

Mayoral Election

Directions Paper 1 Governance Rules Review 2022



Background

The 2021 experience of electing a Mayor revealed a shortcoming in the Governance Rules regarding the process to be followed in the event of a tied vote between two Mayoral candidates. While the legal advice confirmed that the rules were not deficient in this regard, the specific provisions were not immediately clear to the reader.

What can be improved?

There are two identified opportunities for improvement in the way the Governance Rules set out the process for electing a Mayor (and Deputy Mayor). They are:

- Greater clarity regarding the process when there is a tied vote and only two candidates remain.
- Recording of votes in a Mayoral election in the meeting minutes.

What do other Councils do?

A benchmarking exercise has been conducted to determine the approach taken among the M9 group of Councils.

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none">• Nomination does not require a seconder• Silent on ability to speak to nomination (practice is to allow it)• Elimination process requires CEO to draw a name
Darebin	<ul style="list-style-type: none">• Nomination must be seconded• Speaking to nomination is forbidden• Different elimination process (Councillors draw their own ballots in surname order)• Rules state that only a 'majority' is required, not an 'absolute majority'
Hobsons Bay	<ul style="list-style-type: none">• Nomination does not require a seconder• No provision to eliminate candidates if an absolute majority cannot be achieved
Maribyrnong	<ul style="list-style-type: none">• Nomination does not require a seconder• Different elimination process (Councillors draw their own ballots in surname order)
Melbourne	<i>Not applicable</i>
Moonee Valley	<ul style="list-style-type: none">• Nomination must be seconded• Different elimination process (Councillors draw their own ballots in surname order)
Moreland	<ul style="list-style-type: none">• Nomination must be seconded• Specific statement that a candidate cannot be elected without an absolute majority• In the event of a tied vote without absolute majority, a second vote is immediately conducted. If a tie remains, an automatic deferral to 6pm the next day is triggered.• Different elimination process (Councillors draw their own ballots in surname order)

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none">• Nomination does not require a seconder• Silent on ability to speak to nomination (practice is to allow it)• Elimination process requires CEO to draw a name
Port Phillip	<ul style="list-style-type: none">• Nomination must be seconded• Different elimination process (Councillors draw their own ballots in surname order)
Stonnington	<ul style="list-style-type: none">• Nomination must be seconded• Right to speak to nomination is provided• Different elimination process (Councillors draw their own ballots in surname order)

What approach could we take?

While the election process is largely the same across the M9 Councils, there are some minor differences between them. It is recommended that the following elements of Yarra's rules remain unchanged from the current arrangement:

- Nominations do not require a seconder (giving every Councillor a right to be considered for the role)
- Where required, elimination takes place by the CEO drawing a name from a hat (a straightforward and easily understood process)

It is recommended that the process be adjusted, with the inclusion of the following additions:

- Specific statement that the election of Mayor requires an absolute majority (as is the case at Moreland)
- Inclusion of the entitlement for all candidates to address the meeting before the election is conducted.
- A prescribed process for what to do if two candidates remains and an absolute majority cannot be obtained (modelled on Moonee Valley, with a further vote taken immediately and then, if the deadlock remains, a further election scheduled for the following day).
- A specific statement that candidature cannot be withdrawn once accepted (which is implied but not currently expressly stated).
- A specific provision describing how the process is recorded in the meeting minutes (reflecting current practice).

How would we give effect to these changes?

The amendments required to the Governance Rules to give effect to the proposed changes to the Mayoral election process shown overleaf.

Proposed changes to Chapter Two, Part A – Election of Mayor

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:
- 3.2.9 moved by a Councillor, and
- 3.2.10 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 *Chief Executive Officer* shall confirm that no further nominations shall be accepted. At that point, nominees become candidates for election and their candidature cannot be withdrawn.
- 3.4 Each nominee shall then be provided up to five minutes to address the Council, in the order in which their nominations were received.

4. When there are three or more candidates

- 4.1 If there are three or more candidates (or three or more remaining candidates after the completion of the process in this Rule), the following provisions will govern the election of the *Mayor*:
- 4.1.1 The Councillors present at the meeting must vote for one of the candidates;
- 4.1.2 In the event of a candidate receiving an *absolute majority* of the votes, that candidate is declared to have been elected;
- 4.1.3 If 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 a candidate with the fewest number of votes must be declared to be a defeated candidate in accordance with the following provisions:
- (a) The candidate with the fewest number of votes must be is declared to be a defeated candidate.
- (b) In the event of If two or more candidates having have an equality equal lowest number of votes and one of them having to be declared a the defeated candidate is the declaration will be determined by lot in accordance with the following provisions:
- 4.1.4 If a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
- (i) the name of each candidate shall be is placed in a receptacle.
- (ii) the *Chief Executive Officer* shall draws one name from the receptacle.
- (iii) the candidate whose name is drawn shall be is declared a defeated candidate.
- 4.2 Following the declaration of a candidate as a defeated candidate under sub-rule 6.1.3, all previous votes are declared invalid, and the process returns to Rule 4 or Rule 5 (as applicable) with all remaining candidates.
- 4.2.1 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;~~

5. When there are two candidates

- 5.1 ~~If there is more than one~~ are two candidates (or two remaining candidates after the completion of the process in Rule 4) nomination, the following provisions will govern the election of the Mayor:
- 5.1.1 The Councillors present at the meeting must vote for one of the candidates;
 - 5.1.2 In the event of a candidate receiving an *absolute majority* of the votes, that candidate is declared to have been elected;
 - 5.1.3 ~~If there are two candidates remaining and neither of them~~ candidate receives an *absolute majority* of votes, the election is ~~declared invalid and a further round of voting is conducted immediately.~~ votes are declared invalid and a further round of voting is conducted immediately.
 - 5.1.4 If, after a second round of voting, neither candidate receives an *absolute majority* of votes, the election is declared invalid and the Council may must resolve to:
 - (a) conduct a further election immediately; or
 - (b) ~~conduct the a further election at a later time or date~~ as soon as practicable but no later than seven days after the current meeting.

When there is one candidate

- 5.1 If there is only one candidate nomination, that candidate ~~nominated~~ must be declared to be duly elected;

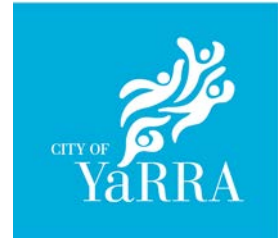
Proposed changes to Chapter Two, Part B – Meeting Procedure

59. Form and Availability of Minutes

- 59.1 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:
- ...
- 59.1.13 the proceedings of any vote for Mayor or Deputy Mayor:
- (a) the name of each Councillor nominated as a candidate and the name of the Councillor nominating them
 - (b) the name of each candidate eligible for election in each round of voting
 - (c) the vote of each Councillor in each round of voting
 - (d) the outcome of any drawing of lots conducted during the election
 - (e) the outcome of the election

Urgent Business

Directions Paper 2 Governance Rules Review 2022



Background

Urgent Business provides an opportunity for the Chief Executive Officer (who is responsible for setting the agenda of Council Meetings under section 46(2)(d) of the Local Government Act 2020) to add items of business that have arisen after the production of the agenda and cannot be safely deferred to a subsequent meeting.

What can be improved?

The existing provisions relating to the admission of Urgent Business are working well, but partly appear in both the Governance Rules and the Council Meetings Operations Policy. This arrangement is unclear to many readers.

What do other Councils do?

A benchmarking exercise has been conducted to determine the approach taken among the M9 group of Councils. In all cases, for an item to be considered as urgent business, it must be a matter that has arisen after the production of the agenda and cannot be safely deferred to a subsequent meeting.

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none">• Must be submitted by the Chief Executive Officer after consulting the Mayor• Mayor's approval required for admission
Darebin	<p><i>Urgent Business proposed by a Councillor</i></p> <ul style="list-style-type: none">• Council resolution required for admission• Must:<ul style="list-style-type: none">▪ be submitted by 12pm on meeting day▪ be circulated to all Councillors▪ only call for a report• Cannot:<ul style="list-style-type: none">▪ commit the Council to any direct expenditure▪ alter the Council Plan or Budget▪ directly and significantly affect the exercise of a person's rights▪ have been rejected as a Notice of Motion <p><i>Urgent Business proposed by the Chief Executive Officer</i></p> <ul style="list-style-type: none">• Not subject to restriction

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none"> • Must be submitted by the Chief Executive Officer after consulting the Mayor • Mayor’s approval required for admission
Hobsons Bay	<ul style="list-style-type: none"> • Councillor may propose • Council resolution required for admission • Must be submitted by 12pm on meeting day • Chief Executive Officer must determine the matter is urgent • Cannot: <ul style="list-style-type: none"> ▪ substantially affect the levels of Council service ▪ commit Council to significant expenditure not included in the adopted budget ▪ establish or amend Council Policy ▪ commit Council to any contractual arrangement
Maribyrnong	<ul style="list-style-type: none"> • Council resolution required for admission
Melbourne	<ul style="list-style-type: none"> • Council resolution required for admission
Moonee Valley	<ul style="list-style-type: none"> • Council resolution required for admission • Cannot: <ul style="list-style-type: none"> ▪ substantially affect the levels of Council service ▪ commit Council to significant expenditure not included in the adopted budget ▪ establish or amend Council Policy ▪ commit Council to any contractual arrangement
Moreland	<ul style="list-style-type: none"> • Council resolution required for admission • Must be submitted by 3pm on meeting day • Chief Executive Officer must determine the matter is urgent
Port Phillip	<ul style="list-style-type: none"> • Council resolution required for admission
Stonnington	<ul style="list-style-type: none"> • Councillor may propose • Council resolution required for admission

What approach could we take?

Yarra’s process for the admission of Urgent Business does not require the consent of the meeting by resolution. This process streamlines the admission of Urgent Business, and has not been an issue to date.

While a number of Councils provide a mechanism for a Councillor to present items of urgent business for consideration, it is Yarra’s interpretation that section 46(2)(d) of the Local Government Act 2020 (which states that the CEO is responsible for “setting the agenda for Council meetings after consulting the Mayor”), together with section 28(3) (which states “the role of a Councillor does not include the performance of any responsibilities or functions of the Chief Executive Officer”) means that Councillors do not have a role in establishing the agenda for Council meetings and thus should not have the power to directly add items of Urgent Business. The Notice of Motion process is suitable for this purpose.

This review provides an opportunity to bring all provisions from the Council Meetings Operations Policy and include them in the existing section of the Governance Rules to consolidate all measures in one place. It also provides an opportunity to explain that any Councillor has a right to request the admission of an item of Urgent Business. The only other change is a minor one, providing that items are admissible if they arise after the agenda has been produced but before it has been distributed.

How would we give effect to these changes?

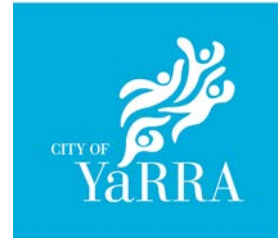
The amendments required to the Governance Rules to give effect to this proposal are shown overleaf.

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:
- 17.1.1 it is proposed for admission by the *Chief Executive Officer* after consulting with the *Mayor*; and
 - 17.1.2 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:~~
 - 17.1.3 it relates to or arises out of a matter which has arisen since ~~distribution~~ production of the agenda; and
 - 17.1.4 it cannot safely or conveniently be deferred until the next Council meeting.
- 17.2 A Councillor may submit an item intended for inclusion as an item of urgent business to the *Chief Executive Officer* for consideration in accordance with this rule.

Notices of Motion

Directions Paper 3 Governance Rules Review 2022



Background

Notices of Motion provide an opportunity for a Councillor to bring a matter directly to Council for consideration.

What can be improved?

Currently, there are few limits on what a Notice of Motion can seek Council to resolve. It is possible for a Council to commit significant resources following a Notice of Motion, absent management advice on the matter. Further, it is possible to commit expenditure without being subject to the annual budget process or to materially change service levels.

What do other Councils do?

A benchmarking exercise has been conducted to determine the approach taken among the M9 group of Councils. Where the process differs from Yarra's current rules, the differences are described in the table below.

