



Rural City of
Wangaratta

Major Council Policy Community Impact Statement

Governance Rules; Audit & Risk Committee Charter; Council Expenses Policy; Councillor Support Policy & Public Transparency Policy

Council provides the following information to the community in respect of these proposed new and amended major council policies.

PART A – General

Council is considering making new and amended major council policies because of the commencement of the *Local Government Act 2020* (the Act).

1. **Governance Rules**, that support Council to achieve good governance and decision-making. This policy is required to be established under section 60 of the Act by 1 September 2020.
2. The **Audit & Risk Committee Charter**, that specifies the functions and responsibilities of the Audit and Risk Committee (ARC). The charter is required to be established under section 54 of the Act by 1 September 2020.
3. The **Council Expenses Policy**, that supports councillors and members of delegated committees to perform their role, as defined under the Act, without disadvantage, by ensuring that expenses reasonably incurred in the performance of their role are reimbursed. The policy also provides guidance on entitlements, processes for reimbursement and reporting requirements. This policy is required to be established under section 41 of the Act by 1 September 2020.
4. The **Councillor Support Policy**, that supports the Mayor and councillors to perform their role, as defined under the Act, without disadvantage, by making available to the Mayor and the councillors the resources and facilities reasonably necessary to enable them to effectively perform their role. This amendment of the current Councillor Support Policy is required as the expenses sections of the current policy will be made redundant by the introduction of the Council Expenses Policy.
5. The **Public Transparency Policy**, that supports the Council in good governance and decision-making through open and accountable conduct and what council information is to be made publicly available. This policy is required to be established under section 57 of the Act by 1 September 2020 to give effect to the public transparency principles.

PART B – Overall Impact Assessment

The policies will enable Council to continue to deliver good governance in its municipal district for the benefit and wellbeing of the municipal community.

The policies have been adapted from previous council policies and the approach recommended by the Department of Environment, Land, Water and Planning (DELWP). No major changes to arrangements are proposed.

The previous council policies and the relationship with the new and proposed policies are described below.

1. Governance Rules

Section 60 of the Act requires Governance Rules to be established under that section to cover:

Prescribed contents (section 60 of the Act)	Related previous council policy
(a) the conduct of Council meetings	Governance & Meeting Conduct Local Law
(b) the conduct of meetings of delegated committees	Governance & Meeting Conduct Local Law
(c) the form and availability of meeting records	Governance & Meeting Conduct Local Law
(d) the election of the Mayor and the Deputy Mayor	Governance & Meeting Conduct Local Law
(e) (da) the appointment of an Acting Mayor	Governance & Meeting Conduct Local Law
(f) an election period policy in accordance with section 69 of the Act	Election Period Policy
(g) the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under section 130 of the Act	New provisions
(h) the procedure for the disclosure of a conflict of interest by a Councillor under section 131	New provisions
(i) the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section 126(1) of the Act	New provisions
(j) any other matters prescribed by the regulations	No regulations have been made in relation to section 60 of the Act
(k) consider and make decisions on any matter being considered by the Council fairly and on the merits	Governance & Meeting Conduct Local Law
(l) institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered	Governance & Meeting Conduct Local Law

The overall impact of these changes is minimal.

The overall approach employs new terms from the Act, uses simplified wording, is less prescriptive, does not restate the Act & is in the new branding format.

The meeting conduct and election provisions have been imported from the governance and meeting conduct local law other than:

