

GOVERNANCE RULES

Introduction

1. Nature of Rules

These are the Governance Rules of the Maribyrnong City Council, made in accordance with section 60 of the *Local Government Act 2020* (Vic).

2. Date of Commencement

These Governance Rules commence on 1 September 2020.

3. Contents

These Governance Rules are divided into the following Chapters:

Chapter	Name
Chapter 1	Governance Framework
Chapter 2	Meeting Procedure for Council Meetings
Chapter 3	Meeting Procedure for Delegated Committees
Chapter 4	Meeting Procedure for Community Asset Committees
Chapter 5	Disclosure of Conflicts Of Interest
Chapter 6	Miscellaneous
Chapter 7	Election Period Policy

4. Definitions

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

Act means the *Local Government Act 2020* (Vic).

Chief Executive Officer means the person appointed to the position of Council's Chief Executive Officer and includes an Acting Chief Executive Officer.

Community Asset Committee means a Community Asset Committee established under section 65 of the Act.

Council means the Maribyrnong City Council.

Council meeting has the same meaning as in the Act.

Delegated Committee means a Delegated Committee established under section 63 of the Act.

Mayor means the Councillor appointed in the position of Mayor and includes the Acting Mayor in accordance with these Rules.

these Rules means these Governance Rules.

Chapter 1 – Governance Framework

1. Context

These Rules should be read in the context of and in conjunction with:

- a) the overarching governance principles specified in section 9(2) of the Act; and
- b) the following documents adopted or approved by Council:
 - i. Governance Local Law
 - ii. Councillor Code of Conduct
 - iii. Councillor Expenses Policy
 - iv. Livestreaming and Recording of Council Meetings Policy

2. Decision Making

- a) In any matter in which a decision must be made by Council (including persons acting with the delegated authority of Council and in the proper functions of an employee's employment responsibilities), Council must consider the matter and make a decision:
 - (i) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
 - (ii) on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- b) Council must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered).
- c) Without limiting anything in paragraph (b) of this sub-Rule:
 - (iii) before making a decision that will directly affect the rights of a person, Council (including any person acting with the delegated authority of Council) must identify the person or persons whose rights will be directly affected, give notice of the decision which *Council* must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made;
 - (iv) if a report to be considered at a Council or Delegated Committee meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
 - (v) if a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

Chapter 2 – Meeting Procedure for Council Meetings

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Part A – Introduction

1. Title

This Chapter will be known as the "Council Meeting Procedure".

2. Purpose of this Chapter

The purpose of this Chapter is to:

- 2.1 provide for the election of the Mayor and any Deputy Mayor;
- 2.2 provide for the appointment of any Acting Mayor; and
- 2.3 provide for the procedures governing the conduct of Council meetings.

3. Definitions and Notes

3.1 In this Chapter:

"*agenda*" means the notice of a meeting setting out the business to be transacted at the meeting;

"*Chair*" means the Chairperson of a meeting and includes a Councillor who is appointed by resolution to chair a meeting under section 61(3) of the *Act*; "*Joint letter*" means any document which is in the form of a letter and bears the signature of two or more people;

"*minute book*" means the collective record of proceedings of *Council*;

"*municipal district*" means the municipal district of *Council*;

"*newspaper*" means a newspaper generally circulating in the Council's municipal district;

"*notice of motion*" means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;

"*notice of rescission*" means a *notice of motion* to rescind a resolution made by *Council*;

"*petition*" means a document signed by a group of people requesting the Council take some action within its powers in relation to a particular issue, and contains the names and addresses and is signed personally by the petitioners and contains the petition text on each page of the document which is presented at a Council Meeting.

"*petition text*" means the description of the matter provided by the signatories to a petition (and included on each page of the petition) that articulates the request or issue that is the subject of the petition;

"*procedural Motion*" means a formal motion which relates to the process of running a meeting;

"*public Notice*" means a notice published in a newspaper generally circulating in the municipal district of the Council, in addition to the notice being published on Council's Website;

"suspension of standing orders" means the suspension of the provision in this document to facilitate any presentation or full discussion on an issue without formal constraints;

"urgent business" means business of an urgent nature which has arisen since the distribution of the agenda, or which cannot be reasonably listed in the agenda of the next meeting;

"written" includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form, and *writing* has a corresponding meaning.

- 3.2 Introductions to Parts, headings and notes are explanatory notes and do not form part of this Chapter. They are provided to assist understanding.

Part B – Election of Mayor

Introduction: This Part is concerned with the annual election of the Mayor. It describes how the Mayor is to be elected.

4. Election of the *Mayor*

The Chief Executive Officer must facilitate the election of the Mayor in accordance with the provisions of the Act.

5. Method of Voting

The election of the Mayor must be carried out by a show of hands and all Councillors present must vote.

6. Determining the election of the *Mayor*

6.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.

6.2 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:

6.2.1 if there is only one nomination, the candidate nominated must be declared to be duly elected;

6.2.2 if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;

6.2.3 in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;

6.2.4 in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;

6.2.5 if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;

6.2.6 in the event of two or more candidates having an equality of votes and one of them having to be declared:

(a) a defeated candidate; and

(b) duly elected

the declaration will be determined by lot.

6.2.7 if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:

- (a) each candidate will draw one lot;
- (b) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
- (c) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected).

7. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for:

- 7.1 any office of Deputy Mayor; or
- 7.2 Chair of a *Delegated Committee*

will be regulated by Rules 4-6 (inclusive) of this Chapter, as if the reference to the:

- 7.3 *Chief Executive Officer* is a reference to the *Mayor*; and
- 7.4 *Mayor* is a reference to the Deputy Mayor or the Chair of the *Delegated Committee* (as the case may be).

8. Appointment of Acting Mayor

If Council's Mayor and Deputy Mayor are both unable to fulfil the duties of Mayor, it can do so by:

- 8.1 resolving that a specified Councillor be so appointed; or
- 8.2 following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter, at its discretion.

Part C – Meetings Procedure

Introduction: This Part is divided into a number of Divisions. Each Division addresses a distinct aspect of the holding of a meeting. Collectively, the Divisions describe how and when a meeting is convened, when and how business may be transacted at a meeting.

Division 1 – Notices of Meetings and Delivery of Agendas

9. Dates and Times of Meetings Fixed by Council

Subject to Rule 11, Council must from time to time fix the date, time and place of all Council meetings.

10. Council May Alter Meeting Dates

Council may change the date, time and place of any Council meeting which has been fixed by it by resolution and must provide reasonable notice of the change to the public.

11. Meetings Not Fixed by Council

11.1 The Mayor or at least 3 Councillors may by a written notice to the Chief Executive Officer call a Council meeting.

11.2 The notice must specify the date and time of the Council meeting and the business to be transacted.

11.3 The Chief Executive Officer must convene the Council meeting as specified in the notice.

11.4 Unless all Councillors are present and unanimously agree to deal with any other matter, only the business specified in the written notice can be transacted at the Council meeting.

12. Notice Of Meeting

12.1 A notice of meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be delivered or sent electronically to every Councillor for all Council meetings at least 48 hours before the meeting.