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none">• Must be submitted in writing by one Councillor• Must be submitted by midnight Tuesday night (for a meeting the following Tuesday).
Darebin	<ul style="list-style-type: none">• Must be submitted in writing by one Councillor• Must be submitted by midday, 14 days before the meeting at which it will be considered• Must include a rationale• Must be circulated to other Councillors before lodgement• May only call for a report if it is proposed to:<ul style="list-style-type: none">▪ affect levels of Council service;▪ be inconsistent with the strategic objectives of the Council▪ commits to expenditure greater than \$5,000 outside the Budget;▪ proposes to establish, amend or extend an adopted Council policy or position;▪ commit Council to any contractual arrangement;▪ concern litigation in respect of which Council is a party; or▪ impacts on perceived procedural fairness to a person or entity• Must not be similar to a Notice of Motion considered in previous six months

Notices of Motion

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none"> • Must be submitted in writing by one Councillor • Must be submitted by midnight Tuesday night (for a meeting the following Tuesday).
Hobsons Bay	<ul style="list-style-type: none"> • Must be submitted in writing by one Councillor • Must first be considered at a Councillor Briefing (unless urgent) • May only call for a report if it is proposed to: <ul style="list-style-type: none"> ▪ affect levels of Council service; ▪ be inconsistent with the strategic objectives of the Council ▪ commits to expenditure greater than \$ 1 Million <u>or</u> not included in the Budget ▪ proposes to establish, amend or extend an adopted Council policy or position; ▪ interfere with workforce matters ▪ commit Council to any contractual arrangement; ▪ concern litigation in respect of which Council is a party; or ▪ impacts on perceived procedural fairness to a person or entity
Maribyrnong	<ul style="list-style-type: none"> • Must be submitted in writing by one Councillor • Must be submitted by 5pm, 6 business days before the meeting at which it will be considered • Must be circulated to other Councillors
Melbourne	<ul style="list-style-type: none"> • Must be submitted in writing by two Councillors • Must be submitted by 10am on the Thursday prior to the meeting (usually Tuesdays)
Moonee Valley	<ul style="list-style-type: none"> • Must be submitted in writing by one Councillor • Must have been foreshadowed at a Councillor Briefing at least seven days before the meeting • Must be submitted by 12pm on the Thursday prior to the meeting (usually Tuesdays) • May only call for a report if it is proposed to: <ul style="list-style-type: none"> ▪ affect levels of Council service; ▪ commits to expenditure not included in the Budget ▪ proposes to establish, amend or extend an adopted Council policy or position; ▪ interfere with workforce matters ▪ commit Council to any contractual arrangement; ▪ concern litigation in respect of which Council is a party; or ▪ impacts on perceived procedural fairness to a person or entity • Must not be similar to a Notice of Motion considered in previous six months
Moreland	<ul style="list-style-type: none"> • Must be submitted in writing by one Councillor • Must be submitted by 12pm, 10 business days before the meeting at which it will be considered • May only call for a report if it is proposed to: <ul style="list-style-type: none"> ▪ affect levels of Council service; ▪ commits to expenditure greater than \$5,000 outside the Budget; ▪ propose to establish, amend or extend an adopted Council policy or position; ▪ commit Council to any contractual arrangement; ▪ concern litigation in respect of which Council is a party; or ▪ impacts on perceived procedural fairness to a person or entity
Port Phillip	<ul style="list-style-type: none"> • Must be submitted in writing by one Councillor • Must be submitted by 3pm, 7 business days before the meeting at which it will be considered
Stonnington	<ul style="list-style-type: none"> • Must be submitted in writing by three Councillors • Must be submitted in time to give the CEO time to include it in the agenda and provide 48 hours' notice to Councillors

What approach could we take?

It is proposed to introduce a process that requires Council to first seek an officer report before making a change to service levels, or committing to a expenditure that has not been previously budgeted for.

It is important to note that none of these measures seek to prevent Council from undertaking any particular course of action, they merely introduce a step which enables the preparation of a report to Council on the matter – enabling Council to make a decision with the benefit of officer advice and the opportunity for reflection.

How would we give effect to these changes?

The amendments required to the Governance Rules to give effect to this proposal are shown overleaf.

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 six clear days before the scheduled commencement of the meeting.
- 19.2 A notice of motion must call for a Council report if the notice of motion proposes any action that:
 - 19.2.1 impacts the levels of Council service;
 - 19.2.2 commits Council to expenditure that is not included in the adopted Council Budget;
- 19.3 The Chief Executive Officer may reject any notice of motion which:
 - 19.3.1 is vague or unclear in intention;
 - 19.3.2 does not satisfy the requirements of Sub-Rule 19.2;
 - 19.3.3 it is beyond Council's power to pass; or
 - 19.3.4 if passed would result in Council otherwise acting invalidly
- 19.4 but must:
 - 19.4.1 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - 19.4.2 notify in writing the Councillor who lodged it of the rejection and reasons for the rejection.
- 19.5 The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda.
- 19.6 The Chief Executive Officer must cause all notices of motion to be dated and numbered in the order in which they were received.
- 19.7 Except by leave of Council, each notice of motion before any meeting must be considered in the order in which they were received.
- 19.8 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.
- 19.9 If a notice of motion is not moved at the Council meeting at which it is listed, it lapses.

Motions and Debate

Directions Paper 4 Governance Rules Review 2022



Background

Based on the experience of the rules over the previous 18 months, and number of minor opportunities for improving the process of presenting and debating motions before the meeting have been identified.

What can be improved?

Opportunities for improvement include:

- Removing the need to read out motions in full when they have been tabled in writing.
- Clarifying that all Councillors have a right to address the meeting in relation to each motion, regardless of the number of speakers for and against each motion.
- Clarifying the circumstances in which a mover has a right of reply.

Another option worth considering is whether a provision is required in relation to the participation in the debate (including moving or seconding motions) by the Mayor.

What do other Councils do?

A benchmarking exercise has been conducted to determine the approach taken among the M9 group of Councils.

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none">• Motions must be submitted in writing (only if complex <u>and</u> at Mayor's request)• Mover must state the motion• Speaking 'alternates', with no express statement that everyone can speak.• No limit on Mayor's participation in debate.• Time limits – mover 5 min, others 3 min, right of reply 2 min.
Darebin	<ul style="list-style-type: none">• Motions must be submitted in writing and state intention and effect (only at Mayor's request)• Mover must state the motion• Councillor may not ask a question of an officer once debate has commenced• Speaking 'alternates', with no express statement that everyone can speak.• Mayor cannot speak to motion until all others have spoken• The Mayor must vacate the chair to move or second a motion• Time limits – mover 3 min, others 2 min, right of reply 2 min.

Motions and Debate

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none"> • Motions must be submitted in writing (only if complex <u>and</u> at Mayor's request) • Mover must state the motion • Speaking 'alternates', with no express statement that everyone can speak. • No limit on Mayor's participation in debate. • Time limits – mover 5 min, others 3 min, right of reply 2 min.
Hobsons Bay	<ul style="list-style-type: none"> • Motions must be submitted in writing (except where not possible and a reason provided) • Mover must outline the motion • Councillor may be permitted to speak more than once to explain that they have been misrepresented or misunderstood • Agreed alterations to a motion are provided for • No requirement to alternate between for and against in debate. • The Mayor must vacate the chair to move or second a motion • Time limits – mover 5 min, others 3 min, right of reply 3 min.
Maribyrnong	<ul style="list-style-type: none"> • Motions must be submitted in writing (only if complex <u>and</u> at Mayor's request) • Mover must state the motion • Motion can be carried without a vote if it is not opposed • Speaking 'alternates', with no express statement that everyone can speak. • Mayor cannot speak to motion until all others have spoken • The Mayor must vacate the chair to move or second a motion • Time limits – mover 5 min, others 3 min, right of reply 2 min.
Melbourne	<ul style="list-style-type: none"> • Motions must be submitted in writing (only if complex <u>and</u> at Mayor's request) • Mover must read the motion and state its nature and intent • No requirement to alternate between for and against in debate • No limit on Lord Mayor's participation in debate. • Time limits – mover 5 min (incl right of reply), others 3 min
Moonee Valley	<ul style="list-style-type: none"> • Motions must be submitted in writing (only at Mayor's request) • Mover must state the motion • No requirement to alternate between for and against in debate • The Mayor must vacate the chair to speak to motion • The Mayor must vacate the chair to move or second a motion • Time limits – mover 3 min, others 2 min, right of reply 2 min.
Moreland	<ul style="list-style-type: none"> • Motions must be submitted in writing • Mover must outline the motion • Motions must be submitted in writing and mover must outline the motion • Speaking 'alternates', but rules provide that everyone can speak. • No limit on Mayor's participation in debate. • Time limits – mover 3 min, others 3 min, right of reply 2 min.
Port Phillip	<ul style="list-style-type: none"> • Motions must be submitted in writing • Mover must state the motion <u>and</u> must state differences from recommendation (apparent contradiction?) • Speaking 'alternates', with no express statement that everyone can speak. • No limit on Mayor's participation in debate. • No time limits on Councillors
Stonnington	<ul style="list-style-type: none"> • Motions must be submitted in writing • Mover must state the motion • Speaking 'alternates', with no express statement that everyone can speak. • No limit on Mayor's participation in debate. • Time limits – mover 5 min, others 3 min, right of reply 2 min.

What approach could we take?

Adjustments to our meeting rules would facilitate the tabling of motions in writing – enabling them to be displayed both on screen and in the livestream of the meeting and no longer necessitating a Councillor to read them in full at the meeting itself. This process would also reflect the current practice of submitting motions by email to Councillors and the minute clerk, while avoiding the situation of the minute clerk being directed to edit motions from the floor (except the simplest of edits).

A further improvement is to remove the requirement that speakers be called on in alternate order, depending on whether they are 'for' or 'against' a motion – something which requires an arbitrary and binary characterisation of a Councillor's position and confusion about whether a Councillor can speak once all of those in the opposing position have been exhausted.

A final change is the re-writing of provisions relating to right of reply, to make it clearer that a mover is only able to exercise a right of reply in circumstances where no Councillor other than the mover or seconder has chosen to speak to the motion. This is not to change the current rules, but merely to re-draft them for clarity.

It is not proposed to introduce a provision restricting the ability of the Mayor to move or second motions, or to participate in the debate.

How would we give effect to these changes?

The amendments required to the Governance Rules to give effect to the proposed changes to the process of moving and debating motions are shown overleaf.

Changes to Chapter Two, Division 4 – Motions and Debate

22. Introducing A Motion or an Amendment

22.3 The procedure for moving any motion or amendment is:

- 22.3.1 the mover must state the motion without speaking to it or table the wording of the motion in writing;
- 22.3.2 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;
- 22.3.3 if a motion or an amendment is moved and seconded and no Councillor other than the mover or seconder indicates opposition or a desire to speak to it, the *Chair* may put the motion to the vote without discussion.

22.4 The procedure for debating the motion or amendment is:

- 22.4.1 if a Councillor other than the mover or seconder of a motion indicates opposition or a desire to speak to it, then the Chair must call on the mover to address the meeting;
- 22.4.2 after the mover has addressed the meeting, the seconder may address the meeting;
- 22.4.3 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 ask Councillors if they wish to speak in relation to the motion, with any Councillor who wishes to speak being given the opportunity to do so. ~~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;~~
- 22.4.4 ~~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

23.3 The mover of a motion has a right of reply to matters raised during debate, except:

- 23.3.1 an amendment or a motion where no Councillor other than the mover and seconder have spoken to the motion
- 23.3.2 an amendment or a motion that has been amended

23.4 If the procedure for debating a motion or amendment has concluded and the mover:

- 23.4.1 does not have a right of reply, the motion must immediately be put to the vote without any further comment, discussion or debate.
- 23.4.2 has a right of reply, the mover shall be invited to speak to the motion.

23.5 After the right of reply has been taken, the motion must immediately be put to the vote without any further comment, discussion or debate.

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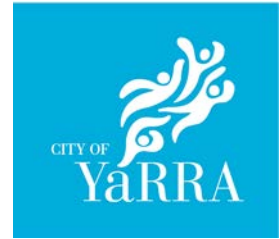
33. Motions In Writing

33.3 For clarity and to enable electronic display, the Chair may require that a complex or detailed any motion be submitted in writing.

33.4 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.

