

11.5 GOVERNANCE AND CUSTOMER SERVICE

11.5.1 Updated Strathbogie Shire Council Governance Rules

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Responsible Director: Chief Executive Officer

EXECUTIVE SUMMARY

A requirement of the *Local Government Act 2020* is that the Council must develop, adopt, and keep in force Governance Rules.

The Governance Rules outline the procedures for Council meetings and set the rules of behaviour for those participating and present at the meeting. They also outline the process or contain information relating to the following:

- Process for the appointment of the Mayor and Deputy Mayor;
- Meeting procedures and conduct directives for Council, Delegated Committees and Community Asset Committees meetings;
- Disclosures of conflict of interests; and
- Election Period Policy.

An extensive review (including community engagement and consultation) of Council's Governance Rules was undertaken in 2023 and the Governance Rules were endorsed at the 17 October 2023 Council Meeting.

A requirement of Section (69) of the *Local Government Act 2020* is that a Council must also include an Election Period Policy in its Governance Rules.

Since the review in 2023, further amendments were identified to address anomalies to improve the implementation of the Governance Rules. In addition, the Election Period Policy was updated in preparation for the Local Government elections in October 2024. At the April 2024 Council meeting, Council endorsed the release of the Governance Rules for community engagement as required by Section 60 (4) of the *Local Government Act 2020*.

At the closing of submissions on 15 May 2024, a total of five (5) submissions were received. A comprehensive summary of the submissions is detailed further in this report. Several changes have been made to the draft Governance Rules, resulting from the submissions.

Since the release of the draft Strathbogie Shire Council Governance Rules in April, further amendments have been made to the document. More specifically, the changes relate to the Election Period Policy (Chapter 4 of the Governance Rules). The amendments, prepared by Council's lawyer, enable the organisation to conduct business more effectively during this period. For completeness, any restrictions relating to a member of Council staff running as a candidate will be covered in Council's Staff Code of Conduct CEO Directive. In addition, the Victorian Electoral Commission indicated that you cannot be a candidate if you are a member of Council staff of the Council. Officers can take leave from their role in order to nominate.

As the Election Period Policy is included in the Governance Rules, any amendment to the Governance Rules requires community engagement as required by Section 60 (4) of the *Local Government Act 2020*.

11.5.1 Updated Strathbogie Shire Council Governance Rules (cont.)

This report seeks endorsement to release the draft amended Strathbogie Shire Council Governance Rules for broad community consultation for a period of 28 days commencing 19 June 2024. This updated amended draft of the Governance Rules incorporates accepted feedback from the community engagement period that closed on 15 May 2024.

RECOMMENDATION

That Council:

- 1. Note the outcomes of the community consultation on the draft Strathbogie Shire Council Governance Rules;***
- 2. Following further amendments to the draft, endorse the release of the draft Strathbogie Shire Council Governance Rules for broad community consultation for a period of 28 days, commencing on Wednesday 19 June 2024 and closing on Wednesday 17 July 2024 at 5.00 pm; and***
- 3. Receives a further report at the 20 August 2024 Council meeting to consider the final Strathbogie Shire Council Governance Rules detailing the outcomes of the community consultation on the draft Strathbogie Shire Council Governance Rules.***

PURPOSE AND BACKGROUND

The purpose of the updates to the Governance Rules and the Election Period Policy is to provide greater robustness and clarity around Council's governance and legislative obligations under the *2020 Local Government Act 2020*.

The current Strathbogie Shire Council Governance Rules were adopted at the 17 October 2023 Council Meeting.

Since the review in 2023, further amendments have been identified to address anomalies to improve the implementation of the Governance Rules. In addition, the Election Period Policy has been updated in preparation for the Local Government elections in October 2024.

ISSUES, OPTIONS AND DISCUSSION

One of the overarching governance principles in section 9 of the *Local Government Act 2020* is that priority is to be given to achieving the best outcomes for the municipal community, including future generations.

Good governance is paramount in achieving the best outcomes for the municipal community. The Governance Rules provides critical direction, processes and procedures to ensure Council is meeting its obligations under the *Local Government Act 2020*.

