



**[Proposed]**  
**MAV RULES 2022**

**MUNICIPAL ASSOCIATION OF VICTORIA RULES  
2022**

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# MUNICIPAL ASSOCIATION OF VICTORIA RULES

## PART 1 – PRELIMINARY

### 1 Objectives

1.1 The objectives of the Association are to:

1.1.1 promote local government and improve community awareness of the capacity and capabilities of the sector for the benefit of Victorian communities;

1.1.2 promote through its advocacy role appropriate powers, functions and responsibilities for local government having regard to the needs and characteristics of its individual members;

1.1.3 act as the representative body of local government for the purpose of promoting effective inter-governmental co-operation;

1.1.4 strengthen the Association's leadership role in Victorian local government by focusing on:

1.1.4.1 targeted advocacy to Governments and relevant organisations;

1.1.4.2 continually improving systems for effective member liaison, communication and participation; and

1.1.4.3 building the capacity and capabilities of Victorian councils to meet the challenges of the 21<sup>st</sup> century;

1.1.5 provide policy and strategic advice to Victorian councils;

1.1.6 provide support to Victorian councils; and

1.1.7 provide services to Victorian councils.

1.2 The Association may exercise all functions and powers which are necessary or convenient for it to carry out its objectives provided it is not inconsistent with the **Municipal Association Act 1907** or any other Act.

1.3 These Rules are made under the **Municipal Association Act 1907**.

1.4 Any previous Rules made under the **Municipal Association Act 1907** are revoked.

### 2 Definitions

Unless express or implied to the contrary, the following terms appearing in these Rules have the meanings respectively set out:

<b>'Act'</b>	means the <b>Municipal Association Act 1907</b> .
<b>'Association'</b>	means the Municipal Association of Victoria.
<b>'Audit and Risk Committee'</b>	means the Audit and Risk Committee established under Rule 25.
<b>'Board'</b>	means the Board referred to in Rule 9.
<b>'Board member'</b>	means the President or a Director (including a Director who is a Deputy President).
<b>'business day'</b>	means a day which is not a Saturday, Sunday or public holiday for the whole of Victoria.

<b>'Chief Executive Officer'</b>	means the person appointed by the Board to be the Chief Executive Officer of the Association or any person acting in that position.
<b>'Corporations Act'</b>	means the <b>Corporations Act 2001 (Cth)</b> or any Act which substantially re-enacts the <b>Corporations Act 2001 (Cth)</b> .
<b>'councillor'</b>	means a person who holds the office of member of a Victorian council, and includes a person appointed as Administrator of a council by an Order in Council made under Division 7, 8 or 9 of Part 7 of the <b>Local Government Act 2020</b> or by or under any other Act.
<b>'delegate'</b>	means a councillor of a participating member council chosen by that council to be its representative at the State Council, and includes, in the absence of the councillor at a meeting of the State Council, a substitute delegate of the council of which the Councillor is a member.
<b>'Director'</b>	means a member of the Board who is not the President.
<b>'Eligibility Criteria'</b>	means the criteria that apply for a person to be eligible to act in the role of the President, a Director or other officer of the Association, as set out in the Fit and Proper Person Policy.
<b>'Fit and Proper Person Policy'</b>	means the policy required to be adopted by the Board in accordance with sub-Rule 21.5, as amended from time to time.
<b>'Local Government General Election'</b>	means a general election held in accordance with the <b>Local Government Act 2020</b> .
<b>'MAV Election Day'</b>	means the first Friday in March in every second year.
<b>'non participating member council'</b>	means a council which is not a participating member council.
<b>'officer'</b>	has the meaning set out in the <b>Corporations Act</b> .
<b>'participating member council'</b>	has the meaning set out in sub-Rule 5.1.
<b>'regional groupings of councils'</b>	means – (a) the councils within the metropolitan area that comprise the five (5) metropolitan regions; and (b) the councils outside the metropolitan area that comprise the five (5) non-metropolitan regions – that are determined and classified from time to time by the Board.
<b>'Register of Delegates'</b>	means the Register of Delegates maintained under sub-Rule 7.6.
<b>'the State Council'</b>	means the body consisting of all the delegates of participating member councils of the Association.

### 3 Amendment of Rules

- 3.1 Subject to sub-Rules 3.2-3.5 (inclusive), these Rules may be amended by the State Council.
- 3.2 An amendment to the Rules may be proposed by:
- 3.2.1 any participating member council:

3.2.1.1 notifying the Chief Executive Officer that it has, by resolution, expressed support for the proposed amendment; and

3.2.1.2 submitting to the Chief Executive Officer a motion setting out the proposed amendment, which must be received not less than 60 calendar days before the meeting of the State Council at which consideration is sought of a resolution of the kind described in sub-Rule 3.3.1; or

3.2.2 the Board.

3.3 Unless extraordinary circumstances exist and the Board resolves that a proposed amendment should be submitted to the State Council for determination as a matter of urgency so that the operations of the Association will not continue to be seriously impaired, a proposed amendment to the Rules cannot be submitted to the State Council for determination unless:

3.3.1 the State Council first resolves that the proposed amendment be the subject of consultation between the Association and participating member councils;

3.3.2 at least 60 calendar days elapse between the resolution of the State Council and notice of the proposed amendment being given to delegates under sub-Rule 3.3.3; and

3.3.3 notice of the proposed amendment, and a report on the outcome of the consultation, is given to delegates not less than 30 calendar days before the meeting of the State Council at which the proposed amendment is to be submitted for determination.

3.4 The State Council may determine to amend the Rules where at least 60 per cent of all delegates appointed under Rule 7 vote in favour of the proposed amendment.

3.5 Any amendment to the Rules by the State Council does not take effect until the amendment is approved by the Governor in Council.

## **PART 2 – MEMBERSHIP AND MEMBERSHIP PARTICIPATION**

### **Division 1 – Councils As Members**

#### **4 Membership of the Association**

Each member council of the Association is either a:

4.1 participating member council; or

4.2 non participating member council.

#### **5 Participating Member Councils**

5.1 A participating member council is a council which:

5.1.1 has not defaulted in its obligation to pay the most recent annual instalment of its biennial subscription; and

5.1.2 has not become a non-participating member council by reason of sub-Rules 5.3 and 5.4.

5.2 A participating member council is liable to pay:

5.2.1 the biennial subscription levied by the Association, in two equal (or as near to equal as is practicable) annual instalments; and

5.2.2 any other monies levied on it by the Association

within the period stipulated for payment by the Association.

- 5.3 A participating member council can only cease to be a participating member council if:
- 5.3.1 it gives to the Chief Executive Officer written notice of its intention to cease to be a participating member council; and
  - 5.3.2 at least six months elapse from the giving of the notice referred to in this sub-Rule.
- 5.4 If the period of six months referred to in sub-Rule 5.3 elapses on a date which is a date before the second annual instalment of its biennial subscription is due, the cessation of participating member council status will not take effect until that next annual instalment is paid.
- 5.5 A participating member council that has given notice in accordance with sub-Rule 5.3 must, until the cessation of its participating member council status takes effect, pay any annual instalment of its biennial subscription and other monies levied on it by the Association.
- 5.6 A council which is a participating member council is, through its delegate, entitled to participate in the activities of the Association in the way provided for in these Rules.

## **6 Non Participating Member Councils**

- 6.1 A council which is a non participating member council remains as a non participating member council until it pays an annual instalment of the biennial subscription.
- 6.2 Except to the extent that the Chief Executive Officer has agreed that the Association will provide specified services to the council in return for a fee, a non participating member council is not entitled to avail itself of the privileges and benefits of any of the functions or services performed or carried on by the Association.
- 6.3 Subject to Rule 14, a non participating member council is not eligible to participate in the activities of the Association or to exercise the powers of a delegate to:
- 6.3.1 vote on any item of business under consideration at a meeting of the Association;
  - 6.3.2 nominate any person or be nominated for any office or position on a committee of the Association; or
  - 6.3.3 hold the office of President or Director.

## **Division 2 – Appointment and Obligations of Delegates**

### **7 Appointment of Delegates**

- 7.1 A participating member council must appoint one of its councillors as a delegate and one of its councillors as a substitute delegate to the Association.
- 7.2 The participating member council must notify the Association of the appointments in the form specified in Schedule 1 as soon as practicable after it has made the appointment and in any event no later than seven (7) business days after the appointment has been made.
- 7.3 Appointments must be made by a resolution of the participating member council.

7.4 If a participating member council revokes the appointment of a councillor as a delegate or substitute delegate, or the councillor who has been appointed as a delegate or substitute delegate:

7.4.1 dies;

7.4.2 resigns, by written notice given to the participating member council and to the Chief Executive Officer; or

7.4.3 ceases to be a councillor,

the participating member council must, as soon as practicable, appoint another of its councillors to be its delegate or substitute delegate (as the case may be).

