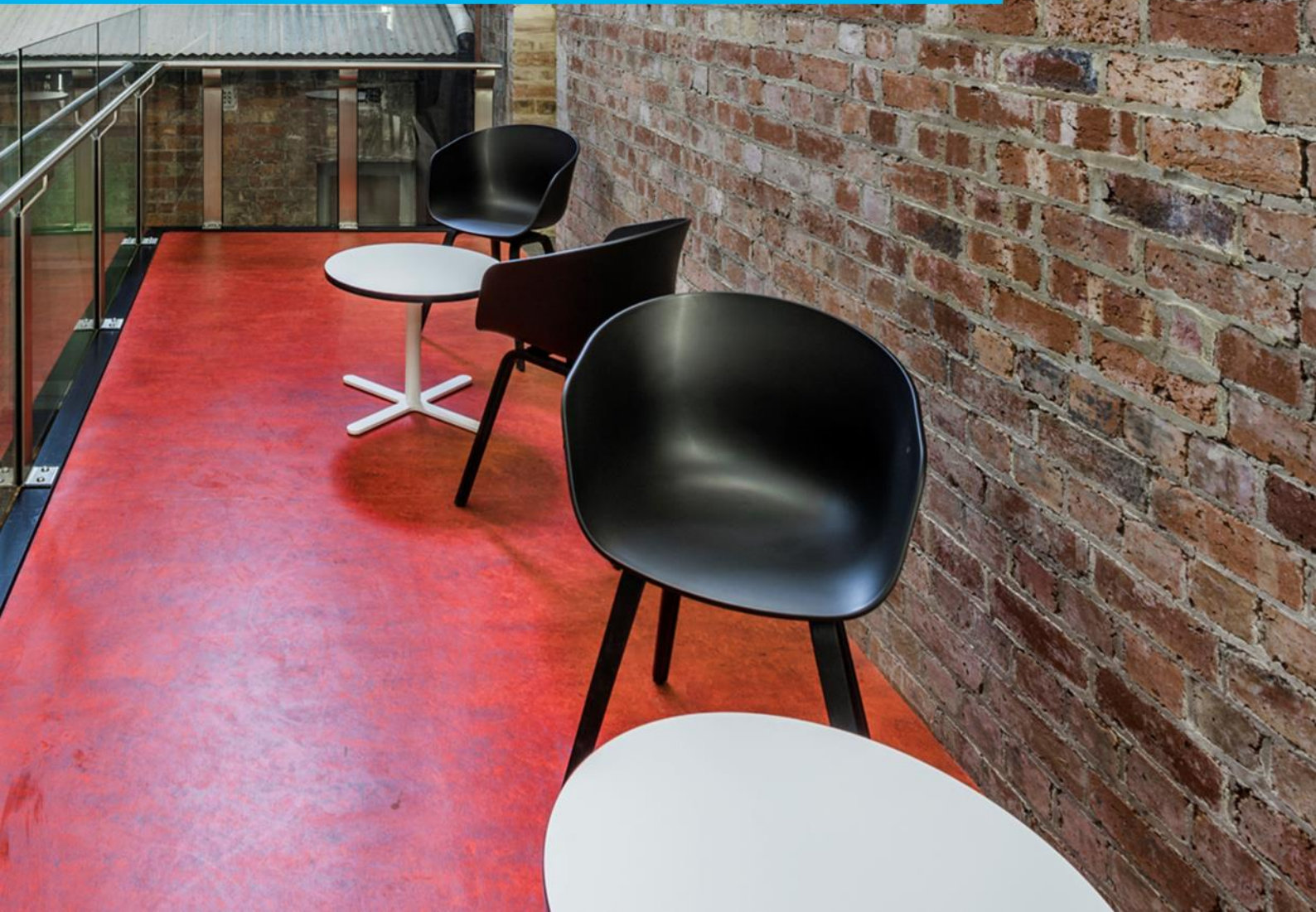




# Draft Governance Rules 2020

Incorporating the Election Period Policy



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<b>Title</b>	<b>Governance Rules 2020</b>
<b>Description</b>	This policy constitutes the Governance Rules required by section 60 of the Local Government Act 2020 and is to be read in addition to the requirements of that Act.
<b>Category</b>	Governance
<b>Type</b>	Policy
<b>Approval authority</b>	Council
<b>Responsible officer</b>	Senior Governance Advisor
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<b>Document Reference</b>	tba
<b>Human Rights compatibility</b>	This policy has been assessed and is compatible with the Victorian Charter of Human Rights and Responsibilities

# Contents

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## CHAPTER ONE - INTRODUCTION

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<b>PART A - PRELIMINARY .....</b>	<b>7</b>
1. Nature of Rules .....	7
2. Date of Commencement .....	7
3. Contents .....	7
4. Definitions .....	7
5. Context .....	8
6. Decision Making .....	8

## CHAPTER TWO - COUNCIL MEETINGS

---

<b>PART A – ELECTION OF MAYOR .....</b>	<b>9</b>
1. Election of the Mayor .....	9
2. Method of Voting .....	9
3. Determining the election of the Mayor .....	9
4. Election of Deputy Mayor and Chairs of Delegated Committees .....	10
5. Appointment of Acting Mayor .....	10
<b>PART B – MEETINGS PROCEDURE .....</b>	<b>11</b>
<b>Division 1 – Notices of Meetings and Delivery of Agendas .....</b>	<b>11</b>
6. Dates and Times of Meetings Fixed by Council .....	11
7. Council May Alter Meeting Dates .....	11
8. Meetings Not Fixed by Council .....	11
9. Notice Of Meeting .....	11
<b>Division 2 – Quorums .....</b>	<b>11</b>
10. Inability To Obtain A Quorum .....	11
11. Inability To Maintain A Quorum .....	11
12. Adjourned Meetings .....	12
13. Time limits for Meetings .....	12
14. Cancellation or Postponement of a Meeting .....	12
<b>Division 3 – Business of Meetings .....</b>	<b>12</b>
15. Agenda and the Order Of Business .....	12
16. Change To Order Of Business .....	12
17. Urgent Business .....	12
<b>Division 4 – Motions and Debate .....</b>	<b>12</b>
18. Councillors May Propose Notices Of Motion .....	12
19. Notice Of Motion .....	12
20. Chair's Duty .....	13
21. Introducing a Report .....	13
22. Introducing A Motion or an Amendment .....	13
23. Right Of Reply .....	14

