

## 5. Benalla Rural City Council Governance Rules 2020 Update

SF/1981

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### PURPOSE OF REPORT

The report discusses the revised *Governance Rules 2020*.

### BACKGROUND

The *Governance Rules 2020* were adopted by the Council at its meeting on 26 August 2020.

The *Regulatory Legislation Amendment (Reform) Act 2022* (the Amendment Act) received Royal Assent on 29 March 2022 and includes reforms relating to virtual council meetings and amendments to the *Local Government Act 2020* (the Act).

The amendments to the Act take effect on 2 September 2022 and Council's Governance Rules 2020 are required to make provision for:

- holding meetings by electronic means; and
- requesting and approving attendance at Council meetings by electronic means.

A new section 61(6) will provide that a Councillor may attend and be present at a Council meeting by electronic means of communication. Practically speaking, then, it will allow hybrid meetings to take place (with some Councillors being physically present in the Council Chamber and others being 'in attendance' and 'present' electronically).

Governance Rules outline guidelines for the Council to:

- consider and make decisions on any matter being considered by the Council fairly and on the merits; and
- institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.

### DISCUSSION

In the development of the revised Governance Rules 2020, Council officers have referred to the Ministerial Good Practice Guideline provided by Local Government Victoria (LGV).

LGV has worked with the sector to develop a Ministerial Good Practice Guideline and draft model Governance Rules to assist councils to develop Governance Rules to comply with the new virtual meeting provisions.

A summary of changes is listed below:

Section	Proposed Change
<b>1.5 - Definitions</b>	Committee Meetings: A meeting of a Delegated Committee convened in accordance with these Governance Rules and includes a scheduled or unscheduled meeting (whether held as face-to-face attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance.
<b>1.5 - Definitions</b>	Council Meeting: A meeting of the Council convened in accordance with these Governance Rules and includes a scheduled meeting and unscheduled meeting (whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance.
<b>2.6 – Appointment of an Acting Mayor</b>	<p>2.6.1 Role of an Acting Mayor An Acting Mayor may perform any function or exercise any power conferred on the Mayor.</p> <p>2.6.2 When to appoint an Acting Mayor Where there is a vacancy in the office of Mayor or the Mayor is absent, incapable of acting or refusing to act, and there is no Deputy Mayor or the Deputy Mayor is absent, incapable of acting or refusing to act, the Council must appoint one of the councillors to be the Acting Mayor.</p> <p>The Mayor will be deemed to be absent if the Mayor is, or will be, away from the municipality or uncontactable whilst within the municipality and therefore unable to fulfil the role of Mayor for a period of seven or more consecutive days.</p> <p>The Mayor will be deemed to be incapable of acting where the Mayor declares to the Council that they are incapable of fulfilling the role of Mayor.</p> <p>2.6.3 Election of an Acting Mayor Where an Acting Mayor is to be appointed, 2.2 Procedures for Election of the Mayor apply to the election of the Acting Mayor with all necessary modifications and adaptations.</p>
<b>3.1 – Purpose of Council Meetings</b>	3.1.3 Council Meetings and Delegated Committee meetings will be held in a format that mixes in-person and electronic attendance.

Section	Proposed Change
<b>3.2.3 – Delegated Committee Chair</b>	<p>4. The chair may chair a Delegated Committee meeting electronically or in person. The chair may choose to not chair the meeting if they are attending electronically.</p> <p>a. If the chair chooses to not chair the meeting when attending electronically or is not in attendance, the Mayor or Deputy Mayor will chair the meeting if they are in attendance.</p> <p>a. If the Mayor or Deputy Mayor are not attendance, the Chief Executive Officer must open the Meeting and temporarily take the chair to invite nominations from councillors present to appoint a temporary chair.</p>
<b>3.2.4 – The Chair’s Duties and Discretions</b>	<p>1. The chair may chair a Council Meeting or Delegated Committee meeting electronically or in person. The chair may choose to not chair the meeting if they are attending electronically.</p> <p>b. If the chair chooses to not chair the meeting when attending electronically or is not in attendance, the Mayor or Deputy Mayor will chair the meeting if they are in attendance.</p> <p>c. If the Mayor or Deputy Mayor are not attendance, the Chief Executive Officer must open the Meeting and temporarily take the chair to invite nominations from councillors present to appoint a temporary chair.</p>
<b>3.2.7 – Community</b>	<p>2. Community members may only participate in Council meetings in accordance with section 7 of these Governance Rules. The community can participate if the meeting is electronic, hybrid or parallel style meeting</p> <p>3. Community members are encouraged to participate in the Council’s engagement forums and watch available live streams of Council Meetings.</p>
<b>3.2.8 - Attendance, Apologies and Absences</b>	<p>9. For the purpose of these Governance Rules, a councillor shall be determined to be in attendance if they are either physically present or attending online in accordance with Council’s existing IT processes at the time of that meeting. The preferred method of councillor attendance is in person.</p> <p>10. A councillor must inform the Mayor in writing 24 hours prior to the commencement of the meeting that they will be attending online. The Mayor must similarly inform the CEO and, if applicable, the meeting chair.</p> <p>11. For the avoidance of doubt, a councillor must only be recorded as present at a meeting they attend online when:</p> <p>a. they can hear proceedings;</p> <p>b. they can see other members in attendance and can be seen by other members, including other members attending online; and</p> <p>c. they can be heard (to speak).</p>