7.5 The participating member council for which the President is a delegate must appoint another Councillor to be its additional delegate to the State Council, principally for the purpose of enabling the additional delegate to cast a deliberative vote on behalf of the participating member council at meetings of the State Council. The additional delegate appointed has, subject to these Rules, all of the rights and privileges of a delegate except that they cannot:

7.5.1 nominate for the office of President or Director; or

7.5.2 vote in any election for the President or a Director.

7.6 The Association must maintain a Register of Delegates, listing those who are currently delegates and substitute delegates and the participating member councils that appointed them.

7.7 Any delegate or substitute delegate must, upon request, be given access to the Register of Delegates.

## **8 Obligations of Delegates**

8.1 A delegate must use reasonable endeavours to attend all meetings of the Association which the delegate is eligible to attend.

8.2 A delegate must:

8.2.1 attend every meeting of the State Council if it is practicable for them to do so, and if they are unable to attend a meeting must encourage their participating member council's substitute delegate to attend;

8.2.2 if present and not prohibited from doing so, vote on every matter under consideration by the State Council; and

8.2.3 regularly report to their participating member council on matters discussed and considered by the Association and on the decisions made, and have regard to any protocols published by the Board that relate to the performance of their functions as a delegate.

8.3 A delegate is prohibited from voting on any matter at a meeting of the State Council in respect of which the delegate has a conflict of interest.

8.4 For the purposes of sub-Rule 8.3 a delegate will have a conflict of interest in a matter if an impartial and fair-minded person would consider that the delegate's private interests could result in the delegate acting in a manner contrary to their duty to the Association.

8.5 A delegate's private interests will not, for the purposes of sub-Rule 8.4, include the personal opinions or beliefs of the delegate or any interest derived from their membership of a participating member council.

8.6 A delegate who has a conflict of interest in respect of a matter at a meeting of the State Council must, prior to the consideration of that matter, disclose to the meeting the:



8.6.1 existence; and

8.6.2 nature

of the conflict of interest.

### **Division 3– The Board and Election of the President and Directors**

## **9 The Board**

9.1 The Association will be governed by the Board.

9.2 The Board will be comprised of:

9.2.1 the President; and

9.2.2 ten (10) delegates elected to the office of Director:

9.2.2.1 five (5) of whom will be delegates from metropolitan councils, each being elected by delegates of one (1) of the five (5) regional groups of metropolitan councils to which their participating member council belongs; and

9.2.2.2 five (5) of whom will be delegates from non-metropolitan councils, each being elected by delegates of one (1) of the five (5) regional groups of non-metropolitan councils to which their participating member council belongs.

9.3 The President and each Director will, subject to these Rules:

9.3.1 be entitled to remain in office for two (2) years; but

9.3.2 go out of office at 6am on MAV Election Day; and

9.3.3 be eligible for re-election to their respective offices unless their re-election would mean that:

9.3.3.1 in the case of the President, the President will have served a period of eight (8) continuous years as President; or

9.3.3.2 in the case of a Director, they will have served a period of eight (8) continuous years as a Director.

9.4 Despite the provisions of sub-Rule 9.3, the Board may recommend to the State Council that there be a longer term of office for the President and the ten (10) Directors.

9.5 The State Council may, if it receives a recommendation from the Board, approve a longer term of office for the President and the ten (10) Directors if two thirds ( $\frac{2}{3}$ ) of all delegates appointed under Rule 7 vote in favour of the proposed term of office.

## **10 Conduct of Elections**

10.1 The Chief Executive Officer may from time to time appoint an individual or organisation to be the Association's Election Manager.

10.2 The individual or organisation appointed must have the necessary expertise and experience to manage any election provided for in these Rules.

10.3 The Election Manager is responsible for the conduct of elections (including by-elections) for the offices of President and the ten (10) Directors.

## **11 Election of the President**

- 11.1 The President of the Association will be elected by the delegates that comprise the State Council.
- 11.2 The Chief Executive Officer may, after advising the Board and considering a recommendation from the Election Manager, determine whether postal, attendance or electronic voting will apply to the election of the President and must notify the delegates of all participating member councils at least 50 calendar days before MAV Election Day of the voting method to apply.
- 11.3 An election for the office of President must be conducted in accordance with the provisions in Schedule 2.
- 11.4 Any person elected to be President must:
  - 11.4.1 demonstrate to the Chief Executive Officer, or a person to whom the Chief Executive Officer has delegated the task, at such times and in such manner as is required in accordance with the Fit and Proper Person Policy, that they meet the Eligibility Criteria; and
  - 11.4.2 notify the Chief Executive Officer as soon as practicable upon becoming aware that they no longer meet the Eligibility Criteria.
- 11.5 A person elected to be President does not take office and is not entitled to any allowances until the Chief Executive Officer, or other person to whom the Chief Executive Officer has delegated the task under the Fit and Proper Person Policy, confirms that the person elected meets the Eligibility Criteria.

## **12 Election of Directors**

- 12.1 A Director will be elected by the delegates in the region within which their participating member council is located.
- 12.2 The Chief Executive Officer may, after advising the Board and considering a recommendation from the Election Manager, determine whether postal, attendance or electronic voting will apply to the election of the ten (10) regional Directors and must notify the delegates of all participating member councils at least 50 calendar days before MAV Election Day of the voting method to apply.
- 12.3 An election for the office of Director must be conducted in accordance with the provisions in Schedule 2.
- 12.4 Any person elected to be a Director must:
  - 12.4.1 demonstrate to the Chief Executive Officer, or a person to whom the Chief Executive Officer has delegated the task, at such times and in such manner as is required in accordance with the Fit and Proper Person Policy, that the person meets the Eligibility Criteria; and
  - 12.4.2 notify the Chief Executive Officer as soon as practicable upon becoming aware that they no longer meet the Eligibility Criteria.
- 12.5 A person elected to be a Director does not take office and is not entitled to any allowances until the Chief Executive Officer, or other person to whom the Chief Executive Officer has delegated the task under the Fit and Proper Person Policy, confirms that the person elected meets the Eligibility Criteria.

## **13 Voting Entitlements for Elections**

- 13.1 For the purposes of electing the President, each delegate has one (1) vote.

- 13.2 For the purposes of electing a Director from each of the regional groupings of participating member councils, each delegate has one (1) vote for the Director of the region within which their participating member council is located.

#### **14 Casual Vacancies**

- 14.1 A casual vacancy is created on the Board where the President or a Director (as the case may be):

14.1.1 dies;

14.1.2 resigns in writing to the Chief Executive Officer;

14.1.3 ceases to be a councillor; or

14.1.4 is unable to demonstrate to the Chief Executive Officer or a person to whom the Chief Executive Officer has delegated the task in accordance with the Fit and Proper Person Policy, within one (1) month (or such longer period as the Chief Executive Officer acting reasonably allows) from the time they are required or requested to do so, that they meet the Eligibility Criteria.

- 14.2 A casual vacancy on the Board does not occur if:

14.2.1 the council for which the President is a delegate ceases to be a participating member council;

14.2.2 the council for which a Director is a delegate ceases to be a participating member council;  
or

14.2.3 the President's or Director's appointment as a delegate has been revoked by the participating member council which had appointed them.

#### **15 Filling Casual Vacancies**

- 15.1 Subject to sub-Rules 15.4 and 15.5, a by-election must be held to fill a casual vacancy on the Board. The provisions of Schedule 2 will apply to any by-election with all necessary adaptations.

- 15.2 The Chief Executive Officer may, after advising the Board and considering a recommendation from the Election Manager, determine whether postal, attendance or electronic voting will apply to any by-election and must, at least 50 calendar days before the by-election date, notify the delegates:

15.2.1 of all participating member councils, in the case of a by-election for the President; or

15.2.2 of the regional grouping of councils which has been left unrepresented by the casual vacancy, in the case of a Director

of the voting method to apply.

- 15.3 Notwithstanding anything contained in sub-Rules 15.1 and 15.2 a by-election for the office of President may be conducted at a special meeting of the State Council.

- 15.4 If a casual vacancy occurs in the office of President after 31 August in the year which immediately precedes the year in which MAV Election Day falls, that Deputy President who represents the same regional grouping of councils as the President who has ceased to hold office will become President until MAV Election Day. If there is also a casual vacancy in the office of such Deputy President then the Deputy President who remains on the Board (or in their absence a Director elected by the Board) becomes the President until MAV Election Day.

- 15.5 If any other casual vacancy occurs on the Board after 31 August in the year which immediately precedes the year in which MAV Election Day falls, the Board may decide that the casual vacancy is not to be filled.

