

## 7.11 LOCAL GOVERNMENT ACT 2020 IMPLEMENTATION - DOCUMENTS FOR PUBLIC EXHIBITION

**File Number:**

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**Attachments:**

1. Draft Governance Rules (under separate cover)
2. Draft Public Participation in Council Meetings Policy (under separate cover)
3. Draft Election Period Policy (under separate cover)
4. Draft Public Transparency Policy (under separate cover)

### RECOMMENDATION

That Council:

1. Endorse the draft Governance Rules (Attachment 1), including the draft Public Participation in Council Meetings Policy (Attachment 2) and draft Election Period Policy (Attachment 3);
2. Endorse the draft Public Transparency Policy (Attachment 4);
3. Places the Governance Rules and abovementioned policies on public exhibition for a period of 2 weeks from Wednesday, 29th July 2020 to Wednesday, 12 August 2020;
4. Following the public exhibition period, holds an Unscheduled (Special) Council Meeting at 6pm on Tuesday, 18 August 2020 to hear (virtually) any submitters that wish to be heard, only if required; and
5. Considers the final documents for adoption at the 25 August 2020 Council Meeting.

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### EXECUTIVE SUMMARY

In order to achieve compliance with Stage 2 implementation of the phased introduction of the new Local Government Act 2020, the following documents need to now progress to public exhibition in order for adoption by 1 September 2020:

- Governance Rules (including Public Participation in Council Meetings Policy and Election Period Policy); and
- Public Transparency Policy.

The establishment of the Golden Plains Shire Council Governance Rules will bring a repeal of the following document:

- Local Law No.1 of 2019 – Council Meeting Procedures & Common Seal

Following public exhibition, the Governance Rules and abovementioned policies must be adopted by Council by 1 September 2020. To meet this deadline, it is recommended the documents, as attached, be now approved for placing on public exhibition for a period of 2 weeks, from Wednesday, 29th July 2020 to Wednesday, 12 August 2020.

### BACKGROUND

The new Local Government Act 2020 (the Act) was passed by the Victorian Parliament in mid-March, receiving royal assent on 24 March 2020. The new Act is being rolled out in four implementation stages, which are to be proclaimed between 6 April 2020 and July 2021.

With the first stage of reforms commencing on 6 April 2020, the second stage came into force on 1 May 2020. Within the second stage there are several items that need to be completed within a grace period of four months from the 1 May 2020, e.g. by 1 September 2020.

**POLICY CONTEXT**

*Local Government Act 2020*

**DISCUSSION**

To implement the requirement of the second implementation stage of the Local Government Act 2020, the following documents need to now progress to public exhibition and must be adopted by 1 September 2020:

- Governance Rules (including Public Participation in Council Meetings Policy and Election Period Policy); and
- Public Transparency Policy.

The Governance Rules and abovementioned policies are required to undergo a community engagement and consultation process prior to adoption.

The table below steps out the proposed timeline to ensure adoption by 1 September 2020:

<b>Item</b>	<b>Public Exhibition Period</b>	<b>Council Meeting to Hear Submitters (only if required)</b>	<b>Council Meeting for Proposed Adoption</b>
Governance Rules, including: - Public Participation in Council Meetings Policy; and - Election Period Policy	Tues, 29 July 2020 – Tues, 12 August 2020 (2 weeks)	Tues, 18 August 2020	Tues, 25 August 2020
Public Transparency Policy	Tues 29 July 2020 to Tues 12 August 2020 (2 weeks)	Tues, 18 August 2020	Tues, 25 August 2020

**Governance Rules**

The draft Governance Rules are attached to this report. Under the new Act, the Governance Rules must include:

- (a) the conduct of Council meetings;
- (b) the conduct of meetings of delegated committees;
- (c) the form and availability of meeting records;
- (d) the election of the Mayor and the Deputy Mayor;
- (da) the appointment of an Acting Mayor;
- (e) an election period policy in accordance with section 69;
- (f) the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under section 130;
- (g) the procedure for the disclosure of a conflict of interest by a Councillor under section 131;
- (h) 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);
- (i) any other matters prescribed by the regulations.