24.	Moving An Amendment.....	14
25.	Who May Propose An Amendment.....	14
26.	How Many Amendments May Be Proposed .....	14
27.	An Amendment Once Carried .....	14
28.	Foreshadowing Motions .....	14
29.	Withdrawal Of Motions .....	15
30.	Separation Of Motions .....	15
31.	Chair May Separate Motions.....	15
32.	Priority of address .....	15
33.	Motions In Writing .....	15
34.	Repeating Motion and/or Amendment .....	15
35.	Debate Must Be Relevant To The Motion.....	15
36.	Speaking Times .....	15
37.	Addressing the Meeting .....	15
38.	Right to Ask Questions.....	16
<b>Division 5 – Procedural Motions .....</b>		<b>16</b>
39.	Procedural Motions .....	16
<b>Division 6 – Rescission Motions .....</b>		<b>17</b>
40.	Notice of Rescission.....	17
41.	If Lost.....	18
42.	If Not Moved .....	18
43.	May Be Moved By Any Councillor.....	18
44.	When Not Required.....	18
<b>Division 7 – Points of Order .....</b>		<b>18</b>
45.	Chair To Decide .....	18
46.	Chair May Adjourn To Consider.....	18
47.	Procedure For Point Of Order .....	18
48.	Valid Points Of Order .....	19
<b>Division 8 – Public Question Time and Public Submissions .....</b>		<b>19</b>
49.	Question Time .....	19
<b>Division 9 – Petitions and Joint Letters.....</b>		<b>19</b>
50.	Petitions and Joint Letters.....	19
<b>Division 10 – Voting .....</b>		<b>20</b>
51.	How Motion Determined.....	20
52.	Silence.....	20
53.	Recount .....	20
54.	Casting Vote.....	20
55.	By Show Of Hands .....	20
56.	Procedure For A Division .....	20
57.	No Discussion Once Declared .....	20
<b>Division 11 – Minutes.....</b>		<b>21</b>
58.	Confirmation of Minutes .....	21
59.	No Debate on Confirmation Of Minutes .....	22
60.	Deferral Of Confirmation Of Minutes.....	22



61. Form and Availability of Minutes .....	22
<b>Division 12 – Behaviour .....</b>	<b>23</b>
62. Public Addressing The Meeting .....	23
63. Chair May Remove .....	23
64. Chair may close a meeting.....	23
65. Chair may adjourn a meeting .....	23
66. Removal from Chamber .....	23
<b>Division 13 – Additional Duties of Chair .....</b>	<b>23</b>
67. The Chair’s Duties And Discretions .....	23
<b>Division 14 – Suspension of Standing Orders .....</b>	<b>24</b>
68. Suspension of Standing Orders .....	24
<b>Division 15 – Miscellaneous .....</b>	<b>24</b>
69. Meetings Conducted Remotely .....	24
70. Procedure not provided in this Chapter .....	24
71. Criticism of members of Council staff .....	24

### **CHAPTER THREE - DELEGATED COMMITTEE MEETINGS**

---

1. Meeting Procedure Generally .....	25
2. Meeting Procedure Can Be Varied .....	25

### **CHAPTER FOUR - DISCLOSURE OF CONFLICTS OF INTEREST**

---

1. Introduction.....	26
2. Disclosure of a Conflict of Interest at a Council Meeting .....	26
3. Disclosure of Conflict of Interest at a Delegated Committee Meeting .....	26
4. Disclosure at a Meeting Conducted Under the Auspices of Council .....	27
5. Disclosure by Members of Council Staff Preparing Reports for Meetings.....	27
6. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power .....	27
7. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function.....	27
8. Retention of Written Notices .....	27

### **CHAPTER FIVE – CONFIDENTIAL INFORMATION**

---

1. Confidential Information .....	28
-----------------------------------	----

### **CHAPTER SIX – ELECTION PERIOD POLICY**

---

#### **PART A – PRELIMINARY.....29**

1. Policy objectives.....	29
2. Definitions.....	29

#### **PART B – APPLICATION .....**

3. Candidates for election .....	30
4. Other persons.....	30
5. Application of the Staff Code of Conduct.....	30

**PART C – POLICY .....31**

- 6. Council resources ..... 31
- 7. Information ..... 31
- 8. Council publications ..... 32
- 9. Publicity ..... 32
- 10. Decisions..... 32
- 11. Conduct of Council Meetings ..... 33
- 12. Events and Functions..... 33
- 13. Assistance to Candidates..... 33

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## CHAPTER ONE - INTRODUCTION

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### PART A - PRELIMINARY

#### 1. Nature of Rules

- 1.1 These are the Governance Rules of **Yarra City Council**, made in accordance with section 60 of the *Local Government Act 2020*.

#### 2. Date of Commencement

- 2.1 These Governance Rules commence on 1 September 2020.