- 15.6 If, immediately following a Local Government General Election, there exist at any one time six (6) or more casual vacancies on the Board the Chief Executive Officer may, notwithstanding anything contained in these Rules, appoint such number of Board members as are necessary to ensure that the Board comprises 11 Board members.
- 15.7 A Board member appointed by the Chief Executive Officer must:
- 15.7.1 be a delegate; and
  - 15.7.2 come from the same regional grouping of councils as the Board member who is being replaced.
- 15.8 The Chief Executive Officer must, before making any appointment under sub-Rule 15.6:
- 15.8.1 call for nominations from delegates of councils located in the regional grouping of councils that have been left unrepresented on the Board;
  - 15.8.2 make enquiries for the purposes of ensuring that the nominees meet the Eligibility Criteria;
  - 15.8.3 ensure that the delegate appointed has nominated or accepted a nomination for the vacant office; and
  - 15.8.4 consult with all of those delegates of the participating member councils within the relevant regional grouping of councils who have not nominated for the vacant office.

### **PART 3 – THE STATE COUNCIL**

#### **16 Annual and Other Meetings**

- 16.1 The delegates of participating member councils meeting together in accordance with these Rules comprise the State Council.
- 16.2 In each calendar year there will take place:
- 16.2.1 the annual meeting of the State Council; and
  - 16.2.2 at least one other meeting of the State Council.
- 16.3 The purpose of the annual meeting is to:
- 16.3.1 consider an annual report from the President about the activities and financial affairs of the Association;
  - 16.3.2 consider any motion or other item of business proposed by the Board; and
  - 16.3.3 generally deal with the business of the Association, including any motions or items submitted by participating member council in accordance with sub-Rule 17.1.
- 16.4 Apart from the meetings of the State Council described in sub-Rule 16.2, a special meeting of the State Council may be called by the President or any ten (10) delegates of participating member councils to transact the business specified in the notice calling the meeting.
- 16.5 The quorum necessary to transact business at a meeting of the State Council is half the number of all delegates appointed under Rule 7 plus one (1), and no business may be transacted at a meeting of the State Council unless that number of delegates is in attendance.
- 16.6 Meetings of the State Council may be adjourned or deferred at any time by the President or by a resolution to adjourn to a date to be fixed carried at the meeting.

- 16.7 Except in the case of an Extraordinary Meeting called under Rule 20, preliminary notice in writing giving a general description of the business to be transacted and the date, time and place of any meeting of the State Council must be given to delegates not less than 90 calendar days before the date fixed for the meeting.
- 16.8 Except for the conduct of any election for which a separate voting procedure applies, delegates may vote on any item of business in person or, if the meeting of the State Council is conducted wholly or partly by electronic means, by voting electronically, or by any combination of those methods.

## **17 Submission of Business by Participating Member Councils**

- 17.1 Participating member Councils may, in accordance with a form determined by the Board, submit for consideration at meetings of the State Council a motion or item for inclusion in the business to be dealt with provided that:
- 17.1.1 the submission of the motion or item has already been the subject of a resolution made by that participating member council;
  - 17.1.2 notice of such motion or item has been given to the Chief Executive Officer not less than 60 calendar days before the meeting;
  - 17.1.3 the Board considers that the motion or item is of such strategic relevance to the Association or of such significance to local government that it ought to be considered at the meeting; and
  - 17.1.4 the motion or item is not repetitive in form or substance of a motion or item considered at the most recently held meeting of the State Council.
- 17.2 Motions or items which relate to the same subject may be consolidated into a single matter, with such amendments as the Board in its discretion determines are warranted, prior to inclusion in the business papers and circulation to delegates.
- 17.3 Nothing in sub-Rule 17.1 affects the right of the Board to submit for consideration at any meeting of the State Council a motion or item that it has resolved should be considered by the State Council.

## **18 Agenda and Business Papers**

The agenda and business papers for any meeting of the State Council must be forwarded to delegates not less than 30 calendar days before the date of the meeting.

## **19 Conduct of Meetings**

- 19.1 Meetings of the State Council will be conducted in accordance with the procedures in Schedule 3.
- 19.2 Meetings of the State Council will be chaired by the President or, in their absence, by a Deputy President. In the absence of a Deputy President a delegate appointed by resolution of the meeting will chair the meeting.
- 19.3 At any meeting of the State Council:
- 19.3.1 each delegate in attendance is entitled to one (1) vote;
  - 19.3.2 if the delegate of a participating member council is not in attendance the substitute delegate of that council may vote in place of that delegate; and
  - 19.3.3 the President cannot exercise a deliberative vote.
- 19.4 Subject to sub-Rules 3.4 and 9.5, any matter arising at a meeting of the State Council is determined by the majority of votes of those delegates appointed under Rule 7 who are in attendance and are not prohibited from voting.

- 19.5 If voting is equal at a meeting of State Council, the President, if in attendance and chairing the meeting, has a casting vote only.
- 19.6 Business which is not included in the agenda of a meeting of any State Council may not be dealt with unless at least half of the delegates eligible to attend are in attendance and agree to deal with it.
- 19.7 The Chief Executive Officer must ensure that accurate minutes are kept of all meetings of the State Council.
- 20 Extraordinary Meetings**
- 20.1 The Board may call an Extraordinary Meeting of the State Council to deal with a matter or matters of exceptional importance.
- 20.2 Notwithstanding anything else in these Rules:
- 20.2.1 not less than 30 calendar days' notice of the date of the Extraordinary Meeting and the matter or matters to be dealt with must be given to delegates; and
- 20.2.2 the State Council may, at the commencement of the Extraordinary Meeting, resolve to dispense with some or all of the procedures in Schedule 3 and any Meeting Procedure Protocols that have previously been adopted by the State Council.
- 20.3 If the State Council has, at the commencement of an Extraordinary Meeting, resolved to dispense with some or all of the procedures in Schedule 3 and any Meeting Procedure Protocols previously adopted by the State Council then the procedures to be followed at the Extraordinary Meeting will be within the discretion of the State Council.

## **PART 4 – THE BOARD**

### **Division 1 – The Board**

#### **21 The Role and Functions of the Board**

- 21.1 Without limiting the governance role of the Board, the Board is responsible for:
- 21.1.1 developing and giving effect to the strategic direction of the Association;
- 21.1.2 the oversight of the administration and financial management of the Association;
- 21.1.3 appointing and overseeing the performance of the Chief Executive Officer, in accordance with Rule 33;
- 21.1.4 the oversight of the provision of services by the Association;
- 21.1.5 the oversight of the Association's risk management;
- 21.1.6 adopting the Association's Annual Budget;
- 21.1.7 receiving the Association's audited accounts;
- 21.1.8 performing those duties imposed, and performing those functions and exercising those powers conferred, on the Board by these Rules;
- 21.1.9 ensuring the legal and ethical integrity of the Association; and
- 21.1.10 the conduct of the affairs of the Association more generally.

- 21.2 In performing its governance role the Board must:
- 21.2.1 govern for the entire local government sector and put the interests of that sector above the interests of any individual council or person;
  - 21.2.2 promote diversity within the local government sector with a view to ensuring that the sector reflects the diversity of the communities which it serves;
  - 21.2.3 seek to enhance the reputation and standing of the Association; and
  - 21.2.4 report to participating member councils annually on its own performance, and the performance of the Association, measured against published performance criteria.
- 21.3 Within six (6) months of the first of its meetings held after an MAV Election Day the Board:
- 21.3.1 may adopt a Board Charter;
  - 21.3.2 must adopt a Board Code of Conduct setting out the standards of conduct to be observed by Board members;
  - 21.3.3 must adopt protocols for the role of delegates; and
  - 21.3.4 must adopt protocols for the role and performance of those holding the office of:
    - 21.3.4.1 President;
    - 21.3.4.2 Deputy President; and
    - 21.3.4.3 Directorand must then regularly review compliance with those protocols.
- 21.4 The Board must:
- 21.4.1 adopt a policy for the determination of allowances and reimbursement of out-of-pocket expenses to be paid to the President, a Deputy President and all other Directors;
  - 21.4.2 review such policy at least once every three (3) years; and
  - 21.4.3 annually determine allowances payable to the President, a Deputy President and all other Directors in accordance with the policy adopted.
- 21.5 The Board must adopt a policy (**Fit and Proper Person Policy**) setting out:
- 21.5.1 the criteria that apply for a person to be eligible to be the President, a Director or any other officer of the Association;
  - 21.5.2 the information that is required to be provided for the purposes of demonstrating the criteria have been met; and
  - 21.5.3 the times when that information is required to be provided,
- and make such policy generally available to participating member councils.

- 21.6 For the purposes of the Fit and Proper Person Policy:
- 21.6.1 the criteria must be limited to criteria relevant to the determination of whether a person is a fit and proper person for the purposes of their role as President, Director or other officer of the Association, taking into account matters such as whether the person:
- 21.6.1.1 is disqualified from managing a corporation under Part 2D.2 of the **Corporations Act**;
  - 21.6.1.2 is subject to a banning or disqualification order made by the Australian Securities and Investments Commission under Sub-division B of Division 8 of the **Corporations Act** or Part 2-4 of the **National Consumer Credit Protection Act 2009 (Cth)** (or any like provisions of any Act which substantially re-enacts the **National Consumer Credit Protection Act 2009 (Cth)**); or
  - 21.6.1.3 fails to meet other criteria that a regulator relevant to the business of the Association would take into account for the determination of whether a person is a fit and proper person; and
- 21.6.2 the information must be required to be provided:
- 21.6.2.1 in the case of a person elected to be President or a Director, as soon as practicable after the person is elected;
  - 21.6.2.2 in the case of another officer of the Association who is not elected, before the time of their appointment; and
  - 21.6.2.3 annually, so that the information available to the Association is not more than 12 months old.
- 21.7 The Board must review the Fit and Proper Person Policy at least once every three (3) years.