- meeting roles are expanded beyond just the chairperson and now include a delegated committee chairperson, the Chief Executive Officer, councillors, and the community
- the chairperson's role description has been expanded
- display of placards and posters has been added to conduct and behaviour
- the chairperson may remove clause has been expanded to provide more detail around procedure
- the Council or the Mayor may remove a councillor clause reflects a procedure to accommodate a change in the new Act
- the date, time and place of meetings may be altered by the CEO (not just by resolution of the Council)
- the postponement clause allows the CEO or delegate to postpone a meeting in an emergency
- an agenda for a scheduled meeting is to be provided to councillors 5 business days before the meeting as per current practice
- notice of scheduled meetings to be provided to the community on the website as a minimum
- agenda of scheduled meetings published on the website at least 48 hours before a meeting
- notice of an unscheduled meeting to be published on the website as soon as practicable
- agenda of an unscheduled meeting to be provided to councillors at least 48 hours before an unscheduled meeting unless exceptional circumstances
- agenda of an unscheduled meeting to be published on the website at least 24 hours before the meeting
- the rules for managing a quorum to provide for decisions relating to maintaining a quorum being able consider splitting and deferring matters and to be made under delegation if needed
- councillor reports to cover announcements, congratulations, condolences, and recognition statements
- the urgent business clause has expanded controls on the types of matters that cannot be dealt with to ensure that community engagement processes and transparency regarding service levels, budget, policy, or contracts cannot be avoided
- urgent business to be submitted by 3pm on the day of the meeting (currently 4pm)

- provision for the chairperson to temporarily adjourn a meeting exceeding 2 hours for a 10-minute break
- public question time able to consider statements as well as questions
- public question time suspended during an election period
- the time allowed for submitters at public question time is limited to 5 minutes
- petitions with less than 12 signatories to be joint letters and referred to the organisation for an operational response
- the voting must be seen clause introduces the possibility of the Council resolving to use a different method of councillors showing their vote
- procedural motions have been presented in a table format
- notices of motion to be submitted 10 days ahead of a meeting because the agenda is to be provided 5 days before the meeting
- the notice of motion clause has expanded controls on the types of matters that cannot be dealt with to ensure that community engagement processes, natural justice, transparency, and confidentiality regarding service levels, budget, policy, an impacted person's right to be heard, contracts, or litigation cannot be avoided
- the joint councils meeting clause provides a new procedure as a result of the new Act

The election period provisions reference the election period policy adopted by the Council in late 2019.

The conflict of interest provisions reflects the model proposed by DELWP and aims to ensure fair and just decision-making by elected councillors, members of delegated committees and staff providing advice to decision makers.

2. ARC Charter

Section 54 of the Act requires an ARC Charter to be established under that section to provide for the functions and responsibilities of the ARC that will be established by Council under section 53 of the Act. The ARC will replace the Audit Advisory Committee (AAC) established under section 139 of the *Local Government Act 1989*.

Section 54 of the Act requires that an ARC Charter must cover:

Prescribed contents (section 54 of the Act)	Related previous council policy
(a) specify the functions and responsibilities of the Audit and Risk Committee	AAC Charter
(b) monitor the compliance of Council policies and procedures with the overarching governance principles	New provisions
(c) monitor the compliance of Council policies and procedures with the Act and the regulations and any Ministerial directions	New provisions

(d) monitor Council financial and performance reporting	AAC Charter
(e) monitor and provide advice on risk management and fraud prevention systems and controls	AAC Charter
(f) oversee internal and external audit functions	AAC Charter
(g) adopt an annual work program	AAC Charter
(h) prepare a biannual audit and risk report that describes the activities of the Audit and Risk Committee and includes its findings and recommendations	New provisions

The overall impact of these changes is minimal and merely reflects the requirements of the Act.

ARC governance rules reference the Council's governance rules other than specific provisions which have been imported from the AAC Charter.

New provisions follow the model proposed by DELWP with any necessary adaptations.

3. Council Expenses Policy

Section 41 of the Act requires that a Council Expenses Policy be established to provide for reimbursement of out-of-pocket expenses for Councillors and members of delegated committees.

Prescribed contents (section 41 of the Act)	Related previous council policy
(a) specify procedures to be followed in applying for reimbursement and in reimbursing expenses	Councillor Support Policy
(b) comply with any requirements prescribed by the regulations in relation to the reimbursement of expenses	No regulations have been made in relation to section 41 of the Act
(c) provide for the reimbursement of childcare costs where the provision of childcare is reasonably required for a Councillor or member of a delegated committee to perform their role	Councillor Support Policy
(d) have particular regard to expenses incurred by a Councillor who is a carer in a care relationship within the meaning of section 4 of the <i>Carers Recognition Act 2012</i>	Councillor Support Policy

The overall impact of these changes is minimal as the relevant expenses provisions of the Councillor Support Policy made by the Council under section 75B of the *Local Government Act 1989* have been imported into the policy.