11.5.1 Updated Strathbogie Shire Council Governance Rules (cont.)

Continued improvement around our governance structure will only be achieved by constant review and oversight over our key strategic documents including the Governance Rules and Election Period Policy, and making necessary changes and amendments, when and where anomalies are identified and need rectification.

At the April Council meeting, Council endorsed the release of the Governance Rules for community engagement as required by Section 60 (4) of the *Local Government Act 2020*.

At the closing of submissions on 15 May 2024, a total of five (5) submissions were received. A comprehensive summary of the submissions is detailed further in this report. Several changes have been made to the draft Governance Rules, resulting from the submissions.

A summary of feedback received by submitters following the community engagement period includes:

Submitter	Feedback	Response
Submitter One	Proposed amendment to Section 36 Petitions and Joint Letters proposes that 36.5 be amended to refer to petitions being presented to “ordinary scheduled meetings only”. This would exclude petitions being made to extraordinary meetings.	Included – include both Ordinary scheduled meeting and Extraordinary Meetings
Submitter Two	I do not agree with the proposed change to the governance rules that would see residents who submit a question for public question time needing to attend a meeting in person or virtually to have their question read out. This change will disadvantage people who may not be able to attend in person or virtually for any genuine reason.	Not included – submitter would be provided with a direct response to their question if unable to attend meeting
Submitter Three	I do not agree with the proposed amendment to section 35 Question Time. The amendment limits the ability for people otherwise engaged, to have their questions and the responses heard publicly.	Not included – submitter would be provided with a direct response to their question if unable to attend meeting

11.5.1 Updated Strathbogie Shire Council Governance Rules (cont.)

Submitter	Feedback	Response
Submitter Four	The establishment of a Property Developer Register	Not included – awaiting guidance notes regarding Model Transparency Policy. In the interim, an Interaction with Developers Policy incorporating a Property Developer Register is the subject of a separate report in this Agenda.
Submitter Four	Related risks in holding pre-council meetings and to specify the limited circumstances in which it may be appropriate to hold pre-council meetings immediately before a public council meeting, e.g. to discuss procedural arrangements for the meeting only.	Not included: these parameters detailed within Councillor Briefing Policy
Submitter Four	Make it clear that Councillors must not discuss the substance of agenda items in detail, reach agreements on council agenda items in private and that briefings should involve the presentation of information only.	Not included: these parameters detailed within Councillor Briefing Policy
Submitter Four	Further guidance to explain to Councillors why deliberation on an agenda item (not just voting) in public is important, particularly for planning matters.	Not included: these parameters detailed within Councillor Briefing Policy
Submitter Four	Council officer reports on local government planning matters be accompanied by: i) a schedule of reportable donations and other financial arrangements that parties have made or have with Councillors and/or Council officers; ii) a statement of the interested parties that includes details of the parties affected by the motion before Council, such as the names of personnel, company names and registered addresses; and iii) that Councillors and/or Council officers must acknowledge that they have read the schedule of reportable donations and other financial arrangements and the statement of involved parties before declaring whether they have a conflict of interest in the relevant agenda item for any local government planning matter.	Not included: Addressed in Conflicts of Interest and the Related Party Disclosure Policy

11.5.1 Updated Strathbogie Shire Council Governance Rules (cont.)

Submitter	Feedback	Response
Submitter Four	Specifically with regard to 25.4, currently drafted as “an agenda for each Council meeting will be made available on Council's website no less than 48 hours prior to the scheduled commencement of the meeting, unless in the case of an emergency as determined by the Chief Executive Officer”: I think this could be amended to 72 hours. This gives the community more time and also aligns with 25.1. If it's deemed that the Councillors should have this 24 hours prior, then 25.1 can just become 96 hours.	Included: Amended to 72 hours
Submitter Five	Review language in relation to use of Chairperson – should be Chair and non-specific gender references and formatting amendments	Included: all references updated to reflect 'Chair'
Submitter Five	Last review completed 2023	Included: updated to reflect 2023
Submitter Five	Section 12 – Determining the Mayor 12.3 – Is there a provision for nominated Councillors to make a pre-election speech? 12.3.2 – How is the order of voting decided? 12.3.3 – Does this point need to clarify total number of Councillors present? If not, could it be that in the event of vacancies, no Mayor could be elected? 12.3.5 – In the event of vacancies, such as at the 2023 Mayoral Election meeting, how does Council manage this?	Not included: could be considered by newly elected Council members when reviewing the Governance Rules Included: to reflect existing practice that voting is in the order of which nominations are received Not included: total number not required Not included: however, meeting would be rescheduled in accordance with the existing Governance Arrangements for quorum.