## **22 Conduct of Meetings**

- 22.1 Subject to these Rules, the conduct of meetings of the Board is at the discretion of the Board.
- 22.2 The Board may, from time to time, adopt Meeting Procedure Protocols which are to be observed by the President and Directors who are in attendance at meetings of the Board.
- 22.3 Any Meeting Procedure Protocol must not be inconsistent with these Rules.
- 22.4 An agenda and notice of meeting of the Board must be given to Board members not less than seven (7) calendar days before the meeting, unless the meeting is to deal with business which the President or Chief Executive Officer considers to be urgent or requiring immediate resolution by the Board. In that event the notice given to Board members must be reasonable notice.
- 22.5 If in attendance, the President must chair any meeting of the Board.
- 22.6 The quorum necessary to transact business at a meeting of the Board will be six (6) Board members.
- 22.7 Each Board member in attendance at a meeting of the Board is entitled to one (1) vote.
- 22.8 Any matter arising at a meeting of the Board is determined by the majority of the votes of those Board members in attendance who are not prohibited from voting. In the event of an equality of votes the President (or if the President is not in attendance, the Board member chairing the meeting) has a casting vote.
- 22.9 Meetings of the Board may be deferred or adjourned at any time by the President or other member of the Board presiding, as the case may be, to a date to be fixed.



- 22.10 The President must ensure that accurate minutes are kept of all meetings of the Board.
- 22.11 Meetings of the Board may be held:
- 22.11.1 wholly in person;
  - 22.11.2 wholly by electronic means; or
  - 22.11.3 partly in person and partly by electronic means.
- 22.12 Each notice of meeting of the Board must specify whether the meeting is to be held:
- 22.12.1 wholly in person;
  - 22.12.2 wholly by electronic means; or
  - 22.12.3 partly in person and partly by electronic means.
- 22.13 The contemporaneous linking together in oral communication by telephone, audio-visual or other instantaneous means that gives the meeting participants as a whole a reasonable opportunity to participate will, for the purposes of sub-Rule 22.11, constitute meeting by electronic means.
- 22.14 If a meeting of the Board is held wholly or partly by electronic means:
- 22.14.1 each Board member taking part in the meeting must be able to communicate and be understood by each of the other Board members taking part in the meeting;
  - 22.14.2 a Board member must not voluntarily leave the meeting by disconnecting their telephone, audio-visual or other communication equipment unless that Board member has previously notified the President or other Board member chairing the meeting; and
  - 22.14.3 a Board member is conclusively presumed to have attended and formed part of a quorum at all times during a meeting unless that Board member has, with the approval of the President or other Board member chairing the meeting, left the meeting.

## **23 Circulating Resolutions**

- 23.1 Six (6) of the Board members may sign a document, known as a 'Circulating Resolution', containing a statement that they are in favour of a resolution of the Board in the terms set out in that document.
- 23.2 A resolution in those terms is deemed to have been made at a meeting of the Board held on the day and at the time on which the document was signed by the Board member whose signature first brings to six (6) or more the portion of the Board members who have signed the resolution.
- 23.3 For the purposes of sub-Rule 23.2 two (2) or more separate documents containing statements in identical terms, each of which is signed by one (1) or more Board members, are deemed together to constitute a single document containing a statement in those terms signed by the those Board members on those respective days on which they signed the separate documents.
- 23.4 Every resolution made under this Rule 23 must as soon as practicable be entered in the minutes of Board meetings.
- 23.5 Any form of electronic communication addressed to and received by the Association and purporting to be signed by a Board member for the purposes of this Rule 23 is deemed to be a written document signed by the Board member, and any statement sent electronically by a Board member to a specified electronic address that they are in favour of the specified resolution that has been proposed will be taken to be a document containing that statement and duly signed by the Board member.

## **24 Internal Auditor**

- 24.1 The Board must from time to time appoint an individual or organisation to be the Association's Internal Auditor.
- 24.2 The individual or organisation appointed must have the necessary expertise and experience to provide internal audit services to the Association.
- 24.3 The Chief Executive Officer may, from time to time and separately from any scheduled internal audit program approved by the Audit and Risk Committee established under sub-Rule 25.1, engage the Internal Auditor to audit an aspect of the Association's operations.
- 24.4 Any report of the Internal Auditor prepared following an audit of the kind described in sub-Rule 24.3 must be presented to:
  - 24.4.1 the Board; and
  - 24.4.2 the Audit and Risk Committee.

## **25 Audit and Risk Committee**

- 25.1 The Board must establish an Audit and Risk Committee and appoint its members.
- 25.2 The Audit and Risk Committee must:
  - 25.2.1 include Board members; and
  - 25.2.2 consist of a majority of members who are not Board members or members of the Association's staff, and who collectively have:
    - 25.2.2.1 expertise in financial management and risk; and
    - 25.2.2.2 experience in public sector management.
- 25.3 The chairperson of the Audit and Risk Committee must not be a Board member.
- 25.4 The Board must prepare and approve an Audit and Risk Committee Charter.
- 25.5 The Audit and Risk Committee Charter must specify the functions and responsibilities of the Audit and Risk Committee, including:
  - 25.5.1 monitoring the Association's financial management;
  - 25.5.2 monitoring and providing advice on risk management and fraud prevention systems and internal controls; and
  - 25.5.3 overseeing internal audit functions.
- 25.6 The Audit and Risk Committee must adopt an annual work program.
- 25.7 The Audit and Risk Committee must:
  - 25.7.1 prepare annually an audit and risk report that describes the activities of the Audit and Risk Committee during the preceding 12 months, including its findings and recommendations; and
  - 25.7.2 provide a copy of that audit and risk report to the Chief Executive Officer for tabling at the next meeting of the Board.

25.8 The Chief Executive Officer must:

25.8.1 ensure the preparation and maintenance of agendas, minutes and reports of the Audit and Risk Committee; and

25.8.2 table reports and minutes of meetings of the Audit and Risk Committee at meetings of the Board when requested by the chairperson of the Audit and Risk Committee to do so.

## **26 Committees**

26.1 The Board may appoint committees of persons (however titled) to undertake any functions specified by the Board.

26.2 A committee may consist of:

26.2.1 Board members;

26.2.2 delegates;

26.2.3 members of staff of the Association; or

26.2.4 any other persons whom the Board considers have the necessary skills, experience and expertise,

or any combination of the above.

## **27 Delegation**

The Board may, by instrument of delegation, delegate to a committee appointed by the Board any power or function of the Board, other than this power of delegation.

## **28 Summits and Forums**

28.1 The Board may, from time to time, convene a summit or forum to deliberate on a specified issue affecting participating member councils.

28.2 Each delegate of a participating member council must be given reasonable notice of any such summit or forum.

## **29 Election of Deputy Presidents**

29.1 The Board must elect two of its members to be Deputy Presidents of the Association, one of whom must be a Director of a non-metropolitan grouping of councils and the other of whom a Director of a metropolitan grouping of councils.

29.2 A Deputy President may act in the place of the President when requested by the President to do so.

29.3 The Board may appoint a Deputy President to act in the place of the President when the President is absent, is incapable of acting or refuses to act.

## **30 Regional Groupings of Councils**

30.1 The Board must, after consulting participating member councils, determine the regional groupings of councils, and classify each participating member council as being located within and therefore belonging to either:

30.1.1 one (1) of the five (5) regional groupings of metropolitan councils; or

30.1.2 one (1) of the five (5) regional groupings of non-metropolitan councils.

30.2 The Board must provide notice to councils of its determination and classification of all participating member councils into regional groupings of councils within 14 business days of its determination and classification.

30.3 The Board must review the regional groupings of councils and the classification of each participating member council into one (1) of those regional groupings at least once every six (6) years.

### **31 Particular Obligation of Directors**

A Director must liaise with other delegates and participating member councils within the region that they represent by meeting with them regularly, by providing written reports and information on the Association's activities and by any other means which are convenient and satisfy the needs of the regional grouping of councils.

### **32 Conflict of Interest**

32.1 A Board member is prohibited from voting on any matter at a meeting of the Board in respect of which the Board member has a conflict of interest.

32.2 For the purposes of sub-Rule 32.1 a Board member will have a conflict of interest in a matter if an impartial and fair-minded person would consider that the Board member's private interests could result in the Board member acting in a manner that is contrary to their duty to the Association.