12.2 Notwithstanding sub-Rule 12.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting during the period of his or her absence.

12.3 Reasonable notice of each Council meeting must be provided to the public. Council may do this:

12.3.1 for meetings which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule published in a newspaper generally circulating in the municipal district either at various times throughout the year, or prior to each such Council meeting; and

12.3.2 for any meeting by giving notice on its website and:

(a) in each of its Customer Service Centres; and/or

- (b) in at least one newspaper generally circulating in the municipal district.
- 12.4 Copies of the agenda and any related material for Council Meetings must be made available to members of the public on Council's website not less than 48 hours prior to the meeting unless the exceptional circumstances make it impractical to do so.

Division 2 – Quorums

13. Inability To Obtain A Quorum

If after 30 minutes from the scheduled starting time of any Council meeting, a quorum cannot be obtained:

- 13.1 the meeting will be deemed to have lapsed;
- 13.2 the Mayor must convene another Council meeting, the agenda for which will be identical to the agenda for the lapsed meeting; and
- 13.3 the Chief Executive Officer must give all Councillors written notice of the meeting convened by the Mayor, in accordance with Rule 12.1.

14. Inability To Maintain A Quorum

- 14.1 If during any Council meeting, a quorum cannot be maintained then Rule 13 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 14.2 Sub-Rule 14.1 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.
- 14.3 If a quorum cannot be achieved or maintained due to the disclosure of Conflicts of Interest by one or more Councillors, the Chair must:
 - 14.3.1 defer the item of business in respect of which there is or is likely to be a disclosure of a Conflict of Interest by one or more Councillors, and direct the Chief Executive Officer to include that item of business on an Agenda for a future meeting of Council; or
 - 14.3.2 direct the Chief Executive Officer to seek to have the matter dealt with in an alternative manner in accordance with s67 of the Act.

15. Adjourned Meetings

- 15.1 Council may by resolution adjourn any meeting to another date or time but cannot, in the absence of disorder or a threat to the safety of any Councillor or member of Council staff, adjourn a meeting in session to another place.
- 15.2 The Chief Executive Officer must give written notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered in accordance with the provisions of this Chapter.
- 15.3 If it is impracticable for the notice given under sub-Rule 15.2 to be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

16. Time limits for Meetings

- 16.1 A Council meeting must not continue after 10:30pm unless a majority of Councillors present vote in favour of it continuing.
- 16.2 A meeting cannot be continued for more than 30 minutes (or a further 30 minutes, if a majority of Councillors has already voted to continue it for 30 minutes).
- 16.3 In the absence of such continuance under this Rule, the meeting must stand adjourned to a time, date and place announced by the Chair immediately prior to the meeting standing adjourned. In that event, the provisions of sub-Rules 15.2 and 15.3 apply.

17. Cancellation or Postponement of a Meeting

- 17.1 The Chief Executive Officer may, in the case of an emergency necessitating the cancellation or postponement of a Council meeting, cancel or postpone a Council meeting. Reasons for the cancellation or postponement of a Council Meeting vary and the Chief Executive Officer maintains the discretion to decide whether the circumstances surrounding the proposed cancellation or postponement warrant the cancellation or postponement.
- 17.2 The Chief Executive Officer must ensure that all Councillors (except those Councillors who have obtained a leave of absence, unless that Councillor requests to be notified) are communicated in the most reasonable method of the proposed cancellation or postponement. This method may include by phone or in person, as the circumstances warrant.
- 17.3 The Chief Executive Officer must also ensure that sufficient notice is provided to the public of the proposed cancellation or postponement in accordance with Rule 12.
- 17.4 The Chief Executive Officer must present to the immediately following Council meeting a written report on any exercise of the power conferred by sub-Rule 17.1.

Division 3 – Business of Meetings

18. Agenda and the Order Of Business

The agenda for and the order of business for a Council meeting is to be determined by the Chief Executive Officer so as to facilitate and maintain open, efficient and effective processes of government.

19. Change To Order Of Business

Once an agenda has been sent to Councillors, the order of business for that Council meeting may be altered with the consent of Council.

20. Urgent Business

If the agenda for a Council meeting makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of Council and only then if it:

- 20.1 relates to or arises out of a matter which has arisen since distribution of the agenda; and
- 20.2 cannot safely or conveniently be deferred until the next Council meeting.

- 20.3 the nature of the urgency must be stated by the Councillor and outlined in the minutes of the meeting.

Division 4 – Motions and Debate

21. Councillors May Propose Notices Of Motion

Councillors may ensure that an issue is listed on an agenda by lodging a Notice of Motion.

22. Notice Of Motion

- 22.1 Councillor must notify the Chief Executive Officer of a proposed notice of motion no later than 5pm six business days before the meeting at which it is intended to be considered, unless public holidays fall within that six day period.
- 22.2 A final notice of motion must be in writing signed by a Councillor, and be lodged with the Chief Executive Officer prior to the circulation of the agenda papers.
- 22.3 The Councillor proposing the notice of motion must circulate the draft notice of motion to Councillors prior to the circulation of the agenda papers.
- 22.4 The Chief Executive Officer may reject any notice of motion which:
- 22.4.1 is vague or unclear in intention
 - 22.4.2 is beyond Council's power to pass;
 - 22.4.3 if passed would result in Council otherwise acting invalidly; or
 - 22.4.4 is defamatory or is objectionable in language or nature;
- but must:
- 22.4.5 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - 22.4.6 notify the Councillor who lodged it of the rejection and reasons for the rejection and allow the Councillor a 24-hour period to amend the notice of motion if applicable.
- 22.5 The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda.
- 22.6 The *Chief Executive Officer* must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.
- 22.7 If requested by the Chief Executive Officer, officer comment will be provided to Councillors prior to a Notice of Motion being published in the Agenda for the relevant Council Meeting.
- 22.8 Except by leave of Council, each notice of motion before any meeting must be considered in the order in which they were entered in the notice of motion register.
- 22.9 If a Councillor who has given a notice of motion is absent from the meeting or fails to move the motion when called upon by the Chair, any other Councillor may move the motion.

- 22.10 If a notice of motion is not moved at the Council meeting at which it is listed, it lapses.
- 22.11 If a notice of motion is moved but not seconded, it lapses.
- 22.12 Except where the notice of motion is to confirm a previous resolution of Council, the notice of motion may be amended by the Councillor who has submitted it by seeking leave of Council prior to it being seconded.
- 22.13 Once a notice of motion, whether or not amended, has been voted on or lapsed it cannot be resubmitted in materially the same form until a period of three months has elapsed after the date of the meeting at which it was last considered

23. Chair's Duty

Any motion which is determined by the Chair to be:

- 23.1 defamatory;
- 23.2 objectionable in language or nature;
- 23.3 vague or unclear in intention;
- 23.4 outside the powers of Council; or
- 23.5 irrelevant to the item of business on the agenda and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the Chair.