The draft Governance Rules include a revised version of the meeting procedures sections drawn from Golden Plains Shire Council Local Law No. 1 of 2019. This ensures that meeting procedures and practices currently in place remain except where adjustment required to comply with the new legislation. The meeting procedures have also undergone minor wording amendments for clarity.

In early June, Local Government Victoria (LGV) provided councils with a template Governance Rules. These rules were reviewed and utilised to assist in making the necessary amendments to draft Governance Rules, however, as Council's meeting governance has developed into a comprehensive and well defined set of procedures over many years, retention of these procedures was maintained in preference to adopting in full the less complete LGV Governance Rules template.

Following officers review, the draft Governance Rules were forward to an external lawyer for further review and suggested changes incorporated into the final draft.

These draft Governance Rules are designed to be clear, instructive and provide transparency to the decision making processes of Council. They are submitted to Council for approval to commence the public exhibition process.

The draft Governance Rules are provided at Attachment 1.

**Table 1: Governance Rules – Summary of Changes**

<b>Amended Sections</b>			
<b>Section</b>	<b>Heading</b>	<b>Change</b>	<b>Change Reasoning</b>
Title	Governance Rules	Amended title (previously titled Local Law No. 1 of 2019 – Council Meeting Procedures & Common Seal).	To align with requirements of new Act. For clarity purposes.
Section 1	Objectives of these Governance Rules	New clauses 1.3, 1.5 – 1.11, 1.14 – 1.15.	To align with requirements of new Act. To align with LGV Governance Rules Template. For clarity purposes.
Section 6	Commencement and Review Dates	Amended clauses 6.1 – 6.2.	To align with requirements of new Act. For clarity purposes.
Section 7	Definitions	Updated definitions.	To align with requirements of new Act. To align with LGV Governance Rules Template. For clarity purposes.
Section 8	Election of Mayor and Deputy Mayor	Amended clauses 8.2 and 8.13. New clauses 8.10 – 8.12.	For clarity purposes.
Section 12	Types, Dates & Times of Meetings	Amended heading (previously Dates & Times of Meetings) New clauses 12.1 – 12.3.	To align with requirements of new Act. To align with LGV Governance Rules Template. For clarity purposes.
Section 15	Notice of Meetings	Amended clause 15.1 –	To align with new Act.

	& Agenda	no requirement to advertise in newspaper.	For clarity purposes.
Section 23	Conflicts of Interest	Amended clauses 23.1 – 23.3, 23.5 – 23.8.	To align with requirements of new Act. To align with LGV Governance Rules Template.
Section 34	Livestream Broadcast and Digital Recording of Proceedings	Amended clauses 34.1 – 34.4. New clauses 34.5 – 34.6.	To reflect current business practices.
Section 39	Chairpersons Right to Speak	Amended clause 39.1.	For clarity purposes.
Section 43	Procedures with Respect to Amendments	Amended clauses 43.4, 43.9, 43.13, 43.16 – 43.17.	For clarity purposes.
Section 49	Rules for Voting	Amended clauses 49.2 and 49.4.	To align with LGV Governance Rules Template. For clarity purposes.
Section 52	No Discussion Once Declared	Amended clause 52.1.	For clarity purposes.
Part 5	Public Participation in Meetings	Amended clauses 60.1 – 60.2, 61.2, 62.2, 63.2, 64.2.	For clarity purposes.
Part 6	Committees	Amended clauses 66.1 – 68.5.	To align with requirements of new Act. To align with LGV Governance Rules Template.
Part 8	Common Seal	Amended purpose. Deleted previous clause 64.1.	For clarity purposes.
Various	Various	Minor cosmetic changes. Amendments to spelling and grammar. Change references to new Act.	For clarity purposes.
<b><i>New Sections</i></b>			
<b>Section</b>	<b>Heading</b>	<b>Change</b>	<b>Change Reasoning</b>
Section 3	Role of Council	New section and clauses 3.1 – 3.4.	To align with requirements of new Act.
Section 4	Overarching Governance Principles and Supporting Principles	New section and clauses 4.1 – 4.3.	To align with requirements of new Act.
Section 5	Council Decision	New section and clauses	To align with requirements of