32.3 A Board member's private interests will not, for the purposes of sub-Rule 32.2, include:

32.3.1 the personal opinions or beliefs of the Board member;

32.3.2 any interest derived from the Board member's membership of a participating member council;

32.3.3 any interest arising out of or affected by any election or appointment under Rule 29;

32.3.4 any interest arising out of or affected by any:

32.3.4.1 policy, code or protocol which, by reason of these Rules, the Board is expressly required or empowered to adopt;

32.3.4.2 review which, by reason of these Rules, the Board is expressly required or empowered to carry out; or

32.3.4.3 determination which, by reason of these Rules, the Board is expressly required or empowered to make.

32.4 A Board member who has a conflict of interest in respect of a matter at a meeting of the Board must, prior to the consideration of the matter, disclose to the meeting the:

32.4.1 existence; and

32.4.2 nature

of the conflict of interest and then absent themselves from attendance until such time as the Board has concluded its consideration of the matter.

32.5 A disclosure under sub-clause 32.1 must be recorded in the minutes of the meeting of the Board.

## **PART 5 – MANAGEMENT OF THE ASSOCIATION**

### **33 Chief Executive Officer**

- 33.1 The Chief Executive Officer is responsible for the day-to-day management of the Association and for providing strategic advice to the Board.
- 33.2 The Chief Executive Officer is accountable to the Board.
- 33.3 The Chief Executive Officer may attend and participate in any meeting of the Board, as required.
- 33.4 The Board may, by instrument, delegate to the Chief Executive Officer any power or function of the Board, including this power of delegation.
- 33.5 The Board must review the delegation or delegations to the Chief Executive Officer within six (6) months of the first of its meetings held after an MAV Election Day.
- 33.6 The Board must develop, adopt and keep current a Chief Executive Officer Employment and Remuneration Policy which provides for:
- 33.6.1 the process for recruiting and appointing the Chief Executive Officer;
  - 33.6.2 provisions which must appear in the contract of employment under which the Chief Executive Officer is employed;
  - 33.6.3 performance monitoring; and
  - 33.6.4 an annual review of the Chief Executive Officer's performance.

## **PART 6 – FINANCIAL**

### **Division 1 – Revenue of the Association**

### **34 Accounts and Records**

The Association must ensure that proper accounts and records of its transactions and affairs and other appropriate records are kept so that its financial operations and financial position can be adequately explained at any time.

### **35 Subscriptions**

The:

- 35.1 amount of the biennial subscription to be paid by participating member councils;
- 35.2 date on which annual instalment notices are to be sent to participating member councils; and
- 35.3 date by which annual instalments of the biennial subscription must be paid

will be determined by the Board and notified to participating member councils in writing.

### **36 Investments**

The Association may, in accordance with any Investment Policy adopted by the Board from time to time, invest in any of the funds that councils may invest in under section 103 of the **Local Government Act 2020** or the **Trustee Act 1958**.

## **Division 2 – Municipal Officers’ Fidelity Guarantee Fund**

### **37 Members of the Fund**

For the purposes of this Division, ‘Authority’ includes the bodies referred to in section 5 of the Act contributing to the fund.

### **38 Management of the Fund**

Subject to these Rules, the Board is responsible for the management and operation of the Municipal Officers’ Fidelity Guarantee Fund.

### **39 The Municipal Officers’ Fidelity Guarantee Fund**

39.1 The Municipal Officers’ Fidelity Guarantee Fund consists of:

39.1.1 all premiums received by the Association by way of premiums on guarantees;

39.1.2 all monies received by the Association under section 7 of the Act;

39.1.3 all monies received by the Association by way of interest on moneys invested under these Rules; and

39.1.4 all other moneys received by the Association in connection with the activities of the Fund.

### **40 Decisions of the Board**

40.1 The Board will from time to time determine:

40.1.1 the manner and form of an application for a guarantee;

40.1.2 the form of the policies to be issued;

40.1.3 the level of premium payable; and

40.1.4 the level of cover available.

### **41 Expiration of Policies**

Unless renewed, all policies will terminate on the 30th June next following the date of their issue.

### **42 Application for Guarantee**

Any Authority may make application for a guarantee in respect of its employees. Upon acceptance of any application and upon acceptance and payment of the appropriate premium fixed by the Board, the Association will issue to the Authority a policy in the appropriate form determined by the Board.

### **43 Renewal of Policies**

Before becoming entitled to the renewal of any policy, the Authority in the name of which the policy has been issued must submit to the Board a statement of its revenue from general rates and charges during the preceding financial year and the Board will fix the premium payable on the basis of such revenue and such other information as the Board may determine from time to time; including, without limitation, claims history and risk management practices.

#### **44 Cancellation of Policies**

44.1 Any policy may be cancelled:

44.1.1 at any time at the written request of the Authority, in which case the Association will be entitled to retain the premium for the period during which the policy has been in force; and

44.1.2 by the Association in the event of the Authority;

44.1.2.1 failing to comply with its duty of absolute good faith;

44.1.2.2 failing to comply with its duty of disclosure;

44.1.2.3 making a misrepresentation to the Association during negotiations for the policy before it was entered into;

44.1.2.4 failing to comply with a condition or other provision of the policy, including the provision with respect to payment of the premium; or

44.1.2.5 making a fraudulent claim under the policy.

#### **45 Notice of Cancellation**

45.1 The Association may give written notice to the Authority that it has cancelled the policy and that the cancellation will take effect 14 calendar days from the date of the written notice.

45.2 Where the Association cancels the policy of an Authority the Association will refund to the Authority an amount of premium proportionate to the unexpired term of the policy.

#### **46 Liability of the Association**

The liability of the Association under any blanket policy to pay out of the Municipal Officers' Fidelity Guarantee Fund any loss sustained by the Authority will be based on the absolute good faith of the application and of the truth and completeness of any information supplied by and on behalf of the Authority and will depend upon the due payment of the premium.

#### **47 Investment of Funds**

The Board may, in accordance with any Investment Policy adopted by the Board from time to time, invest the fund or any part of it in the funds in which councils may invest under section 103 of the **Local Government Act 2020** or the **Trustee Act 1958**.

#### **48 Expenses**

All expenses incurred in the management of the Fund will be paid out of the Funds and the Fund will contribute from time to time an amount determined by the Board towards the overall cost of management and administration of the Association.

### **PART 7 – GENERAL PROVISIONS**

#### **49 Common Seal**

49.1 The common seal of the Association may only be used in accordance with the direction of the Board and affixed in the presence of any Board member and the Chief Executive Officer (or in the absence of the Chief Executive Officer any other member of the Association's staff previously nominated for this purpose by the Chief Executive Officer).

49.2 Any documents to which the common seal has been affixed must be kept in a register maintained for that purpose.

49.3 The Chief Executive Officer must, at each meeting of the Board, report on any documents to which the common seal has been affixed.

## **50 Business Name**

The Association may, in conducting its activities, use with the approval of the Board any business name which it determines to register under the **Business Names Registration Act 2011** (Cth).

## **PART 8 – TRANSITIONAL PROVISIONS**

### **51 Reference to Former Rules**

In this Part 8 any reference to ‘the former Rules’ is a reference to those Rules of the Association made under the Act that were in place immediately prior to the commencement of these Rules, being the Rules published in the *Victoria Government Gazette* on 7 February 2013.

### **52 General Saving**

Except as these Rules expressly or by necessary implication provide otherwise, all persons, things and circumstances appointed or created by or under the former Rules or existing under the former Rules immediately before the commencement of these Rules continue under these Rules and have the same, operation and effect as they respectively would have had had the former Rules not been revoked.

### **53 Specific Savings and Transitional Arrangements**

53.1 Without limiting the generality of Rule 52:

53.1.1 each council that was a financial member of the Association under the former Rules will, upon the commencement of these Rules, be deemed to be a participating member council and to continue in the same regional grouping of councils until the Board determines otherwise;

53.1.2 each councillor who was a representative and substitute representative of the Association under the former Rules will, upon the commencement of these Rules, be deemed to be a delegate or substitute delegate of that council (as the case may be);

53.1.3 the Management Board constituted under the former Rules will, until MAV Election Day, continue to exist and to operate as if all of the former Rules relevant to its membership, duties, functions, powers and proceedings continue to apply;

53.1.4 each person holding an office (whether as the President or a Deputy President or Director) under the former Rules will continue to hold that office until they go out of office in accordance with the former Rules; and

53.1.5 the Chief Executive Officer under the former Rules becomes the Chief Executive Officer for the purposes of these Rules.

53.2 Any office held prior to the commencement of these Rules will not be taken into account in calculating the period described in sub-Rule 9.3.3.1 or 9.3.3.2.

53.3 The first MAV Election Day after the commencement of these Rules will be held on 3 March 2023.



**Municipal Association of Victoria**

**Schedule 1**

**Notification of appointment (Rule 7)**

The Chief Executive Officer  
Municipal Association of Victoria

At the meeting of \_\_\_\_\_ on \_\_\_\_\_  
*(insert name of council)* *(insert date)*

Cr \_\_\_\_\_ was appointed as the council's delegate (representative)  
to the Association.

Cr \_\_\_\_\_ was appointed as the council's substitute delegate\*  
(representative) to the Association.

.....  
Chief Executive Officer  
*(signature of Chief Executive Officer required)*

Dated: .....  
*(insert date)*

\*Appointment of a substitute delegate is required by Rule 7.1 of the Association's Rules. Appointment of *both* a delegate and substitute delegate is therefore required.

**Note:** Submission of this notice to the Association will result in the revocation of any previous appointment of a delegate or substitute delegate.

# Municipal Association of Victoria

## Schedule 2

### Election Procedures for President and Directors (Rules 11 & 12)

#### Division 1 – General requirements applying to elections

#### 1. Nomination

- 1.1 Only a delegate may nominate as a candidate for the election to the office of President or Director.
- 1.2 Any delegate wanting to nominate as a candidate for election either to the office of President or Director must submit to the Election Manager a nomination in the form specified in Schedule 4.
- 1.3 A nomination must be submitted to the Election Manager no earlier than 9am on the day which is 43 calendar days before MAV Election Day, and no later than the close of nominations at 4.00 pm on the day which is 25 calendar days before MAV Election Day, and may be posted, hand delivered or sent electronically to an address publicly advertised by the Election Manager.
- 1.4 The name of the candidate on the form of nomination must correspond with the name of the delegate that:
  - 1.4.1 appeared in the notification of appointment, given under sub-Rule 7.2; or
  - 1.4.2 appears on the Register of Delegates.
- 1.5 A delegate nominating for election may nominate themselves or be nominated by another delegate but must be the participating member council's delegate appointed by the council under Rule 7 and notified to the Association in the form of Schedule 1.
- 1.6 The Election Manager must reject the nomination if:
  - 1.6.1 the person nominating is not the delegate appointed by a participating member council; or
  - 1.6.2 the person nominating has been nominated by a person who is not the delegate of a participating member council; or
  - 1.6.3 the nomination has been submitted other than in the period between the opening and closing of nominations.
- 1.7 The Election Manager may require information from:
  - 1.7.1 the nominee;
  - 1.7.2 the person nominating the nominee;
  - 1.7.3 the Chief Executive Officer; or
  - 1.7.4 any other member of the Association's staffin order to decide to reject a nomination under sub-clause 1.6.

- 1.8 After nominations have closed, the Election Manager and the Association may publish on their respective websites the names of all candidates.

## **2. Candidate's Entitlements**

- 2.1 Each candidate for election may provide to the Election Manager a statement containing no more than 200 words and a photograph of themselves, a copy of which must be lodged no later than the close of nominations at 4.00pm on the day which is 25 calendar days before MAV Election Day so that it can be circulated under clause 12 of this Schedule.
- 2.2 Each candidate may appoint a scrutineer in writing to the Election Manager to be present at the ballot draw to determine the order of candidates on the ballot paper and at the count of the votes.
- 2.3 A person appointed as scrutineer for the purposes of the counting of votes cannot be a candidate for the office in respect of which votes are to be counted.
- 2.4 Subject to sub-clause 2.3, a scrutineer appointed in accordance with sub-clause 2.2 has the right to attend either or both of a ballot draw or count of votes for which they are appointed.

## **3. Withdrawal or Death of a Candidate**

- 3.1 A candidate may withdraw by giving written notice to the Election Manager:
- 3.1.1 at any time before the close of nominations; or
  - 3.1.2 after the close of nominations if the withdrawal will leave only one (1) candidate remaining.
- 3.2 If the withdrawal or death of a candidate before the conduct of an election means that only one candidate remains in the election, the Election Manager must declare the remaining candidate to be elected.
- 3.3 If the withdrawal or death of a candidate before the conduct of an election means that there are no candidates for an election, the election fails and the Election Manager must:
- 3.3.1 if the failure relates to the election of President, advise all the delegates;
  - 3.3.2 in any other case, advise the delegates within the relevant region –
- that the election has failed and that a new election will be conducted.
- 3.4 The Election Manager must proceed to conduct a new election under sub-clause 3.3 as soon as is practicable.
- 3.5 If the withdrawal or death of a candidate occurs:
- 3.5.1 after the close of nominations but before ballot papers have been printed and sent to delegates the Election Manager must remove the name of the candidate from the ballot paper; or
  - 3.5.2 after the close of nominations and after the ballot papers have been printed and sent to delegates the nomination will be deemed to have been annulled and any vote for that candidate will be dealt with as if their name had not been on the ballot paper with the numbers indicating subsequent preference being deemed to have been altered accordingly.

#### **4. Election Manager's Duties**

If an election is to be conducted for the office of President and for any Directors, the Election Manager must:

- 4.1 as soon as practicable after the close of nominations at 4.00 pm on the day which is 25 calendar days before MAV Election Day hold a draw by lot to determine the order in which the name of each candidate is to appear on the ballot paper;
- 4.2 within seven (7) calendar days of the close of nominations send to each delegate of a participating member council whose name appears on the Register of Delegates a statement setting out the names of the candidate, the positions for which they have nominated and the order in which candidates' names will appear on the ballot paper; and
- 4.3 prepare separate ballot papers for each of the elections setting out the names of the candidates who have nominated.

#### **5. Election of President**

- 5.1 If only one delegate nominates for the office of President before the close of nominations, that delegate will be declared elected by the Election Manager.
- 5.2 If two or more delegates nominate for the office of President, an election must be conducted by the Election Manager.

#### **6. Marking of Ballot Papers for Election of President**

- 6.1 Where an election is conducted for the office of President, the delegate must mark their vote on the ballot paper delivered to them by placing:
  - 6.1.1 the figure 1 opposite the name of the candidate for whom they vote as their first preference; and
  - 6.1.2 the figures 2, 3, 4 (and so on as the case requires) opposite the respective names of all remaining candidates so as to indicate by numerical sequence the order of their preference for each candidate.
- 6.2 Where there are only two candidates a ballot paper will be deemed to be sufficiently marked if marked with the figure 1 so as to indicate the delegate's first preference.
- 6.3 At any election where there are more than two candidates the requirements of this sub-clause will be deemed to be sufficiently complied with if the ballot paper is marked with the figures 1, 2, 3, 4, (and so on up to the number of candidates in the election) opposite the names of all the candidates on the ballot paper except one, and in any such case the delegate will be deemed and taken to have given their last preference vote for the candidate opposite whose name no figure is placed.
- 6.4 A ballot paper must be rejected if it is not marked in the manner required by this clause.
- 6.5 If the election is conducted by attendance voting, each delegate must, within 30 minutes after the delivery of the ballot papers, place their ballot paper in the appropriate box provided by the Election Manager.

#### **7. Election Results for the Office of President**

- 7.1 In this clause 7, 'absolute majority of votes' means a number of votes greater than one-half of the total number of ballot papers (excluding ballot papers which are rejected) and if necessary, includes a draw by lot.

- 7.2 If an election for the office of President has been conducted, the candidate who has received the greatest number of first preference votes, if that number constitutes an absolute majority of votes, is to be declared elected by the Election Manager.
- 7.3 If no candidate has received an absolute majority of first preference votes, the Election Manager must:
- 7.3.1 arrange the ballot papers by placing in separate parcels all those ballot papers on which a first preference is indicated for the same candidate and preference votes are duly given for all (or all but one) of the remaining candidates, omitting ballot papers which are rejected; and
  - 7.3.2 declare the candidate who received the fewest first preference votes a defeated candidate; and
  - 7.3.3 distribute the ballot papers counted to the defeated candidate among the undefeated candidates next in order of the voters' preference; and
  - 7.3.4 after the distribution, again ascertain the total number of votes given to each undefeated candidate.
- 7.4 The candidate who has then received the greatest number of votes, if that number constitutes an absolute majority of votes, is declared elected by the Election Manager.
- 7.5 If no candidate then has an absolute majority of votes, the process of declaring the candidate who has the fewest votes a defeated candidate and distributing the ballot papers counted to the defeated candidate among the undefeated candidates next in order of the voters' preference is to be repeated until one candidate has received an absolute majority of votes and is declared elected by the Election Manager.
- 7.6 If on any count two or more candidates have an equal number of votes and one of them has to be declared a defeated candidate, the undefeated candidate is to be determined by lot conducted by the Election Manager.
- 7.7 If on a final count two candidates have an equal number of votes, the successful candidate is to be determined by lot conducted by the Election Manager.

## **8. Election of 10 Regional Directors**

- 8.1 If only one delegate from a regional grouping of councils nominates for the position of Director for that region that delegate will be declared elected as the Director for that region.
- 8.2 If two or more delegates from a regional grouping of councils nominate for the office of Director, an election must be conducted by the Election Manager.

## **9. Marking of Ballot Papers for Election of Director**

- 9.1 Where an election is conducted for a position as a Director, the delegate must mark their vote on the ballot paper delivered to them by placing:
- 9.1.1 the figure 1 opposite the name of the candidate for whom they vote as their first preference; and
  - 9.1.2 the figures 2, 3, 4 (and so on up to the number of candidates in the election) opposite the respective names of all remaining candidates so as to indicate by numerical sequence the order of their preference for each candidate.
- 9.2 Where there are only two candidates a ballot paper will be deemed to be sufficiently marked if marked with the figure 1 so as to indicate the delegate's first preference.

- 9.3 At any election where there are more than two candidates the requirements of this sub-clause will be deemed to be sufficiently complied with if the ballot paper is marked with the figures 1, 2, 3, 4, (and so on up to the number of candidates in the election) opposite the names of all the candidates on the ballot paper except one, and in any such case the delegate will be deemed and taken to have given their last preference vote for the candidate opposite whose name no figure is placed.
- 9.4 A ballot paper must be rejected if it is not marked in the manner required by this clause.
- 9.5 If the election is conducted by attendance voting, each delegate must, within 30 minutes after the delivery of the ballot papers, place their ballot paper in the appropriate box provided by the Election Manager.

## **10. Election Results for Directors**

- 10.1 In this clause 10, 'absolute majority of votes' means a number of votes greater than one-half of the total number of ballot papers (excluding ballot papers which are rejected) and if necessary, includes a vote by lot.
- 10.2 If an election for any of the Directors has been conducted, the candidate who has received the greatest number of first preference votes, if that number constitutes an absolute majority of votes, is to be declared elected by the Election Manager.
- 10.3 If no candidate has received an absolute majority of first preference votes, the Election Manager must:
- 10.3.1 arrange the ballot papers by placing in separate parcels all those ballot papers on which a first preference is indicated for the same candidate and preference votes are duly given for all (or all but one) of the remaining candidates, omitting ballot papers which are rejected; and
  - 10.3.2 declare the candidate who received the fewest first preference votes a defeated candidate; and
  - 10.3.3 distribute the ballot papers counted to the defeated candidate among the undefeated candidates next in order of the voters' preference; and
  - 10.3.4 after the distribution, again ascertain the total number of votes given to each undefeated candidate.
- 10.4 The candidate who has then received the greatest number of votes, if that number constitutes an absolute majority of votes, is declared elected by the Election Manager.
- 10.5 If no candidate then has an absolute majority of votes, the process of declaring the candidate who has the fewest votes a defeated candidate and distributing the ballot papers counted to the defeated candidate among the undefeated candidates next in order of the voters' preference is to be repeated until one candidate has received an absolute majority of votes and is declared elected by the Election Manager.
- 10.6 If on any count two or more candidates have an equal number of votes and one of them has to be declared a defeated candidate, the undefeated candidate is to be determined by lot conducted by the Election Manager.
- 10.7 If on a final count two candidates have an equal number of votes, the successful candidate is to be determined by lot conducted by the Election Manager.

## **11. Where Delegate has Nominated for President and Director**

- 11.1 If any candidate declared elected as President has also nominated for a position as a Director that nomination must be declared to be invalid and any vote expressed for them

for that other position will be dealt with as if their name had not been on the ballot paper and the numbers indicating subsequent preferences had been altered accordingly.

- 11.2 In the event that such a procedure results in there being no candidate for the office of Director, an election must be held for the vacancy.

## **Division 2 – Optional postal voting**

### **12. Application of Postal Voting**

- 12.1 If the Chief Executive Officer has determined that postal voting will apply to an election, then, in addition to the notification required to be given a delegate under clause 4, the Election Manager must, at least 14 calendar days before the last day of voting, deliver or send to each delegate who is entitled to vote at the election:

12.1.1 a postal vote certificate or declaration envelope;

12.1.2 a ballot paper for postal voting;

12.1.3 a prepaid envelope for the return of the certificate and the ballot paper;

12.1.4 instructions on how to vote;

12.1.5 notice of how and when the ballot paper must be returned by; and

12.1.6 any other material that the Election Manager thinks is appropriate.

- 12.2 If an election is conducted by postal voting and the Chief Executive Officer determines that extraordinary circumstances exist, a reference in these Rules to 'MAV Election Day' is to be taken as a day fixed by the Chief Executive Officer as the last day on which postal ballots may be validly received by the Election Manager. The Chief Executive Officer must give written notice to delegates of the extraordinary circumstances that have been determined to exist, and details of the day fixed as the last day on which postal ballots may be validly received by the Election Manager.

### **13. Ballot Papers and Declaration Envelopes**

- 13.1 Subject to sub-clause 13.2, the Election Manager must ensure that:

13.1.1 ballot papers are made of marked security paper; and

13.1.2 declaration envelopes are opaque.

- 13.2 Each replacement declaration envelope issued under clause 14 must be identified as a replacement declaration envelope.

- 13.3 The Election Manager must keep a record of all persons who have been issued with a postal voting envelope and must keep a record of all those who have returned a declaration envelope.

### **14. Issuing Replacement Voting Materials**

- 14.1 If on or before the last day of voting a delegate:

14.1.1 claims that they have lost or destroyed the declaration envelope or ballot paper or both; or

14.1.2 claims that they have not received a postal ballot envelope; or

14.1.3 satisfies the Election Manager that they have spoilt the declaration envelope or ballot paper or both and returns the spoilt declaration envelope or spoilt ballot paper or both,

the Election Manager must issue the voter with the appropriate replacement material.

14.2 If a spoilt declaration envelope or ballot paper has been returned under sub-clause 14.1.3 the Election Manager must cancel the spoilt declaration envelope or ballot paper.

14.3 The Election Manager may use any means of identifying declaration envelopes, ballot papers and postal ballot envelopes issued under this provision which they consider appropriate to comply with clause 16.

## **15. Requirements Applying to Voters**

15.1 A delegate voting must:

15.1.1 mark their preference on the ballot paper in the manner required in this Schedule;

15.1.2 sign their name on the declaration envelope in the place provided and complete any details where indicated;

15.1.3 insert the completed ballot paper in the declaration envelope provided and seal the envelope; and

15.1.4 place the declaration envelope in the prepaid envelope provided.

15.2 The delegate must post or deliver the prepaid envelope containing the declaration envelope and ballot paper to the Election Manager at the address on the envelope so as to reach the Election Manager not later than 6.00 pm on the last day of voting or to deliver it to the address designated by the Election Manager for that purpose not later than 6.00 pm on the last day of voting or by any other time specified by the Election Manager.

## **16. Receipt of Declaration Envelopes**

16.1 The Election Manager may, before the close of voting:

16.1.1 remove the declaration envelopes from the prepaid envelopes;

16.1.2 separate the signed declaration envelopes from the unsigned declaration envelopes;

16.1.3 disallow the unsigned declaration envelopes; and

16.1.4 arrange all signed declaration envelopes according to the appropriate regional grouping of councils.

16.2 The Election Manager must:

16.2.1 identify the declaration envelopes issued under clause 14;

16.2.2 satisfy themselves that:

16.2.2.1 the person voting was entitled to vote; or

16.2.2.2 the person has not voted or attempted to vote more than once at the election; or



16.2.2.3 the declaration envelope was signed by the same person whose name appears on the list of representatives entitled to vote.

16.3 If the Election Manager is satisfied they must accept the ballot paper within the declaration envelope for further scrutiny without opening the declaration envelope in which it is contained, but if the Election Manager is not satisfied the ballot paper within the declaration envelope must be disallowed without opening the declaration envelope within which it is contained.

16.4 The Election Manager must arrange all the declaration envelopes containing accepted ballot papers in accordance with sub-clause 16.1.4.

## **17. Security of Declaration Envelopes**

17.1 The Election Manager must ensure that all declaration envelopes received are securely kept until after the close of voting.