24. Introducing A Motion or an Amendment

The procedure for moving any motion or amendment is:

- 24.1 the mover must state the motion without speaking to it;
- 24.2 the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
- 24.3 if a motion or an amendment is moved and seconded the Chair must ask:

"Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"
- 24.4 if no Councillor indicates opposition or a desire to speak to it, the Chair may declare the motion or amendment carried without discussion;
- 24.5 if a Councillor indicates opposition or a desire to speak to it, then the Chair must call on the mover to address the meeting;
- 24.6 after the mover has addressed the meeting, the seconder may address the meeting;
- 24.7 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the Chair must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and

- 24.8 if, after the mover has addressed the meeting, the Chair has invited debate and no Councillor speaks to the motion, then the Chair must put the motion to the vote.
- 24.9 The Chair must not move or second a motion but may speak to a motion when all Councillors who wish to speak to it have done so, and just before closure of debate by the mover of the motion in exercising the right of reply (in accordance with 20.2).
- 24.10 If the Chair wishes to move, or second a motion then the Mayor or Deputy Mayor must take the Chair or, if there is no Mayor or Deputy Mayor the meeting must elect a temporary Chair where upon the Chair must vacate the Chair and not return to it until the motion has been resolved upon.
- 24.11 Despite any other provisions of this procedure, before putting a motion or amendment to the vote, the Chair may have the text of the motion or amendment read to the Meeting.

25. Right Of Reply

- 25.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
- 25.2 After the right of reply has been taken but subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

26. Moving An Amendment

- 26.1 Subject to sub-Rule 26.3 a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- 26.2 An amendment under this Rule does not require a Council resolution and can be activated by the agreement of the mover and seconder of the initial proposed motion. Should there be no agreement from either the mover or the seconder, the proposed amendment will be put to a vote.
- 26.3 A motion to confirm a previous resolution of Council cannot be amended without a motion to rescind that previous resolution.
- 26.4 An amendment must not be directly opposite to the motion.

27. Who May Propose An Amendment

- 27.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- 27.2 Any one Councillor cannot move more than two amendments in succession.

28. How Many Amendments May Be Proposed

- 28.1 Any number of amendments may be proposed to a motion but only one amendment may be accepted by the Chair at any one time.
- 28.2 No second or subsequent amendment, whether to the motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with.

29. An Amendment Once Carried

- 29.1 If the amendment is carried, the motion as amended then becomes the motion before the meeting, and the amended motion must then be put.
- 29.2 The mover of the original motion retains the right of reply to that motion.

30. Foreshadowing Motions

- 30.1 At any time during debate a Councillor may foreshadow a motion so as to inform Council of his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 30.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the Chair being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- 30.3 The Chief Executive Officer or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.
- 30.4 The Chair is not obliged to accept foreshadowed motions.

31. Withdrawal Of Motions

- 31.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of the Chair.
- 31.2 If the majority of Councillors present object to the withdrawal of the motion, it may not be withdrawn.

32. Separation Of Motions

Where a motion contains more than one part, a Councillor may request the Chair to put the motion to the vote in separate parts.

33. Chair May Separate Motions

The Chair may decide to put any motion to the vote in several parts.

34. Priority of address

In the case of competition for the right of speak, the Chair must decide the order in which the Councillors concerned will be heard.

35. Motions In Writing

- 35.1 The Chair may require that a complex or detailed motion be in writing.
- 35.2 Council may adjourn the meeting while the motion is being *written* or Council may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.

36. Repeating Motion and/or Amendment

The *Chair* may request the person taking the minutes of the *Council meeting* to read the motion or amendment to the meeting before the vote is taken.

37. Debate Must Be Relevant To The Motion

- 37.1 Debate must always be relevant to the motion before the Chair, and, if not, the *Chair* must request the speaker to confine debate to the motion.
- 37.2 If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may direct the speaker to be seated and not speak further in respect of the motion then before the Chair.
- 37.3 A speaker to whom a direction has been given under sub-Rule 37.2 must comply with that direction.

38. Speaking Times

A Councillor must not speak longer than the time set out below, unless granted an extension by the Chair:

- 38.1 the mover of a motion or an amendment which has been opposed: 5 minutes;
- 38.2 any other Councillor: 3 minutes; and
- 38.3 the mover of a motion exercising a right of reply: 2 minutes.

39. Addressing the Meeting

If the Chair so determines:

- 39.1 any person addressing the Chair must refer to the Chair as:

- 39.1.1 Madam Mayor; or
- 39.1.2 Mr Mayor; or
- 39.1.3 Madam Chair; or
- 39.1.4 Mr Chair

as the case may be;

- 39.2 all Councillors, other than the Mayor, must be addressed as

Cr(name).

- 39.3 all members of Council staff, must be addressed as Mr or Ms

.....(name) as appropriate or by their official title.

40. Right to Ask Questions

- 40.1 A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the Chair.
- 40.2 The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

Division 5 – Procedural Motions

41. Procedural Motions

- 41.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the Chair.
- 41.2 Procedural motions are not required to be seconded.
- 41.3 The Chair may not move a procedural motion.
- 41.4 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:

PROCEDURAL MOTIONS TABLE

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a Chair; (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
2. Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a Chair; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the <i>Council</i> has been made for that meeting in accordance with section 85 of the <i>Act</i> , or (d) When the motion would have the effect of causing Council to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected	Yes
3. The closure	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for Chair	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

Division 6 – Rescission Motions

42. Notice of Rescission

- 42.1 A Councillor may propose a notice of rescission provided:
- 42.1.1 it has been signed and dated by at least three Councillors;
 - 42.1.2 the resolution proposed to be rescinded has not been acted on; and
 - 42.1.3 the notice of rescission is delivered to the *Chief Executive Officer* within 24 hours of the resolution having been made setting out -
 - (a) the resolution to be rescinded;
 - (b) the reason behind the rescission of that resolution; and
 - (c) the meeting and date when the resolution was carried.

It should be remembered that a notice of rescission is a form of notice of motion.

Accordingly, all provisions in this Chapter regulating notices of motion equally apply to notices of rescission.

- 42.2 A resolution will be deemed to have been acted on if:
- 42.2.1 its contents have or substance has been communicated in writing to a person whose interests are materially affected by it; or
 - 42.2.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on Council or any other person.
- 42.3 The Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:
- 42.3.1 has not been acted on; and
 - 42.3.2 is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-Rule 43.1.3,
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

By way of example, assume that, on a Monday evening, Council resolves to have legal representation at a planning appeal to be heard on the following Monday. Assume also that, immediately after that resolution is made, a Councillor lodges a notice of motion to rescind that resolution. Finally, assume that the notice of rescission would not be dealt with until the next Monday evening (being the evening of the day on which the planning appeal is to be heard).

In these circumstances, deferring implementation of the resolution would have the effect of depriving the resolution of efficacy. This is because the notice of rescission would not be debated until after the very thing contemplated by the resolution had

come and gone. In other words, by the time the notice of rescission was dealt with the opportunity for legal representation at the planning appeal would have been lost.

Sub-Rule 42.3 would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.

43. If Lost

If a motion for rescission is lost, a similar motion may not be put before *Council* for at least three months from the date it was last lost, unless *Council* resolves that the *notice of motion* be re-listed at a future meeting.

44. If Not Moved

If a motion for rescission is not moved at the meeting at which it is listed, it lapses.

45. May Be Moved By Any Councillor

A motion for rescission listed on an agenda may be moved by any Councillor present but may not be amended.

46. When Not Required

46.1 Unless sub-Rule 46.2 applies, a motion for rescission is not required where Council wishes to change policy.

46.2 The following standards apply if Council wishes to change policy:

46.2.1 if the policy has been in force in its original or amended form for less than 12 months, a notice of rescission must be presented to Council; and

46.2.2 any intention to change a Council policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally and in accordance with the relevant and existing Council communications policy.

Division 7 – Points of Order

47. Chair To Decide

The Chair must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the point raised without entering into any discussion or comment.

48. Chair May Adjourn To Consider

48.1 The Chair may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.

48.2 All other questions before the meeting are suspended until the point of order is decided.

49. Dissent From Chair's Ruling

49.1 A Councillor may move that the meeting disagree with the Chair's ruling on a point of order, by moving:

"That the Chair's ruling [setting out that ruling or part of that ruling] be dissented from".

49.2 When a motion in accordance with this Rule is moved and seconded, the Chair must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present, temporary Chair elected by the meeting in accordance with Part B of these Rules) must take his or her place.

49.3 The Deputy Mayor or temporary Chair must invite the mover to state the reasons for his or her dissent and the Chair may then reply.

49.4 The Deputy Mayor or temporary Chair must put the motion in the following form:

"That the Chair's ruling be dissented from."

49.5 If the vote is in the negative, the Chair resumes the Chair and the meeting proceeds.

49.6 If the vote is in the affirmative, the Chair must then resume the Chair, reverse or vary (as the case may be) his or her previous ruling and proceed.

49.7 The defeat of the Chair's ruling is in no way a motion of censure or non-confidence in the Chair, and should not be so regarded by the meeting.

50. Procedure For Point Of Order

A Councillor raising a point of order must:

50.1 state the point of order; and

50.2 state any section, Rule, paragraph or provision relevant to the point of order before resuming his or her seat.

51. Valid Points Of Order

A point of order may be raised in relation to:

51.1 a motion, which, under Rule 23, or a question which, under Rule 2, should not be accepted by the Chair;

51.2 a question of procedure; or

51.3 any act of disorder.

Rising to express a difference of opinion or to contradict a speaker is not a point of order.

Division 8 –Question Time

52. Public Question Time

- 52.1 There must be a public question time at every Council meeting fixed under Rule 9 to enable members of the public to submit questions to Council.
- 52.2 Sub-Rule 52.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the Act.
- 52.3 Public question time will not exceed 15 minutes in duration unless the Councillors present unanimously agree to the time extension, in which case Public Question Time will be extended for a further block of 15 minutes.
- 52.4 Questions submitted to Council must be:
- 52.4.1 in writing, state the name and suburb of the person submitting the question and generally be in a form approved or permitted by Council; and
 - 52.4.2 be lodged electronically at the prescribed email address, or a physical copy of proposed questions submitted at the Council Reception, prior to 12 noon on the day of the Council meeting.
- 52.5 No person may submit more than three questions at any one meeting.
- 52.6 The Chair or a member of Council staff nominated by the Chair may read to those present at the meeting a question which has been submitted in accordance with this Rule.
- 52.7 The Chair may refrain from reading a question or having a question read if the person who submitted the question is not present in the gallery at the time when the question is due to be read.
- 52.8 A question may be disallowed by the Chair if the Chair determines that it:
- 52.8.1 relates to a matter outside the duties, functions and powers of Council;
 - 52.8.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 52.8.3 deals with a subject matter already answered;
 - 52.8.4 is aimed at embarrassing a Councillor, a member of Council staff or an other person;
 - 52.8.5 relates to personnel matters;
 - 52.8.6 relates to the personal hardship of any resident or ratepayer;
 - 52.8.7 relates to industrial matters;
 - 52.8.8 relates to contractual matters;
 - 52.8.9 relates to proposed developments;
 - 52.8.10 relates to potential suppliers promoting their business;
 - 52.8.11 relates to legal advice;

- 52.8.12 relates to matters affecting the security of Council property; or
- 52.8.13 relates to any other matter which Council considers would prejudice Council or any person.
- 52.9 Like questions may be grouped together and a single answer provided.
- 52.10 The Chair may nominate a Councillor, the Chief Executive Officer or a senior member of Council staff present at the meeting to respond to a question.
- 52.11 A Councillor or the Chief Executive Officer may require a question to be put on notice.
- 52.12 A Councillor or the Chief Executive Officer may advise Council that it is his or her opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or Chief Executive Officer (as the case may be) must state briefly the reason why the reply should be so given and, unless Council resolves to the contrary, the reply to such question must be so given.

53. Councillor Question Time

- 53.1 There must be a Councillor question time at every Council meeting fixed under Rule 9 to enable Councillors to ask questions of officers
- 53.2 Sub-Rule 53.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the Act.
- 53.3 Councillor question time will not exceed 15 minutes in duration unless the Councillors present unanimously agree to the time extension, in which case Public Question Time will be extended for a further block of 15 minutes.
- 53.4 Each Councillor posing a question must be present at the Council Meeting and questions shall be read by Councillors posing the question.
- 53.5 A question may be disallowed by the Chair if the Chair determines that it:
 - 53.5.1 relates to a matter outside the duties, functions and powers of Council;
 - 53.5.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 53.5.3 deals with a subject matter already answered;
 - 53.5.4 is aimed at embarrassing a Councillor, a member of Council staff or any other person;
 - 53.5.5 relates to personnel matters;
 - 53.5.6 relates to a matter which will be, or is likely to be, considered by Council in a closed meeting.
- 53.6 The Chief Executive Officer, or a member of Council staff present at the meeting nominated by the Chief Executive Officer, is to respond to questions.
- 53.7 Questions may be taken on notice. If a Councillor question is taken on notice, a written copy of the response will be sent to all Councillors.

- 53.8 The Chief Executive Officer may advise Council that it is his or her opinion that the reply to a question should be given in a meeting closed to members of the public. The Chief Executive Officer (as the case may be) must state briefly the reason why the reply should be so given and, unless Council resolves to the contrary, the reply to such question must be so given.

Division 9 – Petitions and Joint Letters

54. Petitions and Joint Letters

- 54.1 An original petition or joint letter must be lodged no less than 7 days before the Council Meeting at which it is to be tabled.
- 54.2 A petition or joint letter to Council must:
- 54.2.1 be in legible and permanent writing;
 - 54.2.2 Not be defamatory or contain indecent, abusive or objectionable language;
 - 54.2.3 Not relate to matters beyond the powers of Council;
- 54.3 Every petition or joint letter presented to Council must be in writing (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed. Electronic (scanned) copies of hardcopy petitions are acceptable.
- 54.4 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- 54.5 Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by Council.
- 54.6 Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 54.7 If a petition, joint letter, memorial or other like application relates to an operational matter, Council must refer it to the Chief Executive Officer for consideration.
- 54.8 When tabling a petition, a Councillor may read the petition text but may not speak to the petition.
- 54.9 The tabling of petitions is considered procedural and do not warrant deliberations at the time of tabling, as they are referred to the Chief Executive Officer to consider and determine the most appropriate response.
- 54.10 The only motions that may be moved when tabling a petition or joint letter are that the petition or joint letter be received, referred to the Chief Executive Officer for consideration and response/report to a future meeting.
- 54.11 Petitions facilitated through an online petition provider will not be received at a Council meeting.
- 54.12 Under the Planning and Environment Act 1987 (s.57) any person who may be affected by the grant of a planning permit, has the right to make submission (or

objection). As such any Petition or Joint Letter relating to a planning application will be treated in accordance with the Planning and Environment Act, and need not be tabled at a meeting.

