



Mildura Rural City Council

# **AGENDA**

## **Ordinary Meeting of Council**

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**5:30pm Thursday 25 August 2022**

### **VENUE:**

**Committee & Council Room  
76 Deakin Ave, Mildura**

### **NEXT ORDINARY MEETING OF COUNCIL**

**5:30pm Thursday 22 September 2022**

Copies of Mildura Rural City Council's Agendas & Minutes  
can be obtained online at [www.mildura.vic.gov.au](http://www.mildura.vic.gov.au)

# Prayer

Almighty God,

We who are gathered together in Council,  
pledge ourselves to work in harmony for  
the welfare and development of our Rural City.

Guide us, we pray, in our deliberations,  
help us to be fair in our judgement and  
wise in our actions,  
so that prosperity and happiness  
shall be the lot of our people.

Amen.

# Acknowledgement of Country

“I would like to acknowledge the Traditional Owners and  
Custodians of the land, which now comprises the Mildura  
Rural City municipality. We pay our respects to Elders  
past and present and celebrate and respect their  
continuing cultures and acknowledge the memories of  
their ancestors”.

# Note to Councillors

## Declaration of Interest

Councillors should note that in accordance with section 130 of the *Local Government Act 2020*, there is an obligation to declare a conflict of interest in a matter before Council.

A conflict of interest can be *general* or *material* in nature.

A Councillor has a *general conflict of interest* if an impartial, fair-minded person would consider that the Councillor's private interests could result in that Councillor acting in a manner that is contrary to their public duty.

- Private interests means any direct or indirect interest of a Councillor that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief.
- Public duty means the responsibilities and obligations that a Councillor has to members of the public in their role as an elected representative.

A Councillor has a *material conflict of interest* if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

The benefit may arise or the loss incurred –

- (a) directly or indirectly; or
- (b) in a pecuniary or non-pecuniary form.

An *Affected Person* includes:

- (a) the relevant person;
- (b) a family member of the relevant person;
- (c) a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body;
- (d) an employer of the relevant person, unless the employer is a public body;
- (e) a business partner of the relevant person;
- (f) a person for whom the relevant person is a consultant, contractor or agent;
- (g) a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee;
- (h) a person from whom the relevant person has received a disclosable gift.

## Disclosure of Conflict of Interest

A Councillor must make full disclosure of a conflict of interest by advising the type and nature of the interest immediately before the matter is considered at the meeting. Following the disclosure and prior to the matter being considered or any vote taken, the Councillor with the conflict of interest must leave the room and notify the Chairperson that he or she is doing so.

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**MARTIN HAWSON**

**CHIEF EXECUTIVE OFFICER**

**1 PRAYER AND ACKNOWLEDGEMENT OF COUNTRY**

**2 OPENING AND WELCOME**

**3 PRESENT**

**4 APOLOGIES AND ABSENCES**

**5 CONFIRMATION OF MINUTES**

**Ordinary Meeting of Council held on 28 July 2022**

*That Council confirm the minutes of the Ordinary Meeting of Council of 28 July 2022 as a correct record*

**Confidential Meeting of Council held on 28 July 2022**

*That Council confirm the minutes of the Confidential Meeting of Council of 28 July 2022 as a correct record*

## **6 CONFIRMATION OF COUNCIL AUSPICED MEETINGS**

In accordance with Part 23 of Council's Governance Rules, records of Council Auspiced Meetings must be reported to the next Ordinary Meeting of Council and confirmed in the minutes.

A Council Auspiced Meeting is defined in the Governance Rules as a meeting at which matters are considered that are intended or likely to be the subject of a Council decision or the exercise of a delegated authority and which is either of the following:

- A meeting of an advisory committee where at least one Councillor is present; or
- A planned or scheduled meeting that includes at least half the Councillors and at least one Council officer.

The record is therefore presented for Council's noting.

### **Recommendation**

**That Council note the following records of Council Auspiced Meetings:**

- **Council Forum – 11 August 2022**

# RECORD OF COUNCIL AUSPICED MEETINGS

Meeting Details	Councillor Attendees	Other Attendees	Matters Discussed	Conflict of Interest Disclosures
Council Forum 11 August 2022	Cr Liam Wood Cr Jason Modica Cr Troy Bailey Cr Stefano De Pieri Cr Mark Eckel Cr Helen Healy Cr Glenn Milne Cr Jodi Reynolds	Martin Hawson, Chief Executive Officer Daryl Morgan, Acting General Manager Development Mark Jenkins, Acting General Manager Community Chris Parham, General Manager Corporate Larni Baird, Manager Governance and Performance Angela Umback, Executive Communications Officer	<ol style="list-style-type: none"> <li>1. Motorsport Discussion</li> <li>2. Mallee Accommodation and Support Program (MASP)</li> <li>3. Big Build Program and Housing Update</li> <li>4. Hallmark Event Opportunity</li> <li>5. Draft Residential Development Plan for 546 Deakin Avenue, Mildura</li> <li>6. Aligned Leisure Councillor Presentation 2021-2022</li> <li>7. Old Aerodrome Sporting Complex Master Plan Review Final Draft</li> <li>8. Chaffey Park Reserve Master Plan Review - Final Draft</li> <li>9. Amendment to Local Law No 2</li> <li>10. Amendment to Local Law No 5</li> <li>11. School Crossing Supervisor Program - Program Future</li> <li>12. Asset Acquisition Consideration</li> <li>13. Councillor Enquiries Email System</li> <li>14. Murray Basin Rail</li> <li>15. Mallee Family Care Building Better Care for Mallee Communities</li> <li>16. Priority Setting for the State Election</li> <li>17. CEO Matters</li> </ol>	Cr Glenn Milne Martin Hawson

**7 NOTIFICATION OF ABSENCE**

## **8 MAYORAL REPORT**

### **8.1 MAYORAL REPORT JULY 2022**

**File Number:** 02/01/06

#### **1. Summary**

The following is an update on the activities and functions attended by the Mayor Liam Wood during the month of July 2022.

#### **2. Recommendation**

**That Council note the contents of this report.**

#### **3. Comments**

- River1467 Weekly Interviews
- Matman Weekly Interviews
- Mayor & CEO Catch-ups
- Mayor & CEO Media/Communications Briefings
- Various Constituent Meetings
- Penrite Hattah Desert Race
- Sister City Association Flag Raising Ceremony – Independence Day
- NAIDOC Flag Raising Ceremony & Community March
- Get Up! Stand Up! Show Up! (NAIDOC Community Event)
- Ouyen Community Conversations
- Councillor Conflict of Interest Training
- Meeting with the Hon Tanya Plibersek MP, Minister for Environment & Water
- NAIDOC Celebrations at Mildura Base Public Hospital
- Australian Citizenship Ceremony
- MRCC Media Press Club
- Ngiwa Yarna Committee Meetings
- Site visit with The Hon Harriet Shing, Minister for Regional Development
- Ronco Motors Opening Event
- Hands up Mallee Youth 9-18 Sessions
- Guest Speaker - Red Cliffs Rotary Club
- Council Forum
- Media meeting with Hello Mildura Podcast
- Centre for Excellence: Connecting Communities Regional Tour 2022
- Commemoration Service Mildura Memorial Clock Tower
- Quarterly Confidential Reports Review Meeting
- Meeting with Sunshine Coast Council
- Regional Cities Victoria Mayors Session
- Meeting with Senator Bridget McKenzie
- Mildura Cup Carnival
- Ladd's Boxing Club
- Meeting with Mallee Track Health & Community Services
- Victoria/NSW Cross Border Social Policy Forum

- Mildura Living Photo Opportunity
- Murray Primary Health Network Board Meeting
- Mayoral Video Shoot
- Riverfront/Powerhouse Site Visit with the Hon Harriet Shing, Minister for Regional Development & Beth Jones CEO, Regional Development Victoria
- CBD Revitalisation Project Meeting
- School Crossing Service Meeting
- Ordinary Council Meeting

## **9 COUNCILLOR REPORTS**

### **9.1 COUNCILLOR REPORTS - JULY 2022**

**File Number:** 02/01/06

#### **1. Summary**

The following is a report on the activities and functions attended by Councillors during the month of July 2022.

#### **2. Recommendation**

**That Council note the contents of this report.**

#### **3. Comments**

##### **Cr Ian Arney**

- Refer to table

##### **Cr Troy Bailey**

- Hands up Mallee Youth 9-18 Sessions
- Disability Access Advisory Committee Meeting
- Refer to table

##### **Cr Stefano de Pieri**

- Refer to table

##### **Cr Mark Eckel**

- Sister City Association Flag Raising Ceremony – Independence Day
- Mallee Sexual Assault & Domestic Violence Committee Meeting
- Psyche Reserve Master Plan Meeting
- Appointment of Associate Professor Hieu Pham
- Analytics Session
- Refer to table



**Cr Helen Healy**

- NAIDOC Flag Raising Ceremony & Community March
- Journalist Interview – Mildura Youth Parliament
- Arts, Culture & Heritage Portfolio Meeting
- Australian Citizenship Ceremony
- Arts Mildura Board Meeting
- CBD Steering Committee Meeting
- Community Development & Gender Equality Portfolio Meeting
- Ngiwa Yarna Committee Meetings
- Introduction to Framing Gender Equality workshop – Common Cause Australia
- Mildura Writers Festival
- MRCC Arts Review Meeting
- Gender Equality Ministerial Advisory Meeting
- Mildura Arts Centre – Jane Eyre
- 16 Days of Activism Community Meeting
- CBD Revitalization Project Consultation – Placemaking Committee
- Mildura Art Local Artist Exhibitions Launch
- Mildura Film Festival
- Refer to table

**Cr Glenn Milne**

- Triple M Interviews
- Commemoration Service Mildura Memorial Clock Tower
- Mildura History Project LTU
- Refer to table

**Cr Jason Modica**

- Murray Darling Association Region 4 - Orientation Meeting
- MRCC Internal Management Meeting
- Environmental Sustainability Portfolio Meeting
- Australian Citizenship Ceremony
- Murray Darling Basin Authority - Barmah-Millewa Feasibility Study Online Information Session
- Centre for Excellence: Connecting Communities Regional Tour 2022
- Mildura Arts Centre & Mildura Writers Festival - Stereo Stories in Concert
- Quarterly Confidential Reports Review Meeting
- Environment & Sustainability Portfolio Meeting
- Mildura School Lands Beneficiaries Meetings
- Meetings with Mayor
- Ladd's Boxing Club Hogarth Cup
- Various Site Visits, Mallee Track – Review of EV Charging Points
- Electrify Everything Meeting
- Meeting with The Hon. Shaun Leane, Minister for Commonwealth Games Legacy & Veterans
- Refer to table

**Cr Jodi Reynolds**

- Refer to table

This table represents attendances by two or more Councillors at the following functions, as advised by Councillor acceptances for such functions:

<b>Function Attended</b>	<b>Arney</b>	<b>Bailey</b>	<b>de Pieri</b>	<b>Eckel</b>	<b>Healy</b>	<b>Milne</b>	<b>Modica</b>	<b>Reynolds</b>
Ordinary Council Meeting	✓	✓	✓	✓	✓	✓	✓	✓
Council Forum	✓	✓	✓	✓	✓	✓	✓	✓
CBD Revitalisation Project Meeting with Consultants	✓	✓	✓	✓	✓			✓
Councillor Conflict of Interest Training	✓	✓	✓	✓	✓	✓	✓	✓
Get Up! Stand Up! Show Up! (NAIDOC Community Event)				✓	✓		✓	
Mildura Zine Fair MAC					✓	✓	✓	
Community Conversation - Ouyen					✓		✓	✓
NAIDOC Celebrations at Mildura Base Public Hospital					✓		✓	
Site Meeting with Constituent			✓			✓	✓	✓

**Attachments**

There are no attachments for this report.

**10    RESPONSES TO COUNCILLOR QUESTIONS**

Nil

**11    QUESTIONS FROM COUNCILLORS**

**12    NOTICES OF MOTION**

Nil

**13    PETITIONS, JOINT LETTERS AND DEPUTATIONS**

Nil

## 14 MANAGEMENT REPORTS

### 14.1 COUNCILLORS EXPENSES REPORT 1 APRIL 2022 - 30 JUNE 2022

**File Number:** 02/01/06  
**Officer:** Chief Executive Officer

#### 1. Summary

In keeping with Council's Council Expenses Policy CP012, Councillor expenses are reported quarterly to an Ordinary Meeting of Council. Accordingly, this report presents Councillor Expenses for the period 1 April 2022 – 30 June 2022.

#### 2. Recommendation

**That Council note the contents of this report, which details Councillor Expenses for the period 1 April 2022 - 30 June 2022.**

#### 3. Background

This report has been prepared in accordance with the Council Expenses Policy CP012.

#### 4. Consultation Proposed/Undertaken

Councillors have been provided with a summary report on their expenses on a monthly basis.

#### 5. Discussion

Summarised in the document attached are figures for allowances and expenses for the Mayor and Councillors for the period 1 April 2022 – 30 June 2022.

Note Cr Cyndi Power resigned from Council in March 2022 and Cr Troy Bailey was elected on a count back in April 2022.

#### 6. Time Frame

The report presents Councillor Expenses for the period 1 April 2022 – 30 June 2022.

#### 7. Strategic Plan Links

This report relates to the Council Plan 2021-2025 in the Strategic Direction:

##### Leadership

Outcome to be achieved:

- A financially sustainable organisation

**8. Asset Management Policy/Plan Alignment**

There are no asset management implications associated with this report.

**9. Implications**

**Policy**

This report aligns with the Council Expenses Policy CP012.

**Legal/Statutory**

There are no legal/statutory requirements associated with this report.

**Financial**

Financial costs are in accordance with Council's 2021/2022 Operational Budget.

**Environmental**

There are no environmental impacts associated with this report.

**Social**

There are no social impacts associated with this report.

**Economic**

There are no economic impacts associated with this report.


**10. Risk Assessment**

By adopting the recommendation, Council will not be exposed to any significant risk.

**11. Conflicts of Interest**

No conflicts of interest were declared during the preparation of this report.

**Attachments**

**1**  Councillor Expenses 1 April 2022 - 30 June 2022

**Councillor Expenses for the period 1 April 2022-30 June 2022**

Councillor	1. Allowance	2. Travel & Accommodation	3. Car Mileage	4. Information & Communication	5. Conferences & Training	6. Catering / Meals	7. Misc
Cr Ian Arney	8,786.24			97.18	125.00		
# Cr Troy Bailey	5,250.78			43.50			
Cr Stefano De Pieri	8,786.24			43.50	50.00		
Cr Mark Eckel	8,786.24		475.92	248.04		34.38	
Cr Helen Healy	8,786.24	569.68		248.04	500.00	52.36	
Cr Glenn Milne	8,786.24		668.16	284.04			4.55
Cr Jason Modica	12,968.87	1,100.38	856.08	284.04	50.00	116.20	
Cr Cyndi Power	5,663.50						
Cr Jodi Reynolds	8,786.24	958.85		43.50			
Cr Liam Wood	29,092.08	4,942.38		147.00	1,499.00	225.88	

**Definition of Expenses**

- Mildura Rural City Council is a Category Two Council and must set allowances within range in line with the Local Government Act 2020. An adjustment is made annually and gazetted by the Minister. Allowances must also include amount in lieu of superannuation. This also includes backdated allowances from December 2021.
- Travel Costs include cost of flights, taxis, public transport fees, and accommodation etc associated with undertaking duties of a Councillor
- Car Mileage recognises the private vehicles costs associated with Councillors travelling and fulfilling Council duties. Rates are set at State Public Service levels.
- Communication expenses include costs associated with provision of equipment, phone reimbursements and monthly telecommunications charges are set to a maximum \$75 per month.
- These include registration fees, educational / training costs and meeting expenses
- Catering costs associated with undertaking responsibilities of Councillor including meal reimbursements.
- Includes carer expenses, printing, and other expenditure / reimbursements associated with responsibilities in performing Councillor role

# Cr Troy Bailey was elected to Council following the resignation of Cr Cyndi Power in March 2022

## 14.2 ADOPTION AND APPROVAL OF DEVELOPMENT PLAN FOR 546 DEAKIN AVENUE MILDURA

**File Number:** 13/02/112  
**Officer:** Acting General Manager Community

### 1. Summary

Hatch Planning have produced a draft residential development plan on behalf of the land owners for the land identified as 546 Deakin Avenue, Mildura. This report details the background and preparation of the plan and recommends the adoption of the document.

### 2. Recommendation

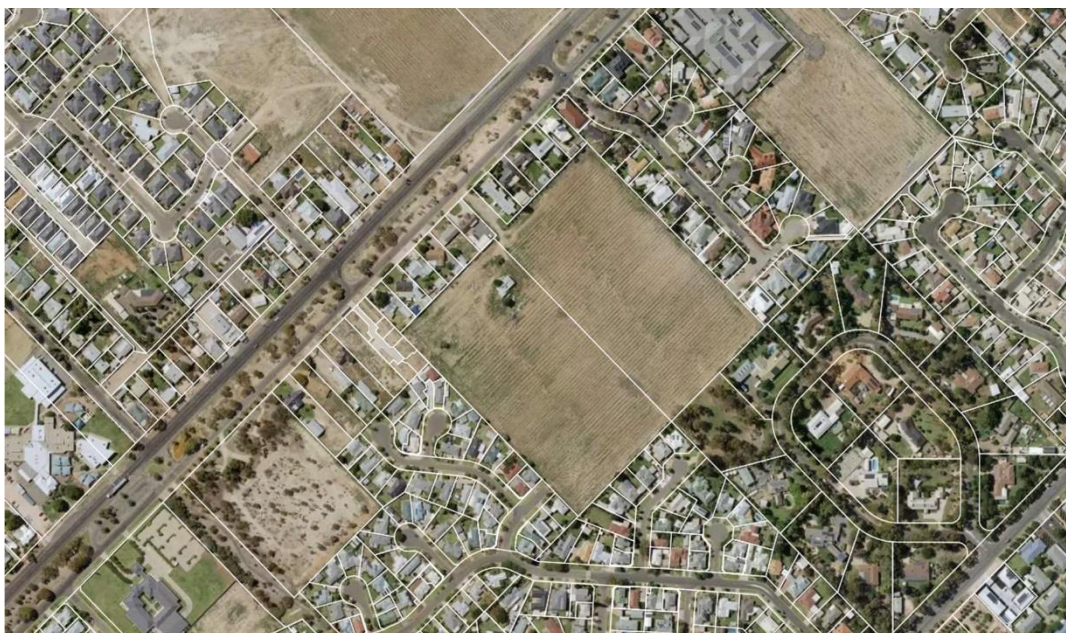
**That Council:**

- (i) agree to the responses to the submissions contained within the *Response to Submissions Summary Table: 546 Deakin Avenue* (as presented); and
- (ii) adopt the draft *Residential Development Plan for 546 Deakin Avenue Mildura* (as presented) subject to the recommendations of the *Response to Submissions Summary Table: 546 Deakin Avenue*.

### 3. Background

While the surrounding land south of Fifteenth Street and Deakin Avenue was developed for housing generally during the 1980s to 1990s, notwithstanding its inclusion in the Residential Zone, the subject land remained farmed under vine and was subsequently left out of the suite of Development Plans prepared for Mildura South in 2003.

The gazettal of Amendment C28 in 2005 introduced Development Plan Overlay Schedule 1 (DPO1) to the land which requires approval of a Development Plan before any permit for development of the land, including subdivision, can be issued.



No interest in the land had been identified in the intervening period and only the recent offer of the land for sale triggered enquiries leading to discovery of its status requiring a yet to be approved plan.

Responding to a request by the landowner to expedite the outcome, Council agreed the landowner could proceed with preparation of the plan in accordance with Council guidance. This was due to both its single ownership and the now constrained nature of the development possibilities for this parcel of residual land, with many outcomes pre-determined by the surrounding development.

The development plan has now been prepared by the proponent in accordance with the requirements of DPO1 to facilitate the development of the land subject to the standard planning permit process.

#### **4. Consultation Proposed/Undertaken**

The proposal was subject to effective internal cross-functional discussion and direction, in conjunction with determining the appropriate way forward necessary to achieve the permit for the subdivision of the subject land, ahead of the subsequent preparation of the draft plan by the proponent.

The Draft plan was subsequently exhibited for 4 weeks from 24 June 2022 to 25 July 2022 on the Have Your Say page on Council's website.

Nearby landowners (138) and occupiers (139), Government Authorities and the development industry were notified directly by letter or email and an advertisement also appeared in the Sunraysia Daily on the weekends of 24/25 June and 8/9 July 2022 to invite public comment.

The draft development plan was also available for viewing at Council's Deakin Avenue Service Centre.

Upon closing of exhibition eight submissions were received; four from adjoining landowners and four from authorities (provided separately to Councillors). The submissions were acknowledged in writing with responses proposed in the discussion section of this report.

#### **5. Discussion**

Key elements of the development outcomes requiring guidance from the approved development plan in accordance with DPO1 including connectivity and road layout, provision of stormwater drainage and location of public open space form part of the pre-determined outcomes arising from the existing development. Access points exist to both Harmony Drive and Eastwood Drive with the main access provided to Deakin Avenue together with existing public open space abuttal and connectivity to the Grange. General drainage afforded across the land to Deakin Avenue to be confirmed at permit stage.

Summaries of the submissions received together with the proposed response and outcome are contained within the table below:



<b>Submission Number</b>	<b>Submitter</b>	<b>Issues Raised in Submission (Hatch Planning)</b>	<b>Analysis and Consideration of Issues Proposed &amp; Recommended Response to Submission (Hatch Planning)</b>	<b>Changes to Exhibited Draft Development Plan (Hatch Planning)</b>
1	Con Alevras for P & S Alevras	Issues relating to lot sizes and layout	While the plan does not show the lot sizes, the Mildura Planning Scheme contains objectives that address lot size and density variations	No change required
2	Tony Parisi for A & F Parisi	Continuance of side access to property at 548 Deakin Avenue	This matter is not relevant for the Development Plan, however orderly planning will require this matter to be addressed as part of any permit issued for a Planning Permit that would allow a Residential Subdivision of the land.	No change required
3	Urban Synergistics	Multiple issues relating to amount of information in this development plan.	The submission is comparing development plans that are located in separate Development Plan Overlay Schedules (DPO1 versus DPO3)	No changes required
4	Environment Protection Authority	No issues	No response required	No changes required
5	Sharon Lavery for G & S Lavery	Traffic concerns relating to Explorer Drive	Due to the proposed access provided to Deakin Avenue, it is considered that minimal traffic generated from the eventual subdivision would rely on Explorer Drive. This matter to be addressed as part of any permit issued.	No changes required
6	Country Fire Authority	No issues	No response required	No changes required
7	Lower Murray Water	No issues	No response required	No changes required
8	Department of Education and Training	Requested further information regarding Land Use Plan, Land Budget Plan, Indicative subdivision plan.	It is considered the following items are not relevant for an "infill" development plan that involves 6.8 hectares.	No changes required

No changes to the plan arising from the public submissions have been identified.

Further issues were also identified confirming the need to reinforce positive Crime Prevention Through Environmental Design (CPTED) outcomes arising from the Public Open Space Strategy for Grange Park, including provision of a landscape plan demonstrating connectivity, lighting and legibility requirements. These considerations will form part of the planning permit process requiring provision a landscape plan.

This development plan presents consistent objectives to those outlined in the Mildura South Development Plans in accordance with DPO1 and will deliver development outcomes that respond to the existing character and is accordingly suitable for approval.

## 6. Time Frame

Timeline	Event
December 2021	Pre-application meeting
March 2022	Pre-development plan meeting
May 2022	Development Plan prepared
June 2022	Public Comment Period commenced
July 2022	Public Comment Period Closed
August 2022	Report to Council

## 7. Strategic Plan Links

This report relates to the Council Plan 2021-2025 in the Strategic Direction:

### Environment

Outcomes to be achieved:

- Protected and enhanced natural environment; and
- Increased community knowledge, skills and action to live sustainably.

