

## Draft amended 2022 -

# Governance Rules and Incorporated Election Period Policy

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## Contents

<b>Purpose</b> .....	<b>7</b>
<b>Scope</b> .....	<b>7</b>
<b>Policy principles</b> .....	<b>7</b>
<b>Chapter 1 – Governance Framework</b> .....	<b>9</b>
1. Context .....	9
2. Decision Making .....	9
<b>Chapter 2 – Meeting Principles</b> .....	<b>10</b>
1. Chair and Members.....	10
2. The Chair’s Duties and Discretions .....	11
3. Councillors and Members of Delegated Committees.....	11
4. Community .....	11
<b>Chapter 3 – Meeting Procedure for Council Meetings</b> .....	<b>12</b>
<b>Part A – Introduction</b> .....	<b>12</b>
1. Effect of Chapter .....	12
2. Purpose of this Chapter .....	12
3. Definitions and Notes .....	12
4. Mayor to take the Chair .....	13
<b>Part B – Election of Mayor</b> .....	<b>14</b>
5. Election of the Mayor .....	14
6. Method of Voting .....	14
7. Determining the election of the Mayor .....	14
8. Election of Deputy Mayor and Chairs of Delegated Committees.....	15
9. Appointment of Acting Mayor .....	16
<b>Part C – Meeting Procedure</b> .....	<b>16</b>
<b>Division 1 – Notices of Meetings and Delivery of Agendas</b> .....	<b>16</b>
10. Dates and Times of Meetings Fixed by Council.....	16
11. Altering Meeting Dates .....	16
12. Meetings Not Fixed by Council (Unscheduled Meetings) .....	17
13. Notice of Meeting .....	17
<b>Division 2 – Quorums</b> .....	<b>17</b>
14. Quorums for Council Meetings and non-fixed Council Meetings.....	17
15. Inability to Obtain a Quorum .....	18
16. Inability to Maintain a Quorum .....	18

17. Adjourned Meetings .....	18
<b>Division 3 – Business of Meetings .....</b>	<b>19</b>
18. Agenda and the Order of Business .....	19
19. Change to Order of Business .....	19
20. Reconciliation Statement .....	19
21. Addressing the meeting .....	20
22. Priority of address .....	20
23. Apologies and absences .....	20
24. Presentations .....	21
25. Urgent Business .....	21
<b>Division 4 – Motions and Debate.....</b>	<b>22</b>
26. Councillors may propose Notices of Motion.....	22
27. Notice of Motion .....	22
28. Chair’s Duty.....	23
29. Introducing a Motion or an Amendment.....	24
30. Debate from the Chair.....	24
31. Right of Reply or Closing Statement.....	25
32. Moving an Amendment .....	25
33. Who may propose an amendment.....	25
34. How many amendments may be proposed .....	25
35. An Amendment once carried.....	26
36. Foreshadowing Motions .....	26
37. Withdrawal of Motions.....	26
38. Separation of Motions .....	27
39. Motions in writing.....	27
40. Repeating Motion and/or Amendment .....	27
41. Debate must be relevant to the Motion .....	27
42. Deferral of a Motion.....	27
43. Speaking times.....	28
44. Points of Clarification .....	28
45. Ordering withdrawal of remark.....	28
<b>Division 5 – Procedural Motions .....</b>	<b>29</b>
46. Procedural Motions .....	29
47. Suspension of Standing Orders .....	30
48. Closing meetings to Community .....	31
49. Resumption of Adjourned Debate.....	31
<b>Division 6 – Rescission Motions .....</b>	<b>31</b>

50. Notice of Rescission.....	31
51. If lost.....	33
52. If not moved.....	33
53. May be moved by any Councillor .....	33
54. When not required.....	33
<b>Division 7 – Points of Order.....</b>	<b>34</b>
55. Valid Points of Order .....	34
56. Procedure for Point of Order .....	34
57. Chair to decide .....	34
58. Chair may adjourn to consider .....	34
59. Effect of Ruling .....	35
60. Dissent from Chair’s Ruling.....	35
<b>Division 8 – Public Question Time .....</b>	<b>36</b>
61. Question Time .....	36
<b>Division 9 – Petitions and Joint Letters .....</b>	<b>37</b>
62. Petitions and Joint Letters .....	37
<b>Division 10 – Voting .....</b>	<b>38</b>
63. How Motion is Determined .....	38
64. Entitlement to Vote.....	38
65. Silence.....	39
66. Recount .....	39
67. Casting Vote.....	39
68. <del>By Show Of Hands</del> How Votes Are Cast .....	39
69. Recording of Vote.....	39
70. No Discussion Once Declared .....	39
<b>Division 11 – Minutes .....</b>	<b>40</b>
71. Confirmation of Minutes .....	40
72. No debate on confirmation of Minutes .....	41
73. Deferral of Confirmation of Minutes .....	41
74. Form and availability of Minutes.....	41
<b>Division 12 – Behaviour .....</b>	<b>42</b>
75. Recordings of Meetings .....	42
76. Public Addressing Meeting.....	43
77. Chair may remove .....	43
78. Chair may adjourn disorderly meeting .....	44
79. Removal from Chamber .....	44
80. No Alcohol to Be Served .....	44

<b>Division 13 – Additional Duties of Chair .....</b>	<b>44</b>
81. The Chair’s Duties and Discretions .....	44
<b>Division 15 – <del>Miscellaneous</del> Physical and Remote Attendance .....</b>	<b>44</b>
82. Mode of attendance .....	44
83. Meetings Conducted Remotely .....	46
84. Livestreaming and Recording of Proceedings .....	46
<b>Division 16 –Miscellaneous .....</b>	<b>47</b>
85. Role of a Delegate or Council Representative on Committees .....	47
86. Procedure Not Provided in This Chapter .....	47
<b>Chapter 4 – Meeting Procedure for Delegated Committees.....</b>	<b>48</b>
1. Meeting Procedure Generally .....	48
2. Meeting Procedure Can Be Varied .....	48
<b>Chapter 5 – Meeting Procedure for Community Asset Committees .....</b>	<b>49</b>
1. Introduction.....	49
2. Meeting Procedure .....	49
<b>Chapter 6 – Disclosure of Conflicts of Interest.....</b>	<b>50</b>
1. Definition .....	50
2. Disclosure of a Conflict of Interest at a Council Meeting .....	50
3. Disclosure of a Conflict of Interest at a Delegated Committee Meeting .....	51
4. Disclosure of a Conflict of Interest at a Community Asset Committee Meeting .....	52
5. Disclosure at a Meeting Conducted Under the Auspices of Council .....	53
6. Disclosure by Members of Council Staff Preparing Reports for Meetings.....	53
7. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power .....	54
8. Disclosure by a Member of <i>Council</i> Staff in the Exercise of a Statutory Function.....	54
9. Retention of Written Notices .....	55
<b>Chapter 7 – Miscellaneous .....</b>	<b>56</b>
1. Informal Meetings of Councillors.....	56
2. Confidential Information .....	56
<b>Chapter 8 – Election Period Policy .....</b>	<b>57</b>
<b>Purpose.....</b>	<b>57</b>
<b>Scope .....</b>	<b>57</b>
<b>Policy statement.....</b>	<b>57</b>

<b>Policy principles.....</b>	<b>57</b>
<b>Responsibilities.....</b>	<b>68</b>
<b>Definitions.....</b>	<b>68</b>
<b>Related legislation and reference sources .....</b>	<b>68</b>
<b>Related Council documents .....</b>	<b>69</b>

## Purpose

This document incorporates the Governance Rules and Election Period Policy of Moonee Valley City Council.

The Governance Rules have been developed in accordance with section 60 of the *Local Government Act 2020* (“the Act”). Their purpose is to ensure that Council:

- (a) makes decisions on any matter fairly on the merits and with accurate and adequate information considering the interests of anyone impacted by decisions, and
- (b) has decision-making processes that are transparent and respectful, ensuring that all decision makers have the opportunity to be heard.

Council’s Governance Rules and Election Period Policy commenced on 1 September 2020. The Governance Rules have since been updated.

## Scope

The Governance Rules apply to all Councillors and establish proper rules and procedures for making decisions, the conduct of meetings and the declaration of conflict of interest as set out in the Act.

This document addresses Council’s statutory requirements by providing guidance at an operational level to ensure compliance and enhance the transparency and accountability of Councillors and Council officers regarding governance matters, meeting procedure and during the election period.

The Election Period Policy specifically applies to all Councillors and Council staff for the duration of the Council election period only.

## Policy principles

Council is committed to governing on behalf of the Moonee Valley community in a transparent, consultative, innovative and outcomes-driven way, as outlined by the overarching governance principles set out at section 9(2) of the Act.

- Council decisions are to be made and actions taken in accordance with the relevant law;
- priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- the economic, social and environmental sustainability of the *municipal district*, including mitigation and planning for climate change risks, is to be promoted;

- the municipal community is to be engaged in strategic planning and strategic decision making;
- innovation and continuous improvement is to be pursued;
- collaboration with other councils and governments and statutory bodies is to be sought;
- the ongoing financial viability of the Council is to be ensured;
- regional, state and national plans and policies are to be considered in strategic planning and decision making;
- the transparency of Council decisions, actions and information is to be ensured.



## Chapter 1 – Governance Framework

### 1. Context

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

- the overarching governance principles specified in section 9(2) of the Act; and
- the following documents adopted or approved by Council the:
  - [Councillor Code of Conduct](#)
  - [Councillor and Council Staff Interaction Protocol](#)
  - Chief Executive Officer Employment and Remuneration Policy (to be developed)
  - [Community Engagement Policy](#)
  - Complaints Policy (currently an operational document known as the [Complaint Management Policy](#))
  - [Councillor Expenses Policy](#)
  - [Councillor Gift Policy](#)
  - [Public Transparency Policy](#)

### 2. Decision Making

In any matter in which a decision must be made by Council (including persons acting with the delegated authority of Council), Council must consider the matter and decide:

- 2.1 fairly, by giving consideration and deciding which is balanced, ethical and impartial; and
- 2.2 on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations.