4. Councillor Support Policy

The overall impact of these changes is minimal as the relevant councillor support provisions of the Councillor Support Policy made by the Council under section 75B of the *Local*

Government Act 1989 have been imported into the policy as adjusted for current practice and technology.

5. Public Transparency Policy

This is a new policy with an overall impact of committing the Council to transparent decision-making and clarifying information access for the community.

Section 57 of the Act requires a public transparency policy to be established under that section to cover:

Prescribed contents (section 57 of the Act)	Related previous council policy
(a) give effect to the public transparency principles, including: <ol style="list-style-type: none"> 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 the information is confidential by virtue of this Act or any other Act c. Council information must be publicly available unless public availability of the information would be contrary to the public interest d. Council information must be understandable and accessible to members of the municipal community e. public awareness of the availability of Council information must be facilitated 	New provisions
(b) describe the ways in which Council information is to be made publicly available	New provisions
(c) subject to section 58(b), specify which Council information must be publicly available, including all policies, plans and reports required under this Act or any other Act	New provisions
(d) include any other matters prescribed by the regulations	No regulations have been made in relation to section 57 of the Act

Measures of success of the policy

The success of the policies will be best measured by the extent to which they maintain and improve the quality of Council decision-making, governance, integrity, and transparency.

The annual community satisfaction survey results for the following questions will provide the basis for council's assessment of the success of the policies:

- Over the last 12 months, what is your view of the direction of Wangaratta Rural City Council's overall performance?

- How has Council performed on 'Decisions made in the interest of the community' over the last 12 months?

Council will assess outcomes as part of its ongoing review of council plan performance.

Legislative context

Council considers the policies to be the best approach to ensure that the requirements of sections 41, 57, 54 and 60 of the Act are met.

There is no overlap with existing legislation or policies other than the Governance & Meeting Conduct Local Law that was made under Part 5 of the *Local Government Act 1989*. This local law will be amended to remove the duplication in due course.

The policies have no relevance to the Planning Scheme.

Risk assessment

The policies enhance Council's arrangements for good governance, decision-making, integrity, and transparency which reduces risk.

The policies ensure that the Council is compliant with the Act.

Policy approach adopted

No other legislation can be used.

The policies are standalone instruments that effectively address the relevant needs of the community and of the prescribed elements of the Act.

The policies do not impose any increased costs on the community as they relate to the Council's decision-making, governance, and integrity frameworks.

Restriction of competition

Council has conducted a review of the policies in accordance with National Competition Principles. The results of that review are attached.

The policies relate to the Council's decision-making, governance, and integrity frameworks.

There are no National Competition Policy implications associated with the proposal.

Permits

The policies do not make provision for the issue of permits.

Fees

The policies do not prescribe any fees.

Comparison with neighbouring and like Councils

Council has chosen to, in the main, to import relevant provisions from existing Council policies whilst also adopting some of the approach taken in the DELWP model policies where needed. Other councils are following this approach.

Charter of Human Rights

Council has assessed the policies for compatibility with the Charter of Human Rights and Responsibilities. A report of this assessment is attached.

In summary, Council found that the key points of reference are governance rules provisions for public question time and petitions which enhance a person's ability to express opinions, to get a fair hearing and to be involved in public life.

The public transparency policy has privacy protections that ensure a person's right to privacy protection of reputation.

The policies are compatible with the Charter of Human Rights.

Consultation

In the process of developing the policies, consultation will be undertaken in accordance with Council's Major Council Policy Consultation Local Law.

All submissions and any proposed changes will be considered by Council prior to the policies being adopted.

Submissions

Submissions are invited from the community regarding the policies in accordance with clause 7 of the Major Council Policy Consultation Local Law No. 4 of 2015.

A notice to this effect will be advertised in a local newspaper on 3 July 2020 and on Council's website indicating that submissions will be received up to 5.00pm on 31 July 2020.

Persons making submissions can request an opportunity to address Council. A Special Committee of Council will be established to hear submissions on the policies in early August 2020.

