



# Governance Rules

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# Chapter 1 Introduction

## A1 Overview

These are the Governance Rules of the **Alpine Shire Council**, made in accordance with s60 of the *Local Government Act 2020* (the "Act"). These Rules should be read in conjunction with the Alpine Shire Council Councillor Code of Conduct.

## A2 Purpose

Council recognises that integrity, transparency and accountability to the community are of fundamental importance in all of its undertakings. In accordance with s60(2) of the Act, the purpose of these Rules is to ensure that Council's governance practices:

- Are undertaken in a fair, transparent, orderly and consistent manner
- Are conducted in accordance with relevant laws
- Withstand scrutiny
- Provide means for inappropriate behaviours to be identified and addressed
- Promote good community engagement
- Promote adherence to the overarching governance principles of the LGA 2020.

## A3 Principles

In accordance with s60(2) of the Act, Council decisions will be:

- Considered and made fairly, by giving consideration in a balanced, ethical and impartial manner
- Made on the merits, free from favouritism or self interest
- Made in adherence to the principles of natural justice, including that any person whose rights are directly affected by a decision is entitled to communicate their views and have their interests considered.

Council must, in the performance of its role, give effect to the overarching governance principles outlined in the Act. These principles are:

- Council decisions are to be made and actions taken in accordance with the relevant law;
- Priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- The municipal community is to be engaged in strategic planning and strategic decision making;
- Innovation and continuous improvement is to be pursued;

- Collaboration with other Councils and Governments and statutory bodies is to be sought;
- The ongoing financial viability of the Council is to be ensured;
- Regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
- The transparency of Council decisions, actions and information is to be ensured.

#### **A4 Definitions**

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

<i>Act</i>	means the <i>Local Government Act 2020</i>
<i>Advisory committee</i>	means a committee established by the Council, that provides advice to: <ul 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> </ul> that is not a Delegated Committee or a Community Asset Committee.
<i>Agenda</i>	means a document containing the date, time, and place of a meeting, and a list of business to be transacted at the meeting
<i>Audit and Risk Committee</i>	means the Audit and Risk Committee established by a Council under s53 of the Act
<i>Chairperson</i>	means the person who chairs a meeting of the Council, Delegated Committee, Community Asset Committee, or Advisory Committee, and includes an acting, temporary or substitute Chairperson
<i>Chamber</i>	means any room where the Council holds a Council meeting
<i>Chief Executive Officer</i>	means the person occupying the office of Chief Executive Officer of Council, or any person acting in that position during their absence
<i>Code of Conduct</i>	has the same meaning as in the Act
<i>Community Asset Committee</i>	means a Community Asset Committee established under s65 of the Act
<i>Council</i>	means the Alpine Shire Council
<i>Councillor</i>	means a person who is an elected member of the Council
<i>Council meeting</i>	means a meeting of the Council, comprised entirely of Councillors, held in accordance with s61(1) of the Act and held in accordance with these Governance Rules, and includes both Ordinary (scheduled) and Special (unscheduled) meetings
<i>Delegate</i>	means a member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation

<i>Delegated Committee</i>	has the same meaning as established under s63 of the Act
<i>Delegated Committee meeting</i>	means a meeting of a Delegated Committee
<i>Deputy Mayor</i>	means the Deputy Mayor of the Council, or any person appointed by Council to act as Deputy Mayor
<i>Disorder</i>	means any disorderly conduct of a member of the Gallery or a Councillor and includes: <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;</li> <li>• making comments that are defamatory, malicious, abusive or offensive;</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; and</li> <li>• engaging in any other conduct which prevents the orderly conduct of the meeting.</li> </ul>
<i>Division</i>	means a formal count and record taken of those for and against a motion
<i>Foreshadowed Item</i>	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
<i>Lot</i>	means a decision or choice made by drawing a card from a container
<i>Mayor</i>	means the Mayor of Council, or any person acting in that position during their absence
<i>Minister</i>	means the Minister responsible for administering the Act (Minister for Local Government)
<i>Minutes</i>	means the official record of the proceedings and decisions of a meeting
<i>Motion</i>	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
<i>Municipal district</i>	means the municipal district of Council
<i>Notice of Motion</i>	means a notice setting out the text of a Motion which a Councillor proposes to move at a Council meeting
<i>Notice of Rescission</i>	means a Notice of Motion to rescind a resolution made by Council
<i>Offence</i>	means an act or default contrary to the Governance Rules
<i>On Notice</i>	means held or deferred to enable preparation of a response
<i>Ordinary meeting</i>	means any meeting of Council which is not a Special meeting

<i>Penalty unit</i>	has the meaning ascribed to it by s110(2) of the <i>Sentencing Act 1991</i>
<i>Point of Order</i>	means a procedural point about how the meeting is being conducted, not involving the substance of a matter before a meeting
<i>Preside</i>	means to act as chairperson of the Council meeting
<i>Procedural Motion</i>	means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision
<i>Public notice</i>	means a notice published in one or more of the following locations: <ul style="list-style-type: none"> <li>a. Council's website;</li> <li>b. in a newspaper generally circulating in the municipal district of the Council</li> </ul>
<i>Resolution</i>	means a motion moved, seconded and carried by a vote of the meeting
<i>Special meeting</i>	means an extra-Ordinary meeting of Council convened for a particular purpose that cannot be effectively dealt with in the schedule of Ordinary Council meetings set by Council
<i>Suspension of standing orders</i>	means the suspension of the provisions of these Governance Rules to facilitate full discussion of an issue without formal constraints
<i>s# or s#(#)</i>	Reference to a section in the Act
<i>Urgent Business</i>	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

# Chapter 2 Procedure for Election of Mayor and Deputy Mayor

## PART A BACKGROUND

### A1 Overview

The role and functions of the Mayor are provided in the Act. The holder of this significant office is the Chairperson at Council meetings, is the leader of the Councillors, acts as the principal spokesperson for Council and carries out civic and ceremonial duties.

This section describes how the Mayor and Deputy Mayor are to be elected in accordance with s25-s27 of the Act.

### A2 Timing

Election of a Councillor to the office of Mayor must occur no later than one month after the date of a general election. In following years, the next election of the Mayor must be held on a day that is as close to the end of the term of Mayor as possible.

At all other times after a vacancy in the office of the Mayor, an election must be held within one month of the vacancy occurring.

### A3 Meeting Format

The election of the Mayor must take place at a meeting of the Council that is open to the public. The Chief Executive Officer will preside at the election of a Councillor to the office of Mayor noting that the Chief Executive Officer has no voting rights.

The elected Mayor will then preside over the election of Deputy Mayor.

### A4 Term of Office

Prior to the election of the Mayor, the Council must resolve to elect a Councillor to the office of Mayor for a term of one year or two years.

### A5 Nominations

Subject to s167 of the Act, any Councillor is eligible for election or re-election to the office of Mayor. Candidates must be nominated by another Councillor.

A nomination must be seconded to be eligible to be put to a vote. A Councillor nominated may accept or refuse the nomination. Only accepted nominations will be put to a vote.

A nominator may only nominate one Councillor and a seconder may only second one nomination.

### A6 Sole Candidate Must be Elected



If only one Councillor is a candidate, they must be duly elected.

### **A7 Voting**

Councillors present at the time of voting must vote. There must be a quorum (4 or more Councillors) present at the meeting to enable a vote to be taken.

Voting for the election of Mayor and Deputy Mayor is by a show of hands.

### **A8 Absolute Majority Requirement**

An absolute majority of votes is required to be elected, meaning at least half the total number of Councillors of the Council. There are no casting votes. If an absolute majority of the Councillors cannot be obtained, the Council may resolve to conduct a new election at a later specified time and date.

### **A9 Deputy Mayor**

A council may establish an office of Deputy Mayor in accordance with s20A of the Act.

Where a council chooses not to elect a Deputy Mayor, it must follow the provisions of s20B of the Act and appoint an Acting Mayor in accordance with that section if:

- (a) the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or
- (b) the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or
- (c) the office of Mayor is vacant.

Council has historically:

- appointed a Councillor to the office of Deputy Mayor to fulfil the requirements of s20A of the Act, that is a Councillor to act on behalf of the Mayor; and
- aligned the length of the term of the Deputy Mayor to that of the office of the Mayor.

It is assumed for the purpose of this procedure that the historical precedence will be maintained.

## **PART B DETAILED STEPS, PROCEDURES AND ACTIONS**

### **B1 Term of office of the Mayor**

B1.1 The Chief Executive Officer will request a motion on the term of the office of the Mayor.

B1.2 The term must be either one year or two years.

### **B2 Nominations**

B2.1 The Chief Executive Officer will invite nominations for the office of Mayor.

B2.2 The Chief Executive Officer will ask for a seconder for each nomination.

- B2.2.1 If a seconder is not forthcoming the nomination lapses.
- B2.2.2 If a nomination is seconded, the Chief Executive Officer will ask the nominated Councillor if they accept the nomination.
- (a) If the nominated Councillor refuses the nomination the nomination lapses.
  - (b) If the nominated Councillor accepts the nomination, the nomination is put to the vote.

### **B3 Voting: when only one nomination is received**

- B3.1 If only one nomination (seconded and accepted) is received, a vote is not taken and the Councillor nominated will be declared elected to the office of Mayor.

### **B4 Voting: when two nominations are received**

- B4.1 The Chief Executive Officer will invite each Councillor nominated (in the order that the nominations were received) to address the Council for no more than five minutes.
- B4.2 The Chief Executive Officer will put each nomination to the vote in the order that the nominations were received.
- B4.2.1 If one of the nominees receives an absolute majority, they will be declared elected to the office of Mayor.
  - B4.2.2 In the event that the vote results in an equality of votes (for example a 3-3 vote outcome), the Council may resolve to conduct a new election at a later specified time and date. Otherwise, the Chief Executive Officer will conduct a Lot (refer to B6) to determine which nominee is declared elected to the office of Mayor.

### **B5 Voting: when more than two nominations are received**

- B5.1 The Chief Executive Officer will invite each Councillor nominated (in the order that the nominations were received) to address the Council for no more than five minutes.
- B5.2 The Chief Executive Officer will put each nomination to the vote in the order that the nominations were received.
- B5.2.1 If one of the nominees receives an absolute majority, they will be declared elected to the office of Mayor.
  - B5.2.2 In the event that the vote results in no nominee receiving an absolute majority, the Council may resolve to conduct a new election at a later specified time and date. Otherwise:
    - a. where one nominee clearly has the lowest number of votes (for example a 3-3-1 vote outcome) the Chief Executive Officer will:
      - Eliminate the nominee with the lowest number of votes from the election.

- Put each of the remaining nominations to the vote in the order that the nominations were received and the nominee that receives a majority of the votes will be declared elected to the office of Mayor.
- b. where two or more nominees have the equal lowest number of votes (for example a 3-2-2 vote outcome), the Chief Executive Officer will:
- Conduct a Lot to determine which nominee is eliminated.
  - Put each of the remaining nominations to the vote in the order that the nominations were received and the nominee that receives a majority of the votes will be declared elected to the office of Mayor.
- c. where three nominees have an equal number of votes (for example a 2-2-2 vote outcome), the Chief Executive Officer will:
- Conduct a Lot to determine which nominee is eliminated.
  - Put each of the remaining nominations to the vote in the order that the nominations were received and where:
    - one of the nominees receives a majority of the votes, they will be declared elected to the office of Mayor;
    - where the nominees have an equal number of votes (eg. a 3-3 vote outcome), the Chief Executive Officer will conduct a Lot to determine which nominee is declared elected to the office of Mayor.

## **B6 Determination by Lot**

- B6.1 In the event that two or more nominees have an equal number of votes and a determination by Lot is required, the Chief Executive Officer will conduct the Lot to declare the nominee either elected or eliminated as the case requires.
- B6.2 The following process for conducting the Lot will apply:
- B6.2.1 For every nominee who receives an equal number of votes, and is therefore subject to the Lot, an identical card will be placed in a container.
  - B6.2.2 Each nominee will draw one card from the container in the order that the nominations were received;
- B6.3 Where the Lot is being conducted to determine who is an eliminated nominee:
- B6.3.1 the word 'eliminated' will be imprinted on one of the cards; and
  - B6.3.2 the nominee who draws the card with the word 'eliminated' on it will be declared as an eliminated nominee.
- B6.4 Where the Lot is being conducted to determine which nominee is to be elected:
- B6.4.1 the word 'elected' will be imprinted on one of the cards; and
  - B6.4.2 the nominee who draws the card with the word 'elected' on it will be declared elected to the office of Mayor.

**B7 Statement by outgoing Mayor**

The Chief Executive Officer will invite the outgoing Mayor to address the Council.

**B8 Statement by incoming Mayor**

The Chief Executive Officer will invite the incoming Mayor to address the Council.

**B9 Mayor to take Chair**

The Mayor must take the Chair of the meeting immediately after being elected and preside over the balance of the business to be transacted at the meeting including the matters relating to the office of Deputy Mayor.

**B10 Office of Deputy Mayor**

The Mayor will conduct an election for the office of Deputy Mayor using the procedures detailed under sections 1 to 6 of this procedure (replacing the words Mayor with Deputy Mayor and Chief Executive Officer with Mayor as required).

## Chapter 3 Meeting Procedure for Council meetings

### PART A INTRODUCTION

#### **A1 Purpose of Council meetings**

- A1.1 Council holds Ordinary (scheduled) and when required, Special (unscheduled) meetings to conduct the business of Council.
- A1.2 Council is committed to transparency in decision making, and in accordance with s66 of the Act, Council meetings are open to the public and the community are able to attend.
- A1.3 Meetings will only be closed to members of the public if:
- There are clear reasons for particular matters to remain confidential; or
  - A meeting is required to be closed for security reasons; or
  - It is necessary to enable the meeting to proceed in an orderly manner.

### PART B MEETING ROLES

#### **B1 Chairperson and Councillors**

- B1.1 The Chairperson and Councillors will ensure good Council decision-making by endeavouring to ensure:
- Decision making is transparent to members and observers;
  - Meeting members have sufficient information to make good decisions;
  - Every Councillor is able to contribute to decision making;
  - Any person whose rights are affected has their interests considered;
  - Debate and discussion is focussed on the issues at hand;
  - Meetings are conducted in an orderly manner;
  - Decisions are made on the merits of the matter.