17.2 The Election Manager must ensure that all declaration envelopes remain unopened until after the close of voting.

## **18. Handling of Election Materials**

18.1 The Election Manager must as soon as practicable after the close of voting do the following in the presence of any scrutineers and any other person who is authorised:

18.1.1 retrieve the secured declaration envelopes;

18.1.2 make up into separate parcels:

18.1.2.1 the records kept of persons who have returned a declaration envelope;

18.1.2.2 the spoilt ballot papers and the declaration envelopes;

18.1.2.3 the unsigned declaration envelopes;

18.1.2.4 the declaration envelopes disallowed under sub-clauses 16.1.3 and 16.3; and

18.1.2.5 any unused declaration envelopes;

18.1.3 separate the signed declarations from the declaration envelopes;

18.1.4 open the allowed declaration envelopes and take out the ballot papers;

18.1.5 make up the signed declaration envelopes into separate parcels and ascertain the number of votes received by each candidate and the number of informal votes;

18.1.6 set aside any rejected ballot papers;

18.1.7 make up into separate parcels:

18.1.7.1 the used ballot papers;

18.1.7.2 any rejected ballot papers; and

18.1.7.3 any unused ballot papers;

- 18.1.8 prepare and sign a certificate which may be signed by any of the scrutineers specifying the number of:
  - 18.1.8.1 votes received by each candidate; and
  - 18.1.8.2 ballot papers set aside as rejected;
- 18.1.9 make a statement on the outside of each parcel containing:
  - 18.1.9.1 a description of its contents;
  - 18.1.9.2 the name of the council and the regional grouping of councils;
  - 18.1.9.3 the date of the count; and
  - 18.1.9.4 enclose and properly fasten each parcel and sign the statement made under this sub-clause and permit any scrutineer to sign the statement.
- 18.2 As far as practicable, the Election Manager must ensure that the ballot paper is removed from a signed declaration envelope in a way that prevents any person from seeing how a delegate voted.
- 18.3 The Election Manager must, as soon as practicable, ascertain from the certificate prepared under sub-clause 18.1.8 the number of first preference votes given to each candidate.

**19. Safe Custody of Ballot Materials**

- 19.1 The Election Manager is, until such time as the election is declared, responsible for the safe custody of postal ballot envelopes and all documents and materials, including during the adjournment of any count of the vote, and must:
  - 19.1.1 keep a record of the ballot papers that have been printed; and
  - 19.1.2 reconcile that number with the number of ballot papers which have been issued, spoiled or unused
- 19.2 The Election Manager must:
  - 19.2.1 certify the record kept under sub-clause 19.1 as being true and correct; and
  - 19.2.2 submit the record and forward the ballot papers, declarations and declaration envelopes to the Association as soon as practicable after MAV Election Day.

# Municipal Association of Victoria

## Schedule 3

### Regulation of proceedings of the State Council (Rule 19)

#### 1. Meeting Procedure Generally

- 1.1 Subject to the provisions in this Schedule the conduct of meetings of the State Council are at the discretion of the State Council.
- 1.2 The State Council may, from time to time, adopt Meeting Procedure Protocols which are to be observed by delegates.
- 1.3 A Meeting Procedure Protocol may provide for a meeting of the State Council to be held wholly in person, wholly by electronic means or partly in person and partly by electronic means.
- 1.4 Any Meeting Procedure Protocol adopted by the State Council must not be inconsistent with these Rules.

#### 2. Confirmation of the Minutes

- 2.1 A copy of the minutes of the immediately preceding meeting of the State Council must be sent to the delegates at least one (1) business day before the meeting at which confirmation of the minutes is to be considered.
- 2.2 The minutes of any meeting are to be confirmed at the next following meeting of the State Council to which they relate and are to be the first business dealt with at that meeting.
- 2.3 If a copy of the minutes of the preceding meeting has not been delivered within the period specified in sub-clause 2.1, delegates will be permitted to read the minutes prior to the confirmation of such minutes.
- 2.4 No discussion will be permitted on the contents of the minutes except as to their accuracy as a record of proceedings.
- 2.5 When the minutes have been confirmed by the meeting they will be signed by the President (or, in the absence of the President, by a Deputy President).

#### 3. Order of Business

The order of business at the meeting will be the order in which the business stands in the notice of the meeting, unless the delegates in attendance resolve to alter it.

#### 4. Conduct at Meetings

- 4.1 Any delegate wishing to move a motion or amendment or take part in discussion on any matter will address the Chairperson and must not be interrupted unless called to order, at which point they must sit down until the delegate (if any) calling to order has been heard and the question of order disposed of. The delegate moving the motion or amendment or taking part in the discussion may, following this, proceed with the subject.
- 4.2 Any person in attendance at any meeting who is not a delegate may take part in discussion only at the discretion of the Chairperson but may not move a motion or amendment or vote on any matter.

## **5. Proposing Motions or Amendments**

- 5.1 Any delegate wishing to propose an original motion or amendment must state the nature of the motion or amendment before they address the meeting.
- 5.2 No motion or amendment may be withdrawn except where leave of the meeting has been given.
- 5.3 No motion or amendment may be discussed or put to the vote unless it has been seconded.
- 5.4 A delegate moving a motion will be held to have spoken on the matter, but a delegate merely seconding a motion will not be held to have spoken to it.
- 5.5 If two or more delegates rise to speak at the same time, the Chairperson will decide who is entitled to priority.
- 5.6 No delegate may speak a second time on the same motion, unless entitled to reply or to ask a question of clarification or to give an explanation when they have been misrepresented or misunderstood.

## **6. Submission of Motions**

If required by the Chairperson, all motions (whether original motions or amendments) will be put in writing, signed by the mover and delivered to the Chief Executive Officer immediately on their being moved or seconded.

## **7. Dealing with Amendments**

- 7.1 No second or subsequent amendment (whether on an original proposition or on an amendment) will be taken into consideration until the previous amendment has been dealt with and finalised.
- 7.2 If any words of an original motion are rejected, the insertion of other proposed words will form the next motion, whereupon any further amendment to insert other words may be moved.
- 7.3 If an amendment is lost, then a second amendment may be moved to the motion to which the first amendment was moved, but only one amendment may be submitted to the meeting for discussion at a time.

## **8. Right of Reply**

The mover of every original motion, but not of any amendment, will have a right of reply immediately after which the question will be put from the chair, except no delegate will be allowed to speak more than once on the same matter unless permission is given to explain or the attention of the Chairperson is called to a point of order.

## **9. Time Limits**

- 9.1 The original mover of a motion will not speak for more than two (2) minutes and all other speakers will be allowed not more than two (2) minutes to speak on any motion or amendment. The original mover of the motion will have a right of reply of not more than one (1) minute.
- 9.2 Any speaker may be granted an extension of time for a further two (2) minutes upon a motion being moved, seconded and carried by the meeting, but no discussion will be allowed upon a motion to grant an extension of time.

## **10. Adjournment of Meeting**

- 10.1 No discussion will be allowed on any motion for adjournment of the meeting.
- 10.2 If the motion for adjournment is lost, the subject then under consideration or the next subject on the business paper, or any other matter that may be allowed precedence, will be discussed before any subsequent motion for adjournment is made.

## **11. Enforcement of Schedule**

A delegate may require the enforcement of any clause in this Schedule by directing the Chairperson's attention to any failure to observe it.

## **12. Points of Order and Delegate Conduct**

- 12.1 If a delegate raises a point of order they must state the provision, rule or practice they rely upon.
- 12.2 When called upon to decide on points of order, the Chairperson will state the provision, rule or practice which the Chairperson deems applicable to the case without discussing or commenting on it, and the Chairperson's decision as to order in each case is final.
- 12.3 No delegate may digress from the subject matter of the question under discussion or comment on the words used by any other delegate in a previous debate, and all imputations of improper motives and all personal reflections on delegates will be deemed out of order.
- 12.4 Whenever any delegate makes use of disorderly expression or one which is capable of being applied offensively to any other delegate, the delegate so offending will be required by the Chairperson to withdraw the expression and to make an acceptable apology to the meeting.

## **13. Putting Questions To Vote**

The Chairperson, in taking the sense of the meeting, will put the question before the meeting first in the affirmative, then in the negative, and the result of the vote will be recorded in the minutes.

## **14. Absence of a Quorum**

If debate on any motion which has been moved or seconded is interrupted by the absence of a quorum, the debate may be resumed at the next meeting.

## **15. Suspension of Procedures**

Any one or more of the clauses this Schedule may be suspended by resolution for a special purpose at any meeting.

**Municipal Association of Victoria**

**Schedule 4**

**Nomination Form (Clause 1 of Schedule 2)**

Nomination for election of President and Directors held on \_\_\_\_\_

I, the undersigned \_\_\_\_\_

being the delegate of \_\_\_\_\_  
*(insert name of council)*

nominate \_\_\_\_\_  
*(insert full name of councillor who is to be the candidate)*

as a candidate for election to the following office:

President

Director for the \_\_\_\_\_ region  
*(insert name of region)*

*(Mark with an 'X' the election for which the candidate is nominated)*

Signature \_\_\_\_\_

And I, the above-named \_\_\_\_\_  
*(insert name in full)*

consent to the nomination and declare that I am the appointed

delegate of \_\_\_\_\_  
*(insert name of council)*

I acknowledge and agree that, if I am elected to hold the office for which I am nominated, my ability to hold the office and remain in such office is subject to my being able to demonstrate that I meet the Eligibility Criteria in accordance with the Fit and Proper Person Policy (as those terms are defined in MAV Rules 2022). I agree to provide information for such determination to be made at the times required in accordance with the Fit and Proper Person Policy. I also acknowledge and agree to notify the Chief Executive Officer or their delegate if at any time I no longer meet the applicable Eligibility Criteria.

Signature \_\_\_\_\_

**NOTE: A separate nomination form must be completed and delivered to the Election Manager for each election for which a candidate is to be nominated.**