#### 3. Contents

- 3.1 These Governance Rules are divided into the following Chapters:

- 3.1.1 Chapter 1 - Introduction
- 3.1.2 Chapter 2 - Council Meetings
- 3.1.3 Chapter 3 - Delegated Committee Meetings
- 3.1.4 Chapter 4 - Disclosure of Conflicts Of Interest
- 3.1.5 Chapter 5 – Confidential Information
- 3.1.6 Chapter 6 – Election Period Policy

#### 4. Definitions

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

- 4.1.1 ‘*Act*’ means the *Local Government Act 2020*.
- 4.1.2 ‘*agenda*’ means the notice of a meeting setting out the business to be transacted at the meeting;
- 4.1.3 ‘*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*;
- 4.1.4 ‘*Chief Executive Officer*’ includes an Acting Chief Executive Officer.
- 4.1.5 ‘*confidential information*’ has the same meaning as in the *Act*.
- 4.1.6 ‘*Council meeting*’ has the same meaning as in the *Act*.
- 4.1.7 ‘*Council Meetings Operations Policy*’ means the policy adopted by Council to guide the operation of certain aspects of Council and committee meetings.
- 4.1.8 ‘*Council*’ means Yarra City Council.
- 4.1.9 ‘*Delegated Committee*’ means a Delegated Committee established under section 63 of the *Act* or a Joint Delegated Committee established under section 64 of the *Act*.
- 4.1.10 ‘*election day*’ has the same meaning as in the *Act*.
- 4.1.11 ‘*election period*’ has the same meaning as in the *Act*.
- 4.1.12 ‘*electoral material*’ has the same meaning as in the *Act*.
- 4.1.13 ‘*electoral matter*’ has the same meaning as in the *Act*.
- 4.1.14 ‘*Mayor*’ means the Mayor of *Council*.
- 4.1.15 ‘*meeting conducted under the auspices of Council*’ means a meeting of the kind described in section 131(1) of the *Act* (whether such a meeting is known as a ‘Councillor Briefing’ or by some other name), and includes a meeting which:

- (a) is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
  - (b) is attended by a majority of Councillors;
  - (c) is attended by at least one member of Council staff; and
  - (d) is not a Council meeting or Delegated Committee meeting.
- 4.1.16 *'meeting rules'* means the rules for the conduct of Council Meetings set out at Chapter Two of *these Rules*.
- 4.1.17 *'member of a Delegated Committee'* includes a Councillor.
- 4.1.18 *'minute book'* means the collective record of proceedings of *Council*;
- 4.1.19 *'municipal district'* means the municipal district of *Council*;
- 4.1.20 *'notice of motion'* means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;
- 4.1.21 *'notice of rescission'* means a *notice of motion* to rescind a resolution made by *Council*; and
- 4.1.22 *'these Rules'* means these Governance Rules.
- 4.1.23 *'written'* includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form, and *writing* has a corresponding meaning.
- 4.2 Introductions to parts, headings and notes are explanatory notes and do not form part of *these rules*. They are provided to assist understanding.

## 5. Context

- 5.1 *These Rules* should be read in the context of and in conjunction with:
- 5.1.1 the overarching governance principles specified in section 9(2) of the *Act*; and
  - 5.1.2 the *Council Meetings Operations Policy* and any other relevant policies adopted or approved by *Council*.

## 6. Decision Making

- 6.1 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 make a decision:
- 6.1.1 fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
  - 6.1.2 on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- 6.2 *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).



## CHAPTER TWO - COUNCIL MEETINGS

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*The purpose of this Chapter is to provide for the election of the Mayor and Deputy Mayor, provide for the appointment of any Acting Mayor; and provide for the procedures governing the conduct of Council meetings.*

### PART A – ELECTION OF MAYOR

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

#### 1. Election of the Mayor

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

#### 2. Method of Voting

- 2.1 The election of the *Mayor* must be carried out by a show of hands.

#### 3. Determining the election of the Mayor

- 3.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- 3.2 Any nominations for the office of *Mayor* must be:
- 3.2.1 moved by a Councillor, and
  - 3.2.2 accepted by the nominee, either in person at the meeting or in writing.
- 3.3 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:
- 3.3.1 if there is only one nomination, the candidate nominated must be declared to be duly elected;
  - 3.3.2 if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;
  - 3.3.3 in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
  - 3.3.4 in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
  - 3.3.5 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;
  - 3.3.6 in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate, the declaration will be determined by lot.
  - 3.3.7 if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
    - (a) the name of each candidate shall be placed in a receptacle.
    - (b) the *Chief Executive Officer* shall draw one name from the receptacle.
    - (c) the candidate whose name is drawn shall be declared a defeated candidate.

- 3.3.8 If there are two candidates remaining and neither of them receives an absolute majority of votes, the election is declared invalid and the Council may resolve to:
- (a) conduct a further election immediately; or
  - (b) conduct the election at a later time or date.

**4. Election of Deputy Mayor and Chairs of Delegated Committees**

- 4.1 Any election for:
- 4.1.1 any office of Deputy Mayor; or
  - 4.1.2 the Chair of a Delegated Committee
- 4.2 will be regulated by Rules 1 to 3 (inclusive) of this Chapter, as if the reference to the:
- 4.2.1 Chief Executive Officer is a reference to the Mayor; and
  - 4.2.2 *Mayor* is a reference to the Deputy Mayor or the Chair of the *Delegated Committee* (as the case may be).

**5. Appointment of Acting Mayor**

- 5.1 If it becomes required to appoint an Acting Mayor, *Council* can do so by:
- 5.1.1 resolving that a specified Councillor be so appointed; or
  - 5.1.2 following the procedure set out in Rules 1 to 3 (inclusive) of this Chapter,
- 5.2 at its discretion.

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## PART B – MEETINGS 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, when and how business may be transacted at a meeting.*

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

#### 6. Dates and Times of Meetings Fixed by Council

6.1 Subject to Rule 8, *Council* must from time to time fix the date, time and place of all *Council meetings*.

#### 7. Council May Alter Meeting Dates

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

#### 8. Meetings Not Fixed by Council

8.1 The *Mayor* or at least three Councillors may by a *written* notice call a *Council meeting*.

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

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

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

#### 9. Notice Of Meeting

9.1 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 24 hours before the meeting.

9.2 Notwithstanding sub-Rule 9.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in *writing* to continue to give notice of any meeting during the period of his or her absence.

9.3 Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this by publishing details of the meeting on its website as soon as practicable after the meeting has been scheduled.