#### **B2 Mayor to take the Chair**

- B2.1 In accordance with s61 and s63 of the Act, the Mayor must take the Chair at all Council meetings at which the Mayor is present.
- B2.2 If the Mayor is not in attendance at a Council meeting, the Deputy Mayor must take the Chair.
- B2.3 If the Mayor and Deputy Mayor are not in attendance at a Council meeting, Council must appoint one of the Councillors as Chairperson of the meeting by resolution.

### **B3 Chairperson's Duties and Discretions**

B3.1 In addition to the specific duties and discretions provided in these Governance Rules, the Chairperson:

- Must not accept any Motion, question or statement which is:
  - Vague or ambiguous;
  - Defamatory, malicious, abusive or objectionable in language or substance; or
  - Outside the powers of Council.
- Must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise during the meeting;
- Must call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council;
- May direct that a vote be recounted to be satisfied of the result; and
- Must decide on all points of order.

## **PART C NOTICES OF MEETINGS AND AGENDA**

### **C1 Scheduling of Ordinary Council meetings**

C1.1 The date, time and locations of Ordinary Council meetings will be fixed by Council from time to time.

C1.2 Notwithstanding sub-clause (C1.1) the date, time and location of a Council meeting may be altered by:

- Council resolution, or
- the Chief Executive Officer may change the date, time and place of, or cancel, any Council meeting which has been fixed.

Public notice of any change of schedule must be made in accordance with sub-sections (C1.3) and (C1.4).

C1.3 A schedule of Council meetings must be prepared and published on Council's website at least once a year, and with such frequency as the Chief Executive Officer determines.

C1.4 Public notice of upcoming Ordinary Council meetings must be given in accordance with Rule C3.

## **C2 Special Council meetings**

- C2.1 A Special Council meeting, outside the Schedule set in Rule C1, may be called in the following manner:
- By resolution of the Council; or
  - By written notice from the Mayor; or
  - By written notice from at least three Councillors; or
  - By the Chief Executive Officer immediately following a general election to allow:
    - i. Councillors to take their oath or affirmation of office, or
    - ii. An Election of Mayor or Deputy Mayor.
- C2.2 The resolution or written notice must specify:
- The date and time of the Special Council meeting; and
  - The business to be transacted.
- C2.3 The resolution or written notice in sub-section C2.2 must be provided to the Chief Executive Officer to allow sufficient time for public notice and preparation of the agenda.
- C2.4 Public notice, containing the items specified in the resolution or written notice, should be given in accordance with Rule C3.
- C2.5 The Chief Executive Officer must convene the Special Council meeting in accordance with the resolution or written notice.
- C2.6 Unless all Councillors unanimously agree either at the meeting or in writing prior to the meeting to deal with any other matter, only the business specified in the resolution or written notice is to be transacted.

## **C3 Public notice of Council meetings**

- C3.1 Unless urgent or extraordinary circumstances apply, Council must at least six days before the holding or any type of Council meeting, give public notice.
- C3.2 If urgent or extraordinary circumstances prevent Council from complying with sub-section C3.1 the Council must:
- Give such public notice as is practicable; and
  - Specify the urgent or extraordinary circumstances which prevented the Council from complying with sub-section C3.1.

**C4 Order of business**

- C4.1 The Chief Executive Officer is responsible for determining the order and content of business of any Council meeting.
- C4.2 A notice of a meeting, incorporating or accompanied by an agenda and the business to be dealt with, must state:

- the date, time and place of the meeting; and
- the business to be dealt with.

No business may be conducted at an Ordinary meeting of Council unless it is business notice of which has been given either by:

- inclusion in the agenda, or
- any report accompanying the agenda, or
- in a notice of motion,

provided that the Council may resolve to admit (without such notice) an item considered to be urgent business, not being a matter which required that notice shall be given.

**C5 Agenda distribution**

- C5.1 This clause applies to both Ordinary and Special Council meetings.
- C5.2 At least 48 hours before a meeting is scheduled to occur, an agenda incorporating the business to be dealt with must be:
- Delivered to each Councillor by electronic means; and
  - Published on Council's website.
- C5.3 If it is not possible to comply with sub-rule C5.2 for any reason, the Chief Executive Officer must ensure delivery and publication of the agenda as soon as reasonably possible.



## PART D APOLOGIES AND ABSENCES

### D1 Apologies

- D1.1 Councillors who are unable to attend a meeting may submit an apology:
- To the Chairperson, who will advise the meeting; or
  - By seeking another Councillor to submit it at the meeting on their behalf.
- D1.2 An apology submitted to a meeting will be recorded in the minutes.

### D2 Leave of absence

- D2.1 A Councillor intending to take a leave of absence should formally advise the Mayor and Chief Executive Officer.
- D2.2 The Chief Executive Officer will include any leave of absence request received in the agenda of the next Council meeting.
- D2.3 A leave of absence not included in a Council meeting agenda may still be considered by Council if a formal request has been received by the Mayor and Chief Executive Officer prior to the meeting.
- D2.4 Council will not unreasonably withhold its approval of a leave of absence request.
- D2.5 A Councillor who has not submitted an apology or had a leave of absence approved who is not in attendance at a Council meeting will be recorded as absent.

## PART E QUORUMS

### E1 Quorum to be present

- E1.1 No business may be conducted at any Council meeting unless a quorum is present.
- E1.2 Quorum means presence by a majority of Councillors. For the avoidance of doubt, where there are seven (7) Councillors elected, a quorum is four (4) Councillors present at the meeting.

### E2 Inability to achieve or maintain a quorum

- E2.1 If no quorum can be obtained or maintained within 45 minutes of the Council meeting commencing or the quorum being lost, the Chief Executive Officer must adjourn the meeting to another date and time.
- E2.2 Unless the meeting is adjourned to a later time on the same day, the Chief Executive Officer or delegate, must give notice of the adjourned meeting in accordance with Rule C3 and C5.

### E3 Inability to achieve or maintain a quorum due to Conflicts of Interest

- E3.1 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. The Chief Executive Officer must give notice of the adjourned meeting in accordance with Rule C3 and C5.

- E3.2 If a quorum cannot be achieved or maintained due to the declaration of conflicts of interest by the majority of Councillors, Council will:
- Determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
  - Determine to make decisions on separate parts of the matter at a meeting where a quorum can be maintained, before making a decision on the whole matter at a meeting for which a quorum can be maintained.

## PART F DURING A COUNCIL MEETING

### F1 Confirmation of Minutes

- F1.1 At every Ordinary meeting of the Council the minutes of the previous meetings must be dealt with as follows:
- if the minutes have been delivered to each Councillor at least 48 hours before the meeting a motion must be passed for confirmation of the minutes; or
  - if the minutes have not been so delivered the minutes must be read and a motion must be passed for confirmation of the minutes.
- F1.2 No discussion is permitted on the minutes except as to their accuracy as a record of proceedings.

### F2 Motions

- F2.1 Motions must be clear and unambiguous and not be defamatory or objectionable in language or nature.
- F2.2 The chairperson may require motions to be put in writing.
- F2.3 Where a motion contains more than one part, the Chairperson may put the motion to the vote in separate parts.

### F3 Procedure for Moving a Motion

- F3.1 The mover must state the nature of the motion.
- F3.2 The chairperson must call for a seconder unless the motion is a call to enforce a point of order.
- F3.3 If there is no seconder the motion lapses.
- F3.4 If there is a seconder then the chairperson must call the mover to address the meeting.
- F3.5 After the mover has addressed the meeting the seconder may address the meeting.

- F3.6 After the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting) the chairperson must call upon any Councillor who wishes to speak against the motion.
- F3.7 If no Councillor speaks against the motion then the chairperson may put the motion or call any other member to speak.

#### **F4 Procedure for moving an Amendment**

- F4.1 Any Councillor may move or second an amendment.
- F4.2 A Councillor may speak once on the motion and once on any amendment, except for the mover of an original motion which has not been amended (but not of an amendment) who has a right of reply after which the motion must be put to the meeting for decision.
- F4.3 A Councillor may be permitted by the chairperson or by resolution to speak more than once to explain that the Councillor has been misrepresented or misunderstood.
- F4.4 A Councillor calling the attention of the chairperson to a point of order is not regarded as speaking to the motion or the amendment.
- F4.5 No motion or amendment may be withdrawn without the consent of the meeting.
- F4.6 Amendments must be dealt with one at a time.
- F4.7 An amendment must not be considered until any previous amendment is decided upon.

#### **F5 Conduct of Debate**

- F5.1 A Councillor must address the chairperson to move a motion, amendment or take part in the debate.
- F5.2 Councillors and members of Staff must designate each other by their official titles.
- F5.3 Once acknowledged by the chairperson the Councillor has the floor and must not be interrupted unless called to order or time has expired.
- F5.4 Debate must be relevant to the motion, and if not, the chairperson must request the speaker to confine debate to the motion.

**F6 Points of Order**

F6.1 The chairperson is the final arbiter of all points of order.

F6.2 The point of order may be taken on the grounds that the matter is:

- contrary to this local law;
- defamatory;
- irrelevant;
- outside Council's power; or
- improper.

**F7 Time Limits**

F7.1 No Councillor may speak longer than the time set out below unless granted an extension by the meeting:

- |   |           |
|---|-----------|
| • The mover of a motion                             | 5 minutes |
| • Any other member                                  | 3 minutes |
| • The mover of a motion exercising a right of reply | 2 minutes |

**F8 Voting**

F8.1 All voting on matters is by show of hands.

F8.2 Where a Councillor intends to abstain from voting on a matter the Councillor must indicate to the chairperson that they are abstaining from voting.

F8.3 If there is an equal division of votes upon any matter, other than the election of the Mayor or Deputy Mayor, the chairperson at such meeting shall in addition to a vote as a Councillor have a second or casting vote.

F8.4 A Councillor may, after a vote on a motion or amendment has been taken, request that their opposition or support of the motion or amendment be recorded in the minutes of the meeting.

**F9 Divisions**

F9.1 Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.

F9.2 When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.

F9.3 When a division is called by a Councillor the vote must be taken by Councillors voting in an affirmative first holding up their hands and then those voting in the negative holding up their hands. The chairperson must declare the result.

F9.4 The Chief Executive Officer must record in the minutes the names of Councillors and whether they voted for or against.

**F10 No Discussion Once Declared**

F10.1 Once a vote on a question has been taken, no further discussion relating to the question is allowed unless the discussion involves:

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

*For example, Rule F10 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.*

*Equally, Rule F10 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.*

*Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference to discussion about a positive motion were a resolution has just been rescinded.*

**F11 Notice of Motion**

F11.1 A notice of motion must:

- Identify two supporting Councillors who are not obliged to move, second or vote in favour of the motion but are of the opinion that the proposed motion relates to a matter sufficiently important that it warrants formal consideration by Council;
- Briefly explain the rationale for the proposed motion, with any supporting documentation being not more than 500 words;
- Be lodged either electronically or in writing, with the Chief Executive Officer by 5pm on the 10<sup>th</sup> working day prior to the date of the meeting to allow sufficient time for the notice of motion to be included in the Agenda for the next Council meeting;
- Call for a Council report to be presented to the following Ordinary Council meeting if proposing any action that:
  - Impacts on the levels of Council service
  - Proposes to establish, amend or extend council policy
  - Proposes to impact the rights of any person who has not had the opportunity to contribute their views
  - Commits Council to any contractual arrangement
  - Concerns any litigation in respect of which Council is a party.

F11.2 The Chief Executive Officer may reject any notice of motion which:

- is the same as, or similar intent to, a notice of motion or other motion (including lost and lapsed motions) that has been considered by Council in the preceding six (6) months;
  - is vague or unclear in intention;
  - is defamatory;
  - may be prejudicial to any person or Council;
  - is objectionable in language or nature;
  - is outside the powers of Council;
  - is submitted during an Election Period; or
  - if passed would result in Council otherwise acting invalidly,
- but must give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so.

F11.3 Except by resolution of Council, notice of motion before any Council meeting must be considered in the order in which they were submitted.

F11.4 If both Councillors who have given a notice of motion:

- a. Are absent from the Council meeting; or
- b. Fail to move the motion when called upon by the Chairperson;

any other Councillor may move the notice of motion.

F11.5 If a notice of motion is not moved and seconded at the Council meeting for which it was included in the agenda, it lapses.

F11.6 Before the notice of motion is put to the vote, it may be withdrawn by the two supporting Councillors.

## **F12 Revocation or Alteration of Previous Resolution (notice of rescission)**

F12.1 A notice of motion to revoke or alter a previous resolution:

- Must be signed by two Councillors;
- must be given to the Chief Executive Officer in sufficient time to enable 7 clear days' notice to all Councillors;
- must be deemed withdrawn if not moved at the next meeting at which such business may be transacted;
- if it is a second or subsequent notice to revoke or alter an earlier resolution, must not be accepted by the Chief Executive Officer until a period of one month has elapsed after the date of the meeting at which the first or last motion of revocation or alteration was dealt with;
- is not valid if the resolution of Council has been acted upon, including if its details have been formally communicated to persons affected by or reliant on the resolution, or where a statutory procedure has commenced.

F12.2 A revocation or alteration of a previous resolution must be passed by an absolute majority of the whole of the Councillors.

**F13 Foreshadowed motions**

- F13.1 At any time during debate a Councillor may foreshadow a motion, so as to inform Council of their intention to move a motion at a later stage in the meeting.
- F13.2 Foreshadowing a motion does not extend any special right to the motion.
- F13.3 The Chairperson is not obliged to accept foreshadowed motions.

**F14 Behaviour*****F14.1 Suspension***

- F14.1.1 Council may suspend from a meeting and for the balance of the meeting any Councillor, or member of the public gallery, whose actions have disrupted the business of the Council and impeded its orderly conduct.

***F14.2 Removal from Chamber***

- F14.2.1 The chairperson, or the Council in the case of a suspension, may ask a senior member of Staff or a member of the police force to remove from the chamber any person whose behaviour disrupts any meeting or fails to comply with a direction from the chairperson.

***F14.3 Chairperson may close a meeting to the public gallery***

- F14.3.1 In accordance with s66(2)(b) and s66(2)(c) of the Act, the chairperson may close a meeting to the public gallery where there are security reasons, or to enable the meeting to proceed in an orderly manner.
- F14.3.2 Where a meeting is closed as such, the meeting must continue to be livestreamed and recorded, in accordance with s66(3) of the Act.

