 15 – Miscellaneous</p>	<p>Allows for meetings to be conducted remotely.</p> <p>If by law or if 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 Rule in the Meeting Procedure Chapter to facilitate the more efficient and effective transaction of the business of the meeting. This is not reflected anywhere in the MPLL.</p> <p>Additional inclusion in this Chapter not reflected in the MPLL is in all cases not specifically provided for by this Chapter, resort must be had to the Standing Orders and Rules of Practice of the Upper House of the Victorian Parliament (so far as the same are capable of being applied to Council proceedings).</p> <p>(Standing orders are the permanent rules of procedure for the Legislative Assembly and its committee).</p> <p>Ability for the Chief Executive officer at their discretion to make a brief statement at a Council meeting in respect of any statement by a Councillor made at the Council meeting criticising him or any other Council staff.</p>
<p>Chapter 3 – Meeting Procedure for Delegated Committees</p>	<p>Provides for meeting procedure for a Delegated committee of Council if Council establishes a Delegated Committee.</p>
<p>Chapter 4 – Meeting Procedure for Community Asset Committees</p>	<p>Provides for any Council established Community Asset Committee to determine at their discretion the conduct of a meeting of a community asset committee, unless anything in their respective instrument of delegation provides otherwise.</p> <p>Community asset committees not reflected in the MPLL.</p>

Chapter 5 – Disclosure of Conflicts of Interest	<p>Provide for conflict of interest provisions of councillors, council staff and a member of a delegated committee.</p> <p>The rules in this Chapter only apply upon Division 1A of Part 4 of the Local Government Act 1989 being repealed.</p>
Chapter 6 – Miscellaneous	<p>Includes provision for records of meetings to be kept, tabled at the next convenient Council Meeting and recorded in the minutes of that council meeting where Councillors are present and are meeting for the purpose of discussing the business of Council or briefing Councillors, and includes at least one member of Council staff and is not a Council meeting, Delegated Committee meeting or Community Asset Committee.</p> <p>Provides for a record similar to assemblies of councillors records that were required under the 1989 Act and are not longer mandated in the 2020 Act.</p> <p>Includes provision for the CEO to designate information as confidential after the repeal of section 77(2)(c) of the 1989 Act (which is due to be repealed on 24 October 2020) .</p> <p>Includes recording of meetings as transcribed from the MPLL.</p>
Chapter 7 – Election Period Policy	Requirement under the 2020 Act for Governance Rules to include Councils Election Period Policy.

Glossary: MPLL means Meeting Procedure Local Law # 1

**ATTACHMENT 2 - DRAFT GOVERNANCE RULES (ISSUED UNDER
SEPARATE COVER)**

6.2. HEPBURN SHIRE COUNCIL DRAFT PUBLIC TRANSPARENCY POLICY DIRECTOR COMMUNITY AND CORPORATE SERVICES

In providing this advice to Council as the Manager Governance and Risk, I Krysten Forte have no interests to disclose in this report.

PURPOSE

The purpose of this report is to:

1. Inform Council and the Hepburn Shire Community regarding Council's obligations under the *Local Government Act 2020* for Council to prepare a Public Transparency Policy;
2. Present to Council the Draft Public Transparency Policy for Council consideration and adoption in draft form;
3. For Council to inform the Hepburn Shire Council Community that a community consultation process will be undertaken from 15 July 2020 to 12 August 2020, inviting the community to provide their feedback and comment on the Draft Public Transparency Policy via a 'Have your Say' process as advertised on Council's website and advise to the community that all submissions received (with redactions made to personal affairs information) will be made available on Council's website to view;
4. Inform Council and the Community that officers will take into account all submissions received, and where appropriate incorporate feedback, to prepare and present Public Transparency Policy at a scheduled Special Council Meeting on 25 August 2020 at 6pm for adoption to ensure that Council comply with its statutory obligations under the *Local Government Act 2020*.

BACKGROUND

This preparation of this Draft Policy fulfils the Council's requirement under section 57 of the *Local Government Act 2020* (the Act) to adopt and maintain a Public Transparency Policy.

The Policy gives effect to the following Public Transparency Principles outlined in section 58 of the Act:

- Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;
- Council information must be publicly available unless—
 - the information is confidential by virtue of this Act or any other Act; or
 - public availability of the information would be contrary to the public interest;
- Council information must be understandable and accessible to members of the municipal community;

- public awareness of the availability of Council information must be facilitated.

The Public Transparency is a key document that is required for Council's to adopt as part of the first tranche of governance documents to be completed by the legislative timeframe of 1 September 2020.

The draft Public Transparency Policy has been prepared based on guidance materials from Local Government Victoria and the requirements under the Act.

Councils are required to prepare and adopt a Public Transparency Policy by 1 September 2020. It is important for Council and the community to note that this is a new obligation and was not required under the *Local Government 1989 Act*.