Section	Proposed Change
	<p>12. It is the responsibility of the chair of a meeting that they confirm with each member attending online that the above criteria are met prior to the commencement of the meeting.</p> <p>13. Any member who attends online must confirm, to the approval of the chair, that the physical room in which they are located is secure enough to allow for confidential matters to be discussed safely. If the member cannot confirm this to the chair's satisfaction, that member must withdraw from the meeting and must be recorded as absent for that portion of the meeting. It is the obligation of each member attending online that they understand this obligation.</p> <p>14. In the event of technical difficulties that make online attendance impractical for key attendees (e.g. Mayor, chair, councillor or CEO) If the technical difficulty cannot be immediately resolved, the chair may move to adjourn the meeting until the technical difficulty is resolved, but for no more than 30 minutes.</p> <p>15. Notwithstanding any of these Governance Rules, Council will ensure that a recording of the meeting is made available on Council's YouTube account and on Council's website.</p> <p>16. The chair of a Council Meeting or Delegated Committee is required to chair the meeting in person. Council Meetings and Delegated Committee meetings will be held in a format that mixes in-person and electronic attendance, unless otherwise advertised by the Council.</p>
<p><b>3.3.6 – Date, time and place of Council Meetings</b></p>	<p>3. Council by resolution can determine the proposed or preferred format style of meetings (in-person, electronic- including hybrid or parallel) noting the criteria and process available for a member who wishes to request approval to attend by electronic means.</p> <p>4. The Council may determine certain meetings must be held solely as face-to-face (in-person) meetings.</p>
<p><b>4 – Quorum</b></p>	<p>A quorum for a Council meeting or Delegated Committee meeting is to include all members attending in an online or electronic format.</p> <p>A quorum is an absolute majority (s61(7) of the Act). Inability to Obtain a Quorum.</p>

Section	Proposed Change
<b>6.5 – Order of Business for Council Meetings and Delegated Committee Meetings</b>	<p>6.5.2 The order of business is determined by the Chief Executive Officer to facilitate and maintain open, efficient and effective processes of government. At the commencement of these Governance Rules Order of Business for Delegated Committee Meetings will be:</p> <ol style="list-style-type: none"> <li>1. Acknowledgement of Country</li> <li>2. Apologies and Leave of Absences</li> <li>3. Confirmation of Minutes of Previous Meetings</li> <li>4. Disclosures of Conflicts of Interest</li> <li>5. Officer Reports</li> <li>6. Confidential Business (If required)</li> <li>7. Closure of the Meeting</li> </ol>

All changes are highlighted in the revised *Governance Rules 2020* (refer **Appendix 1**).

#### **COUNCIL PLAN 2021-2025 IMPLICATIONS**

##### **Leadership**

- *Good governance.*
- *High performance culture.*
- *Engaged and informed community.*

##### **COMMUNITY ENGAGEMENT**

In accordance with the Council's *Community Engagement Policy*, it is proposed that, due to operational nature of the revised *Governance Rules 2020*, that community engagement be undertaken at the 'consult' level under the International Association for Public Participation's IAP2 public participation spectrum as detailed in the table below:

Level of Public Participation	Promise to the community	Techniques to be used
Consult	We will provide information and consider feedback prior to making a decision.	<ul style="list-style-type: none"> <li>▪ Revised rules presented in a public report to the Council.</li> <li>▪ Feedback invited via Council's website.</li> <li>▪ Feedback invited via social media.</li> <li>▪ Revised rules to be published on Council's website.</li> </ul>

Community engagement on the revised *Governance Rules 2020* will open Thursday 28 July 2022 and close 5pm Thursday 25 August 2022.

**FINANCIAL IMPLICATIONS**

There are no material financial implications with the development of the rules. The implementation of the rules will be accommodated within the existing budget allocation.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any general or material conflicts of interest in this matter.

**CONCLUSION**

A report will be presented at the Council Meeting on 31 August 2022 detailing feedback received on the revised *Governance Rules 2020*.

**Recommendation:**

**That the Finance and Operations Committee, acting under its delegated authority of the Council, resolve:**

- 1. That the revised *Governance Rules 2020* be endorsed for public exhibition.**
- 2. That the revised *Governance Rules 2020* be considered for adoption at the Council Meeting on Wednesday 31 August 2022.**