***F14.4 Chairperson may adjourn disorderly meeting***

- F14.4.1 If the chairperson is of the opinion that disorder at the Council table or in the public gallery makes it desirable to adjourn the Council meeting, they may adjourn the meeting to a later time on the same day, or to some later day as they think proper.
- F14.4.2 In the event that a meeting is adjourned, the Chief Executive Officer must provide notice to each Councillor and provide public notice of the date, time and place of the meeting, and the business remaining to be transacted.

## PART G OTHER MATTERS

### **G1 Recording of council meetings**

- G1.1 Council meetings that are open to the public will be audio-visually recorded by Council, and made available to the public via its website: [www.alpineshire.vic.gov.au](http://www.alpineshire.vic.gov.au).
- G1.2 Where a meeting or part of a meeting is closed to the public to consider confidential information, the meeting or part of a meeting will not be livestreamed or recorded.
- G1.3 Where a public gallery is removed from a Council meeting for either security reasons, or to enable the meeting to proceed in an orderly manner, the meeting will continue to be livestreamed.
- G1.4 Where there are any issues that cause a delay to livestreaming, such as inability to obtain a quorum, or technology issues preventing broadcast, the Chief Executive Officer will attempt to advise the general public through the appropriate channels, including but not limited to Council's social media platforms.
- G1.5 Except where Council conducts the recording, no video or audio recording of proceedings of Council meetings shall be permitted without specific approval by resolution of the meeting.

### **G2 Petitions**

- G2.1 No petition shall be considered until the next ordinary meeting of the Council after that at which it was presented unless otherwise resolved by the Council.
- G2.2 Every petition presented to Council must:
- be in permanent ink writing (not pencil), typing or printing;
  - be clear, and on each signatory page contain a statement which outlines the matter and action sought from Council;
  - not be derogatory, defamatory, or objectionable in language or nature;
  - not relate to matters outside the functions and powers of Council; and
  - contain the names, addresses and original signatures of at least ten (10) people.
- G2.3 Any signature appearing on a page which does not bear the text of the whole of the petition or request as outlined in 2(b) may not be considered by Council.
- G2.4 Where a petition has been signed by less than ten (10) people, it may be treated as a joint letter, and forwarded directly to the appropriate member of Council staff for action as an operational item.

### **G3 Public Question Time**

- G3.1 There must be a public question time at every Ordinary Council meeting fixed under Rule C1 to enable members of the public to submit questions to Council, with the exception of the Council meeting held immediately before a general election.



- G3.2 Sub-Rule G3.1 does not apply during any period when a meeting is closed to members of the public in accordance with s66(2) of the Act.
- G3.3 Questions submitted to Council may be:
- Submitted as a "Question on Notice" to the Chief Executive Officer in writing by 5pm on the day prior to the Council meeting, stating the name and contact details of the person submitting the question; or
  - At the chairperson's discretion, asked directly by a member of the public gallery at the Council meeting during public question time.
- G3.4 No person may submit or ask more than two questions at any one meeting.
- G3.5 The chairperson or a member of Council staff nominated by the chairperson may read to those present at the meeting a question which has been submitted in accordance with this Rule.
- G3.6 A question may be disallowed by the chairperson if the chairperson determines that it:
- is not related to an item on the agenda;
  - relates to a matter outside the duties, functions and powers of Council;
  - is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - deals with a subject matter already answered;
  - is aimed at embarrassing a Councillor or a member of Council staff;
  - relates to confidential information as defined in s3 of the Act;
  - relates to the personal hardship of any resident or ratepayer; or
  - relates to any other matter which the Council considers would prejudice the Council or any person.
- G3.7 A Councillor, the Chief Executive Officer, or a member of staff may require a question to be put on notice. If a question is put on notice, an answer will be provided to the person who asked the question as soon as practical after the meeting.

#### **G4 Form and Availability of Minutes**

- G4.1 The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and to take the minutes of such meeting) must keep minutes of each Council meeting, and those minutes must record:
- The date, place, time and nature of the meeting;
  - The names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
  - The names of the members of Council staff present;
  - Any disclosure of a conflict of interest made by a Councillor;
  - Each motion and amendment moved;
  - The vote cast by each Councillor upon a division, or by any Councillor who has requested that their vote be recorded in the minutes;

- Questions upon notice;
  - The failure of a quorum;
  - The adjournment of the meeting and the reasons for that adjournment;
  - The time at which standing orders were suspended and resumed.
- G4.2 The Chief Executive Officer must ensure that the minutes of any Council meeting are published on Council's website and are available for inspection at Council's office during normal business hours.
- G4.3 In accordance with s66 of the Act, if a meeting is closed to the public to consider confidential information, the minutes must record the grounds for determining to close the meeting.

## Chapter 4 Joint Council meetings

Regional collaboration can provide substantial benefits through activities such as joint procurement, joint projects, shared services, and combined advocacy. While on some collaborative matters it is possible for the participating Councils to make their own decisions and determinations, in some circumstances, it may be beneficial to hold Joint Council meetings as provided for in the Act.

- A1.1 Council may resolve to participate in a Joint Council meeting with one or more other Councils, in accordance with s62 of the Act.
- A1.2 Procedures for the holding of Joint Council meetings must be agreed on by the participating Councils prior to the meeting. The Chief Executive Officer may seek the agreement of the other Councils prior to the meeting.
- A1.3 Councils must elect to follow the Governance Rules of one nominated Council while holding Joint Council meetings.
- A1.4 Where Alpine Shire Council is the lead Council calling the Joint Council meeting, the Alpine Shire Council Mayor will be Chairperson of the Joint meeting.
- A1.5 All Alpine Shire Councillors must be invited to the Joint Council meeting. All Councillors from all participating councils must receive consistent information through pre-meeting briefings and agenda papers.
- A1.6 A joint briefing may be organised between Councils prior to the Joint Council meeting. This joint briefing may be held electronically.

## Chapter 5 Meeting Procedure for Delegated Committees

### A1 Meeting Procedure Generally

A1.1 If Council establishes a Delegated Committee:

A1.1.1 all of the provisions of Chapter 3 apply to meetings of the Delegated Committee; and

A1.1.2 any reference in Chapter 3 to:

- a. a Council meeting is to be read as a reference to a Delegated Committee meeting;
- b. a Councillor is to be read as a reference to a member of the Delegated Committee; and
- c. the Mayor is to be read as a reference to the chairperson of the Delegated Committee.

### A2 Meeting Procedure Can Be Varied

A2.1 Notwithstanding Rule 1, if Council establishes a Delegated Committee that is not composed solely of Councillors:

- Council may, or
- the Delegated Committee may, with the approval of Council

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

### A3 Delegated Committee Chairperson

A3.1 At the meeting at which Council establishes a delegated committee it must also appoint a chairperson.

A3.2 The chairperson of a delegated committee must be a Councillor.

A3.3 For the avoidance of doubt, sub-rule (1) does not intend to limit the powers of the Mayor provided in the Act. The Act provides for the Mayor to appoint a Councillor as chairperson of a Delegated Committee and any such appointment prevails over any appointment made by Council.

## Chapter 6 Meeting Procedure for Community Asset Committees and other committees under the auspices of Council

### A1 Introduction

In this Chapter, "Instrument of Delegation" means an instrument of delegation made by the Chief Executive Officer under s47(1)(b) of the Act.

### A2 Meeting Procedure for Community Asset Committees

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

A Community Asset Committee must report the minutes of all committee meetings to the Chief Executive Officer.

A Community Asset Committee must act in accordance with its adopted Charter, Instrument of Delegation, and any Terms of Reference adopted by Council.

### A3 Meeting Procedure for other committees under the auspices of Council

A "meeting conducted under the auspices of Council" means a meeting of the kind described in s131(1) of the Act, and includes:

- Councillor briefing sessions;
- Advisory committees formed by Council; and
- Reference groups formed by Council.

Unless anything in the Terms of Reference provide otherwise, the conduct of a meeting of a committee under the auspices of Council, is in the discretion of that committee.

### A4 Meeting Procedure for Council's Audit and Risk Committee

The Governance Rules do not apply to the Audit and Risk Committee.

The Audit and Risk Committee must comply with its own Charter.

## Chapter 7 Disclosure of Conflicts of Interest

### 1. Introduction

The following Rules in this Chapter apply only upon Division 1A of Part 4 of the *Local Government Act 1989* being repealed.

#### A1 Definition

In this Chapter:

- A1.1 “meeting conducted under the auspices of Council” means a meeting of the kind described in s131(1) of the Act, and includes a meeting referred to in Rule A3 of Chapter 6 (whether such a meeting is known as a ‘Councillor Briefing Session’ or by some other name); and
- A1.2 a member of a Delegated Committee includes a Councillor.

#### A2 Obligations with regards to conflict of interest

Councillors, members of Delegated Committee, and Council staff are required to:

- Avoid all situations which may give rise to conflicts of interest;
- Identify any conflicts of interest; and
- Disclose or declare all conflicts of interest.

#### A3 Disclosure of a Conflict of Interest at a Council meeting

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

- A3.1 are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Council meeting immediately before the matter is considered; or
- A3.2 intends to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Council meeting commences a written notice:
- A3.2.1 advising of the conflict of interest;
- A3.2.2 explaining the nature of the conflict of interest; and
- A3.2.3 detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:
- a. name of the other person;
  - b. nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
  - c. nature of that other person’s interest in the matter,

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

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

#### **A4 Disclosure of Conflict of Interest at a Delegated Committee meeting**

A4.1 A member of a Delegated Committee who has a conflict of interest in a matter being considered at a Delegated Committee meeting must follow the procedure outlined in A3, where a reference to:

- a Council meeting is to be read as a reference to a Delegated Committee meeting;
- a Councillor is to be read as a reference to a member of the Delegated Committee; and
- the Chief Executive Officer is to be read as a reference to the Chairperson of the Delegated Committee.

A4.2 The Chairperson of the Delegated Committee meeting must ensure that any Conflicts of Interest are included in the minutes of the meeting and forwarded to the Chief Executive Officer.

#### **A5 Disclosure of a Conflict of Interest by a Councillor attending a Community Asset Committee meeting, or any other meeting under the auspices of Council**

A Councillor who has a conflict of interest in a matter being considered at a Community Asset Committee meeting, or any other meeting under the auspices of Council, at which they are present must follow the procedure outlined in A3 where a reference to a Council meeting is to be read as a reference to a Community Asset Committee meeting, or the relevant committee meeting at which the Councillor is present.

#### **A6 Disclosure by Members of Council Staff Preparing Reports for meetings**

A6.1 A member of Council staff who, in their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a Report for the consideration of a:

- Council meeting;
- Delegated Committee meeting;
- Community Asset Committee meeting; or
- Any other meeting under the auspices of Council

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

- A6.2 The Chief Executive Officer must ensure that the Report referred to in sub-Rule 6.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.
- A6.3 If the member of Council staff referred to in sub-Rule 6.1 is the Chief Executive Officer:
- A6.3.1 the written notice referred to in sub-Rule 6.1 must be given to the Mayor; and
  - A6.3.2 the obligation imposed by sub-Rule 6.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

### **A7 Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power**

- A7.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest.
- A7.2 If the member of Council staff referred to in sub-Rule 7.1 is the Chief Executive Officer the written notice must be given to the Mayor.

### **A8 Disclosure by a Member of Council Staff in the Exercise of a Statutory Function**

- A8.1 A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest.
- A8.2 If the member of Council staff referred to in sub-Rule 9.1 is the Chief Executive Officer the written notice must be given to the Mayor.

### **A9 Advice provided by a Member of Council Staff with a disclosed conflict of interest**

A member of Council staff who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation or authorisation if:

- The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
- The staff member's Director determines that the conflict of interest has not influenced the advice provided; and
- 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.

Where the staff member is a Director, the Chief Executive Officer must determine that the conflict of interest has not influenced the advice provided. Where the staff member is the Chief Executive Officer, this determination is to be made by the Mayor.



## **A10 Retention of Written Notices**

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

## Chapter 8 Miscellaneous

### A1 Informal meetings of Councillors

A1.1 If there is a meeting of Councillors that:

A1.1.1 is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;

A1.1.2 is attended by at least one member of Council staff; and

A1.1.3 is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting,

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

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

### A2 Confidential Information

A2.1 If, after the repeal of s77(2)(c) of the *Local Government Act 1989*, the Chief Executive Officer is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, they may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.

A2.2 Information which has been designated by the Chief Executive Officer as confidential information within the meaning of the Act, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.

## Chapter 9 Election Period Policy

### PART A PURPOSE

The purpose of this policy is to ensure that Alpine Shire Council:

- Demonstrates compliance with the election period provisions of the *Local Government Act 2020* (the Act);
- Demonstrates that public resources are not used for election campaigning;
- Is aware of what can and cannot be done during the election period; and
- Continues to provide high standards of service to the community.

### PART B SCOPE

This policy defines the practices and behaviours of Councillors, members of special committees, and Council staff during the election period.

Councillors must comply with this policy, regardless of whether they intend to nominate, or have already nominated, as candidates for the election.

In accordance with s34(2)(d) of the Act, Council staff members who are candidates for election must comply with this policy and in addition:

- Take leave from their duties for the duration of the election period;
- Return any council equipment, including vehicles, telephones, computers, and documents or information which is not available to the public for the duration of the election period; and
- Immediately resign from their position upon election.

Other candidates for election are expected to comply with the obligations of this policy where they apply.

### PART C POLICY DETAILS

#### C1 Election period

The 'election period' is defined by the Act as starting at the time that nominations close on nomination day, and ending at 6pm on election day.

The Chief Executive officer will ensure that all employees are informed of and understand the requirements of this policy.

#### C2 Misuse of position

S123(1) of the Act prohibits a person that is, or has been, a Councillor or a member of a delegated committee from using their position to gain advantage for themselves or another person, or to cause detriment to Council or another person.

Significant penalty units apply to this provision.

For the purposes of s123(3) of the Act and this policy, misuse of position includes the following circumstances:

- Making improper use of information acquired as a result of the position the person held or holds; or
- Disclosing information that is confidential information within the meaning of the Act; or
- Directing or improperly influencing, or seeking to directly or improperly influence, a member of Council staff; or
- 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
- Using public funds or resources in a manner that is improper or unauthorised; or
- Participating in a decision on a matter in which the person has a conflict of interest.

S124 further specifies that a Councillor must not intentionally direct, or seek to direct, a member of Council staff in the exercise of any power or in the performance of any duty or function.