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).

Without limiting anything in the above paragraph of this sub-Rule:

- 2.3 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;
- 2.4 if a report to be considered at a *Council 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;
- 2.5 if a report to be considered at a 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
- 2.6 if a member of Council staff proposes to decide 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 Principles

The principles below guide the conduct at meetings and assist in the interpretation of the meeting procedure set out in Chapter 3.

### 1. Chair and Members

The *Chair*, Councillors and members of Delegated Committees will ensure good decision-making by endeavouring to ensure:

- decision making is transparent to members and observers;
- meeting members have sufficient information to make good decisions;
- every member is supported to contribute to decisions;
- any person whose rights are affected has their interests considered;
- debate and discussion is focussed on the issues at hand;

meetings are conducted in an orderly manner; and  
decisions are made on the merits of the matter.

## **2. The Chair's Duties and Discretions**

In addition to the specific duties and discretions provided in these Governance Rules, the *Chair* should:

- 2.1 allow the *Chief Executive Officer* the opportunity to correct factual errors that arise during a meeting; and
- 2.2 call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council.

## **3. Councillors and Members of Delegated Committees**

Councillors and members of Delegated Committees contribute to good governance and decision making by:

- 3.1 seeking views of community members and reading agenda prior to the meeting;
- 3.2 demonstrating due respect and consideration to community views and the professional / expert advice provided in the agenda papers;
- 3.3 attending meetings and participating in debate and discussion;
- 3.4 demonstrating respect for the role of the *Chairperson* and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making; and
- 3.5 being courteous and orderly.

## **4. Community**

- 4.1 *Council meetings* are decision making forums and it is important that they are, to the maximum extent practicable, open to the community to attend and/or view.
- 4.2 Community members may only participate in *Council meetings* in accordance with these Governance Rules.
- 4.3 Community members are encouraged to participate in Council's engagement forums.
- 4.4 Community members may seek to inform individual Councillors of their views by contacting them directly in advance of meetings.

## Chapter 3 – Meeting Procedure for Council Meetings

### Part A – Introduction

#### 1. Effect of Chapter

The following meeting procedures are enforceable as Governance Rules, and under 2.3 of the Councillor Code of Conduct.

#### 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;
- 2.3 provide for the procedures governing the notice and agenda relating to and the business and conduct of *Council meetings*; and
- 2.4 facilitate community engagement by providing opportunities at meetings for community members to express their views.

#### 3. Definitions and Notes

In this Chapter:

“*Act*” means *Local Government Act 2020*;

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

“*Council meeting*” means a meeting of Council convened in accordance with these Governance Rules and includes a scheduled meeting and unscheduled meeting (whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) or in a ‘hybrid’ or ‘parallel’ format that mixes in-person and electronic attendance.

“*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*;

“*Disorder*” means any disorderly conduct of a member of the Gallery or a Councillor and includes:

- 3.1.1 interjecting when another person is speaking, except where a Councillor is raising a *point of order*;

- 3.1.2 making comments that are defamatory, malicious, abusive or offensive;
- 3.1.3 refusing to leave the meeting when requested, ordered or directed to do so by the *Chair* in accordance with the *Act* and these Governance Rules; and
- 3.1.4 engaging in any other conduct which prevents the orderly conduct of the meeting;

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

"*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;

"*point of order*" means a procedural point (about how the meeting is being conducted), not involving the substance of a matter before a meeting;

"*public notice*" means by publication on *Council's* website and/or in any publication generally circulating in the *municipal district*;

"*reasonable notice*" means at least seven days' *public notice*, unless urgent or extraordinary circumstances apply or the *Council meeting* is one called under sub-Rule 12.1;

"*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.

#### **4. Mayor to take the Chair**

- 4.1 The *Mayor* must take the chair at all *Council meetings* at which the *Mayor* is present in attendance.
- 4.2 If the *Mayor* is not in attendance at a *Council meeting*, the Deputy Mayor (if one has been elected) must take the chair.
- 4.3 If the *Mayor* and any Deputy Mayor are not in attendance at a *Council meeting*, Council must appoint one of the Councillors as *Chair* of the meeting by resolution.

## Part B – Election of Mayor

### Introduction

This Part is concerned with the annual election of the *Mayor*, describing how the *Mayor* is to be elected.

#### 5. Election of the Mayor

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

#### 6. Method of Voting

- 6.1 The election of the *Mayor* must be carried out by a show of hands (or where this is not physically possible an indication to the affirmative).

#### 7. Determining the election of the Mayor

- 7.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, invite nominations for the *Mayor*, and confirm acceptance of the nomination with the nominee.
- 7.2 Any nominations for the office of *Mayor* must be seconded by another Councillor.
- 7.3 A Councillor may nominate themselves.
- 7.4 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:
- 7.4.1 if there is only one nomination, the candidate nominated must be declared to be duly elected;
- 7.4.2 if there is more than one nomination, the Councillors **present in attendance**. at the meeting must vote for one of the candidates;
- 7.4.3 in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
- 7.4.4 in the event that no candidate receives an absolute majority of the votes, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors **present in attendance**. at the meeting must then vote for one of the remaining candidates;

- 7.4.5 if one of the remaining candidates receives an absolute majority of the votes, they are 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;
- 7.4.6 in the event two or more candidates having an equal number of votes and one of them having to be declared a defeated candidate, the declaration will be determined by a ballot unless Council resolves to conduct a new election at a later specified time and date.
- 7.4.7 if a ballot is required to declare a candidate to be a defeated candidate and enable the election to continue with the remaining candidates, the *Chief Executive Officer* will have the conduct of the ballot, and:
- (a) each candidate will draw one ballot;
  - (b) the order of drawing ballots 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 ballot 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).
- 7.4.8 no candidate can be elected unless ~~he or she~~ **they** receive~~s~~ an absolute majority of the votes.

## **8. Election of Deputy Mayor and Chairs of Delegated Committees**

Any election for:

8.1 *any office of Deputy Mayor; or*

8.2 *Chair of a Delegated Committee*

will be regulated by Rules 6 and 7 of this Chapter, as if the reference to the:

8.3 *Chief Executive Officer* is a reference to the *Mayor*; and

8.4 *Mayor* is a reference to the Deputy Mayor or the *Chair* of the *Delegated Committee* (as the case may be).

## **9. Appointment of Acting Mayor**

If Council has not established an office of Deputy Mayor and it becomes required to appoint an Acting Mayor, it can do so by:

9.1 resolving that a specified Councillor be so appointed; or

9.2 following the procedure set out in Rules 6 and 7 (inclusive) of this Chapter, at its discretion.

## **Part C – Meeting Procedure**

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, and when and how business may be transacted at a meeting.

### **Division 1 – Notices of Meetings and Delivery of Agendas**

#### **10. Dates and Times of Meetings Fixed by Council**

10.1 Subject to Rule 11, *Council* must, before the last *Council meeting* each calendar year, fix the date and time of all *Council meetings* and any *Delegated Committee* meetings for the following calendar year

10.2 A schedule of *Council meetings* must be published on Council's website.

#### **11. Altering Meeting Dates**

11.1 Council by resolution, or the *Chief Executive Officer*, following consultation with the Mayor, may change the date, time and place of any *Council meeting* which has been fixed. This will occur in scenarios such as when an emergency exists or when a quorum will not be achieved.

11.2 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* provided every reasonable attempt is made to notify every Councillor of the postponement

- 11.3 *The Chief Executive Officer* must present a *written* report of the circumstances requiring ~~his or her~~ *their* action in respect of the emergency postponement at the next *Council meeting*.
- 11.4 *Reasonable notice* of the change must be provided to the public, being at least seven days' notice unless urgent or extraordinary circumstances apply or the *Council meeting* is called under sub-Rule 12.1.

## **12. Meetings Not Fixed by Council (Unscheduled Meetings)**

- 12.1 Council by resolution, the *Mayor* or at least three Councillors by a signed *written* notice delivered to the *Chief Executive Officer* may call an unscheduled *Council meeting*.
- 12.2 The resolution of Council, or the notice, must specify the date and time of the Council meeting and the motion/s to be moved at the meeting. The motion constitutes a *notice of motion* and must comply with Rule ~~26.2-27~~ *with the exception of sub-Rule 27.1*
- 12.3 The *Chief Executive Officer* must convene the *Council meeting* as resolved or specified in the notice.
- 12.4 Unless all Councillors are ~~present~~ *in attendance* and unanimously agree to deal with any other matter, only the motion/s specified in the *written* notice can be transacted at the *Council meeting*.

## **13. Notice of Meeting**

- 13.1 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.
- 13.2 *Reasonable notice* of each *Council meeting* that is not an unscheduled *Council meeting* must be provided to the public. Council may do this by publishing the schedule on its website and/or in any publication generally circulating in the *municipal district*.

## **Division 2 – Quorums**

### **14. Quorums for Council Meetings and non-fixed Council Meetings**

- 14.1 The quorum for all *Council meetings* is the presence of a majority of the Councillors.

## 15. Inability to Obtain a Quorum

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

- 15.1 the meeting will be deemed to have lapsed;
- 15.2 the *Mayor* must convene another *Council meeting*, the *agenda* for which will be identical to the *agenda* for the lapsed meeting; and
- 15.3 the *Chief Executive Officer* must give all Councillors *written* notice of the meeting convened by the *Mayor*.