### Place

Outcomes to be achieved:

- A well-developed long-term land use vision;
- Sustainable infrastructure that meets the current and future community needs; and
- A transport network that is fit-for-purpose.

## 8. Asset Management Policy/Plan Alignment

There are no asset management implications associated with this report.

## 9. Implications

### **Policy**

Once adopted the Development Plan will guide future residential subdivision, development and infrastructure provision in this part of Mildura South.

### **Legal/Statutory**

An adopted Development Plan is required in order to allow subdivision and development of the site.

**Financial**

All costs associated with the preparation of the plan are contained within Council's operating budget

**Environmental**

All environmental implications associated with the preparation of the project are contained within the draft Residential Development Plan.

**Social**

All social implications associated with the preparation of the project are contained within the draft Residential Development Plan.

**Economic**

All economic implications associated with the preparation of the project are contained within the draft Residential Development Plan.

**10. Risk Assessment**

By adopting the recommendation, Council will not be exposed to any significant risk.

**11. Conflicts of Interest**

No conflicts of interest were declared during the preparation of this report.

**Attachments**

**1** [!\[\]\(2bae76de5ebbd5c4d7d47162f1673734\_img.jpg\)](#) Draft Residential Development Plan - 546 Deakin Avenue

**2** [!\[\]\(b64b40baaee5acddc1eab8538ba84754\_img.jpg\)](#) Response to Submissions Summary Table

**546 Deakin Avenue  
Mildura (Lot 1 TP 683910  
and Lot 1 TP 8511109)**

**Development Plan**

**546 Deakin Avenue  
MILDURA 3500**

Prepared for:  
Turk Superannuation Pty Ltd

Prepared by:  
Matthew Jackson  
Principal Planner, Hatch Planning



**HATCH  
PLANNING**

Hatch Planning Pty Ltd  
Land Use and Development | Subdivision |  
Council Assessments | VCAT Representation |  
Strategic Planning | Due Diligence Advice



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**Hatch Planning Pty Ltd**

Land Use and Development | Subdivision |  
Council Assessments | VCAT Representation |  
Strategic Planning | Due Diligence Advice



## 1. Introduction

This Development Plan has been prepared in association with Price Merrett and Dean Zrna Designs for Turk Superannuation Pty Ltd.

The land comprises of two parcels of land formally known as Lot 1 TP 683910 & Lot 1 TP 8511109 or commonly known as 546 Deakin Avenue.

The subject land is located within the Development Plan Overlay Schedule 1 (DPO1).

Clause 43.04-4 Preparation of the development plan states:

*The development plan may consist of plans or other documents and may, with the agreement of the responsible authority, be prepared and implemented in stages.*

*A development plan that provides for residential subdivision in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone, Township Zone, Comprehensive Development Zone and Priority Development Zone must meet the requirements of Clause 56 as specified in the zone.*

*The development plan must describe:*

- *The land to which the plan applies.*
- *The proposed use and development of each part of the land.*
- *Any other requirements specified for the plan in a schedule to this overlay.*
- *The development plan may be amended to the satisfaction of the responsible authority.*

Additionally, Clause 3.0 within the Schedule to the Development Plan overlay states:

*The development plan must provide the following:*

- *A clearly distinguishable road hierarchy with the differences in road function reflected in the*
- *road width, design layout and road reserve treatments;*
- *A range of residential lot sizes.*
- *The lot layout, size and density.*

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- *Innovative design of all proposed public open spaces incorporating pedestrian and cycle paths and linking open space networks with community facilities and local neighbourhood activity centres with the surrounding residential precinct;*
- *The means of servicing to lots including the provision of reticulated water and sewer to all residential lots.*
- *The need for open space and any other community infrastructure as considered necessary by the responsible authority.*
- *The impact of the development on any sites of flora or fauna significance, archaeological significance or significant views that may affect the land.*
- *Retention of any existing trees of value and an appropriate landscaping theme for nature strips and public open space including the use of salt tolerant plants.*
- *Identification of common trenching of compatible services.*
- *The application of water sensitive urban design principles.*
- *The comments of the owners of the land.*
- *The comments of Lower Murray Water.*

This report will address the above matters.



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## 2. Subject site and surrounding area and planning controls

### 2.1 Site and area

The subject site, Lot 1 TP 683910 & Lot 1 TP 8511109, known commonly as 546 Deakin Avenue, is two allotments with a combined area of 6.835 hectares located approximately 580 meters south west of Mildura Central, being one of Mildura's main activity centres. The subject land is generally rectangular in shape, and contains an existing structure located in the north-eastern corner of the site. Access to the site is via an existing crossover along the Deakin Avenue Service Road.

The surrounding area generally comprises of existing Residential land that has all being developed over various periods in the past. However, connectivity is clearly envisaged with both adjoining lots to the east and west respectively containing through roads abutting the subject land.

The surrounding land is located within *Mildura South Master RDP (inc East Grange and 514 Deakin)* which was approved 2005, the subject land was left out of this development plan.

The subject site has access to reticulated electricity, telecommunications, water and sewer.



Figure 1: Subject site (highlighted) Source: Metromap



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*Figure 2: Entry from Deakin Avenue*



*Figure 3: Existing dwelling (to be demolished)*



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Figure 4: Harmony Drive viewing north-east



Figure 5: Harmony Drive viewing south-west



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*Figure 6: Eastwood Drive viewing south-west*



*Figure 7: Harmony Drive viewing north-east*

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*Figure 8: Subject land viewing towards The Grange Park*



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## 2.2 Planning controls

The subject land is located within the General Residential Zone (GRZ) under the Mildura Planning Scheme. An extract of the relevant zoning map is provided below



Figure 9: Zoning map of subject site and immediate surrounds. Source: VicPlan

The subject land is covered by the following overlays under the Mildura Planning Scheme:

- Design and Development Overlay – Schedules 1 and 8 (DDO1 and DDO8)
- Development Contributions Plan Overlay – Schedules 1 and 2 (DCPO1 and DCPO2)
- Development Plan Overlay – Schedule 1 (DPO1)
- Salinity Management Overlay (SMO)
- Specific Controls Overlay (SCO)

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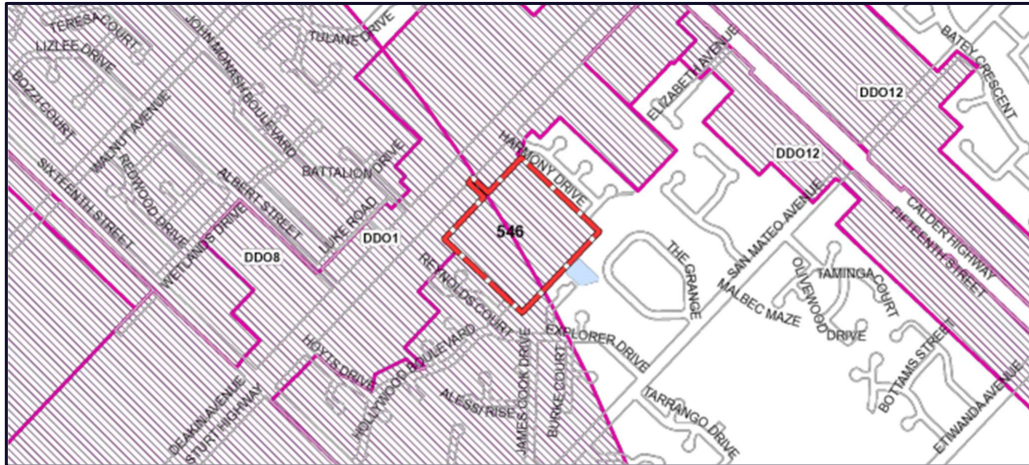


Figure 10: DDO map of subject site and immediate surrounds. Source: VicPlan

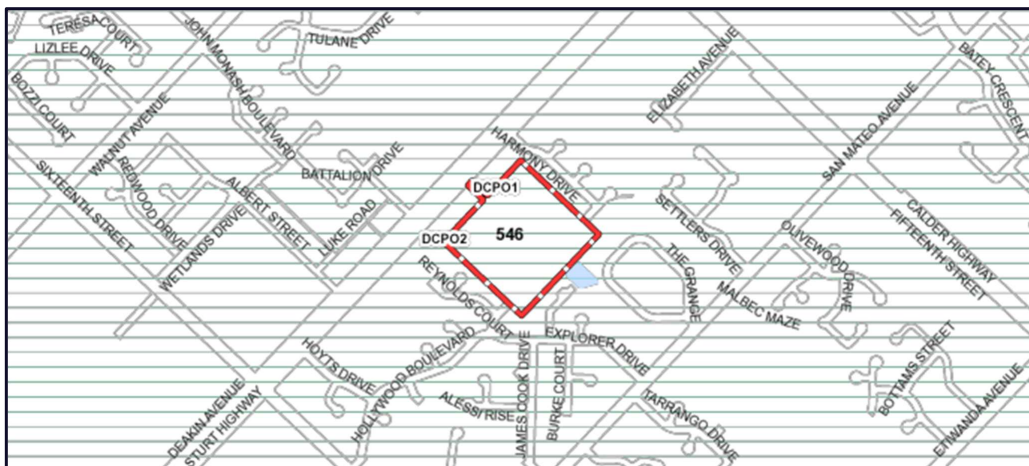


Figure 11: DCPO map of subject site and immediate surrounds. Source: VicPlan

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Figure 12: DPO map of subject site and immediate surrounds. Source: VicPlan



Figure 13: SMO map of subject site and immediate surrounds. Source: VicPlan

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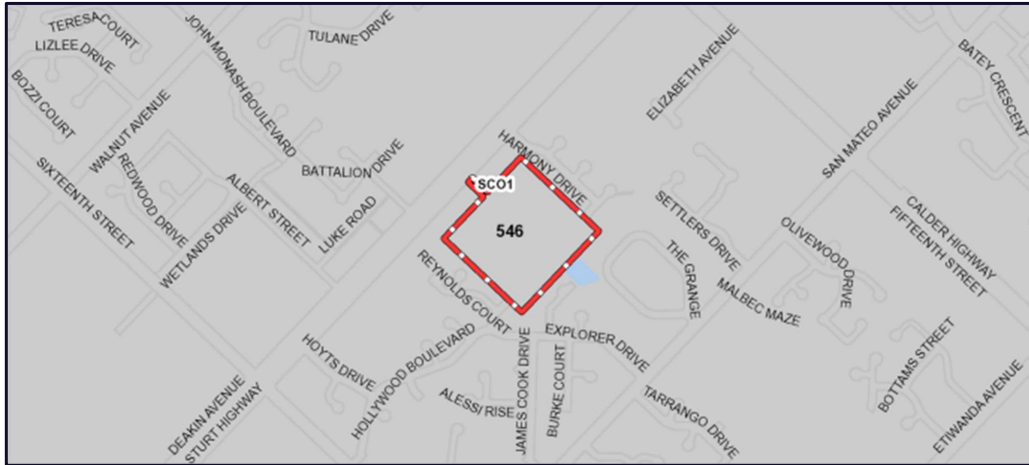


Figure 14: SCO map of subject site and immediate surrounds. Source: VicPlan



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### 3. Planning Objectives to be achieved

#### Accessible walkable neighborhoods that encourage reduced car use

- *Promote connectivity with short blocks (<200m long) and by maximising connections to adjacent development.*
- *Provide a legible street network that is easy to navigate by following a broadly grid pattern, with movement corridors and lines of sight directly linking key destinations within the site.*
- *Avoid cul-de-sacs, provide permeability with landscaped pedestrian connections to provide through routes.*

#### Compact neighborhoods

- *Provide diverse lot sizes and a range of lot types to better meet future community housing needs.*

#### Crime prevention through Environmental Design (CPTED)

- *All streets and parks should be addressed by the front elevations of houses, to enhance overlooking and improve safety for pedestrians and cyclists.*
- *Surround public open space by edge roads to provide easy access and encourage overlooking by passing traffic*

#### Landscape design principals

- *Land reserved for drainage is integrated into the public open space network with the inclusion of paths, landscaping and additional unencumbered space to allow public access and use.*
- *Public open space is provisioned in accordance with the appropriate classification as detailed in the Mildura Public Open Space Strategy 2021.*
  - *The Grange Park is extended into the site to meet the internal road network, the design of the extended area of the Grange Park is designed to meet the standard of 'Neighbourhood Park' as detailed in the Mildura Public Open Space Strategy 2021.*
  - *A 'Neighbourhood Park' should contain the following*
    - *Grassed 'Kick-about' Area*
    - *Play Equipment*
    - *Picnic Facilities*

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- *Park Furniture (i.e. Seating)*
  - *Shade / Shelter*
  - *Pathways / Trails (Unsealed)*
  - *Shade Trees / Feature Trees*
  - *Water Sensitive Urban Design (WSUD)*
  - *Crime Prevention Through Environmental Design*
- 
- *Any Land reserved for drainage is integrated into the public open space network with the inclusion of paths, landscaping and additional unencumbered space to allow public access and use.*

**A sense of place**

- *Provide an attractive sense of arrival at each entrance to the site and to each character precinct, through the use of landscape.*
- *Articulate decision points in the movement network through the use of attractive and distinctive built form and landscape.*

**Traffic safety**

- *Promote traffic speeds and behaviour appropriate to a residential environment through the design of local streets and appropriate traffic calming measures.*

**Energy efficiency**

- *Environmentally friendly development where lot layout and design supports more energy efficient dwellings.*
- *Where possible align streets and dwellings to optimise solar access and shading.*

**Contribute to ecological value/ encourage climate resilience**

- *Provision of street trees is maximised within council guidelines to provide the greatest possible future canopy cover.*
- *Street tree varieties selected are native, climate resilient, and will provide significant canopy cover when mature. Varieties should be to the satisfaction of council.*

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#### **4. Conclusion**

The development plan and attached plans meet the objectives and should be supported by Council as it:

- Contains a clearly distinguishable road hierarchy with the differences in road function;
- Will provide for a range of residential lot sizes
- Successfully connects to the existing residential development towards the east and west;
- Expands the existing public open space within The Grange; and
- Has no significant impact on any flora or fauna significance or archaeological significance within the site or locality.

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**5. Attachment A – Development Plan**



<b>Development Plan for 546 Deakin Avenue Mildura Response to Submissions Summary Table Hatch Planning - 3 August 2022</b>				
<b>Submission Number</b>	<b>Submitter</b>	<b>Issues Raised in Submission (Hatch Planning)</b>	<b>Analysis and Consideration of Issues Proposed &amp; Recommended Response to Submission (Hatch Planning)</b>	<b>Changes to Exhibited Draft Development Plan (Hatch Planning)</b>
1	Con Alevras for P & S Alevras	Issues relating to lot sizes and layout	While the plan does not show the lot sizes, the Mildura Planning Scheme contains objectives that address lot size and density variations	No change required
2	Tony Parisi for A & F Parisi	Continuance of side access to property at 548 Deakin Avenue	This matter is not relevant for the Development Plan, however orderly planning will require this matter to be addressed as part of any permit issued for a Planning Permit that would allow a Residential Subdivision of the land.	No change required
3	Urban Synergetics	Multiple issues relating to amount of information in this development plan.	The submission is comparing development plans that are located in separate Development Plan Overlay Schedules (DPO1 versus DPO3)	No changes required
4	Environment Protection Authority	No issues	No response required	No changes required
5	Sharon Lavery for G & S Lavery	Traffic concerns relating to Explorer Drive	Due to the proposed access provided to Deakin Avenue, it is considered that minimal traffic generated from the eventual subdivision would rely on Explorer Drive	No changes required
6	Country Fire Authority	No issues	No response required	No changes required
7	Lower Murray Water	No issues	No response required	No changes required
8	Department of Education and Training	Requested further information regarding Land Use Plan, Land Budget Plan, Indicative subdivision plan.	It is considered the following items are not relevant for an "infill" development plan that involves 6.8 hectares.	No changes required

### 14.3 AUDIT AND RISK COMMITTEE CHAIRPERSON'S BIENNIAL REPORT TO COUNCIL - 1 JANUARY TO 30 JUNE 2022

File Number: 02/02/08  
Officer: General Manager Corporate

#### 1. Summary

In accordance with the requirements of the Audit and Risk Committee Charter, the Audit and Risk Committee Chairperson is to report to Council biannually on the Committee's operations and achievements against its agreed performance indicators. This report presents the Audit and Risk Committee Chairperson's biannual report for the six-months ended 30 June 2022.

#### 2. Recommendation

**That Council receive the internal Audit and Risk Committee Chairperson's Biannual Report for the six-month period 1 January to 30 June 2022.**

#### 3. Background

In accordance with the Audit and Risk Committee Charter, the Audit and Risk Committee is required to meet bi-monthly. Special meetings are also convened as required.

Agenda items listed in the Audit and Risk Committee's Annual Work Plan 2022 (**copy attached**) serve as the key performance indicators against which the Committee's performance is measured.

Variations to the timing for consideration of certain agenda items shown in the Committee's Annual Work Plan are explained in the notes included within the Annual Work Plan. Delays in considering certain agenda items, while somewhat inconvenient, have not adversely impacted the Committee's performance or ability to carry out its role, as outlined in the Audit and Risk Committee Charter. Therefore, the Committee is considered to have achieved its key performance indicators for six months ended 30 June 2022.

#### 4. Consultation Proposed/Undertaken

There are no consultation requirements relating to this report.

## 5. Discussion

Audit and Risk Committee membership for six months ended 30 June 2022 was as follows:

- Max Folie – External member and Chairperson
- Mary Rydberg – External member
- Min Poole – External member
- Julie Humphrey – External member
- Mayor – Cr Liam Wood
- Deputy Mayor – Cr Jason Modica (replaced Cyndi Power, whose resignation took effect on 22 March 2022).

For the six-months ended 30 June 2022, the Audit and Risk Committee met three times. The level of input, advice and recommendations from the Committee has been extremely beneficial to Council's operations and decision-making. A summary of the items considered by the Committee, along with key outcomes, is provided below:

- The Audit and Risk Committee approved presentation to Council of the Audit and Risk Committee Chairperson's Bi-annual Report to Council – July to December 2021.
- The Committee approved an internal audit plan for the 2022-2023 financial year comprised of four audits. The internal audit plan was developed following Management and the internal auditor's review of the Strategic Internal Audit Plan 2021-2022 to 2023-2024 and consideration of current and emerging business risks for Mildura Rural City Council.
- The Audit and Risk Committee received regular updates from the internal auditor, BDO, on the status of delivery of internal audit projects.
- The Committee adopted BDO's final reports on the:
  - Financial Sustainability Review
  - Occupational Health & Safety Review.
- The Audit and Risk Committee monitored progress towards completion of Management actions arising from internal reviews undertaken by BDO through the Internal Audit Tracking Register presented to each Committee meeting as a standard agenda item.

In May 2022, the Audit and Risk Committee requested that going forward Management amend the Summary Report template in the Internal Audit Tracking Register to remove the Percentage of Actions Due and Completed Reporting Period graph. The Committee expressed the view that the Number of Actions to be Completed by Age Overdue from Original Due Date graph, also included in the Internal Audit Tracking Register's Summary Report, provided a better overall snapshot of the status of internal audit actions.



- Following a request from the Committee at its December 2021 meeting for Management to review the actions two or more years old in the Internal Audit Tracking Register, rated high and medium risk, and recommend to the Committee residual risk ratings for each based on the current percentage complete figure, Management's comments regarding the remaining work to be undertaken to address the action and the revised date/timeframe by which the work is expected to be complete, the Committee approved a recommendation from Management at its February 2022 meeting to reduce the risk ratings based on the work completed to date.
- The Committee was briefed by the external auditor on the:
  - draft External Audit Strategy 2021-2022 at its 16 March 2022 meeting. The Audit and Risk Committee accepted the draft External Audit Strategy, as presented.

The final version of the External Audit Strategy 2021-2022 was emailed to the Audit and Risk Committee on 28 April 2022 with advice of the updates made to it.
  - findings and recommendations arising from the interim audit, as documented in the draft Interim Management Letter 2021-2022 presented to the Audit and Risk Committee's 11 May 2022 meeting. The Committee noted that no new issues had been raised in the draft Interim Management Letter. The Committee also noted the status of the three open prior period issues.
- To allow the Committee to monitor the progress of the issues reported in the Management Letter, a progress report is presented to each Audit and Risk Committee meeting as a standard agenda item.
- For the purpose of continuing education and assisting the Committee to fulfill the requirements of its Charter, the Committee received presentations from Management on the following topics:
  - the purpose and requirements of the Local Government Performance Reporting Framework (LGPRF), as well as the Audit and Risk Committee's role in relation to the LGPRF
  - Mildura Rural City Council's Customer Complaints Reporting (policy and) process.
- The Committee reviewed statistics for key performance indicators relating to customer service in the Half-Yearly Customer Complaints Management Report – December 2021.

In response to concerns expressed by the Committee regarding the average number of days taken to resolve complaints, to put the average complaint resolution time into context, Management provided to the Audit and Risk Committee further details of the seven complaints that took the longest to resolve
- The Committee reviewed the LGPRF Half-Yearly Report – December 2021.

- Management provided a presentation to each meeting to update the Committee on the progress of delivery of the Mildura Sporting Precinct (Stage 2). Commencing in May 2022, the scope of this presentation was expanded to include an update on the progress of delivery of the Powerhouse Place – Riverfront (Stage 2) project.

The major projects presentation, made to each Committee meeting as a standard agenda item, includes details of how key risks associated with these projects are being managed and how the projects are tracking against their respective budgets.

- In response to its request, the Audit and Risk Committee received a presentation from the Manager Development Services on the statutory planning process. The presentation included details of the processes in place to assist Council to meet its obligations, timelines and the cost per application.
- The Committee was provided with a briefing note from the Manager Community Care Services explaining the aged care reforms and their implications for Mildura Rural City Council from a risk management perspective.
- The Audit and Risk Committee undertook an annual informal assessment of the value of service of the internal audit function. The Committee consequently resolved to extend BDO's contract with Mildura Rural City Council for internal audit services for a further 12 months.
- The Quarterly Risk Management Report was presented to the Committee as a standard agenda item. Members of Council's Governance & Risk Team attended relevant meetings to brief the Committee on key aspects of each quarter's report. These briefings included an update to the Committee's May 2022 meeting on key outcomes of the annual insurance renewal process undertaken by the Council's Governance & Risk Team.
- Management provided a verbal update on Fraud Control and Emerging Risks to each Audit and Risk Committee meeting as a standard agenda item.
- The Chief Executive Officer provided a verbal update to each meeting on various matters affecting the organisation's operations.
- The General Manager Corporate reported verbally to each meeting on various operational matters.
- The Quarterly Financial Management Report, along other relevant financial reports, was reviewed by the Committee as a standard agenda item.

The Manager Financial Services briefed the Committee at each meeting on the reasons for key variances between the budgeted and actual figures in the financial reports.
- The Committee reviewed the Draft Budget 2022-2023 and Draft Fees and Charges Schedule 2022-2023. The Committee resolved to recommend both documents to Council for approval, subject to Council considering any public feedback received following the documents being made available for public comment.

- The most recently issued Monthly Management Report presented to Council Forum was presented to the Audit and Risk Committee as a standard agenda item. To ensure the currency of information provided to the Committee, other Monthly Management Reports were emailed to the Committee for review outside of the Committee's regular bi-monthly meeting schedule.

Management provided responses to questions asked by the Audit and Risk Committee in relation the Monthly Management Report, when required.

- The Quarterly Councillor Expenses Report presented to Council meetings was emailed to the Audit and Risk Committee for review outside of the Committee's regular meetings.
- The Committee undertook a recruitment process for independent membership of the Audit and Risk Committee prior to the expiry of member Max Folie's first term of membership on 25 April 2022.

Following the preliminary assessment and shortlisting of applications for independent Audit and Risk Committee membership by Council's Mayor and Chief Executive Officer in accordance with the requirements of the Audit and Risk Committee Charter, Max Folie was recommended to the Audit and Risk Committee as the preferred applicant. Following final consideration by the Committee of the applications received, the Committee recommended to Council the appointment of Max Folie to the Audit and Risk Committee for a second/final term. The Committee's recommendation was subsequently approved by the Council.