Division 10 – Voting

55. How Motion Determined

- 55.1 To determine a motion before a meeting, the Chair must first call for those in favour of the motion and then those opposed to the motion, and must then declare the result to the meeting.
- 55.2 A motion is determined in the affirmative by a majority of the Councillors present at a meeting at the time the vote is taken voting in favour.
- 55.3 A Councillor who has declared a conflict of interest and has left the meeting prior to consideration and voting on a matter is taken not to be present at the meeting for the purpose of determining whether the motion on that matter passes.

56. Silence

Voting must take place in silence.

57. Recount

The Chair may direct that a vote be recounted to satisfy himself or herself of the result.

58. Casting Vote

- 58.1 In the event of a tied vote, the Chair must exercise a casting vote.
- 58.2 The Chair does not have a casting vote when there is an equality of votes due to a Councillor, or Councillors, abstaining from voting.

59. By Show Of Hands

Voting on any matter is by show of hands.

60. Procedure For A Division

- 60.1 Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- 60.2 When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.
- 60.3 When a division is called for, the Chair must:
 - 60.3.1 first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of his or her hands. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the affirmative;
 - 60.3.2 then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of his or her hands. The Chair

must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the negative; or

- 60.3.3 if applicable, indicate any Councillors who wish to abstain from voting and ensure that such Councillor(s) are recorded in the minutes as abstaining from voting.

61. No Discussion Once Vote Declared

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

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

For example, Rule 61 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.

Equally, Rule 61 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.

Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in sub-Rule 61.2, to discussion about a positive motion were a resolution has just been rescinded.

Division 11 – Minutes

62. Confirmation of Minutes

- 62.1 At every Council meeting, the minutes of the preceding meeting(s) must be dealt with as follows:
- 62.1.1 if no Councillor indicates opposition to the accuracy of the Draft Minutes, the minutes must be declared to be confirmed;
- 62.1.2 if a Councillor indicates opposition to the minutes:
- (a) he or she must specify the item(s) to which he or she objects;
 - (b) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
 - (c) the Councillor objecting must move accordingly without speaking to the motion;
 - (d) the motion must be seconded;

- (e) the Chair must ask:
"Is the motion opposed?"
- (f) if no Councillor indicates opposition, then the Chair must declare the motion carried;
- (g) if a Councillor indicates opposition, then the Chair must call on the mover to address the meeting;
- (h) after the mover has addressed the meeting, the seconder may address the meeting;
- (i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the Chair must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
- (j) if, after the mover has addressed the meeting, the Chair invites debate and no Councillor speaks to the motion, the Chair must put the motion; and
- (k) the Chair must, after all objections have been dealt with, ultimately ask:
"The question is that the minutes be confirmed" or
"The question is that the minutes, as amended, be confirmed",
and he or she must put the question to the vote accordingly;

62.1.3 a resolution of Council must confirm the minutes and

62.1.4 if confirmed the minutes must, if practicable, be signed by the Chair of the meeting at which they have been confirmed.

63. No Debate on Confirmation Of Minutes

No discussion or debate on the confirmation of minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.

64. Deferral Of Confirmation Of Minutes

Council may defer the confirmation of minutes until later in the Council meeting or until the next meeting if considered appropriate.

65. Form and Availability of Minutes

65.1 The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and to take the minutes of such meeting) must keep minutes of each Council meeting, and those minutes must record:

65.1.1 the date, place, time and nature of the meeting;

65.1.2 the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;

- 65.1.3 the names of the members of Council staff present;
 - 65.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5;
 - 65.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
 - 65.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
 - 65.1.7 the vote cast by each Councillor upon a division;
 - 65.1.8 the vote cast by any Councillor who has requested that his or her vote be recorded in the minutes;
 - 65.1.9 questions upon notice;
 - 65.1.10 the failure of a quorum;
 - 65.1.11 any adjournment of the meeting and the reasons for that adjournment; and
 - 65.1.12 the time at which standing orders were suspended and resumed, and the reasons for the suspensions of standing orders.
 - 65.1.13 Any other matter that the Chief Executive Officer determines should be recorded to clarify the intention of the meeting or reading of the minutes
- 65.2 The Chief Executive Officer must ensure that the minutes of any Council meeting are:
- 65.2.1 published on Council's website; and
 - 65.2.2 available for inspection at Council's office during normal business hours.
- 65.3 Nothing in sub-Rule 65.2 requires Council or the Chief Executive Officer to make public any minutes relating to a Council meeting or part of a Council meeting closed to members of the public in accordance with section 66 of the Act.

Division 12 – Behaviour

66. Public Addressing The Meeting

- 66.1 Members of the public do not have a right to address Council and may only do so with the consent of the Chair or by prior arrangement.
- 66.2 Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chair whenever called on to do so.
- 66.3 A member of the public present at a Council meeting must not disrupt the meeting.

67. Chair May Remove

The Chair may order and cause the removal of any person, including a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 65.2.

It is intended that this power be exercisable by the Chair, without the need for any Council resolution. The Chair may choose to order the removal of a person whose actions immediately threaten the stability of the meeting or wrongly threatens his or her authority in chairing the meeting.

68. Chair may adjourn disorderly meeting

If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of sub-Rules 15.2 and 15.3 apply.

69. Removal from Chamber

The Chair, or Council in the case of a suspension, may ask the Chief Executive Officer or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the Chair has ordered to be removed from the gallery.

Division 13 – Additional Duties of Chair

70. The Chair's Duties And Discretions

In addition to the duties and discretions provided in this Chapter, the Chair:

- 70.1 must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community;
- 70.2 must call to order any person who is disruptive or unruly during any meeting; and
- 70.3 must ensure these Rules and the provisions of the *Local Government Act 2020* (Vic) are followed at all times.

Division 14 – Suspension of Standing Orders

71. Suspension of Standing Orders

- 71.1 To expedite the business of a meeting, Council may suspend standing orders.

The suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal meeting procedure.

Its purpose is to enable the formalities of meeting procedure to be temporarily disposed of while an issue is discussed.

- 71.2 The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of Council. An appropriate motion would be:

"That standing order be suspended to enable discussion on....."

- 71.3 No motion can be accepted by the Chair or lawfully be dealt with during any suspension of standing orders.
- 71.4 Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:

"That standing orders be resumed."