	Making	5.1 – 5.3.	new Act.
Section 11	Acting Mayor	New section and clauses 11.1 – 11.5	To align with requirements of new Act.
Section 13	Postponement	New section and clauses 13.1 – 13.2.	To align with LGV Template
Section 14	Meetings Open to the Public	New section and clauses 14.1 – 14.3.	To align with requirements of new Act. To align with LGV Governance Rules Template.
Section 18	Inability to Maintain a Quorum Due to Disclosed Conflicts of Interest	New section and clauses 18.1 – 18.5.	To align with requirements of new Act.
Section 21	Joint Council Meetings	New section and clauses 21.1 – 21.7.	To align with requirements of new Act. To align with LGV Governance Rules Template.
Part 7	Election Period Policy	New section and clauses 69.1 – 69.6.	To align with requirements of new Act. To align with LGV Governance Rules Template.
<b><i>Deleted Sections</i></b>			
<b>Section</b>	<b>Heading</b>	<b>Change</b>	<b>Change Reasoning</b>
Part 8	Part 8 – Offences & Penalties	Deletion of entire section.	Governance Rules cannot provide for penalties. If Council wishes to enforce the conduct by penalty notices requirements, a new local law – miscellaneous penalties will be required.

### Public Participation in Council Meetings Policy

The draft Governance Rules include the Public Participation in Council Meetings Policy as per Local Law No. 1 of 2019 (to be repealed).

The Public Participation in Council Meetings Policy was last reviewed and adopted by Council 23 April 2019. This policy has been amended slightly and new components incorporated to meet requirements imposed by the 2020 Act.

The draft Public Participation in Council Meetings Policy is provided at Attachment 2.

**Table 2: Public Participation in Council Meetings Policy – Summary of Changes**

<b><i>Amended Sections</i></b>			
<b>Section</b>	<b>Heading</b>	<b>Change</b>	<b>Change Reasoning</b>
Section 3	Policy Statement	Amended clause 3.1.	For clarity purposes.
Section 5	Public Question Time	Deleted clause 5.2 (Special Council	For clarity purposes.

		Meeting). New clause 5.21.	
Section 6	Public Presentations and Submissions	Amended clause 6.1 – 6.3. New clause 6.19.	For clarity purposes.
Various	Various	Minor cosmetic changes. Amendments to spelling and grammar. Change references to new Act.	For clarity purposes.

### Election Period Policy

The draft Governance Rules include the Election Period Policy as now required under section 60 of the new Act.

The Election Period Policy was last reviewed and adopted by Council 27 August 2019. This policy has been amended slightly and new components incorporated to meet requirements imposed by the 2020 Act.

The draft Election Period Policy is provided at Attachment 3.

**Table 3: Election Period Policy – Summary of Changes**

<b>Amended Sections</b>			
<b>Section</b>	<b>Heading</b>	<b>Change</b>	<b>Change Reasoning</b>
Title	Election Period Policy	Amended title (previously Election Period (Caretaker) Policy).	To align with definition under new Act. For clarity purposes.
Section 1	Purpose	Amended clause 1.1.	For clarity purposes.
Section 2	Scope	Amended clause 2.2.	For clarity purposes.
Clause 4.1	Election Period	Amended clause 4.1.	To align with requirements of new Act. For clarity purposes.
Clause 4.2	Roles of Chief Executive Officer	Amended clause 4.2.	For clarity purposes.
Clause 4.3	Council Decision Making	Amended clause 4.3.	To align with requirements of new Act.
Clause 4.6	Election Period Statement	Amended clause 4.6.	To align with requirements of new Act. For clarity purposes.
Clause 4.8	Council Publications	Amended clause 4.8.	For clarity purposes.
Clause 4.12	Public Consultation	Amended clause 4.12.	For clarity purposes.
Various	Various	Minor cosmetic changes. Amendments to	For clarity purposes.