This Policy has been developed alongside Council's *Freedom of Information Part II Statement* (a requirement under the *Freedom of Information Act 1982 (Vic)*) which lists all documents either produced by or in possession of Council that are available to the public either via Council's website or for inspection by appointment at Council offices.

Key elements of the Public Transparency Policy

The policy is broken down into key elements detailing:

- Introduction and purpose – why the policy has been developed & rationale for transparency
- The scope of the policy expanding to Councillor and members of Council staff
- Definitions - Specific mention of the new definition of confidential information under the *Local Government Act 2020*.
- Councils position on transparent decision making
- Types of information that Council traditionally has in its possession
- Information that would generally not be available - as determined as confidential.
- Public Interest Test - how Council will determine that some information will be withheld.
- Freedom of Information application process

The Policy has a connection to Council's governing policies which include transparency <https://www.hepburn.vic.gov.au/governing-policies/>

Education to the organisation will be provided over the coming months with respect to what this policy gives rise to and our express requirements under the *Local Government Act 2020*.

While there is no obligation under the Act for Council's to consult with their communities during the development of the Public Transparency Policy, the general consensus across the Victorian Local Government Sector is that the state government and communities would be expected to be consulted and

that community consultation would demonstrate Councils commitment to being transparent and accountable with the public.

Officers have participated in regular network forums over the last few weeks to engage with neighbouring Councils on the development of this Policy. As mentioned, Local Government Victoria have prepared model templates, which, whilst have not been used in their entirety, give insights into what a Policy should obtain. Officers have also undertaken benchmarking against other Council's draft Public Transparency Policies.

ISSUE/DISCUSSION

Council are required to adhere to the legislative requirements in the *Local Government Act 2020*.

Council will follow best practice templates and guidance material prepared and provided by Local Government Victoria (LGV) in the development of the policy.

COUNCIL PLAN/LEGISLATIVE COMPLIANCE

This report aligns to the strategic objective in the Council Plan 2017:2021 'High Performing Organisation' in *delivering good governance and integrity in all our actions, and take steps to improve organisational efficiency including regular process improvements*.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

RISK IMPLICATIONS

Council are committed to making the Draft Policy available at Council Customer Service Centres and Libraries to allow for community members without access to the documents electronically to view.

However, Council will continue to its' commitment in ensuring that it follows the Government directives with respect to the best practice advise in handling documents in light of the COVID-19 pandemic to minimise the transmission of COVID-19 as far as possible. Council may remove documents for viewing should there be concern that the transition of COVID-19 may be transmissible through handling of paper and documents.

ENVIRONMENTAL/SOCIAL/ECONOMIC IMPLICATIONS

There are no environmental, social or economic implications associated with this report.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

Council want to hear from the Hepburn Shire Community with respect to the Draft Public Transparency Policy.

Council are providing a 4-week consultation process from 15 July to 12 August 2020 to engage with the community and hear their views on the documents.

There is no legislative obligation to undertake community consultation, but as this is a new policy, Council want to hear from what the community have to say.

CONCLUSION

Council must prepare and adopt a Public Transparency Policy by the statutory deadline of 1 September 2020.

The Public Transparency Policy will come into effect from the date of adoption.

OFFICER'S RECOMMENDATION

That Council:

- 6.2.1. Note the Draft Public Transparency Policy;
- 6.2.2. Endorse Council to enact a process of community consultation and for this to be undertaken commencing on Wednesday 15 July 2020 and concluding on Wednesday 12 August 2020 via Council's website;
- 6.2.3. Invite the community to provide their feedback and comment on the Draft Public Transparency Policy via a 'Have your Say' process as advertised on Council's website;
- 6.2.4. Note that a final Public Transparency Policy in line with feedback incorporate where appropriate, will be present for Council for adoption at a Special Council Meeting on Tuesday 25 August 2020 at 6:00pm.

MOTION

That Council:

- 6.2.1. Note the Draft Public Transparency Policy;*
- 6.2.2. Endorse Council to enact a process of community consultation and for this to be undertaken commencing on Wednesday 15 July 2020 and concluding on Wednesday 12 August 2020 via Council's website;*
- 6.2.3. Invite the community to provide their feedback and comment on the Draft Public Transparency Policy via a 'Have your Say' process as advertised on Council's website;*
- 6.2.4. Note that a final Public Transparency Policy in line with feedback incorporate where appropriate, will be present for Council for adoption at a Special Council Meeting on Tuesday 25 August 2020 at 6:00pm.*

Moved: Cr Kate Redwood AM

Seconded: Cr John Cottrell

Carried

**ATTACHMENT 3 - DRAFT PUBLIC TRANSPARENCY POLICY (ISSUED
UNDER SEPARATE COVER)**

7. CLOSE OF MEETING

The meeting closed at 6:21pm.