11.5.1 Updated Strathbogie Shire Council Governance Rules (cont.)

Submitter	Feedback	Response
Submitter Five	Section 19 19.1.1 to read ...and reading agenda and associated attachments and documents provide prior to the meeting	Not included: Agenda includes all related material.
Submitter Five	Section 27.9 – amend repeated words in the clause	Included
Submitter Five	Section 31.3.7 – What is the capacity to have a summary report of all formal events Council undertook? Ability to remove the “laundry list” of “I was here and here” to a more holistic Council attended X,YZ etc. Presents Council as a leadership team representing Community as intended under the Act.	Not included: Mayor and Councillors Reports to be customised as required. Could be considered by newly elected Council members when reviewing the Governance Rules
Submitter Five	Section 34.1 – Delegated Committee Meetings are open...does not clarify if this is all or some meetings	Not included: as all is implied unless otherwise stipulated
Submitter Five	Section 35.7 – Is there capacity for the questioner to ask to be represented by a friend who meets 35.4. In the event of someone being unable to attend either in person or electronically, say due to an emergency, they could ask a friend who meets 35.4 to be present on their behalf.	Not included – submitter would be provided with a direct response to their question if unable to attend meeting
Submitter Five	Section 38.1 – to read a Mayoral Report around activities undertaken in the previous month and upcoming events, engagement opportunities and other items of interest.	Not included: Mayor and Councillors Reports to be customised as required
Submitter Five	Section 38.2 – as per comments relating to 31.3.7 is it possible to have a collated list of events attended etc, delivered by the Council group rather than individual report that has been standard practice? The collated report could be rotated around the chamber for a different Councillor to present on behalf of the full Council each meeting.	Not included: Mayor and Councillors Reports to be customised as required. Could be considered by newly elected Council members when reviewing the Governance Rules

11.5.1 Updated Strathbogie Shire Council Governance Rules (cont.)

Submitter	Feedback	Response
Submitter Five	Section 41.8 – Who writes the report relating to a notice of motions? Is it the Councillors or CEOs responsibility?	Included: accompanied by an Officer report as required
Submitter Five	Section 79.1 – should read.....to clearly see which way a Councillor has, or the Council have voted at the time a vote is taken.	Not included: 79.2 indicates voting is by a show of hands
Submitter Five	Section 81.1 – replace question with motion	Included: Replaced with motion
Submitter Five	Section 83.1.11 – should question be motion?	Not included: question applies to this section
Submitter Five	Section 98 – Delegated Committees Should the CEO Employment and Remuneration Committee be included in this section?	Not included This committee does not constitute a delegated committee under the Act
Submitter Five	Election Period Policy Section 9.5 – Council owned device – what happens when Councillors elect to only have one mobile phone number and using the Council owned device? Section 11.2 - process for when Councillors elect to only have one mobile phone number and using the Council owned device? Section 11.3 – Are current suspended Councillors permitted to use the term “suspended councillor”? Section 11.5 – Does this apply to old/superseded branding and logos?	Not included: Election Policy prescribes that Council resources must not be used for election related purposes Not included Comment: Yes, as this is Council branding

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11.5.1 Updated Strathbogie Shire Council Governance Rules (cont.)

In addition, the Victorian Electoral Commission indicated that you cannot be a candidate if you are a member of Council staff of the Council. Officers can take leave from their role in order to nominate.

RISK CONSIDERATIONS

The following risk was identified:

Risk(s)	Likelihood	Consequence	Rating	Mitigation Action
Good governance and legislative obligations may be jeopardised if robust policies, rules and frameworks are not in place	Unlikely	Minor	Low	The application of the Governance Rules and Election Period Policy identifies key processes and standards to meet the requirements under Section (60) of the <i>Local Government Act 2020</i> .