### Division 2 – Quorums

#### 10. Inability To Obtain A Quorum

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

10.1.1 the meeting will be deemed to have lapsed;

10.1.2 the *Mayor* must convene another *Council meeting*, the *agenda* for which will be identical to the *agenda* for the lapsed meeting; and

10.1.3 the *Chief Executive Officer* must give all Councillors *written* notice of the meeting convened by the *Mayor*.

#### 11. Inability To Maintain A Quorum

11.1 If during any *Council meeting*, a quorum cannot be maintained then Rule 10 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.

11.2 Sub-Rule 11.1 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.

## 12. Adjourned Meetings

12.1 *Council* may adjourn any meeting to another date, time or place.

12.2 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.

12.3 If it is impracticable for the notice given under sub-Rule 12.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.

## 13. Time limits for Meetings

13.1 A *Council meeting* must not continue after 11.00pm unless a majority of Councillors present vote in favour of it continuing.

13.2 A meeting cannot be continued for more than 30 minutes (or a further 30 minutes, if a majority of Councillors has already voted to continue it for 30 minutes).

13.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of sub-Rules 12.2 and 12.3 apply.

## 14. Cancellation or Postponement of a Meeting

14.1 The *Chief Executive Officer* may, in the case of an emergency necessitating the cancellation or postponement of a *Council meeting*, cancel or postpone a *Council meeting*.

## Division 3 – Business of Meetings

### 15. Agenda and the Order Of Business

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

### 16. Change To Order Of Business

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

### 17. Urgent Business

17.1 If the *agenda* for a *Council meeting* makes provision for urgent business, business can only be admitted as urgent business if the *Chair* has been given written notice and portent of the proposed matter to be raised and has approved the admittance of the item and only then if it:

17.1.1 relates to or arises out of a matter which has arisen since distribution of the *agenda*; and

17.1.2 cannot safely or conveniently be deferred until the next *Council meeting*.

## Division 4 – Motions and Debate

### 18. Councillors May Propose Notices Of Motion

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

### 19. Notice Of Motion

19.1 A notice of motion must be in writing signed by a Councillor, and be lodged with or sent to the Chief Executive Officer five clear days before the scheduled commencement of the meeting.

19.2 The Chief Executive Officer may reject any notice of motion which:

- 19.2.1 is vague or unclear in intention
- 19.2.2 it is beyond *Council's* power to pass; or
- 19.2.3 if passed would result in *Council* otherwise acting invalidly

19.3 but must:

- 19.3.1 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
- 19.3.2 notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.

- 19.4 The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.
- 19.5 The *Chief Executive Officer* must cause all notices of motion to be dated and numbered in the order in which they were received.
- 19.6 Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were received.
- 19.7 If a Councillor who has given a *notice of motion* is absent from the meeting or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- 19.8 If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.

**20. Chair's Duty**

- 20.1 Any motion which is determined by the *Chair* to be:
  - 20.1.1 defamatory;
  - 20.1.2 objectionable in language or nature;
  - 20.1.3 vague or unclear in intention;
  - 20.1.4 outside the powers of *Council*; or
  - 20.1.5 irrelevant to the item of business on the *agenda* and has not been admitted as urgent, or purports to be an amendment but is not,must not be accepted by the *Chair*.

**21. Introducing a Report**

- 21.1 Before a *written* report is considered by *Council* and any motion moved in relation to such report, a member of Council staff may introduce the report by indicating in not more than two minutes:
  - 21.1.1 its background; or
  - 21.1.2 the reasons for any recommendation which appears.
- 21.2 Unless *Council* resolves otherwise, a member of Council staff need not read any written report to *Council* in full.

**22. Introducing A Motion or an Amendment**

- 22.1 The procedure for moving any motion or amendment is:
  - 22.1.1 the mover must state the motion without speaking to it;
  - 22.1.2 the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
  - 22.1.3 if a motion or an amendment is moved and seconded the *Chair* must ask: "Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"



22.1.4 if no Councillor indicates opposition or a desire to speak to it, the *Chair* may put the motion to the vote without discussion;

22.2 if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;

22.3 after the mover has addressed the meeting, the seconder may address the meeting;

22.4 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and

22.5 if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

### **23. Right Of Reply**

23.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.

23.2 After the right of reply has been taken but subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

### **24. Moving An Amendment**

24.1 Subject to sub-Rule 24.2 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.

24.2 A motion to confirm a previous resolution of *Council* cannot be amended.

24.3 An amendment must not be directly opposite to the motion.

### **25. Who May Propose An Amendment**

25.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.

25.2 Any one Councillor cannot move more than two amendments in succession.

### **26. How Many Amendments May Be Proposed**

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

26.2 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.

### **27. An Amendment Once Carried**

27.1 If the amendment is carried, the motion as amended then becomes the motion before the meeting.

27.2 The mover of the original motion retains the right of reply to that motion.

### **28. Foreshadowing Motions**

28.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.

28.2 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.

28.3 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.

28.4 The *Chair* is not obliged to accept foreshadowed motions.

**29. Withdrawal Of Motions**

29.1 Before any motion is put to the vote, it may be withdrawn by the mover or seconder.

29.2 If a motion is withdrawn, the *Chair* may invite another Councillor to move or second the motion, as the case requires.

29.3 If a Councillor moves or seconds the motion, then debate resumes.

29.4 If no Councillor moves or seconds the motion, then it lapses.

**30. Separation Of Motions**

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

**31. Chair May Separate Motions**

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

**32. Priority of address**

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

**33. Motions In Writing**

33.1 The *Chair* may require that a complex or detailed motion be in writing.

33.2 *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.

**34. Repeating Motion and/or Amendment**

34.1 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.

**35. Debate Must Be Relevant To The Motion**

35.1 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.

35.2 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 not to speak further in respect of the motion then before the Chair.