## 16. Inability to Maintain a Quorum

- 16.1 If, during any *Council meeting*, a quorum cannot be maintained then Rule 15 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 16.2 Sub-Rule 16.1 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.
- 16.3 If a quorum cannot be maintained for an item due to the number of Councillors who have a conflict of interest in the matter, all ~~present~~ Councillors **in attendance** (including those with a conflict of interest) may ~~be present to~~ move a motion that the item be deferred to later in the meeting (so as to rearrange the *agenda*) or a future *Council meeting*, or establish a Delegated Committee to consider the matter.

## 17. Adjourned Meetings

- 17.1 *Council* may 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.
- 17.2 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.
- 17.3 If it is impracticable for the notice given under sub-Rule 17.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone, by online communication (e.g. Zoom or other platform) or in person.

## **Division 3 – Business of Meetings**

### **18. Agenda and the Order of Business**

18.1 The *agenda* 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.

18.2 The *agenda* should be kept consistent from meeting to meeting.

18.3 Unless otherwise determined by the *Chair*, the order of business of any fixed *Council meeting* must be as follows:

18.3.1 Opening;

18.3.2 Apologies and Leave of Absence;

18.3.3 Confirmation of Minutes;

18.3.4 Declarations of Conflicts of Interest;

18.3.5 Presentations;

18.3.6 Petitions and Joint Letters;

18.3.7 Public Question Time;

18.3.8 Reports from Delegates;

18.3.9 Council Reports;

18.3.10 Notices of Motion;

18.3.11 Urgent Business;

18.3.12 Confidential Reports; and

18.3.13 Close.

### **19. Change to Order of Business**

19.1 Once an *agenda* has been sent to Councillors, the order of business for that *Council meeting* may be altered by resolution of Council.

### **20. Reconciliation Statement**

20.1 At each meeting, the *Chair* must read out a [Reconciliation Statement](#).

## 21. Addressing the meeting

21.1 If the Chair so determines:

21.1.1 any person addressing the *Chair* must refer to the *Chair* as:

(a) Mayor; or

(b) Chair;

21.1.2 all Councillors, other than the *Mayor*, must be addressed as Cr (Name); and

21.1.3 all members of Council staff must be addressed by their official title.

21.2 A Councillor who is speaking must not be interrupted unless an alternative motion is being foreshadowed or they are called to order, they are given notice by the *Chair* that their speaking time has elapsed or is about to elapse, when they must remain silent until the Councillor raising the *point of order* has been heard and the *point of order* dealt with, or the foreshadowed motion stated.

## 22. 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.

## 23. Apologies and absences

23.1 Councillors who are unable to attend a *Council meeting* may submit an apology:

23.1.1 in *writing* to the *Chair*, who will advise the meeting: or

23.1.2 by asking another Councillor to submit it at the meeting on their behalf.

23.2 An apology submitted to a meeting will be recorded in the minutes.

23.3 A Councillor intending to take a leave of absence should submit it in *writing* to the *Mayor*.

23.4 The *Mayor* will seek to have any leave of absence request included in the *agenda* of the next *Council meeting*.

23.5 A leave of absence not included in a *Council meeting agenda* may still be considered by Council if a *written* request has been received by the *Mayor* prior to the meeting.

- 23.6 Council will not unreasonably withhold its approval of a leave of absence request.
- 23.7 A Councillor who has not submitted an apology or had a leave of absence approved and who is not in attendance at a *Council meeting* will be recorded in the minutes as absent.

## **24. Presentations**

- 24.1 At each meeting, presentations of certificates of appreciation or other acknowledgements that recognise the outstanding achievements of local individuals and organisations who have made a significant contribution to the City of Moonee Valley may be made by the *Mayor* or Councillors.

## **25. Urgent Business**

- 25.1 Councillors should inform the *Chief Executive Officer* of any proposed urgent business as soon as it arises. The *Chief Executive Officer* will advise the *Mayor* of any matter determined appropriate for Council to consider admitting as urgent business.
- 25.2 Business cannot be admitted as urgent business other than by resolution of Council and only then if it:
- 25.2.1 relates to or arises out of a matter which has arisen only since distribution of the *agenda*; and
  - 25.2.2 is confined to a matter that cannot safely or conveniently be deferred until the next *Council meeting* or the item involves a matter of urgency as determined by the *Chief Executive Officer*; and
  - 25.2.3 it cannot be addressed through an operational service request process.
- provided the matter does not:
- 25.2.4 substantially affect the levels of Council service;
  - 25.2.5 commit Council to significant expenditure not included in the adopted Budget;
  - 25.2.6 establish or amend Council Policy; or
  - 25.2.7 commit Council to any contractual arrangement.

## Division 4 – Motions and Debate

### 26. Councillors may propose Notices of Motion

- 26.1 Councillors can ensure that an issue is listed on an *agenda* by lodging a *notice of motion*.

### 27. Notice of Motion

- 27.1 A notice of motion must:

27.1.1 have been announced at a Councillor Briefing Session by the Councillor who is proposing to move it at least seven days prior to the *Council meeting* at which it is proposed to be moved; and

27.1.2 be received by the *Chief Executive Officer* in its final *written* form by 12 noon on the Thursday prior to the meeting at which it is proposed to be moved

- 27.2 A *notice of motion* must relate to the objectives, role and functions or Council provided for in the *Act*.

- 27.3 A *notice of motion* must call for a Council report if the *notice of motion* proposes any action that:

27.3.1 impacts the levels of Council service;

27.3.2 commits Council to expenditure that is not included in the adopted Budget;

27.3.3 proposes to establish, amend or extend Council policy;

27.3.4 proposes to impact the rights of any person who has not had the opportunity to contribute their views;

27.3.5 commits Council to any contractual arrangement; or

27.3.6 concerns any litigation in respect of which Council is a party.

- 27.4 The *Chief Executive Officer* may reject any *notice of motion* which:

27.4.1 is vague or unclear in intention;

27.4.2 is beyond Council's power to pass;

- 27.4.3 is identical or substantially similar to a *notice of motion* that has been considered by Council in the preceding six months;
  - 27.4.4 is defamatory or otherwise objectionable in language or nature;
  - 27.4.5 would result in the direct allocation of funds outside Council's adopted budget or would otherwise have a material financial impact;
  - 27.4.6 if passed would result in Council otherwise acting invalidly; or
  - 27.4.7 can be addressed through the operational request process  
  
but must:
  - 27.4.8 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
  - 27.4.9 notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.
- 27.5 The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.
  - 27.6 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.
  - 27.7 Each *notice of motion* before any meeting must be considered in the order in which they were received.
  - 27.8 The motion moved at the meeting must not be substantially different from the *notice of motion* published in the *agenda*, but may be amended by resolution of Council.
  - 27.9 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 *notice of motion*.
  - 27.10 If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.

## **28. Chair's Duty**

Any motion which is determined by the *Chair* to be:

- 28.1 defamatory;
  - 28.2 objectionable in language or nature;
  - 28.3 vague or unclear in intention
  - 28.4 outside the powers of Council;
  - 28.5 irrelevant to the item of business on the agenda and has not been admitted as urgent; or
  - 28.6 purporting to be an amendment but is not,
- must not be accepted by the *Chair*.

## **29. Introducing a Motion or an Amendment**

The procedure for moving any motion or amendment is:

- 29.1 the mover must state the motion without speaking to it;
- 29.2 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;
- 29.3 if a motion or an amendment is moved and seconded the *Chair* will invite the mover to address the meeting;
- 29.4 after the mover has addressed the meeting, the seconder may address the meeting;
- 29.5 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* will provide an opportunity for any Councillor who wishes to speak for or against the motion, waiting until all Councillors wishing to speak to the motion have spoken; or
- 29.6 if, after the mover has addressed the meeting and the seconder has been given an opportunity to speak, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

## **30. Debate from the Chair**

- 30.1 The *Chair* must not debate a motion.
- 30.2 Where the *Chair* wishes to move or second a motion, they must temporarily vacate the chair before the motion is considered by Council. The Deputy Mayor will become the temporary *Chair*.



- 30.2.1 In the first instance the Deputy Mayor will become the temporary *Chair*.
- 30.2.2 If the Deputy Mayor is not ~~present~~ in attendance an alternative Councillor will be nominated.

### **31. Right of Reply or Closing Statement**

- 31.1 If there has been any opposition to a motion, and once debate has been exhausted, the mover of a motion has a right of reply to matters raised during debate.
- 31.2 No new matters may be raised in the right of reply.
- 31.3 After the right of reply has been taken the motion must immediately be put to the vote without any further discussion or debate.
- 31.4 A mover of an amendment has no right of reply or closing statement before the substantive motion is put to the vote.

### **32. Moving an Amendment**

- 32.1 Subject to sub-Rule 32.2 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.
- 32.2 A motion to confirm a previous resolution of Council cannot be amended.
- 32.3 An amendment must not be the negative of or substantially contrary to the motion.
- 32.4 If a proposed amendment is ruled to be the negative of, or substantially contrary to, the motion, it should be treated as an alternative motion to be considered only in the event that the motion before the *Chair* is lost.

### **33. Who may propose an amendment**

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

### **34. How many amendments may be proposed**

- 34.1 Any number of amendments may be proposed to a motion but only one amendment may be accepted by the *Chair* at any one time.

- 34.2 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.
- 34.3 Any Councillor can debate an amendment irrespective of whether the Councillor has spoken or proposes to speak to the original motion.
- 34.4 Debate on an amendment must be confined to the terms of the amendment.