### **C3 Decision making**

It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an election period. Council therefore commits to this principle in that it will make every endeavour to avoid making decisions that inappropriately bind the incoming Council.

This includes a commitment to not only comply with the requirements of s69 of the Act, but to apply restrictions to the making of 'major policy decisions', 'inappropriate decisions', and 'significant decisions' as defined within this policy.

Council may hold a scheduled Council meeting during the election period, however no decisions specified in this policy may be made.

Scope exists for Council to hold an unscheduled Council meeting but only in the most urgent or extraordinary circumstances or for any statutory processes that may arise.

#### **Prohibition on decisions**

In accordance with s69(2) of the Act, Council is prohibited from a making decision during the election period for a general election, which:

- relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
- commits the Council to expenditure exceeding one percent (1%) of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
- the Council considers could be reasonably deferred until the next Council is in place; or

- the Council considers should not be made during an election period.

In accordance with s69(3) of the Act, Council is prohibited from making a decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

### **Decisions made in contravention of this policy**

In accordance with s69(4) of the Act, any Council decision made in contravention of these specified prohibitions is invalid.

### **Decisions that Council considers could be reasonably deferred or should not be made during an election period**

To provide context, Council will avoid making decisions during the election period that are of a significant nature and which would unnecessarily bind an incoming Council, or would use resources inappropriately during the election period. These include:

- Irrevocable decisions that commit the Council to substantial expenditure or major actions;
- Irrevocable decisions that will have a major impact on the municipality or the community;
- Decisions that would affect voting in an election; and
- Decisions that could reasonably be made after the election.

Examples of decisions that should not be made during an election period are:

- Approval of contracts that require significant funding in future financial years or are regarded as politically sensitive;
- Decisions that have significant impacts on Council's income or expenditure that relate to expenditure on politically sensitive matters;
- Awarding of community grants funded by Council;
- Decisions of a politically sensitive nature;
- Policy or strategy decisions; and
- Planning scheme amendments.

## **C4 Council and Committee meetings**

### **Council meetings**

Council will hold its ordinary meeting scheduled in the month leading up to the election during the election period. The meeting will be live-streamed on Council's website, as per Council's current practice.

In accordance with s100 of the Act, the Council meeting held to consider the annual report must be held on a day not later than the day before election day.

All items for consideration must be scrutinised for compliance with this policy, and be approved by the Chief Executive Officer before being included in the agenda. Each agenda item must include the electoral period statement.

Councillors must limit their discussion during debate to the topic under consideration and avoid raising electoral matters.

### **Delegated Committees and Community Asset Committees**

Delegated Committees are required to include Councillors as committee members, and are bound by Council's Governance Rules, and misuse of position requirements. Delegated Committees will not be permitted to hold Committee meetings during the election period.

Community Asset Committees are not required to include Councillors as committee members, and will be permitted to hold Committee meetings during the election period.

Advisory Committees will be permitted to hold Committee meetings during the election period.

### **Question Time, Notices of Motion, General Business and Reports by Delegates**

Question Time will not be held during the election period. Notices of Motion, General Business and Reports by Delegates will not be presented during the October meeting during the election period.

### **Election Period Statement – Council meeting Reports**

In order to facilitate compliance with its commitment to ensuring appropriate decision making during elections, the Chief Executive Officer will ensure that an 'Election Period Statement' is included in every report submitted to a Council meeting for a decision.

The 'Election Period Statement' will specify:

"The recommendation is not a prohibited decision as defined by s69(2) or s69(3) of the Local Government Act 2020, nor is it a decision that could be reasonably deferred, or should not be made in accordance with Council's Election Period Policy."

During the election period, the Council will not make a decision on any matter or report that does not include the Election Statement.

## **C5 Council Resources**

It is an established democratic principle that public resources must not be used in a manner that would influence the way people vote in elections. Council therefore commits that it will ensure Council resources are not used inappropriately during a Council election.

## **C6 Council resources including staff**

Council resources, including offices, staff, hospitality services, vehicles, IT equipment (phones and computers) and stationery will be used exclusively for normal Council business during the election period, and shall not be used in connection with any election campaign activity.

The Chief Executive Officer or any staff must not be asked to undertake any tasks connected directly or indirectly with an election campaign.

Council will ensure other Alpine Shire Council resources are not used inappropriately in ways that may influence voting in an election or provide an undue advantage for a candidate. This includes financial, human and material resources:

- Council staff will not undertake an activity that may affect voting in the election;
- Council staff will not authorise, use or allocate a Council resource for any purpose that may influence voting in the election; and

Any staff member who considers that a particular use of Council resources may influence voting in an election or provide an undue advantage for a candidate, shall advise both their Manager and Director before authorising, using or allocating the resource. The Manager and Director may seek advice from the Manager Corporate to determine if the use of Council resources is appropriate or not.

## **C7 Council branding and stationery**

No Council events, logos, letterheads or other Alpine Shire Council branding should be used for, or linked in any way to, a candidate's election campaign.

Photos or images taken by or provided by Council are not to be used by Councillors for the purposes of electioneering or in support of their election campaign. This applies equally to images on Council websites that may be able to be copied.

## **C8 Councillor support**

Councillors will not request staff to undertake any tasks connected directly or indirectly with an election campaign.

Information and briefing material prepared by staff for Councillors during the election period will relate only to factual matters or to existing Council services to assist Councillors in conducting normal day-to-day activities.

## **C9 Councillor expenses**

Reimbursements of Councillors out of pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.

## C10 Councillor resources

Equipment and facilities provided to Councillors for the purpose for conducting normal Council business should not be used for election campaign purposes.

Where Councillors have Council funded services, such as mobile phones, tablets / computers and internet connections, and where it is impractical for Councillors to discontinue their use of these during the election, Councillors will reimburse the Council for excess usage of those services during the election period. Standard allowances for communication equipment are defined in Council Policy No. 76 – Councillor Reimbursement of Expenses.

Councillors who are standing as candidates must not use council email addresses as part of their election campaign.

## C11 Council Events

Public events run by Council will only be organised and run if it is totally unavoidable to conduct such events during the election period and then only with the express permission of the Chief Executive Officer.

However, Councillors may attend community meetings, events and functions during the election period which are relevant to Council and the community.

When attending events as part of their official Council duties, Councillors must not use the event to promote their individual election campaign.

Speeches for Councillors will only be prepared by Council staff in relation to events that are part of the normal services or operation of the Council and such speeches will not be circulated or available for publication. Official speaking engagements will be limited to a brief welcome and will not contain any electoral matters or references to the election. Councillors who are not standing as candidates in the election or the Chief Executive Officer will be given preference to speaking at public events.

No election material or active campaigning is to be conducted at a Council sponsored event or be displayed in any Council building. This does not apply to Victorian Electoral Commission material.

Speeches will be subject to the publication certification process as outlined in.

## C12 Public Consultation

Council will limit public consultation and scheduling of Council events during the election period.

Public consultation means a process that involves inviting individuals, groups or organisations or the community general to comment on an issue or proposed action or proposed policy, and which includes discussion of that matter with the public.

Public consultations include inviting the community to express opinions through social media.



If public consultation is required, the representative / spokesperson will be the Chief Executive Officer and not a Councillor.

Public consultations are best avoided during the election period where possible.

### **C13 Statutory process consultations**

The public consultation required under the *Planning and Environment Act 1987* and matters subject to s223 of the *Local Government Act 1989* are not subject to the restrictions of this policy. These consultations may be undertaken during the election period to facilitate the day-to-day business of Council and to ensure matters continue to be proactively managed. Consultations will avoid any express or implied links to the election.

Consultations under statutory provisions shall only proceed after express agreement of the Chief Executive Officer and only if they relate solely to the normal day-to-day business of the Council.

Where at all possible, statutory process consultations should conclude before the election period commences, or be delayed until after the general election has been held. Any outcomes of the consultation should be delayed until after the election, where possible.

### **C14 Media and Communications**

Council's communications and media will not be used in any way that might influence the outcome of a Council election.

Media outlets and the community will be advised that during the election period, communications will be restricted according to the following principles.

#### **Media requests**

Council contact with local media (newspapers, television, radio) will be restricted to the communication of normal Council activities and responding to questions not involving the election or possible election outcomes.

In response to media inquiries the response will be provided by the Chief Executive Officer or Directors only, and such information should relate to current services and operations.

#### **Media releases / statements**

During the election period, Council initiated communications shall be restricted to the communication of normal Council activities.

In the election period no media releases will be issued quoting or featuring any Councillor.

Publicity of Council events (if any during the election period) will be restricted to the communication of factual material and will not mention or quote any Councillor.

During the election period, no employee will initiate any public statement that relates to an election issue. Public statements are not only formal press releases but also verbal comments at meetings, functions and events where attending as part of their role.

Issuing of written media releases / statements will be subject to the publication approval processes outlined within C15.

### **Councillors**

No media advice or assistance will be provided to Councillors in relation to election campaign matters.

No publicity will be provided that involves specific Councillors.

Councillors must not use their position as an elected representative of their access to Council staff and other Council resources or information in support of an elections campaign. This includes photos or images provided by Council for past Council activities.

Councillor participation at Council sponsored events (if any during the election period) should not be used to gain attention of an election campaign. Council sponsored events includes launches, events and any other public forum outside of the normal Council meeting cycle.

### **Social media**

Social media is a key means of Council communicating and interacting with its community.

The nature of social media means that Councils should be monitoring and moderating the content on any pages that Council has ownership / control over.

Any publication on social media sites that are under the auspices of Council will also require certification by the Chief Executive Officer as described within C15.

Social media communications will be restricted in the same manner as restrictions on communications / media in this policy.

In addition, the following processes will be implemented on Council's social media pages during the election period:

- Any social media pages maintained by Council will be routinely monitored (including periodically during the weekend) during the election period.
- Posts by others on the page will be moderated by Council, and any electioneering, offensive or inappropriate matter will be removed by Council.
- At the completion of each day, Council will ensure that a copy of the page is taken for records of the Council.
- Before any posts may be removed or moderated by Council, a snapshot of the page must be recorded.

The above processes will be communicated on Council's social media pages prior to the election period commencing.

## C15 Council Publications

Council must not print, publish or distribute publications containing specified electoral matter during the election period, unless it is electoral material provided by the Victorian Electoral Commission about the election process. This is to ensure that Council does not utilise public funds that may influence or be seen to influence people's voting intentions.

Council must not print, publish or distribute a publication during the election period unless it has been certified in writing by the Chief Executive Officer.

### What is 'electoral matter'?

Electoral matter is any matter that is intended or likely to affect voting in an election. Material is definitely electoral matter if it:

- Publicises the strength or weaknesses of a candidate
- Advocates the policies of the Council or of a candidate
- Responds to claims made by a candidate
- Publicises the achievements of the elected Council
- Publicises matters that have already been the subject of public debate
- Is about matters that are known to be contentious in the community and likely to be the subject of election debate
- Deals with Election Candidates statements
- Refers to Councillors or candidates by name or by implicit reference

### What is considered a 'publication'?

A publication refers to documents produced for the purpose of communicating with the community, including but not limited to:

- Council newsletters
- Advertisements and notices (for example job advertisements, public notices of contracts)
- Media releases
- Leaflets and brochures
- Mailouts (including emails) to multiple addresses
- Internet-based sources including Council's website and social media pages.

All the publication types listed above require certification by the Chief Executive Officer.

The recommended practice is where possible to avoid all publication activity during the election period except where it is essential for the conduct of Council operations.

### Certification of documents by Chief Executive Officer

All documents fitting the descriptions above must be presented to the Chief Executive Officer prior to publication or distribution during the election period.

The Chief Executive Officer must not certify a publication that contains electoral matter, unless that material is only about the election process. It is an offence for the Chief Executive Officer to contravene this requirement.

The certification by the Chief Executive Officer must be in writing and cannot be delegated.

Council must develop a procedure for approval and monitoring of publications within the organisation to support this policy.

### **Council's website**

The requirement for Chief Executive Officer certification of publications during the election period also applies to the publication of material on Council's website. This applies to all websites under the auspices of Council.

New pages or new material on the website will require certification and approval by the Chief Executive Officer.

### ***Councillor details***

Profiles and photographs of current Mayor and Councillors will be removed from Council's website during the election period but retain their contact details for their day to day role as Councillor (for example names and mobile numbers).

### ***Recordings of Council meetings***

The Council meeting held during the election period will be live-streamed on the internet, as per Council's current practice. Audio-visual recordings of Council meetings will remain on Council's website for the duration of the election period.

### ***New material on website***

Any new material published on Council's website during the election period that may be an advertisement, handbill, pamphlet or notice must also be subject to the certification process.

Council agendas, minutes and the annual report are considered exempt from certification.

### **Annual Report**

The annual report adopted during the election period will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors but will fulfil its statutory obligations on reporting matters.

## **C16 Assistance to Candidates**

The Council affirms that all candidates for the Council election will be treated equally.

Any assistance and advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.

All election-related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer or the election period contact officer designated within C17.

## **C17 Access to Information by Candidates**

The Council recognises that all election candidates have rights to information from the Council administration.

Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the election period.

### **Election Period point of contact**

The Manager Corporate will be the point of contact for both candidates and Councillors seeking information from Council during the election period.

All questions relating to the conduct of the election will be referred to the Victorian Electoral Commission's Returning Officer.

### **Information provided to Councillors**

Information and briefing material prepared by staff for Councillors during the election period will relate only to factual matters or to existing Council services to assist Councillors in conducting their elected roles.

### **Information request register**

The Manager Corporate will be assigned as the point of reference for all candidate enquiries.

The Manager Corporate will maintain an Information Request Register commencing from the opening of nominations. This register will be available for inspection and will record all requests relating to electoral matters and non-routine requests for information by Councillors and candidates, and the responses given to those requests.

Responses to candidate requests will be provided by Managers, Directors or the Chief Executive Officer. Managers will be required to discuss the request and the proposed response with their Director and the Manger Corporate (as the election period contact) prior to the response being issued. Only information that can be reasonably accessed will be released.

All candidates will be referred to the Victorian Electoral Commission Returning Officer for any election process enquiries.

### **Improper use of position**

S123 of the Act prescribes serious penalties for any Councillor or member of a Delegated Committee who inappropriately makes use of the position or information obtained in their role.

### **Freedom of Information**

Any Freedom of Information (FoI) applications lodged during the election period regarding potential 'electoral matters' will be dealt with where possible outside of the election period. S21 of the *Freedom of Information Act 1982* requires a notice of decision to be supplied to the applicant within a specified number of days.