Division 15 – Miscellaneous

72. Meetings Conducted Remotely

If:

72.1 by law a meeting may be conducted electronically; and

72.2 Council decides that a meeting is to be conducted electronically,

the Chair may, with the consent of the meeting, modify the application of any of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of the meeting.

73. Procedure not provided in this Chapter

In all cases not specifically provided for by this Chapter, the Chair must decide the procedure to be followed.

74. Recordings of Meetings

74.1 Council meetings may not be recorded (i.e. video, audio, photographic or any other recording) by any electronic means, whether by use of a tape recorder, video camera, mobile phone, dicta-phone or otherwise as determined by a resolution of Council.

74.2 This clause does not apply to any security camera installed by Council in any place in which a Council or any member of Council staff operating any recording device for the purpose of preparing draft minutes of the meeting or online transmission of meetings to the community.

74.3 The procedures and operation of the recording of Council Meetings will be in accordance with a policy as resolved by Council

74.4 In exceptional circumstances, consideration will be given to a request submitted to the Chief Executive Officer prior to the commencement of the meeting, to photograph or record via electronic means, the proceedings of a Council meeting. Where consent is granted, it may be revoked at any time during the meeting. The Chair will advise the meeting of any consent that has been granted.

Chapter 3 – Meeting Procedure for Delegated Committees

1. Meeting Procedure Generally

- 1.1 If Council establishes a Delegated Committee under the *Local Government Act 2020* (Vic) all of the provisions of Chapter 2 apply to meetings of the *Delegated Committee*; and
- 1.2 any reference in Chapter 2 to:
- 1.2.1 a *Council meeting* is to be read as a reference to a *Delegated Committee* meeting;
 - 1.2.2 a Councillor is to be read as a reference to a member of the *Delegated Committee*; and
 - 1.2.3 the Mayor is to be read as a reference to the Chair of the *Delegated Committee*.

2. Meeting Procedure Can Be Varied

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

- 2.1 *Council* may; or
- 2.2 the *Delegated Committee* may, with the approval of *Council*

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

3. Community Participation

Where a Delegated Committees Terms of Reference allows:

- 3.1 Members of the public will be afforded the opportunity to present their views on items listed on an agenda for consideration at Delegated Committee meetings. A maximum of three minutes per speaker will be allocated prior to the Committee's consideration of items. Where more than 10 requests to present to Special Committees are received, a spokesperson will be appointed by the group, and allocated a maximum of five minutes.
- 3.2 In addition to public question time and the opportunity to address Special Committee Meetings, Council will provide opportunities for public participation in processes that inform and assist the Council's decision making processes by establishing forums or committees where:
- 3.2.1 The interaction enables open discussion between members of the community and Councillors; and
 - 3.2.2 Assists better understanding of issues between the Council and the community.
- 3.3 The ability for questions or representations to be made to these meetings is not a substitute for appeal and review systems, informal business procedures, formal public question time, formal Council decisions and other legal processes required for the proper transaction of business by the Council.

4. Minutes of Delegated Committee Meetings

The minutes of Delegated Committees will be confirmed at the next scheduled Delegated Committee meeting and noted at the next Council Meeting

Chapter 4 – Meeting Procedure for Community Asset Committees

1. Introduction

In this Chapter, “Instrument of Delegation” means an instrument of delegation made by the *Chief Executive Officer* under section 47(1)(b) of the *Act*.

2. Meeting Procedure

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

Chapter 5 – Disclosure of Conflicts of Interest

1. Introduction

The following Rules in this Chapter apply only upon Division 1A of Part 4 of the *Local Government Act 1989* being repealed*. For the avoidance of doubt, this Chapter outlines the methods that will be undertaken by Councillors of the Maribyrnong City Council in the event an actual or perceived conflict of interest arises; Council may provide more substantive policy and process for the deceleration and management of a conflict of interest in a Conflict of Interest Policy.

2. Definitions

In this Chapter:

- 2.1 “meeting conducted under the auspices of *Council*” means a meeting of the kind described in section 131(1) of the Act, and includes a meeting referred to in Rule 1 of Chapter 6 (whether such a meeting is known as a ‘Councillor Briefing’ or by some other name); and
- 2.2 a member of a *Delegated Committee* includes a Councillor.
- 2.3 Disclosable gift means a gift of the threshold amount under section 128(4) of the Local Government Act 2020 (Vic)

3. Disclosure of a Conflict of Interest at a Council Meeting

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

- 3.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Council meeting immediately before the matter is considered; and
- 3.2 intends to be present must disclose that conflict of interest by providing to the Chief Executive Officer and the Chair before the Council meeting commences a written notice:
 - 3.2.1 advising of the conflict of interest;
 - 3.2.2 explaining the nature of the conflict of interest as applicable under the Act; and
 - 3.2.3 detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - (c) nature of that other person’s interest in the matter,

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

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

4. Disclosure of Conflict of Interest at a Delegated Committee Meeting

A member of a Delegated Committee who has a conflict of interest in a matter being considered at a Delegated Committee meeting at which he or she:

- 4.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Delegated Committee meeting immediately before the matter is considered; or
- 4.2 intends to be present must disclose that conflict of interest by providing to the Chief Executive Officer or the Chair of the Delegated Committee Meeting before the Delegated Committee meeting commences a written notice:
 - 4.2.1 advising of the conflict of interest;
 - 4.2.2 explaining the nature of the conflict of interest; and
 - 4.2.3 detailing, if the nature of the conflict of interest involves a member of a Delegated Committee's relationship with or a gift from another person the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - 4.2.4 nature of that other person's interest in the matter,and then immediately before the matter is considered at the meeting announcing to those present that he or she has a conflict of interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule.

5. Disclosure of a Conflict of Interest at a Community Asset Committee Meeting

A Councillor who has a conflict of interest in a matter being considered at a *Community Asset Committee* meeting at which he or she:

- 5.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Community Asset Committee* meeting immediately before the matter is considered; or
- 5.2 intends to present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:
 - 5.2.1 advising of the conflict of interest;
 - 5.2.2 explaining the nature of the conflict of interest; and
 - 5.2.3 detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
 - (a) name of the other person;

- (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and

5.2.4 nature of that other person's interest in the matter,

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

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

6. Disclosure at a Meeting Conducted Under the Auspices of Council

A Councillor who has a conflict of interest in a matter being considered by a meeting held under the auspices of *Council* at which he or she is present must:

- 6.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting immediately before the matter is considered;
- 6.2 absent himself or herself from any discussion of the matter; and
- 6.3 as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.

7. Disclosure by Members of Council Staff Preparing Reports for Meetings

7.1 A member of Council staff who, in his or her capacity as a member of Council staff, has a conflict of interest in a matter in respect of which he or she is preparing or contributing to the preparation of a Report for the consideration of a:

- 7.1.1 *Council meeting*;
- 7.1.2 *Delegated Committee* meeting;
- 7.1.3 *Community Asset Committee* meeting

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

7.2 The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 7.1 records the fact that a member of Council staff involved in the writing of the Report disclosed a conflict of interest in the subject-matter of the Report.