### **35. An Amendment once carried**

- 35.1 If the amendment is carried, the motion as amended then becomes the motion before the meeting.
- 35.2 Unless subject to further amendment and debate, the motion (as amended) must be put to the vote by the *Chair*, but only after Councillors who did not speak to the original motion have exercised their right to do so.
- 35.3 The mover of the original motion retains the right of reply to that motion.

### **36. Foreshadowing Motions**

- 36.1 At any time during debate a Councillor may foreshadow a motion so as to inform Council of their intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 36.2 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.
- 36.3 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.
- 36.4 A foreshadowed motion has no procedural standing and is merely a means of assisting the flow of a *Council meeting*.

### **37. Withdrawal of Motions**

- 37.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder.

### **38. Separation of Motions**

- 38.1 Where a motion contains more than one part, a Councillor may request the *Chair* to put the motion to the vote in separate parts.
- 38.2 The *Chair* may decide to put any motion to the vote in several parts.

### **39. Motions in writing**

- 39.1 For clarity, the *Chair* may require any motion be in *writing*.
- 39.2 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.

### **40. Repeating Motion and/or Amendment**

- 40.1 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.

### **41. Debate must be relevant to the Motion**

- 41.1 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.
- 41.2 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 not speak further in respect of the motion then before the chair.
- 41.3 A speaker to whom a direction has been given under sub-Rule 41.2 must comply with that direction.

### **42. Deferral of a Motion**

- 42.1 Council may defer an item until later in the meeting or until another meeting if further consideration or clarification is required prior to a decision being made.
- 42.2 A point of clarification should be limited to the facts and should not seek opinions of members of Council staff beyond what is expressed in a report, but may seek clarification of facts, but not opinion, related to a *notice of motion* or item of Urgent Business from members of Council staff or the mover of the motion.

#### **43. Speaking times**

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

- 43.1 the mover of a motion or an amendment: 5 minutes;
- 43.2 the seconder of a motion or an amendment: 3 minutes;
- 43.3 any other Councillor: 3 minutes;
- 43.4 the mover of a motion exercising a right of reply: 2 minutes.
- 43.5 a Councillor when answering a question asked by another Councillor: 1 minute; and
- 43.6 a Councillor when clarifying a matter or giving a personal explanation: 1 minute.

Only one (1) extension is permitted for each speaker, in relation to the item being discussed. Any extended speaking time must not exceed 2 minutes.

#### **44. Points of Clarification**

- 44.1 A Councillor may, when no other Councillor is speaking, raise a point of clarification with the *Chair* in order to clear up confusion, ask a question about the motion, or enquire as to the correct motion.
- 44.2 A point of clarification should be limited to the facts and should not seek opinions of members of Council staff beyond what is expressed in a report, but may seek clarification of facts related to a *notice of motion* or item of Urgent Business
- 44.3 Where a Councillor is determined by the *Chair* to be intentionally mischievous and/or disruptive to the meeting by calling for frivolous points of clarification, the Councillor may be called to order and refused any further requests by the *Chair*.
- 44.4 The *Chair* has the right to limit points of clarification and direct that debate be commenced or resumed.

#### **45. Ordering withdrawal of remark**

- 45.1 The *Chair* may direct a Councillor to withdraw any remark which is defamatory, indecent, abusive or offensive in language or substance, or that is disorderly or capable of being applied offensively to any other Councillor or member of Council staff, and/or make a satisfactory apology to the meeting. A Councillor required to withdraw

a remark and/or make an apology must do so immediately without qualification or explanation.

- 45.2 A Councillor must not fail to withdraw a remark or make an apology if twice called to do so by the *Chair*.

## **Division 5 – Procedural Motions**

### **46. Procedural Motions**

- 46.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.
- 46.2 Procedural motions require a seconder.
- 46.3 A procedural motion may be moved by any Councillor, except the *Chair*, who has not moved or seconded the original motion.
- 46.4 The *Chair* may reject a procedural motion if the *Chair* is of the opinion that the matter before the meeting has not been adequately debated.
- 46.5 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following:
- 46.5.1 Adjournment of debate to later hour and/or date (“that this debate be adjourned to \_\_\_am/pm and/or \_\_\_date:
- (a) Debate is permitted
  - (b) May be raised at any time except for during the election of a *Chair*, or when another Councillor is speaking; and
  - (c) The effect of the motion if carried is that the motion and amendment is postponed to the stated time and/or date.
- 46.5.2 Adjournment of debate indefinitely (“that this matter be adjourned until further notice”):
- (a) Debate is permitted
  - (b) May be raised at any time except during the election of a *Chair*, when another Councillor is speaking, or when the motion would have the effect of causing Council to be in breach of a legislative requirement; and

- (c) The effect of the motion if carried is that the motion and amendment are postponed, but may be resumed at any later meeting if on the *agenda*.

46.5.3 Closure (“that the motion now be put”):

- (a) Debate is not permitted
- (b) May be raised at any time except for during the election of a *Chair*, or when another Councillor is speaking; and
- (c) The effect of the motion if carried is that the original motion is put to the vote immediately without further debate.

46.6 If any procedural motion is lost, debate continues unaffected.

#### **47. Suspension of Standing Orders**

47.1 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.*

47.2 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....."

47.3 A seconder is required for the motion, which can then be put to the vote.

47.4 The *Chair* can elect to suspend standing orders without the requirement of a seconder or vote

47.5 No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.

47.6 Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. A vote is not

required to resume standing orders. An appropriate statement from the *Chair* would be:

"That standing orders are now resumed."

#### **48. Closing meetings to Community**

- 48.1 *Council meetings* must be open to the public so that the community is able to attend, to the maximum extent practicable.
- 48.2 Notwithstanding sub-Rule 48.1, *Council meetings* may, in accordance with the *Act*, be closed to members of the public if:
- 48.2.1 there are clear reasons for particular matters to remain confidential; or
  - 48.2.2 a meeting is required to be closed for security reasons; or
  - 48.2.3 it is necessary to enable the meeting to proceed in an orderly manner.

*If a meeting is closed to the public for the reasons outlined in sub-Rule 48.2.2 or 48.2.3, the meeting will continue to be livestreamed. In the event a livestream is not available the meeting may be adjourned, or a recording of the proceedings may be available on Council's website.*

#### **49. Resumption of Adjourned Debate**

- 49.1 The business to which the debate relates must be placed on the *agenda* of the meeting to which it is adjourned.
- 49.2 Adjourned business should have priority over any other business.
- 49.3 If a debate is adjourned by motion, the Councillor moving the adjournment has the right to be the first speaker upon the resumption of debate unless ~~he or she has~~ **they have** already spoken to the motion or amendment.

### **Division 6 – Rescission Motions**

#### **50. Notice of Rescission**

- 50.1 A Councillor may propose a *notice of rescission* provided:
- 50.1.1 it has been signed and dated by at least five Councillors;
  - 50.1.2 the resolution proposed to be rescinded has not been acted on; and

- 50.1.3 the *notice of rescission* is delivered to the *Chief Executive Officer* within 24 hours of the resolution proposed to be rescinded having been made, setting out:
- (a) the resolution proposed to be rescinded; and
  - (b) 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.*

- 50.2 A resolution will be deemed to have been acted on if:
- 50.2.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or
  - 50.2.2 a statutory process has been commenced,
- so as to vest enforceable rights in or obligations on Council or any other person.
- 50.3 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:
- 50.3.1 has not been acted on; and
  - 50.3.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 50.1,
- 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 50.3 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.*

#### **51. If lost**

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

#### **52. If not moved**

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

#### **53. May be moved by any Councillor**

- 53.1 A motion for rescission listed on an *agenda* may be moved by any Councillor **present in attendance**. The motion for rescission may not be amended.

#### **54. When not required**

- 54.1 Unless sub-Rule 54.2 applies, a motion for rescission is not required where Council wishes to change policy.

The following standards apply if Council wishes to change policy:

- 54.2.1 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
- 54.2.2 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.

## Division 7 – Points of Order

### 55. Valid Points of Order

A *point of order* may be raised in relation to:

- 55.1 anything that is contrary to these Governance Rules;
- 55.2 debate that is irrelevant to the matter under consideration;
- 55.3 a matter that is outside the powers of Council;
- 55.4 conduct that constitutes improper behaviour or conduct contrary to the Councillor Code of Conduct;
- 55.5 offensive language;
- 55.6 tedious repetition of something already said; or
- 55.7 an act of *Disorder*.

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

### 56. Procedure for Point of Order

A Councillor raising a *point of order* must state:

- 56.1 the point of order; and
- 56.2 any section, Rule, paragraph or provision relevant to the *point of order*.

### 57. Chair to decide

- 57.1 The *Chair* must decide all *points of order* by stating the provision, Rule, practice or precedent which they consider applicable to the point raised without entering into any discussion or comment.

### 58. Chair may adjourn to consider

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

The *Chair* may need a brief adjournment in order to reflect on how ~~he or~~ ~~she~~ ~~they~~ will rule on the *point of order*. It is expected that, before

adjourning the meeting, the *Chair* will indicate the duration of the adjournment and the time at which the meeting will resume.

58.2 All other questions before Council are suspended until the *point of order* is decided.

## 59. Effect of Ruling

If the *Chair*:

59.1 rules in favour of the *point of order*, no Councillor must do or say anything which would cause another like *point of order* to be raised; or rules against the *point of order* the speaker may continue.

## 60. Dissent from Chair's Ruling

60.1 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".

60.2 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 in attendance, the Temporary *Chair* elected by the meeting) must take their place.

60.3 The Deputy Mayor or Temporary *Chair* must invite the mover to state the reasons for their dissent and the *Chair* may then reply.

60.4 The Deputy Mayor or Temporary *Chair* must put the motion in the following form:

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

60.5 If the vote is in the negative, the *Chair* resumes the chair and the meeting proceeds.

60.6 If the vote is in the affirmative, the *Chair* must then resume the chair, reverse or vary (as the case may be) their previous ruling and proceed.