		spelling and grammar. Change references to new Act.	
<b><i>New Sections</i></b>			
<b>Section</b>	<b>Heading</b>	<b>Change</b>	<b>Change Reasoning</b>
Clause 4.4	What is a Council Decision	New clause 4.4.	To align with requirements of new Act. For clarity purposes.
Clause 4.10	Spokesperson	New clause 4.10.	For clarity purposes.
Clause 4.17	Council Committees	New clause 4.17.	To align with requirements of new Act.
<b><i>Deleted Sections</i></b>			
<b>Section</b>	<b>Heading</b>	<b>Change</b>	<b>Change Reasoning</b>
4.3.2	Major Policy Decisions	Deletion of previous clause 4.3.2.	To align with requirements of new Act.
4.3.3	Significant Decisions	Deletion of previous clause 4.3.3	To align with requirements of new Act.
Section 9 & Appendix 1	Appendix	Deletion of previous appendix.	Not required.

### **Public Transparency Policy**

A new Public Transparency Policy must be adopted by Council to comply with the requirements of the Act by 1 September 2020, giving effect to the Public Transparency Principles at section 58.

The Principles state that:

- 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;
- Council information must be publicly available unless—
  - the information is confidential by virtue of this Act or any other Act; or
  - public availability of the information would be contrary to the public interest;
- Council information must be understandable and accessible to members of the municipal community;
- public awareness of the availability of Council information must be facilitated.

The draft Policy is a new policy that outlines Council's commitment to transparency and lists the types of documents/information available from Council via the website and on request. It provides guidance for the public on how to make requests and how to seek redress if not satisfied with Council's response.

Some Council information may not be publicly available for example where:

- it is confidential by virtue of the Local Government Act 2020 or any other Act; or
- public availability of the information would be contrary to the public interest.

The draft policy supports the overarching Governance Principles at section 9(1)(2) and the supporting Transparency Principles as described above. It has been developed using guidance materials from LGV, including Public Transparency Principles Guidelines and Draft Public Transparency Policy Template.

The new draft Public Transparency Policy is provided at Attachment 3.

## **CONSULTATION**

Community engagement will be conducted, allowing the community to review and make a submission on the draft documents prior to their finalisation and adoption by Council.

The Local Government Act 2020 requires Council to ensure that a process of community engagement is followed in developing or amending its Governance Rules and Public Transparency Policy however, there is no legislative restriction or requirement as to the length of public exhibition period required.

To ensure Council meets the 1 September 2020 deadline for final adoption of the documents, it is recommended that the documents be placed on public exhibition for a period of two weeks, from Wednesday, 29th July 2020 to Wednesday, 12 August 2020.

External legal advice obtained in June 2020 confirmed that in circumstances where the community response is likely to be minimal, as in this case, then a 2 week consultation period is considered reasonable.

The public exhibition of these documents will be advertised on the Council website and social media pages. The documents will be accessible via the Council website or in person at the Council offices.

Written submissions are invited from any person. A person may also request in their submission to be heard in support of their submission and/or to nominate a representative to present their submission, if they wish to do so. Submissions must be received in writing no later than 5pm on Wednesday, 12 August 2020 and can be provided in the following ways:

- Through Council's website at <https://www.goldenplains.vic.gov.au/consultations>
- Emailed to [enquiries@gplains.vic.gov.au](mailto:enquiries@gplains.vic.gov.au)
- By mail addressed to the Chief Executive Officer, Golden Plains Shire Council, PO Box 111, Bannockburn, VIC 3331.

Only if required, a Council Meeting to hear submitters (virtually), will be held at 6pm on Tuesday, 18 August 2020. Due to the COVID-19 pandemic and in line with new guidelines from the Victorian Government, the meeting will not be open to members of the public. Those wishing to present their submissions will do so virtually. The meetings can be viewed online via the livestream on Council's YouTube page.

## **CONFLICT OF INTEREST**

No officer involved in preparing this report has any conflicts of interest in regards to this matter.

## **CONCLUSION**

The draft Governance Rules (including draft Public Participation in Council Meetings Policy and draft Election Period Policy) and the draft Public Transparency Policy are being presented to Council to progress to public exhibition and community engagement in order to meet Stage 2 implementation requirements of the new *Local Government Act 2020*.