## PART D ROLES AND RESPONSIBILITIES

Responsibility	Role / Position
Implementation	Chief Executive Officer All staff Councillors Candidates Members of special committees
Compliance	Manager Corporate
Development / Review	Governance Officer / Manager Corporate
Interpretation / Advice	Manager Corporate

## PART E BREACHES

This policy is issued with the authority of Council. Compliance with this policy is mandatory. Any breach of or failure to comply with this policy should be immediately reported to the Chief Executive Officer.

## PART F HUMAN RIGHTS CHARTER COMPATIBILITY

This policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006* [Vic].

## PART G SUPPORTING DOCUMENTS

This policy should be read in conjunction with all other relevant, Council policies and procedures, as well as relevant legislative requirements.

### **Related Legislation**

- *Local Government Act 2020* [Vic]

***Related Procedures***

- Nil

**PART H DEFINITIONS AND ABBREVIATIONS**

<i>Act</i>	means the <i>Local Government Act 2020</i>
<i>Council staff</i>	includes full time, part-time, casual and temporary council employees
<i>Election</i>	is defined by s3(3) of the Act, and unless expressly provided, means a reference to the following: <ul style="list-style-type: none"> <li>• A general election conducted under s257 of the Act;</li> <li>• A by-election conducted under s260 of the Act;</li> <li>• A countback conducted under s261 of the Act.</li> </ul>
<i>General election</i>	is defined by s257 of the Act, and means a general election of Councillors for all Councils, which must be held: <ul style="list-style-type: none"> <li>• On the fourth Saturday in October 2020; and</li> <li>• Thereafter on the fourth Saturday in October in the fourth year after the last general election of Councillors for all Councils was held.</li> </ul>
<i>Election day</i>	is defined by s3(1) of the Act, and means the day of an election determined under s257 or s260 the Act
<i>Election period</i>	is defined by s3(1) of the Act, and means the period that: <ul style="list-style-type: none"> <li>• Starts at the time that nominations close on nomination day; and</li> <li>• Ends at 6pm on election day</li> </ul>
<i>Electoral material</i>	means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting
<i>Electoral matter</i>	is defined by s3(4) and s3(5) of the Act, and means matter which is intended or likely to affect voting in an election, but does not include any electoral material produced by or on behalf of the election manager for the purposes of conducting an election. <p>It is matter to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on:</p> <ul style="list-style-type: none"> <li>• The election; or</li> <li>• A candidate in the election; or</li> <li>• An issue submitted to, or otherwise before, the voters in connection with the election.</li> </ul>

*Nomination day* is defined by s3(1) of the Act, and means the last day on which nominations to be a candidate at a Council election may be received in accordance with the Act, and the Local Government (Electoral) Regulations as made.

*Publish* is defined by s3(1) of the Act, and means publish by any means including by publication on the Internet.



## Approval of Governance Rules (incorporating the Election Period Policy)

THE COMMON SEAL OF THE  
ALPINE SHIRE COUNCIL was  
hereunto affixed this 25 day of August  
2020 in the presence of:

.....  
COUNCILLOR NAME

.....  
SIGNATURE

.....  
COUNCILLOR NAME

.....  
SIGNATURE

.....  
CHIEF EXECUTIVE OFFICER NAME

.....  
SIGNATURE



LOCAL LAW

# Governance Local Law

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2020

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**DOCUMENT UNCONTROLLED WHEN PRINTED**

Document Control		
<b>Title</b> Governance Local Law 2020	<b>Status</b> Presented to Council for approval	
<b>Date made</b>	<b>Comes into operation on</b> 1 September 2020	<b>Sunset date</b> 31 August 2030
<b>Directorate</b> Corporate	<b>Department</b> Corporate	<b>Contact person</b> Manager Corporate

**REVISION RECORD**

Date	Version	Revision description
22/6/2020	0.1	Draft for comment
26/6/2020	0.2	Amendments to reflect legal review
25/8/2020	1.0	Presented to Council to make the Local Law

## Part 1. Preliminary

### 1.1 Title

1.1.1 This is the Governance Local Law (2020).

### 1.2 Objectives

1.2.1 The objectives of this Local Law are to:

- a. regulate the use of the Alpine Shire Council ("Council") Common Seal;
- b. provide for offences in relation to unauthorised use of the Common Seal or any device resembling the Common Seal; and
- c. provide for offences in relation to Council meetings and Delegated Committee meetings.

### 1.3 The power to make this Local Law

1.3.1 This Local Law is made under the provision of s111 of the *Local Government Act 1989*.

### 1.4 Commencement and Revocation

1.4.1 This Local Law:

- a. Comes into operation on 1 September 2020; and
- b. Unless revoked sooner will cease to operate on 31 August 2030.

1.4.2 From the date of commencement of the Local Law, the following Local Law is revoked:

- a. Local Law No.1 Council Administration (2016).

### 1.5 Application

1.5.1 This Local Law applies to:

- a. Council Meetings and Delegated Committee Meetings; and
- b. Usage of the Council Common Seal, or any device resembling the Common Seal.

### 1.6 Definitions

*Authorised Officer*

means a member of Council staff appointed and authorised by Council in accordance with relevant legislation.

*Chairperson*

means the person who chairs a meeting of the Council or Delegated Committee, and includes an acting, a temporary or a substitute Chairperson

<i>Chief Executive Officer</i>	means the person occupying the office of Chief Executive Officer of Council, or any person acting in that position during their absence
<i>Chamber</i>	means any room where the Council holds a Council meeting
<i>Council</i>	means the Alpine Shire Council
<i>Councillor</i>	means a person who is an elected member of the Council
<i>Council meeting</i>	means a meeting of the Council, comprised entirely of Councillors, held in accordance with s61(1) of the <i>Local Government Act 2020</i>
<i>Common Seal</i>	means the common seal of Council
<i>Delegated Committee</i>	means a committee established by Council under s63 of the <i>Local Government Act 2020</i>
<i>Delegated Committee meeting</i>	means a meeting of a Delegated Committee
<i>Penalty unit</i>	has the same meaning as in s110(2) of the <i>Sentencing Act 1991</i>

## Part 2. Use of the Alpine Shire Council Common Seal

### 2.1 Authority for use of the Common Seal

2.1.1 The Common Seal may only be used:

- a. on the authority of Council; or
- b. in accordance with the Instrument of Delegation issued by Council to the Chief Executive Officer.

2.1.2 The Chief Executive Officer must not sub-delegate the function conferred by cl 2.1.1b.

### 2.2 Form of the Common Seal clause

2.2.1 Where the Common Seal is affixed to a document on the authority of Council, the sealing clause must take the following form:

THE COMMON SEAL OF THE  
ALPINE SHIRE COUNCIL was  
hereunto affixed this **XX** day of **<Month>**  
20**XX** in the presence of:

.....  
COUNCILLOR NAME

.....  
SIGNATURE

.....  
COUNCILLOR NAME

.....  
SIGNATURE

.....  
CHIEF EXECUTIVE OFFICER NAME

.....  
SIGNATURE

2.2.2 Where the Common Seal is affixed to a document on the authority of the Chief Executive Officer in accordance with the Instrument of Delegation, the sealing clause must take the following form:

THE COMMON SEAL OF THE  
ALPINE SHIRE COUNCIL was  
hereunto affixed this XX day of <Month>  
20XX on behalf of Council by authority of  
the Chief Executive Officer in the presence  
of:

.....  
WITNESS NAME

.....  
SIGNATURE

.....  
CHIEF EXECUTIVE OFFICER NAME

.....  
SIGNATURE

## 2.3 Signatures to accompany the Common Seal

2.3.1 Every document to which the Common Seal is affixed on the authority of Council must be signed by two Councillors and the Chief Executive Officer.

2.3.2 Every document to which the Common Seal is affixed on the authority of the Chief Executive Officer must be signed by a witness and the Chief Executive Officer.

## 2.4 Who keeps the Common Seal?

2.4.1 The Chief Executive Officer must keep the Common Seal in safe custody.



## Part 3. Offences, infringements and penalties

### 3.1 Offences during a Council meeting or a Delegated Committee meeting

3.1.1 It is an offence during a Council meeting or a Delegated Committee meeting:

- a. For a Councillor to not withdraw an expression considered by the Chairperson to be defamatory, indecent, abusive, offensive, disorderly or objectionable, and to not then satisfactorily apologise when called upon twice by the Chairperson to do so;
- b. For any person (not being a Councillor) who is guilty of any improper or disorderly conduct to not leave the meeting when requested by the Chairperson to do so;
- c. For any person to fail to obey a direction of the Chairperson in relation to the conduct of the meeting and the maintenance of order; or
- d. For a Councillor to refuse to leave the Chamber on suspension.

### 3.2 Offences regarding use of the Common Seal

3.2.1 It is an offence for a person to use the Common Seal or any device resembling the Common Seal without the authority of Council unless in accordance with the Instrument of Delegation issued by Council to the Chief Executive Officer.

### 3.3 Infringement notices

3.3.1 As an alternative to prosecution for an offence, an Authorised Officer may serve a person with an infringement notice in respect of an Offence against this Local Law.

3.3.2 The infringement notice penalty in respect of an offence under this Local Law is set out in Schedule 1.

### 3.4 Payment of infringement penalties

3.4.1 Payment of the fixed penalty for an infringement notice may be made at the Alpine Shire Council office at 2 Churchill Avenue, Bright, or mailed to PO Box 139, Bright VIC 3741.

3.4.2 To avoid prosecution, the penalty indicated in an infringement notice must be paid within 28 days from the date of the issue of the infringement notice.

3.4.3 The form of an infringement notice shall be in the form as set out in s13 of the *Infringements Act 2006*.

### **3.5 General penalty in court**

3.5.1 An offence against this Local Law may be subject to court action which may result in the maximum penalties as detailed in cl 3.5.2.

3.5.2 Any person who is guilty of an offence against this Local Law is liable to:

- a. A maximum penalty of 20 penalty units; and
- b. A further penalty of 2 penalty units for each day after a finding of guilt or conviction for an offence during which the contravention continues.

## Part 4. Approval

THE COMMON SEAL OF THE  
ALPINE SHIRE COUNCIL was  
hereunto affixed this 25 day of August  
2020 in the presence of:

.....  
COUNCILLOR NAME

.....  
SIGNATURE

.....  
COUNCILLOR NAME

.....  
SIGNATURE

.....  
CHIEF EXECUTIVE OFFICER NAME

.....  
SIGNATURE

## Schedule 1 Penalties for Infringement Notices

Clause	Offence	Penalty units
3.1.1a	For a Councillor to not withdraw an expression considered by the Chairperson to be defamatory, indecent, abusive, offensive, disorderly or objectionable, and to not then satisfactorily apologise when called upon twice by the Chairperson to do so.	2
3.1.1b	For any person (not being a Councillor), who is guilty of any improper or disorderly conduct, to not leave the meeting when requested by the Chairperson to do so.	5
3.1.1c	For any person to fail to obey a direction of the Chairperson in relation to the conduct of the meeting and the maintenance of order.	2
3.1.1d	For a Councillor to refuse to leave the Chamber on suspension.	5
3.2.1	A person must not use the Common Seal or any device resembling the Common Seal without the authority of Council or in accordance with the Instrument of Delegation issued by Council to the Chief Executive Officer.	10



COUNCIL POLICY

# Public Transparency

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**REVISION RECORD**

Date	Version	Revision description
23/06/2020	0.1	Draft for internal review
25/8/2020	1.0	Presented to Council for adoption

## 1. Purpose

Alpine Shire Council (Council) is committed to sound democratic governance and recognises the importance of providing transparency to the community in its various undertakings. The purpose of this policy is to describe how Council will make its information and decision-making processes publicly available in order to:

- increase community confidence through greater understanding and awareness
- better enable the community to participate in decision making
- promote accountability in decision making, service delivery and performance
- ensure compliance to the requirements of the *Local Government Act 2020* (LGA 2020).

In particular this policy gives effect to the Public Transparency Principles of the LGA 2020 by seeking to:

- recognise Council information as an asset for public access and use
- apply a presumption of openness except where confidential by legislation
- facilitate public awareness of the availability of Council information
- adopt a proactive approach where beneficial to community engagement
- ensure that Council information is current, accessible and understandable
- allow access to information promptly and free of charge or at low cost.

## 2. Scope

This policy applies to a person who is:

- a Councillor
- a member of a Council committee
- a Council employee, volunteer or contractor.



## 3. Policy details

### 3.1 INFORMATION AVAILABLE TO THE PUBLIC

Council will at minimum publish the following information for access by the public, except where the information is confidential in accordance with legislation:

- Plans, strategies, reports, policies and documents required by LGA 2020
- Plans, strategies and policies otherwise adopted by Council
- Local Laws
- Council meeting agendas, minutes, and meeting recordings
- Terms of reference or charters for Council committees
- Application processes for approvals, permits, grants, and access to services

Council will at minimum make the following information available to the public upon request, except where confidential in accordance with legislation:

- Plans, strategies, reports and documents required by any Act or which have been adopted by Council
- Project and service plans which have been adopted by Council
- Guidelines, manuals, policies and procedures
- Technical reports and / or research used to inform decision making
- Registers required by LGA 2020 or any other legislation
- Newsletters, handbooks and promotional materials
- Building approval registers as required by the *Building Act 1993*
- Planning permit registers and documentation as required by the *Planning and Environment Act 1987*

Council may require that a formal Freedom of Information request is submitted where the information requested is not listed above.

## 3.2 INFORMATION NOT AVAILABLE TO THE PUBLIC

### 3.2.1 Confidential information

Council is not required to make publicly available information that is confidential information. Confidential information is defined in section 3 of LGA 2020 and includes information relating to:

Type	Description
Council business	Information that would prejudice the Council's position in commercial negotiations if prematurely released
Security	Information that is likely to endanger the security of Council property or the safety of any person if released
Land use planning	Information that is likely to encourage speculation in land values if prematurely released
Law enforcement	Information which would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person if released
Legal privilege	Information to which legal professional privilege or client legal privilege applies
Personal details	Information which would result in the unreasonable disclosure of information about any person or their personal affairs if released
Private commercial details	Information provided by a business, commercial or financial undertaking that relates to trade secrets or that would unreasonably expose the business, commercial or financial undertaking to disadvantage if released
Confidential meetings	Records of Council and delegated committee meetings that are closed to the public to consider confidential information
Internal arbitration	Confidential information relating to internal arbitration about an alleged breach of the Councillor Code of Conduct
Councillor Conduct Panels	Confidential information relating to a Councillor Conduct Panel matter

Information may also be confidential information where prescribed as such by the regulations.