Notices of Rescission

Directions Paper 5 Governance Rules Review 2022



Background

Notices of Rescission are a special type of Notice of Motion, which seeks to rescind (or ‘overturn’) and previous Council resolution, and return to the status quo – as though that resolution had never been made. They are intended as an opportunity for a Councillor who has concerns with the validity of a Council resolution to bring those concerns to the attention of Council and provide an opportunity to reconsider.

For practical reasons, not all resolutions can be rescinded, as they are effectively already acted on at the time of the resolution, and cannot be ‘undone’.

What can be improved?

Rescission motions should be rare, as they present considerable risks. It is necessary to have provisions in place to minimise these risks including:

- Not be able to rescind motions which have been acted on.
- Not being able to seek to rescind motions simply as a means as making a motion ineffectual, or seeking to delay or frustrate implementation.
- Not holding up the process of acting on resolutions with Notices of Rescission with no prospect of success due to a lack of support.
- Not seeking to have matters re-litigated at a future meeting in anticipation of the absence or otherwise of certain Councillors.

What do other Councils do?

A benchmarking exercise has been conducted to determine the approach taken among the M9 group of Councils. Where the process differs from Yarra’s current rules, the differences are described in the table below. In all cases, resolutions cannot be rescinded after they have been acted on (which includes formally communicating them to persons materially affected).

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none">• Must be submitted in writing by one Councillor• Must be submitted by 11.00am the day after the meeting
Darebin	<ul style="list-style-type: none">• Must be submitted in writing by one Councillor• Must be submitted by midday, 14 days before the meeting at which it will be considered• Must include a rationale• Must be circulated to other Councillors
Hobsons Bay	<ul style="list-style-type: none">• Must be submitted in writing by three Councillors• Must first be considered at a Councillor Briefing (unless urgent)• Deferral of implementation cannot give rise to non-compliance with a legal obligation or place the Council at legal, financial or other risk

Notices of Rescission

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none">• Must be submitted in writing by one Councillor• Must be submitted by 11.00am the day after the meeting
Maribyrnong	<ul style="list-style-type: none">• Must be submitted in writing by three Councillors• Must be submitted within 24 hours of the resolution proposed to be rescinded• Must include a rationale
Melbourne	<ul style="list-style-type: none">• Must be submitted in writing by four Councillors• Must be submitted 48 hours before the meeting at which it will be considered• Must be submitted within three months of the resolution proposed to be rescinded
Moonee Valley	<ul style="list-style-type: none">• Must be submitted in writing by five Councillors• Must be submitted within 24 hours of the resolution proposed to be rescinded
Moreland	<ul style="list-style-type: none">• Must be submitted in writing by one Councillor• Must be submitted by midday, 10 days before the meeting at which it will be considered
Port Phillip	<ul style="list-style-type: none">• Must be submitted in writing by two Councillors• Must be submitted within 24 hours of the resolution proposed to be rescinded
Stonnington	<ul style="list-style-type: none">• Must be submitted in writing by three Councillors• Must be submitted within 48 hours of the resolution proposed to be rescinded

What approach could we take?

A number of measures are already in place to address the identified here, but it is further proposed to introduce a number of measures including a requirement that:

- Notices of Rescission submission requirements (one Councillor by 11.00am) be unchanged
- Notices of Rescission to be provided to all Councillors upon submission
- Notices of Rescission to include reasons for the rescission (to assist Councillors to determine whether or not they support the motion)
- Notices of Motion that do not receive support of another two Councillors within 24 hours of notification automatically lapse.
- Rescission motions must be carried by an absolute majority of Council (meaning a Notice of Rescission cannot be used to take advantage of an anticipated temporary absence).

How would we give effect to these changes?

The amendments required to the Governance Rules to give effect to this proposal are shown overleaf.

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 the notice of rescission:
- 40.1.1 has been signed and dated;
 - 40.1.2 is delivered to the *Chief Executive Officer* by 11.00am on the day after the meeting at which the resolution was made;
 - 40.1.3 identifies the meeting and date when the resolution was made;
 - 40.1.4 identifies the resolution to be rescinded; and
 - 40.1.5 sets out the reasons for the notice of rescission
- 40.2 The *Chief Executive Officer* is not required to accept a notice of rescission and must reject it if the resolution proposed to be rescinded has been acted on;
- 40.3 A resolution will be deemed to have been acted on if:
- 40.3.1 its contents have or substance has been communicated in writing to a person whose interests are materially affected by it; or
 - 40.3.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on Council or any other person.
- 40.4 The Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:
- 40.4.1 has not been acted on; and
 - 40.4.2 is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-Rule 41.1.2,
- 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 40.4 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.

- 40.5 Following receipt of a notice of rescission, the *Chief Executive Officer* must provide a copy to all Councillors and ask that they indicate whether they support the notice of rescission.
- 40.6 If, after a period of 24 hours has elapsed since the notification of Councillors under sub-rule 40.5, less than two Councillors (in addition to the Councillor who submitted the notice) have indicated to the Chief Executive Officer that they support it, the notice of rescission lapses.

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, or~~

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 Not be Amended 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. Absolute Majority Required

44.1 In order to be carried, a notice of rescission must be carried by an *absolute majority* of Councillors.

45. When Not Required

45.1 A motion for rescission is not required where Council wishes to change policy.

Points of Order

Directions Paper 6 Governance Rules Review 2022



Background

Points of order are an infrequently used but important provision – enabling a Councillor to draw the attention of the Mayor to an alleged irregularity in the proceedings. The current provision in the Governance Rules was effectively ‘rolled over’ from the previous local law.

What can be improved?

The Governance Rules are imprecise, in that they enable a point of order to be raised for:

- a motion, which, under Rule 20, or a question which, under Rule 47, should not be accepted by the Chair;
- a question of procedure; or
- any act of disorder.

The inclusion of ‘a question of procedure’ and ‘act of disorder’ without further definition makes it difficult for a Councillor to clearly understand their obligations, and makes it challenging for a Councillor to raise a point of order, or the Mayor to rule on one. An opportunity for improvement is to more clearly spell out the bases on which a point of order can be raised – effectively providing more detail on the valid reasons.

What do other Councils do?

A benchmarking exercise has been conducted to determine the approach taken among the M9 group of Councils.

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none">• General description of valid bases
Darebin	<ul style="list-style-type: none">• Comprehensive list of admissible reasons
Hobsons Bay	<ul style="list-style-type: none">• Brief list of admissible reasons
Maribyrnong	<ul style="list-style-type: none">• General description of valid bases
Melbourne	<ul style="list-style-type: none">• Brief list of admissible reasons
Moonee Valley	<ul style="list-style-type: none">• Comprehensive list of admissible reasons
Moreland	<ul style="list-style-type: none">• Comprehensive list of admissible reasons
Port Phillip	<ul style="list-style-type: none">• Comprehensive list of admissible reasons
Stonnington	<ul style="list-style-type: none">• Comprehensive list of admissible reasons

What approach could we take?

Rewriting the current Point of Order provisions would much more clearly explain the basis on which a Point of Order can be raised, by effectively providing a 'list' that Councillors could choose from when seeking to raise an irregularity in proceedings. It would also be an opportunity to expressly state that a Point of Order cannot be raised simply because of a disagreement with an argument or because a Councillor holds a different point of view.

How would we give effect to these changes?

The amendments required to the Governance Rules to give effect to the proposed changes to the process of moving and debating motions are shown overleaf.

43. Valid Points of Order

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

43.1 A point of order may be raised in relation to a statement or behaviour which is:

- 43.1.1 ~~a motion, which, under Rule 20, or a question which, under Rule 47, should not be accepted by the Chair;~~
- 43.1.2 ~~a question of procedure; or~~
- 43.1.3 ~~any act of disorder.~~
- 43.1.4 irrelevant, meaning it does not relate to the matter under consideration or is outside the powers of Council;
- 43.1.5 improper, meaning it constitutes improper behaviour or is offensive;
- 43.1.6 misleading, meaning it is an untrue or false assertion or statement;
- 43.1.7 disorderly; being an act that disrupts or distracts from the orderly operation of the meeting; or
- 43.1.8 contrary to the rules, meaning it is contrary to the Meeting Rules set out in this Chapter.

44. Procedure for Point of Order

44.3 A Councillor raising a point of order must state that the statement or behaviour is:

- 44.3.1 ~~state the point of order; and~~
- 44.3.2 ~~state any section, Rule, paragraph or provision relevant to the point of order.~~
- 44.3.3 irrelevant;
- 44.3.4 improper;
- 44.3.5 misleading;
- 44.3.6 disorderly; or
- 44.3.7 contrary to the rules (in which case the Councillor should identify the rule that is being contravened).

44.4 A Councillor raising a point of order under this clause is not deemed to be speaking to the motion or amendment before the Meeting.

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.

45.2 In deciding a point of order, the Mayor is to have regard to their obligation under section 18(1)(e) of the Local Government Act 2020 to “promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct”;

45.3 The Chairperson’s ruling on a point of order is final.

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.

Public Question Time

Directions Paper 7

Governance Rules Review 2022



Background

Public Question Time is intended to provide an opportunity for members of the public to ask questions directly to the Council. It is not intended to be an alternative to the usual customer request process, but is designed for questions that cannot be responded to by management, because they are matters of strategic policy, advocacy or representation.

From the public's point of view, question time is an opportunity to challenge the Council on matters of public interest, to present alternative points of view and to make statements in the presence of Councillors.

Some current issues:

- Questions asked from the floor without warning rarely receive a considered response, as there is no opportunity for preparation.
- When questions are submitted in advance, the wording of the question actually asked often differs from what was submitted – sometimes materially. Again, this means that the questioner does not receive a considered response.
- The amount of time allowed to ask a question is considerable.
- Members of the public are not allowed to make a statement in addition to their question, requiring people to build a statement into the question itself. The extent to which a preamble to the question is allowed is inconsistent, in that it differs depending on the style of the Mayor.
- The ability for Councillors to make statements or ask further questions can be a disincentive for members of the public to speak freely, for fear of being challenged.
- The use of the right to a second question typically results in a further question on the same topic, which can resemble a debate between the Mayor and a member of the public.
- Where multiple questions on the same subject are asked, there is no opportunity to provide a combined response to all questioners.

What can be improved?

Returning the focus of Public Question Time to enable questions to be put to the Council about strategic matters that are within Council's responsibilities, directing questions about operational matters to Council's customer feedback and complaints process and balancing the need for transparent interrogation of Council with the efficient operation of Council meetings themselves.

What do other Councils do?

A benchmarking exercise has been conducted to determine the approach taken among the M9 group of Councils.

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none"> No time limit Questions requested in advance, but may be asked from the floor Up to two questions per person No limit to number of questions on same topic Questioner may ask question (five minutes maximum) Mayor or their nominee answers question Councillors may ask follow up questions of questioner, Mayor or officers
Darebin	<ul style="list-style-type: none"> 30 minute time limit (Council may extend a further 30 minutes) Up to three questions or submissions per person (no multi-part questions) Submitted in writing by 12pm on meeting day Similar questions may be grouped Question may ask question (2 minutes maximum) – no preamble or background Mayor or their nominee answers question
Hobsons Bay	<ul style="list-style-type: none"> 20 minute time limit (Mayor may alter at their discretion) Submitted in writing by 12pm the day before the meeting Up to three questions per person (multi-part question is multiple questions) Similar questions may be grouped Mayor or delegate reads question Mayor answers question (2 minutes maximum) No further discussion allowed, other than clarification
Maribyrnong	<ul style="list-style-type: none"> 15 minute time limit (Council may extend a further 15 minutes) Submitted in writing by 12pm on meeting day Up to three questions per person Similar questions may be grouped Mayor or delegate reads question Mayor or their nominee answers question
Melbourne	<p><i>Council</i></p> <ul style="list-style-type: none"> Public Question Time is not included <p><i>Future Melbourne Committee</i></p> <ul style="list-style-type: none"> Submitted in writing by 10am on meeting day Questioner may ask question (90 seconds maximum) Meeting chair or their nominee answers question
Moonee Valley	<ul style="list-style-type: none"> Submitted in writing by 12pm the day before the meeting Up to two questions per person Mayor or delegate reads the question (may paraphrase) Mayor or their nominee answers question No further discussion allowed, other than clarification

Public Question Time

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none"> • No time limit • Questions requested in advance, but may be asked from the floor • Up to two questions per person • No limit to number of questions on same topic • Questioner may ask question (five minutes maximum) • Mayor or their nominee answers question • Councillors may ask follow up questions of questioner, Mayor or officers
Moreland	<p><i>Combined question time and public submissions at Council meetings</i></p> <ul style="list-style-type: none"> • 30 minute time limit (Council may extend a further 30 minutes) • Up to two questions or submissions per person • Encouraged to submit question in writing by 12pm on meeting day • Questions not submitted in advance are taken on notice • Three questions on the same subject (more permitted if time allows) • Questioner has three minutes to ask question and provide preamble and background • Mayor or their nominee answers question • No further discussion allowed, other than clarification
Port Phillip	<ul style="list-style-type: none"> • Submitted in writing by 4pm on meeting day • No limit to number of questions prescribed • Mayor or delegate reads question • Similar questions may be grouped • Mayor their nominee answers question • Councillors can ask questions, but Mayor may limit the number of them
Stonnington	<ul style="list-style-type: none"> • Submitted in writing by 12pm on meeting day • Up to five questions per person • Chair reads summary of the question • Question is not answered at the meeting –a written response is provided and included in the meeting minutes.