- The Audit and Risk Committee requested the opportunity to review the requirements of its charter and suggest improvements to the recruitment process for independent members with a view to increasing transparency. The Committee also requested the opportunity to suggest improvements to the process outlined in its Charter relating to the appointment of the Chairperson to ensure appropriate succession planning is in place for the Chairperson's role.
- A copy of a report released by the Victorian Auditor-General's Office in May 2022 entitled *Fraud Control Over Local Government Grants* was emailed to the Audit and Risk Committee for review outside of its regular meetings.

## 6. Time Frame

The Audit and Risk Committee Chairperson's Biannual Report for the six months ended 30 June 2022 is presented in accordance with the internal Audit and Risk Committee Charter and the Audit and Risk Committee's Annual Work Plan/Key Performance Indicators 2022 adopted by the Audit and Risk Committee in November 2021.

## 7. Strategic Plan Links

This report relates to the Council Plan 2021-2025 in the Strategic Direction:

### Leadership

Outcome to be achieved:

- Effective governance to deliver results in line with community expectations.

**8. Asset Management Policy/Plan Alignment**

There are no asset management implications relating to this report.

**9. Implications**

**Policy**

The items considered by the Audit and Risk Committee are in line with the oversight functions outlined in the Committee's Charter, which are briefly described as follows:

- Corporate governance
- Risk management including business continuity and disaster recovery, information and communications technology (ICT) governance, and fraud prevention
- Internal control framework
- Ethics and conduct
- Legislative compliance
- Internal and external reporting
- Internal and external audit.

**Legal/Statutory**

There are no legal/statutory implications relating to this report.

**Financial**

Funds for Audit and Risk Committee remuneration and consultancy (internal audit) costs incurred by the Audit and Risk Committee for the 2021-2022 financial year to date have been allocated in the Budget.

**Environmental**

There are no environmental implications associated with this report.

**Social**

There are no social implications associated with this report.

**Economic**

There are no economic implications associated with this report.

**10. Risk Assessment**

By adopting the recommendation, Council will not be exposed to any significant risk.

**11. Conflicts of Interest**

No conflicts of interest were declared during the preparation of this report.

**Attachments**

- 1 [Download](#) Audit and Risk Committee - Annual Work Plan / Key Performance Indicators 2022

Audit and Risk Committee  
Annual Work Plan/Key Performance Indicators 2022

The following table presents an overview of the standard agenda items to be considered at Audit and Risk Committee Meetings. In addition to these items, ad-hoc issues/matters are expected to be raised at each meeting. Reporting on each matter may be verbal, for information only, or subject to review and adoption, or recommendation to Council.

Agenda Item/Key Performance Indicator	Audit and Risk Committee Charter Reference/s	2022 Meetings					
		9 Mar (Special Meeting)	11 May	13 Jul	14 Sept	9 Nov	
<b>2.4 Recruitment</b>							
External Membership Review <sup>2</sup> :	2.4.2 The appointment of independent members will be made by way of a public advertisement and be for a maximum term of three years, renewable at the discretion of Council.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				
• Max Folle Membership review/expiry date 25 April 2022 (initial appointment for a three-year term effective 26 April 2019)							
• Mary Rydberg Membership review/expiry date 25 February 2023 (initial appointment for a three-year term effective 26 February 2020)	2.4.3 Independent members' terms will be set so that as far as possible only one member retires at a time in order to consider the loss of knowledge of Council's business that may occur on change of membership.						
• Min Poole Membership review/expiry date 29 August 2024 (initial appointment for a three-year term effective 30 August 2021)	2.4.4 To ensure an orderly rotation and continuity of membership despite changes to Council's elected representatives, the number of consecutive terms that an independent person may serve on the Committee will be limited to two.						
• Julie Humphrey Membership review/expiry date 31 October 2024 (initial appointment for a three-year term effective 1 November 2021)							
Annual election of Chairperson <sup>3</sup>	2.4.13 The Chairperson will be appointed annually from the external members of the Committee.					<input checked="" type="checkbox"/>	

**Commented [SV1]:** Meeting rescheduled to 16 February 2022 due to the Chairperson not being available on 9 February 2022.

**Commented [SV2]:** Following a recruitment process, Max Folle was appointed to the Audit and Risk Committee for a second final three-year term commencing on 26 April 2022.

Agenda Item/Key Performance Indicator	Audit and Risk Committee Charter Reference/s	2022 Meetings					
		9 Mar (Special Meeting)	11 May	13 Jul	14 Sept	9 Nov	
<b>Quarterly Risk Management Report</b> (Inclusive of a report on operational and strategic risks, and Council's business continuity management system) : <ul style="list-style-type: none"> <li>Quarter ended 31 December 2021</li> <li>Quarter ended 31 March 2022 (including details relating to the proposed renewal of Council's insurance program for 2022-2023)</li> <li>Quarter ended 30 June 2022</li> <li>Quarter ended 30 September 2022</li> </ul>	<b>3.1 Risk Management</b>  The Committee will: See 3.1.2 above. 3.1.3 Prior to renewal, the Committee will review the insurance program and consider the approach taken by Council to ensure that appropriate insurance arrangements are in place. 3.1.4 Monitor the progress of any significant claims or litigation by or against the Council. 3.1.5 Consider any litigation, claim or contingency, which could have a material effect on Council's financial position or operating result. 3.1.6 Review the approach to business continuity planning, including whether business continuity and disaster recovery plans have been regularly updated and tested.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		
					<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
<b>Risk Management Presentation</b> (including update on operational and strategic risks, and business continuity management)	3.1.1 The Committee will assess the scope and effectiveness of the systems established by Management to identify, assess, manage and monitor material and operational business risks. 3.1.2 Monitor the process of review of Council's risk profile to ensure that material and operational risks are dealt with appropriately and receive status reports, through receipt of the Quarterly Risk Management Report, of the risk register and actions being taken to manage identified risks.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

Agenda Item/Key Performance Indicator	Audit and Risk Committee Charter Reference/s	2022 Meetings					
		9-16 Feb	9 Mar (Special Meeting)	11 May	13 Jul	14 Sept	9 Nov
3.1 Risk Management							
Emerging Risks for Mildura Rural City Council – Bi-annual Presentation <sup>1</sup>	See 3.1.1 above.			<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
<a href="#">Aged Care Reforms – Union and Annual Budget Implications for Mildura Rural City Council</a>	<a href="#">See 3.1.1 above.</a>			<input checked="" type="checkbox"/>			
Related Parties and Conflict of Interest - Presentation	3.1.9 The Committee will review the effectiveness of Management's approach to managing risks related to critical third-party interdependencies (eg suppliers, customers, outsourced operations, counterparties and related parties), which affect the organisation's operations.				<input checked="" type="checkbox"/>		
Planning Process Presentation (including whether Council is meeting its obligations, timelines and costs per applications) <sup>5</sup>	See 3.1.1 above.	<input checked="" type="checkbox"/>					
3.2 Control Environment							
Internal audit reports	3.2.2 The Committee will review Management's and the internal auditors' reports on the effectiveness of the systems for internal financial controls, financial performance and risk management, including Council's business continuity and disaster recovery plans.	Internal audit reports will be presented to Audit and Risk Committee meetings following adoption by Council's Executive Leadership Team.					
Internal Control Environment Register – Annual Report on Compliance with Review Timeframes <sup>6</sup>	3.2.7 The Committee will review over a four-year rotational basis, the adequacy and effectiveness of Council's compliance with the review of policies, systems and controls for providing a sound internal control environment.						<input checked="" type="checkbox"/>
Complaints Management Reporting Process - Presentation	3.2.5 The Committee will consider the effectiveness of controls for handling customer complaints.	<input checked="" type="checkbox"/>					
Annual Customer Complaints Management Report - 2020-2021	See 3.2.5 above.	<input checked="" type="checkbox"/>					

**Commented [573]:** Agreed at Audit and Risk Committee Meeting 3/2021-2022 to provide this presentation to the Audit and Risk Committee.

Agenda Item/Key Performance Indicator	Audit and Risk Committee Charter Reference/s	9 Mar (Special Meeting) <sup>1</sup>	2022 Meetings				9 Nov
		9-16 Feb	11 May	13 Jul	14 Sept		
3.2 Control Environment							
Financial Reserves Policy and Presentation	3.2.8 The Committee will review new or revised policies and procedures for key risk areas such as investment, financial reserves, fraud control and procurement to gain an understanding of the controls in place to manage the risks associated with these areas, and provide advice where required.			<input checked="" type="checkbox"/>			
3.3 Fraud Prevention Systems and Control							
Fraud Control Policy, and Fraud and Corruption Control Plan - Review	3.3.1 At least every two years, the Committee will review and consider the effectiveness of Council's Fraud Control Policy, and Fraud and Corruption Control Plan, for preventing and detecting fraud, and supporting protected disclosures, and assess whether these are adequate and effective.	The Fraud Control Policy, and Fraud and Corruption Control Plan, were reviewed in June 2021. These documents will be presented to the Audit and Risk Committee in May 2023, as part of the review process.					
Fraud Control and Emerging Risks Update	3.3.2 The Committee will receive status reports from Management of occurrences of fraud and suspected cases of fraud, corruption or serious misconduct impacting Council and review the outcomes of, and monitor any subsequent recommendations and Management responses to, independent investigations into these matters.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3.4 Compliance Management							
Employee and Councillor Codes of Conduct Review and Presentation	3.4.4 The Committee will, at least annually, verify Council's compliance with the review of the Councillor, Employee and Supplier codes of conduct and the process for communicating and monitoring councillors, employees and suppliers' compliance with the respective codes.						<input checked="" type="checkbox"/>



Agenda Item/Key Performance Indicator	Audit and Risk Committee Charter Reference/s	2022 Meetings				
		8-16 Feb	9 Mar (Special Meeting)	11 May	13 Jul	14 Sept
<b>3.4 Compliance Management</b>						
Procurement Dashboard – Annual Presentation (including briefing on Procurement of Goods, Services & Works Policy obligations)	3.4.2 The Committee will review tendering arrangements to ensure transactions are conducted on an arms-length basis and are otherwise in accordance with Council policy.					<input checked="" type="checkbox"/>
Councillor Expenses Reporting Presentation (including briefing on obligations under the <i>Local Government Act 2020</i> and Councillor entitlements)	3.4.3 The Committee will review for compliance with Council policy the Councillor expenses report presented to the previous Council meeting, challenging any unusual or unexpected results.					<input checked="" type="checkbox"/>
Councillor Expenses Report <sup>2</sup>	See 3.4.3 above.					
• Quarter ended 31 December 2021	To be circulated under separate cover in February 2022.					
• Quarter ended 31 March 2022						
• Quarter ended 30 June 2022						
• Quarter ended 30 September 2022	To be circulated under separate cover in August 2022.					
	To be circulated under separate cover in November 2022.					
<b>3.5 Financial and Performance Reporting</b>						
Quarterly Financial Management Report (including Balance Sheet Year-to-Date Actuals Comparison Report, Annual Cash Holding Cash Flow Report, and Cash and Cash Equivalents Report):	<b>3.5.1 Financial Reporting to Council</b> 3.5.1.1 The Committee will review Council's financial position via receipt of Council's Quarterly Financial Management Report as presented to Ordinary Council meetings, and other supporting financial reports, seeking explanations of any unusual or unexpected results.		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
• Quarter ended 31 December 2021						
• Quarter ended 31 March 2021						
• Quarter ended 30 June 2021					<input checked="" type="checkbox"/>	
• Quarter ended 30 September 2021						<input checked="" type="checkbox"/>

Agenda Item/Key Performance Indicator	Audit and Risk Committee Charter Reference/s	2022 Meetings				
		6-16 Feb	9 Mar (Special Meeting)	11 May	13 Jul	14 Sept
3.5 Financial and Performance Reporting						
Draft Budget 2022-2023	<b>3.5.2 Annual Budget</b> 3.5.2.1. The Committee will review the draft Annual Budget to assess that all appropriate processes are in place and all legislative aspects have been complied with, prior to recommending it to Council for adoption and approval to place on public exhibition.		<input checked="" type="checkbox"/>			
Performance Reporting - Presentation	<b>3.5.3 Annual Financial Statements and Annual Performance Statement</b> 3.5.3.2 The Committee will, at least annually, review changes to the Local Government Performance Reporting Framework and understand the impact of those changes on Council's performance indicators.		<input checked="" type="checkbox"/>			
Local Government Performance Reporting Framework – Half-Yearly Report	<b>3.5.3 Annual Financial Statements and Annual Performance Statement</b> 3.5.3.3 The Committee will review the half-yearly Local Government Performance Reporting Framework report, seeking assurance in regard to the accuracy and completeness of the information reported.		<input checked="" type="checkbox"/>			
Draft Annual Financial Statements 2021-2022	<b>3.5.3 Annual Financial Statements and Annual Performance Statement</b> 3.5.3.4 The Committee will review the draft Annual Financial Statements and draft Annual Performance Statement and consider whether they are consistent with information known to Committee members, reflect appropriate accounting treatments and adequately disclose Council's financial position.					<input checked="" type="checkbox"/>

Agenda Item/ Key Performance Indicator	Audit and Risk Committee Charter Reference/ s	2022 Meetings					
		-26 Feb	9 Mar (Special Meeting)	11 May	13 Jul	14 Sept	9 Nov
3.5 Financial and Performance Reporting							
Draft Annual Financial Statements 2021-2022 cont/d	<b>3.5.3 Annual Financial Statements and Annual Performance Statement</b> 3.5.3.5 The Committee will recommend to Council the in principle adoption of the draft Annual Financial Statements and draft Annual Performance Statement, and review any significant changes and the reasons for the changes that may arise subsequent to any such recommendation but before the draft Annual Financial Statements and draft Annual Performance Statement are signed.						
Draft Annual Performance Statement 2021-2022	See 3.5.3.4 and 3.5.3.5 above.					<input checked="" type="checkbox"/>	
Draft Governance and Management Checklist 2021-2022	<b>3.5.4 Governance and Management Checklist</b> 3.5.4.1 The Committee will review the completeness of corporate governance processes, as prescribed in the draft Governance and Management Checklist of the <i>Local Government (Planning and Reporting) Regulations 2020</i> , prior to recommending the draft Governance and Management Checklist to Council for in principle adoption.					<input checked="" type="checkbox"/>	
Mildura Rural City Council Draft Annual Report 2021-2022	<b>3.5.5 Annual Report</b> 3.5.5.1 The Committee will review for completeness the disclosures to be included in Mildura Rural City Council's Draft Annual Report regarding the Council's activities and performance.					<input checked="" type="checkbox"/>	

Agenda Item/Key Performance Indicator	Audit and Risk Committee Charter Reference/s	2022 Meetings					
		4-16 Feb	9 Mar (Special Meeting)	11 May	13 Jul	14 Sept	9 Nov
3.5 Financial and Performance Reporting							
Mildura Rural City Council Draft Annual Report 2021-2022 cont/d	<b>3.5.5 Annual Report</b> 3.5.5.2 The Committee will review the information included in Mildura Rural City Council's Draft Annual Report to ensure it is consistent with the draft Annual Financial Statements.						
3.6 Internal Audit							
Internal Audit Tracking Register	3.6.2 The Committee will review internal audit reports and monitor, through receipt of the organisation's Internal Audit Tracking Register, the implementation of recommendations by Management, assessing reasons for non-implementation of any recommendations.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Annual Internal Audit Plan - 2022-2023	3.6.4 The Committee will review and approve the Annual Internal Audit Plan, including any significant changes to it, having regard to the four-year Strategic Internal Audit Plan and Council's budget and objectives.			<input checked="" type="checkbox"/>			
Internal Audit Projects – Progress Report	3.6.5 The Committee will, through the receipt of regular status reports from the internal auditor, monitor the implementation of the annual internal audit plan.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Internal Audit Function – Annual Performance Assessment <sup>8</sup>	3.6.8 The Committee will assess, annually, both the compliance effectiveness and value of service of the internal audit function.			<input checked="" type="checkbox"/>			

Agenda Item/Key Performance Indicator	Audit and Risk Committee Charter Reference/s	2022 Meetings					
		9-16 Feb	9 Mar (Special Meeting)	11 May	13 Jul	14 Sept	9 Nov
External Audit Strategy: <ul style="list-style-type: none"> <li>Mildura Rural City Council</li> <li>Mildura Cemetery Trust</li> </ul>	3.7.1 (Bullet point 1) The Committee will meet confidentially with the external auditor at the commencement of each year's audit process to discuss the audit engagement and the overall external audit strategy of the Victorian Auditor-General's Office (VAGO). During this meeting, the Committee will ask the external auditor about pressures on Management that may have an impact on the quality of financial reporting, such as performance measures. The Chairperson will also communicate to the external auditor the expectation that the external auditor will contact the Committee where necessary.		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		
Mildura Rural City Council External Audit Closing Report <sup>f</sup>	3.7.1 (Bullet point 2) The Committee will meet with Management and the external auditor following the release of the VAGO Closing Report to review and discuss the results of the audit, including any audit issues encountered in the normal course of work, restriction on scope of work or access to information.					<input checked="" type="checkbox"/>	
Interim Management Letter: <ul style="list-style-type: none"> <li>Mildura Rural City Council</li> <li>Mildura Cemetery Trust</li> </ul>	3.7.3 The Committee will review and discuss with Management and the external auditor all significant Management Letter items and the potential impact of those on Council's system of internal control.			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Mildura Rural City Council Final Management Letter							
Management of Leave Balances - Annual Report <sup>o</sup>	3.7.4 The Committee will monitor the implementation of Management Letter recommendations through the receipt of regular status reports provided by Management.				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

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Commented [SV4]: Agreed in May 2022 to add the Mildura Cemetery Trust External Audit Strategy to the Audit and Risk Committee's Annual Work Plan.

Commented [SV5]: Agreed in May 2022 to add the Mildura Cemetery Trust Interim Management Letter to the Audit and Risk Committee's Annual Work Plan.

Agenda Item/Key Performance Indicator	Audit and Risk Committee Charter reference/s	2022 Meetings					
		-9.16 Feb	9 Mar (Special Meeting)	11 May	13 Jul	14 Sept	9 Nov
<b>3.7 External Audit</b>							
External Audit Management Letter Issues – Status Report	See 3.7.4 above.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Local Government Performance Audit Reports from the Victorian Auditor-General's Office (VAGO)	3.7.5 The Committee will consider the findings and recommendations of local government performance audits and other specific audits undertaken by the Victorian Auditor-General's Office and where relevant monitor Management's responses to them.	Relevant VAGO reports will be presented to Audit and Risk Committee meetings, as required, or circulated to the Audit and Risk Committee for information outside of Audit and Risk Committee meetings.					
<b>3.8 Other Relevant Matters</b>							
Mildura Cemetery Trust Annual Report and Management Letter	3.8.1 Consider and note the Annual Report and Management Letter for: <ul style="list-style-type: none"><li>• Mildura Cemetery Trust</li><li>• Mildura Rural City Council's subsidiaries:<ul style="list-style-type: none"><li>◦ Mildura Airport Pty Ltd</li><li>◦ Mildura Regional Development.</li></ul></li></ul>						<input checked="" type="checkbox"/>
Mildura Airport Pty Ltd Annual Update	See 3.8.1 above.						<input checked="" type="checkbox"/>
Mildura Regional Development Annual Update	See 3.8.1 above.						<input checked="" type="checkbox"/>
Chief Executive Officer Update	3.8.3 The Committee will receive updates from the Chief Executive Officer on major projects and other matters impacting on the organisation's operations.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
General Manager Corporate Services' Update on Operational Matters	3.8.4 The Committee will receive operational updates from the General Manager Corporate Services.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Agenda Item/Key Performance Indicator	Audit and Risk Committee Charter Reference/s	2022 Meetings					
		9-16 Feb	9 Mar (Special Meeting)	11 May	13 Jul	14 Sept	9 Nov
4.1 Meetings							
Annual Schedule of Presentations to the Audit and Risk Committee	4.1.8 An annual schedule of presentations will be developed and agreed to by members for the purposes of continuing education and assisting the Committee to fulfil the duties outlined in this Charter.					<input checked="" type="checkbox"/>	
Monthly Management Report <sup>1</sup>	See 4.1.8 above.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4.3 Reporting to Council							
Chairperson's Bi-Annual Report to Council	4.3.3 The Audit and Risk Committee's Chairperson will report to the Council on the Committee's activities, including its findings and recommendations, on a bi-annual basis.	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		
4.4 Audit and Risk Committee Performance Review							
Audit and Risk Committee Annual Work Plan/KPIs for 2023 Calendar Year	4.4.1 The Committee, together with the Chief Executive Officer, develop the Committee's performance indicators each year and then present these to Council.						<input checked="" type="checkbox"/>
Audit and Risk Committee Annual Self-assessment Process for Financial Year Ended 30 June 2022:	4.4.2 The Committee will participate in an annual self-assessment process, facilitated by Council's internal auditor. The Committee's performance will be measured against this charter and key performance indicators developed annually for the Committee.				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
<ul style="list-style-type: none"><li>• Presentation of self-assessment tool/questionnaire</li><li>• Report on findings of self-assessment process</li></ul>							
4.5 Charter Review							
Audit and Risk Committee Charter Review	4.5.1 The Audit and Risk Committee will review its Charter annually and recommend to Council for approval any changes required.						<input checked="" type="checkbox"/>

<div> <div>Note:</div> <div> <ol style="list-style-type: none"> <li>Meeting date is subject to change pending confirmation of dates for the external auditors' interim visit. In accordance with the requirements of the Audit and Risk Committee Charter, the Special meeting with the external auditor will include a confidential component without the presence of Management.</li> <li>In accordance with Section 4.4.5 of the Audit and Risk Committee Charter, as part of the process of exiting the Audit and Risk Committee, Audit and Risk Committee members will be requested to complete the Audit and Risk Committee Self Assessment Process questionnaire prior to their resignation or retirement from the Audit and Risk Committee becoming effective. In accordance with Section 2.4.5 of the charter, the Committee, with the exception of the retiring member, will also undertake a skills gap assessment using the Skills Matrix to assist with the recruitment process.</li> <li>Max Folie was appointed Audit and Risk Committee Chairperson for a 12 month term commencing on 3 November 2021.</li> <li>At Audit and Risk Committee Meeting 3/2021-2022 on 10 November 2021, the Audit and Risk Committee requested the inclusion in its Annual Work Plan of a twice-yearly presentation on key emerging risks (eg staff recruitment and retention) for Mildura Rural City Council.</li> <li>At Audit and Risk Committee Meeting 3/2021-2022 on 10 November 2021, the Audit and Risk Committee requested the inclusion in its Annual Work Plan for 2022 of a presentation on the Planning Process.</li> <li>See separate register of key documents comprising Council's Internal Control Environment.</li> <li>As the Councillor Expenses Report is not presented to Council until two months after the quarter's end reported on, to ensure the timely presentation of the Report to the Audit and Risk Committee, the Report will be emailed to the Audit and Risk Committee under separate cover following its presentation to Council.</li> <li>The Internal Audit Function – Annual Performance Assessment will be considered confidentially by Management and the Audit and Risk Committee.</li> <li>A confidential session with the external auditor will be held to discuss the results of the audit prior to Management joining the meeting.</li> <li>Item 2019.11 Rostered Days Off and Time in Lieu Leave Provision in the Final Management Letter 2019-2020 requires the provision of this report <b>annually</b> to the Audit and Risk Committee.</li> <li>At Audit and Risk Committee Meeting 3/2021-2022 on 10 November 2021, the Audit and Risk Committee requested the inclusion in its Annual Work Plan of the Monthly Management Report as a standard agenda item. The most recent Monthly Management Report will be included in the agenda for the next available Audit and Risk Committee Meeting (eg Monthly Management Report for January 2022 will be presented to the February 2022 Audit and Risk Committee meeting. To ensure the continued timeliness of information provided to the Committee, all other Monthly Management Reports will be emailed to the Committee as soon as they are available.)</li> </ol> </div> </div>
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## 14.4 AUDIT AND RISK COMMITTEE CHARTER REVIEW

**File Number:** 02/02/08  
**Officer:** General Manager Corporate

### 1. Summary

The Audit and Risk Committee has recently reviewed its Charter. The purpose of this report is to present an updated version of the Charter (**copy attached**) to Council for approval.