7.3 If the member of Council staff referred to in sub-Rule 7.1 is the *Chief Executive Officer*:

- 7.3.1 the written notice referred to in sub-Rule 7.1 must be given to the *Mayor*; and
- 7.3.2 the obligation imposed by sub-Rule 7.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

8. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power

8.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.

8.2 If the member of Council staff referred to in sub-Rule 8.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

9. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function

9.1 A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.

9.2 If the member of Council staff referred to in sub-Rule 9.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

10. Retention of Written Notices

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

Chapter 6 – Miscellaneous

1. Informal Meetings of Councillors

If there is a meeting of Councillors that:

- 1.1 is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- 1.2 is attended by at least one member of Council staff; and
- 1.3 is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting

the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting are tabled at the next convenient Council meeting.

2. Confidential Information

- 2.1 If, after the repeal of section 77(2)(c) of the Local Government Act 1989, the Chief Executive Officer is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, he or she may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 2.2 Information which has been designated by the Chief Executive Officer as confidential information within the meaning of the Act, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.

Chapter 7 – Election Period Policy

Election Period Policy

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Policy Owner:	Manager Governance and Commercial Services	Review date	September 2023
Policy Status:		Policy type	Council

REVISION RECORD

Date	Version	Revision Description
February 2016	1	Policy adopted in line with statutory requirements
November 2019	2	Policy reviewed as required by legislation
April 2020	3	Policy reviewed to satisfy requirements of <i>Local Government Act 2020</i> (Vic)

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1. Introduction

The *Local Government Act 2020*(Vic) ('the Act) requires that Council adopts an election period policy which is to include:

- (a) Procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election;
- (b) Procedures intended to prevent any appointment or remuneration of a Council Chief Executive Officer, but not an Acting Chief Executive Officer;
- (c) The prevention of any Council expenditure exceeding one percent of Council's income from rates, municipal charges and service rates in the preceding financial year;
- (d) Limits on public consultation and the scheduling of Council events; and
- (e) Procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.

A copy of this policy must:

- a) Be given to each Councillor as soon as practicable after it is adopted; and
- b) Be available for inspection by the public at the Council office; and
- c) Be published on the Council's internet website.

2. Purpose

This policy has been adopted by Council in compliance with the requirements of sections 60 and 69 of the *Local Government Act 2020* (Vic) (the Act). The policy aims to provide assurance that general elections for Maribyrnong City Council are conducted in a manner that is fair, equitable and transparent.

3. Scope

This policy applies to all Councillors and Council Officers including temporary, contract and contract employees.

4. Definitions

Certification means approved material by the Chief Executive Officer (CEO) for publication during the election period.

Electioneering means any action, statement and/or publication which contains material directly related to a Councillor's re-election, or a candidate's election.

Election period, also known as the caretaker period, means be the 32 day period that starts on the last day of nominations and ends at 6pm on Election Day (section 3(1) of the Act).

Electoral advertisement means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.

Electoral matter means any matter which is intended or likely to affect voting in an election, but does not include any electoral material produced by, or on behalf of, the Returning Officer for the purposes of conducting an election.

Inappropriate decision include any decision that:

- would affect voting in an election;
- could reasonably be made after the election; or
- otherwise breach this Policy

Major policy decision means any decision that include:

- The employment or remuneration of the CEO.
- Contracts exceeding specified values.
- Entrepreneurial ventures exceeding specified values.
- Major policy decisions.
- Significant decisions.
- Inappropriate decisions.
- Decisions which unreasonably commit the incoming Council.

Public consultation means a process which involves an invitation or invitations to individuals, groups, organisations or the community in general, to comment on an issue, proposed action, or proposed policy.

Publish means publish by any means, whether in hard copy or electronically, including publication on the internet.

Significant decisions include any decision that may:

- irrevocably commit the Council to substantial expenditure or to other significant actions; and/or
- have an irrecoverable and significant impact on the municipality or a significant section of the community.

5. Responsibility

The Corporate Services Directorate will be responsible for the Election Period Policy, and ensure its dissemination throughout the organisation in a timely manner.

6. Policy

6.1 Council Decisions

During the Election Period the Council will not make a major policy decision. This includes decisions at Council Meetings and Delegated Committee Meetings or decisions by Council staff as delegates made through Council's formal instrument of delegation processes. In the case of a major policy decision, which is not significantly prohibited under the Act, the CEO will consider a number of factors in making a determination and may only allow such a decision to be considered if the decision/issue:

- a. Is urgent;
- b. Cannot be reasonably deferred without significant consequences to the Council or the community of Maribyrnong; and
- c. Relates to the completion of activity already endorsed by Council eg: via the Budget, Council Plan, Business Plan, 10 Year Plan, or other Council Strategic Objective etc.

As per section 69 of the Act, Council is prohibited from making decisions during the election period that:

- relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
- commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
- the Council considers could be reasonably deferred until the next Council is in place; or the Council considers should not be made during an election period.

Council and Delegated Committee Meeting Agendas during the election period will be carefully vetted to ensure that no items are included that could potentially influence voters' intentions at the forthcoming election or could encourage councillor candidates to use the items as part of their electioneering.

The types of decisions that will be avoided during the election period include allocating community grants or other direct funding to community organisations, major planning scheme amendments and changes to strategic objectives and strategies in the council plan.

Council makes a commitment to prevent inappropriate decisions and that the decisions that will be made during the election period will be made if absolutely necessary for operational purposes or pursuant to a statutory requirement.

All Councillors will refrain from moving motions or raising matters at a meeting that could potentially influence voting at the election.

Should Council consider that there are extraordinary circumstances where the City of Maribyrnong's community would be significantly disadvantaged by the Council not making a particular major policy decision, the Council will, by formal resolution, seek an exemption from the Minister for Local Government in accordance with section 69 of the Act.

6.2 Election Period Statements

During the election period, the Chief Executive Officer will ensure that an election period statement is included in every Agenda submitted to a Council or Delegated Committee Meeting for decision. The election period statement will appear at the start of the Agenda and will state:

- *“The recommended decisions on all reports in this Agenda do not fall within the definition of a major policy or inappropriate decision, as defined in section 69 of the Local Government Act 1989 or a significant decision within the meaning of this Election Period Policy”.*

Should any report be presented to the Council or a Delegated Committee during an Election Period, which is considered to fall within Section 69 of the Act, this will be clearly indicated with a statement both at the commencement of the agenda and at the heading of any such report which will also indicate any exemptions granted by the Minister in accordance section 69 of the Act.

6.3 Resources

This section is to be read in conjunction with the Councillor Support and Expenses Policy. Councillors must also comply with the provisions of the Act and with Councillors' own adopted Code of Conduct, to avoid breaches of the Act, challenges brought on by other parties, and/or significant penalties being imposed.

Council and Councillors will ensure that due propriety is observed in the use of all Council resources during the election period. Council resources include financial, human (e.g. a staff member's or a consultant's time) and material resources. In circumstances where it is unclear if the use of Council resources is related, or may be perceived as being related, to a candidate's election campaign, the use should be referred to the CEO for a determination.

6.3.1 Council Branding and Stationary

No Council logos or letterheads can be used for, or linked in any way to, a candidate's election campaign.