60.7 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.

## Division 8 – Public Question Time

### 61. Question Time

61.1 There must be a public question time at every fixed *Council meeting* to enable members of the public to submit questions to Council.

61.2 Sub-Rule 61.1 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*.

Questions submitted to Council must be:

61.3.1 in *writing*, stating the true name, address and contact details of the person submitting the question and be in a form approved or permitted by Council; and

61.3.2 delivered to Council's Civic Centre, or be lodged electronically via Council's website or at the ~~prescribed~~ **designated** email address, prior to 12 noon on the **business** day prior to the *Council meeting*.

61.4 No person may submit more than two questions at any one meeting.

61.5 The *Chair* or a member of Council staff nominated by the *Chair* may read to those ~~present at~~ **attending** the meeting a question which has been submitted in accordance with this Rule.

61.6 Notwithstanding sub-Rule 61.5, 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 in attendance~~ at the time when the question is due to be read. A person who is unable to attend a meeting to ask their question should contact Council to enquire about alternative arrangements.

61.7 The *Chair* will have the discretion to paraphrase questions for the purpose of clarity or brevity.

61.8 A question may be disallowed by the *Chair* if the *Chair* determines that it:

61.8.1 relates to a matter outside the duties, functions and powers of Council;

61.8.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;

61.8.3 deals with a subject matter already answered;

- 61.8.4 is aimed at embarrassing a Councillor or a member of Council staff;
  - 61.8.5 relates to personnel matters; or
  - 61.8.6 relates to confidential information as defined in section 3(1) of the *Act*.
- 61.9 All questions and answers must be as brief as possible, and no discussion may be allowed other than by Councillors for the purposes of clarification.
- 61.10 Like questions may be grouped together and a single answer provided.
- 61.11 The *Chair* may nominate a Councillor or the *Chief Executive Officer* to respond to a question.
- 61.12 A Councillor or the *Chief Executive Officer* may require a question to be put on notice. If a question is put on notice, a *written* copy of the answer will be sent to the person who asked the question within 5 business days of the meeting of Council having concluded.
- 61.13 A Councillor or the *Chief Executive Officer* may advise Council that it is their 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.

## **Division 9 – Petitions and Joint Letters**

### **62. Petitions and Joint Letters**

- 62.1 Unless Council determines to consider it as an item of urgent business, no motion may be made on any petition, joint letter, memorial or other like application until the next *Council meeting* after that at which it has been presented.
- 62.2 Every Councillor presenting a petition or joint letter to Council must confine themselves to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of the prayer or request.
- 62.3 The format of a petition or joint letter presented to Council should be as follows:
- 62.3.1 it must be in *writing*, typing or printing, and contain the request of the petitioners or signatories;

- 62.3.2 it 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 or email address of every petitioner or signatory must be clearly stated;
- 62.3.3 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; and
- 62.3.4 electronic or online petitions or joint letters may be submitted to a *Council meeting*, and must include the name and e-mail address of each petitioner, unless determined otherwise by resolution of Council. This will function as the ‘signature’ of a petitioner. The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is provided to Council for submission to a *Council meeting*.
- 62.4 Council will refer petitions, joint letters, memorials and other like applications to the *Chief Executive Officer* or relevant executive member for consideration.
- 62.5 Under the *Planning and Environment Act 1987* any person who may be affected by the granting of a planning permit has the right to make a submission (or objection). As such any petition or Joint Letter relating to a planning application will be treated in accordance with that Act, and need not be tabled at a meeting.

## Division 10 – Voting

### 63. How Motion is Determined

- 63.1 To determine a motion before a meeting, the *Chair* must first call for those in favour of the motion and call each vote in favour by name. Then the *Chair* must call for those opposed to the motion and call each vote in opposition by name. The *Chair* must then note any abstention. Finally, the *Chair* must declare the result to the meeting.

### 64. Entitlement to Vote

- 64.1 Each Councillor **present in attendance** at a *Council meeting* who is entitled to vote must vote. Any Councillor who is **present in attendance** and does not vote will be taken to have voted against the question in accordance with section 61(5)(e) of the *Act*.

A Councillor is considered **present in attendance** at the meeting if they are located within the Chamber area, including the main seating area and

*nearby surrounds. That is, they are ~~present~~ in attendance if they are in a reasonable space to have heard and contributed to the item regardless of whether they are sitting, standing or moving around the space.*

*A Councillor is also considered in attendance when they meet the requirements of sub-Rule 82.11.*

**65. Silence**

65.1 Subject to Rule 68, voting must take place in silence.

**66. Recount**

66.1 The *Chair* may direct that a vote be recounted as often as may be necessary to satisfy themselves of the result.

**67. Casting Vote**

67.1 In the event of a tied vote, the *Chair* must exercise a casting vote.

67.2 The *Chair* may adjourn a *Council meeting* to consider how their casting vote will be cast.

*The Chair may need a brief adjournment in order to reflect on their casting vote. It is expected that, before adjourning the meeting, the Chair will indicate the duration of the adjournment and the time at which the meeting will resume.*

**68. ~~By Show Of Hands~~ How Votes Are Cast**

68.1 Voting on any matter is by show of hands, or such other visible or audible means as the *Chair* determines.

68.2 A Councillor who is physically unable to vote by show of hands can vote by stating “I”.

**69. Recording of Vote**

69.1 The minutes of the meeting will record each Councillor and whether they voted in the affirmative or in the negative.

69.2 If a Councillor is temporarily absent from the Chamber at the time of the vote, the minutes will note their absence. No vote for or against will be recorded.

**70. No Discussion Once Declared**

Once a vote on a question has been taken, no further discussion relating to the question is allowed unless the discussion involves seeking an alternative

resolution in relation to a statutory planning matter where, in the absence of a resolution, the application will be left undecided. Where this occurs:

- 70.1 the *Chair* will call for an alternative resolution to allow the statutory planning matter to proceed; and
- 70.2 the *Chair* may seek to either adjourn the meeting or change the order of business in order to allow time for an alternative resolution to be prepared.

## **Division 11 – Minutes**

### **71. Confirmation of Minutes**

- 71.1 At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
  - 71.1.1 A copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;
  - 71.1.2 the minutes must be confirmed by a resolution of Council;
  - 71.1.3 if a Councillor indicates opposition to the minutes:
    - (a) they must specify the item(s) to which they object;
    - (b) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
    - (c) the *Chair* must allow debate on the objection in accordance with the procedure outlined at Rule 29;
    - (d) the *Chair* must, after all objections have been dealt with, ultimately ask:
    - (e) "The question is that the minutes be confirmed" or
    - (f) "The question is that the minutes, as amended, be confirmed",and they must put the question to the vote accordingly;
  - 71.1.4 a resolution of Council must confirm the minutes;
  - 71.1.5 once confirmed, the minutes must be recorded by Council and made publicly available on Council's website; and



- 71.1.6 unless otherwise resolved or required by law, minutes of a Delegated Committee must not be available to the public until confirmed by Council.

## **72. No debate on confirmation of Minutes**

- 72.1 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.

## **73. Deferral of Confirmation of Minutes**

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

## **74. Form and availability of Minutes**

- 74.1 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:

- 74.1.1 the date, place, time and nature of the meeting;
- 74.1.2 the names of the Councillors ~~present~~ in attendance and the names of any Councillors who apologised in advance for their non-attendance;
- 74.1.3 the names of the members of Council staff ~~present~~ in attendance;
- 74.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 6 and whether the conflict of interest was said by the Councillor to be a general conflict of interest or a material conflict of interest;
- 74.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
- 74.1.6 each motion and amendment moved (including motions and amendments that lapse) and motions and amendments withdrawn by resolution or with the consent of both the mover and seconder of the motion or amendment;
- 74.1.7 whether motions or amendments lapsed or were withdrawn, carried or lost;

- 74.1.8 the vote cast by each Councillor, either for or against and the declaration of the result on the motion or amendment. If the vote is unanimous, the minutes will record it as such;
  - 74.1.9 pre-submitted questions from the Gallery and responses to those questions;
  - 74.1.10 the failure of a quorum;
  - 74.1.11 any adjournment of the meeting and the reasons for that adjournment;
  - 74.1.12 any closure of the meeting to members of the public in accordance with the provisions of Section 66(2) of the *Act* including the reason for the closure;
  - 74.1.13 a summary of all committee reports presented to Council;
  - 74.1.14 the time at which standing orders were suspended and resumed; and
  - 74.1.15 any other matter which the *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer*) thinks should be recorded to clarify the intention of the meeting or the reading of the minutes.
- 74.2 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are:
- 74.2.1 published on Council's website; and
  - 74.2.2 available for inspection at Council's office during normal business hours.
- 74.3 Nothing in sub-Rule 74.2 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**

### **75. Recordings of Meetings**

- 75.1 A person must not, without the prior approval of the *Chair*, operate any audio or visual recording equipment at any *Council meeting*.
- 75.2 Nothing in sub-Rule 75.1 applies to:

- 75.2.1 any member of Council staff operating any recording device for the purpose of livestreaming the meeting and/or preparing draft minutes of the meeting; or
- 75.2.2 any security camera installed in any place in which a *Council meeting* is held.
- 75.3 If the *Chair* gives approval under sub-Rule 75.1, ~~he or she~~ they must, as soon as practicable after opening the *Council meeting*, announce the giving of the approval and advise those who are present in the gallery that their images and/or voices are liable to be recorded during the course of the *Council meeting*.
- 75.4 The consent of the *Chair* given under sub-Rule 75.1 may be revoked at any time during the course of the meeting by the *Chair* stating that consent has been revoked and ordering that the recording cease, at which time the recording must cease.