### 2. Recommendation

**That Council approves the updated internal Audit and Risk Committee Charter.**

### 3. Background

Following review of its Charter, the Audit and Risk Committee has recommended to Council a series of changes to its Charter. The purpose of these changes is largely to improve the recruitment process for independent Audit and Risk Committee members, as well as the processes relating to reappointment and succession planning for the Chairperson's role. Other relatively minor changes have been suggested to the Charter to streamline administrative processes and ensure continued compliance with legislation.

### 4. Consultation Proposed/Undertaken

The Audit and Risk Committee's Charter requires that Council approve any changes to the Audit and Risk Committee Charter.

## 5. Discussion

At Audit and Risk Committee Meeting 1/2022-2023, the Audit and Risk Committee resolved to recommend to Council for adoption an updated version of the Audit and Risk Committee Charter, inclusive of the changes agreed by the Committee at Audit and Risk Committee Meeting 6/2021-2022 and Audit and Risk Committee Meeting 1/2022-2023. These changes are shown by way of tracked changes in the attached updated Audit and Risk Committee Charter and summarised below:

- Section 2.4.5 for the Audit and Risk Committee has been updated to reflect the requirement for the Committee to undertake a skills assessment prior to the retirement of an existing member and following the appointment of each new member to ensure the collective skills of the Committee are reassessed on an ongoing basis and any potential deficiencies identified are able to be addressed through a targeted recruitment exercise.
- Section 2.4.6 has been updated to include the Audit and Risk Committee Chairperson, in addition to the Chief Executive Officer and Mayor, in the panel to assess independent Audit and Risk Committee membership applications. (Inclusion of the Chairperson in the assessment panel is consistent with the City of Greater Bendigo's Audit and Risk Committee Charter.) It is proposed that the assessment panel make a recommendation directly to Council to appoint the preferred candidate to the Audit and Risk Committee.
- Section 2.4.7 (and section 2.4.10) have been updated to state that the panel will assess applications in accordance with an evaluation matrix that considers the minimum expertise and experience that the *Local Government Act 2020* requires the Audit and Risk Committee to collectively possess, along with other preferred skills and experience for Audit and Risk Committee members (eg corporate governance).
- Section 2.4.14 has been updated to state that to allow for succession planning, a member who is serving their fifth year of membership must not be nominated to serve as Chairperson for their final year.

Section 2.4.14 has also been updated to state that the Chairperson will be appointed in July (or the meeting closest to July) each year. The alignment of the timing of the election of the Chairperson with the start of each new financial year is aimed at minimising any potential disruptions to and ensuring continuity of the Audit and Risk Committee's work.

- Section 3.5.2.1 has been updated to replace the "public exhibition" requirement with "community engagement", given the *Local Government Act 2020* does not require the Annual Budget to be placed on public exhibition but does require a community engagement process to be undertaken in relation to the Annual Budget.

## 6. Time Frame

The Audit and Risk Committee Charter is required to be reviewed at least annually but may be reviewed and updated more frequently, if required.

**7. Strategic Plan Links**

This report relates to the Council Plan 2021-2025 in the Strategic Direction:

Leadership

Outcome to be achieved:

- Effective governance to deliver results in line with community expectations.

**8. Asset Management Policy/Plan Alignment**

There are no Asset Management Policy/Plan implications associated with this report.

**9. Implications**

**Policy**

This report complies with the internal Audit and Risk Committee Charter.

**Legal/Statutory**

There are no legal/statutory implications associated with this report.

**Financial**

Costs associated with the Audit and Risk Committee are contained in the Council's Budget 2022-2023.

**Environmental**

There are no environmental implications associated with this report.

**Social**

There are no social implications associated with this report.

**Economic**

There are no economic implications associated with this report.

**10. Risk Assessment**

By adopting the recommendation, Council will not be exposed to any significant risk.

**11. Conflicts of Interest**

No conflicts of interest were declared during the preparation of this report.

**Attachments**

- 1 [📄](#) Audit and Risk Committee Charter - August 2022

# Audit and Risk Committee Charter

~~2021~~2022



Mildura Rural City Council

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## 1. Terms of Reference

### 1.1 Legal Status

- 1.1.1 The Audit and Risk Committee (the Committee) is an independent advisory committee to Council established pursuant to Section 53 of the *Local Government Act 2020* (the Act).

### 1.2 Objectives

- 1.2.1 The Audit and Risk Committee's primary objective is to assist Council, through the provision of independent advice, assurance and recommendations, to discharge its oversight responsibilities under the Act for risk management, maintenance of a sound internal control environment, fraud prevention systems and control, Council's performance with regard to compliance with its policies, legislative and regulatory requirements, financial and performance reporting, and assurance activities including internal and external audit.

### 1.3 Role

- 1.3.1 Pursuant to Section 54(2) of the *Local Government Act 2020*, broadly, the Audit and Risk Committee's role includes the following:

- Monitoring and providing advice on risk management and fraud prevention systems and controls, including:
  - Business continuity and disaster recovery
  - Information and communications technology (ICT) governance
  - Fraud prevention
- Monitoring compliance of Council policies and procedures with:
  - The overarching governance principles
  - The Act and the regulations and any Ministerial directions
  - Other relevant laws and regulations.
- Monitoring Council's financial and performance reporting
- Oversight of Council's internal and external audit functions.

### 1.4 Authority

- 1.4.1 The Audit and Risk Committee is an advisory committee of Council and reports directly to Council.
- 1.4.2 As an advisory committee, the Audit and Risk Committee has no delegated authority from Council unless specifically provided by Council from time to time and any such authority will be temporary and may only relate to specific matters as directed by Council.

1.4.3 The Audit and Risk Committee has the authority to:

- Endorse key documents and reports that must be approved by Council, including the Annual Financial Statements, Annual Performance Statement, new or revised policies and other documents that assist in maintaining a strong internal control environment
- Approve internal and external audit plans, including the four-year Strategic Internal Audit Plan
- Provide advice and make recommendations to Council on matters within its areas of responsibility
- Retain counsel of relevant independent experts where it considers that it is necessary to execute its responsibilities, subject to prior agreement with the Chief Executive Officer
- Seek any relevant information it requires from Council, Council Officers (who are expected to cooperate with the Committee's requests) and external parties
- Meet with Council Officers, internal and external auditors and other parties as required to discharge its responsibilities.
- Oversee the performance of the external audit process, and appointment and performance of the internal auditor.

## 2. Composition and Conditions of Appointment

### 2.1 Members (Voting)

2.1.1 The Committee will be comprised of up to six members:

- Council's Mayor and Deputy Mayor
- A minimum of three and up to a maximum of four independent people.

2.1.2 All members will have full and equal voting rights unless a member is unable to vote due to a conflict of interest.

2.1.3 Potential conflict of interests in matters being considered by the Committee will be addressed in accordance with the *Local Government Act 2020* and recorded in the minutes of the relevant Committee meeting. Once a member of the Audit and Risk Committee has identified a conflict of interest, they must:

1. Complete and submit to the Chairperson prior to the meeting a Disclosure of Conflict of Interest form identifying the:
  - a) Type of interest and class
  - b) Nature of the interest

2. Immediately before the matter is considered in the meeting, notify the Chairperson that they are leaving the meeting
  3. Leave the meeting and vicinity while the matter is being considered and await the Chairperson's direction to return
  4. Notify the Chairperson prior to the meeting if they are not going to be present at the meeting.
- 2.1.4 The Committee will use best endeavours to reach agreement. Decisions will be reached by majority voting.
- 2.1.5 The Chairperson will be an independent member of the Committee and will have a casting vote on occasions where voting is equal.
- 2.2 Attendees (Non-Voting)**
- 2.2.1 The Audit and Risk Committee will also include the following Council officers, who provide executive support to the Committee, as non-voting attendees:
- Chief Executive Officer
  - General Manager Corporate (Secretariat)
  - Manager Financial Services (Chief Financial Officer)
  - Executive Assistant to the General Manager Corporate (Minute Taker/Administrative Support).
- 2.2.2 Council's internal auditors are to attend meetings considering internal audit matters.
- 2.2.3 Council's external auditor will be invited to attend meetings at the discretion of the Committee but must attend meetings considering the external audit strategy, draft Annual Financial Statements and draft Annual Performance Statement, and the results of the external audit.
- 2.2.4 Non-voting attendees may take part in the business of and discussions at the meeting. The Committee reserves the right to exclude these people from the meeting when it chooses to meet confidentially.
- 2.3 Invitees (Non-Voting)**
- 2.3.1 Representatives of Council's external auditor and other Council staff may be invited to attend at the discretion of the Committee to advise and provide information when required.
- 2.4 Recruitment**
- 2.4.1 Council's Mayor and Deputy Mayor will be the Councillor members of the Committee and will be appointed annually by the Council.
- 2.4.2 The appointment of independent members will be made by way of a public advertisement and be for a maximum term of three years, renewable at the discretion of Council.



- 2.4.3 Independent members' terms of appointment will be set so that as far as possible only one member retires at a time in order to minimise the loss of knowledge of Council's business that may occur on change of membership
- 2.4.4 To ensure an orderly rotation and continuity of membership despite changes to Council's elected representatives, the number of consecutive terms that an independent person may serve on the Committee will be limited to two.
- 2.4.5 To identify any potential gaps in its collective skill base and facilitate the recruitment process, prior to the retirement of an independent member ~~of the Committee~~ and following the appointment of a new independent member to the Committee, the Committee with the exception of the retiring member will undertake a skills gap assessment using the Committee's skills matrix template.
- ~~2.4.6 The criteria for the appointment of independent members will fall within the areas of:~~
- ~~2.4.7-~~ The Mayor ~~and~~ Chief Executive Officer and Chairperson ~~will undertake the assessment of~~ assess applications for independent membership of the Audit and Risk Committee and complete evaluation matrix and then recommend to Council for approval the appointment of a preferred candidate to the Committee.
- ~~2.4.7~~ Applications will be assessed using an evaluation matrix that takes into account the minimum expertise and experience the Local Government Act 2020 requires the Committee to collectively possess, ie:
- expertise in financial management and risk; and
  - experience in public sector management,
- along with other desirable skills and experience for independent Audit and Risk Committee members (eg qualifications and/or experience in ethics and corporate governance.)
- ~~2.4.8~~ The evaluation assessment of applications for external independent membership ~~to assess~~ will consider each candidate's experience and likely ability to apply appropriate analytical and strategic management skills. In addition, to ensure they are free from any management, business or other relationship that could reasonably be perceived to materially interfere with their ability to act in the best interests of the Council, candidates will be assessed in accordance with applicable legislation and/or regulations that define the requirements of independence for Audit and Risk Committee membership. The following list of relationships, while not exhaustive, will be considered in making a judgement as to the independent status of a candidate – if the candidate:
- is employed, or has previously been employed in an executive capacity by the Council or a related entity, and there has not been a period of at least three years between ceasing such employment and serving on the Audit and Risk Committee

- has, within the last three years, been a principal of a material professional adviser or a material consultant to the Council or a related entity, or an employee materially associated with the service provided
- is a material supplier to or customer of the Council or a related entity, or an officer of, or otherwise associated directly or indirectly with, a material supplier or customer
- has a material, contractual relationship with the Council or a related entity.

~~2.4.8 Applications shortlisted and reference checked by the Mayor and Chief Executive Officer will be presented to the Audit and Risk Committee for final evaluation and recommendation to Council of a preferred candidate for appointment to the Committee.~~

2.4.9 The ~~Committee assessment panel~~ may choose to recommend to the Council the appointment of an individual to the Audit and Risk Committee, despite the existence of relationships identified in section 2.4.7-8 above, because of the individual's business or other expertise. In making such a recommendation, the ~~Committee assessment panel~~ will state its reasons for considering such a member to be independent and disclose the existence of any such relationships.

2.4.10 The ~~Committee assessment panel is to~~will consider and give weight to following points when recommending to Council the appointment of a preferred candidate to the Committee:

- ~~Individuals who have already served on the Audit and Risk Committee and not reached the maximum term, who have demonstrated a valuable and consistent contribution to the committee~~
- Individuals who demonstrate skills, qualifications and experience in more than two of the identified fields of expertise or any fields in which the Committee may be perceived as deficient
- Ensuring that ideally at least one independent member of the Committee has current, formal accounting or audit qualifications
- Gender balance.

2.4.11 Members will be required to sign a confidentiality agreement.

2.4.12 While not a requirement of the *Local Government Act 2020*, given the high level of integrity expected of the Audit and Risk Committee, independent members of the Committee will also complete initial and biannual personal interests returns in accordance with sections 133 and 134 of the Act as if they were a "specified person" or member of a "delegated committee" (as defined by the Act).

- 2.4.13 Independent and Councillor members will be required to participate in an induction session at the commencement of their appointment to the Committee.
- 2.4.14 The Chairperson will be appointed annually in July (or the meeting scheduled closest to July) each year from the external-independent members of the Committee. To allow for succession planning, an independent member who is serving their fifth year of membership must not be nominated to serve as Chairperson for their final year.
- 2.4.15 Remuneration will be paid quarterly to each independent member of the Committee. Remuneration for independent members is set by Council as part of the Budget process and indexed annually in line with increases applicable under Council's Enterprise Agreement.

## 2.5 Committee Member Regulatory Obligations

- 2.5.1 Audit and Risk Committee members are expected to be aware of their obligations under Section 53 of the Act. In addition to the conflict of interest obligations outlined in Sections 126 to 131 of the Act (and referred to in Section 2.1.3 of this Charter), these obligations relate to misuse of position as a member of the Committee (Section 123) and confidential information (Section 125). Details of these obligations are included in Appendix A to this Charter.

## 2.6 Removal of a Member

- 2.6.1 If the Council proposes to remove a member of the Committee, it must give written notice to the member of its intention to do so and provide that member with the opportunity to be heard at a Council meeting that is open to the public, if that member so requests.

# 3. Responsibilities

## 3.1 Risk Management

The Committee will:

- 3.1.1 Assess the scope and effectiveness of the systems established by Management to identify, assess, manage and monitor material and operational business risks.
- 3.1.2 Monitor the process of review of Council's risk profile to ensure that material and operational risks are dealt with appropriately and receive status reports, through receipt of the Quarterly Risk Management Report, of the risk register and actions being taken to manage identified risks.
- 3.1.3 Prior to renewal, review the insurance program and consider the approach taken by Council to ensure that appropriate insurance arrangements are in place.
- 3.1.4 Monitor the progress of any significant claims or litigation by or against the Council.

- 3.1.5 Consider any litigation, claim or contingency, which could have a material effect on Council's financial position or operating result.
- 3.1.6 Review the approach to business continuity planning, including whether business continuity and disaster recovery plans have been regularly updated and tested.
- 3.1.7 Critically analyse and follow up any internal or external audit report that raises significant issues relating to risk management, internal control, financial reporting and other accountability or governance issues, and any other matters relevant under the Committee's Charter. The Committee will review Management's treatment plans for significant risks, including the timeliness of mitigating actions and progress against those plans.
- 3.1.8 Receive updates, as required, on sustainability reviews undertaken, and consider the approach Management has taken to review all organisational services in an effort to identify savings that will ensure the sustainable delivery of high quality, responsive and accessible services that provide value for money.
- 3.1.9 Review the effectiveness of Management's approach to managing risks related to critical third-party interdependencies (eg suppliers, customers, outsourced operations, counterparties and related parties), which affect the organisation's operations.
- 3.1.10 Monitor the risk exposure of Council by determining if Management has appropriate risk management processes and adequate information systems in place.

## 3.2 Control Environment

The Committee will:

- 3.2.1 Consider the effectiveness of controls established by Management to ensure the integrity of financial and performance reporting.
- 3.2.2 Review Management's and the internal auditor's reports on the effectiveness of the systems for internal financial controls, financial performance and risk management, including Council's business continuity and disaster recovery plans.
- 3.2.3 Consider the effectiveness of internal controls for the security of information technology systems and applications.
- 3.2.4 Monitor ethical standards and related-party transactions by determining whether the systems of control are adequate.
- 3.2.5 Consider the effectiveness of controls for handling customer complaints.
- 3.2.6 Monitor significant changes to systems and controls to assess whether those changes significantly impact Council's risk profile.

- 3.2.7 Review, over a four-year rotational basis, the adequacy and effectiveness of Council's compliance with the review of policies, systems and controls for providing a sound internal control environment.
- 3.2.8 Review new or revised policies and procedures for key risk areas such as investment, financial reserves, fraud control and procurement to gain an understanding of the controls in place to manage the risks associated with these areas, and provide advice where required.
- 3.2.9 Assess whether the control environment is consistent with Council's governance principles.

### 3.3 Fraud Prevention Systems and Control

The Committee will:

- 3.3.1 At least every two years, review and consider the effectiveness of Council's Fraud Control Policy, and Fraud and Corruption Control Plan, for preventing and detecting fraud, and supporting protected disclosures, and assess whether these are adequate and effective.
- 3.3.2 Receive status reports from Management of occurrences of fraud and suspected cases of fraud, corruption or serious misconduct impacting Council and review the outcomes of, and monitor any subsequent recommendations and Management responses to, independent investigations into these matters.

### 3.4 Compliance Management

The Committee will:

- 3.4.1 Review Council's systems and processes for ensuring compliance with relevant laws, regulations and Ministerial directions, as well as the use of best practice guidelines, and assess whether these are adequate and effective.
- 3.4.2 Review tendering arrangements to ensure transactions are conducted on an arms-length basis and otherwise comply with Council policy.
- 3.4.3 Review for compliance with Council policy the Councillor expenses report presented to the previous Council meeting and seek explanations for any unusual or unexpected amounts.
- 3.4.4 At least annually, verify Council's compliance with the review of the Councillor, Employee and Supplier codes of conduct and the process for communicating and monitoring councillors, employees and suppliers' compliance with the respective codes.
- 3.4.5 Receive reports from Management on the findings and examinations by regulatory and integrity agencies (whether related to investigations at Council or other agencies) such as the Ombudsman, Independent Broad-based Anti-Corruption Commission, Victorian Government Inspectorate etc and monitor Council responses.

- 3.4.6 Consider recent developments and updates in legislation that may impact on compliance matters affecting Council.

### 3.5 Financial and Performance Reporting

#### 3.5.1 Financial Reporting to Council

The Committee will:

- 3.5.1.1 Review Council's financial position via receipt of Council's Quarterly Financial Management Report as presented to Ordinary Council meetings, and other supporting financial reports, seeking explanations of any unusual or unexpected results.
- 3.5.1.2 Gain an understanding of current areas of greatest financial risk and how they are managed.
- 3.5.1.3 Review issues relating to National Competition Policy, financial reporting by Council branches and comparative performance indicators.

#### 3.5.2 Annual Budget

- 3.5.2.1. The Committee will review the draft Annual Budget to assess that all appropriate processes (eg community engagement) are in place and all legislative aspects have been complied with, prior to recommending it to Council for adoption ~~and approval to place on public exhibition.~~

#### 3.5.3 Annual Financial Statements and Annual Performance Statement

The Committee will:

- 3.5.3.1 Review and understand the effect of the following on the preparation and audit of the draft Annual Financial Statements and draft Annual Performance Statement:
- Accounting policies and practices, including any changes to these
  - The process used in making significant accounting estimates
  - Related party transactions
  - Significant adjustments to the Annual Financial Statements (if any) arising from the audit process. For example, those involving valuation of assets and liabilities, environmental liability and other commitments and contingencies.
  - Compliance with accounting standards and other reporting requirements including recent accounting, professional and regulatory pronouncements and legislative changes
  - Significant changes to the content of the reports, the operating results, financial position and performance indicators in comparison with the previous year.

- 3.5.3.2 At least annually, review changes to the Local Government Performance Reporting Framework and understand the impact of those changes on Council's performance indicators.
- 3.5.3.3 Review the half-yearly Local Government Performance Reporting Framework report, seeking assurance in regard to the accuracy and completeness of the information reported.
- 3.5.3.4 Review the draft Annual Financial Statements and draft 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.
- 3.5.3.5 Recommend to Council the in principle adoption of the draft Annual Financial Statements and draft Annual Performance Statement, and review any significant changes and the reasons for the changes that may arise subsequent to any such recommendation but before the draft Annual Financial Statements and draft Annual Performance Statement are signed.
- 3.5.4 Governance and Management Checklist**
- 3.5.4.1 The Committee will review the completeness of corporate governance processes, as prescribed in the draft Governance and Management Checklist of the *Local Government (Planning and Reporting) Regulations 2020*, prior to recommending the draft Governance and Management Checklist to Council for in principle adoption.

### **3.5.5 Annual Report**

The Committee will:

- 3.5.5.1 Review for completeness the disclosures to be included in Mildura Rural City Council's Draft Annual Report regarding the Council's activities and performance.
- 3.5.5.2 Review the information included in Mildura Rural City Council's Draft Annual Report to ensure it is consistent with the draft Annual Financial Statements.

## **3.6 Internal Audit**

The Committee will:

- 3.6.1 Recommend to the Council, when required, the appointment of internal auditors and other external advisors engaged to review the Council's financial and internal controls.
- 3.6.2 Review internal audit reports and monitor, through receipt of the organisation's Internal Audit Tracking Register, the implementation of recommendations by Management, assessing reasons for non-implementation of any recommendations.
- 3.6.3 Prior to approval, review the scope of the proposed four-year Strategic Internal Audit Plan and program to consider whether, over a period of four years, the internal audit plan systematically addresses:

- Internal controls over significant areas of risk, including non-financial management control systems
  - Internal controls over revenue, expenditure, asset and liability processes
  - The efficiency, effectiveness and economy of significant Council programs
  - Compliance with regulations, policies, best practice guidelines, instructions and contractual arrangements.
- 3.6.4 Review and approve the annual Internal Audit Plan, including any significant changes to it, having regard to the four-year Strategic Internal Audit Plan and Council's budget and objectives.
- 3.6.5 Through the receipt of regular status reports from the internal auditor, monitor the implementation of the annual Internal Audit Plan.
- 3.6.6 Review and approve the proposed scope for each review in the annual Internal Audit Plan.
- 3.6.7 Ensure that the internal audit function has appropriate authority within Council and no unjustified limitations on its work.
- 3.6.8 Assess, annually, both the compliance effectiveness and the value of service of the internal audit function.
- 3.6.9 Recommend to Council, if necessary, the termination of the Internal Audit Contractor.
- 3.6.10 Review the appropriateness and effectiveness of special interest internal audit assignments undertaken by internal audit at the request of Audit and Risk Committee, Council or the Chief Executive Officer.
- 3.6.11 Facilitate liaison between the internal and external auditors to promote compatibility, to the extent appropriate, between their internal audit programs.

### 3.7 External Audit

The Committee will:

- 3.7.1 Meet at least twice annually with the external auditor:
- The Committee will meet *confidentially* with the external auditor at the commencement of each year's audit process to discuss the audit engagement and the overall external audit strategy of the Victorian Auditor-General's Office (VAGO). During this meeting, the Committee will ask the external auditor about pressures on Management that may have an impact on the quality of financial reporting, such as performance measures. The Chairperson will also communicate to the external auditor the expectation that the external auditor will contact the Committee where necessary.



- The Committee will meet with Management and the external auditor following the release of the VAGO Closing Report to review and discuss the results of the audit, including any audit issues encountered in the normal course of audit work, including any restriction on scope of work or access to information.
- 3.7.2 Enquire of the external auditor and Management on the experience and sufficiency of staff in the finance, and internal and external audit functions.
- 3.7.3 Review and discuss with Management and the external auditor all significant Management Letter items and the potential impact of those on Council's system of internal control.
- 3.7.4 Monitor the implementation of Management Letter recommendations through the receipt of regular status reports provided by Management.
- 3.7.5 Consider the findings and recommendations of local government performance audits and other specific audits undertaken by the Victorian Auditor-General's Office and where relevant monitor Management's responses to them.