What approach could we take?

The suggested process is to require questions to be submitted in advance (primarily online, but with alternatives available to ensure anyone could contribute). At the meeting itself, the questioner would be provided time to answer the question, with the Mayor (or their delegate) providing a response. The questioner would be allowed a brief follow up question on a matter of clarification.

This process ensures that the question itself is clear and unambiguous, and submitted in sufficient time to enable a meaningful response to be prepared. In the event that a question contains personal or otherwise sensitive information, it provides an opportunity to contact the questioner to discuss an alternative approach. The process also enables a questioner to present the question personally to the meeting.

While the name and subject of the question would be recorded in the minutes of the meeting, the actual question and verbatim response would be made available in the recording of the meeting for a period of at least four years.

How would we give effect to these changes?

The amendments required to the Governance Rules to give effect to this proposal are shown overleaf. The reference in the section of the Governance Rules to submissions from members of the public has also been removed, as it is proposed that this would form a separate amendment to the rules.

Division 8 – Public Question Time and Public Submissions

48. Question Time

- 48.1 Unless Council resolves to the contrary, 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.
- 48.2 Questions submitted to Council must:
- 48.2.1 be submitted in writing;
 - 48.2.2 be submitted at least 24 hours prior to the scheduled commencement of the meeting at which they are to be asked;
 - 48.2.3 include the name and contact details of the person submitting the question.
- 48.3 If the person submitting the question is present at the meeting:
- 48.3.1 the Chair shall offer the person submitting the question the opportunity address the Council and ask their question.
 - 48.3.2 the time permitted for asking a question shall be three minutes.
 - 48.3.3 the Chair, or a person nominated by the Chair shall provide a succinct response to the question.
 - 48.3.4 The person asking the question shall be provided a further one minute to ask a question of clarification if required.
 - 48.3.5 the Chair, or a person nominated by the Chair shall provide a further response to the question of clarification.
- 48.4 Aside from the follow up question described at rule 48.3.4, no person may submit more than one question at any one meeting.
- ~~48.5 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.~~
- ~~48.6 Nothing in sub-Rule 47.2 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.~~
- 48.7 If the Chair is of the opinion that the number of questions on the same subject ~~or submissions~~ makes it desirable to ~~limit the number of questions or submissions taken, or reduce the time available to each submitter~~ group like questions together for a combined response, they may make such reasonable adjustments to the process as may be necessary.
- 48.8 A question may be disallowed by the Chair if the Chair determines that it:
- 48.8.1 relates to a matter to be considered by Council at the meeting at which the question is proposed to be asked;
 - 48.8.2 relates to a matter outside the duties, functions and powers of Council;
 - 48.8.3 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 48.8.4 deals with a subject matter already answered;
 - 48.8.5 is aimed at embarrassing a Councillor or a member of Council staff; or
 - 48.8.6 includes or relates to confidential information;
- 48.9 Responses must be as brief as possible, and no discussion may be allowed other than the questions and answers provided for at Rule 48.3.

Public Submissions

Directions Paper 8 Governance Rules Review 2022



Background

Public Submissions provide an opportunity for people who are affected by a Council decision to have their views heard before a decision is made. These submissions provide an opportunity for members of the public to make their views known direct to Councillors.

Provisions for managing submissions currently appear in the Council Meetings Operations Policy, rather than the Governance Rules.

What can be improved?

The difficulty with the current systems is twofold.

Firstly, relying on the receipt of public submissions only at the time a decision is made introduces community contributions at the very end of the process, with no opportunity for officer advice or Councillor reflection in relation to those submissions. Further, the submissions reflect the views of only those people who are able to contribute in that way. The acceptance of large numbers of submissions at a Council meeting can undermine the community engagement processes in a project, by implying that presence at a Council meeting is the best way to be heard, rather than engaging in the process.

Secondly, the receipt of a large number of submissions at Council meetings can result in the submission overshadowing the Councillor debate, and resulting in a significant period of time at each meeting being occupied by the hearing of community statements, rather than the debate and decision-making process itself.

There are also some other issues that can be resolved:

- Submissions can be made on any item at the meeting, including items that do not appear on the agenda. This can result in only those persons who are 'in the know' having an opportunity to submit.
- The amount of time allowed for each submission is generous, and there is no provision to automatically reduce the time available when a large number of submitters want to address the meeting. At present, the Chair's discretion is relied on to reduce the available time – something which has attracted criticism in the past.
- The lack of a requirement to register for the meeting means it is difficult to prepare for the arrival of guests, to make necessary accommodations for large groups or to seek to consolidate submissions where possible.
- Allowance for submissions to be heard at another time in some circumstances, such as at a special meeting set aside for that purpose or otherwise in accordance with Council's Community Engagement Policy to provide an alternative pathway for the community to contribute to the process ahead of the Council decision (this process is used successfully each year for the Annual Budget, with a special meeting convened to hear submissions).
- Clarity that further submissions will not be automatically heard again if a matter is deferred after submissions have been heard (although Council can resolve to allow this).

Bringing the provisions of the Council Meetings Operations Policy into the Governance Rules provides an opportunity to more clearly set out the process for hearing submissions. At the same time, an addition to the Governance Rules can set out specific arrangements for the Planning Decisions Committee.

What do other Councils do?

A benchmarking exercise has been conducted to determine the approach taken among the M9 group of Councils. It should be noted that planning matters are heard by a Delegated Committee at a number of the listed M9 Councils, and arrangements for hearing submitters at these meetings vary.

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none"> • Submissions on all items, except confidential • Submissions immediately prior to item • Registration preferred by 10am on meeting day (but not required) • Submitter addresses meeting (maximum of five minutes)
Darebin	<ul style="list-style-type: none"> • Submissions on items listed on the agenda, except NOM, petitions and urgent business • Submissions immediately prior to item • Registration preferred by 12pm on meeting day (but not required) • Submitter addresses meeting (maximum of two minutes)
Hobsons Bay	<ul style="list-style-type: none"> • Public submissions not provided for, except by specific Council resolution
Maribyrnong	<ul style="list-style-type: none"> • Public submissions not provided for
Melbourne	<p><i>Council and Future Melbourne Committee</i></p> <ul style="list-style-type: none"> • Written submissions can be lodged until 10am on meeting day • Written submissions are provided to all Councillor in advance of the meeting • Oral submissions are not provided for
Moonee Valley	<ul style="list-style-type: none"> • Public submissions not provided for
Moreland	<p><i>Combined question time and public submissions at Council meetings</i></p> <ul style="list-style-type: none"> • 30 minute time limit (Council may extend a further 30 minutes) • Submissions on items listed on the agenda • Up to two questions or submissions per person • Registration required (either in advance or at the meeting itself) • Submitter addresses meeting (maximum of three minutes)
Port Phillip	<ul style="list-style-type: none"> • Public submissions not provided for
Stonnington	<ul style="list-style-type: none"> • Public submissions not provided for

What approach could we take?

While the majority of Councils do not receive community submissions and rely on the community engagement process undertaken in the course of developing the officer recommendations for Council, taking that approach at Yarra would be a significant departure from the current arrangements.

It is proposed that Council continue to receive submissions, but move to a more structured approach, largely modelled on that currently in place. The proposed changes would be to:

- Require submitters to register for the meeting
- Alter the length of time afforded to each submitter (except in the case of the PDC meetings, where the time allowance is not proposed to change).
- Provide that submissions can only be made on items included on the agenda

- Provide a mechanism for submissions to be heard via an alternative process in accordance with Council's Community Engagement Policy (like a special meeting set aside to hear submissions), or through the application of an alternative statutory process
- Ensure that duplicate submissions are not made in the event of a deferral, but that Council can resolve to accept further submissions if it determines to do so.
- Include an ability for Council to determine a process to hear submissions on matters that would not ordinarily allow for submissions to be made (eg – Council may wish to make special arrangements to hear a submission at a meeting that is closed to members of the public to consider a confidential matter).

It is also proposed to set out specific rules related to the Planning Decisions Committee (the main difference being that only the applicant or objector are afforded the opportunity to make a submission).

How would we give effect to these changes?

The amendments required to the Governance Rules to give effect to this proposal are shown overleaf.

Amendments to Chapter Two – Council Meetings

48. Submissions to Council

- 48.1 There must be an opportunity for members of the public to make a submission to *Council* in relation to every matter ~~presented for consideration~~ included on the agenda at a *Council* meeting, with the exception of:
- 48.1.1 matters that are subject to a statutory process that provides a right to make a submission or otherwise be heard (such as, but not limited to section 223 of the Local Government Act 1989);
 - 48.1.2 matters that are subject to an alternative process that provides an opportunity to make a submission or otherwise be heard (such as, but not limited to arrangements put in place in accordance with Council's *Community Engagement Policy*);
 - 48.1.3 matters being re-presented to the *Council* after having been deferred where submissions have already been heard, unless Council resolves otherwise; and
 - 48.1.4 matters considered at a *Council* meeting or part of a *Council* meeting closed to members of the public in accordance with section 66 of the Act.
- 48.2 For the matters described in sub-rules 48.1.1 and 48.1.2, there must be an opportunity for members of the public to make a submission prior to the matter being considered by *Council* at a *Council* meeting.
- 48.3 Persons wishing to make a submission to *Council* must:
- 48.3.1 register in writing;
 - 48.3.2 identify the item on the agenda about which they wish to make a submission;
 - 48.3.3 register at least 24 hours prior to the scheduled commencement of the meeting at which the item is to be presented;
 - 48.3.4 provide their name and contact details.
- 48.4 If the person registering to make a submission is present at the meeting:
- 48.4.1 the *Chair* shall offer the person registering to make a submission the opportunity to make a statement in relation to the matter to be considered;
 - 48.4.2 the time permitted for each submission shall be three minutes or, where 10 or more people have registered to make a submission in relation to that item, two minutes.
- 48.5 If the *Chair* is of the opinion that the number of submissions makes it desirable to limit the number of submissions taken and invite a representative group of submitters to address the meeting, they may make such reasonable adjustments to the process as may be necessary.
- 48.6 A submission may be disallowed by the *Chair* if the *Chair* determines that it:
- 48.6.1 relates to a matter other than the matter being considered by *Council* at the time the submission is being made;
 - 48.6.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 48.6.3 is aimed at embarrassing a Councillor or a member of Council staff; or
 - 48.6.4 includes or relates to *confidential information*;
- 48.7 Notwithstanding the exclusions in Sub-Rule 48.1, *Council* may resolve to hear submissions in relation to any matter to be considered at a *Council* meeting, subject to whatever process the *Council* determines.