All submissions will be considered by Council when deciding whether to adopt the policies at a meeting of Council scheduled for 25 August 2020.



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Major Council Policy Human Rights Charter Assessment

Governance Rules; Audit & Risk Committee Charter; Council Expenses Policy; Councillor Support Policy & Public Transparency Policy

As from 1 January 2008 all public authorities (including Councils) are required to act in accordance with the Human Rights Charter, and to consider human rights when making a decision.

The Charter is a law that protects the rights of all people in Victoria. It introduces standards and a framework to assist public authorities to consider the rights of all interested parties, and to be better able to strike a balance between an individual's rights and those of competing public interests.

The rights in the Charter may be subject to reasonable limitations to achieve this balance. As with all discerning decision making, if limitations are applied, this must be documented. There are twenty rights listed in the Charter that promote the principles of freedom, respect, equality, and dignity. These are listed at the end of this document.

The key points of reference are governance rules provisions for public question time and petitions which enhance a person's ability to express opinions, to get a fair hearing and to be involved in public life.

The public transparency policy has privacy protections that ensure a person's right to privacy protection of reputation.

The policies are compatible with the Charter of Human Rights.

Issues and Purpose	Rights Impacted Positive	Rights impacted Negative	Justification and alternatives
Governance rules – public question time & petitions	Right to hold an opinion and freedom of expression	Nil	Not applicable
Governance rules - public question time & petitions	Right to take part in public life, including the right to vote	Nil	Not applicable
Governance rules - public question time & petitions	Right to a fair hearing	Nil	Not applicable

Issues and Purpose	Rights Impacted Positive	Rights impacted Negative	Justification and alternatives
Governance rules - public question time & petitions	Right to be recognised and treated equally before the law	Nil	Not applicable
Governance rules - conflict of interest procedures	Right to a fair hearing	Nil	Not applicable
Public transparency policy	Right to privacy and to protect your reputation	Nil	Not applicable

Victoria's Charter of Human Rights and Responsibilities

The Charter sets out the rights, freedoms and responsibilities that are shared by all Victorians and protected by law.

The Charter protects the following rights in Victoria:

- Right to be recognised and treated equally before the law;
- Right to life and to not have your life taken without a lawful reason;
- Protection from cruel treatment or punishment, including torture and medical treatment without consent;
- Freedom from forced work or slavery;
- Right to move freely within Victoria, to come into and leave Victoria, and to choose where to live;
- Right to privacy and to protect your reputation;
- Freedom of thought, conscience, religion, and belief;
- Right to hold an opinion and freedom of expression;
- Right to gather together, take part in a peaceful demonstration or protest, and to join groups such as political, sport or union groups;
- Protection of families and children;
- Right to take part in public life, including the right to vote;
- Right to enjoy your culture, practise your religion, and speak your language;
- Right not to have your property taken away, unless the law says it can be taken;
- Right not to be arrested or detained unfairly, and right to the security of person, such as protection from harassment and threats in everyday life;
- Right to be treated humanely when arrested or detained;
- Protection of children in the criminal process;
- Right to a fair hearing;
- Rights in criminal proceedings including the right to be presumed innocent until proved guilty; and
- Right not to be tried or punished more than once for the same crime.



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Major Council Policy National Competition Policy Assessment

Governance Rules; Audit & Risk Committee Charter; Council Expenses Policy; Councillor Support Policy & Public Transparency Policy

Introduction

A policy must not restrict competition unless it can be demonstrated that: -

- The benefits of the restrictions to the community outweigh the costs; and
- The objectives of the policy can only be achieved by restricting competition.

This report applies the competition test to the Governance Rules; Audit & Risk Committee Charter; Council Expenses Policy; Councillor Support Policy & Public Transparency Policy.

Introductions, Contexts, Scopes, Purposes and Definitions

These sections set out the introduction, context, scope, purpose, and definitions elements of the policies.

The policies do not contain any restriction on competition.

Policies

These sections set out the policies that will guide the conduct of staff and the content and approach used in related policies and procedures.

The policies do not contain any restriction on competition