### 3.8 Other Relevant Matters

The Committee will:

- 3.8.1 Consider and note the Annual Report and Management Letter for:
  - Mildura Cemetery Trust
  - Mildura Rural City Council's subsidiaries:
    - Mildura Airport Pty Ltd
    - Mildura Regional Development.
- 3.8.2 At its discretion, consider complaints from the public that may expose inappropriate practices within Mildura Rural City Council and any of its subsidiaries.
- 3.8.3 Receive updates from the Chief Executive Officer on major projects and other matters impacting on the organisation's operations.
- 3.8.4 Receive operational updates from the General Manager Corporate.
- 3.8.5 Address issues brought to the attention of the Committee, including responding to requests from Council for advice that are written within the parameters of the Committee's Charter.
- 3.8.6 Identify and refer any specific projects or investigations deemed necessary through the Chief Executive Officer, the internal auditor and the Council.

## 4. Administrative Arrangements

### 4.1 Meetings

- 4.1.1 The committee will meet bi-monthly.
- 4.1.2 A quorum of any meeting will be a majority of independent members, which may include the Chairperson, and at least one Councillor member.
- 4.1.3 Should either the Mayor and/or Deputy Mayor be unable to attend an Audit and Risk Committee meeting, each may nominate another Councillor to attend as their proxy.
- 4.1.4 In the absence of the appointed Chairperson from a meeting, the meeting will appoint an acting Chairperson from the independent members present.
- 4.1.5 Committee members may participate in the meeting by teleconference or videoconference and will be included as part of the quorum.
- 4.1.6 An information package may be forwarded monthly of items of interest, if necessary.
- 4.1.7 An annual work program will be developed and agreed to by members. As a guide, meetings will be arranged to coincide with relevant reporting deadlines. For example, May to coincide with the Annual Budget, and September to coincide with the Annual Financial Statements, Annual Performance Statement and Annual Report.
- 4.1.8 An annual schedule of presentations will be developed and agreed to by members for the purposes of continuing education and assisting the Committee to fulfil its responsibilities, as outlined in this Charter.
- 4.1.9 The Chairperson is required to call a meeting of the Audit and Risk Committee if requested to do so by any Audit and Risk Committee member, the internal auditor or the external auditor.
- 4.1.10 Additional meetings can be convened at the direction of the Chairperson or at the written request of any member of the Committee or external auditor.
- 4.1.11 Mildura Rural City Council will provide executive support to the Committee.
- 4.1.12 At a minimum of one meeting per year, time will be set aside with Councillor and external members only (no officers) in attendance for the purpose of open discussion with the external auditor.
- 4.1.13 Given the sensitive nature of material considered by the Audit and Risk Committee, meetings will be closed to the public.

## 4.2 Agendas and Minutes

- 4.2.1 Agendas will be prepared incorporating the input of items from Council, the Chief Executive Officer, internal and external auditors, and independent members.
- 4.2.2 The agenda for Audit and Risk Committee meetings is to be circulated on or before the Friday prior to the meeting.
- 4.2.3 Meetings will be scheduled with sufficient time to cover all agenda items.
- 4.2.4 All agenda items will be structured to provide (at a minimum) a clear summary of what is recommended and a summary of major issues impacting on the recommendation.
- 4.2.5 Members have the right to raise urgent/significant matters not included on the agenda.
- 4.2.6 With the agreement of the members at the meeting, the Chairperson may alter the order of issues addressed from that proposal in the agenda.
- 4.2.7 The minutes are to be a true and balanced reflection of the discussion and decisions of members.
- 4.2.8 Minutes will be circulated to the Committee for comment within one week of the meeting being held, and approved and signed by the Chairperson for submission to Council within two weeks of the meeting being held.
- 4.2.9 Minutes will be confirmed at the next Audit and Risk Committee meeting.

## 4.3 Reporting to Council

- 4.3.1 A report explaining any specific recommendations and the key outcomes of each Audit and Risk Committee meeting will be included in the agenda for the next open Ordinary Council meeting. Due to the confidential nature of items discussed or recommended, the minutes of each Audit and Risk Committee meeting will remain "in camera"/confidential and be distributed to Council under separate cover.
- 4.3.2 When considered appropriate by the Audit and Risk Committee, the Chairperson will meet with Council to advise them of those issues that the Committee believes the Council should be informed.
- 4.3.3 The Audit and Risk Committee's Chairperson will report to the Council on the Committee's activities, including its findings and recommendations, on a bi-annual basis.

**4.4 Audit and Risk Committee Performance Review**

- 4.4.1 The Committee, together with the Chief Executive Officer, develop the Committee's performance indicators each year and then present these to Council.
- 4.4.2 The Committee will participate in an annual self-assessment process, facilitated by Council's internal auditor. The Committee's performance will be measured against this charter and key performance indicators developed annually for the Committee.
- 4.4.3 Findings of the Audit and Risk Committee's annual self-assessment process will be used by the Committee for the purpose of continuous improvement.
- 4.4.4 A copy of the Audit and Risk Committee's Self-Assessment Process results, along with a report that includes any recommendations arising from opportunities for improvement, will be presented to the next Council meeting.
- 4.4.5 As part of the exit process, resigning or retiring Committee members will be requested to complete the Audit and Risk Committee Self-Assessment Questionnaire prior to their resignation or retirement becoming effective.

**4.5 Charter Review**

- 4.5.1 The Audit and Risk Committee will review its Charter annually and recommend to Council for approval any changes required.

## 5. Appendix A – Guidance to Committee Members on their Regulatory Obligations

<div>Local Government Act 2020 Section</div> <div>Local Government Act 2020 Requirement</div>	
<b>Misuse of Position</b>	
123(1)	<p>A Committee member must not intentionally misuse their position to:</p> <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)	<p>Circumstances involving misuse of a position by a member of the Committee include:</p> <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	<p>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.</p>
<b>Conflicts of Interest</b>	
126	<p>A member of the Committee has a conflict of interest if the member has:</p> <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	<p>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.</p>

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.
<b>Please Note</b> <i>The above guidance is not verbatim from the Act and does not include all details as explained in Part 6, Division 1 of the Act. For a full understanding of the requirements of the Act in relation to the matters summarised above, members are expected to make themselves fully aware of the requirements of the Act.</i>	

## 14.5 UPDATED GOVERNANCE RULES - PROVISIONS FOR VIRTUAL MEETINGS

**File Number:** 02/04/01  
**Officer:** General Manager Corporate

### 1. Summary

The purpose of this report is to present the updated Governance Rules to Council for adoption to allow for adequate provision of Council Meetings to occur by virtual means.

In accordance with the recent legislative update, Part 12, Division 1 of the Regulatory Legislation Amendment (Reform) Act 2022 amends sections of the Local Government Act 2020 with respect to Governance Rules. After 2 September 2022, the current provisions in the Local Government Act 2020 will be repealed and Council is required to amend the Governance Rules to allow Council Meetings to be conducted virtually and abide by this recent update.

### 2. Recommendation

**That Council:**

- (i) adopt the updated Governance Rules as presented to regulate meeting conduct for Council and Delegated Committees; and**
- (ii) resolve that the updated Governance Rules will come into force from 1 September 2022 and replace the current version of the Governance Rules which came into force as of 1 April 2022.**

### 3. Background

All councils are required to have governance rules in place which set the rules for Council meetings, as well as a number of other governance matters. Mildura Rural City Council's governance rules were first adopted in September 2020 and were updated in line with best practice in April 2022.

Those rules have provided procedural guidance for all of our Council meetings and Delegated Committee Meetings, including online meetings. Online meetings became a necessity during the pandemic and were only made possible through a temporary emergency change to State Government legislation.

In August 2022, the emergency provision that allows for online meetings will expire, and all councils must change their governance rules to allow for electronic participation in meetings on a permanent basis.

Given that a wider review of the governance rules was recently undertaken to ensure they support best-practice in community-focussed governance, this review is only considering the required changes to permit online meetings to continue.

**4. Consultation Proposed/Undertaken**

Council undertook a process of review of the changes required to permit online meetings into the future along with the recommendations provided by the Ministerial Good Practice Guidelines, Maddocks, Victorian Local Government Association Governance Network and other Victorian Councils. The proposed changes along with a draft of the Governance Rules was listed on Have Your Say for the purpose of community engagement and invited public submissions on the updates required. In addition, a Memorandum and table of proposed changes was provided to Councillors for comment and feedback. Given the recent adoption of updated Governance Rules, Council only sought feedback for the changes required on this occasion.

**5. Discussion**

The Victorian Government's Regulatory Legislation Amendment (Reform) Act 2022 (Reform Act) will introduce into the Local Government Act 2020 provisions relating to electronic attendance and participation in council meetings and delegated committees on a permanent basis. The new provisions take effect on 2 September 2022.

The Reform Act introduces 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 committee) meetings held by electronic means; and
- requesting and approving attendance by electronic means.

This means that the temporary provisions that allowed Council to conduct Council Meetings by virtual means will expire at the end of August and it is a Victorian Government requirement that all councils across Victoria review and update their governance rules accordingly by 1 September 2022.

The proposed changes that permit Council Meetings to continue to be conducted by virtual means are laid out in the below table and have been developed in line with best practice advice. A minor change to the numbering of the rules was a consequence of this change but allows for a more intuitive pattern. A draft version of the amended rules is attached.



<p>Chapter 4 Part 1 Rule 8</p>	<p><b>Effect of Change</b> – <i>Removed as covered by new provisions under rule 17</i></p> <p><b>8. Meetings Conducted Remotely</b></p> <p>a) Meetings that fall under these Governance Rules may be held remotely, if:</p> <ul style="list-style-type: none"> <li>• <del>by law a meeting may be conducted electronically; and</del></li> <li>• <del>Council decides that a meeting is to be conducted electronically,</del></li> </ul>
<p>Chapter 4 Part 1 Rule 17</p>	<p>New provisions:</p> <p><i>Council is permitted by the Act to hold meetings by electronic means, 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 broadcasted live on Council's website.</i></p> <p><b>Effect of Change</b> – <i>Addition as required by Ministerial Good Practice Guidelines</i></p> <p><b>17. Council meetings conducted remotely</b></p> <p>a) Where a Councillor attends a Council meeting conducted remotely by electronic means of communication, the Councillor must be able to:</p> <ul style="list-style-type: none"> <li>i) hear the proceedings of the Council meeting;</li> <li>ii) see all Councillors and members of Council staff also attending the Council meeting, at least while the Councillor or member of Council staff is speaking;</li> <li>iii) be seen by all time by all Councillors, members of Council staff and members of the public also attending the Council meeting; and</li> <li>iv) be heard when they speak.</li> </ul> <p>v) ensure their remote environment is sufficiently private for any resolutions of Council made under sub-rule 16 (c)</p> <p>b) If the conditions of sub-rule 17 a) cannot be met by one or more Councillors attending a Council meeting conducted remotely by electronic means of communication, whether because of technical difficulties or otherwise, but a quorum is still present, the:</p> <ul style="list-style-type: none"> <li>i) Council meeting will proceed; and</li> <li>ii) Councillor (or Councillors) will be treated as being absent from the Council meeting,</li> </ul> <p>unless the Council meeting is adjourned in accordance with these Rules.</p> <p>c) Nothing in this rule 17 prevents a Councillor from joining (or re-joining) a <i>Council meeting</i> conducted remotely by electronic means of communication at the time that they achieve compliance with sub-rule 17 a), even if that <i>Council meeting</i> has already commenced or continued in their absence.</p> <p>d) The Chief Executive Officer must ensure that a Council meeting conducted remotely is broadcast live continuously on Council's website.</p> <p>e) Nothing in sub-rule 17 requires any portion of a Council meeting conducted remotely that is closed to the public under section 66(1) of the Act to be broadcast live on Council's website.</p> <p>f) If the live broadcast of a Council meeting conducted remotely is interrupted for any reason, the Chief Executive Officer must immediately inform the Council meeting and the Council meeting is adjourned and, except for a resolution of Council made under sub-rule 16 (c), and no further business can be conducted until:</p> <ul style="list-style-type: none"> <li>i) the live broadcast can be reinstated; or</li> <li>ii) such later date and time fixed by resolution of Council, in which case rule 38 applies</li> </ul>

Chapter 4 Part 1 Rule 18	<p><b>Effect of Change</b> – <i>Addition as required by Ministerial Good Practice Guidelines</i></p> <p><b>18. Notification of attendance at Council meetings conducted remotely by electronic means</b></p> <p>a) A Councillor who wishes to attend a Council meeting by electronic means of communication must notify the Mayor and/or Chief Executive Officer as soon as practicable prior to the meeting. The Mayor and/or Chief Executive Officer will notify all Councillors.</p> <p>b) Should the Mayor and/or Chief Executive Officer receive notice from two or more Councillors of their wish to attend by electronic means of communication in accordance with sub-rule 18 (a), public notice will be provided that the meeting will be held entirely by electronic means of communication and the methods of viewing and participation.</p>
Chapter 4 Part 1 Rule 19	<p><b>Effect of Change</b> – <i>rule existed previously, change in rule number and heading</i></p> <p><b>19. Other matters not provided for</b></p> <p>the Chair may, with the consent of the meeting, modify the application of any of the Rules to facilitate the more efficient and effective transaction of the business of the meeting.</p>
Chapter 4 Part 12 Rule 95	<p><b>Effect of Change</b> - <i>Addition of section in brackets only (unless required under rule 17)</i></p> <p><b>95. Recording of Proceedings &amp; Live Streaming</b></p> <p>a) At the discretion of the Chair or Chief Executive Officer (unless required under rule 17), a Meeting of Council or Delegated Committee may be live streamed on Council website in accordance with the 'Live Streaming and Published Recordings of Council Meetings' Policy.</p>

## 6. Time Frame

Once adopted, the Governance Rules will come into force from 1 September 2022, which is prior to the new provisions of the Reform Act coming into effect on 2 September 2022.

## 7. Strategic Plan Links

This report relates to the Council Plan 2021-2025 in the Strategic Direction:

### Leadership

Outcomes to be achieved:

- Effective governance to deliver results in line with community expectations
- Trust, respect and understanding between community and Council

## 8. Asset Management Policy/Plan Alignment

There are no asset management implications associated with this report.

**9. Implications**

**Policy**

There are no policy implications associated with this report.

**Legal/Statutory**

The development and adoption of Governance Rules will ensure compliance with the *Local Government Act 2020*.

**Financial**

There are no financial implications associated with this report.

**Environmental**

There are no environmental implications associated with this report

**Social**

There are no social implications associated with this report

**Economic**

There are no economic implications associated with this report

**10. Risk Assessment**

By adopting the recommendation, Council will not be exposed to any significant risk.

**11. Conflicts of Interest**

No conflicts of interest were declared during the preparation of this report.

**Attachments**

**1**  DRAFT - Governance Rules - September 2022

September 2022

# Governance Rules



Mildura Rural City Council

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## Chapter 1 – Preliminary

### 1. Introduction

These Governance Rules are adopted in accordance with Section 60 of the *Local Government Act 2020*.

### 2. Purpose

The purpose of the Governance Rules is to:

- a) Ensure Council and Delegated Committees consider and make decisions on any matter fairly and on their merits;
- b) 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;
- c) Regulate proceedings at all Ordinary and Unscheduled Meetings of Council, and Meetings of Delegated Committees;
- d) Detail the form and availability of Meeting records;
- e) Regulate proceedings for the election of Mayor and Deputy Mayor, and chairpersons of Delegated Committees;
- f) Outline the process to be followed to determine the appointment of an Acting Mayor;
- g) Provide for the administration of Council powers and functions;
- h) Outline the procedures to be applied by Council during the election period;
- i) Outline the procedures for the disclosure of a conflict of interest by a Councillor or a member of a Delegated Committee; and
- j) Outline the procedures for the disclosure of a conflict of interest by Council staff when providing information in respect of a matter within the meaning of Section 126(1) of the *Local Government Act 2020* (the Act).

### 3. Authorising Provision

These Governance rules are made under Part 3, Section 60 of the *Local Government Act 2020*.

### 4. Commencement and Document Control

<b>Title</b>	Governance Rules			
<b>Description</b>	Document Control			
<b>Created By</b>	Governance & Performance Branch			
<b>Date Created</b>	1 September, 2020			
<b>Maintained By</b>	Governance & Performance Branch			
<b>Version Number</b>	<b>Modified By</b>	<b>Modifications Made</b>	<b>Date Modified</b>	<b>Status</b>
V2		Addition of Governance Framework; Order of Business; Framing of Mayoral Election; Councillor Reports; Councillor Questions	April, 2022	Resolved
V3		Requirements for virtual meeting	September, 2022	Draft

## 5. Revision

- a) In developing or amending these Governance Rules, Council will undertake a process of community engagement in accordance with all relevant Policies.
- b) In accordance with Section 87(3) of the Act, where a change to the Governance Rules involves the adopting or amendment of a rule that only adopts a good practice guideline issued by the Minister under Section 87(1) of the Act, a process of community engagement is not required to be undertaken.

## 6. Definitions

Unless a contrary intention appears in the Governance Rules, the following words and phrases are defined for the purposes of the Governance Rules:

Absolute Majority	means the number of members which is greater than half the total number of elected Councillors, or members of a Delegated Committee
Act	means the <i>Local Government Act 2020</i> (the Act), as amended from time to time
Advisory Committee	means a committee established by the Council, that provides advice to: <ol style="list-style-type: none"> <li>a) the Council; or</li> <li>b) a member of Council staff who has been delegated a power, duty or function of the Council;</li> </ol> that is not a Delegated Committee
Agenda	means a document containing the date, time and place of a Meeting and a list of business to be transacted at the Meeting
Agreement of Council	means indicative agreement of all of the Councillors present, without a vote being conducted. In the event there is any uncertainty about majority of Councillors agreeing, the matter may be put to a vote
Audit and Risk Committee	means the Committee established by Council under Section 53 of the Act
Authorised Officer	has the same meaning as in the 1989 Act or any other Act
Chairperson	means the Chairperson of a Meeting and includes an acting, temporary and substitute Chairperson
Chief Executive Officer	means the Chief Executive Officer of Council, and includes a person acting as Chief Executive Officer
Councillor Code of Conduct	means the Councillor Code of Conduct developed by a Council under section 139 of the Act
Committee Meeting	means a Meeting of a Delegated Committee
Community Engagement	has the same meaning as defined within the 'Community Engagement Policy'
Council	means Mildura Rural City Council

Council Auspiced Meeting	means a Meeting of an advisory committee where at least one Councillor is present; or a planned or scheduled Meeting that includes at least half the Councillors and at least one Council officer; and the Meeting is to consider matters intended or likely to be the subject of a decision of the Council; or duty or power delegated by Council to a person or Committee
Council Meeting	means a Meeting of the Council convened in accordance with these Governance Rules and includes a Meeting at which the Mayor is elected, an Ordinary Meeting and an Unscheduled Meeting of Council
Councillor	means a Councillor of Council
Councillor Questions	means questions asked of Council Officers by a Councillor, in writing, before a Council Meeting that may be answered verbally within that Meeting or in writing at the next Ordinary Meeting of Council
Delegate	means a member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation
Delegated Committee	means a Delegated Committee established by Council under Section 63 of the Act
Deputation	means a group of three or more people that have formally requested an opportunity to address Council on a matter under consideration within an Agenda
Deputy Mayor	means the Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor
Disorder	<p>means any disorderly conduct of a member of the Gallery or a Councillor and includes:</p> <ul style="list-style-type: none"> <li>• interjecting when another person is speaking, except, in the case of where a Councillor is raising a Point of Order; or</li> <li>• making comments that are defamatory, malicious, abusive or offensive; or</li> <li>• refusing to leave the Meeting when requested, ordered or directed to do so by the Chairperson in accordance with the Act and the Governance Rules; or</li> <li>• engaging in any other conduct which prevents the orderly conduct of the Meeting</li> </ul>
Employee Code of Conduct	means the Code of Conduct developed by the Chief Executive Officer under Section 49 of the Act
Executive Officer	means a senior member of Council staff holding the position of General Manager
Foreshadowed Item	means a matter raised in the relevant Section of the Council Meeting that a Councillor intends to submit a Notice of Motion for the next Council Meeting
Majority of the Votes	means a majority of Councillors present at the time of a vote voting in favour of a matter



Mayor	means the Mayor of Council and any person appointed by Council to be acting as Mayor
Meeting	means an Ordinary or an Unscheduled Meeting of Council or a Delegated Committee
Member	means a member of any committee to which these Governance Rules apply
Minister	means the Minister for Local Government
Minutes	means the official record of the proceedings and decisions of a Meeting
Motion	means a proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted
Notice of Motion	means a notice setting out the text of Motion which a Councillor proposes to move at a Council Meeting
Notice of Rescission	means a Notice of Motion to rescind a resolution made by Council
Officer	means a member of Council staff
On Notice	means held or deferred to enable preparations of a response
Petition	means a joint letter or document which is addressed to, or is obviously intended for, the Council and is signed by three or more people
Point of Order	means a procedural point (about how the Meeting is being conducted), not involving the substance of a matter before a Meeting
Procedural Motion	means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure
Rule or Sub-rule	means a rule or sub-rule included in these Governance Rules
Unscheduled Meeting	means a Meeting convened for a particular purpose that cannot be effectively dealt with in the schedule of Ordinary Council Meetings set by Council
Urgent Business	means a matter that relates to or arises out of a matter which has arisen since distribution of the Agenda and cannot safely or conveniently be deferred until the next Meeting
Written	includes duplicated, lithographed, photocopied, photographed, emailed, printed and typed

## Chapter 2 – Governance Framework

### 7. Key Principles

Mildura Rural City Council (MRCC) places a strong emphasis on good governance, ensuring good decisions are made consistently in an open, accountable, and effective way for our community. *These rules* should be considered under these principles to ensure the elected Councillors make decisions based on proper processes and systems, and staff are carrying out those decisions appropriately.

### 8. 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 MRCC Governance Framework as adopted or approved by Council:

### 9. 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, commit to the use of sound information made available to them through decision making processes and systems and avoid using information based on hearsay
- c) 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).
- d) Without limiting anything in paragraph 9 (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

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## Chapter 3 – Election of the Mayor

### 10. When is a Mayor to be Elected?

- a) The Meeting to fill the vacancy of Mayor will be held:
  - i) No later than one month after the date of a General Election held in accordance with Section 257 of the Act; or
  - ii) Within one month after any vacancy in the office of Mayor occurs.
- b) Before the election of the Mayor, Council must resolve whether the Mayor is to be elected for a 1 year or a 2 year term;
  - i) If the Mayor is elected for a 1-year term, the next election of the Mayor must be held on a day to be determined by the Council, as close to the end of the 1 year term as is reasonably practicable.
  - ii) If the Mayor is elected for a 2-year term, the next election of the Mayor must be held on a day to be determined by the Council, as close to the end of the 2 year term as is reasonably practicable.
- c) A Councillor elected to fill a vacancy in the office of Mayor (caused other than by the expiration of the elected term), will serve the remaining period of the previous Mayor's term.

### 11. Chief Executive Officer to Set Time and Date for Election of Mayor

- a) The Chief Executive Officer will determine the most appropriate date and time for the Election of Mayor, except that the election of the Mayor must be held in accordance with sub-rule 10.

### 12. Role and Election of Deputy Mayor

- a) At the Council Meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.
- b) If the Mayor is not in attendance at a Council Meeting the Deputy Mayor must take the Chair.
- c) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.
- d) If the Council has not resolved to establish the position of Deputy Mayor, any provisions in these Governance Rules relating to the Deputy Mayor have no effect.

### 13. Method of Voting

- a) The election of the Mayor and Deputy Mayor must be carried out by a show of hands.