COMMUNITY ENGAGEMENT

One of the overarching governance principles in section 9 of the *Local Government Act 2020* is that the municipal community is to be engaged in strategic planning and strategic decision-making.

There are also supporting principles relating to community engagement and public transparency that further promote community participation in Council decision making processes and Council meetings.

A period of community engagement will take place resulting from the amendments as required by Section 60 (4) :

“A Council must ensure that that a process of community engagement is followed in developing or amending its Governance Rules.”

Consultation on the draft Governance Rules commenced on 17 April 2024. At the closing of the submission period on 15 May 2024, five submissions were received. A detailed summary of the submissions is contained within this report.

Since the release of the draft Strathbogie Shire Council Governance Rules in April, further amendments have been made to the document. More specifically, the changes relate to the Election Period Policy (Chapter 4 of the Governance Rules). As the Election Period Policy is included in the Governance Rules, any amendment to the Governance Rules requires community engagement.

It is proposed that community engagement on the further updated draft Governance Rules commence on 19 June 2024 and close on 17 July 2024.

11.5.1 Updated Strathbogie Shire Council Governance Rules (cont.)

POLICY CONSIDERATIONS

Council Plans and Policies

This report addresses the Council Plan area of Accountable. Transparent. Responsible. and particularly the following goals:

- Achieve the highest level of good governance across the organisation and as an elected Council; and
- Maximise public transparency and accountability around our performance and decision-making processes.

Regional, State and National Plans and Policies

One of the overarching governance principles in section 9 of the *Local Government Act 2020* is that regional, state and national plans and policies are to be taken into account in strategic planning and decision-making.

This report addresses existing best practice from across the state and has considered potential government directions set out by Local Government Victoria.

LEGAL CONSIDERATIONS

One of the overarching governance principles in section 9 of the *Local Government Act 2020* is that Council decisions are to be made and actions taken in accordance with the relevant law.

The Governance Rules have been drafted and publicly exhibited in accordance with the requirements of section 60 the *Local Government Act 2020*. The original Governance Rules were developed under the guidance of an experienced governance lawyer and the department of Local Government Victoria.

The changes relate to the Election Period Policy (Chapter 4 of the Governance Rules) have been prepared by Council's lawyer.

The Rules provide a comprehensive and consistent framework to ensure Council, its Committees and its officers comply with the provisions of the *Local Government Act 2020* relating to decision making, consultation and conflicts of interest.

Conflict of Interest Declaration

All officers, and/or contractors, involved in the preparation of this report have signed a written declaration that they do not have a conflict of interest in the subject matter of this report.

Transparency

One of the overarching governance principles in section 9 of the *Local Government Act 2020* is that the transparency of Council decisions, actions and information is to be ensured.

The public display of the draft Governance Rules and public nature of this report go to the transparency of the process of amending the Governance Rules and Election Period Policy.

FINANCIAL VIABILITY CONSIDERATIONS

One of the overarching governance principles in section 9 of the *Local Government Act 2020* is that the ongoing financial viability of the Council is to be ensured.

11.5.1 Updated Strathbogie Shire Council Governance Rules (cont.)

Legal support was obtained in the further amendment of the Governance Rules and met by the operational budget.

INNOVATION AND CONTINUOUS IMPROVEMENT

One of the overarching governance principles in section 9 of the *Local Government Act 2020* is the pursuit of innovation and continuous improvement.

The Governance Rules themselves promote best practice in Council operations and to ensure that decisions are made in the best interests of the municipality.

COLLABORATION

One of the overarching governance principles in section 9 of the *Local Government Act 2020* is that collaboration with other Councils, levels of government and statutory bodies is to be sought.

No formal collaboration was undertaken in the production of this report.

HUMAN RIGHTS CONSIDERATIONS

There are no human rights implications associated with this report.

CONCLUSION

This report seeks endorsement to release the further draft amended Strathbogie Shire Council Governance Rules for broad community consultation for a period of 28 days commencing 19 June 2024. This updated amended draft of the Governance Rules incorporates accepted feedback from the community engagement period that closed on 15 May 2024.

ATTACHMENTS

Attachment 1: Updated Strathbogie Shire Council Governance Rules