35.3 A speaker to whom a direction has been given under sub-Rule 35.2 must comply with that direction.

**36. Speaking Times**

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

36.1.1 the mover of a motion or an amendment: five minutes;

36.1.2 any other Councillor: three minutes;

36.1.3 the mover of a motion exercising a right of reply: two minutes.

**37. Addressing the Meeting**

37.1 If the *Chair* so determines:

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

(a) Mayor; or

(b) Deputy Mayor; or

- (c) Acting Mayor; or
- (d) Chair

37.1.2 as the case may be;

37.2 all Councillors, other than the *Mayor and Deputy Mayor*, must be addressed as:

37.2.1 Cr ..... (name).

37.3 all members of Council staff, must be addressed by name as appropriate or by their official title.

### 38. Right to Ask Questions

38.1 A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the Chair.

38.2 The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

## Division 5 – Procedural Motions

### 39. Procedural Motions

39.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.

39.2 Procedural motions require a seconder.

39.3 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:

Procedural Motion	Adjournment of debate to later hour and/or date	Adjournment of debate indefinitely	The closure
<b>Form</b>	That this matter be adjourned to *am/pm and/or *date	That this matter be adjourned until further notice	That the motion be now put
<b>Mover and Secunder</b>	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion
<b>When Motion Prohibited</b>	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking; or (c) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	During nominations for a <i>Chair</i>
<b>Effect if Carried</b>	Motion and amendment is postponed to the stated time and/or date	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising

			his or her right to ask any question concerning or arising out of the motion
<b>Effect if Lost</b>	Debate continues unaffected	Debate continues unaffected	Debate continues unaffected
<b>Debate Permitted on Motion</b>	Yes	Yes	No

## Division 6 – Rescission Motions

### 40. Notice of Rescission

*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*

40.1 A Councillor may propose a *notice of rescission* provided:

40.1.1 it has been signed and dated;

40.1.2 the resolution proposed to be rescinded has not been acted on; and

40.1.3 the *notice of rescission* is delivered to the *Chief Executive Officer* by 11.00am on the day after the meeting at which the resolution was made setting out -

(a) the resolution to be rescinded; and

(b) the meeting and date when the resolution was carried.

40.2 A resolution will be deemed to have been acted on if:

40.2.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or

40.2.2 a statutory process has been commenced

so as to vest enforceable rights in or obligations on *Council* or any other person.

40.3 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:

40.3.1 has not been acted on; and

40.3.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 40.1.3,

unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

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

*In these circumstances, deferring implementation of the resolution would have the effect of depriving the resolution of efficacy. This is because the notice of rescission would not be debated until after the very thing contemplated by the resolution had come and gone. In other words, by the time the notice of rescission was dealt with the opportunity for legal representation at the planning appeal would have been lost.*

*Sub-Rule 40.3 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.*

**41. If Lost**

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

**42. If Not Moved**

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

**43. May Be Moved By Any Councillor**

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

**44. When Not Required**

44.1 Unless sub-Rule 44.2 applies, a motion for rescission is not required where *Council* wishes to change policy.

44.2 The following standards apply if *Council* wishes to change policy:

44.2.1 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

44.2.2 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**

**45. Chair To Decide**

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

**46. Chair May Adjourn To Consider**

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

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

**47. Procedure For Point Of Order**

47.1 A Councillor raising a point of order must:

47.1.1 state the point of order; and



47.1.2 state any section, Rule, paragraph or provision relevant to the point of order.

#### 48. Valid Points Of Order

*Expressing a difference of opinion or to contradict a speaker is not a point of order*

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

- 48.1.1 a motion, which, under Rule 20, or a question which, under Rule 49, should not be accepted by the *Chair*;
- 48.1.2 a question of procedure; or
- 48.1.3 any act of disorder.

### Division 8 – Public Question Time and Public Submissions

#### 49. Question Time

- 49.1 There must be a public question time at every *Council meeting* fixed under Rule 6 to enable members of the public to submit questions to *Council*.
- 49.2 There must be an opportunity for members of the public to make a submission to *Council* in relation to every matter presented for consideration at a *Council meeting*.
- 49.3 Nothing in sub-Rule 49.2 requires *Council* to hear submissions from a member of the public at a *Council meeting* or part of a Council meeting closed to members of the public in accordance with section 66 of the *Act*.
- 49.4 If the *Chair* is of the opinion that the number of questions or submissions makes it desirable to limit the number of questions or submissions taken or reduce the time available to each submitter, they may make such reasonable adjustments to the process as may be necessary.
- 49.5 A question may be disallowed by the *Chair* if the *Chair* determines that it:
  - 49.5.1 relates to a matter outside the duties, functions and powers of *Council*;
  - 49.5.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - 49.5.3 deals with a subject matter already answered;
  - 49.5.4 is aimed at embarrassing a Councillor or a member of Council staff; or
  - 49.5.5 relates to *confidential information*;

### Division 9 – Petitions and Joint Letters

#### 50. Petitions and Joint Letters

- 50.1 Unless *Council* determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) 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.
- 50.2 It is incumbent on every Councillor presenting a petition or joint letter to acquaint themselves with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to *Council*.
- 50.3 Every Councillor presenting a petition or joint letter to *Council* must:
  - 50.3.1 write or otherwise record his or her name at the beginning of the petition or joint letter; and
  - 50.3.2 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.

- 50.4 Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 12 people.
- 50.5 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- 50.6 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*.
- 50.7 Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 50.8 If a petition, joint letter, memorial or other like application relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.

## Division 10 – Voting

### 51. How Motion Determined

- 51.1 To determine a motion before a meeting, the *Chair* must call for those in favour of the motion and then declare the result to the meeting.

### 52. Silence

- 52.1 Voting must take place in silence.

### 53. Recount

- 53.1 The *Chair* may direct that a vote be recounted to satisfy themselves of the result.

### 54. Casting Vote

- 54.1 In the event of a tied vote, the *Chair* must, unless the *Act* provides otherwise, exercise a casting vote.