Information that was confidential information for the purposes of section 77 of the *Local Government Act 1989 [Vic]* remains confidential information under LGA 2020.

Council may decide, in the interests of transparency, to release information to the public even though it is confidential under the Act provided the release of the information is:

- not contrary to any law;
- not in breach of contractual requirements;
- not likely to cause harm to any person; and
- it is in the public interest to do so.

### **3.2.2 Public interest test**

Council is not required to make information publicly available if the release of the information would be contrary to the public interest, in accordance with section 58(b)(ii) of LGA 2020.

When considering public interest, Council will apply the test that exists in the *Freedom of Information Act 1982 [Vic]* (FOI Act). Council may refuse to release information if it is satisfied that the harm to the community likely to be created by releasing the information will exceed the public benefit in it being released.

When considering possible harm from releasing information, Council will only concern itself with harm to the community or members of the community. Potential harm to Council will only be a factor if it would also damage the community, such as where it involves a loss of public funds or prevents Council from performing its functions.

### **3.2.3 Privacy and data protection**

Council is not required to make information publicly available that if released would contravene the *Privacy and Data Protection Act 2014 [Vic]*, the *Health Records Act 2001 [Vic]* or any other legislation governing personal information collected, held, managed, used, disclosed or transferred by Council.

## **3.3 MEANS OF ACCESS TO INFORMATION**

### **3.3.1 Council website**

All Council information published for access by the community will be available on Council's website, which will be maintained for use on desktop computers, mobile phones and other devices, and which will be tested to work with most commonly used browsers and operating systems.

### **3.3.2 Inspection at Council Office**

All Council information published for access by the community will also be available for inspection upon request at Council's Office, 2 Churchill Avenue, Bright.

### 3.3.3 Application to access information

Council will consider all requests for access to Council information made outside the Freedom of Information process, in accordance with privacy principles. Information will be provided for free or at low cost, commensurate to the effort to provide it or in accordance with any relevant legislation.

### 3.3.4 Freedom of information (FOI)

The FOI Act provides the public with a general right to access documents in the possession of Council relating to their personal affairs or the activities of Council, except where those documents are deemed confidential under legislation.

Council may request that a formal Freedom of Information request is submitted in order to access certain documents. In assessing a Freedom of Information request, Council may consult with third parties where documents contain related information that may be exempt from release under the FOI Act.

### 3.3.5 Social media

Council will, where beneficial to community engagement, make information publicly available through its social media platforms.

### 3.3.6 Content accessibility

The *Disability Discrimination Act 1992 [Cth]* requires Council to ensure people with a disability have the same access to information and services as others in the community.

Council recognises the diverse range of needs in its community and commits to making its written information accessible to everyone.

Council's information will:

- be written with the audience in mind
- use simple, clear, every day and inclusive language
- avoid jargon and acronyms
- be ordered so that it is easy to understand and follow
- be accurate and complete
- use a simple and clear font, format and layout.

To assist with accessibility of digital information, Council's website design and content follows the World Wide Web Consortium's (W3C) Web Content Accessibility Guidelines.

## 3.4 TRANSPARENCY OF COUNCIL DECISIONS

Council is empowered by various legislation to make decisions on a broad range of matters on behalf of the local community. Council's decisions are either made by the Council at a formally constituted meeting, or by Council officers under delegated authority of the Council.

The Mayor and councillors do not have the legal authority to individually act or make decisions on behalf of the Council.

### 3.4.1 Decisions at Council meetings

Decisions made at Council meetings are generally informed by Council reports that are prepared by officers and included in the agendas. Council meeting agendas are made available to the community in advance of each meeting in accordance with Council's Governance Rules, excluding reports that contain confidential information.

In accordance with section 66, of LGA 2020, Council and delegated committee meetings will be open to the public unless it is considered necessary to close the meeting:

- to consider confidential information
- for security reasons
- to enable the meeting to proceed in an orderly manner.

Council will, where practicable, live stream its Council meetings to engage a broader audience.

Meetings will be conducted in accordance with the provisions of the LGA 2020 and Council's Governance Rules and will provide opportunity for public participation.

All decisions will be recorded in minutes of the meeting.

### 3.4.2 Delegated decisions

Council may delegate specific powers, duties and functions, including decision-making powers, under various legislation to the Chief Executive Officer and nominated Council employees.

Council will maintain a register of delegations in accordance with sections 11 and 47 of the LGA 2020.

Delegates are making decisions as if they were the Council and decision-making processes must be made transparent except where involving information that is confidential.

## 3.5 DISPUTES

### 3.5.1 General requests

If access to Council information is denied, the person making the request has the right to question the decision. A review of the decision will be undertaken in accordance with Council's complaints handling processes.

The person making the request has the right to seek further review of Council's decision by the Victorian Ombudsman.

### 3.5.2 Freedom of Information requests

Under the FOI Act Council decides which documents and information are released.

The person making a Freedom of Information request has the right to seek a review of Council's decision by the Victorian Information Commissioner.

## 4. Roles and responsibilities

Responsibility	Role / Position
Champion the commitment and principles for public transparency through leadership and decision-making	Council
Champion behaviours that foster transparency and lead the implementation of this policy	Chief Executive Officer Directors Managers
Adhere to public transparency principles, this policy and associated requirements as appropriate to role and function	Councillors Committee members All employees
Respond to requests for information and facilitate provision of information in consultation with relevant manager and in alignment with the Policy	All employees
Freedom of Information applications	Governance Officer Officers authorised under the FOI Act
Monitor implementation and adherence to this policy	Manager Corporate

## 5. Breaches

Failure to comply with Council policy, supporting procedures or guidelines, will be subject to investigation which may lead to disciplinary action.

Disclosure of confidential information by a person who is, or has been, a Councillor, a member of a delegated committee or a Council employee, is an offence under section 125 of LGA 2020.

Further, disclosure of confidential information by a person who is, or has been, a Councillor or a member of a delegated committee is a misuse of position which is an indictable offence under section 123 of LGA 2020.

## 6. Human Rights Charter compatibility

This policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006 [Vic]*.

## 7. Supporting documents

This policy should be read in conjunction with all other relevant, Council policies and procedures, as well as relevant legislative requirements.

### Related Legislation

This policy gives effect to the Public Transparency Principles of the LGA 2020:

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

Other related legislation includes:

- *Local Government Act 1989 [Vic]*
- *Equal Opportunity Act 2010 [Vic]*
- *Freedom of Information Act 1982 [Vic]*
- *Privacy and Data Protection Act 2014 [Vic]*
- *Health Records Act 2001 [Vic]*
- *Public Records Act 1973 [Vic]*
- *Disability Discrimination Act 1992 [Cth]*

### Related Guidelines, Operational Directives or Policies

- Alpine Shire Council Governance Rules
- Alpine Shire Council Governance and Risk Framework
- Alpine Shire Council Provision of Information and Privacy Policy No.045
- Alpine Shire Council Digital Information Security Policy No. 111
- Alpine Shire Council Community Engagement Policy – as available
- Alpine Shire Council Complaints Policy – as available

### Related Procedures

- Nil

## 8. Approval

THE COMMON SEAL OF THE  
ALPINE SHIRE COUNCIL was  
hereunto affixed this 25 day of AUGUST  
2020 in the presence of:

.....  
COUNCILLOR NAME

.....  
SIGNATURE

.....  
COUNCILLOR NAME

.....  
SIGNATURE

.....  
CHIEF EXECUTIVE OFFICER

.....  
SIGNATURE





COUNCIL POLICY

# Councillor Expenses

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Document Control		
Policy number 076	Status Draft	Approved by Council
Date approved Scheduled for 25 August 2020	Next review date August 2024	
Directorate Corporate	Department Corporate	External

**REVISION RECORD**

MANDATORY – Use 1.0, 2.0 for adopted / approved versions and 1.1, 1.2 for drafts or revisions without change.

Date	Version	Revision description
02/06/2009	0.01	Draft Version
01/09/2009	1.00	Adopted Version 1
06/08/2013	2.00	Version2 Reviewed and revised after Council general election 27/10/2012 Tabled and adopted with amendments at Ordinary Council Meeting M10 06/08/13
03/09/2013	2.01	Adopted Version 2.01 Includes amendments made by Council on 06/08/2013 Signed and sealed by councillors 03/09/13
05/06/2018	3.0	Adopted Version 3.0 Included amendments to mayor and councillor vehicles and reporting requirements. Signed and sealed by council 05/06/2018
4/6/2019	4.0	Adopted Version 4.0 Typographical amendments. Extension of next review date.
25/8/2020	5.0	Adopted Version 5.0 Update to align with requirements of <i>Local Government Act 2020</i> .

## 1. Purpose

The purpose of this policy is to:

- define the parameters for the reimbursement of necessary and bona fide out of pocket expenses incurred while performing duties as a councillor or member of a delegated committee, as provided for by section 40 of the *Local Government Act 2020*; and
- Establish the resources, facilities and support to be provided to councillors.

## 2. Scope

This policy applies to all Alpine Shire councillors and members of Council's delegated committees where specified.

## 3. Policy details

Councillors and members of delegated committees are entitled, under s40 of the *Local Government Act 2020* (the Act), to reimbursement of expenses reasonably incurred in the performance of their duties.

This policy ensures that the reimbursement of these expenses is in accordance with the Act and meets the Act's principles of public transparency; achieving the best outcomes for the municipal community; and ensuring the ongoing financial viability of the council.

Councillors and members of delegated committees will be reimbursed for out of pocket expenses that are:

- Bona fide expenses; AND
- Have been reasonably incurred in the performance of the role of councillor or member of a delegated committee; AND
- Are reasonably necessary for the councillor or member of a delegated committee to perform their role.

### 3.1 OFFICIAL COUNCIL DUTIES

Official Council duties are those duties performed by a councillor as a necessary part of their role, in achieving the objectives of council.

In this policy, official Council duties include but are not limited to:

- Meetings of the Council or its committees.
- Meetings, briefing sessions and civic or ceremonial functions convened by the Mayor or the Council.
- Meetings of community groups, organisations and statutory authorities to which a councillor has been appointed as a Council representative.

- A meeting, function, inspection, event or other official role as a representative of the Mayor or the Council.
- Meetings with Council officers on any matter relating to the Council, including committee responsibilities or the general duties of a councillor.
- Conferences, training sessions and functions in capacity as councillor.

Members of delegated committees exercise powers of Council, under delegation. The above description of official Council duties applies to members of delegated committees in the same way that it applies to councillors.

### 3.2 RESOURCES AND FACILITIES FOR MAYOR AND COUNCILLORS

Council will make available to the Mayor and councillors, the resources and facilities reasonably necessary to enable them to effectively perform their roles (see s42(1) of the Act). The following support is provided as a minimum:

- Mayor office located at the Bright Council office;
- Communications equipment (see item 3.3); and
- Mayoral vehicle and use of fleet vehicles for councillors (see item 3.6).

Where an elected councillor requires additional support due to a disability, or because they are a carer in a care relationship (as defined by s4 of the *Carers Recognition Act 2012*), Council will work with the elected councillor to determine how best to support their needs (see s42(2) of the *Local Government Act 2020*).

### 3.3 COMMUNICATION EQUIPMENT

Each councillor will be provided with the following home/workplace facilities:

- Mobile computer device with standard Council applications and data allowance<sup>123</sup>
- @alpineshire.vic.gov.au e-mail address
- Mobile phone<sup>4</sup>

Personal use of a mobile device is allowed subject to all additional and personal purchases being made through the individual councillor's personal iTunes account.

The costs of any consumables used by a councillor (stationery, printer cartridges etc) are to be paid for by the individual councillor.

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<sup>1</sup> Data allowance should be utilised for conducting Council related duties only.

<sup>2</sup> Council will pay an allowance of \$45/month if councillors have a home Wi-Fi internet connection and mobile devices are connected to it.

<sup>3</sup> Council will pay an allowance of \$35/month if councillors use their personal iPad / tablet / mobile computer device fitted with its own cellular data connectivity (ie non-WiFi), instead of a Council provided mobile computer device.

<sup>4</sup> Council will pay an allowance of \$40/month if councillors use their personal mobile phone instead of a Council provided mobile phone.

## 3.4 CHILDCARE AND CARER EXPENSES

### 3.4.1 Childcare

Council will provide reimbursement of costs where the provision of childcare is reasonably required for a councillor or member of a delegated committee to perform their role (refer to s41(2)(c) of the Act).

This applies to care of a dependent while the councillor or delegated committee member is undertaking their official duties, and may include expenses such as hourly fees and booking fees, if applicable.

### 3.4.2 Carers

Council will provide reimbursement of costs where the provision of carer services is reasonably required when a councillor or delegated committee member who is a carer (as defined by s4 of the *Carers Recognition Act 2012*) incurs reasonable expenses in the performance of their duties (refer to s42(2)(d) of the Act).

### 3.4.3 Reimbursements for childcare and carers

Reimbursement of childcare and / or carer expenses is subject to the following conditions:

1. Where government subsidised childcare and carer services are available, councillors are to take advantage of these forms of care in the first instance. Where government subsidised care is not available, other forms of care will be considered on a case-by-case basis, and in accordance with this policy.
2. Where government subsidies for childcare and / or carers apply, Council will not reimburse costs met by those government subsidies. Council will only cover costs for the gap after government subsidies are applied.
3. Payments for childcare and carer services will not be made to a person who resides with the councillor or delegated committee member; has any financial or pecuniary interest with the councillor or delegated committee member; or has a relationship with the councillor, delegated committee member or their partner (eg partner, mother / father, grandparent, sister / brother or sister / brother in law).
4. The maximum amount per month that an individual councillor or member of a delegated committee will be reimbursed for childcare and / or carer expenses is \$300.

Each childcare or carer expense claimed shall be substantiated by a receipt from the caregiver showing the dates and times care was provided and accompanied by a written statement from the councillor or member of a delegated committee explaining why the care was needed on each occasion.

Claims for reimbursement of childcare and / or carer expenses must be submitted within three months of the date from which they are incurred.

## 3.5 PROFESSIONAL DEVELOPMENT, CONFERENCES AND FUNCTIONS

This policy acknowledges the obligation on councillors to be properly informed on all matters pertaining to Council services and the issues of importance to the community.