Amendments to Chapter Three Delegated Committee Meetings

1. Meeting Procedure Generally

- 1.1 If Council establishes a Delegated Committee:
 - 1.1.1 all of the provisions of Chapter 2, with the exception of Part B, Division 8 and Part B, Division 9 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. Submissions to the Planning Decisions Committee

- 2.1 There must be an opportunity for parties to make a submission to the *Planning Decisions Committee* in relation to every application for planning permit presented for consideration at a meeting of the *Planning Decisions Committee*, with the exception of:
 - 2.1.1 matters being re-presented to the *Planning Decisions Committee* after having been deferred where submissions have already been heard, unless the Committee resolves otherwise;
 - 2.1.2 matters considered at a meeting of the *Planning Decisions Committee* or part of a meeting of the *Planning Decisions Committee* closed to members of the public in accordance with section 66 of *the Act*.
- 2.2 Persons wishing to make a submission to *Council* must:
 - 2.2.1 be either the *applicant* or an *objector*;
 - 2.2.2 register in writing;
 - 2.2.3 identify the item on the agenda about which they wish to make a submission;
 - 2.2.4 register at least 24 hours prior to the scheduled commencement of the meeting at which the item is to be presented;
 - 2.2.5 provide their name and contact details.
- 2.3 If the *applicant* registering to make a submission is present at the meeting:
 - 2.3.1 the *Chair* shall offer the applicant the opportunity to make a statement in relation to the matter to be considered;
 - 2.3.2 the time permitted for the submission shall be five minutes.
- 2.4 If the *objector* registering to make a submission is present in the gallery:
 - 2.4.1 the *Chair* shall offer the person registering to make a submission the opportunity to make a statement in relation to the matter to be considered;
 - 2.4.2 the time permitted for each submission shall be five minutes.
- 2.5 If the *Chair* is of the opinion that the number of submissions makes it desirable to limit the number of submissions taken and invite a representative group of submitters to address the meeting, they may make such reasonable adjustments to the process as may be necessary.
- 2.6 A submission may be disallowed by the *Chair* if the *Chair* determines that it:
 - 2.6.1 relates to a matter other than the matter being considered by *Council* at the time the submission is being made;
 - 2.6.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;

2.6.3 is aimed at embarrassing a Councillor or a member of Council staff; or

2.6.4 includes or relates to confidential information;

3. Meeting Procedure Can Be Varied

3.1 Notwithstanding Rules 1 and 2, if *Council* establishes a *Delegated Committee* that is not composed solely of Councillors:

3.1.1 Council may; or

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

3.2 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.

Additions to Chapter One Introduction, Rule 4.1 - Definitions

'*applicant*' means a person who has submitted an application for permit in accordance with section 47 of the *Planning and Environment Act 1987* (or their representative).

'*objector*' means a person who has submitted an objection to an application for permit in accordance with section 57 of the *Planning and Environment Act 1987* (or their representative).

'*Planning Decisions Committee*' means the *Delegated Committee* by that name established by Council for the purpose of considering planning permits and related matters.

'*Community Engagement Policy*' has the same meaning as in the *Act*.

Petitions and Joint Letters

Directions Paper 9 Governance Rules Review 2022



Background

The submission of petitions and joint letters to Council is a long-established process for members of the community to demonstrate community support for a request or views on a matter, and for that request or view to be presented directly to Council.

Council's Governance Rules were written to essentially 'roll over' the existing provisions from Council's former Meeting Procedures Local Law, with some minor changes.

Most notably, the Governance Rules do not make accommodation for electronic petitions, and the requirement for signatures means they do not currently comply with the prescriptive petition rules. During the COVID pandemic, there were public health restrictions which made the collection of door to door petitions impossible, and Council began accepting electronic petitions for the first time.

What can be improved?

The Governance Rules can provide greater guidance in the form and purpose of petitions, as well as more options as to the course of action that Council can take. At present, the only resolution available to Council is to receive a petition and refer it to the Chief Executive officer, even when the petition relates to a matter listed on the agenda.

What do other Councils do?

A benchmarking exercise has been conducted to determine the approach taken among the M9 group of Councils.

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none">• Requires 12 signatures• Rules silent on electronic petitions (the practice is to accept them)• Unless Council resolves otherwise, motion must only receive and refer it to an officer
Darebin	<ul style="list-style-type: none">• Requires 10 signatures• Electronic petitions accepted• Motion may:<ul style="list-style-type: none">▪ deal with it in conjunction with an item on the agenda▪ refer it to the CEO▪ call for a report• Public cannot speak to petition
Hobsons Bay	<ul style="list-style-type: none">• Requires 25 signatures• Must be within 10km of municipality• Electronic petitions accepted (subject to Council resolution)

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none"> • Requires 12 signatures • Rules silent on electronic petitions (the practice is to accept them) • Unless Council resolves otherwise, motion must only receive and refer it to an officer
Maribyrnong	<ul style="list-style-type: none"> • No minimum number of signatories • Must be lodged 7 days before the meeting • Motion may: <ul style="list-style-type: none"> ▪ refer it to the CEO ▪ call for a report • Electronic petitions not accepted
Melbourne	<ul style="list-style-type: none"> • Requires 2 signatures • Motion may refer it to the CEO
Moonee Valley	<ul style="list-style-type: none"> • No minimum number of signatories • Motions not permitted until the following meeting • Electronic petitions accepted
Moreland	<ul style="list-style-type: none"> • Requires 10 signatures • Motion may: <ul style="list-style-type: none"> ▪ refer it to the CEO ▪ call for a report • May be dealt with in conjunction with an item on the agenda • Lead petitioner may address Council for two minutes • Electronic petitions accepted (unless it contains false signatures)
Port Phillip	<ul style="list-style-type: none"> • Requires 5 signatures • Must be lodged 7 days before the meeting • May be dealt with in conjunction with an item on the agenda • Electronic petitions accepted, provided they have been 'closed'
Stonnington	<ul style="list-style-type: none"> • Requires 12 signatures • Motions not permitted until the following meeting • Electronic petitions not accepted

What approach could we take?

Electronic petitions are arguably more convenient for most organisers and signatories, but they present unique challenges when compared to physical petitions. Most importantly, a review of the four most commonly used electronic petition platforms (change.org, ipetitions.com, petitions.net and megaphone.org.au) reveals that they all allow the petition organiser to alter the text of the petition after signatures been collected. This is a fundamental flaw in these platforms, as it is possible for petitions to misrepresent the position of its petitioners.

Until a petition platform can be found that does not have this flaw, the acceptance of electronic petitions at a Council Meeting should not be supported. Instead, such petitions should be referred directly to the Chief Executive Officer for consideration. The CEO will also be required to provide a copy of the petition to all Councillors. This 'fast track' process also enables the Chief Executive Officer to verify the legitimacy of the petition before responding.

One inclusion that could be included based on the benchmarking is the ability for a petition to be considered in conjunction with an item listed on the agenda (in effect treating them as a joint submission in relation to that item). Where submissions from the public are allowed on that matter, the lead petitioner could be afforded to the opportunity to make a submission in these circumstances.

Of course, it is also open to Council to consider the streamlining of petitions, where they are referred directly to the relevant Council officer immediately upon receipt, rather than having to wait for the next Council meeting. If this process were followed, an option would be to consider a requirement that management provide a report periodically on petitions received and dealt with in this way (which could simply list the petitions and their subject matter). That option would involve the removal of Chapter Two, Division 9 from the Governance Rules.

How would we give effect to these changes?

The amendments required to the Governance Rules to give effect to this proposal are shown overleaf.

Division 9 – Petitions and Joint Letters

48. Petitions and Joint Letters

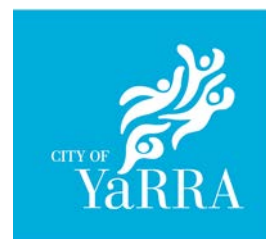
- 48.1 Every petition or joint letter presented to *Council* must:
- 48.1.1 be in *writing* (other than pencil), typing or printing,
 - 48.1.2 contain the request of the petitioners or signatories
 - 48.1.3 not be derogatory, defamatory, indecent, abusive or objectionable in language or substance
 - 48.1.4 be signed by at least 12 people
- 48.2 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.
- 48.3 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*.
- 48.4 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.
- 48.5 Petitions compiled using an online petition platform will not be received at a Council meeting, but, once submitted by the petition organiser, shall be referred directly to the Chief Executive Officer for consideration.
- 48.6 The Chief Executive Officer will provide a copy of all submitted petitions that were compiled using an online petition platform to all Councillors.

49. Tabling petitions

- 49.1 If the petition or joint letter relates to any item already on the agenda for the Council meeting at which the petition or joint letter is submitted, the petition or joint letter will be treated as a submission in relation to that agenda item.
- 49.2 Unless it is treated as a submission under sub-rule 49.1, a petition may be presented to a Council meeting by a Councillor.
- 49.3 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*.
- 49.4 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 request.
- ~~49.5 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.~~
- 49.6 A petition tabled by a Councillor at a Council Meeting may be dealt with by a motion to accept and note the petition and resolve to:
- 49.6.1 refer it to the Chief Executive Officer for consideration and response; or.
 - 49.6.2 call for a report on the subject matter of the petition.
- 49.7 If a petition or joint letter, ~~memorial or other like application~~ relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration and response.

General Business

Directions Paper 10 Governance Rules Review 2022



Background

General Business provides an opportunity for Councillors to bring matters to Council meetings without a Council officer report and without the need for listing of those items on the meeting agenda. As a result of this, a number of restrictions exist to limit the scope of such motions.

Currently, these restrictions are located in the Council Meetings Operations Policy, rather than the Governance Rules themselves.

What can be improved?

The existing restrictions on General Business are generally working well, but their location in the Council Meetings Operations Policy, rather than the Governance Rules is arguably somewhat confusing.

If General Business is to continue to be a part of Yarra's meetings, an opportunity exists to insert a new section in the Governance Rules under the heading "Business of Meetings" to describe General Business processes and restrictions, modelled on the current restrictions in the Council Meetings Operations Policy.

What do other Councils do?

A benchmarking exercise has been conducted to determine the approach taken among the M9 group of Councils.

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none">• General Business may only include<ul style="list-style-type: none">▪ A request for a subsequent report▪ matters arising from a Delegate's Report.▪ advocacy in relation a matter of established Council policy▪ symbolic or ceremonial matters• General Business cannot require material expenditure or commitment of resources• Agenda also provides for questions without notice from Councillors
Darebin	<ul style="list-style-type: none">• General Business is not included in Council Meetings
Hobsons Bay	<ul style="list-style-type: none">• General Business is not included in Council Meetings
Maribyrnong	<ul style="list-style-type: none">• General Business is not included in Council Meetings
Melbourne	<ul style="list-style-type: none">• General Business may only include<ul style="list-style-type: none">▪ Notices of Motion▪ post travel reports by Councillors▪ receipt of petitions and joint letters▪ Questions without Notice (at the discretion of the Chair)
Moonee Valley	<ul style="list-style-type: none">• General Business is not included in Council Meetings
Moreland	<ul style="list-style-type: none">• General Business is not included in Council Meetings

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none"> • General Business may only include <ul style="list-style-type: none"> ▪ A request for a subsequent report ▪ matters arising from a Delegate’s Report. ▪ advocacy in relation a matter of established Council policy ▪ symbolic or ceremonial matters • General Business cannot require material expenditure or commitment of resources • Agenda also provides for questions without notice from Councillors
Port Phillip	<ul style="list-style-type: none"> • General Business is not included in Council Meetings
Stonnington	<ul style="list-style-type: none"> • General Business provides an opportunity for a Councillor to make a statement on an issue of concern to the City or to a Ward, but there is no opportunity for debate or a resolution arising from that statement.

As it can be seen, Yarra is unique among M9 Council in that it is the only Council to enable the presentation of motions to the meeting that are unrelated to matters listed on the agenda. As a result, additional benchmarking has been conducted to identify some Councils that do provide this opportunity, and what provisions they have applied.

After checking the provisions of the remaining 22 Melbourne Councils, only three provide an opportunity for General Business to be presented. In most Councils without General Business, there appears to be a heavier reliance on Notices of Motion for Councillors to introduce matters to the meeting.

Council	Governance Rules Summary
Boroondara	<ul style="list-style-type: none"> • General Business must be business of a minor or routine nature • Any motion dealing with a matter that is not minor or routine must not be accepted by the Chairperson and will be subject to the notice of motion provisions.
Glen Eira	<p><i>Has a provision called “Requests for reports from members of Council staff”</i></p> <ul style="list-style-type: none"> • A motion must request a report from members of Council staff • A request must be capable of completion within Council’s resources
Hume	<ul style="list-style-type: none"> • A General Business motion may: <ul style="list-style-type: none"> ▪ raise an item of general interest; ▪ address a question to a member of Council staff; ▪ request that a member of Council staff prepare a report; and ▪ propose or foreshadow a motion for debate • A General Business motion may not: <ul style="list-style-type: none"> ▪ substantially affect the levels of Council service; ▪ commit Council to significant expenditure not included in the adopted Council Budget; ▪ establish or amend Council policy; ▪ commit Council to any contractual arrangement; ▪ concern any litigation in respect of which Council is a party; or ▪ require, pursuant to other policy determined by Council from time to time, the giving of prior notice. • A Councillor may not raise more than three items of General Business at one meeting

What approach could we take?

While the benchmarking suggests that a favoured approach is to formalise meetings by not providing an opportunity for General Business, this potentially makes it difficult for Councillors to present matters that are relatively uncontroversial, but may be time sensitive and thus are not well served by the Notice of Motion process.

It is suggested that General Business continue to be allowed, including with that current restriction that such motions not be able to require “material expenditure or commitment of council resources”, with the addition of some further explanatory text that provides guidance in this regard. It is necessary that the threshold for General Business be lower than any equivalent threshold applied to Notices of Motion.

How would we give effect to these changes?

The amendments required to the Governance Rules to give effect to this proposal are shown overleaf. The markups shown are the changes from the Council Meetings Operations Policy.

17. General Business

- 17.1 If the *agenda* for a *Council meeting* makes provision for general business, motions may only be admitted as general business where they:
- 17.1.1 call for a report to be prepared for subsequent consideration by Council or a Delegated Committee;
 - 17.1.2 arise from a matter considered by a Council Advisory Committee and presented as part of a Delegate's Report.
 - 17.1.3 seek Council to undertake advocacy in relation a matter of established Council policy (such as sending a letter setting out Council's position in a matter); or
 - 17.1.4 are symbolic or ceremonial in nature (such as a condolence motion or motion to congratulate a member of the public upon the receipt of an award).
- 17.2 General Business motions cannot be considered where they:
- 17.2.1 would require an ~~material~~ expenditure or commitment of council resources of greater than \$1,000;
 - 17.2.2 establish Council policy; or
 - 17.2.3 are beyond Council's powers to implement.
- 17.3 Where, in the opinion of the *Chief Executive Officer*, taking action on an item of General Business would be contrary to these provisions or the interests of Council, implementation of that resolution shall be placed on hold and a further report shall be brought to Council as soon as practicable to seek further direction.

Delegate's Reports

Directions Paper 11 Governance Rules Review 2022



Background

The processing of Delegate's Reports is currently prescribed by the Council Committees Policy. Delegate's Reports are not referenced anywhere within Council's Governance Rules. The following extract from the Council Committees Policy is relevant:

3.9. Providing Advice to Council

Following each meeting of an Advisory Committee, a Delegate's Report may be provided by the Councillor(s) appointed to the committee at a subsequent ordinary meeting of Council. This Delegate's Report provides an opportunity to formally present the committee's advice to the Council and table any background reports, research findings or policy recommendations to the Council. While the Responsible Officer may assist in providing material to support the development of a Delegate's Report, responsibility for its preparation and submission rests with the relevant Councillor(s).

At a Councillor's request, and with the leave of the Mayor, a Community Member or Organisational representative may address the Council in the presentation of this report.

Similarly, if a Councillor is appointed to an Interest Group, they may submit a Delegate's Report if they choose to do so, either following a meeting or on a periodic basis.

Delegate's Reports are not submitted in relation to Project Consultative Groups, as their discussions are included in relevant project status reports and consultation results.

Delegate's Reports are to be presented to Council with a motion for noting only. Any business arising from such meetings requiring a Council resolution is to be presented as an item of General Business or Notice of Motion.

What can be improved?

The Current Process for presenting a Delegate's Report is generally:

1. The Councillor provides a Delegate's Report by one of the following means:
 - Sends a written report by email to Councillors ahead of the meeting
 - Tables a written report at the meeting
 - Provides an oral report at the meeting
2. The Councillor presents the report at the meeting verbally, and on occasions read out the entire Delegate's Report to the Meeting, prior to any motion.

What do other Councils do?

A benchmarking exercise has been conducted to determine the approach taken among the M9 group of Councils. Delegate's Reports are a unique feature of Yarra's meetings and do not feature in any of the other M9 Councils.

Some of Councils provide an opportunity for a verbal report from a Councillor on any matter of interest (which could include a verbal report from an advisory committee or external organisation), but no opportunity for a motion. If a Councillor wants to bring forward a matter from a Committee at the other M9 Councils, they would need to submit it as a Notice of Motion according to their meeting rules.

This process is effectively the same as that used at the City of Yarra.

What approach could we take?

The current process is flexible and effective, and there appears to be compelling argument to alter it. This review provides the opportunity to include reference to the manner of presenting Delegate's Reports in the Governance Rules.

In addition, the Rules can include a provision that any written report provided (either beforehand or at the meeting itself), should be included in the meeting minutes.

How would we give effect to these changes?

The provisions that could be inserted into the Governance Rules are shown overleaf.

19. Delegate's Reports

- 19.1 A Delegate's Report provides an opportunity for a Councillor to update the Council and provide advice or other information in relation to the activities of:
- 19.1.1 an Advisory Committee
 - 19.1.2 an Interest Group; or
 - 19.1.3 an external organisation
- to which the Councillor has been appointed by the Council as its delegate.
- 19.2 If the agenda for a Council meeting makes provision for Delegate's Reports, and Councillor may submit a report by:
- 19.2.1 tabling a written report; or
 - 19.2.2 providing an oral report to the meeting.
- 19.3 The full text of any Delegate's Report tabled in writing shall be included in the minutes of the meeting.

Electronic Meetings

Directions Paper 12 Governance Rules Review 2022



Background

In March 2022, the making of the Regulatory Legislation Amendment (Reform) Act 2022 resulted in changes to the Local Government Act 2020 to provide for attendance and participation in Council meetings and delegated committees by electronic means of communication.

The changes replace the existing temporary emergency provisions and are due to commence on 2 September 2022.

Relevantly, once commenced, section 60 of the Local Government Act 2020 will state (with the additions underlined):

- (1) *A Council must develop, adopt and keep in force Governance Rules for or with respect to the following—*
 - (a) *the conduct of Council meetings (including holding Council meetings by electronic means of communication);*
 - (b) *the conduct of meetings of delegated committees (including holding meetings of delegated committees by electronic means of communication);*
 - (ba) *requesting and approval of attendance at Council meetings and meetings of delegated committees by electronic means of communication;*

A number of other minor amendments will also be made. These do the following:

- Widen the definition of being present at a meeting to include attendance by electronic means
- Make permanent the current temporary measures relating to the need to live stream any meeting that is held solely by electronic means
- Extend the current temporary provisions to 1 September 2022

What can be improved?

The current Governance Rules provide a general clause that enables meetings to be conducted electronically and provides the meeting chair the necessary authority to modify meeting rules to accommodate the meeting format. At the time of inclusion, this was intended to be a rare occurrence reserved for extraordinary circumstances, rather than a regularly used provision.

With the new provisions to be included in the Local Government Act 2020, this Governance Rules review provides an opportunity to codify details regarding the attendance of Councillors at meetings in more detail.

What do other Councils do?

None of the M9 Council have yet amended their Governance Rules to specifically provide guidelines for electronic meetings. All Councils are currently relying on the existing emergency provisions of the Local Government Act 2020 and general provisions in their Governance Rules which provide the Mayor with discretion to modify meeting procedures as necessary to accommodate the online format.

The Minister for Local Government will be issuing guidelines to the sector in May 2022 on this issue – Yarra’s officers are involved in the working party developing these guidelines. The intention of these guidelines is not to be prescriptive about what Councils should do, but rather to set out the matters that Councils should take into account in making necessary amendments to their Governance Rules. It is not expected that the Ministerial Guidelines will be prescriptive enough that they could be adopted with public consultation (which is a process allowed for in the Local Government Act 2020, but unlikely to be able to be applied in this case).

What approach could we take?

It is open to Council to make its own determination on whether electronic participation at Council meetings should be permitted. The following four main different types of meetings are possible:

- ‘Physical’ meetings where all Councillors are present in person at one location.
- ‘Remote’ meetings where all Councillors participate by electronic means of communication
- ‘Hybrid’ meetings where some Councillors are physically present at one location, and some participate by electronic means of communication
- ‘Parallel’ meetings where some Councillors are present in person at one location, and some are physically present at another location.

In light of the COVID pandemic, much has been written about the merits or otherwise of the move to online meeting formats – including with a specific focus on corporate boards.

In essence, the prevailing view seems to be that while the move to online meetings has come with some benefits, it has not been without its downsides. In general terms, the benefits are practical ones – the reduction in travel, the ability to balance meetings with family or employment obligations, reduced costs to the organisation, the ability to have more subject matter experts at meetings, reduced overall time commitment. The most significant downside of online meetings has been the removal of the ‘informal’ element of meetings – discussions over dinner, ability to chat informally with staff or colleagues before or after meetings, the usefulness of body language in the flow of discussion and debate and the removal of distraction from the meeting environment.

Each of the meeting types has advantages and disadvantages, and the answer to deciding the best format for Council meetings, and the best way to document this in Governance Rules is unlikely to be found in debating the merits of each approach. The decision more likely to be one of principle.

“Let’s not waste a precious opportunity to re-think what we do and make boards more effective at governance.”

<https://hbr.org/2020/07/the-upside-of-virtual-board-meetings>

Turning to the Local Government Act 2020 for guidance, it is clear that a Councillor has relatively few legislated obligations. However, one of the obligations that a Councillor does have is that, subject to some exceptions, they cannot be “absent from Council meetings for a period of 4 consecutive months” [section 35(1)(e)]. In fact, this is the only obligation that requires a Councillor to physically attend the Council building and meet their colleagues. Without such an obligation to meet in person, Councillors would never have to meet the Council staff or each other - either one on one or as a collective. A move to online meetings clearly changes this dynamic.

“Another key element of the ideal hybrid or virtual board meeting is the social aspect. The personal bonds that people develop during chats at coffee breaks and before and after the meeting are helpful in building a cohesive board that works in unison. If that is reserved only for those attending in person, it could create an imbalance on the board.”

<https://boardclic.com/corporate-governance/virtual-board-meetings/>

“Directors reported that they felt the loss of in-person contact most when they tried to hold virtual deep-dive strategy sessions or conduct in-depth risk assessments. Directors overwhelmingly feel that in-person meetings are necessary for meaningful, breakthrough discussion.”

www.cumanagement.com/articles/gov-plus/2021/02/good-governance-virtual-board-work-here-stay

The experience at Yarra has been mixed. One thing that is clear is that the building of relationships between newly elected Councillors and each other and Council management has been more difficult in the online environment. The return to physical meetings has been welcomed by most (both during a short period in mid 2021 and more recently in 2022). That said, there have been times when online meetings have made participation possible by Councillors not otherwise able to join (most recently when a Councillor joined a meeting from overseas in circumstances where a quorum would otherwise have been lost for part of the meeting).

For the purposes of this discussion paper, a model is presented where:

- Physical meetings are the ‘default’ arrangement.
- Councillors who are unable to participate in person can request to join a physical meeting online (thus turning it into a ‘hybrid’ meeting).
- Provided Councillors present a reason for joining a meeting online other than it being their personal preference, then their request is bound to be accepted.
- Certain meetings can only be held in person (ie a Councillor is not able to request to join them online) due to the specific nature of the matters being considered).
- Once a certain number of online requests are made, a Hybrid meeting will become a ‘Remote’ meeting, and all participants will join online.
- At a Hybrid meeting, the meeting Chair must be physically present (meaning if the Mayor is joining online, another Councillor must assume the chair).

“Only 41 percent of respondents agreed that virtual meetings are as effective as in-person meetings”

<https://corpgov.law.harvard.edu/2021/02/08/the-future-of-the-virtual-board-room/>

In addition to the principle-based decision about the preferred meeting format, any use of electronic meetings will require insertions in the Governance Rules relating to a number of practical matters, such as the definition of presence at the meeting, the process to be used during a conflict of interest, casting and recording ordinary votes and divisions and a number of other matters. These changes are necessary to preserve the intent of the current meeting procedures insofar as they can be applied to electronic meetings.

Another matter requiring consideration is how members of the public might participate in meetings that are conducted using electronic means of communication. Experience over the past two years has shown that facilitating access to the electronic meeting platform by members of the public is very resource intensive, as it requires Council staff to individually contact each participant to facilitate their access to the meeting platform. In some cases, this also requires Council staff to provide technical support to members of the public both before and during the meeting itself. For the purposes of this discussion paper, participation by members of the public online is proposed to be made available only at meetings conducted solely online.

How would we give effect to these changes?

The provisions that could be inserted into the Governance Rules are shown overleaf.

Division 15—Miscellaneous

67.—Meetings Conducted Remotely

67.1—If:

67.1.1 ~~by law a meeting may be conducted electronically; and~~

67.1.2 ~~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.~~

Division 15 – Meetings and the use of electronic means of communication

It is Council's view that while there is a place for the use of electronic means of communication in formal meetings, a move away from in person meetings as the primary decision-making forum would be detrimental to good governance and transparent decision-making. Further, the sole reliance on electronic meeting platforms would disenfranchise members of the public who would otherwise be able to participate.

67. Determination of meeting format

67.1 By default, Council meetings shall be conducted in person except as provided for in this Division.

67.2 Despite this Division, Council may, by resolution, determine that a specific meeting or meetings will be conducted:

67.2.1 in person;

67.2.2 by electronic means of communication.

68. Meetings conducted in person

68.1 At meetings conducted in person, Councillors shall physically attend the meeting unless a request to participate by electronic means of communication has been granted in accordance with this section.

68.2 A request to participate by electronic means of communication must be in *writing*, signed by the Councillor, and be lodged or sent to the Chief Executive Officer at least two hours before the commencement of the meeting.

68.3 A request to participate in a meeting by electronic means of communication must provide an explanation as to why the Councillor cannot reasonably participate in the meeting in person. For the avoidance of doubt, a Councillor's personal preference to participate by electronic means of communication does not constitute sufficient grounds for making a request. The Chief Executive Officer shall, if requested by the Councillor, keep confidential the submitted reasons for the request.

68.4 If a request to participate in a meeting by electronic means of communication does not comply with sub clause 69.3, the Chief Executive Officer shall decline to accept it, and shall notify the Councillor and, if time permits, provide them an opportunity to submit a further request.

68.5 Subject to sub-rule 68.6, the Chief Executive Officer shall grant all requests to participate in the meeting by electronic means of communication, and shall notify all Councillors of the decision.

68.6 The Chief Executive Officer may not grant a request to participate in a meeting by electronic means of communication at the first meeting of Councillors after a general election, or if the meeting will consider:

68.6.1 the election of the Mayor under section 25 of the Act;

68.6.2 the election of the Deputy Mayor under section 27 of the Act;

68.6.3 the adoption of Governance Rules under section 60 of the Act;

68.6.4 the adoption of a Community Vision under section 88 of the Act;

- 68.6.5 the adoption of a Council Plan under section 90 of the Act;
 - 68.6.6 the adoption of a Long Term Financial Plan under section 91 of the Act;
 - 68.6.7 the adoption of an Annual Budget under section 94 of the Act;
 - 68.6.8 the adoption of a Revised Budget under section 94 of the Act;
 - 68.6.9 the presentation by the Mayor of an Annual Report under section 100 of the Act; or
 - 68.6.10 the adoption of a Councillor Code of Conduct under section 139 of the Act;
- unless they are satisfied that extraordinary circumstances warrant it.

68.7 A Councillor who is not physically in attendance at a meeting but is present by electronic means of communication without approval, shall be recorded as absent, and shall not be able to participate in the proceedings of the meeting, including moving or seconding motions, speaking during a debate or casting a vote on a motion before the meeting.

68.8 Meetings conducted in person shall be chaired by a Councillor who is physically present, in the following order of preference:

- 68.8.1 The Mayor; or
- 68.8.2 If the Mayor is not physically present, the Deputy Mayor; or
- 68.8.3 If neither the Mayor or Deputy Mayor are physically present, a Councillor who is physically present and is appointed by a resolution of the Council.

69. Meetings conducted by electronic means of communication

69.1 Should the Chief Executive Officer receive requests under rule 68 to participate in a meeting by electronic means of communication from an *absolute majority* of Councillors, the meeting shall be conducted solely by electronic means of communication.

69.2 Should the Chief Executive Officer determine that extraordinary circumstances warrant it, they are authorised to determine that any meeting be conducted solely by electronic means of communication.

69.3 The Chief Executive Officer may take all relevant factors into account in making a determination that extraordinary circumstances warrant a meeting being conducted solely by electronic means of communication including, but not limited to:

- 69.3.1 any risk to the health and safety of Councillors, staff and the community
- 69.3.2 whether all or part of the meeting is planned to be closed to members of the public under section 66(2) of the *Act*
- 69.3.3 the ability to provide public notice to members of the public who had registered to attend the meeting
- 69.3.4 whether the orderly conduct of a meeting may be affected by the choice of meeting format
- 69.3.5 the availability of suitable meeting facilities

70. Adjustments to meeting rules

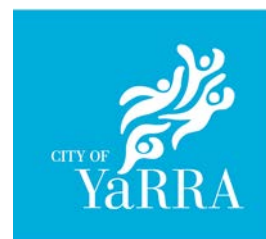
70.1 If a meeting is conducted by electronic means of communication, the following modifications to the application of the Rules in this Chapter are to be made:

- 70.1.1 References to a Councillor being present at a meeting shall be a reference to a Councillor being able to both hear and see other members in attendance and be heard and be seen by other members in attendance;
- 70.1.2 Momentary absences (less than one minute) shall not be recorded as absences for the purposes of the meeting minutes, unless a vote or the Mayor's request for the declaration of conflicts of interest occurs during the absence;

- 70.1.3 Casting a vote may occur by a Councillor either raising their hand in view of their camera such that it can be seen by other members in attendance or, at the Chair's request, verbally stating their vote;
- 70.1.4 In the event of the absence of a Councillor during a vote due to an apparent technical failure, a Councillor or member of Council staff may bring this to the attention of the meeting Chair, who may briefly adjourn the meeting to enable the Councillor to re-join the meeting. Should the Councillor be unable to reconnect within five minutes, the meeting shall resume in the Councillor's absence;
- 70.1.5 In the event of a Councillor being required to leave a meeting due following the declaration of a conflict of interest, a Councillor may leave the meeting by:
- (a) deactivating their microphone and camera (for meetings that are open to the public); or
 - (b) disconnecting from the online meeting platform (for all meetings).
- 70.2 The Chair may, with the consent of the meeting, modify the application of any other of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of a meeting which is conducted by electronic means of communication.

Councillor Forums

Directions Paper 13 Governance Rules Review 2022



Background

Council holds a series of regularly scheduled Councillor Briefings and ad hoc Councillor Workshops, yet no specific reference to them appears in the Governance Rules. The only current provision that applies to these meetings are the conflict of interest provisions that arise due to the fact these meetings are *meetings conducted under the auspices of Council*, as defined in the Local Government Act 2020 and the Governance Rules.

Councillor Briefings are currently designed to assist Councillors to fulfil their legislative obligation under the Councillor Conduct Principles which requires that a Councillor *“diligently uses Council processes to become informed about matters which are subject to Council decisions.”*

What can be improved?

Councillor Briefings and Workshops are a significant part of the workload of a Councillor, and are subject to no formal policy or guidelines governing their operation. The Governance Rules review provides an opportunity to define the purpose more clearly, as well as set out expectations regarding conduct, attendance and various administrative responsibilities.

What do other Councils do?

A benchmarking exercise has been conducted to determine the approach taken among the M9 group of Councils.

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none">• The Governance Rules set out the requirement and process for the declaration of a conflict of interest at a Councillor Briefing.• No other policy or procedures exist.
Darebin	<p>A <i>Councillor Briefing Policy</i> has been adopted which sets out</p> <ul style="list-style-type: none">• Purpose• Prohibition on decision-making• Attendance• Determination of agenda• Procedure• Conduct• Role of the Mayor
Hobsons Bay	<p>The Councillor Code of Conduct makes three references to Councillor Briefings relating to:</p> <ul style="list-style-type: none">• No directing or seeking to direct Council staff• Confidentiality• Conflict of Interest

Council	Governance Rules Summary
Yarra	<ul style="list-style-type: none"> The Governance Rules set out the requirement and process for the declaration of a conflict of interest at a Councillor Briefing. No other policy or procedures exist.
Maribyrnong	<ul style="list-style-type: none"> The Governance Rules make an identical reference to Councillor Briefings as the current Yarra Rules relating to disclosure of conflicts of interest. The rules also provide for the tabling of a summary of matters discussed at a subsequent Council meeting.
Melbourne	<ul style="list-style-type: none"> The Governance Rules make an identical reference to Councillor Briefings as the current Yarra Rules relating to disclosure of conflicts of interest.
Moonee Valley	<ul style="list-style-type: none"> A reference is made in the Councillor Code of Conduct to <i>“the standard of behaviour of Councillors during ... Councillor briefings”</i> The Governance Rules make an identical reference to Councillor Briefings as the current Yarra Rules relating to disclosure of conflicts of interest. The rules also provide for the tabling of a summary of matters discussed at a subsequent Council meeting.
Moreland	<ul style="list-style-type: none"> A reference is made in the Councillor Support, Expenses and Resources Policy that <i>“The duties and activities considered to be necessary or appropriate for the purposes of achieving the objectives of a Council include ... attending ... Councillor Briefing sessions organised by the Chief Executive Officer or delegate”</i>.
Port Phillip	<ul style="list-style-type: none"> The Governance Rules make an identical reference to Councillor Briefings as the current Yarra Rules relating to disclosure of conflicts of interest. The rules also provide for the tabling of a summary of matters discussed at a subsequent Council meeting.
Stonnington	<ul style="list-style-type: none"> The Councillor Code of Conduct includes a section on Councillor Briefings, as well as an appended <i>Councillor Briefing Session Charter</i> which provides provisions for: <ul style="list-style-type: none"> Description Role Confidentiality Attendance

What approach could we take?

It is suggested that the Governance Rules provide some guidance regarding four specific types of meetings.

Councillor Briefings

Councillor Briefings would remain largely unchanged from the current practice, and would be focussed largely on sharing views and providing feedback to officers on matters coming to a subsequent Council meeting, or presenting items for Councillor information.

A regular program of Councillor Briefings would be scheduled by Council annually, aligned with the Council meeting cycle. Additional Briefings could be scheduled by the CEO in consultation with the Mayor on an as needs basis. The Chief Executive Officer would be responsible for setting the agenda of Councillor Briefings, as is currently the case.

Council’s previously adopted position of not receiving presentations at Councillor Briefings from property developers would be formalised in the Governance Rules, although an exemption would exist for government projects.

Councillor Workshops

Councillor Workshops would be more strategic in nature than Councillor Briefings, and would be used for matters such as the development of Council's Annual Budget, strategic policy development or the discussion of large scale planning scheme amendments. The current arrangement is for these matters either to be brought to a scheduled Councillor Briefing, or a for a 'special' Councillor Briefing to be convened.

Councillor Workshops could be scheduled by the Council or by the CEO in consultation with the Mayor. The Chief Executive Officer would be responsible for setting the agenda of Councillor Workshops.

Planning Committee Member Briefings

The PDC Member Briefings are intended to remain unchanged from the current arrangement, which sees Council's planning staff provide a briefing to rostered Councillors ahead of each PDC meeting. This allows for detailed technical discussion on matters listed for discussion at the Committee meeting.

Scheduling of the PDC Member Briefings would be tied to the PDC meetings themselves, and the agenda items arise automatically from the agenda of the committee meeting to which they relate.

Councillor Development Forums

Councillor Development Forums are a new proposal, with meetings designed for collective Councillor capacity building, as well as specific training around compliance matters. They would provide a means to assist Councillors to satisfy their obligation under the Councillor Conduct Principles which requires that a Councillor *"undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor."*

Councillor Development Forums would be scheduled by the Chief Executive officer, in consultation with the Mayor. The Chief Executive Officer would be responsible for setting the agenda of Councillor Development Forums.

In order to satisfy the Councillor Conduct Principle that Councillors undertake training *"the Council decides it is necessary ... to undertake"*, it is envisaged that a professional development program will be periodically brought to Council for a resolution to set out the program in advance. The precise mechanism and frequency for this approach does not need to be captured in the Governance Rules themselves.

The additional recommendation proposed is that Council introduce formal and transparent reporting regarding all Councillor Forums. This reporting would provide for greater transparency of these meetings, with quarterly reports setting out:

- The date of each meeting
- The matters discussed
- Records of attendance/apology/leave of absence/absence
- Records of conflicts of interest

In addition, the proposal is to formalise a requirement that a summary report be included in Council's Annual Report setting out the names of each Councillor, the number of meetings they were invited to, the number of those meetings they attended and whether they were granted leave of absence for any of them.

How would we give effect to these changes?

The provisions that could be inserted into the Governance Rules are shown overleaf.

CHAPTER FOUR – COUNCILLOR FORUMS

PART A – PRELIMINARY

1. Purpose

- 1.1 This Chapter provides a framework for the orderly and proper conduct of Councillor Forums and aims to increase transparency around the council decision making process in line with the principles of good governance.
- 1.2 Each type of Councillor Forum described in this Chapter is a *meeting conducted under the auspices of Council* for the purposes of the conflict of interest provisions of the Local Government Act 2020 and these Governance Rules.

2. Conduct

- 2.1 Councillor Forums shall be chaired by the Mayor, or in their absence the Deputy Mayor, or in their absence a Councillor agreed by the Councillors in attendance.
- 2.2 These forums shall be conducted in a relatively informal manner.
- 2.3 Persons attending these forums will:
 - 2.3.1 treat other participants with courtesy and respect;
 - 2.3.2 not raise matters that are defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 2.3.3 in the case of Councillors, adhere to the Councillor Code of Conduct, to the extent that its terms are relevant, and can be applied, to Councillor Briefings; and
 - 2.3.4 in the case of Council staff, adhere to the Staff Code of Conduct, to the extent that its terms are relevant, and can be applied, to Councillor Briefings.

3. Councillor Attendance

- 3.1 Councillors are expected to attend all Councillor Forums, except where Council or the *Chief Executive Officer* determines otherwise. In the case of Planning Decisions Committee Member Briefings, only Councillors rostered to the subsequent meeting of the Planning Decisions Committee are expected to attend.
- 3.2 For the purposes of the transparency reports, a Councillor's attendance will be recorded as:
 - 3.2.1 In attendance, where they are present for all or part of the forum;
 - 3.2.2 On leave, where they have obtained leave from Council under s35(1)(e) of the Local Government Act 2020, where s35(5) or 35(6) applies or where the meeting is convened solely to consider a matter in relation to which the Councillor has a conflict of interest;
 - 3.2.3 Apology, where the Councillor is not present at the forum and has notified the Chair in advance of their intended absence; or
 - 3.2.4 Absent, where the Councillor is not present at the forum without prior notification.
- 3.3 For the purposes of this Chapter, being present at a meeting includes participation by electronic means of communication.

PART B – COUNCILLOR BRIEFINGS

4. Purpose

- 4.1 Councillor Briefings are designed to assist Councillors to fulfil their obligation at Schedule 1, clause 2(b) of the Local Government (Governance and Integrity) Regulations 2020 which requires that a Councillor "*diligently uses Council processes to become informed about matters which are subject to Council decisions.*"

- 4.2 Councillor Briefings provide an opportunity to enhance the decision-making process and are a forum for the Chief Executive Officer and senior management to address any Councillor questions and provide additional background on matters subsequently coming before the Council for decision.
- 4.3 Councillor Briefings are designed to better inform and encourage robust discussion and debate relating to Council initiatives, policies, plans and strategies.
- 4.4 Specifically, Councillor Briefings provide a forum for:
 - 4.4.1 Councillors to be fully informed on complex matters that will allow for more effective discussion and debate during subsequent formal meetings;
 - 4.4.2 Councillors to share their views with each other; and for Councillors to seek further information, clarification and background details from council officers or any guest presenters;
 - 4.4.3 officers to advise Councillors of their professional opinions and reasoning behind their intended recommendations;
 - 4.4.4 Councillors to adequately prepare for Council Meetings without the limitations and restrictions of formal debate.
- 4.5 While Councillor Briefings are not formal decision-making forums, officers may have regard to discussions and issues raised at Councillor Briefings in developing recommendations for a future Council meeting.

5. Administration

- 5.1 Council may from time to time fix the date, time and place of all Councillor Briefings.
- 5.2 The *Chief Executive Officer*, after consulting with the Mayor, may call a Councillor Briefing and fix its date, time and place.
- 5.3 The *Chief Executive Officer*, after consulting with the Mayor, shall set the agenda for Council Briefings.

6. Guest Attendance

- 6.1 The *Chief Executive Officer* will extend an invitation to a Councillor Briefings (or part thereof) to relevant Council staff, including members of the Executive Management Team, senior management and specialist staff.
- 6.2 The *Chief Executive Officer* may, after consulting with the Mayor, extend invitations to third parties to participate in Councillor Briefings (or part thereof) as appropriate.
- 6.3 Invitations to Councillor Briefings cannot be extended to third parties in relation to applications or prospective applications that they may make for planning scheme amendments, planning permits, heritage permits or other land use planning matters, with the exception of:
 - 6.3.1 Commonwealth or state government departments and agencies; and
 - 6.3.2 parties acting on behalf of, or in partnership with, Council.

PART C - COUNCILLOR WORKSHOPS

7. Purpose

- 7.1 Councillor Workshops are primarily designed to assist Councillors to fulfil their obligation at section 28(1)(c) of the Local Government Act 2020 which requires a Councillor “*to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.*”
- 7.2 Councillor Workshops enable Councillors and staff to collaborate to develop or advance matters of strategic importance and collectively develop proposals prior to the commencement of the formal decision-making process.
- 7.3 Examples of workshops include:
 - 7.3.1 discussions to determine strategic priorities;

- 7.3.2 the development of the budget for the coming financial year;
- 7.3.3 initial input into the development or review of a Council policy or planning scheme.
- 7.4 While workshops are not formal decision-making forums they may be used as the basis for officers to develop a proposal which will be considered at a subsequent Councillor Briefing or formally at a Council meeting.

8. Administration

- 8.1 The Council may, by resolution, call a Councillor Workshop and fix its date, time and place.
- 8.2 The *Chief Executive Officer*, after consulting with the Mayor, may call a Councillor Workshop and fix its date, time and place.
- 8.3 Every effort shall be made to schedule each Councillor Workshop at a time that is suitable to Councillors, but it is recognised that Councillors may not be available at short notice or at times that conflict with employment, community, family or caring responsibilities.
- 8.4 The *Chief Executive Officer*, after consulting with the Mayor, shall set the agenda for Council Workshops.

9. Guest Attendance

- 9.1 The *Chief Executive Officer* will extend an invitation to a Councillor Workshops (or part thereof) to relevant Council staff, including members of the Executive Management Team, senior management and specialist staff.
- 9.2 The *Chief Executive Officer* may, after consulting with the Mayor, extend invitations to third parties to participate in Councillor Workshops (or part thereof) as appropriate.

PART D – PLANNING DECISIONS COMMITTEE MEMBER BRIEFINGS

10. Purpose

- 10.1 Planning Decisions Committee Member Briefings are designed to assist those Councillors who are rostered on to the next meeting of the Planning Decisions Committee to fulfil their obligation at Schedule 1, clause 2(b) of the Local Government (Governance and Integrity) Regulations 2020 which requires that a Councillor “*diligently uses Council processes to become informed about matters which are subject to Council decisions.*”
- 10.2 Planning Decisions Committee Member Briefings enable Councillors and staff to discuss details of matters coming to the Committee, understand technical details and clarify matters raised with Councillors by parties to the application.
- 10.3 While Planning Decisions Committee Member Briefings are not formal decision-making forums they may be used by Councillors to develop alternative resolutions that are subsequently presented to the Committee for consideration.
- 10.4 Council staff may provide advice at Planning Decisions Committee Member Briefings, but such advice should not be considered an alteration of the report author’s recommendation in the published report.

11. Administration

- 11.1 Council must from time to time fix the date, time and place of all Planning Decisions Committee Member Briefings.
- 11.2 The *Chief Executive Officer*, after consulting with the Mayor, may call a Planning Decisions Committee Member Briefing and fix its date, time and place.
- 11.3 While there is no formal agenda Planning Decisions Committee Member Briefings, discussion shall be confined to questions relating to the matters listed on the agenda for the subsequent meeting of the Planning Decisions Committee.

12. Guest Attendance

- 12.1 The *Chief Executive Officer*, and both the Director and Manager with responsibility for the statutory planning function have a standing invitation to attend the Planning Decisions Committee Member Briefing.

- 12.2 Both the Director and Manager with responsibility for the statutory planning function may extend an invitation to a Planning Decisions Committee Member Briefing (or part thereof) to relevant Council staff.
- 12.3 Invitations to Planning Decisions Committee Member Briefings cannot be extended to third parties.

PART E – COUNCILLOR DEVELOPMENT FORUMS

13. Purpose

- 13.1 Councillor Development Forums are designed to enable Councillors to fulfil their obligation at Schedule 1, clause 2(a) of the *Local Government (Governance and Integrity) Regulations 2020* which requires that a Councillor “*undertakes any training or professional development activities the Council decides it is necessary for all Councillors to undertake in order to effectively perform the role of a Councillor.*”
- 13.2 Councillor Development Forums are offered collectively to the Councillor group in addition to any individual professional development undertaken by a Councillor or groups of Councillors in accordance with the *City of Yarra Councillor Support Policy*.

14. Administration

- 14.1 The *Chief Executive Officer*, after consulting with the Mayor, may call a Councillor Development Forum and fix its date, time and place.
- 14.2 Every effort shall be made to schedule each Councillor Development Forum at a time that is suitable to Councillors, but it is recognised that Councillors may not be available at short notice or at times that conflict with employment, community, family or caring responsibilities.
- 14.3 The *Chief Executive Officer*, after consulting with the Mayor, shall set the agenda for Council Development Forum.

15. Guest Attendance

- 15.1 The *Chief Executive Officer* will extend an invitation to a Councillor Development Forums (or part thereof) to relevant Council staff, including members of the Executive Management Team, senior management and specialist staff.
- 15.2 The *Chief Executive Officer* may, after consulting with the Mayor, extend invitations to third parties to participate in Councillor Development Forums (or part thereof) as appropriate.

PART F – TRANSPARENCY

16. Quarterly Reporting

- 16.1 As soon as practicable after the end of each quarter, a report will be presented to a Council Meeting setting out details of each of:
 - 16.1.1 Councillor Briefings
 - 16.1.2 Councillor Workshops
 - 16.1.3 Planning Decisions Committee Member Briefings
 - 16.1.4 Councillor Development Forums
- 16.2 The report in sub-rule 16.1 shall include, for each meeting:
 - 16.2.1 The date of the meeting
 - 16.2.2 Subject to sub rule 16.3, a list of the matters discussed at the meeting
 - 16.2.3 Details of Councillor attendance
 - 16.2.4 Any Conflicts of Interest declared at the meeting under these Governance Rules
- 16.3 Where the inclusion of a matter discussed at a meeting would require the disclosure of confidential information, the list shall instead state “Confidential Matter” and state the grounds on which this determination has been made by reference to the grounds specified in the definition of confidential information in section 3(1) of the Local Government Act 2020.

17. Annual Report

- 17.1 Council's Annual Report shall include a table setting out the attendance details during the previous financial year of Councillors at:
 - 17.1.1 Councillor Briefings
 - 17.1.2 Councillor Workshops
 - 17.1.3 Planning Decisions Committee Member Briefings
 - 17.1.4 Councillor Development Forums

18. Internal Working Documents

- 18.1 Aside from the transparency reports set out in this Part, the proceedings of each type of meeting described in this Chapter are to be considered Internal Working Documents. This includes, but is not limited to:
 - 18.1.1 Agendas
 - 18.1.2 Briefing Papers
 - 18.1.3 Briefing paper attachments
 - 18.1.4 Slide decks and presentations
 - 18.1.5 Meeting notes or minutes
- 18.2 Councillors must not intentionally or recklessly disclose information that they know, or should reasonably know, is an internal working document.