Use of logos, branding and stationery – hardcopy or electronic – is permitted for normal Council business only.

6.3.2 Photographs and Images

Photographs and images paid for by Council or developed/taken by Council Officers are not to be used in electoral material for any candidate. This includes images of Councillors, events and the physical realm.

6.3.3 Councillor Issued Communications

Councillors, like other candidates, are permitted to issue their own media releases provided they do not use Council resources, including email, fax, logo or any branding, letterhead or any Council owned device. Councillors and candidates must make it clear that the views expressed are personal views only, and not the views of the Council.

Councillors are not permitted to comment in an official capacity about an issue raised by the media during the election period. However, if media outlets contact Councillors or candidates directly for a comment about an issue during the election period, Councillors and candidates are able to comment, provided they make it known to media outlets that the views expressed are personal views only, and not the views of Council.

Any Councillor requests for media advice, comment or assistance from staff during the election period will be referred to the CEO or delegate. Council Officers cannot provide media advice or assistance to Councillors in relation to election issues, issues that could be perceived as political or in regard to publicity that involves specific Councillors or candidates.

6.3.4 Council Websites and Social Media

Council will vet the existing publications and online information before the election period commences and, where appropriate, temporarily withdraw any material that might reasonably influence the election.

During the election period, newly published material about Councillors will be restricted to names, contact details and titles only on Council's websites and will only be published when absolutely necessary to fulfil Council's operational responsibilities or statutory obligations. Stories about, or reference to, a specific Councillor other than the information detailed above is not permitted.

The election period provisions do not apply to Council agendas and minutes, and these will continue to be published during the election period.

Council's social media sites such as Facebook, Twitter and YouTube, will continue to be a corporate voice for Council, and not be used for any electioneering purposes by Councillors or Council staff.

Individual Councillors achievements, or any material considered campaign material, will not be published on any of Council's social media websites.

Council's social media sites will be monitored for electioneering material and any inappropriate posts will be removed, as soon as practicable.

6.3.5 Council funded services

Council funded services such as mobile phones, office space, IT equipment, mayoral vehicle, and where it is impractical for Councillors to discontinue their use of these during the election, may continue to be used for normal Council business only during the election period and must not be used in connection with a candidate's election campaign.

6.3.6 Use of the Title 'Councillor'

Councillors may use the title 'Councillor' in their election material, as they continue to hold office during the caretaker period.

Councillors should ensure that any election publication using the title 'Councillor' clearly indicates that it is their own material and does not represent Council.

6.3.7 Reimbursement of expenses

Reimbursement of Councillors' out of pocket expenses during the election period will continue to apply for costs which have been incurred in the performance of normal Council duties, but not for expenses that could be perceived, in the opinion of the Chief Executive Officer, as supporting or being connected with a candidate's election campaign.

6.4 Information

6.4.1 Access to Information

As Councillors must continue to perform their elected role during the election period, they will, as a matter of course, receive all necessary information for them to fulfil that role. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and there shall be complete transparency in the provision of all information and advice during the Election Period.

All requests received by Council staff for information about Council projects, programs or services will be responded to in a 'business as normal' manner. This means up to date responses will be provided about progress on Council projects or services to Councillors, candidates or citizens.

Council staff will provide accurate and complete information, however, a 'business as normal' approach does not include extensive research or analysis involving significant Council resources, or providing a level of information which would not normally be available.

The Council affirms that all candidates for the Council election will be treated equally. Any assistance and advice provided to candidates as part of the conduct of the Council election will be provided equally to all candidates. All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer, or where the matter is outside the responsibilities of the Returning Officer, to the CEO or delegate.

6.4.2 Request for Information Register

During the election period, a request for information register will be maintained by Council's Governance Unit. This register will be a public document that records all requests relating to electoral matters, routine and non-routine requests for information by Councillors and candidates, as well as the responses provided.

All requests for information are to be directed to the Chief Executive Officer in written format.

6.5 Public Consultation, Meetings and Events

6.5.1 Public Consultation

Public consultation will be limited during the election period, with the exception of consultation required under the *Planning and Environment Act 1987*, or matters subject to section 223 of *the Local Government Act 1989*.

Public consultation may be undertaken during the election period, providing it is to facilitate the day to day business of Council, to ensure matters continue to be proactively managed. Public consultation will avoid any express or implied links to the election.

Prior to any public consultation being undertaken, CEO approval will be required.

Public consultation on significant matters affecting Council will also be avoided in the lead up to the election period where possible to mitigate the risk of influencing the election.

6.5.2 Public Meetings and Events

Public meetings or events will only be conducted by the Council administration if they are part of the normal services or operation of Council, however these will be kept to a minimum.

When attending any Council meeting or event, Councillors are reminded that they are representing Council and are not permitted to raise electoral matters or issues. Councillors and candidates are prohibited from using such forums and meetings for electioneering purposes, including handing out election material.

During the election period, Council events will not provide an official role for Councillors, such as speeches, master of ceremony etc, although Councillors will be invited to attend in their official role. The CEO or delegate will perform any required ceremonial function.

6.6 Publications

6.6.1 Council Issued Communications

Media releases, photo opportunities and advertising that contains general ongoing Council news, or information about the election process, but does not refer to, or quote, or feature Councillors is permitted, subject to certification by the CEO.

Media releases and advertising containing any issue, policy or electoral matter relating directly to a sitting and/or retiring Councillor are not permitted. This includes general information, quotes or photographs.

All media releases, responses or statements during the election period will be issued in the name of the CEO. The CEO or delegate is able to respond to questions from the media. Council is constrained in the content of media releases it can issue via the CEO.

General stories and photographs about Council services and issues that do not contain electoral matter are permitted, subject to certification by the CEO.

Councillor photographs, Councillors in advertisements, stories about Councillor achievements, or issues that are defined as electoral matter are not permitted.

6.6.2 Approval of Publications

All publications to be issued during the election period are to be forward to the relevant Manager for approval, and then sent to the Governance unit for vetting for electoral matter. Once vetted, the publication will then be forwarded to the relevant Director for approval prior to publication.

The process aims to ensure that Council issued publications including advertisements, media releases, fliers etc issued during the election period do not contain electoral matter.

Documents published before the election period commences (but still available after commencement, for example on the Council's website) do not require certification and are not caught by the prohibition on publishing and distributing material likely to influence voting at the election during the election period.

Statutory documents permitted under legislation (such as rate notices, food premises registration and parking fines) may continue to be disseminated by Council during the election period without limitation.

It should be noted that the Annual Report must not include material that is considered electioneering, or that publicises the attributes or achievements of individual Councillors.

7. Review

This policy will be reviewed in accordance with sections 60 and 69 of the Act or as required.

8. Related Legislation

Local Government Act 2020 (Vic).

9. Related Documents

Department of Planning and Community Development's Governance Practice Note No. 5.

Councillor Code of Conduct.

Councillor Support and Expenses Policy

Employee Code of Conduct.

Order in Council, Gazette Number G32, 7 August 2008, page 1908.

Department of Environment, Land, Water and Planning – A guide for councils - Reforms Arising from the Local Government Amendment (Improved Governance) Act 2015