To assist in this education process, the policy encourages councillors to avail themselves of opportunities to undertake appropriate professional development (conferences, seminars, workshops and training sessions) that may be of benefit to the individual councillor and Council as a whole.

### 3.5.1 Authorisation and expenses

Councillors undertaking professional development shall have expenses for transport, accommodation, registration fees, meals and refreshments relating to their attendance paid by Council within the parameters of this Policy.

Prior to any booking or confirmation the following authorisation must be obtained:

	Within Victoria	Interstate	International
Approval required by	Mayor and CEO	Mayor and CEO	Resolution at Council meeting

Any councillor wishing to attend an international event must submit a business case to Council for approval. The business case must include the benefits to be gained from attendance; total costs and Council funds required.

Expenditure per individual councillor will be reported in Council's annual report, as required by the *Local Government (Planning and Reporting) Regulations 2014*.

### 3.5.2 Accompanying partners/guests

Attendance at seminars, conferences and civic functions with a spouse / partner is subject to prior approval, where all additional costs incurred for the attendance of a spouse / partner will be at the expense of the individual councillor (unless otherwise authorised by the Mayor and CEO).

### 3.5.3 Reporting requirements

Attendance at any professional development event will be conditional upon the councillor communicating key findings to other councillors on their return.

### 3.5.4 Accommodation/meals/refreshments

Accommodation will be organised at:

- the hotel used for the conference / workshop / training session; OR
- where a package of hotels is provided, any one of those hotels having regard to cost and standard; OR

- if both of the above are not applicable or available, a hotel / motel close to the conference / workshop / training venue at a similar rate and standard.

Councillors wishing to make alternative accommodation arrangements shall incur / bear all costs over and above the costs that would have been incurred by Council.

Councillors attending conferences / professional development workshops / training sessions, where overnight accommodation is required, will be reimbursed for expenses for meals and refreshments.

Reimbursement of accommodation, meals and refreshments expenses is subject to the following conditions:

1. Receipts must be provided.
2. Reimbursement will be as set out in the *Income Tax Assessment Act 1997* and the *ATO Taxation Ruling TR2004/6 Income tax: substantiation exception for reasonable travel and overtime meal allowance expenses*, and Table 2 of any subsequent ATO Taxation Determination for the financial year.
3. Reimbursement will not be provided for meals and refreshments where meals are included as part of conferences/professional development workshops/training session package.

## 3.6 TRANSPORT

### 3.6.1 Mayoral and councillor vehicles

Council will provide the Mayor with a fully maintained vehicle. The Mayor will have access to the vehicle for official use and full private use during the Mayoral term.

The Deputy Mayor and councillors will have access to the fleet vehicles located at the Bright office, which may be accessed via the fleet booking system (and booked by individual councillors). Fleet vehicles can only be used for legitimate Council business purposes.

Councillors must stipulate the purpose of use and destination in the subject line of the fleet vehicle booking. For example: *"Travel to MAV annual conference, Torquay"*, or *"Travel to Harrierville to inspect planning application site"*. Councillors must ensure that when booking a fleet vehicle, that there is a matching appointment in the Councillor calendar to verify the purpose of travel.

### 3.6.2 Use of private vehicles

Councillors must utilise allocated fleet vehicles for Council business in the first instance before utilising private vehicles. Should a special circumstance arise that necessitates the use of a private vehicle in the first instance, approval of the CEO is required.

Costs relating to private vehicle use will be reimbursed where there are no vehicles available in the fleet booking system at the time of use, or CEO approval has been given, and it is a necessary Council expense incurred while performing duties as a councillor. The maximum allowance travel rate will be as set by the ATO.



Reimbursement for use of private vehicles will only be provided for bona fide expenses relating to Councillor duties as defined in 3.1.

Reimbursement will not be provided for ordinary travel to / from councillor briefing sessions or Council meetings.

### **3.6.3 Remote area travel allowance**

Councillors are entitled to a remote travel allowance of \$40 for each day that they travel more than 50km (one way) from their residence to an ordinary, special or committee meeting, or any municipal or community functions which have been authorised by Council resolution for the Councillor to attend. The allowance will be paid up to a maximum of \$5,000 per annum.

Payment will be processed on provision of relevant details regarding the purpose, date and time of the municipal meeting or community function, including detail of the applicable Council resolution.

Claims must be made using the Councillors' Expenses Claim Form.

### **3.6.4 Car parking fees**

Car parking fees incurred while conducting Council business will be reimbursed on the basis of original receipts and relevant details regarding the purpose, date and time of the meeting or function.

Claims must be made using the Councillors' Expenses Claim Form.

### **3.6.5 Public transport tickets and E-Tags**

Councillors will be reimbursed costs associated with the purchase of public transport tickets or E-Tag type tolls expended in conducting Council business.

Reimbursement will be on the basis of original receipts and relevant details regarding the purpose, date and time of the meeting or function.

Claims must be made using the Councillors' Expenses Claim Form.

### **3.6.6 Use of taxis**

Councillors will be reimbursed costs associated with taxi services where it is not possible to use public transport or a Council vehicle for travel required in conducting Council business. Travel of a private nature will not be reimbursed.

Reimbursement will be on the basis of original receipts and relevant details regarding the purpose, date and time of the meeting or function.

Claims must be made using the Councillors' Expenses Claim Form.

## **3.7 ACCOMMODATION AND INCIDENTALS**

When travelling on Council business throughout Victoria, councillors may require accommodation. Councillors may stay in reasonable accommodation appropriate to the area travelled to and the nature of the visit.

Reimbursement of accommodation, meals and refreshments will be as set out in the *Income Tax Assessment Act 1997* and the *ATO Taxation Ruling TR2004/6 Income tax: substantiation exception for reasonable travel and overtime meal allowance expenses*, and Table 2 of any subsequent ATO Taxation Determination for the financial year.

## 3.8 TRAVEL EXPENSES

### 3.8.1 Reconciliation of travel expenses

Councillors must submit any claims for reimbursement within 30 days of return.

All claims must be supported by tax invoices and receipts.

### 3.8.2 Receipts

Although receipts cannot always be obtained, every effort should be made to do so in order that claims for reimbursement can be assessed.

A statutory declaration by a councillor is required where receipts have been lost or were not issued.

### 3.8.3 Other expenses

All other expenses incurred as a result of attending conferences/professional development workshops/training sessions shall be met from the councillor allowance.

### 3.8.4 Travel expense reporting requirements

The *Local Government (General) Regulations 2015* require the maintenance of a travel register containing details of overseas or interstate travel undertaken in an official capacity by councillors or any member of Council staff in the previous 12 months. The register must include names, the date, destination, purpose and total cost of the overseas or interstate travel.

## 3.9 PROCEDURE FOR REIMBURSEMENT

### 3.9.1 Making a claim for reimbursement

All claims must be made on the approved Councillors' Expenses Claim Form.

Original receipts must be attached for all claims (credit card receipts will not be accepted). Where receipts have been lost or were not issued, the councillor must provide a statutory declaration.

Where the provider of the goods or service is registered for GST, a tax invoice must be obtained and provided (without this the GST component of the cost cannot be reimbursed).

Claims must be lodged with the Executive Assistant to the CEO within 3 months of the expense occurring.

### 3.9.2 Payment of reimbursements

Reimbursements will be provided quarterly by electronic funds transfer.

### 3.9.3 Payment of allowances for communication equipment

Payment of allowances for communication equipment will be made on the same schedule as payment of councillor allowances.

The *Local Government Act 2020* makes provision for councillor allowances to be suspended for specific offences. The allowance for communication equipment will also be suspended in these instances.

### 3.9.4 Reporting

Quarterly reports of all councillor and delegated committee member expenses will be provided to Council's Audit and Risk Committee.

The report will include both expenses and reimbursements made to individual councillors during the quarter.

### 3.10 EXCLUSIONS

Any expenses incurred by an individual councillor resulting from the breach of road, traffic parking or other regulations or laws will not be reimbursed by Council.

## 4. Roles and responsibilities

The following positions are responsible for approving, implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy and procedures:

Responsibility	Role / Position
Implementation	<ul style="list-style-type: none"> <li>• Councillors</li> <li>• CEO</li> </ul>
Compliance	<ul style="list-style-type: none"> <li>• Mayor</li> <li>• CEO</li> </ul>
Development/Review	<ul style="list-style-type: none"> <li>• Director Corporate</li> <li>• Manager Corporate</li> <li>• Governance Officer</li> </ul>
Interpretation/Advice	<ul style="list-style-type: none"> <li>• CEO</li> <li>• Director Corporate</li> <li>• Manager Corporate</li> </ul>

## 5. Breaches

Failure to comply with Council policy, supporting procedures or guidelines, will be subject to investigation which may lead to disciplinary action.

## 6. Human Rights Charter compatibility

This policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006 [Vic]*.

## 7. Supporting documents

This policy should be read in conjunction with all other relevant, Council policies and procedures, as well as relevant legislative requirements.

### Related Legislation

- *Carers Recognition Act 2012 [Vic]*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Gender Equity Bill 2020 [Vic]*
- *Local Government Act 2020 [Vic]*
- *Local Government (General) Regulations 2015 [Vic]*
- *Local Government (Planning and Reporting) Regulations 2014 [Vic]*

### Related Guidelines, Operational Directives or Policies

- Councillor Code of Conduct Policy No.080
- Digital Information Security Policy No.111
- Fraud and Corruption Control Policy No.091
- Gifts, Benefits and Hospitality Policy No.065
- Mobile Phone Policy No.066
- Procurement Policy No.089
- Public Interest Disclosure Policy No.092

## 8. Definitions and abbreviations

Term	Meaning
Act	<i>Local Government Act 2020</i>
ATO	Australian Taxation Office
Carer	defined by s4 of the <i>Carers Recognition Act 2012</i>

Term	Meaning
CEO	Chief Executive Officer
Child	Aged 13 or younger, or aged 14 to 18 with a disability.
Childcare	Includes centre-based day care, family day care, outside school hours care, and in-home care.
Delegated Committee	Formed by Council in accordance with s63 of the <i>Local Government Act 2012</i>
Disability	Must meet the definition as used by the Commonwealth Government on the "List of Recognised Disabilities".

## 9. Approval

THE COMMON SEAL OF THE  
ALPINE SHIRE COUNCIL was  
hereunto affixed this 25 day of  
August 2020  
in the presence of:

.....  
COUNCILLOR NAME

.....  
SIGNATURE

.....  
COUNCILLOR NAME

.....  
SIGNATURE

.....  
CHIEF EXECUTIVE OFFICER

.....  
SIGNATURE



COMMITTEE CHARTER

**Audit and Risk Committee**

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**REVISION RECORD**

Date	Version	Revision description
24/01/2011	1.0	Minor changes to wording
01/02/2011	1.1	Adopted
06/02/2015	1.2	Minor changes to wording
16/03/2017	1.3	Changes to format and design Minor changes to wording Strengthening of purpose Improved clarity of authority Inclusion of membership recruitment, appointment and remuneration provisions Inclusion of meeting quorum, conflict of interest and disclosure of information provisions
02/05/2017	2.0	Adopted by Council
20/02/2019	2.1	2019 review for management consideration
26/02/2019	2.2	2019 review including management feedback
13/03/2019	2.3	2019 review for Audit Committee consideration
07/05/2019	3.0	Adopted by Council
18/06/2020	3.1	Review and rewrite to comply with <i>Local Government Act 2020</i> for internal consideration
04/08/2020	3.2	Minor revisions addressing feedback received during internal consultation
25/08/2020	4.0	For adoption by Council

# 1. Purpose

Alpine Shire Council (Council) has established an Audit Committee (Committee) as part of its good governance and accountability obligations to the community. The primary purpose of the Committee is to assist Council in the effective discharge of its responsibilities under the *Local Government Act 2020* by providing oversight, advice and guidance on Council's frameworks, systems and controls relating to:

- legislative and good governance compliance
- financial and performance reporting
- risk management
- internal and external audit.

The purpose of the Audit Committee Charter is to guide the operation of the Committee.

# 2. Mandate and authority

## 2.1 MANDATE

The Audit and Risk Committee has been established under section 53(1) of the *Local Government Act 2020* (the Act) and previously under section 139 of the *Local Government Act 1989*. The Act states that the Audit and Risk Committee is not a delegated committee (section 53(2)).

## 2.2 AUTHORITY

The Committee is an advisory committee and does not have any delegated powers, executive powers, management functions, or delegated financial responsibility.

The Council authorises the Committee, within its functions and responsibilities, to:

- discharge its functions and responsibilities under the Act and this Charter
- obtain any information it requires from management or an external party (subject to any legal obligation to protect information) as considered necessary to meet its responsibilities
- discuss any matters with the Victorian Auditor General's Office (VAGO), or other external parties (subject to confidentiality considerations)
- use its discretion to meet in camera with internal and external auditors
- request the Chief Executive Officer to obtain legal or other professional advice, at Council's expense, that it deems necessary to meet its functions and responsibilities
- request the attendance of councillors and Council officers, at Committee meetings
- seek resolution on any disagreements between management and the external auditors on financial and performance reporting
- seek resolution of any disagreement between management and the internal auditors on internal audit findings and recommendations.

## 3. Membership

### 3.1 COMPOSITION

The Committee will comprise of a minimum of five members as follows:

- no more than two councillors nominated and appointed by Council; and
- at least three or more independent persons.

The majority of Committee members must be independent members (section 53(3)(b)).

Council may nominate an alternate councillor to substitute for either of the two appointed councillors.

The Act (section 53(3)(c)) precludes employees of Council from being a member of the Committee.

### 3.2 EXPERTISE AND EXPERIENCE

The Act (section 53(b)) specifies that independent Committee members have, collectively, expertise in financial management and risk and experience in public sector management.

Further, the Committee should, collectively, possess sufficient knowledge and strategic skills in the areas of:

- audit
- governance
- control
- compliance.

It is preferable that at least one of the independent members should be a member of CPA Australia (CPA status), the Institute of Chartered Accountants Australia (CA status) and/or the Institute of Internal Auditors.

As the focus and responsibilities of the Committee respond to emerging needs and regulatory, economic, and reporting developments, members' competencies and the overall balance of skills on the Committee will be re-evaluated in the appointment of new and returning members.

### 3.3 RECRUITMENT

Independent members are recruited by way of publicly seeking expressions of interest.