### 14. Determining the Election of Mayor / Deputy Mayor

- a) The Chief Executive Officer must preside during the election of the Mayor.
- b) The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.
- c) Any Councillor is eligible for election or re-election to the office of Mayor.
- d) All candidates must be moved and seconded.
- e) The election of Mayor will be carried out by a show of hands.
- f) All Councillors shall vote once for the candidate of their choice.
- g) Candidates will be voted for in the order of nominations received.

- h) Where in an election for the Mayor:
  - i) only one candidate has been nominated, that candidate must be declared elected;
  - ii) when more than one candidates are nominated, the Councillor with the absolute majority of votes cast will be declared elected;
  - iii) in the event that no candidate receives an absolute majority of 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;
  - iv) 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.
  - v) where there are three or more nominations and all votes cast are equally divided between the candidates, the Council may resolve to conduct a new election at a later specified time and date;
- i) If there is a vacancy in the Office of Mayor or the Mayor is absent, incapable of acting, or refusing to act, unless a Deputy Mayor has been elected, the Council must resolve to appoint one of the Councillors to be the acting Mayor.
- j) Any election by Council of a Deputy Mayor will follow the same procedure as that for an election of the Mayor, however the Mayor will preside over such proceedings.

**15. Ceremonial Mayoral Speech**

- a) Upon being elected, the Mayor may make a ceremonial speech.
- b) The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead based on the adopted Council and Community Plan.

## Chapter 4 – Meeting Procedures

### Part 1 – Purpose of Meetings

#### 16. Purpose of Council Meetings

- a) Council holds scheduled Meetings and, when required, Unscheduled Meetings to conduct the business of Council.
- b) Council is committed to transparency in decision making and in accordance with the Act, Council and Delegated Committee Meetings are open to the public and the community are able to attend.
- c) Council, or a Delegated Committee may however, resolve that its Meeting be closed to members of the public to discuss the following:
  - i) Council business information that would prejudice the Council's position in commercial negotiations if prematurely released; or
  - ii) Security information, that if released is likely to endanger the security of Council property or the safety of any person; or
  - iii) Land use planning information that if prematurely released is likely to encourage speculation in land values; or
  - iv) Law enforcement information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person; or
  - v) Personal information, which if released would result in the unreasonable disclosure of information about any person or their personal affairs; or
  - vi) Private commercial information provided by a business, commercial or financial undertaking that-
    - a. relates to trade secrets; or
    - b. if released would unreasonably expose the business, commercial or financial undertaking to disadvantage; or
  - vii) Confidential Meeting information, being the records of Meetings closed to the public under Section 66(2)(a) of the Act; or
  - viii) Internal arbitration information as specified in Section 145 of the Act; or
  - ix) Councillor Conduct Panel confidential information as specified in Section 169 of the Act; or
  - x) Information prescribed by the regulations to be confidential information; or
  - xi) Information that was confidential information for the purposes of Section 77 of the *Local Government Act 1989*.
- d) Council, or a Delegated Committee may also resolve that its Meeting be closed to members of the public:
  - i) for security reasons; or
  - ii) it is necessary to do so to enable the Meeting to proceed in an orderly manner.
- e) Where a Meeting is closed for the reasons specified in sub-rule 16(d)(i) or (ii), the proceedings of the Meeting must be able to be viewed by members of the public on the internet or on closed circuit television as the Meeting is being held.

**17. Council Meetings Conducted Remotely**

- a) Where a Councillor attends a Council meeting conducted remotely by electronic means of communication, the Councillor must be able to:
  - i) hear the proceedings of the Council meeting; and
  - ii) see all Councillors and members of Council staff also attending the Council meeting, at least while the Councillor or member of Council staff is speaking; and
  - iii) be seen by all time by all Councillors, members of Council staff and members of the public also attending the Council meeting; and
  - iv) be heard when they speak; and
  - v) ensure their remote environment is sufficiently private for any resolutions of Council made under sub-rule 16 (c)
- b) If the conditions of sub-rule 17 (a) cannot be met by one or more Councillors attending a Council meeting conducted remotely by electronic means of communication, whether because of technical difficulties or otherwise, but a quorum is still present, the:
  - i) Council meeting will proceed; and
  - ii) Councillor (or Councillors) will be treated as being absent from the Council meeting unless the Council meeting is adjourned in accordance with these Rules.
- c) Nothing in this rule 17 prevents a Councillor from joining (or re-joining) a Council meeting conducted remotely by electronic means of communication at the time that they achieve compliance with sub-rule 17 (a), even if that Council meeting has already commenced or continued in their absence.
- d) The Chief Executive Officer must ensure that a Council meeting conducted remotely is broadcast live continuously on Council's website.
- e) Nothing in sub-rule 17 (d) requires any portion of a Council meeting conducted remotely that is closed to the public under section 66(1) of the Act to be broadcast live on Council's website.
- f) If the live broadcast of a Council meeting conducted remotely is interrupted for any reason, the Chief Executive Officer must immediately inform the Council meeting and the Council meeting is adjourned and, except for a resolution of Council made under sub-rule 16 (c), and no further business can be conducted until:
  - i) the live broadcast can be reinstated; or
  - ii) such later date and time fixed by resolution of Council, in which case rule 38 applies

**18. Notification of attendance at Council meetings conducted remotely by electronic means**

- a) A Councillor who wishes to attend a Council meeting by electronic means of communication must notify the Mayor and/or Chief Executive Officer as soon as practicable prior to the meeting. The Mayor and/or Chief Executive Officer will notify all Councillors.
- b) Councillor who wishes to attend a Council meeting by electronic means of communication must notify the Mayor and/or Chief Executive Officer as soon as practicable prior to the meeting. The Mayor and/or Chief Executive Officer will notify all Councillors.

**19. Other matters not provided for**

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

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## Part 2 – Meeting Roles

### 20. Chairperson and Members

- a) The Chairperson, Councillors and members of Delegated Committees will ensure good Council decision-making by endeavouring to ensure:
  - i) decision making is transparent to members and observers;
  - ii) meeting members have sufficient information to make good decisions;
  - iii) every member is supported to contribute to decisions;
  - iv) any person whose rights are affected has their interests considered;
  - v) debate and discussion is focussed on the issues at hand;
  - vi) meetings are conducted in an orderly manner; and
  - vii) decisions should be made on the merits of the matter.

### 21. Mayor to take the Chair

- a) The Mayor must take the Chair at all Council Meetings at which he/she is present.
- b) If the Mayor is unable to attend a Council Meeting for any reason:
  - i) the Deputy Mayor will be acting Chair;
  - ii) if the Deputy Mayor is not present, an acting Chair must be elected by resolution.

### 22. Delegated Committee Chairperson

- a) At the Meeting at which Council establishes a Delegated Committee it must also appoint a Chairperson.
- b) The Chair of a Delegated Committee must be a Councillor.
- c) For the avoidance of doubt, sub-rule 10(a) does not intend to limit the powers of the Mayor provided in the Act.

### 23. Chairperson's Duties and Discretions

- a) In addition to the duties and discretions provided in these Governance Rules, the Chairperson:
  - i) must not accept any Motion, question or statement which is:
    - a. vague or ambiguous;
    - b. defamatory, malicious, abusive or objectionable in language or substance; or
    - c. outside the powers of Council
  - ii) must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise during the Meeting;
  - iii) may direct that a vote be recounted to be satisfied of the result;
  - iv) may decide to put any Motion to the vote in separate parts;
  - v) must decide on all points of order, except where sub-rule 80(e) applies;
  - vi) must call to order any person who is disruptive or unruly during any Meeting;
  - vii) must allow a personal explanation to be made by a Councillor of any statement wherever made affecting him or her as a Councillor;
  - viii) shall not allow a personal explanation to be debated except upon a Motion to censure the Councillor who made the statement;

- ix) may require a Councillor to withdraw any remark which is defamatory, indecent, abusive, offensive, disorderly or objectionable in language or substance;
- x) may require a Councillor to withdraw a remark immediately, without qualification or explanation;
- xi) may suspend from the Meeting or for the balance of the Meeting, any Councillor whose actions have disrupted the business of the Council or Delegated Committee, and impeded its orderly conduct; and
- xii) may nominate any officer or member of Victoria Police to remove from the Meeting any person whether Councillor, officer or member of the public, who has failed to comply with these Governance Rules.
- b) If the Chairperson is of the opinion that disorder at the Council or Committee Meeting table, or in the case of an open Meeting, in the public gallery that makes it desirable to adjourn the Meeting, he or she may adjourn the Meeting to a later time on the same day or to a later day.
- c) Nothing herein shall affect or abrogate the rights or remedies available at law to Council in respect of proceedings against any Councillor, officer or visitor under these Governance Rules.

**24. Chief Executive Officer**

- a) The Chief Executive Officer should:
  - i) immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
  - ii) advise if there are operational, financial or risk implications arising from a proposed resolution;
  - iii) help clarify the intent of any unclear resolution to facilitate implementation; and
  - iv) on request, assist with procedural issues that may arise.

**25. Councillors and Members of Delegated Committees**

- a) Councillors and members of Delegated Committees contribute to good governance and decision making by:
  - i) seeking views of community members and reading the Agenda prior to the Meeting;
  - ii) demonstrating due respect and consideration to community views and the professional/expert advice provided in the Agenda papers;
  - iii) attending Meetings and participating in debate and discussion;
  - iv) demonstrating respect for the role of the Chairperson and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making; and
  - v) being courteous and orderly.

**26. Manager Governance & Performance**

- a) The Manager Governance & Performance shall attend all Council Meetings for the purpose of providing advice to the Chief Executive Officer, or Chairperson in relation to meeting procedure.
- b) The Manager Governance & Performance will act as the formal minute taker at all Council meetings, and will ensure the accuracy of the official minutes of such meetings.

**27. Community**

- a) Council Meetings are decision making forums and it is important that they are open to the community to attend and/or view proceedings.
- b) Community members may only participate in Council Meetings in accordance with Part 8 of these Governance Rules.
- c) Community members are encouraged to participate in Council's engagement activities in accordance with the Community Engagement Policy.
- d) Community members may seek to inform individual Councillors of their views by contacting them directly in advance of Meetings.

**28. Apologies and Absences**

- a) Councillors and members of Delegated Committees who are unable to attend a Meeting may submit an apology:
  - i) in writing to the Chairperson, who will advise the Meeting; or
  - ii) by seeking another Councillor or member of the Delegated Committee to submit it at the Meeting on their behalf.
- b) An apology submitted to a Meeting will be recorded in the minutes.
- c) A Councillor intending to take a leave of absence should submit it in writing to the Mayor.
- d) The Mayor will seek to have any leave of absence request received included in the Agenda of the next Council Meeting.
- e) A leave of absence not included in a Council Meeting Agenda may still be considered by Council if a written request has been received by the Mayor prior to the Meeting.
- f) Council will not unreasonably withhold its approval of a leave of absence request.
- g) A Councillor who has not submitted an apology or had a leave of absence approved who is not in attendance at a Council or Delegated Committee Meeting will be recorded as absent.

### Part 3 – Notice of Meetings & Agenda Availability

#### 29. Date, Time and Place of Meetings

- a) At or before the last Meeting each calendar year, Council must fix the date, time and place of all Council Meetings and any Delegated Committee Meetings for the following calendar year.
- b) Council by resolution, or the Chief Executive Officer, may change the date, time and place of, or cancel, any Meeting which has been fixed and must provide notice of the change to the public as soon as practicable.

#### 30. Postponement of Meetings

- a) In the case of an emergency, the Chief Executive Officer or, in his or her absence, an Executive Officer, may postpone a Meeting of the Council, provided reasonable attempts are made to notify every Councillor.
- b) The Chief Executive Officer or Executive Officer must submit a full written report of the circumstances requiring his or her action in respect of the emergency postponement to the next Ordinary Meeting.

#### 31. Unscheduled (Special) Meetings

- a) Council may by resolution call an Unscheduled Meeting of the Council.
- b) The Mayor or at least three Councillors may by written notice call an Unscheduled Meeting of the Council.
- c) In giving such notice, Councillors should have regard to any need for preparatory investigations to enable the business to be undertaken.
- d) The Chief Executive Officer, following consultation with the Mayor, may call an Unscheduled Meeting.
- e) A written notice to call an Unscheduled Meeting must:
  - i) specify the business to be transacted; and
  - ii) must be delivered to the Chief Executive Officer in sufficient time to enable reasonable notice to be given to Councillors
- f) The Chief Executive Officer must determine the time and date for the Unscheduled Meeting, giving consideration to:
  - i) the urgency of the business to be transacted;
  - ii) the availability of Councillors; and
  - iii) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted.
- g) The Chief Executive Officer must arrange for notice of the Meeting on Council's website and in accordance with sub-rule 32, unless in urgent or exceptional circumstances.
- h) Any resolution of Council to call an Unscheduled Meeting must specify the date and time of the Unscheduled Meeting and the business to be transacted. The date and time of the Unscheduled Meeting must not be prior to 5:30pm on the day following the Council Meeting at which the resolution was made.
- i) Unless all Councillors are present and unanimously agree to deal with another matter, only the business specified in the notice or resolution is to be transacted.

- j) Subject to any resolution providing otherwise, the order of business of any Unscheduled Meeting must be the order in which such business stands in the Agenda for the Meeting.

**32. Notice of Meeting - Public**

- a) Notice of seven days must be provided to the public for all Scheduled and Unscheduled Council & Delegated Committee Meetings, unless in urgent or extraordinary circumstances.
- b) Notices will be published in local print media, however where this is not possible notice will be provided on Council's website.
- c) In the case of an Unscheduled Meeting of Council or Delegated Committee, the purpose of the Meeting by reference to the report title must be included in the notice.
- d) Where it is necessary to close an Unscheduled Meeting to the public to consider confidential information, the ground or grounds for determining to close the Meeting to the public by reference to the grounds specified in the definition of 'confidential information' in Section 3(1) of the Act, will be included in the notice.
- e) The agenda will be made available to the public on Council website as soon as possible, but at least 48 hours before the meeting.

**33. Notice of Meeting – Councillors and Delegated Committee Members**

- a) A notice of Meeting incorporating or accompanied by an Agenda of the business to be dealt with must be provided to every Councillor and member of a Delegated Committee.
  - i) For an Ordinary Meeting of Council or a Delegated Committee, at least five days before the Meeting;
  - ii) Supplementary Agendas may be provided to Councillors up to 48 hours before an Ordinary Meeting of Council or a Delegated Committee; and
  - iii) For an Unscheduled Meeting of Council or a Delegated Committee at least 24 hours before the Meeting.
- b) The notice or Agenda of any Meeting must state the date, time and place of the Meeting and the business to be dealt with and must be provided electronically, by post, or otherwise delivered to each members place of residence or usual place of business (if applicable) or as otherwise specified by the members.
- c) A notice may be handed personally to a member in any location within the time required, or may be delivered to another destination, provided a written authorisation of the relevant member is held by the Chief Executive Officer.

## Part 4 – Quorum

### 34. Quorum Requirements

- a) The quorum required for Council and Delegated Committee Meetings is the Absolute Majority of voting members.

### 35. Inability to Gain a Quorum

- a) If a quorum is not present within 30 minutes of the time appointed for the commencement of a Meeting, the Meeting shall be deemed to have lapsed.
- b) If a Meeting lapses, the Chairperson must convene another Meeting and ensure that the Agenda for such Meeting is identical to the Agenda for the Meeting which is deemed to have lapsed.
- c) The Chief Executive Officer must give all members notice of the Meeting convened by the Chairperson.

### 36. Inability to Maintain a Quorum

- a) If, during any Meeting, a quorum cannot be achieved and maintained, those members present, or if there are no members present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, an Executive officer, must adjourn the Meeting for a period not exceeding seven days from the date of the adjournment.

### 37. Inability to Achieve or Maintain a Quorum due to Conflicts of Interest

- a) The Chairperson may defer an item of business in respect of which there is, or is likely to be, a disclosure of a conflict of interest by one or more Councillors that will cause a quorum to be lost, and direct the Chief Executive Officer to include that item of business on an Agenda for a future Council Meeting.
- b) If during any Meeting a quorum cannot be achieved or maintained due to the number of declaration of conflicts of interests by members, the Council or Delegated Committee must consider whether the decision can be made in an alternative manner including:
  - i) Resolving to split the matter into two or more separate parts, so that a quorum can be maintained for each separate part; or
  - ii) Making prior decisions on component parts of the matter at a Meeting for which a quorum can be maintained, before deciding the overall matter at a Meeting for which a quorum can be maintained.
- c) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, and the matter cannot be separated into component parts or prior decisions made, Council will delegate the decision to be made by a Delegated Committee, established for the purpose of determining the matter, comprised of all Councillors who have not disclosed a conflict of interest in regard to the matter and any other person or persons that the Council considers suitable.
- d) A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council Meeting.

### 38. Notice of Adjourned Meeting

- a) The Chief Executive Officer must provide written notice, including by electronic means, to each Councillor of any Council Meeting adjourned to another date or time due to an inability to achieve or maintain a quorum.

- b) Where this is not practicable, reasonable attempts must be made to contact each member by telephone, in person, electronically or by some other means and this will be deemed sufficient.
- c) Notice of an adjournment to another date or time must be published on Council's website as soon as practical.

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## Part 5 – Business of Meetings

### 39. Business at Meetings

- a) The Chief Executive Officer may include any matter on the Agenda for a Council Meeting which he or she thinks should be considered at the Meeting to which the Agenda relates.
- b) No business can be dealt with at a Meeting unless it is:
  - i) contained on the Agenda; or
  - ii) admitted as Urgent Business in accordance with sub-rule 36.

### 40. Order of Business for Council Meetings

- a) The order of business has been determined by the Chief Executive Officer as follows:
  - Present
  - Apologies and Absences
  - Disclosures of Conflicts of Interest
  - Confirmation of Minutes
  - Confirmation of Council Auspiced Meetings
  - Notification of Absence
  - Mayoral Report
  - Councillor Reports
  - Responses to Councillor Questions
  - Questions from Councillors
  - Notices of Motion
  - Petitions, Joint Letters and Deputations
  - Management Reports
  - Urgent Business
  - Community Questions
  - Confidential Business

### 41. Change to Order of Business

- a) Once an Agenda has been sent to Councillors, the order of business for that Meeting may only be altered by resolution.

### 42. Urgent Business

- a) Urgent Business may only be admitted to any Meeting if it:
  - i) relates to or arises out of a matter which has arisen since distribution of the Agenda;
  - ii) cannot be addressed through an operational service request process; or
  - iii) cannot safely or conveniently be deferred until the next Ordinary Meeting.
- b) Subject to sub-rule 42(a) an item of Urgent Business may only be admitted to any Ordinary Meeting by resolution.



- c) Subject to sub-rule 42(a) an item of Urgent Business may only be admitted to an Unscheduled Meeting by a unanimous resolution of all Councillors present.
- d) The Chief Executive Officer may identify and determine a matter appropriate for Council to consider admitting as Urgent Business and will advise the Chairperson as soon as practical.
- e) A Councillor proposing that a matter be admitted as Urgent Business to an Ordinary Meeting, must lodge it in writing to the Chief Executive Officer no later than 30 minutes prior to commencement of the Meeting.

**43. Time Limits for Meetings**

- a) Items on the Agenda must not be read in full at any Meeting unless resolved otherwise.
- b) A Meeting must not continue after 11pm unless a majority of members present vote in favour to continue.
- c) In the event there is further business to be transacted, the Meeting must stand adjourned, and the time, date and place of its continuance must be decided by the Chairperson at the Meeting.
- d) The Chief Executive Officer must give notice to each member of the date, time and place to which the Meeting stands adjourned and of the business remaining to be considered.

**44. Chairperson may Temporarily Adjourn a Meeting Exceeding Two Hours**

- a) The Chairperson may adjourn a Meeting for a 10-minute break, at an appropriate point in proceedings after two hours has elapsed.
- b) Notwithstanding sub-rule 44(a), the Chairperson may seek the Agreement of Council not to adjourn the Meeting if the Chairperson reasonably believes the remaining business of the Meeting will take less than 30 minutes to transact.

## Part 6 – Community Questions

### 45. Community Questions of Council

- a) Community questions of Council are an opportunity for the general public to submit a written question to the Ordinary Meeting and receive a response from Council during the 'Community Questions' Section of the Agenda.
- b) Community questions may be submitted during the Meeting prior to the end of Section 14 'Management Reports'.
- c) Alternatively, any other Community questions submitted to Council must be:
  - i) in written form;
  - ii) contain the name, address and email or contact telephone number of the person submitting the question;
  - iii) in a form approved or permitted by the Council (Template available on Council's website);
  - iv) addressed to the Chief Executive Officer; and
  - v) submitted no later than 4:00pm on the day prior to the next Meeting by:
    - letter to the Chief Executive Officer, PO Box 105 Mildura, Victoria 3502 (letter must be with Council by 4:00pm on the day prior to the Council Meeting); or
    - email to [governance@mildura.vic.gov.au](mailto:governance@mildura.vic.gov.au); or
    - hand delivered to the Council's Office at: 108 Madden Avenue, Mildura.
- d) Community questions may be submitted on any matter except if it:
  - i) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
  - ii) relates to confidential information as defined under the Act;
  - iii) relates to the personal hardship of any resident or ratepayer; or
  - iv) relates to any other matter which the Council or the Chief Executive Officer considers would prejudice the Council or any person.
- e) No more than two questions will be accepted from any person at any one Meeting.
- f) Where the Chief Executive Officer does not accept a question, the submitter is to be informed of the reason or reasons for which their question was not accepted.
- g) A submission or question submitted in writing by a member of the public, which has been disallowed by the Chief Executive Officer will be provided to any Councillor on request.

### 46. Response

- a) Where possible, Community questions will be responded to during the Meeting by the Chief Executive Officer or relevant Executive Officer.
- b) Where this is not possible, a written response will be provided within seven working days.
- c) All Community questions and verbal responses provided will be documented in the minutes of the Meeting.

**47. Petitions, Joint Letters and Deputations**

- a) Every petition submitted to Council must:
  - i) be legible and in permanent writing;
  - ii) be clear and on each page the matter and action sought from Council is stated;
  - iii) not be derogatory, defamatory or objectionable in language or nature;
  - iv) not relate to matters outside the powers of Council; and
  - v) include the names, addresses and original signatures of at least three people.
- b) All petitions will be presented to the next available Ordinary Meeting for noting.
- c) A subsequent report in response to the petition will then be presented to Council outlining recommended actions to address the petition.
- d) If a petition relates to an item listed on the Agenda for the Meeting at which it is submitted, the petition may be dealt with in conjunction with the item.
- e) If a petition relates to a 'statutory matter' which is the subject of a public submissions process in accordance with the relevant legislation the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).
- f) The Chief Executive Officer may determine that an electronic or online petition will be submitted to a Council Meeting.
- g) The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council Meeting.
- h) An online or electronic petition will not be presented to a Council Meeting if it contains signatures that are false or misleading.
- i) Any person wishing to make a submission / deputation to address the Council on a specific Agenda item, must make a written request to the Chief Executive Officer not less than 24 hours prior to the date of the relevant Meeting in order that the request may be determined.
- j) The Chief Executive Officer, in consultation with the Mayor will determine whether to hear a submission / deputation.
- k) Not more than two speakers may talk to a submission and each speaker shall be allowed five minutes to speak.
- l) The Mayor reserves the right to cease a submission if he or she deems the submission inappropriate.

**48. Chairperson May Remove**

- a) Members of the public present at a Council Meeting must not interject during the Council Meeting.
- b) If a person, other than a Councillor, interjects or is gesticulating offensively during the Council Meeting, the Chairperson may direct:
  - i) The person to stop interjecting or gesticulating offensively; and
  - ii) If the person continues to interject or gesticulate offensively, the removal of the person.

## Part 7 – Councillor Reports and Questions

### 49. Councillor Reports

- a) At the relevant section of the Agenda, Councillors may provide a verbal report not exceeding three minutes.
- b) The report must be in relation to matters of civic leadership and community representation, including acknowledgement of community groups and individuals, information arising from internal Committees, advocacy on behalf of constituents and other topics of significance.