### 55. By Show Of Hands

- 55.1 Voting on any matter is by show of hands.

### 56. Procedure For A Division

- 56.1 Immediately prior to, or immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- 56.2 When a division is called for, any vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.
- 56.3 When a division is called for, the *Chair* must:
  - 56.3.1 first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the affirmative; and
  - 56.3.2 declare the result.
- 56.4 The *Chief Executive Officer* or any *authorised officer* must record the names of those Councillors present at the meeting during a division who, by virtue of section 61(5)(f) of *the Act*, are taken to have voted against the question.

### 57. No Discussion Once Declared

- 57.1 Once a vote on a question has been taken, no further discussion relating to the question is allowed unless the discussion involves:

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

*For example, Rule 57 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.*

*Equally, Rule 57 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.*

*Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in sub-Rule 57.3, to discussion about a positive motion were a resolution has just been rescinded.*

## Division 11 – Minutes

### 58. Confirmation of Minutes

- 58.1 At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
- 58.1.1 a copy of the minutes must be delivered to each Councillor no later than 24 hours before the meeting;
  - 58.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;
  - 58.1.3 if a Councillor indicates opposition to the minutes:
    - (a) they must specify the item(s) to which they objects;
    - (b) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
    - (c) the Councillor objecting must move accordingly without speaking to the motion;
    - (d) the motion must be seconded;
    - (e) the *Chair* must ask:  
"Is the motion opposed?"
    - (f) if no Councillor indicates opposition, then the *Chair* must declare the motion carried without discussion and then ask the second of the questions described in sub-Rule 58.1.3(k);
    - (g) if a Councillor indicates opposition, then the *Chair* must call on the mover to address the meeting;
    - (h) after the mover has addressed the meeting, the seconder may address the meeting;
    - (i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
    - (j) if, after the mover has addressed the meeting, the *Chair* invites debate and no Councillor speaks to the motion, the *Chair* must put the motion; and
    - (k) the *Chair* must, after all objections have been dealt with, ultimately ask:

"The question is that the minutes be confirmed" or

"The question is that the minutes, as amended, be confirmed",

and they must put the question to the vote accordingly;

58.1.4 a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed; and

58.1.5 the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively.

#### **59. No Debate on Confirmation Of Minutes**

59.1 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.

#### **60. Deferral Of Confirmation Of Minutes**

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

#### **61. Form and Availability of Minutes**

61.1 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:

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

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

61.1.3 the names of the members of Council staff present;

61.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5;

61.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;

61.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);

61.1.7 the vote cast by each Councillor upon a division and the names of all Councillors present during the division

61.1.8 the vote cast by any Councillor who has requested that his or her vote be recorded in the minutes;

61.1.9 questions upon notice;

61.1.10 the failure of a quorum;

61.1.11 any adjournment of the meeting and the reasons for that adjournment; and

61.1.12 the time at which standing orders were suspended and resumed.

61.2 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are published on Council's website.

61.3 Nothing in sub-Rule 61.2 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

### 62. Public Addressing The Meeting

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

### 63. Chair May Remove

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

- 63.1 The *Chair* may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 62.2.

### 64. Chair may close a meeting

- 64.1 If the *Chair* considers it necessary to close the meeting to the public for security reasons or considers it is necessary to do so to enable the meeting to proceed in an orderly manner and the Council or delegated committee has made arrangements to enable the proceedings of the meeting to be viewed by members of the public as the meeting is being held, they may close the meeting to the public and may order and cause the removal of any person, other than a Councillor.

### 65. Chair may adjourn a meeting

- 65.1 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*, they may adjourn the meeting to a later time on the same day or to some later day as they think proper. In that event, the provisions of sub-Rules 12.2 and 12.3 apply.

### 66. Removal from Chamber

- 66.1 The *Chair*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer* or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the gallery under Rule 67.

## Division 13 – Additional Duties of Chair

### 67. The Chair's Duties And Discretions

- 67.1 In addition to the duties and discretions provided in this Chapter, the *Chair*:
- 67.1.1 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
- 67.1.2 must call to order any person who is disruptive or unruly during any meeting.



## Division 14 – Suspension of Standing Orders

### 68. Suspension of 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.*

- 68.1 To expedite the business of a meeting, *Council* may suspend standing orders.
- 68.2 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:
- 68.3 "That standing order be suspended to enable discussion on....."
- 68.4 No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.
- 68.5 Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:
- 68.6 "That standing orders be resumed."

## Division 15 – Miscellaneous

### 69. Meetings Conducted Remotely

69.1 If:

- 69.1.1 by law a meeting may be conducted electronically; and
- 69.1.2 *Council* decides that a meeting is to be conducted electronically,

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

### 70. Procedure not provided in this Chapter

- 70.1 In all cases not specifically provided for by this Chapter, resort must be had to the Standing Orders and Rules of Practice of the Upper House of the Victorian Parliament (so far as the same are capable of being applied to *Council* proceedings).

### 71. Criticism of members of Council staff

- 71.1 The *Chief Executive Officer* may make a brief statement at a *Council meeting* in respect of any statement by a Councillor made at the *Council meeting* criticising them or any member of Council staff.
- 71.2 A statement under sub-Rule 71.1 must be made by the *Chief Executive Officer*, through the *Chair*, as soon as it practicable after the Councillor who made the statement has completed speaking.

## CHAPTER THREE - DELEGATED COMMITTEE MEETINGS

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### 1. Meeting Procedure Generally

1.1 If Council establishes a Delegated Committee:

1.1.1 all of the provisions of Chapter 2 apply to meetings of the *Delegated Committee*; and

1.1.2 any reference in Chapter 2 to:

- (a) a *Council meeting* is to be read as a reference to a *Delegated Committee* meeting;
- (b) a Councillor is to be read as a reference to a member of the *Delegated Committee*; and
- (c) the Mayor is to be read as a reference to the Chair of the *Delegated Committee*.