The evaluation of potential independent members is undertaken by the Mayor, the Chief Executive Officer and the Director Corporate or their delegates as approved by the Chief Executive Officer.

The evaluation panel considers the expertise of candidates against the requirements of the Act and this Charter and recommends an appointment to Council.

The Council appoints all Committee members.

### 3.4 TERMS OF APPOINTMENT

The terms of appointment for each member will, where possible, be arranged to provide a rolling rotation of members to provide a satisfactory level of continuity.

#### **Councillors**

Councillor members will be appointed annually by the Council.

#### **Independent members**

Independent members will be appointed for an initial term of up to three years.

Independent members may, by application, be reappointed after the first term, with a maximum of three consecutive terms or nine years.

The terms of each independent member will, where possible, be arranged to provide an orderly rotation of membership and avoidance of more than two members being appointed or returned at the same time.

### 3.5 RESIGNATION, RETIREMENT OR TERMINATION OF APPOINTMENT

An independent member may resign or retire before the expiry of their term by notifying Council of their intention in writing.

In the event of an independent member resigning or retiring before the expiry of their term, the vacancy will be filled at the discretion of the Council provided the composition requirements of the Committee can be met.

If the resignation and/or retirement of two or more of the independent members coincide, the Council may extend one sitting member's term by one year to provide a level of continuity on the Committee.

The Council can terminate a member's appointment, if in the opinion of the Council, the member is not upholding the intent of this Charter and its principles. This includes absences from meetings without agreed valid reasons. If the Council proposes to terminate the appointment of a member of the Committee prior to the expiry of their term, written notice will be given to the member and the member will be given the opportunity to be heard at a meeting of councillors prior to the termination taking effect.

### 3.6 INDUCTION

New Committee members will receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities.

### 3.7 LIABILITY INDEMNITY

All members of the Committee are covered by Council's professional indemnity insurance for the service they undertake on the Committee.

## 3.8 CHAIR

The Chair of the Committee must be an independent member (section 53(4)).

The Committee will nominate and recommend a Chair to Council each year.

Council will formally appoint the Committee Chair.

In the absence of the appointed Chair at a Committee meeting, the Committee will appoint an acting Chair from the independent members present.

## 4. Principles

### 4.1 VALUES

The Committee will conduct itself in accordance with Council's values:

**Accountable** We are accountable and responsible for our decisions and actions, and the impacts of these on our community and the organisation.

**Leadership** We demonstrate leadership by being informed, applying innovative thinking and solutions and making fair and timely decisions in the best interest of our community and the organisation for now and the future.

**Productive** We are productive by focusing on delivering efficient and high-quality services and projects that respond to the needs and priorities of our community and the organisation.

**Integrity** We have integrity by being committed, truthful and transparent in our decision making and our interactions with our community and the organisation.

**Nurture** We nurture the relationships, contributions and strengths of our community and the individuals of the organisation.

**Engaged** We are engaged with our community, and within the organisation, to build strong and effective relationships and inform our choices.

### 4.2 CONFLICT OF INTEREST

Committee deliberations and recommendations must be transparent and accountable, to:

- protect the public interest
- maintain the integrity of the Committee and Council
- enable the public to be confident that the Committee is performing its duties properly.

Committee members must comply with Division 2 of Part 6 the Act with regard to the identification and management of general and material conflicts of interest.

Independent members will be required to complete and sign an Initial Personal Interest Return within 30 days of commencement of their initial term, and then a Biannual Personal Interests Return as required under the Act.

Committee members must disclose any conflicts of interest as and when they may arise and at the commencement of Committee meetings in relation to any matters listed on the meeting agenda. All officers providing reports to a Committee meeting will make a declaration in the agenda report in relation to conflicts of interest.

Failure to comply with the provisions of the Local Government Act 1989 and this Charter with regard to conflicts of interest and register of interests may result in prosecution and the member's appointment being terminated by Council.

### 4.3 MISUSE OF POSITION

The provisions of section 123 of the Act in relation to the misuse of position apply to Committee members. Members must not intentionally misuse their position to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person, or cause, or attempt to cause, detriment to Council or another person.

The misuse of position provisions include:

- making improper use of information
- disclosing information that is confidential information
- exercising or performing (or purporting to) a power, duty or function that the member is not authorised to exercise or perform
- participating in a decision on a matter in which the member has a conflict of interest.

### 4.4 CONFIDENTIALITY

Confidential information is defined in section 3 of the Act.

Committee members must comply with the requirements of sections 53 and 125 of the Act in relation to confidential information.

Committee members must not intentionally or recklessly disclose information that they know, or should reasonably know, is confidential information and commit to ensuring the safekeeping and disposal of confidential information.

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

Failure to comply with the provisions of the Act and this Charter with regard to confidentiality may result in prosecution and the member's appointment being terminated by Council.

### 4.5 COMMUNICATION

Communication between Council and the Committee and any other party will at all times be open, transparent, direct and factual, recognising the need to comply with relevant legislated privacy and confidentiality requirements.

## 5. Administrative arrangements

### 5.1 MEETINGS

#### **Governance rules**

The Councils Governance Rules adopted under section 60(1) of the Act do not apply to the Committee or the conduct of its meetings.

#### **Frequency and timing**

The Committee will meet at least quarterly each year including a special meeting to consider the draft annual financial and performance statements and the results of the external audit.

The frequency and timing of meetings will be developed and agreed to by the Committee each year to ensure that the Committee can properly discharge its responsibilities pursuant to this Charter.

Additional meetings will be convened, as circumstances require.

#### **Extraordinary matters**

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

#### **Meetings closed to public**

Committee meetings are closed to the public due to the confidential and sensitive nature of the material being considered by the Committee.

#### **Quorum**

A quorum will be half the number of members plus one including at least one Councillor member and two independent members.

In the event that a quorum cannot be achieved for a meeting or a given agenda item, the agenda or item will be deferred to the next available meeting of the Committee unless it is deemed urgent by the attending members, in which case the Chair may call an additional meeting to deal with the item.

#### **Declarations of conflict of interest**

The Chair will call for declarations of conflict of interest at the commencement of each meeting. All members with a conflict of interest must:

1. declare that interest including and explanation of the nature of the interest
2. leave the meeting while the matter is being considered and await the Chair's direction to return to the meeting.

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

### **Voting**

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

The Chair may exercise a casting vote if required.

## **5.2 AGENDAS AND MINUTES**

### **Agendas**

Meeting agendas and supporting documentation will be circulated to members at least one week prior to each meeting.

### **Minutes**

Conflicts of interest disclosed at a meeting will be noted in the minutes.

Minutes of each meeting will be prepared and provided to members in draft form for review within two weeks of the meeting.

The minutes, and a report summarising the meeting content, will be reported to a meeting of the Council within two months of the Committee meeting.

## **5.3 ATTENDANCE AND REMUNERATION**

### **Attendance at meetings**

All Committee members are expected to attend each meeting, in person or via teleconference or video conference.

The Chief Executive Officer should attend all meetings except where the Committee is of the opinion that a matter should be discussed privately. In the event that the Chief Executive Officer is absent, the acting Chief Executive Officer may attend the meeting.

All Directors and the Manager Corporate should attend all meetings in an advisory capacity.

Other councillors can attend meetings as observers and may be permitted to participate in discussion of agenda items at the discretion of the Chair.

Council officers may be invited to attend meetings at the discretion of the Chief Executive Officer to advise and provide information to the Committee when required.

Representatives of the external auditor will be invited to attend meetings considering the draft annual financial statements and results of the external audit.



## Remuneration

Remuneration, by way of a meeting attendance fee, will be paid to each independent member of the Committee for each meeting they attend. The remuneration is set by resolution of the Council. Any acting Chair appointed by the Committee under section 3.8 will receive the fee set by Council for the Committee Chair.

The remuneration of Committee members will be adjusted annually on July 1 each year and limited to increases in the Consumer Price Index (CPI All Groups Melbourne) June quarter to June quarter of the preceding year, rounded to the nearest five-dollar increment.

Councillor members are not remunerated for their role on the Committee.

## 5.4 FACILITATION AND SUPPORT

In discharging its functions and responsibilities, the Committee will be supported by the Chief Executive Officer, who will facilitate:

- meetings of the Committee
- provision of relevant explanatory information, records, data and reports considered necessary for the Committee to discharge its duties provided the information is not subject to legal or confidentiality exemptions
- access to auditors and Council officers.

In accordance with section 54(6a) of the Act, the CEO will appoint a Council Officer to provide administrative support to the Committee.

## 6. Functions and Responsibilities

### 6.1 COMPLIANCE

To monitor compliance of Council's policies and procedures with the Act, its overarching governance principle and regulations, and any ministerial directions (section 54(2)(a)), the Committee will:

- review and provide advice on Council's governance processes and the procedures in place to ensure that they are operating as intended
- review the effectiveness of the system for monitoring compliance with legislation and regulations and the results of management's investigation and follow up (including disciplinary action) of any instances of non-compliance
- monitor the process for communicating the code of conduct and policies to employees
- monitor Council's policy review program including embedding the Act's governance principles
- review key policies required by the Act for legislative compliance and embedding of the Act's governance principles
- assess the Council's procurement framework with a focus on the probity and transparency of policies and procedures/processes
- receive regular updates regarding compliance matters

## 6.2 FINANCIAL AND PERFORMANCE REPORTING

To monitor Council's financial and performance reporting (section 54(2)(b)), the Committee will:

- review interim and annual financial reports, and consider whether they are complete, consistent with information known to the Committee members, and reflect appropriate accounting principles
- review with management and the external auditors the results of the annual financial and performance audit, including any difficulties encountered
- review with management and the external auditors all matters required to be communicated to the Committee under the Australian Auditing Standards
- review significant accounting and reporting issues, including significant estimates and judgements, complex or unusual transactions and highly judgemental areas, and recent accounting, professional and regulatory pronouncements and legislative changes, and understand their effect on the financial report.
- understand strategies, assumptions and estimates that management has made in preparing financial statements, budgets, and investment plans
- monitor and review the appropriateness of accounting policies and processes and any changes including the method of applying them.

## 6.3 RISK MANAGEMENT

To monitor and provide advice on Council's risk management systems and controls (section 54(2)(c)), the Committee will:

- review and recommend enhancements to Council's risk management policy, framework and processes and monitor to ensure they are operating as intended
- provide oversight on significant strategic, material and operational risk exposures and control issues, including fraud and corruption risks, governance issues, climate change and other matters needed or requested by senior management and the Council
- receive regular risk reports that provide an overview of the management and monitoring of each strategic and material risk and the identification of new risks to mitigate exposures to Council
- review the adequacy and effectiveness of Council's internal controls responding to risks within the governance, operations and information systems
- maintain an awareness of any significant changes to Council's control environment
- assess whether management has controls in place for unusual types of transactions and/or any potential transactions that might carry more than an acceptable degree of risk
- review whether the Council has a current and active business continuity plan and disaster recovery plan which is tested periodically
- monitor Council's commercial interests, established under sections 110 and 111 of the Act or section 193 of the *Local Government Act 1989*.

## 6.4 FRAUD AND CORRUPTION

To monitor and provide advice on Council's fraud and corruption prevention systems and controls (section 54(2)(c)) the Committee will:

- ascertain whether fraud risks have been identified, analysed, evaluated, and have an appropriate treatment plan which has been implemented, communicated, monitored and regularly reported on
- provide oversight on and monitor arrangements, programs and controls in place to identify, prevent and deter fraud and corruption including implementation of training programs
- receive reports on potential, suspected and actual cases of fraud and corruption, ensuring reporting to the Council and/or relevant authorities
- monitor investigations undertaken if fraud or corruption is suspected or detected including that appropriate action is taken against known perpetrators of fraud.

## 6.5 INTERNAL AUDIT

To oversee Council's internal audit function (section 54(2)(d)), the Committee will:

- discuss with Council the appropriate method of provision of the internal audit function
- review and recommend the annual audit plan for approval by Council, ensuring that the plan is prioritised according to material risks
- monitor processes and practices of internal audit to ensure that the independence of the audit function is maintained
- as relevant, meet with the internal auditor to discuss any matters that the Committee or internal auditor believes should be discussed without management being present
- review internal audit report findings, management responses, accountabilities and timelines for corrective actions
- monitor the implementation of internal audit findings and recommendations
- review internal audit performance relative to the audit plan.

## 6.6 EXTERNAL AUDIT

To oversee Council's external audit function (section 54(2)(d))or, the Committee will:

- note the external auditor's proposed audit scope and approach, including any reliance on internal audit activity
- sight all representation letters signed by management and consider the completeness and appropriateness of the information provided
- at an appropriate meeting, have the external auditor: outline the external audit plan including proposed audit strategies and how they might relate to identified risk areas
- meet with the external auditor for the presentation of the audited financial statements, and the discussion of the results of engagements and recommendations for management

- as relevant, meet with the external auditor, to discuss any matters that the Committee or the external auditor believe should be discussed without management being present
- consider the findings and recommendations of external audits and provide guidance to Council on significant issues identified
- review management's response to the external auditor's findings and recommendations
- monitor the implementation of external audit findings and recommendations
- maintain an awareness of local government performance audits undertaken by the Victorian Auditor General (VAGO) and audits and reviews by other regulatory agencies, and ensure recommendations are brought to the attention of the Council for action/implementation where appropriate.

## 6.7 WORK PROGRAM

In accordance with section 54(3) of the Act, the Committee will, in collaboration with the Chief Executive Officer, establish an annual work program that includes the timing of reporting of relevant responsibilities outlined in this Charter.

## 6.8 PERFORMANCE

The Committee will undertake an assessment of its performance against this Charter annually in accordance with section 54(4)(a) of the Act.

The Committee's administrative support officer will assist the Committee to prepare and distribute the self-assessment documentation. The assessment will invite input from each Committee member and senior Council management.

## 6.9 REPORTING

The Committee will, in accordance with the requirements of the Act, report the following to Council through the Chief Executive Officer:

- annual assessment of performance against the requirements of this Charter (section 54(4)(b))
- a biannual report that describes the Committee's activities, findings and recommendations (section 54(5)(a))
- the minutes of each Committee meeting (section 54(6)(b))

## 7. Approval

THE COMMON SEAL OF THE  
ALPINE SHIRE COUNCIL was  
hereunto affixed this 25 day of August  
2020  
in the presence of:

.....  
COUNCILLOR

.....  
COUNCILLOR

.....  
CHIEF EXECUTIVE OFFICER