### 50. Questions from Councillors

- a) At the relevant section of the Agenda, Councillors may ask questions of Executive Officers.
- b) Questions at the council meeting must be submitted in writing 48 hours prior to the meeting. (*This would mean currently they have to be registered by 5pm Tuesday*).
- c) Questions must meet the following criteria
  - i) Be of strategic importance & relevance
  - ii) Be relevant to a significant number of community members (i.e: not individually generated)
  - iii) Be of a policy nature
  - iv) Be something that is within the Council's remit and powers
- d) All questions need to be approved by the Mayor. The Mayor reserves the right not to allow the questions for any reason she/he deems with particular reference to 50 (c) and 50 (e).
- e) Questions from Councillors must not:
  - i) Be presented as a report; or
  - ii) Include statements;
  - iii) Relate to operational matters of Council or have budgetary impact; or
  - iv) The subject matter has already been asked or answered; or
  - v) Breach the Councillor Code of Conduct (such as aimed at or intimidate or prejudice Councillor or Council staff)
- f) Where possible, a verbal response will be provided at the Meeting by the Portfolio Councillor in the first instance and/or referred to the Chief Executive Officer, or relevant Executive Officer if further information is required.
- g) Where this is not possible, the question will be taken on notice and:
  - i) a written response will be provided to all Councillors as soon as practicable; and
  - ii) a summary of the response will be included in the Agenda of the following Ordinary Meeting of Council.
- h) Councillors will be given an opportunity at the end of their time to indicate whether the question has been responded to adequately
- i) All Questions from Councillors will be recorded in the Minutes of the Meeting, with a summary of the response provided.

- j) Questions pertaining to confidential information within the meaning of the Act should not be asked in open Council, and should be directed to the Chairperson or Chief Executive Officer in the first instance.

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## Part 8 – Voting

### 51. How a Matter is Determined

- a) To determine a Motion at a Meeting, the Chairperson 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.
- b) Subject to Section 61(5)(d) of the Act, if there is an equal division of votes upon any Motion, the Chairperson shall, in addition to his or her own vote as a member, have a second or casting vote.
- c) In accordance with Section 61(5)(e) of the Act, a member present at the Meeting who does not vote will be taken to have voted against the Motion, and will be recorded in the minutes.
- d) Sub-rule 51(b) will not apply in the case of:
  - i) any election of the Mayor or a Deputy Mayor; or
  - ii) a vote to declare the office of Mayor or Deputy Mayor vacant.

### 52. Vote to be Taken in Silence

- a) Except that a member may demand a division, members must remain seated in silence while a vote is being taken.
- b) Voting must be by a show of hands.

### 53. Recount of Vote

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

### 54. Division

- a) A division may be requested by any Councillor on any vote.
- b) The request must be made to the Chairperson either immediately prior to, or immediately after, the vote has been taken, and may not be made after the Meeting has moved to the next item of business.
- c) When a division is called for, the Chairperson must:
  - i) first ask each Councillor wishing to vote in the favour of the Motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes;
  - ii) then ask each Councillor wishing to vote against the Motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes;
  - iii) next, ask each Councillor abstaining from voting to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes; and
  - iv) finally, declare the result of the division.
- d) Where a division is requested after the original vote has been taken, the Motion is decided on the division, and the fact that there may be a difference between the result obtained when the original vote was taken and the result obtained on the division must be disregarded.

### 55. Declaration of Vote

- a) The Chairperson must declare the result of the vote or division as soon as it is taken.

**56. No Discussion once a Vote has Been Declared**

- a) Once a vote on a Motion has been declared carried or lost by the Chairperson, no further discussion relating to the Motion is allowed, unless the discussion:
  - i) involves a Councillor requesting that his or her opposition to a resolution be recorded in the Minutes or calling for a division in accordance with sub-rule 48(a); or
  - ii) is a Councillor Foreshadowing a notice of rescission where a resolution has just been made, or a positive Motion where a resolution has just been rescinded.

**57. Recording of Support or Opposition to Resolution**

- a) Any member wishing to record their vote of support or opposition to a resolution must clearly request this through the Chair immediately following the declaration of the vote.
- b) It must then be recorded in the minutes of the Meeting.

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## Part 9 – Addressing the Meeting

### 58. Chairperson

- a) The Chairperson may address a Meeting upon any matter under discussion.

### 59. Councillor Allowed to Speak Uninterrupted

- a) A Councillor who has the floor must not be interrupted unless called to order, or given notice by the Chairperson that his or her speaking time has elapsed or is about to elapse, when he or she must remain silent until the Councillor raising the Point of Order has been heard, and the Point of Order dealt with.

### 60. Addressing the Meeting

- a) Except for the Chairperson, any person who addresses the Meeting must direct all remarks through the Chair.
- b) Any person addressing the Chairperson must refer to the Chairperson as:
  - i) Mayor; or
  - ii) Chairperson.
- c) All Councillors, other than the Mayor, should be addressed as Councillor .....(surname);
- d) All Council Officers should be addressed by their official title.



## Part 10 – Motions

### 61. Chairperson's Duty

- a) The Chairperson must not accept any Motion which:
  - i) is defamatory; or
  - ii) is objectionable in language or nature; or
  - iii) is vague or unclear in its intention; or
  - iv) is outside the powers of Council; or
  - v) is not relevant to an item of business on the Agenda and has not been admitted as urgent business; or
  - vi) purports to be an amendment but is not.

### 62. Motions

- a) The procedure for moving any Motion is:
  - i) the Chairperson shall present the report by reading or summarising the recommendation and calling for a mover;
  - ii) the Chairperson will then call for a seconder, the Motion must be seconded by a Councillor other than the mover;
  - iii) before any debate is entered into, a Councillor may ask a question to clarify the motion;
  - iv) if a Motion is not seconded, the Motion lapses for want of a seconder;
  - v) if there is a seconder, then the Chairperson must ask if the Motion is opposed;
  - vi) questions may only be asked through the Chair during a debate to seek clarification on a point made;
  - vii) if any Councillor indicates opposition, the Motion is open to debate in accordance with sub-rule 63;
  - viii) Unless sub-rule 62(b) applies, where there is no opposition, the Motion must immediately be put to the vote.
- b) Where there is no opposition and a Councillor wishes to speak to the Motion:
  - i) they will be given three minutes to address the Meeting;
  - ii) there is no right of reply and no new information can be included;
  - iii) each Councillor will then be provided with the opportunity to address the Meeting;
  - iv) the Motion must immediately be put to the vote without any further discussion or debate.

### 63. Debating a Motion

- a) The Chairperson shall not enter the debate unless at the time of calling for a Mover and a Secunder, the Chairperson indicates their intention to make a statement not exceeding three minutes. The statement must be made either:
  - i) before any debate commences; or
  - ii) after the declaration of the vote.
- b) Where a Councillor indicates opposition to a Motion, the Mover must address Council upon it.

- c) After the Mover has spoken, the Seconded may address the Council upon it. The Seconded's right of address cannot be deferred.
- d) After the Mover and Seconded have spoken to the Motion, the Chairperson must call on any Councillor who wishes to speak against the Motion, then on any Councillor who wishes to speak for the Motion, until all Councillors wishing to speak for or against the Motion have spoken.
- e) Once debate has been exhausted, the mover of a Motion which has not been amended may, exercise a right of reply to matters raised during the debate. No new matter may be raised in the right of reply.
- f) After the right of reply has been exercised, the Motion must immediately be put to the vote without any further discussion or debate.

**64. Moving an Amendment**

- a) A Motion, which has been moved and seconded, may be amended by leaving out, inserting or adding words, which must be relevant to the subject of the Motion.
- b) No notice need be given of any amendment.
- c) An amendment may be proposed or seconded by any Councillor, except the mover and seconded of the original Motion.
- d) If a Councillor proposes an amendment and the original mover and seconded of the Motion both indicate their agreement with the amendment, the amended Motion becomes the substantive Motion without debate or vote.
- e) If a Councillor proposes an amendment to which either the mover or seconded does not agree, the following will apply:
  - i) the amendment must be moved and seconded;
  - ii) a Councillor may speak on any amendment once, whether or not he or she has spoken to the Motion, but debate must be confined to the terms of the amendment;
  - iii) any number of amendments may be proposed to a Motion, but only one amendment may be accepted by the Chairperson at any one time. No second or subsequent amendment, whether to the Motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with and voted on;
  - iv) if the amendment is carried, the Motion as amended then becomes the Motion before the Meeting (known as the 'substantive Motion'); and
  - v) the mover of an amendment does not have right of reply.
- f) A second or subsequent amendment cannot be moved until the immediately preceding amendment is disposed of.
- g) A member cannot move more than two amendments in succession on the same matter being debated.

**65. Foreshadowing Motions**

- a) At any time during debate a Councillor may Foreshadow a Motion so as to inform Council of his or her intention to move a Motion at a later stage in the Meeting, but this does not extend any special right to the Foreshadowed Motion.
- b) A Motion Foreshadowed may be prefaced with a statement that, in the event of a particular Motion before the Meeting being resolved in a certain way, a Councillor intends to move an alternative or additional Motion.

- c) A Motion Foreshadowed has no procedural standing and is merely a means to assist the flow of the Meeting.
- d) The Minutes of the Meeting will not include Foreshadowed Motions unless the Foreshadowed Motion is subsequently formally moved as a Motion.

**66. Withdrawal of Motion**

- a) A Motion or amendment cannot be withdrawn without the agreement of Council.

**67. Repeating Motion**

- a) Before any matter is put to the vote, a member may require that the question, Motion or amendment be read again.
- b) The Chairperson without being so requested may direct the Chief Executive Officer (or other person authorised by the Chief Executive Officer to record the minutes) to read the question, Motion or amendment to the Meeting before the vote is taken.

**68. Separation of Motions**

- a) Where a Motion contains more than one part, a Councillor may request the Chairperson to put the Motion to the vote in separate parts.
- b) The Chairperson may decide to put any Motion to the vote in separate parts.

**69. Motions Moved in a Block**

- a) The Chairperson may allow like Motions to be moved, or request Councillors to move like items, in a block (en bloc), only if the Motions note actions already taken and will not commit Council to further action, spending or changes to policy.

**70. Motions in Writing**

- a) All Motions, except procedural Motions, must be submitted in writing if requested by the Chairperson.
- b) The Chairperson may adjourn a Meeting while a Motion is being written or may request Council to defer the matter until the Motion has been written, allowing the Meeting to proceed uninterrupted.

**71. Debate must be Relevant to the Motion**

- a) Debate must always be relevant to the Motion before the Meeting, and, if not, the Chairperson must request the speaker to confine debate to the Motion.
- b) If, after being requested by the Chairperson to confine debate to the Motion before the Meeting, the speaker continues to debate irrelevant matters, the Chairperson may direct the speaker to not speak further in respect of the Motion before the Chairperson. The speaker must immediately comply with any such direction.

**72. Adequate and Sufficient Debate**

- a) Adequate debate is required where a matter is contentious in nature. In such a case, every Councillor should be given an opportunity to participate in the debate.
- b) A Motion has been sufficiently debated if opposing views (where they exist) have been sufficiently put, not so much the number of those who have spoken but whether all minority opposing views have been put.
- c) Once the views put are representative of the views of all Councillors or Members the debate would be regarded as sufficient.

**73. Resumption of Adjourned Debate**

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

**74. Speaking Times**

- a) A member must not speak longer than five minutes unless granted an extension by the Chairperson.
- b) Any extension of speaking time must not exceed five minutes.

**75. Priority of Address**

- a) In the case of competition for the right to speak, the Chairperson must decide the order in which the members concerned will be heard.
- b) Except that the mover of a Motion (other than a Motion amending another Motion) has the right of reply and that any member may take a point of order or offer a personal explanation, no member may speak more than once to the same Motion or amendment.

**76. Interruptions, Interjections and Relevance**

- a) A member must not be interrupted except by the Chairperson or upon a point of order or personal explanation.
- b) If a member is interrupted by the Chairperson or upon a point of order or personal explanation, he or she must remain silent until the Chairperson has ceased speaking, the point of order has been determined or the personal explanation has been given (as appropriate).
- c) A member must not digress from the subject matter of the Motion or business under discussion.
- d) The mover of a Motion must not introduce fresh information when exercising any right of reply.

**77. Personal Explanation**

- a) A member may, at a time convenient to Council, and as determined appropriate by the Chairperson, make a brief personal explanation in respect of any statement affecting him or her as a Councillor or member.
- b) A personal explanation arising out of a statement at a Meeting must be made as soon as possible after the statement is made and if occurring as part the debate in relation to a Motion before the Chair, must be undertaken prior to the vote on such matter.
- c) A personal explanation must not be debated except upon a Motion to censure the member who has made the statement the subject of the personal explanation.
- d) Any personal explanation can only be made once in relation to the matter at hand.

**78. Ordering Withdrawal of Remark**

- a) The Chairperson may require a Councillor to withdraw any remark which is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature.
- b) A Councillor required to withdraw a remark must do so immediately without qualification or explanation.

**79. Criticism of Council Staff**

- a) The Chief Executive Officer (or other person authorised by the Chief Executive Officer) may address a Meeting in respect of any statement made affecting a Council Officer where that comment is made at a Council or Delegated Committee Meeting, or in the media.

**80. Procedural Motions**

- a) The form and effect of Procedural Motions is set out in Schedule 1.
- b) Unless otherwise prohibited, a Procedural Motion may be moved at any time and must be dealt with immediately by the Chairperson.
- c) Procedural Motions require a seconder.
- d) The Chairperson may reject a Procedural Motion if he or she believes the Motion on which it is proposed has not been adequately or sufficiently debated.
- e) Procedural Motions may only be moved and seconded by members who have not moved, seconded or spoken to the original matter or Motion to be considered.
- f) A procedural Motion cannot be moved or seconded by the Chairperson.
- g) Debate on a Procedural Motion is not permitted and the mover does not have a right of reply.
- h) A Procedural Motion cannot be amended.
- i) The Chairperson may request that the mover of a Procedural Motion provide an explanation for the movement of the Procedural Motion in question.

**81. Notices of Motion**

- a) A Councillor can submit to the Chief Executive Officer a Notice of Motion for inclusion in the Agenda for a Meeting.
- b) A Notice of Motion must be in writing, signed by the Mover and Secunder (including by electronic means), and be lodged with the Chief Executive Officer no later than 12 noon 10 business days before the Meeting at which it is intended to be considered to ensure its inclusion in the Agenda.
- c) The Chief Executive Officer must inform Councillors about the legal and cost implications of any proposed Notice of Motion. The Chief Executive Officer may suggest revised wording to the draft Notice of Motion to facilitate compliance with the requirements for Notices of Motion under these Governance Rules.
- d) A Notice of Motion must relate to the objectives, role and functions of Council as outlined in the Act.
- e) A Notice of Motion must call for a Council report if the Notice of Motion proposes any action that:
  - i) impacts the levels of Council service;
  - ii) commits Council to expenditure that is not included in the adopted Council Budget;
  - iii) proposes to establish, amend or extend Council policy;
  - iv) proposes to impact the rights of any person who has not had the opportunity to contribute their views;
  - v) commits Council to any contractual arrangement; or
  - vi) concerns any litigation in respect of which Council is a party.
- f) The Chief Executive Officer must reject any Notice of Motion which:
  - i) is too vague;

- ii) is defamatory;
- iii) may be prejudicial to any person or Council;
- iv) is objectionable in language or nature;
- v) is outside the powers of Council;
- vi) is submitted during Election Period.
- g) The Chief Executive Officer may reject a proposed Notice of Motion that
  - i) relates to a matter that can be addressed through the operational service request process; or
  - ii) relates to a matter that has been previously resolved by Council or is acted upon.
- h) If rejecting a Notice of Motion, the Chief Executive Officer must inform the Councillor who lodged it of that rejection and the reasons for the rejection no later than nine business days before the Meeting at which it is intended to be considered. The Councillor may submit a revised Motion within 24 hours.
- i) The Chief Executive Officer may designate a Notice of Motion to be confidential in accordance with relevant grounds as contained in the Act, in which case, the Notice of Motion will be considered in the part of the relevant Council Meeting that is closed to members of the public.
- j) The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the Agenda and outline the policy, financial and resourcing implications if the Notice of Motion is passed.
- k) The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the Notice of Motion being published in the Agenda for the relevant Council Meeting.
- l) The Chief Executive Officer must cause all Notices of Motion to be sequentially numbered, dated and entered in a register.
- m) Unless Council resolves otherwise, each Notice of Motion must be considered in the order in which they were received.
- n) The Motion moved must not be substantially different to the motion published in the Agenda, however, may be amended by resolution of the Council.
- o) If a Councillor who has lodged a Notice of Motion is absent from the Meeting or fails to move the Motion when called upon by the Chairperson to do so, any other Councillor may move the Motion.
- p) If a Notice of Motion is not moved at the Council Meeting at which it is listed, it lapses.

## 82. Notices of Rescission

- a) A Notice of Rescission is a form of Notice of Motion. Accordingly, all provisions in these Governance Rules regulating Notices of Motion equally apply to Notices of Rescission.
- b) A Councillor may propose a Motion to rescind or alter a previous resolution of Council provided;
  - i) the original Motion has not already been materially effected;
  - ii) unless notice of the intention to propose such revocation or alteration is given to each of the members at least 48 hours before the Meeting at which the Motion will be considered setting out;
    - the relevant previous resolution to be rescinded or altered; and

- the Meeting and date when the relevant previous resolution was carried.
- c) The Chief Executive Officer, or a member of Council staff with responsibility for the subject matter of a resolution, may implement a resolution of Council at any time after the close of the Meeting at which it was made. A resolution of Council will be deemed to have been acted on if:
  - i) its contents or substance has been formally communicated to a person whose interests are materially affected by it, including by publishing the proposed Minutes of a Council Meeting on Council's website; or
  - ii) a statutory process has been commenced so as to vest enforceable rights or obligations on Council or any other person.
- d) Notwithstanding sub-rule 82(c), the Chief Executive Officer or member of Council staff must defer implementing a resolution which:
  - i) has not been acted on; and
  - ii) is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-rule 82(f)(ii), unless deferring implementation of the resolution would have the effect of depriving the resolution of usefulness, giving rise to non-compliance with a legal obligation or placing the Council at legal, financial or other risk.
- e) Motions to rescind or alter a previous resolution of Council can be made by:
  - i) a notice of rescission delivered by a Councillor in accordance with sub-rule 82(f)(ii); or
  - ii) a recommendation contained in a Management report included in the Agenda.
- f) A Notice of Motion to rescind or alter a previous resolution:
  - i) must be signed by a mover and seconder;
  - ii) must be given to the Chief Executive Officer in sufficient time to enable the Chief Executive Officer to give to all members at least 48 hours before the Meeting at which the Motion will be considered;
  - iii) shall be deemed to have been withdrawn if not moved at the next Meeting at which such business may be transacted;
  - iv) if it is a second or subsequent notice to revoke or alter an earlier resolution, it must not be accepted by the Chief Executive Officer until a period of one month has elapsed since the date of the Meeting at which the first or last Motion for revocation or alteration was dealt with; and
  - v) can occur prior to the Chief Executive Officer enacting a Motion.
- g) A notice of rescission listed on an Agenda may be moved by any Councillor present but be moved in the form it was listed and must not be amended.

### 83. Foreshadowed Items

- a) At the time designated in the Meeting Agenda, a Councillor may Foreshadow a Notice of Motion to be submitted for consideration at the next Meeting by indicating, when called on to do so by the Chair, the subject matter of the Foreshadowed Notice of Motion.
- b) The subject matter, as indicated by the Councillor, of a Foreshadowed Item will be recorded in the Minutes.
- c) No discussion or debate is allowed on a Foreshadowed Item.
- d) A Foreshadowed Item will have no further formal status at that Council Meeting.

- e) Foreshadowed Items are intended to be used to indicate to Council and the community matters of importance that will be raised at the next Council Meeting.
- f) If a Councillor does not submit a Notice of Motion for the next Council Meeting, no further action on a Foreshadowed Item will occur.

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## Part 11 – Points of Order

### 84. Valid Points of Order

- a) A Point of Order may be raised in relation to:
  - i) a Motion which has not been accepted by the Chairperson;
  - ii) a question of procedure;
  - iii) a Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
  - iv) debate that is irrelevant to the matter under consideration;
  - v) a matter that is outside Council's legal powers; or
  - vi) any act of disorder.

### 85. Contradiction or Opinion

- a) Rising to express a mere difference of opinion or to contradict a speaker is not a Point of Order.

### 86. Points of Order

- a) A point of order is an objection raised by any member that the motion, amendment or statement made is any of the following:
  - i) contrary to the Governance Rules;
  - ii) defamatory or disloyal;
  - iii) irrelevant, irreverent or obscene; or
  - iv) outside Council's legal powers.
- b) If called on a point of order, a member must remain silent until the point of order is decided unless he or she is requested by the Chairperson to provide an explanation.
- c) The Chairperson may adjourn the Meeting to consider a point of order but must otherwise rule upon it as soon as it is taken.
- d) The Chairperson must when ruling on a point of order give reasons for the ruling. The Chairperson's ruling shall be final.
- e) Where a point of order is called by a member on the Chairperson of the Meeting, the Chairperson shall vacate the chair, and:
  - i) If the Chairperson is the Mayor, the Deputy Mayor will take the Chair and rule on the point of order; or
  - ii) If the Deputy Mayor is not present, an acting Chair must be elected by resolution.
  - iii) If the Chairperson is not the Mayor, an acting Chair must be elected by resolution.

### 87. Dissent in Chairperson's Ruling

- a) A Motion of dissent in the Chairperson's ruling must, if seconded, be given priority to all other items of business and the Deputy Mayor must preside while the Motion is being considered.
- b) If the Deputy Mayor is not present, a substitute Chairperson must be elected.
- c) The substitute Chairperson must put questions relative to the ruling to the Chairperson first, and then to the mover of the Motion.

- d) The substitute Chairperson must conduct a debate on the Chairperson's ruling, and the matter must be decided by a majority vote.
- e) The Chairperson must then resume the Chair for the remainder of the Meeting.

**88. Disorderly Conduct**

- a) The conduct of Councillors and members at Meetings is governed by the Act, these Governance Rules and the Councillor Code of Conduct.

**89. Chairperson May Adjourn Disorderly Meeting**

- a) The Chairperson may adjourn a Meeting for either a short time, or to resume another day if the behaviour at the Council table or in the gallery is significantly disrupting the Meeting.
- b) Where an adjourned Meeting is subsequently closed to members of the public to enable the Meeting to proceed in an orderly manner, the proceedings of the Meeting must be able to be viewed by members of the public on the internet or on closed circuit television as the Meeting is being held.
- c) Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the Meeting, and prevents the conduct of Council business:
  - i) Council may, by resolution, suspend that Councillor from a portion of the Meeting or from the balance of the Meeting where the Chairperson has warned the Councillor to cease that behaviour; or
  - ii) The Mayor, under Section 19 of the Act, at a Council Meeting, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the Meeting for a period of time or the balance of the Meeting.
- d) Where Council suspends a Councillor under sub- rule 89(c)(i), or the Mayor directs a Councillor to leave the Meeting under sub-rule 89(c)(ii) the Councillor will take no active part in the portion of the Meeting from which he or she has been suspended.
- e) If a Councillor has been suspended from a Meeting or directed to leave in accordance with sub-rule 89(c) the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the Councillor.