## **76. Public Addressing Meeting**

- 76.1 Any member of the public addressing Council must extend due courtesy and respect to Council (as the case may be) and the processes under which it operates and must take direction from the *Chair* whenever called on to do so.
- 76.2 A member of the public present at a *Council meeting* must not interject during the meeting.
- 76.3 Members of the public must comply with necessary health and safety requirements specified by Council when entering the Chamber, which may include appropriate social distancing, wearing of face masks and use of the hand sanitiser which is provided.

## **77. Chair may remove**

- 77.1 The *Chair* may order and cause the removal of any person whose words or actions disrupts any meeting or who fails to comply with a direction given under sub-Rule 76.1.

*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 their authority in chairing the meeting.*

- 77.2 The *Chair* may, pursuant to section 19(1)(b) of the *Act*, direct a Councillor to leave a *Council meeting* if the behaviour of the Councillor is preventing Council from conducting its business.

77.3 A person can display any placard or poster in the Council Chamber or in any building where a *Council meeting* is being, or is about to be, held, including outside the entrance to the building, unless, by ruling of the *Chair*, the placard or poster is offensive, indecent, insulting or otherwise inappropriate, or obstructs an entrance or view of any person, or physically impedes any person.

77.4 A person to whom a notice of a ruling under sub-Rule 77.3 has been given must remove the placard or poster.

#### **78. Chair may adjourn disorderly meeting**

78.1 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~~ **the *Chair*** may adjourn the meeting to a later time on the same day or to some later day as they determine appropriate. In that event, the provisions of sub-Rules 17.2 and 17.3 apply.

#### **79. Removal from Chamber**

79.1 The *Chair* may request Victoria Police to escort out from the Chamber any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the Gallery under Rule 77.

#### **80. No Alcohol to Be Served**

80.1 Meetings are to be conducted in an alcohol-free environment (being that alcohol will not be served to Councillors or members of Council staff prior to or during meetings).

### **Division 13 – Additional Duties of Chair**

#### **81. The Chair's Duties and Discretions**

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

81.1 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; and

81.2 must call to order any person who is disruptive or unruly during any meeting.

### **Division 15 – ~~Miscellaneous~~ Physical and Remote Attendance**

#### **82. Mode of attendance**

82.1 **Each notice of meeting must indicate whether the relevant *Council meeting* is to be conducted:**

- 82.1.1 wholly in person;
  - 82.1.2 wholly by electronic means; or
  - 82.1.3 partially in person and partially by electronic means (hybrid or parallel).
- 82.2 The default mode of attendance for a scheduled or unscheduled meeting is wholly in person.
- 82.3 The mode of attendance may be altered by the *Chief Executive Officer* in consultation with the *Mayor*. The *Chief Executive Officer* must provide notice of the change to the community as soon as practicable via Council's website.
- 82.4 If a *Council meeting* is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.
- 82.5 Any request made under sub-Rule 82.4 must:
- 82.5.1 be in *writing*;
  - 82.5.2 be given to the *Chief Executive Officer* no later than 6 hours prior to the commencement of the relevant *Council meeting*; and
  - 82.5.3 specify the reasons why the Councillor is unable or does not wish to attend the *Council meeting* in person.
- 82.6 The *Chief Executive Officer* may approve and must not unreasonably refuse any request.
- 82.7 The *Chief Executive Officer* may approve a request received less than 6 hours prior to the commencement of the relevant *Council meeting* where there is a personal, health, family emergency or extraordinary circumstance.
- 82.8 The *Chief Executive Officer* must ensure that any request received in accordance with sub-Rule 82.5 and any other request received from a Councillor to attend by electronic means is made known to the *Chair* prior to the commencement of the relevant *Council meeting*.
- 82.9 The *Chair* must make known to those in attendance at the relevant *Council meeting*, who are attending by electronic means.
- 82.10 A Councillor who is attending a *Council meeting* by electronic means is responsible for ensuring that they are able to access such equipment and are present in such an environment that facilitates participation in the *Council meeting*.

82.11 Without detracting from anything said in sub-Rule 82.10, the *Chair* will determine whether, in the circumstances, including any technical difficulties, the Councillor can see and hear, and be seen and be heard, sufficiently via electronic means to be considered in attendance at the meeting.

82.12 If the conditions of sub-Rule 82.11 cannot be met by one or more Councillors attending a *Council meeting*, whether because of technical difficulties or otherwise:

82.12.1 the *Council meeting* will nonetheless proceed as long as a quorum is present; and

82.12.2 the relevant Councillor (or Councillors) will be treated as being absent from the *Council meeting* or that part of the *Council meeting*.

unless the *Council meeting* has been adjourned in accordance with these Rules.

82.13 Nothing in this Rule 82 prevents a Councillor from joining (or re-joining) a *Council meeting* at the time that they achieve compliance with sub-Rule 82.11 even if the *Council meeting* has already commenced or has continued in their absence.

### **83. Meetings Conducted Remotely**

83.1 If a *Council meeting* is conducted wholly or partially by electronic means, Council may, by vote, 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.

### **84. Livestreaming and Recording of Proceedings**

84.1 The *Chief Executive Officer* (or their delegate or nominee) may, for the purposes of minute taking, record on suitable audio recording equipment all proceedings of a meeting. With the exception of any meetings or parts of meetings that have been closed to the public, all *Council meetings* will be livestreamed on the internet. A recording of a meeting that is live-streamed will also be made available to the public to be viewed on demand via Council's website. Other public meetings, such as Public Forums, may also be livestreamed.

84.2 To comply with its obligations under legislation (including but not limited to the *Privacy and Data Protection Act 2014*), Council maintains the right to cease transmission of live-streaming at any time in order to prevent the broadcasting of material that it deems to be:

84.2.1 defamatory;

- 84.2.2 disclosing personal, health or sensitive information about individuals;
- 84.2.3 offensive on the basis of race, colour, national or ethnic origin;
- 84.2.4 vilification or inciting hatred on religious or racial grounds;
- 84.2.5 related to sex, drugs, violence or revolting or abhorrent phenomena, which is likely to cause offence to a reasonable person; and/or an
- 84.2.6 infringement of copyright.

## **Division 16 –Miscellaneous**

### **85. Role of a Delegate or Council Representative on Committees**

- 85.1 A Councillor appointed as a delegate or representative to an organisation, body or committee will represent any endorsed positions of Council, and report back to Council on the issues, progress, and any recommendations of the organisation, body or committee for Council to consider.
- 85.2 Motions and business submitted to the State Council of the Municipal Association of Victoria, or the National General Assembly of Australian Local Government Association, must be endorsed by Council prior to their submission.
- 85.3 Motions and business submitted to these bodies without Council endorsement must be withdrawn.

### **86. Procedure Not Provided in This Chapter**

- 86.1 In all cases not specifically provided for by this Chapter, the matter may be determined by Council resolution.

## Chapter 4 – Meeting Procedure for Delegated Committees

### 1. Meeting Procedure Generally

If Council establishes a Delegated Committee:

- 1.1 all of the provisions of Chapter 3 apply to meetings of the Delegated Committee; and
- 1.2 any reference in Chapter 3 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 endorsement of Council

resolve that any or all of the provisions of Chapter 3 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.



## Chapter 5 – Meeting Procedure for Community Asset Committees

### 1. Introduction

- 1.1 In this Chapter, “Instrument of Delegation” means an instrument of delegation made by the *Chief Executive Officer* under section 47(1)(b) of the *Local Government Act 2020*.

### 2. Meeting Procedure

- 2.1 Unless anything in an 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 6 – Disclosure of Conflicts of Interest

### 1. Definition

In this Chapter:

- 1.1 *“attend” and “in attendance” include attend or in attendance by electronic means;*
- 1.2 *“meeting conducted under the auspices of Council” means a meeting of the kind described in section 131(1) of the Local Government Act 2020, and includes a Councillor Briefing; and  
  
a member of a Delegated Committee includes a Councillor.*

### 2. Disclosure of a Conflict of Interest at a Council Meeting

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

- 2.1 are ~~present~~ **in attendance** must disclose that conflict of interest by explaining the nature of the conflict of interest to those ~~present~~ **in attendance** at the *Council meeting* immediately before the matter is considered, **and indicating whether it is a general conflict of interest or a material conflict of interest**; or
- 2.2 intends to ~~be present~~ **attend** must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council meeting* commences a *written* notice:
  - 2.2.1 advising of the conflict of interest;
  - 2.2.2 explaining the nature of the conflict of interest, **and indicating whether it is a general conflict of interest or a material conflict of interest**; and
  - 2.2.3 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,

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

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

All disclosures of a conflict of interest at a *Council meeting* will be recorded in the minutes.

### **3. Disclosure of a 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 they:

- 3.1 are **present in attendance** must disclose that conflict of interest by explaining the nature of the conflict of interest to those **present in attendance** at the Delegated Committee meeting immediately before the matter is considered, **and indicating whether it is a general conflict of interest or a material conflict of interest**; or
- 3.2 intends to **present attend** must disclose that conflict of interest by providing to the *Chief Executive Officer* before the Delegated Committee 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, **and indicating whether it is a general conflict of interest or a material conflict of interest**; and
  - 3.2.3 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
    - (c) nature of that other person's interest in the matter,
    - (d) and then immediately before the matter is considered at the meeting announcing to those **present in attendance** that they have a conflict of interest and that

a *written* notice has been given to the *Chief Executive Officer* under this sub-Rule.

The member of a Delegated Committee must, in either event, leave the Delegated 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.

All disclosures of a conflict of interest at a Delegated Committee meeting will be recorded in the minutes.