### 2. Meeting Procedure Can Be Varied

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

2.1.1 *Council* may; or

2.1.2 the *Delegated Committee* may, with the approval of *Council*

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

## CHAPTER FOUR - DISCLOSURE OF CONFLICTS OF INTEREST

### 1. Introduction

- 1.1 The following Rules in this Chapter apply only upon Division 1A of Part 4 of the *Local Government Act 1989* being repealed.

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

- 2.1 A Councillor who has a conflict of interest in a matter being considered at a *Council meeting* at which they are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting* before the matter is considered.; or
- 2.2 A Councillor who has a conflict of interest in a matter being considered at a Council meeting at which they intend to be present 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
- 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,
- and then before the matter is considered at the meeting announcing to those present that they have a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.
- 2.3 The Councillor must, in either event, leave the *Council meeting* before the matter is considered at the meeting and not return to the meeting until after the matter has been disposed of.

### 3. Disclosure of Conflict of Interest at a Delegated Committee Meeting

- 3.1 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 are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Delegated Committee* meeting before the matter is considered; or
- 3.2 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 intend to be present 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
- 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,
- and then before the matter is considered at the meeting announcing to those present that they has a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

- 3.2.4 The member of a *Delegated Committee* must, in either event, leave the *Delegated Committee* meeting before the matter is considered at the meeting and not return to the meeting until after the matter has been disposed of.

**4. Disclosure at a Meeting Conducted Under the Auspices of Council**

- 4.1 A Councillor who has a conflict of interest in a matter being considered by a *meeting held under the auspices of Council* at which they are present must:
- 4.1.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting before the matter is considered;
  - 4.1.2 absent themselves from any discussion of the matter; and
  - 4.1.3 as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.

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

- 5.1 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:
- 5.1.1 *Council meeting*;
  - 5.1.2 *Delegated Committee* meeting;
- 5.2 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.
- 5.3 The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 7.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.
- 5.4 If the member of Council staff referred to in sub-Rule 5.1 is the *Chief Executive Officer*:
- 5.4.1 the written notice referred to in sub-Rule 5.1 must be given to the *Mayor*; and
  - 5.4.2 the obligation imposed by sub-Rule 5.1 may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

- 6.1 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.
- 6.2 If the member of Council staff referred to in sub-Rule 6.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

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

- 7.1 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.
- 7.2 If the member of Council staff referred to in sub-Rule 7.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

**8. Retention of Written Notices**

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

## CHAPTER FIVE – CONFIDENTIAL INFORMATION

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### *This Chapter*

#### **1. Confidential Information**

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

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## CHAPTER SIX – ELECTION PERIOD POLICY

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### PART A – PRELIMINARY

#### *This Part*

#### **1. Policy objectives**

1.1 The Objectives of the Election Period Policy are:

- 1.1.1 to ensure the highest standard of good governance is achieved by the incumbent Councillors and all Council staff; and
- 1.1.2 to ensure that Council elections are conducted in an environment that is open and fair to all candidates by outlining the use of Council resources, Council publications, functions and events, requests for information, liaisons with the media and Councillor expenditure in the lead up to an election; and
- 1.1.3 to supplement the requirements of the Act with additional measures to ensure that best practice is achieved in transparency and independence.

#### **2. Definitions**

2.1 For the avoidance of doubt, the election period in respect of:

- 2.1.1 the 2020 Council Election commences at 12 noon on Tuesday 22 September and concludes at 6.00pm on Saturday 24 October 2020.
- 2.1.2 the 2024 Council Election commences at 12 noon on Tuesday 24 September and concludes at 6.00pm on Saturday 26 October 2024.
- 2.1.3 the 2028 Council Election commences at 12 noon on Tuesday 26 September and concludes at 6.00pm on Saturday 28 October 2028.



## PART B – APPLICATION

### *This Part*

#### **3. Candidates for election**

- 3.1 Councillors are expected to comply with this policy, regardless of whether or not they have nominated as candidates for election.
- 3.2 Members of Council committees and advisory groups (other than Councillors) who are candidates for election are expected to comply with this policy and in addition:
  - 3.2.1 submit apologies for any committee meetings or other committee activities held during the election period;
  - 3.2.2 return any council equipment, documents or information which is not available to the public for the duration of the election period; and
  - 3.2.3 immediately resign from the committee upon election.
- 3.3 Council staff who are candidates for election are expected comply with this policy and in addition:
  - 3.3.1 take leave from their duties for the duration of the election period (if not enough paid leave is accrued, unpaid leave will be available for this purpose);
  - 3.3.2 return any Council equipment (including, but not limited to, motor vehicles, telephones, computers, swipe cards and keys), documents or information which is not available to the public for the duration of the election period; and
  - 3.3.3 immediately resign upon election.
- 3.4 Other candidates for election are expected to voluntarily comply with the obligations of this policy where they apply.

#### **4. Other persons**

- 4.1 All Councillors, members of Council committees and Council staff are bound by this policy insofar as it relates to the provision of support for candidates for election.

#### **5. Application of the Staff Code of Conduct**

- 5.1 For the avoidance of doubt, the establishment of this policy does not abrogate from the obligation of Council Staff to adhere to the Staff Code of Conduct with respect to electoral activities. The Code of Conduct states that “a conflict of interest occurs where your personal, financial or other interest conflicts with the performance of your Council duties”. The provision of support to a candidate at the Yarra City Council election would constitute a conflict of interest under this policy and is therefore prohibited.
- 5.2 Such support includes, but is not limited to:
  - 5.2.1 providing advice to candidate
  - 5.2.2 distributing or preparing campaign material
  - 5.2.3 fundraising
  - 5.2.4 making a cash or in kind campaign donation
  - 5.2.5 permitting or placing electoral signage on their property
- 5.3 The Staff Code of Conduct does not limit the ability of a member of Council staff to support the candidature of a person in a different municipal election or in state or federal elections.
- 5.4 A staff member may not support or participate in any campaign activity for any candidate standing for election at the Yarra City Council election.