## Part 12 – Meeting Records

### 90. Keeping of Minutes

The Chief Executive Officer, or a person authorised by the Chief Executive Officer, must record minutes of each Meeting, and those minutes shall include;

- a) The date, place, time and nature of the Meeting;
- b) The names of all Councillors and whether they are present, an apology, absent or on leave of absence;
- c) The name of all Council Officers present in an official capacity;
- d) The confirmation of previous minutes (if applicable);
- e) Questions from Councillors asked in section 11 of the Agenda, and the responses provided. Where a question is taken on notice, the response will be provided in the Agenda for the next Ordinary Meeting of Council;
- f) The disclosure of interests made by a Councillor, and at what point in time they left the room including if they were present and took part in any debate or vote on the matter prior to declaring any conflict of interest;
- g) The time the member returned to the room;
- h) Arrivals and departures (including temporary departures) of Councillors during the course of the Meeting;
- i) Each Motion and amendment moved;
- j) The outcome of every Motion moved;
- k) Where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
- l) When requested by a Councillor, a record of their support or opposition to any motion;
- m) Any abstention from voting as specified in sub-rule 51(c);
- n) A summary of any question asked and the response provided as part of Community question time;
- o) Details of any failure to achieve or maintain a quorum;
- p) Details of any petitions made to Council;
- q) The time and reason for any adjournment of the Meeting or suspension of standing orders;
- r) Any other matter, which the Chief Executive Officer or Delegate thinks should be recorded to clarify the intention of the Meeting or assist in the reading of the Minutes; and
- s) The time the Council Meeting was opened and closed, including any part of the Council Meeting that was closed to members of the public, including:
  - i) the reasons for determining to close the Meeting by reference to the definitions of 'confidential information' as specified in Section 3(1) of the Act; and
  - ii) an explanation of why the specified reasons applied.

### 91. Confirmation of Minutes

- a) The Minutes as recorded by the Chief Executive Officer, or Delegate, will be made available as the draft Minutes to:
  - i) Councillors, within 7 business days;

- ii) Members of the public, by publishing them on Council's website, within 9 business days of the Council Meeting they relate to.
- b) No discussion or debate on the confirmation of minutes will be permitted except where their accuracy as a record of the proceedings of the Meeting to which they relate is questioned.
- c) Minutes are to be confirmed at the next practicable Meeting, unless there is a Motion to the contrary.
- d) Once the minutes are confirmed they will be signed by the Chairperson.
- e) The minutes of Confidential Meetings of Council shall be confirmed in open Council.
- f) The minutes for open Meetings shall be available for inspection at all reasonable times by any person free of charge at Council Service Centres and Libraries and are also available for viewing on Council's website.

**92. Objection to Confirmation of Minutes**

- a) If a Councillor is dissatisfied with the accuracy of the minutes, then he or she must:
  - i) state the item or items with which he or she is dissatisfied; and
  - ii) propose a Motion clearly outlining the alternative wording to amend the minutes.

**93. Deferral of Confirmation of Minutes**

- a) The Council or Delegated Committee may by resolution, defer the confirmation of minutes until later in the Meeting or until the next Meeting as appropriate.

**94. Agendas & Minutes of Council and Delegated Committees**

- a) The records of Council and Delegated Committees which are open to the public will be made available on Council's website as soon as practicable.
- b) Hard copies will be made available for collection at a Customer Service Centre on request.

**95. Recording of Proceedings & Live Streaming**

- a) At the discretion of the Chair or Chief Executive Officer (unless required under rule 17), a Meeting of Council or Delegated Committee may be live streamed on Council website in accordance with the 'Live Streaming and Published Recordings of Council Meetings' Policy.
- b) Where a Meeting is closed to the public in accordance with Section 66(2)(b) or 66(2)(c) of the Act, arrangements will be in place to enable members of the public to view the proceedings of the Meeting through a live stream on Council website.
- c) A person authorised by the Chief Executive Officer may record on suitable audio recording equipment, all open proceedings of a Council or Delegated Committee Meeting.
- d) Subject to sub-rule 95(a), a person must not operate audio tape or other recording equipment at any Council or Delegated Committee Meeting without first obtaining the consent of the Chief Executive Officer, Mayor or Chairperson (as the case may be). Such consent may at any time during the course of such Meeting be revoked by the Chief Executive Officer, Mayor or Chairperson (as the case may be).
- e) Members will be notified if permission is given for the use of audio recording equipment.

## Part 13 – Suspension of Standing Orders

### 96. Suspension of Standing Orders

- a) The provisions of these Governance Rules may be suspended for a particular purpose by resolution of the Council or Delegated Committee.
- b) The suspension of such provisions (standing orders) should be used to enable full discussion of any issue without the constraints of formal Meeting procedure.
- c) The purpose is to enable the formalities of Meeting procedures to be temporarily disposed of while an issue is discussed.
- d) It should not be used purely to dispense with the processes and protocol of the government of the Council or Delegated Committee.
- e) Once the discussion has taken place and before any Motions can be put, the resumption of standing orders will be necessary.

### 97. No Motions may be accepted during Suspension of Standing Orders

- a) No Motion may be accepted by the Chair or be lawfully dealt with during any suspension of standing orders other than the Motion for resumption of standing orders.

## Part 13 – Delegated Committees

### 98. Rules to Apply to Delegated Committees

- a) If Council establishes a Delegated Committee, these Rules will apply to the Delegated Committee Meetings with any necessary modifications.
- b) For the purpose of sub-rule 98(a):
  - i) a Council Meeting is to be read as a reference to a Delegated Committee Meeting;
  - ii) a Councillor is to be read as a reference to a Member of the Delegated Committee; and
  - iii) a reference to the Mayor is to be read as a reference to the Chairperson of the Delegated Committee.
- c) If Council establishes a Delegated Committee, Council may resolve that a provision of these Governance Rules do not apply to that Committee.

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## Part 15 – Community Asset Committees

### 99. Council to Establish a Community Asset Committee

- a) The Governance Rules may apply to any Community Asset Committee established by Council.
- b) Council may resolve, in establishing a Community Asset Committee which parts of the Governance Rules apply, but as a minimum must include Part 8, sub-rule 51.
- c) A Community Asset Committee must report the minutes of all Committee Meetings to the next practicable Council Meeting.
- d) A Community Asset Committee must act in accordance with its Charter, Instrument of Delegation and any Terms of Reference adopted by Council.

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## Part 16 – Audit and Risk Committee

### 100. Audit and Risk Committee Oversight

- a) The Governance Rules will apply to the Audit and Risk Committee established by Council unless otherwise provided in the Audit and Risk Charter.
- b) Council may resolve, in establishing an Audit and Risk Committee that the Meeting procedure chapter of these Governance Rules does not apply.
- c) An Audit and Risk Committee must report the minutes of all Committee Meetings to the next practicable Council Meeting.
- d) An Audit and Risk Committee must act in accordance with its Charter as adopted by Council.

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## Part 17 – Election Period Policy

### 101. Council to have in place an Election Period Policy

- a) Council will have in place an election period policy that:
  - i) Governs decision making during a local government election period, including what may be considered at a Council Meeting;
  - ii) Prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
  - iii) Sets out the conditions for any community engagement required to be undertaken during an election period, including consultations, Civic events, and activities of Advisory Committees established by Council;
  - iv) Sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns;
  - v) Defines roles and responsibilities in relation to who is the spokesperson for Council during an election period;
  - vi) Sets out the requirements for a Councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.
- b) At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its election period policy.
- c) The Election Period Policy forms part of these Governance Rules.
- d) The operation of Council Advisory Committees shall be suspended upon the commencement of the election period ahead of a general Council election.
- e) Any outstanding Delegate's Reports may still be reported to an Ordinary Meeting during this period.
- f) Council Committees shall resume Meeting following the election and the appointment by the incoming Council of Councillors to each committee.

## Part 18 – Disclosure of Conflicts of Interest

Conflict of Interest is about ensuring transparency in the decision-making process. Councillors and staff hold positions of public trust and should work to serve the interests of the community.

### 102. Obligations with Regard to Conflict of Interest

- a) Councillors, members of Delegated Committees and Council staff are required to:
  - i) Avoid - all situations which may give rise to conflicts of interest;
  - ii) Identify - any conflicts of interest; and
  - iii) Disclose – or declare all conflicts of interest.

### 103. Councillors and Members of Delegated Committees

- a) May not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- b) When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.
- c) All disclosures of conflicts of interest will be recorded in the minutes of a Council or Delegated Committee Meeting.
- d) Council will maintain a Conflict of Interest Register which will be made available on Council's website.

### 104. Council Staff

- a) Council staff must act in accordance with the Employee Code of Conduct.
- b) Council staff must not exercise a delegation or make a decision on any matter where they have a conflict of interest.
- c) Council staff may be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at sub-rule 99 and the Employee Code of Conduct.

### 105. When Must a Disclosure be Made

- a) A Conflict of Interest disclosure must be made by a relevant person in respect of a matter:
  - i) to be considered at a Meeting of Council; or
  - ii) to be considered at a Meeting of a delegated committee; or
  - iii) to be considered at a Meeting of a community asset committee; or
  - iv) that arises in the course of the exercise of a power of delegation by a member of Council staff; or
  - v) that arises in the course of the exercise of a statutory function under any Act.
- b) A disclosure must be made by any Councillor who has a conflict of interest in respect of any matter at any Council Auspiced Meeting.
- c) A disclosure must be made by a member of Council staff when providing information in respect of any matter with which a Council, Delegated Committee, Community Asset Committee is concerned, and that will require:
  - i) a power to be exercised, or a duty or function to be performed, or a decision to be made by the Council, Delegated Committee or Community Asset Committee in respect of the matter; or

- ii) a power to be exercised, or a duty or function to be performed, or a decision to be made by a member of Council staff in respect of the matter.

**106. Procedures for Disclosures at a Council or Delegated Committee Meeting**

- a) A Councillor with a conflict of interest in an item on the Agenda must make a verbal declaration in respect of each matter that includes:
  - i) whether their conflict of interest is general or material; and
  - ii) an explanation of the nature of the interest.
- b) Following a verbal declaration, in accordance with Section 130(2) of the Act, the Councillor must immediately exclude themselves from:
  - i) the decision making process in relation to the matter;
  - ii) any discussion or vote on the matter at a Council or Delegated Committee Meeting; and
  - iii) any action in relation to the matter.
- c) A Councillor who has made a disclosure, is required to complete and sign a Conflict of Interest Declaration Form that must include:
  - i) the type of interest as defined within Section 126(2) of the Act;
  - ii) an explanation of the nature of the interest;
  - iii) details of the matter in respect of which the disclosure is made; and
  - iv) the date on which the disclosure is being made.
- d) A Councillor or Member of a Delegated Committee who discloses a conflict of interest and leaves a Meeting must not communicate with any participants in the Meetings while the decision is being made.

**107. Procedures for Disclosures at Council Auspiced Meetings**

- a) A Councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.
- b) At the time indicated on the Agenda, a Councillor with a conflict of interest must indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.
- c) If there is no Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest as soon as the matter arises.
- d) At the time for discussion of that item, the Councillor will leave the discussion and not communicate with any members of the Meeting for the duration of the discussion.
- e) The existence of a conflict of interest will be recorded in the minutes of the Meeting.
- f) If there are no minutes kept of the Meeting, the conflict of interest will be recorded in a Meeting record and provided to Governance for recording in the register of Conflicts of Interest.
- g) The Meeting minutes or record will also record the duration of the discussion and whether the Councillor left the Meeting.

**108. Procedure for Disclosures by Council Staff**

- a) Council staff must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.

- b) All conflicts of interest disclosed by Council staff will be provided to Governance for recording in the register of Conflicts of Interest.
- c) A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:
  - i) the number and qualifications of other people providing advice regarding the same matter is equal or greater; or
  - ii) the staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
  - iii) the staff member's General Manager determines that the conflict of interest has not influenced the advice provided; and
  - iv) the existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.

**109. Failure to Comply – Statutory Penalties**

- a) Any person who fails to comply with the requirements of Part 18 of these Governance Rules, will be subject to the actions and or penalties as prescribed within Sections 130 and 131 of the Act as amended from time to time.

## Part 19 – Joint Council Meetings

### 110. Regional Collaboration

- a) Council may resolve to participate in a Joint Council Meeting to consider:
  - i) Matters subject to discussion between participating Council's; or
  - ii) Collaborative projects; or
  - iii) Collaborative procurement; or
  - iv) Emergency Response.
- b) The total number of Councillors required to constitute a Joint Council Meeting shall be:
  - i) determined by the Councils holding the Joint Council Meeting; and
  - ii) at least three Councillors from each of the participating Councils.
- c) Where Mildura Rural City Council is the lead Council on a matter to be brought for consideration at a Joint Council Meeting, the Mayor will be nominated to Chair the Joint Council Meeting.
- d) If Council has resolved to participate in a Joint Council Meeting, the Chief Executive Officer (or delegate) will agree on Governance Rules with the participating Councils.
- e) A quorum at a Joint Council Meeting will be an absolute majority of the total number of Councillors as determined at sub-rule 110(b).
- f) Consistent information will be provided to Councillors prior to any Joint Council Meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.
- g) A joint briefing arranged in accordance with sub-rule 110(f) may be held electronically.

## Part 20 – Councillor Code of Conduct

Council's Councillor Code of Conduct Policy (CP051) is to be applied in the conduct of Meetings held in accordance with Council's Governance Rules.

In carrying out their role, Councillors will:

- act with integrity; exercising their responsibilities impartially in the interests of the local community;
- not make improper use of their position to advantage or disadvantage any person;
- avoid conflicts between their public duties as Councillors and their personal interests and obligations;
- act honestly and avoid making oral or written statements and avoid actions that may mislead a person;
- treat all persons with respect and will show due respect for the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other people;
- exercise reasonable care and diligence and they will submit to lawful scrutiny that is appropriate to their office;
- try to ensure that public resources are used prudently and solely in the public interest;
- act lawfully and in accordance with the trust placed in them as elected representatives of their community; and
- support and promote these principles by leadership and example so as to ensure the public has confidence in the office of Councillor.

Councillors will treat Council information appropriately, by:

- not using information gained by virtue of the position of Councillor for any purpose than to exercise the role of Councillor;
- respecting the Council's policies in relation to public comments and communications with the media;
- not releasing information deemed 'confidential information' in accordance with Section 77 of the *Local Government Act 1989*, or Section 3 of the *Local Government Act 2020*; and
- recognising the requirements of the *Privacy and Data Protection Act 2014* regarding the access, use and release of personal information.

### Part 21 – Council Auspiced Meetings

A Council Auspiced Meeting is a Meeting at which matters are considered that are intended or likely to be the subject of a Council decision or the exercise of a delegated authority and is either of the following:

- a Meeting of an advisory committee where at least one Councillor is present; or
- a planned or scheduled Meeting that includes at least half the Councillors and at least one Council officer.

All boards and committees established by resolution of Council must complete a written record of the Meeting which includes:

- the names of all Councillors and Council officers attending;
- the matters considered;
- any conflict of interest disclosures made by a Councillor or Council officer; and
- whether a Councillor or Council officer who has disclosed a conflict of interest leaves the Meeting.

All records of Council Auspiced Meetings are to be reported to the next Ordinary Meeting of Council and confirmed in the minutes.

### Schedule 1 – Procedural Motions

Motion	Form	Mover/ Seconded	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
<b>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 <i>Chairperson</i> ; 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>Closure (of debate)</b>	'That the motion now be put'	Any Councillor who has not moved or seconded the original motion or spoken for/against the original motion	During nominations for a <i>Chairperson</i>	Motion or amendment is put to the vote immediately without further debate, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
<b>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	No
<b>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>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 <i>Agenda</i>	No
<b>Suspension of Standing Orders</b>	'That Standing Orders 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 Standing Orders, is permitted	The meeting continues unaffected	No
<b>Resumption of Standing Orders</b>	'That Standing Orders be resumed'	Any Councillor	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed	The meeting cannot continue	No



Motion	Form	Mover/ Seconder	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
<b>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 <i>is confidential as it relates to [insert reason]</i>	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>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

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## 14.6 ADOPTION OF S11A INSTRUMENT OF APPOINTMENT AND AUTHORISATION

**File Number:** 18/02/05  
**Officer:** General Manager Corporate

### 1. Summary

The *Planning and Environment Act 1987* requires Council to appoint authorised officers by way of a S11A Instrument of Appointment and Authorisation. This report seeks Council's adoption of a new S11A Instrument. This instrument also allows the officer to commence legal proceedings in Council's name.

### 2. Recommendation

**That Council adopt the S11A Instrument of Appointment and Authorisation document as presented for Susan Whiteley, Environmental Sustainability Biodiversity Officer.**

### 3. Background

The *Planning and Environment Act 1987* was previously included in the S11 Instrument of Appointment which is delegated from the Chief Executive Officer to staff.

Council's solicitors have advised that these should be an individual instrument adopted by the Council.

### 4. Consultation Proposed/Undertaken

Consultation has been undertaken with Senior Management in the development of this instrument of delegation.

### 5. Discussion

Council's solicitor, Maddocks has provided Council with an S11A Instrument of Appointment and Authorisation document which requires Council to appoint officers by resolution, to be an authorised officer under the *Planning and Environment Act 1987* and also to be an authorised officer to commence proceedings in Council's name.

Adoption of the S11A Instrument of Appointment and Authorisation allows Council officers to conduct their normal business in relation to the *Planning and Environment Act 1987* and act in Council's name.

### 6. Time Frame

If adopted by Council the documents would come into force once the Common Seal is affixed.

**7. Strategic Plan Links**

This report relates to the Council Plan 2021-2025 in the Strategic Direction:

Leadership

Outcome to be achieved:

- Effective governance to deliver results in line with community expectations.

**8. Asset Management Policy/Plan Alignment**

There are no asset management implications associated with this report.

**9. Implications**

**Policy**

There are no policy implications associated with this report.

**Legal/Statutory**

This report aligns with section 313 of the Local Government Act 2020.

**Financial**

There are no financial implications associated with this report.

**Environmental**

There are no environmental implications associated with this report.

**Social**

There are no social implications associated with this report.

**Economic**

There are no economic implications associated with this report.

**10. Risk Assessment**

By adopting the recommendation, Council will not be exposed to any significant risk.

**11. Conflicts of Interest**

No conflicts of interest were declared during the preparation of this report.

**Attachments**

- 1 [S11A Instrument of Appointment & Authorisation - Susan Whiteley - Environmental Sustainability Biodiversity Officer - August 2022](#)

***S11A. Instrument of Appointment and Authorisation  
(Planning and Environment Act 1987)***



Mildura Rural City Council

**Mildura Rural City Council**

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

**for**

**SUSAN WHITELEY  
ENVIRONMENTAL SUSTAINABILITY BIODIVERSITY OFFICER**

**AUGUST 2022**

### Instrument of Appointment and Authorisation

In this Instrument "**officer**" means -

**Susan Whiteley**

By this Instrument of Appointment and Authorisation **Mildura Rural City Council** –

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

**It is declared that** this Instrument –

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked; and
- (c) until the Officer ceases to be employed by Council.

This Instrument is authorised by a resolution of the Council on 25 August 2022.

**THE COMMON SEAL** of the **MILDURA RURAL CITY** )  
**COUNCIL** was affixed hereto by authority of the )  
Council in the presence of: )  
)

..... **COUNCILLOR**

..... **COUNCILLOR**

..... **CHIEF EXECUTIVE OFFICER**

**DATE: 25 August 2022**

## 14.7 SCHOOL CROSSING SUPERVISOR PROGRAM ADVOCACY CAMPAIGN

**File Number:** 07/03/02  
**Officer:** Acting General Manager Development

### 1. Summary

The purpose of this report is to seek Council's in principle support for an advocacy campaign that will review the service model, future funding viability and structure of the School Crossing Supervisor Program.

The advocacy campaign is not about cancelling the School Crossing Supervisor Program.

### 2. Recommendation

**That Council:**

- (i) support in principle the advocacy campaign to work with the Municipal Association of Victoria and City of Monash regarding the service model, future viability and structure of the School Crossing Program;**
- (ii) agree to pay \$1,500 to become a Local Government advocacy campaign member; and**
- (iii) nominate the Manager Development Services as Council's single point of contact for the advocacy campaign.**

### 3. Background

The Municipal Association of Victoria (MAV) and City of Monash (as the lead Local Government) have commenced the dialogue within Local Government circles and are planning to establish an advocacy campaign that will review the future of the School Crossing Supervisor Program.

### 4. Consultation Proposed/Undertaken

The MAV and City of Monash hosted an information session for Local Government organisations on 28 July 2022, regarding the establishment of the advocacy campaign. Over 90 participants attended from a number of Local Government and other agencies.

The host members have sought Local Government interest and in principle support for the advocacy campaign.

**5. Discussion**

It should be noted that the advocacy campaign is not about cancelling the Program.

The campaign is anticipated to be directed towards the Victorian State Government and to advocate for:

- an improved partnership approach with State Government
- a more financially viable and sustainable Program
- a Program that is considered “fit for purpose”
- a longer-term funding commitment beyond the 2022-2023 financial year and towards a fully funded Program in 2023-2024 and
- a Program that incorporates best practice and introduces technological solutions

Should individual councils wish to support the campaign being led by Monash Council and MAV, there will be a small fee of \$1,500 to cover administration and associated costs for the campaign.

**6. Time Frame**

MAV and City of Monash will establish the advocacy campaign shortly and are seeking support from Local Government

**7. Strategic Plan Links**

This report relates to the Council Plan 2021-2025 in the Strategic Direction:

Community

Outcome to be achieved:

- A community where people feel safe.

**8. Asset Management Policy/Plan Alignment**

There are no asset management implications associated with this report.

**9. Implications****Policy**

There are no implications nor relevant Council Policies associated with this report.

**Legal/Statutory**

There are no legal or statutory implications associated with this report

**Financial**

There are no financial implications associated with this report. Of the 26 school crossing locations within the municipality, two are not at all funded by the current program.

**Environmental**

There are no environmental implications associated with this report.

**Social**

There are no social implications associated with this report

**Economic**

There are no economic implications associated with this report.

**10. Risk Assessment**

By adopting the recommendation, Council will be exposed to the following risks:

Risks	Controls	Residual Risk
To represent the Mildura Community and to participate in the advocacy campaign	Department of Transport (DoT) School Crossing Program Funding Guidelines/ Agreement	Low

**11. Conflicts of Interest**

No conflicts of interest were declared during the preparation of this report.

**Attachments**

There are no attachments for this report.



## **15 URGENT BUSINESS**

Nil

## **16 COMMUNITY QUESTIONS**

## **17 CONFIDENTIAL BUSINESS**

### **Recommendation**

That Council resolve to move into confidential business to deal with the following matters as pursuant to Section 66(2) of the *Local Government Act 2020*:

#### **17.1 HALLMARK EVENT OPPORTUNITY**

Section 3(1)(a) - Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released

Pursuant to section 66(5)(b) of the Local Government Act 2020, if released the information to be received, discussed or considered in relation to this agenda item, would impact negotiations still to be made whilst entering into a funding agreement.

#### **17.2 2022-2024 NEW YEAR'S EVE COMMUNITY EVENT**

Section 3(1)(a) - Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released

Pursuant to section 66(5)(b) of the Local Government Act 2020, if released the information to be received, discussed or considered in relation to this agenda item, would impact negotiations still to be made whilst entering into a funding agreement.

#### **17.3 MANAGEMENT OF COUNCIL'S OUTDOOR ADVERTISING**

Section 3(1)(a) - Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released

Pursuant to section 66(5)(b) of the Local Government Act 2020, if released the information to be received, discussed or considered in relation to this agenda item, may impact the negotiations and execution of the contract which is still in the process formalising and agreeing.

**17.4 TENDER AWARD - SUPPLY OF TEMPORARY WORKERS AND TRAINEES - CONTRACT 2223/10**

**Section 3(1)(a) - Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released**

**Pursuant to section 66(5)(b) of the Local Government Act 2020, if released the information to be received, discussed or considered in relation to this agenda item, may prejudice the commercial position of Council, as various negotiations remain pending.**

**17.5 ASSET ACQUISITION CONSIDERATIONS**

**Section 3(1)(a) - Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released**

**Pursuant to section 66(5)(b) of the Local Government Act 2020, if released the information to be received, discussed or considered in relation to this agenda item, may prejudice the commercial position of Council, as various negotiations remain pending.**

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**18 CLOSURE**