#### **4. 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 they:

- 4.1 are **present in attendance** must disclose that conflict of interest by explaining the nature of the conflict of interest to those **present in attendance** at the Community Asset Committee meeting immediately before the matter is considered; **and indicating whether it is a general conflict of interest or a material conflict of interest**; or
- 4.2 intends to **present in attend** must disclose that conflict of interest by providing to the *Chief Executive Officer* before the Community Asset 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 indicating whether it is a general conflict of interest or a material conflict of interest**; and
  - 4.2.3 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
    - (c) nature of that other person's interest in the matter,
    - (d) and then immediately before the matter is considered at the meeting announcing to those **present in attendance** that they have a conflict of interest and that

a *written* notice has been given to the *Chief Executive Officer* under this sub-Rule.

- (e) 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.

All disclosures of a conflict of interest at a Community Asset Committee meeting will be recorded in the minutes.

## **5. 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 conducted** under the auspices of Council at which **they are in attendance present** must:

- 5.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those **present in attendance** at the meeting immediately before the matter is considered **and indicating whether it is a general conflict of interest or a material conflict of interest**;
- 5.2 unless the meeting takes the form of a site visit, absent themselves from any discussion of the matter; and
- 5.3 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 in attendance** at the meeting.

All disclosures of a conflict of interest at the following meetings organised, hosted or supported by Council will be recorded in a meeting record and provided to the Governance unit for recording in the register of Conflicts of Interest.

## **6. Disclosure by Members of Council Staff Preparing Reports for Meetings**

- 6.1 A member of Council staff who, in their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a report for the consideration of a:
  - 6.1.1 *Council meeting*;
  - 6.1.2 Delegated Committee meeting;
  - 6.1.3 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 and indicating whether it is a general conflict of interest or a material conflict of interest.

6.2 The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 76.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

6.3 If the member of Council staff referred to in sub-Rule 76.1 is the *Chief Executive Officer*:

6.3.1 the *written* notice referred to in sub-Rule 76.1 must be given to the *Mayor*; and

6.3.2 the obligation imposed by sub-Rule 76.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

7.1 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 and indicating whether it is a general conflict of interest or a material conflict of interest.

7.2 If the member of Council staff referred to in sub-Rule 87.1 is the *Chief Executive Officer* the *written* notice must be given to the *Mayor*.

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

8.1 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 and indicating whether it is a general conflict of interest or a material conflict of interest.

8.2 If the member of Council staff referred to in sub-Rule 98.1 is the *Chief Executive Officer* the *written* notice must be given to the *Mayor*.

**9. Retention of Written Notices**

- 9.1 Council will maintain a Conflict of Interest Register which will be made available on Council's website.
- 9.2 *The Chief Executive Officer* must retain all *written* notices received under this Chapter for a period of three years.

## Chapter 7 – 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 attended by a majority of Councillors (being half plus one); and
- 1.4 is not a *Council meeting*, Delegated Committee meeting or Community Asset Committee meeting the *Chief Executive Officer* must ensure that a summary of the matters discussed at the meeting are:
  - tabled at the next convenient *Council meeting*; and
  - recorded in the minutes of that *Council meeting*.

### 2. Confidential Information

- 2.1 If the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the *Local Government Act 2020*, they 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 *Local Government Act 2020*, 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 8 – Election Period Policy

### Purpose

The Election Period Policy has been developed to ensure that the general election for Moonee Valley City Council on Saturday 24 October 2020 and subsequent elections are conducted in a manner that is in accordance with Section 69 of the *Local Government Act 2020* (“the Act”) in relation to the Council election period.

The Policy ensures that the ordinary business of Council continues throughout the election period in a responsible and transparent manner, in accordance with these statutory requirements and established caretaker provisions.

### Scope

The Election Period Policy specifically applies to all Councillors and Council staff for the duration of the Council election period only.

### Policy statement

Council is committed to governing on behalf of the Moonee Valley community in a way which is transparent, consultative, innovative and outcomes-driven, as outlined by the overarching governance principles set out at section 9(2) of the *Act*.

Council is committed to ensuring a fair, democratic and transparent Council election, that is publicly perceived as such, while minimising disruption to its normal business of serving the Moonee Valley community.

### Policy principles

Section 69 of the *Act* prescribes the minimum legislative requirements to be included in the Election Period Policy to enhance the transparency and accountability of the actions of Council, Councillors and officers during the election period.

For the duration of the Council election period, the following will apply:

- No major policy decisions will be made;
- No decisions that would affect the municipality or unreasonably bind the incoming Council will be made;

- Public resources, including Council staff, will not be used for election campaigning, or in a way that may improperly influence the result of an election;
- No electoral matter will be published or distributed by Council, unless it is strictly information about the election process;
- Elected members will not receive or be perceived to receive any advantages or disadvantages over other candidates due to their position on Council.

## **1. Council decision making**

Matters of Council business requiring major policy decisions or other inappropriate decisions will be scheduled to enable a Council decision prior to the start of the election period or deferred, where appropriate, for consideration by the incoming Council.

### **1.1 Making Decisions**

Section 69(2) of the *Act* requires that this Policy prohibit Council, a Delegated Committee or a person acting under a delegation given by the Council from making decisions during the election period for a general election relating to any of the following —

- the appointment or remuneration of a *Chief Executive Officer* but not to the appointment or remuneration of an *Acting Chief Executive Officer*;
- committing 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;
- any decision which Council considers could reasonably be deferred until the next Council is in place;
- any decision which Council considers should not be made during an election period.

Section 69(3) of the *Act* requires that this Policy prohibit Council, a Delegated Committee or a person acting under a delegation given by the Council from making decisions during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

### **1.2 Inappropriate decisions**

Council commits to the application of the following requirements to decision making during the election period, to ensure that inappropriate decisions are prevented:

- Council will refrain from making any irrevocable decision during the election period that could potentially influence voter intentions at the

forthcoming election, or could encourage candidates to use the item as part of their electioneering.

- Council will refrain from making any irrevocable decision that significantly affects the municipality during the election period;
- Council will seek approval from the *Chief Executive Officer* prior to making any other significant decision during the election period that may bind the incoming Council.

Given this, the *Chief Executive Officer* will consider the following factors in deciding whether to give approval for such decisions:

- Whether the decision is “significant”
- The urgency of the issue (can it wait until after the election?)
- The possibility of financial or legislative compliance repercussions if it's deferred
- Whether the decision is likely to be controversial
- The best interests of the Council

### **1.3 Other decisions**

Other decisions that are not permitted during the election period include the:

- Acquisition of land
- Adoption or amendment of the Moonee Valley Planning Scheme
- Adoption or amendment of policies, protocols, strategies, master plans or frameworks
- Adoption or amendment of the Council Plan
- Adoption of a revised budget
- Adoption or amendment of a Local Law
- Adoption of a Councillor Delegate Report
- Allocation of grants or awards to individuals or organisations
- Appointing representatives to Council committees
- Disposal of land or assets
- Endorsing submissions to government or public bodies
- Employment matters pertaining to the *Chief Executive Officer*
- Entering into a contract or entrepreneurial agreement exceeding the prescribed amount

- Entering into agreements (excluding an Enterprise Agreement), deeds or leases
- Granting of a planning permit deemed to be major project as prescribed in Council's endorsed Statutory Planning Protocols
- Naming or re-naming of roads, reserves or features
- Reviewing of programs or service provision (except in a State of Emergency)
- Any other decision that the *Chief Executive Officer* considers may affect voting at the election or is a decision that can be made outside of the election period.

Decisions made prior to the election period by Council or by a Council officer under delegation can be implemented during the election period.

## **2. Council resources**

Council resources, including offices, vehicles, staff, hospitality services, property, equipment such as tablets and phones and stationery must be used exclusively for normal Council business during the election period and must not be used in connection with any election campaign.

### **2.1 Role of officers**

Councillor support staff, Governance staff or any other officers must not be asked to undertake any tasks connected directly or indirectly with the election campaign of a Councillor standing for re-election.

### **2.2 Use of Council equipment and facilities**

Council-issued resources, including offices, support staff, hospitality services, mobile phones and numbers, computers, iPads and stationery will be used exclusively for normal Council business during the election period subject to existing policies, protocols and terms of use and will not be used in connection with any election campaign.

Councillors standing for re-election must not use Council-issued equipment including mobile phones and numbers, laptops, tablets, computers or printers as a resource to assist with election campaigns. Council issued email addresses are not to be used in election campaigns.

The Mayoral vehicle must only be used for normal Mayoral activities during the election period and not to assist, or give the perception of assisting an election campaign.

Council facilities cannot be booked for electoral campaigning purposes by Councillors, candidates or supporters or other persons during the election period.

The distribution or display of election material in or on Council facilities, libraries or community noticeboards and Council owned and managed land is prohibited.

Datasets including mailing lists held by Council are subject to the requirements of the *Privacy and Data Protection Act 2014* and are not available to members of the public, candidates or to Councillors.

General correspondence addressed to Councillors will be answered as usual. However, Councillors will only sign the necessary minimum correspondence during the election period and correspondence relating to significant, sensitive or controversial matters will be referred to the *Chief Executive Officer*.

No Council logo, letterhead or other Moonee Valley branding is to be used for, or linked in any way to, a candidate's election campaign.

### **2.3 Councillor reimbursements**

Reimbursement of Councillors' out-of-pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign. In cases of claims that cover a combination of Council and electoral business, the *Chief Executive Officer* or their delegate may approve a partial reimbursement to cover normal Council activities.

## **3. Community engagement and Council events**

Limits will be placed on public consultation and the scheduling of Council events during the election period.

### **3.1 Community engagement**

Community engagement is a process that involves an invitation to individuals, groups, organisations or the public in general to comment on an issue, proposed action or proposed policy and includes discussion of that matter with the public.

Some topics of community engagement and consultation have the potential to be an election issue, therefore no community consultation will take place during the election period.

Forums and groups which have been established by Council and not captured as a formal Advisory Committee will not meet during the election period.

Public consultation associated with activities and decisions that are the subject of a legislative process can be expected to continue through the election period to ensure Council does not breach its statutory obligations. This includes and not limited to:

- Consultations involving Council officers and interested persons regarding applications under the *Planning and Environment Act 1987*.
- Consultation required under Section 223 of the *Local Government Act 1989*
- Consultation which takes place in line with the Community Engagement Policy adopted under the *Local Government Act 2020*.

The discussion of electoral matters at these meetings is strictly prohibited.

Where public consultation commences prior to the election period, the results of that consultation will not be reported until after the election period.

### **3.2 Council events**

During the election period, Councillors may continue to attend functions and events. Only those events essential to the operations of Council will be scheduled by Council officers.

For these necessary events that require formalities, a brief speech will be delivered by the *Chief Executive Officer* or a General or Group Manager. Any reference to a Councillor achievement or anything that could be interpreted as campaign material is not permitted.

No election material or active campaigning is to be conducted at Council sponsored events or displayed in/on any Council building.

Where a Councillor has received an invitation to an external event and has determined to accept that invitation, the Councillor must make a clear separation between attendance in their role as a Councillor, or attendance in their role as a candidate.

A Councillor may not attend an event in their capacity as both Councillor and candidate. If a Councillor gives a speech or public comment at an external event or function, they must make it clear that they are speaking as a candidate.

## **4. Council publications**

### **4.1 Prohibition on publishing material**

Section 304(2) of the *Act* states that a Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

There will be restrictions placed on the number of Council documents published during the election period.

Only publications that the *Chief Executive Officer* deems to be essential to the day-to-day operations of Council during the election period will be published.

#### **4.2 Prohibited material**

Electoral material as defined in the *Act* means any advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting. It should not be taken to include:

- Any material produced by or on behalf of the Election Manager for the purposes of conducting an election; or
- An advertisement in a newspaper announcing the holding of a meeting.

A publication should be taken to fall under the definition of electoral material if it contains an express or implicit reference to, or comment on:

- The election; or
- A candidate in the election; or
- An issue submitted to, or otherwise before, the voters in connection with the election.

Electoral material is taken to include material which:

- Publicises the strengths or weaknesses of a candidate;
- Advocates the policies of the Council or of a candidate;
- Responds to claims made by a candidate;
- Publicises the achievements of the elected Council.

#### **4.3 Council publications containing Councillor information**

Any reference to Councillors standing for re-election in Council publications printed, published or distributed during the election period must not include promotional text.

#### **4.4 Council website and social media**

Council website and social media content regarding Councillors must be limited to names, titles, Council-issued phone number and email address, memberships of delegated committees and other bodies to which Councillors have been appointed by Council. There will be no Councillor mobile phone numbers on the website during the election period. An alternate phone



number will be provided as well as a link to the Victorian Electoral Commission website.

Council's website and social media channels must be reviewed prior to the start of the election period, with any material (including Councillor profiles and photos) that may be perceived as electoral material removed.

Councillors and staff must not post and / or respond to any political comments on Council's website or social media channels.

Any political material posted on Council's social media channels or website as comments during the Election Period will be removed by officers.

Council agendas and minutes may continue to be published on Council's website, as restrictions do not apply to these items.

#### **4.5 Annual Report**

Under the *Local Government Act 1989* and until new provisions come into effect under the *Local Government Act 2020* on 24 October 2020, Council's Annual Report is required to be prepared and submitted to the Minister by the end of September.

Council is permitted to publish the Annual Report during the election period, however information referring to specific Councillors should be limited to names, titles, contact details, membership of delegated committees and other bodies to which they have been appointed.

A Mayor's Message is also allowed as long as it is restricted to general Council business and not specific achievements of Councillors.

#### **4.6 Other publications**

The normal schedule production and distribution of Valley View will continue during election period, however content will be closely monitored and certified by the *Chief Executive Officer* to ensure no electoral matter is contained within the publication.

There will be no commentary from Councillors in Valley View during the election period. This includes 'ward duty' which usually reports on activity in each ward from each Councillor. Councillor photographs are also not permitted during this time.

Brochures directly promoting Councillors or containing electoral matter are not permitted.

#### **4.7 Photos**



Photos taken by Councillors or their family or friends or professional photos that Councillors have directly commissioned and paid for may be used in electoral material.

Photos of Councillors taken during their term by Council staff or photographers contracted by Council are not to be used in electoral material for any candidate.

## **5. Media and publicity**

Communications may only be published and / or distributed to support or promote essential Council activities. Council's communications resources must not be used in support of a Councillor or candidate's election campaign.

### **5.1 Council spokesperson**

The role of Council spokesperson is to be filled by the *Chief Executive Officer* or another officer as delegated by the *Chief Executive Officer*, depending on the subject matter.

### **5.2 Media Releases and enquiries**

All media releases, responses or statements must be issued from the *Chief Executive Officer*. No Councillors are to be quoted in any media responses or releases, public statements or other communications issued by Council.

No photographs of Councillors are to be published or distributed by Council. Photos of Councillors taken by Council staff or photographers contracted by Council during the Councillor's term must not be used in electoral material for any candidate.

No media advice or assistance will be provided in relation to election campaign matters or in regard to publicity that involves specific Councillors. The Mayor and Councillors are not permitted to comment officially on issues raised by the media during the election period.

### **5.3 Advertising**

Normal scheduled advertising may be run by Council during the election period i.e. general Council stories and photographs unrelated to electoral matter.

Advertising may also be run about the election process as certified by the *Chief Executive Officer*/Election Manager.

## **6. Council and Delegated Committee Meetings**

Meetings of Council, Delegated Committees, Strategic Briefings and Public Forums will not be scheduled during the election period.

To fulfil legislative obligations and if exceptional circumstances warrant, a Meeting of Council may be called outside of the dates previously fixed by Council. These meetings must not be used by Councillors as means of promotion or gaining media attention in support of an election campaign.

A Meeting of Council will be held to consider the Annual Report in accordance with Section 22(2) of the Local Government (Planning and Reporting) Regulations 2014.

The agenda papers and minutes of any Council or Committee meetings which may need to be scheduled during the election period as a matter of urgency do not require certification by the *Chief Executive Officer* unless they are printed or published for a wider distribution than normal.

## **7. Information provision and access**

Council recognises that all election candidates have equal right to information from the Council administration that may be relevant to their election campaigns.

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

It is recognised that sitting Councillors need to continue to receive information from the administration that is necessary to fulfil their elected roles. Therefore, information and briefing material prepared by officers for Councillors during the election period will relate only to:

- Factual matters and/or
- Existing Council services.

Information and briefing material prepared by officers during the election period will not relate to:

- Policy development,
- New projects or
- Matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.

All candidates will be treated equally in terms of assistance provided as part of the conduct of the Council election.

Election enquiries from candidates will be directed to the Election Manager or, where the matter is outside the responsibilities of the Election Manager, to the Executive Manager Corporate Governance who may refer the request to the *Chief Executive Officer* or appropriate member of the Executive Team.

The Executive Manager Corporate Governance will maintain an Information Request Register during the election period. The register will be a public document that records all requests for information (not otherwise generally available) by Councillors and candidates and the response given to those requests. If any information is made available to one candidate, it shall be made available to all other candidates via Council's website.

Council officers will be required to provide details of requests to the Executive Manager Corporate Governance for inclusion on the register.

## Responsibilities

The following Council roles and groups have direct and / or supporting responsibilities associated with this document:

Role / Group	Responsibility
Audit and Risk Committee	The Audit and Risk Committee provides an oversight function regarding: <ul style="list-style-type: none"> <li>• Council's policies</li> <li>• Risk management system</li> <li>• Compliance controls</li> <li>• Audit functions</li> </ul>
Chief Executive Officer	<ul style="list-style-type: none"> <li>• The application of this document across Council</li> <li>• Determination on any matters of interpretation or implementation</li> </ul>
Manager Legal and Governance Senior Governance Advisor	<ul style="list-style-type: none"> <li>• All administrative functions in relation to the implementation of this document, supporting procedures and other related documents</li> </ul>
All staff and Councillors	<ul style="list-style-type: none"> <li>• Full compliance with this document, supporting procedures and other related documents</li> </ul>
Councillor Support Office	<ul style="list-style-type: none"> <li>• All Councillor administrative functions in relation to the implementation of this Policy such as diary management and attendance at events, Councillor correspondence etc</li> </ul>

## Definitions

A full list of definitions can be found in the [Corporate Glossary](#).

## Related legislation and reference sources

- [Local Government Act 2020](#)

- [Local Government Act 1989](#)
- [Local Government \(Planning and Reporting\) Regulations 2014](#)
- [Victorian Electoral Act 2002](#)
- [Privacy Data and Protection Act 2014](#)
- [Classification \(Publications, Films and Computer Games\) \(Enforcement\) Act 1995](#)
- [Racial Discrimination Act 1975](#)
- [Racial and Religious Tolerance Act 2001](#)
- [Defamation Act 2005](#)

## Related Council documents

- [Council Code of Conduct 2020](#)
- [Councillor and Council Staff Interaction Protocol](#)
- Chief Executive Officer Employment and Remuneration Policy (to be developed)
- [Community Engagement Policy](#)
- Complaints Policy (currently an operational document known as the [Complaint Management Policy](#))
- [Councillor Expenses Policy](#)
- [Councillor Gift Policy](#)
- [Public Transparency Policy](#)