## PART C – POLICY

### *This Part*

#### **6. Council resources**

- 6.1 In accordance with Section 69 of the Act, Council will ensure that probity is observed in the use of all Council resources during the election period, and Council staff are required to exercise appropriate discretion in that regard. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice will be sought from the Chief Executive Officer.
- 6.2 In determining whether the use of Council resources during the election period is appropriate, candidates will have regard to whether these same resources are available to other candidates at the election. These restrictions apply regardless of whether such use comes at no cost to Council and include, but are not limited to:
  - 6.2.1 The use by a candidate of a Council provided computer for the preparation of campaign material is not permitted, apart from a publicly provided computer in a library or community facility.
  - 6.2.2 The use of a Council provided mobile telephone for making campaign related calls, messages, emails, photographs or social media is not permitted. While it is acknowledged that the receipt of communications cannot be controlled, candidates shall not encourage campaign related communication by this means.
  - 6.2.3 The use of a photograph in campaign materials that was taken by a member of Council staff or a photographer engaged by Council is not permitted.
  - 6.2.4 The use of Council administrative facilities such as offices, meeting rooms, support staff, hospitality services, equipment and stationery in connection with any election campaign is not permitted.
- 6.3 Reimbursements of candidates' 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.
- 6.4 No Council livery, including logos, publications, letterheads, or other Yarra City Council branding will be used for, or linked in any way to, a candidate's election campaign.
- 6.5 Council telephone numbers and email addresses are not to be used in candidate election material.
- 6.6 Officers will not assist in preparing candidate election material.
- 6.7 Officers will not provide candidates with access to databases, contact lists, property counts, email addresses or any other information that would assist in mailing or other distribution of election material. Any such Council information already in the possession of candidates is subject to the provisions of the Privacy and Data Protection Act 2014 and cannot be used for electoral purposes.

#### **7. Information**

- 7.1 The Council recognises that all election candidates have certain rights to information from the Council administration. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support an election campaign.

- 7.2 Information and briefing material prepared by staff or the Victorian Electoral Commission during the election period will relate only to factual matters or to existing Council services. Such information 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.
- 7.3 Public consultation of a limited kind normally associated with the routine administration of planning, building, traffic, parking or other matters will continue through the election period. However significant community or ward-wide consultation on major strategy or policy issues will not occur, or if already commenced, will be suspended during the election period.

## **8. Council publications**

- 8.1 Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any electoral material during the election period.
- 8.2 Council will suspend the publication and distribution of Yarra News or any similar publication during the election period.
- 8.3 During the election period, Council will restrict Councillor details on the Council website to Councillor names, the ward they represent and their contact details.
- 8.4 For the avoidance of doubt, this policy does not prevent candidates from publishing their own campaign material from their own funds outside the Council, and not bearing any reference or inference that such material is from the Council, supported or endorsed by the Council and must not bear any Council identification such as logos or similar. Candidates must ensure that such publications comply with the requirements of the Act.

## **9. Publicity**

- 9.1 It is recognised that Council publicity is intended to promote Council activities and services. Council publicity will not be used in any way that might influence the outcome of a Council election.
- 9.2 During the election period, no Council employee may make any public statement as a spokesperson for Council that could be construed as influencing the election. This does not include statements of clarification that are approved by the Chief Executive Officer.
- 9.3 During the election period, publicity campaigns, other than for the purpose of conducting the election, will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council service or function, it must be approved by the Chief Executive Officer. In any event, Council publicity during the election period will be restricted to promoting normal Council activities.
- 9.4 Any requests for media advice or assistance from Councillors during the election period will be channelled through the Chief Executive Officer, or the Chief Executive Officer's designated delegate. In any event, no media advice or assistance will be provided in relation to election campaign matters, or in regard to publicity that involves specific Councillors.
- 9.5 Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of an election campaign.

## **10. Decisions**

- 10.1 Council must not make any decision during the election period for a general election that:
  - 10.1.1 relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
  - 10.1.2 commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
  - 10.1.3 the Council considers could be reasonably deferred until the next Council is in place; or

10.1.4 the Council considers should not be made during an election period.

10.1.5 Council must not make any decision 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.

10.2 Council notes that the restriction on the making of decisions is not intended to delay the routine making of administrative and operational decisions by Council officers under delegation.

## **11. Conduct of Council Meetings**

11.1 The following modifications will be made to the conduct of Council Meetings during the election period:

11.1.1 Public question time will be suspended.

11.1.2 Submissions made by members of the public in relation to matter listed on the agenda shall be submitted in writing and in advance. Those submissions shall be presented at the Council meeting provided the submitter is present and the submission is limited in scope to a matter before Council and does not contain electoral matter.

11.1.3 Councillors will limit their discussion during debate to the topic under consideration and will avoid raising electoral matter where possible.

11.1.4 Councillors will not raise items of general business or questions without notice that contain or relate to electoral matter.

11.2 No officer report shall be presented to Council during the election period unless it contains an express statement by the Chief Executive Officer that a decision on that matter would not be contrary to this policy.

## **12. Events and Functions**

12.1 Council will suspend its program of Ward Meetings during the election period.

12.2 Councillors are able to continue to attend meetings, events and functions during the election period which are relevant to the Council and the community.

12.3 Council's annual program of events will continue during the election period however speeches will be limited to a short welcome, and should not contain any express or implied reference to the election. Any publicity will be mindful of the controls on electoral material outlined in these guidelines.

12.4 Councillors are able to attend events or functions conducted by external bodies during the election period, however when attending as a representative of Council, Councillors must be mindful that they do not use that opportunity to promote their election campaign.

## **13. Assistance to Candidates**

13.1 The Council affirms that all candidates for the Council election will be treated equally.

13.2 All election related inquiries from candidates will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer.