



Agenda

Council Meeting

7.00pm, Tuesday 23 August 2022

Richmond Town Hall

Council Meetings

Council Meetings are public forums where Councillors come together to meet as a Council and make decisions about important, strategic and other matters. The Mayor presides over all Council Meetings, and they are conducted in accordance with the City of Yarra Governance Rules 2020 and the Council Meetings Operations Policy.

Council meetings are decision-making forums and only Councillors have a formal role. However, Council is committed to transparent governance and to ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered before the decision is made.

There are two ways you can participate in the meeting.

Public Question Time

Yarra City Council welcomes questions from members of the community.

Ideally, questions should be submitted to Council in writing by midday on the day of the meeting via the form available on our website. Submitting your question in advance helps us to provide a more comprehensive answer. Questions that have been submitted in advance will be answered first.

Public question time is an opportunity to ask questions about issues for which you have not been able to gain a satisfactory response on a matter. As such, public question time is not:

- a time to make statements or engage in debate with Councillors;
- a forum to be used in relation to planning application matters which are required to be submitted and considered as part of the formal planning submission;
- a forum for initially raising operational matters, which should be directed to the administration in the first instance;

If you wish to raise matters in relation to an item on this meeting agenda, Council will consider submissions on these items in conjunction with and prior to debate on that agenda item.

When you are invited by the Mayor to ask your question, please come forward, take a seat at the microphone, state your name clearly for the record and:

- direct your question to the Mayor;
- refrain from making statements or engaging in debate
- don't raise operational matters which have not previously been raised with the Council administration;
- not ask questions about matter listed on the agenda for the current meeting.
- refrain from repeating questions that have been previously asked; and
- if asking a question on behalf of a group, explain the nature of the group and how you are able to speak on their behalf.

Once you have asked your question, please remain silent unless called upon by the Mayor to make further comment or to clarify any aspects.

Public submissions

Before each item is considered, the meeting chair will ask people in attendance if they wish to make submission. If you want to make a submission, simply raise your hand and the Mayor will invite you to come forward, take a seat at the microphone, state your name clearly for the record and:

- Speak for a maximum of five minutes;
- direct your submission to the Mayor;
- confine your submission to the subject under consideration;
- avoid repetition and restating previous submitters;
- refrain from asking questions or seeking comments from the Councillors or other submitters;
- if speaking on behalf of a group, explain the nature of the group and how you are able to speak on their behalf.

Once you have made your submission, please remain silent unless called upon by the Mayor to make further comment or to clarify any aspects.

Once all submissions have been received, the formal debate may commence. Once the debate has commenced, no further submissions, questions or comments from submitters can be received.

Arrangements to ensure our meetings are accessible to the public

Council meetings are held at either the Richmond Town Hall or the Fitzroy Town Hall. The following arrangements are in place to ensure they are accessible to the public:

- Entrance ramps and lifts (off Moor Street at Fitzroy, entry foyer at Richmond).
- Interpreting assistance is available by arrangement (tel. 9205 5110).
- Auslan interpreting is available by arrangement (tel. 9205 5110).
- A hearing loop is available at Richmond only and the receiver accessory is available by arrangement (tel. 9205 5110).
- Proposed resolutions are displayed on large screen.
- An electronic sound system amplifies Councillors' debate.
- Disability accessible toilet facilities are available at each venue.

Recording and Publication of Meetings

An audio recording is made of all public Council Meetings and then published on Council's website. By participating in proceedings (including during Public Question Time or in making a submission regarding an item before Council), you agree to this publication. You should be aware that any private information volunteered by you during your participation in a meeting is subject to recording and publication.

Order of business

1. **Acknowledgement of Country**
2. **Attendance, apologies and requests for leave of absence**
3. **Announcements**
4. **Declarations of conflict of interest**
5. **Confidential business reports**
6. **Confirmation of minutes**
7. **Public question time**
8. **Council business reports**
9. **Notices of motion**
10. **Petitions and joint letters**
11. **Questions without notice**
12. **Delegates' reports**
13. **General business**
14. **Urgent business**

1. Acknowledgment of Country

“Yarra City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Owners and true sovereigns of the land now known as Yarra.

We acknowledge their creator spirit Bunjil, their ancestors and their Elders.

We acknowledge the strength and resilience of the Wurundjeri Woi Wurrung, who have never ceded sovereignty and retain their strong connections to family, clan and country despite the impacts of European invasion.

We also acknowledge the significant contributions made by other Aboriginal and Torres Strait Islander people to life in Yarra.

We pay our respects to Elders from all nations here today—and to their Elders past, present and future.”

2. Attendance, apologies and requests for leave of absence

Attendance

Councillors

• Cr Sophie Wade	Mayor
• Cr Edward Crossland	Deputy Mayor
• Cr Gabrielle de Vietri	Councillor
• Cr Stephen Jolly	Councillor
• Cr Herschel Landes	Councillor
• Cr Anab Mohamud	Councillor
• Cr Claudia Nguyen	Councillor
• Cr Bridgid O'Brien	Councillor
• Cr Amanda Stone	Councillor

Council officers

• Sue Wilkinson	Chief Executive Officer
• Brooke Colbert	Group Manager Advocacy and Engagement
• Malcolm Foard	Director Community Wellbeing
• Ivan Gilbert	Group Manager Chief Executive's Office
• Gracie Karabinis	Group Manager People and Culture
• Chris Leivers	Director City Works and Assets
• Diarmuid McAlary	Director Corporate, Business and Finance
• Bruce Phillips	Director Planning and Place Making
• Rhys Thomas	Senior Governance Advisor
• Mel Nikou	Governance Officer

Municipal Monitor

• Yehudi Blacher	Municipal Monitor
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Leave of absence

• Cr Gabrielle de Vietri	Councillor
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3. Announcements

An opportunity is provided for the Mayor to make any necessary announcements.

4. Declarations of conflict of interest (Councillors and staff)

Any Councillor who has a conflict of interest in a matter being considered at this meeting is required to disclose that interest either by explaining the nature of the conflict of interest to those present or advising that they have disclosed the nature of the interest in writing to the Chief Executive Officer before the meeting commenced.

5. Confidential business reports

Nil

6. Confirmation of minutes

RECOMMENDATION

That the minutes of the Council Meeting held on Tuesday 2 August 2022 be confirmed.

7. Public question time

An opportunity is provided for questions from members of the public.

8. Council business reports

Item		Page	Rec. Page	Report Presenter
8.1	Governance Rules Review 2022	8	17	Rhys Thomas - Senior Governance Advisor
8.2	2022 Ceremonial Council Meeting Date	146	147	Rhys Thomas - Senior Governance Advisor
8.3	Membership of Yarra Heritage Advisory Committee 2022-2026	148	151	Richa Swarup – Senior Advisor City Heritage

9. Notices of motion

Nil

10. Petitions and joint letters

An opportunity exists for any Councillor to table a petition or joint letter for Council's consideration.

11. Questions without notice

An opportunity is provided for Councillors to ask questions of the Mayor or Chief Executive Officer.

12. Delegate's reports

An opportunity is provided for Councillors to table or present a Delegate's Report.

13. General business

An opportunity is provided for Councillors to raise items of General Business for Council's consideration.

14. Urgent business

An opportunity is provided for the Chief Executive Officer to introduce items of Urgent Business.

8.1 Governance Rules Review 2022

Reference	D22/144844
Author	Rhys Thomas - Senior Governance Advisor
Authoriser	Group Manager Chief Executive's Office

Purpose

1. This report presents the outcomes of the Governance Rules Review 2022 and recommends that Council:
 - (a) finalise consideration of a mutual respect charter by adopting a Commitment to Respectful Community Relationships;
 - (b) adopt new Governance Rules that incorporate the outcomes of the review, and revoke the current Governance Rules and Council Meetings Operations Policy;
 - (c) proscribe the personal criticism on social media by one Councillor of another by inserting cause into the Councillor Code of Conduct and the Councillor Social Media Policy; and
 - (d) adopt a Councillor Candidature Policy.

Critical analysis

History and background

2. On 18 August 2020, Council adopted the City of Yarra Governance Rules (including the election period policy) as required under the then new Local Government Act 2020.
3. On 30 November 2021, the *Regulatory Legislation Amendment (Reform) Bill 2021* was introduced into Parliament, foreshadowing a change to the Local Government Act 2020 that would require all Councils to alter their Governance Rules by the end of August 2022 to accommodate processes for the conduct of Council meetings by electronic means of communication.
4. On 14 December 2021, the Minister for Local Government appointed a Municipal Monitor to Council under section 179(1) of the Local Government Act 2020. The Municipal Monitor was appointed, among other things, to *“advise, and provide any relevant assistance and support, to the Council in relation to the improvement of the Council’s governance processes and practices, with specific regard to ... the Council’s meeting procedures and decision making, including Councillor attendance at Council briefings, the adequacy of the Council’s Governance Rules and Councillor adherence to the Governance Rules.”*
5. In early 2022, Council commenced the Governance Rules Review 2022 – a process designed to draw on the experience and views of management, Councillors, the Municipal Monitor and the community to identify any opportunities to improve the rules and further Council’s commitment to good governance.
6. On 31 May 2022, Council endorsed 13 Governance Rules Review Directions Papers and determined to commence a community engagement process to seek community feedback on the proposed changes. In addition, Council resolved that:

“officers conduct further work on the interplay between community submissions and community consultation processes at the City of Yarra, with a view to adopting further changes that benefit community input into Council processes alongside the final governance rule changes”

Discussion

7. In finalising this proposal for Council's consideration, officers also took a broader examination of the Governance policy framework – reflecting on the proposals to date, as well as other opportunities for improvements to the supporting policy. This was motivated by the inter-related nature of a number of aspects of Council's decision-making process – of which formal Council meetings is just one part.
8. The community consultation process also reinforced the value of this approach, as the feedback was not limited to the narrow scope of the Governance Rules.

Community Consultation outcomes

9. Council received 70 items of feedback across 17 community submissions. Of those submissions, 10 were made via the Your Say Yarra platform, and a further seven were lodged by email. Three of the submissions were made by community organisations, and the remaining 14 submissions were made by individuals.
10. The key messages to take out of the feedback are:
 - (a) There is general support for most proposed administrative amendments to the Rules;
 - (b) There are differing views about the following proposed meeting rules:
 - (i) The role of the Mayor in debates;
 - (ii) The manner in which submissions are heard at meetings;
 - (iii) The procedures to be followed to receive questions from the public;
 - (iv) The treatment of online petitions;
 - (c) In addition to specific responses to the Governance Rules, broader feedback was provided in relation to:
 - (i) The process of community engagement in the lead up to reports being brought to Council, and alternative approaches to the acceptance of submissions at the decision meeting;
 - (ii) Training obligations for Councillors;
 - (iii) The conduct of ward meetings; and
 - (iv) The adoption of the foreshadowed charter of mutual respect.
11. Further details of the community engagement process can be found under "Stakeholder Engagement" in this report, and the verbatim feedback provided in the community submissions together with officer commentary is provided at **Attachment One**.

Submissions and consultation processes

12. In response to Council's 31 May 2022 resolution seeking further work on the community submissions process, separate considerations are underway to, among other things, explore the role of community representations at Council Meetings in the context of Council's broader community engagement efforts.
13. For the purpose of the Governance Rules review, care has been taken to draft enabling provisions that will not stand in the way of whatever process arises from this work.
14. In this context, it is noted that the Governance Rules need to be the servant of the decision Council makes, and should not be the driver of the community engagement process. The proposal has been prepared with this principle in mind.
15. The proposed rules recommend a change in terminology so that instead of the word 'submissions', the words 'addressing the meeting' are used. This is to reduce confusion in situations where submissions might be received in another way.

Commitment to Respectful Community Relationships

16. In response to a desire by Councillors to explore the establishment of a set of 'ground rules' for community engagement – essentially setting out the expected behaviour for interactions between members of the community and Councillors. A 'Commitment to Respectful Community Relationships' statement has been prepared and can be found at **Attachment Two** (note that the working title of this document had previously been 'mutual respect charter').
17. In his June 2022 report, Council's Municipal Monitor observed that the proposed charter "*is necessary because the tone of some of those interactions (between councillors, staff and the community) have been inappropriate to the proper conduct of Council business.*" It is evident that the Monitor has observed unacceptable interactions between Councillors and members of the community, with examples cited.
18. The Commitment itself is written in two parts:
 - (a) The first part, headed 'Our Commitment' documents a commitment by Councillors to a list of behaviours when dealing with members of the community. These commitments are taken directly from the Standards of Conduct set out in Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020. The Commitment does not seek to create new obligations for Councillors, but merely to clearly set out those obligations they have under the Local Government Act 2020 by virtue of their office as a Councillor; and
 - (b) The second part, headed 'Our expectations' documents a list of behaviours that Councillors can expect from members of the community who are seeking to interact with their elected representative. Representative governance is at its best when elected members and their constituents work together to identify and address common goals. While this is the case for the most part, there are some behaviours which create an unacceptable working environment for Councillors, and they are set out in this part.
19. The Commitment provides that a Councillor, when exposed to behaviour by the community that falls short of the expected standards, is within their rights to terminate the interaction.
20. Similarly, the Commitment makes clear that members of the community have a right to complain about Councillors in some circumstances, while acknowledging that as democratically elected officials, Councillors are ultimately held accountable to their constituents through the electoral process.

Governance Rules

21. The changes that are proposed since the development of the Governance Rules Directions Papers are shown in the table below.
22. A marked-up copy of the rules incorporating the changes foreshadowed in the Directions Papers, as well as those set out in the table below can be found at **Attachment Three**. A copy of the Governance Rules with all marked up changes incorporated can be found at **Attachment Four**. An Explanatory Memorandum setting out the proposed changes in plain English can be found at **Attachment Five**.
23. Note that due to the complexity and inter-related nature of the rule changes, the rule numbering shown in the Directions Papers is different from that used in this Briefing Paper. The numbering used here is the same as is found in the marked-up Governance Rules attached.

Rule	Explanation
Context Ch 1, Rule 5	Removal of the reference to the Council Meetings Operations Policy, which is proposed to be revoked (as relevant provisions have now been incorporated into the Governance Rules).

Rule	Explanation
Ordinary and Extraordinary Council Meetings Ch 2, Rules 9-10	<p>A reconsideration of the difference between what we previously called “Meetings fixed by Council” and “Meetings not Fixed by Council”. The new terminology (“Ordinary” and “Extraordinary”) makes it easier to clarify in later rules that various standing items (General Business, PQT, Petitions etc.) are only to be considered at Extraordinary Meetings if the meeting has been called for that purpose.</p> <p>Further, the date and time of both types of meetings will be fixed by Council or Councillors (as the case may be), and the location will now be fixed by the CEO (which reflects the current practice).</p>
Determination of Meeting format Ch 2, Rules 11-13	<p>Recognising the importance of Councillors holding themselves accountable to the community by physically attending Council meetings and participating in the decision-making process in full public view. Changes to the proposed electronic meetings clauses to not progress with provisions for hybrid meetings, while introducing with a process for holding wholly electronic meetings, with the CEO as the decision-maker. Introduction of an ability for Councillors to request electronic participation in a physical meeting in limited circumstances relating to public health.</p>
Cancelling or Postponing Meetings Ch2, Rule 15	<p>Providing the CEO with authority to cancel or postpone meetings in certain circumstances will remove the requirement for a Council resolution for a minor change. Further, on those rare occasions when meetings have been cancelled in the past due to lack of business, there has been no formal authority for the CEO to do this. This means that officers have had to be physically present at the intended meeting time and wait for 30 minutes to confirm that a quorum was not present.</p>
Introducing a Report Ch 2, old Rule 21	<p>The rules relating to officer presentation of reports have been removed, as they are not required in the Governance Rules. The role of Council officers at meetings is a matter for the CEO to determine.</p>
Speaking Times Ch 2, Rule 41	<p>Proposed to permit the mover of a motion to address the meeting for three minutes (in addition to the time used to move the motion, and the subsequent two minute right of reply). This is to align with the proposed three minute allocation to members of the public addressing the meeting.</p>
Right to ask questions Ch 2, Rule 43	<p>Clarifications that Councillors have right to ask questions until the commencement of the debate, and that once the debate has commenced, no further questions are possible (except in the case of an amendment, in which case questions can be asked about the amendment). Officers cannot be involved in discussions once the debate is underway.</p>
Question Time Ch 2, Rule 53	<p>Not proceeding with the proposal to disallow statements during Question Time other than the question and its response and instead providing the Mayor with discretion to allow statements or questions of clarification from anyone present at the meeting. The introduction of this provision makes the foreshadowed provision allowing a follow-up question of clarification unnecessary and it is recommended that it not be included.</p>
Addressing Council and PDC Ch 2, Rule 55 Ch 5, Rule 2	<p>Changes to the language used to describe persons speaking to matters at Council and PDC meetings. Instead of the word ‘submissions’, it is proposed to use ‘addressing the meeting’. This has been a source of confusion in the past in relation to statutory processes which provide a right to make a ‘submission’, which may or may not be in the form of an oral statement at a Council meeting. With the rules now providing flexibility for alternative processes (i.e. Council will have the discretion to design an alternative process to hear from residents before making a decision), it is useful to use language in our Governance Rules that is unequivocal in meaning.</p>

Rule	Explanation
Reasonable adjustments Ch 2, Rule 75	An inclusion or rules to require both the Chair and CEO to support the equitable participation in meetings by people with special needs (e.g. providing additional time to address the Council with the use of a translator).
Procedure not provided Ch 2, Rule 77	Reordering the “Miscellaneous” provisions so that the catch all provision that refers to the application of parliamentary rules appears last.
Planning Decisions Committee Ch 3 and Ch 4	The inclusion of a separate chapter for the Planning Decisions Committee (rather than inclusion in a general chapter on Delegated Committees). This more clearly distinguishes the specific provisions for the Planning Decisions Committee (mostly regarding the process for addressing the meeting) and allows greater flexibility for the establishment of a future Delegated Committee (such as a Hearing of Submissions Committee), subject to whatever rules Council determines at the time of establishment.
Councillor Briefings Previously proposed inclusion	<p>The content of Council’s Governance Rules is governed by section 60(1) of the Local Government Act 2020, which sets out a list of matters that the rules can contain. While the rules are able to set out provisions regarding the conduct of Council meetings and meetings of delegated committees, they cannot specify provisions for Councillor Briefings or other meetings which are not formally constituted (except for conflict of interest rules, which are specifically listed).</p> <p>On this basis, it is proposed not to proceed with the addition of rules that govern the conduct of Councillor Briefings.</p> <p>The proposals canvassed in the Directions Papers relating to the public transparency reports of Councillor Briefings will still be implemented, as they do not require inclusion in Council’s Governance Rules in order to be implemented. It is intended to introduce regular public reports setting out the matters discussed, Councillor attendance, conflict of interest declarations and other matters.</p> <p>Further, the simplification of this section provides greater flexibility for Council to explore alternative Briefing formats without the rigid constraints of Governance Rules limiting the options available.</p>
Disclosure of a Conflict of Interest Ch 6, Rule 1	A requirement to strengthen the conflict of interest provisions by requiring a Councillor to disclose any conflict of interest in writing, with a form to be provided for this purpose. Because conflict of interest provisions are triggered rarely, this change will support Councillors to comply with their obligations. Further, the rules are simplified to make clear that the same obligations exist at Council Meetings and meetings of Delegated Committees (including PDC).

24. A number of administrative changes are also proposed (removal of some now redundant provisions, minor formatting and punctuation issues and renumbering of clauses throughout).

Personal and Unprofessional Criticism

25. On 8 March 2022, Council adopted the current Councillor Code of Conduct and Councillor Social Media Policy. The adoption of those policies was the conclusion of a five stage process (benchmarking, engagement, drafting, legal review and adoption) that commenced in 2021. That process resulted in the replacement of an interim Code of Conduct that had been adopted shortly after the making of the Local Government Act 2020.
26. In June 2022, Council’s Municipal Monitor provided a report to the Minister for Local Government that contained the following observation:

27. *“Most Councillors are generally complying with the Code of Conduct and Social Media Policy and have been responsive to requests to adjust their behaviours when non-compliance has been identified. Whilst it is appropriate for Councillors to have the time to adjust to the new arrangements, should instances of non-compliance continue the Council may need to consider further action in accordance with the Code or the Local Government Act 2020.*
28. *There remains one issue in relation to these policies which the Council omitted to address. Under the revised policies there is no provision against personal criticisms by Councillors of their Councillor colleagues using social media. One recent posting has done just that resulting in abusive postings of those Councillors by some community members. The posting was subsequently retracted but the damage was done by the initial posting.*
29. *The Code, as it should, allows for Councillors to engage in robust political debate in relation to Council decisions. However, naming particular Councillors is not robust debate but an attempt to denigrate one’s colleagues and should be specifically proscribed.”*
30. It is now for Council to consider this observation and, should it agree, make the necessary modifications to both the Councillor Code of Conduct and the Councillor Social Media Policy to proscribe personal criticism by one Councillor of another.
31. Given both policies appear to be serving Council well (the Monitor observed *“during my time as Monitor the interactions between Councillors at Council meetings seem to have improved”*), the most straightforward approach would be to make simple insertions to the existing policies.
32. In order to introduce this new provision, officers recommend that the following clauses be inserted:
 - (a) Into the Councillor Code of Conduct, a new clause 7.8.3(e) reading:
“not engaging in personal and unprofessional criticism of other Councillors”; and
 - (b) Into the Councillor Social Media Policy, a new clause 8.3 reading:
“engage in personal and unprofessional criticism of other Councillors
Example - A Councillor publishes a post on Facebook expressing disappointment a Council decision. A member of the community posts a comment reading “I’m not surprised that Cr A voted in favour – he is without doubt the stupidest person I’ve ever been unfortunate enough to meet.” The Councillor ‘likes’ the comment. The Councillor should not endorse the comment by ‘liking’ it.”

Council Candidature Policy

33. In adopting the Councillor Code of Conduct in March, Council included provisions that oblige Councillors to observe guidelines published by the Municipal Association of Victoria in relation to the candidature of Councillors at Federal and State elections. These guidelines set out a number of steps for Councillors to observe from the time they are pre-selected or announce their intended candidacy through until election day.
34. Upon her pre-selection in relation to the impending Victorian election, Councillor de Vietri has been observing these guidelines but has also sought to observe best practice in relation to the avoidance of conflicts of interest and accusations of improper use of Council resources. In these endeavours, she has gone further than the MAV guidelines require (for example, she has returned her computer equipment during her term of leave). This is an opportunity for reflection on whether the ‘one size fits all’ guidelines produced by the Municipal Association of Victoria are sufficient to provide guidance to Councillors and Council itself. The adoption of a policy that is more akin to the standards to which Cr de Vietri has held herself will provide greater protection for Councillors who may be subject to questioning and criticism in relation to any period when they are serving a dual role.
35. On this basis, officers have developed a draft Councillor Candidature Policy, which can be found at **Attachment Six**.

36. Much of the policy is drawn from the Municipal Association of Victoria guidelines, but it also includes the following additional provisions:
- (a) Statements setting out the purpose of the policy;
 - (b) Providing that the statement not only applies to state and federal elections, but also applies to other elections, such as another government, community organisation, club, board or other organisation (except where the Councillor is standing in their capacity as a Yarra City Councillor);
 - (c) The return of Council equipment during any period of leave;
 - (d) Express statements about the need to observe the distinction between a person's role as a Councillor and as a candidate in all consideration of Council business;
 - (e) Prohibitions on use of Council information in connection with an election campaign; and
 - (f) Provisions relating to a Councillor's dealing with the media.
37. In adopting the proposed Councillor Candidature Policy, a minor change is also required to the Councillor Code of Conduct, which currently makes reference to the Municipal Association of Victoria guidelines. This change is set out in the recommendation.

Options

38. There are no alternative options formally set out in this report, although there are a number of courses of action available to Council at this meeting. Council could resolve by alternate resolution, for example, to:
- (a) adopt only some of the proposed changes to the Governance Rules by specifying which changes are (or are not) to be made;
 - (b) adopt the proposed Governance Rules subject to specific changes to the wording set out in a resolution;
 - (c) abandon all changes to the Governance Rules other than what is necessary to comply with the change to the Local Government Act that requires the rules to include rules relating to requesting and approval of attendance at electronic meetings;
 - (d) adopt the Commitment to Respectful Community Relationships or Councillor Candidature Policy with specific amendments set out in a resolution; or
 - (e) abandon the adoption of a Commitment to Respectful Community Relationships or Councillor Candidature Policy.

Community and stakeholder engagement

39. This report presents the outcomes of the community engagement process following the process endorsed by Council. The process involved:
- (a) Endorsement by Council of 13 Directions Papers for the purposes of community engagement;
 - (b) Publications of the Directions Papers and a feedback form on the Your Say Yarra platform;
 - (c) Widespread notification of the consultation process throughout June and July; and
 - (d) Direct approaches to key stakeholders to invite them to participate.
40. Comprehensive details of the consultation process, the measured community engagement, the text of community contributions and an officer response to the matters raised, can be found at **Attachment Two**.
41. This community engagement process satisfies Council's obligation under section 60(4) of the Local Government Act 2020 to *"ensure that a process of community engagement is followed in developing or amending its Governance Rules"*.

Policy analysis

Alignment to Community Vision and Council Plan

42. The Yarra 2036 Community Vision was developed by the Council and community in partnership, and articulates a vision for shared governance where the community *“is informed and empowered to contribute to the shared governance of Yarra. Decision-making is transparent through access, inclusion, consultations and advocacy.”*
43. Among the articulated priorities in this community vision is a commitment to:
 - (a) ensure the Council actively engages with Yarra’s diverse community at all stages of the decision-making process in an open, honest way and that aligns with the values and needs of the community;
 - (b) actively remove barriers to participation, support and empower everyone to get involved; and
 - (c) promote the role of Council more actively so people understand the decision-making process and how they can be involved.
44. Strategic Objective 6 of the City of Yarra Council Plan 2021-2025 is “Democracy and Governance.” This strategic objective sets out a number of specific strategies designed with the continuous improvement of Council’s governance processes in mind.
45. The key Council Plan strategies relevant to this review are:
 - (a) provide opportunities for meaningful, informed and representative community engagement to inform Council’s decision-making;
 - (b) practice good governance, transparency and accountable planning and decision-making; and
 - (c) explore ways to amplify lesser-heard and underrepresented voices so that engagement is representative of all people and inclusive.
46. The review of the Governance Rules and associated policies provides an opportunity to give effect to the objectives of both the Community Vision and the Council Plan by improving the operation of Council and delegated committee meetings.

Climate emergency and sustainability implications

47. There are no climate emergency or sustainability implications set out in this report.

Community and social implications

48. While Council meetings are primarily designed for Councillor debate and decision-making, they are also an opportunity for community involvement and fostering transparency and accountability. The recommended changes to Council meeting rules have been considered in light of the role of members of the community in the decision-making process.

Economic development implications

49. There are no economic development implications set out in this report.

Human rights and gender equality implications

50. There are a number of human rights that are potentially engaged by a review of Council’s Governance Rules. These are:
 - (a) the right to privacy and reputation;
 - (b) the right to freedom of thought, conscience, religion and belief;
 - (c) the right to freedom of expression;
 - (d) the right to peaceful assembly and freedom of association;
 - (e) the right to take part in public life; and

(f) the right to a fair hearing.

51. The development of the proposed revisions to the Governance Rules has sought to ensure that any limitation on these rights is necessary and reasonable and that there are clear reasons for it. The human rights implications of the recommended changes are set out in detail at **Attachment Seven**.

Operational analysis

Financial and resource impacts

52. There are no financial impacts of this report, with the impact on staff resourcing consists largely of officer time associated with undertaking the community engagement program and preparing the subsequent report for Council. These impacts are allowed for within the relevant staff workplans.

Legal Implications

Governance Rules

53. The Local Government Act 2020 requires that Council develop, adopt and keep in force Governance Rules that provide for a series of matters set out at section 60(1). The City of Yarra's Governance Rules currently comply with all of these matters.
54. From 1 September 2022, a new section 60(1)(ba) will be inserted in the Local Government Act 2020 which requires that the Governance Rules include rules with respect to *"requesting and approval of attendance at Council meetings and meetings of delegated committees by electronic means of communication."* The new proposed Rule 12 satisfies this requirement.
55. The Local Government Act 2020 further requires that a process of community engagement is followed in developing or amending a Council's Governance Rules. The community engagement process set out in this report has satisfied this obligation.

Councillor Code of Conduct

56. Section 139(5) of the Local Government Act 2020 provides that changes to the Councillor Code of Conduct must be made *"by a formal resolution of the Council passed at a meeting by at least two-thirds of the total number of Councillors elected to the Council."*
57. With nine Councillors elected to the Council, a change to the Councillor Code of Conduct requires the support of six or more Councillors. It is necessary to seek a division on any motion to amend the Councillor Code of Conduct to ensure that the number of Councillors in support of the motion is correctly recorded in the meeting minutes.

Conclusion

58. This report presents the outcomes of the Governance Rules Review 2022 and recommends that Council:
- (a) finalise consideration of a mutual respect charter by adopting a Commitment to Respectful Community Relationships;
 - (b) adopt new Governance Rules that incorporate the outcomes of the review, and revoke the current Governance Rules and Council Meetings Operations Policy;
 - (c) proscribe the personal criticism on social media by one Councillor of another by inserting cause into the Councillor Code of Conduct and the Councillor Social Media Policy; and
 - (d) adopt a Councillor Candidature Policy.

RECOMMENDATION ONE

1. That Council adopt the Commitment to Respectful Community Relationships at **Attachment Two**.

RECOMMENDATION TWO

1. That Council conclude the community engagement process conducted under section 60(4) of the Local Government Act 2020 and:
 - (a) revoke the Governance Rules (including election period policy) adopted by Council on 20 August 2020;
 - (b) revoke the Council Meetings Operations Policy adopted by Council on 15 December 2020; and
 - (c) adopt the Governance Rules (including election period policy) at **Attachment Four**; with these changes taking effect on 1 September 2022.

RECOMMENDATION THREE

Changes to the Councillor Code of Conduct require the support of six Councillors.
A Division is required to enable the necessary majority to be recorded.

1. That Council proscribe the personal criticism on social media by one Councillor of another and:
 - (a) insert the following new clause 7.8.3(e) in the Councillor Code of Conduct:
“(e) *not engaging in personal and unprofessional criticism of other Councillors*”; and
 - (b) insert the following new clause 8.3 in the Councillor Social Media Policy:
“8.3 *engage in personal and unprofessional criticism of other Councillors*
Example - A Councillor publishes a post on Facebook expressing disappointment in a Council decision. A member of the community posts a comment reading “I’m not surprised that Cr A voted in favour – he is without doubt the stupidest person I’ve ever been unfortunate enough to meet.” The Councillor ‘likes’ the comment. The Councillor should not endorse the comment by ‘liking’ it.”
- and renumbering the remaining clauses accordingly.

RECOMMENDATION FOUR

Changes to the Councillor Code of Conduct require the support of six Councillors.
A Division is required to enable the necessary majority to be recorded.

1. That Council ensure that Council itself it not seen to be supporting or endorsing a candidate for election and:
 - (a) adopt the Councillor Candidature Policy at **Attachment Six** and
 - (b) amend the Councillor Code of Conduct by replacing the existing clause 7.13 with:
“7.13 *Councillors as candidates*
7.13.1 *A Councillor who stands for a seat in a state or federal election or other similar election must comply with the Councillor Candidature Policy.*”

Attachments

- 1** [↓](#) Attachment 1 - Community Engagement Outcomes
- 2** [↓](#) Attachment 2 - Draft Commitment to Respectful Community Relationships
- 3** [↓](#) Attachment 3 - Draft Governance Rules (with markups shown)
- 4** [↓](#) Attachment 4 - Draft Governance Rules
- 5** [↓](#) Attachment 5 - Governance Rules Explanatory Memorandum
- 6** [↓](#) Attachment 6 - Draft Councillor Candidature Policy
- 7** [↓](#) Attachment 7 - Draft Governance Rules Human Rights Assessment

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

Community submissions and Officer commentary Governance Rules Review 2022



On 31 May 2022, Council endorsed 13 Directions Papers for the purposes of the public consultation in relation to the Governance Rules Review 2022. These Directions Papers formed the basis of the community engagement process undertaken in accordance with Council's Community Engagement Policy and required by section 60(4) of the Local Government Act 2020.

The consultation took place primarily via Council's Your Say Yarra platform, although interested persons were also invited to make submissions by email, via hard copy or in person to the project officer.

Highlights of the community engagement process were:

- Publication of all Directions Papers on the Your Say Yarra platform on Monday 6 June, together with survey to collect feedback.
- Social media postings on Facebook (6 and 17 June), Instagram (6 June) and Twitter (17 June).
- Publication of a news item on Council's website from 6 June (where it remained visible on the home page until 23 June).
- Publication of the Yarra Life email newsletter on 6 and 27 June, sent to 11,872 recipients with an interest in the City of Yarra.
- Publication in the June editions of the Yarra City Arts eNews and the City of Yarra Business eNews.
- Direct email to 18 local community groups on 16 June.
- Direct email to 190 members of the community (every person who asked a question or made a submission in the twelve months to 31 May) on 16 June.
- Notification to members of Council's advisory committees in June.
- Closure of submissions on the Your Say Yarra platform on Thursday 7 July.

In addition to Council's promotion of the consultation, details of the process were also 're-posted' on various social media platforms in June by a number of Yarra Councillors, community groups and other individuals.

At the close of submissions, there had been 876 views of the Governance Rules Review Your Say Yarra platform, with the following number of downloads recorded:

• Existing City of Yarra Governance Rules	172 downloads
• Directions Paper 01 - Mayoral Election	150 downloads
• Directions Paper 02 - Urgent Business	132 downloads
• Directions Paper 03 - Notices of Motion	123 downloads
• Directions Paper 04 - Motions and Debate	125 downloads
• Directions Paper 05 - Notices of Rescission	124 downloads
• Directions Paper 06 - Points of Order	131 downloads
• Directions Paper 07 - Public Question Time	187 downloads
• Directions Paper 08 - Public Submissions	153 downloads
• Directions Paper 09 - Petitions and Joint Letters	127 downloads
• Directions Paper 10 - General Business	124 downloads
• Directions Paper 11 - Delegates Reports	120 downloads
• Directions Paper 12 - Electronic Meetings	143 downloads
• Directions Paper 13 - Councillor Forums	126 downloads

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

Submissions

At the close of the consultation period, Council had received 70 items of feedback across 17 community submissions.

Of those submissions, 10 were made via the Your Say Yarra platform, six were lodged by email and one was developed in a meeting with the project officer and followed up in writing.

Two of the submissions were made by community organisations, and the remaining 15 submissions were made by individuals.

While community engagement methodology enabled all members of the Yarra community to contribute, the process was a qualitative exercise – meaning a representative sample of response was not required. Similarly, the responses were not weighted or otherwise manipulated in an endeavour to present a quantitative outcome. The focus was instead to seek and individually assess all community contributions, with a view to identifying any issues which had not been considered to date, and alternative approaches to identifying the issues that had been raised or any unforeseen implications of the proposals presented.

As can be expected, due to the methodology employed and the small number of submissions, the full diversity of the community was not represented in the submissions. It is a key engagement assumption that persons supportive of the recommendations are less likely to have lodged a submission (although it cannot be assumed that everyone who downloaded the documents and did not submit is supportive of the changes). This is an engagement limitation that Council should take into account in considering feedback received through these submissions.

Officer Commentary

The purpose of this document is to present to Councillors the unfiltered submissions received. In each of the sections below, a table is provided which includes the community submission, as well as an officer commentary which is provided in order to set out any necessary context or additional information which would assist in understanding the community feedback.

Mayoral Election

#	Submission	Officer commentary
1	In case of a tied vote, having one repeat vote and if still a tie then having the CEO draw out of a hat seems the clearest and quickest way to go.	The recommended changes require an immediate repeat vote in the event of a tie as suggested. The suggestion to break a further tie by drawing a name from a hat would be contrary to section 25(4) of the Local Government Act 2020 and is therefore not recommended.
2	Sounds sensible	The submitter's support for this change is noted.
3	Please follow the recommendations of the appointed Municipal Monitor.	Council's Municipal Monitor has participated in the Governance Rules Review and provided advice on a range of topics, but has not made formal recommendations to Council. In the June 2022 report to the Minister for Local Government, the Municipal Monitor did not make observations regarding mayoral election provisions.

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

4	Follow the provisions of the Local Government Act 2020	The changes proposed are intended to clarify that section 25(4) of the Local Government Act that requires a Mayor to be elected by an absolute majority of Councillors must be adhered to.
5	In principle, I support Mayoral Election provisions to make clearer the process to be followed where there are two candidates and neither receives an absolute majority and investigate alternative steps.	The submitter's support for this change is noted.

Urgent Business

#	Submission	Officer commentary
6	Sounds sensible	The submitter's support for this change is noted.
7	Please follow the recommendations of the appointed Municipal Monitor.	Council's Municipal Monitor has participated in the Governance Rules Review and provided advice on a range of topics, but has not made formal recommendations to Council. In the June 2022 report to the Minister for Local Government, the Municipal Monitor did not make observations regarding urgent business.
8	Follow the provisions of the Local Government Act 2020 incorporating the amendments as at 10 May 2022	The Local Government Act 2020 provides that matters relating to the conduct of Council meetings are a matter for Council to determine. No further provisions are included that relate to the admission of urgent business.
9	In principle, I support Urgent Business rules that clarify how items of urgent business can be introduced at Council meetings.	The submitter's support for this change is noted.

Notices of Motion

#	Submission	Officer commentary
10	Sounds sensible	The submitter's support for this change is noted.
11	Please follow the recommendations of the appointed Municipal Monitor.	Council's Municipal Monitor has participated in the Governance Rules Review and provided advice on a range of topics, but has not made formal recommendations to Council. In the June 2022 report to the Minister for Local Government, the Municipal Monitor did not make observations regarding notices of motion.
12	Follow the provisions of the Local Government Act 2020 incorporating the amendments as at 10 May 2022	The Local Government Act 2020 provides that matters relating to the conduct of Council meetings are a matter for Council to determine. No further provisions are included that relate to the process for notices of motion.

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

13	<p>I Support the proposed changes to require Council to seek appropriate advice from officers before submitting a Notice of Motion.</p> <p>Council officers should not be expected to draft the wording of motions at the meeting.</p>	<p>The proposal is not to require Councillors to seek an officer's advice before submitting a Notice of Motion, but rather to require that officer advice (in the form of a Council report) be sought before a decision affecting service levels or committing unbudgeted expenditure is made.</p> <p>The submitter's support for the intent of this approach is noted.</p>
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Motions and Debate

#	Submission	Officer commentary
14	Sounds sensible	The submitter's support for this change is noted.
15	Please follow the recommendations of the appointed Municipal Monitor.	Council's Municipal Monitor has participated in the Governance Rules Review and provided advice on a range of topics, but has not made formal recommendations to Council. In the June 2022 report to the Minister for Local Government, the Municipal Monitor did not make observations regarding motions and debate.
16	Follow the provisions of the Local Government Act 2020 incorporating the amendments as at 10 May 2022	The Local Government Act 2020 provides that matters relating to the conduct of Council meetings are a matter for Council to determine. No further provisions are included that relate to procedures for motions and debate.

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

17	<p>I would like to propose that the Council reconsider its position on the participation of the Mayor in debates. I believe the role of Mayor is quite different from that of the Chair, and that Council's procedures should demonstrate and reinforce this to observers and participants of Council meetings.</p> <p>I have observed Yarra Council meetings where the Mayor (some more than others) move and speak to motions whilst occupying The Chair, and it looks messy, confusing and unprofessional.</p> <p>This does not mean that the Mayor should not initiate a motion or participate in the debate, but it is quite easy for the Mayor to indicate this and ask or arrange in advance for the Deputy Mayor or other Councillor to take over as Chair for that item.</p> <p>As spokesperson for the Council, the Mayor is often required to speak publicly about a Council decision. If they have been seen to participate in the debate from the Chair, this can be particularly awkward.</p> <p>By physically vacating the Chair, it reinforces the separation of the roles and clarifies it for everyone, including the Mayor!</p> <p>The former Collingwood Council ran its meetings this way, and was quite simple and effective to implement.</p> <p>Therefore, I strongly support the Moonee Valley position summarised in the Directions Paper 4</p> <ul style="list-style-type: none"> • the Mayor must vacate the chair to speak to motion • the Mayor must vacate the chair to move or second a motion. <p>Motions to be submitted in writing</p> <p>I agree that motions be submitted in writing- both to remove the need to read out aloud and to enable electronic display.</p>	<p>The Directions Paper does not propose to alter the current role of the Mayor during debates at meetings. The mechanism the submitter describes (for the Mayor to vacate the chair in order to participate) is a process that the local government sector is moving away from, and it remains only in the minority of Councils. Of the M9 Councils, three have this arrangement in place (or a variation of it).</p> <p>The reason for this change is that it is effectively symbolic, and has no material impact on the debate itself, other than to complicate proceedings where the Mayor wishes to participate. While the Mayor does have the role of chairing the meeting, they do not abrogate their responsibility as a Councillor representing their constituents.</p> <p>It is not proposed to reintroduce the restriction on the Mayor's participation in the meeting.</p> <p>The support for the ability to submit motions in writing (rather than read them) is noted.</p>
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Notices of Rescission

#	Submission	Officer commentary
18	Please follow the recommendations of the appointed Municipal Monitor.	Council's Municipal Monitor has participated in the Governance Rules Review and provided advice on a range of topics, but has not made formal recommendations to Council. In the June 2022 report to the Minister for Local Government, the Municipal Monitor did not make observations regarding notices of rescission.
19	Follow the provisions of the Local Government Act 2020 incorporating the amendments as at 10 May 2022	The Local Government Act 2020 provides that matters relating to the conduct of Council meetings are a matter for Council to determine. No further provisions are included that relate to the admission of notices of rescission.

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

Points of Order

#	Submission	Officer commentary
20	Please follow the recommendations of the appointed Municipal Monitor.	Council's Municipal Monitor has participated in the Governance Rules Review and provided advice on a range of topics, but has not made formal recommendations to Council. In the June 2022 report to the Minister for Local Government, the Municipal Monitor did not make observations regarding points of order.
21	Follow the provisions of the Local Government Act 2020 incorporating the amendments as at 10 May 2022	The Local Government Act 2020 provides that matters relating to the conduct of Council meetings are a matter for Council to determine. No further provisions are included that relate to the consideration of points of order.
22	I support the proposed clarification	The submitter's support for this change is noted.

Public Question Time

#	Submission	Officer commentary
23	<p>The proposed changes to Public Question Time rules seem sensible to Yarra Climate Action Now (YCAN).</p> <p>It is useful that submitters do not have to strictly adhere to reciting the question that has been submitted in advance, as, when asking the question, it is sometimes useful to add embellishment / emphasis to certain aspects of the question.</p> <p>It is also useful that questions can still contain preamble (within the three minute overall time limit) in order to provide context.</p> <p>Abolishing questions from the floor is a useful change as it serves no useful purpose if Officers are unable to provide responses to questioners.</p>	The submitter's support for this change is noted.
24	<p>I support the direction of the changes. I would have been happy to see them go further in the interests of making community input more democratic and improving efficiency and but understand reluctance to make major changes quickly.</p> <p>The core aim of the reforms to public questions ... should be to move opportunities for input to an earlier stage of decision-making. So not to limit input but make it more representative, and more likely to be taken on board than lining up the forces at the Council meeting where the final decision is to be made. The current practice favours the more eloquent, organised and confident groups.</p> <p>So I agree with limiting questions to items on the agenda. Also to having to register in advance. And shortening the time allowed and grouping questions. As well as making the meetings more efficient.</p>	<p>The issues raised by the submitter are understood and have been discussed by both officers and Councillors, but they relate to Council's community engagement processes, rather than Council meeting rules.</p> <p>That said, the recommended changes include a new provision that an opportunity to address a Council meeting need not be made available in relation to "matters that are subject to an alternative process that provides an opportunity to make a submission or otherwise participate in Council's decision-making processes (such as, but not limited to arrangements put in place in accordance with the engagement principles in Council's Community Engagement Policy)".</p> <p>The rest of the submission is noted.</p>

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

25	Here a submission may be disallowed if it is aimed at embarrassing a member of staff or councillor. This is too subjective and allows the blocking of the presentation of relevant public-interest material. There are other points that allow for defaming matters etc to be disallowed. Probably one of my sincere past questions would be disallowed under this provision. This related to the legal question of a councillor being allowed to continue whilst being charged with a crime. This was a fair question but also probably embarrassing (that was not my intent) It should be asked, it should be aired and it should be answered. My aim was to know the answer.	The submitter's concerns are acknowledged, but it is noted that the rule referred to is not a proposed change, but rather the carrying over of a rule that has been in place for at least 20 years. The rule would not (and in fact did not) restrict the asking of the question provided as an example by the submitter – the mere fact that it may have been embarrassing is not sufficient to warrant its inadmissibility. The purpose of the rule is to disallow questions where the sole intent of the question is to embarrass an individual and its retention is recommended to ensure Council meetings cannot become a forum for bullying or individual Councillors or staff. The subjective nature of the provision is acknowledged, but this has not proven to be an issue to date.
26	Please follow the recommendations of the appointed Municipal Monitor.	Council's Municipal Monitor has participated in the Governance Rules Review and provided advice on a range of topics, but has not made formal recommendations to Council. In the June 2022 report to the Minister for Local Government, the Municipal Monitor did not make observations regarding the operation of Public Question Time.
27	We support the proposed approach and amendments, so that Officers and Councillors have sufficient time to prepare a response to public questions. The proposal would be improved if it allowed members of the public to use electronic means, eg MS Teams, to ask their question, instead of requiring them to physically attend the meeting.	The submitter's support for this change is noted. The additional suggestion regarding the ability to make submissions electronically is not the subject of the Governance Rules Review, but nothing in the recommended changes would prevent remote participation in future.
28	Follow the provisions of the Local Government Act 2020 incorporating the amendments as at 10 May 2022	The Local Government Act 2020 provides that matters relating to the conduct of Council meetings are a matter for Council to determine. No further provisions are included that relate to the hearing of public questions.

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

29	<p>The concerns I have are -</p> <ul style="list-style-type: none"> • In relation to the reduction of time, that some submitters that Council should hear from may - through no fault of their own - find it difficult to express themselves within the time limit versus other submitters. Equal time isn't fairness - it's equal opportunity that must be provided. What that amounts to at the time or on the night might need significant nuance. • In relation to requiring the prior registration of questions - as I've remarked prior that advantages those who - like myself - have the access to technology and other skills which facilitate "working the system" in that way. The disadvantage those lacking that background are at needs to be actively addressed in the process design. • In relation to the prohibition on a question that ".. is aimed at embarrassing a Councillor or a member of Council staff; ..", I'm concerned about a couple of aspects of how that would work in practice. I understand completely how it's intended to work - basically that a submitter needs to "play the ball and not the man" (so to speak). This is fair enough. However - and while I appreciate that other councils have this in their governance rules as well - it seems astonishingly subjective and un-legal language. It appears to call on the chair to make a judgement of the submitter's intent - and also on the submitter to make a subjective judgement as to what a councillor or an officer may potentially be embarrassed by. However this "play the ball and not the man" aspiration is expressed as a governance rule it must never interfere with the public's right to frankly and fearlessly - but hopefully politely - pose legitimate questions to the Council in relation to the Council's performance of its duties. If the rule is to stand in its present form, there should be guidelines provided to assist the chair and the submitters as to how this mutual compact is to operate in practice. Really though it seems to me that the accompanying provision against submission that ".. is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance; .." is sufficient on its own for practical purposes - making this other provision redundant - and perhaps objectionable and dangerous to democracy in the wrong hands. 	<p>The submitter's concerns are noted.</p> <p>The desire to retain the present five minute provision is acknowledged, but it is noted that of the M9 benchmarking partners, six do not allow oral submissions at all and the other two provide three and two minutes. A reduction to three minutes will still see the City of Yarra providing the longest opportunity to make a submission on any M9 Council.</p> <p>The matter raised by the submitter in relation to prior registration has been considered by officers. While it is proposed to require pre-registration and a system will be implemented to accept these registrations online, alternative mechanisms will be available (including registration by telephone) to ensure non computer users are able to participate.</p> <p>The comments about questions "aimed at embarrassing" are acknowledged, but it is noted that the rule referred to is not a proposed change, but rather the carrying over of a rule that has been in place for at least 20 years. The rule would not (and in fact did not) restrict the making of a question that might embarrass a member of staff or councillor - it would only prohibit a question being made solely for that purpose. The purpose of the rule is to disallow questions where the sole intent is to embarrass an individual and its retention is recommended to ensure Council meetings cannot become a forum for bullying or individual Councillors or staff. The subjective nature of the provision is acknowledged, but this has not proven to be an issue to date.</p>
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Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

30	We do not support proposed clause 48.4 in its current form. We instead propose that the limit on questions per person be lifted from one to two. We believe that it is important that people be able to submit multiple questions to a Council meeting. We note that other councils allow up to two questions per person per meeting (Moonee Valley), some three (Darebin, Hobsons Bay, Maribyrnong and Moreland) and one five (Stonnington). There is no justification for limiting questions to one per meeting.	The number of questions has been reduced from two to one in the interests of providing an opportunity for more people to participate. While it is correct that some of the benchmark partners provide opportunities for a greater number of questions, these same Councils place other restrictions on questions time, such as a shorter time to address the Council, and overall restriction on the number of questions at the meeting, or a time limit on question time itself. These restrictions are not proposed in Yarra's Governance Rules.
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Public Submissions

#	Submission	Officer commentary
31	Yarra Climate Action Now (YCAN) believes that the changes to the Public Submission rules are worthwhile.	The submitter's support for this change is noted.
32	I support the direction of the changes. I would have been happy to see them go further in the interests of making community input more democratic and improving efficiency and but understand reluctance to make major changes quickly. The core aim of the reforms to ... submissions should be to move opportunities for input to an earlier stage of decision-making. So not to limit input but make it more representative, and more likely to be taken on board than lining up the forces at the Council meeting where the final decision is to be made. The current practice favours the more eloquent, organised and confident groups.	The issues raised by the submitter are understood and have been discussed by both officers and Councillors, but they relate to Council's community engagement processes, rather than Council meeting rules. That said, the recommended changes include a new provision that an opportunity to address a Council meeting need not be made available in relation to <i>"matters that are subject to an alternative process that provides an opportunity to make a submission or otherwise participate in Council's decision-making processes (such as, but not limited to arrangements put in place in accordance with the engagement principles in Council's Community Engagement Policy)"</i> . The rest of the submission is noted.
33	The ... change related to public submissions from 5 to 3 minutes is unwarranted. I believe that the on-line system has streamlined this and particularly those of us not accustomed to public speaking should be allowed this extra 120 seconds that are threatened to be withdrawn. It is disrespectful of the community to shorten an already brief time	The desire to retain the present five minute provision is acknowledged, but it is noted that of the M9 benchmarking partners, six do not allow oral submissions at all and the other two provide three and two minutes. A reduction to three minutes will still see the City of Yarra providing the longest opportunity to make a submission on any M9 Council.
34	Please follow the recommendations of the appointed Municipal Monitor.	Council's Municipal Monitor has participated in the Governance Rules Review and provided advice on a range of topics, but has not made formal recommendations to Council. In the June 2022 report to the Minister for Local Government, the Municipal Monitor did not make observations regarding the receipt of submissions.

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

35	<p>We agree with the description of the ‘difficulty with the current system’ from the directions paper, including:</p> <ul style="list-style-type: none"> • It introduces community contributions at the very end of the process • It removes opportunity for officer advice or councillor reflection • It reflects the views of only those people who are able to contribute in that way, i.e. the need to physically attend a meeting is a barrier for many people to participate, including people working evening shifts and parents of young children • 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. <p>We disagree with the proposed approach, i.e. to reduce the duration that a submitter can speak, from 5 minutes to 3 minutes, because we don’t believe that it addresses the identified difficulties. Instead, we suggest an alternative approach:</p> <ul style="list-style-type: none"> • On the same day that the agenda is published on the council website, council sends a bulk email to people who have subscribed to a ‘Notice of council meetings’ email distribution list (in addition to posts on social media). This reduces barriers to information for people who are not on Facebook or Twitter. • On the same day that the agenda is published on the council website, council opens an online ‘public submissions page’. • Any member of the public can upload a submission, after they have registered for an account and their identity has been verified (this is similar to submitters stating their name before making a public submission at a council meeting). • Submissions can only be made to items on the published agenda (i.e. similar eligibility as the existing process for public submissions) • All submissions are on the public record, able to be viewed by officers, councillors, and other members of the public (similar to how a public submission is on the public record). • Submissions are received and reviewed by an officer prior to becoming publicly viewable, to guard against submissions that are defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance. • Submissions can be written (limited to 700 words, equivalent to the existing process of speaking for 5 minutes at 140 words per minute), audio (limited to 5 minutes) or video (limited to 5 minutes). 	<p>The submitter’s acknowledgement of the challenges with the current arrangements is noted.</p> <p>The desire to retain the present five minute provision is acknowledged, but it is noted that of the M9 benchmarking partners, six do not allow oral submissions at all and the other two provide three and two minutes. A reduction to three minutes will still see the City of Yarra providing the longest opportunity to make a submission on any M9 Council.</p> <p>The alternative approach to community engagement suggested by the submitter is understood and have been discussed by both officers and Councillors, but they relate to Council’s community engagement processes, rather than Council meeting rules.</p> <p>That said, the recommended changes include a new provision that an opportunity to make a submission need not be made available in relation to <i>“matters that are subject to an alternative process that provides an opportunity to make a submission or otherwise participate in Council’s decision-making processes (such as, but not limited to arrangements put in place in accordance with the engagement principles in Council’s Community Engagement Policy).”</i></p> <p>This provision would support the approach sought by the submitter (or a variation of that approach). This alternative approach is the subject of separate investigations being undertaken by Council officers.</p> <p>The rest of the submission is noted.</p>
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Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

<ul style="list-style-type: none"> • The 'public submissions page' is closed 24 hours before the start of the council meeting, to provide sufficient time for officers to provide advice and for councillors to reflect. • The 'public submissions page' forms part of the council meeting record, in a similar manner to how the video recording is archived and made available. <p>This alternative option would solve the identified difficulties. We note that public submissions at council meetings are only one way that council can engage with the community, and are not necessarily the most effective method. Council adopted a Community Engagement Policy in 2020; it does not mention public submissions at council meetings, suggesting that they are not a core element of best practice methods.</p> <p>Instead, the Community Engagement Policy highlights citizens juries and deliberative panels:</p> <p>Based on the adopted Community Engagement Policy, we suggest that council allocate a greater focus on deliberative panels than on time for public submissions at council meetings. For example, we suggest that council make it standard practice to conduct 2 to 3 deliberative panels each year, for the most contentious issues of the year.</p> <p>Deliberative panels are said to cost approximately \$300,000 each. We suggest that council should decrease this cost to less than \$50,000 each by developing the capability to operate them in-house. Even if deliberative panels did cost \$300,000 each, the budget for 2022/23 shows forecast expenditure of \$3.5 million for Advocacy and Engagement, so it should be possible to conduct 2 to 3 panels per year.</p> <p>If some other community engagement activities must be sacrificed to enable 2 to 3 deliberative panels to be conducted each year, council should assist residents to understand the trade-offs by publishing granular data on how the expenditure for advocacy and engagement is broken down, e.g. allocation to advocacy versus to allocation to engagement, and to the nominated fields of: internal, external, media, brand, digital channels, civic events, brand management, marketing, graphic design, speeches, and consultation. It would also be valuable to break down the \$3.5 million expenditure plan by internal staff costs, external contractor costs, number of pop-up sessions, number of topics on Your Say Yarra, number of deliberative panels, the cost to conduct a deliberative panel, the cost to conduct an engagement on Your Say Yarra, etc.</p> <p>Council's adopted Community Engagement Policy also highlights workshops and community panels. We suggest that council allocate a greater focus on these than on time for public submissions at council meetings.</p>	
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Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

	<p>We would welcome quarterly ward councillor meetings, where the community could ask questions in a structure that is less formal and more flexible than at council meetings. At such meetings it would be valuable to have the support of the CEO (or another senior officer) to moderate, to ensure that everyone has an equal chance to participate.</p> <p>We would welcome workshops to discuss options for street treatments. An example is the proposed pedestrian crossing in Cremorne. Officers have selected a treatment without engaging local residents. Their selected treatment has apparently resulted in an extreme delay to installation. Residents do not know the likely cost, nor do they know the location.</p> <p>A better process would have been to conduct one or two workshops with residents, describing the requirements for pedestrian crossings, possible locations, possible treatments, likely costs, and the trade-offs. Residents may have been able to offer feedback, e.g did they prefer a higher-cost, higher-safety, raised crossing that would require significant time to design, approve and install; or a lower-cost painted crossing that would be much faster to design, approve and install?</p>	
36	Follow the provisions of the Local Government Act 2020 incorporating the amendments as at 10 May 2022	The Local Government Act 2020 provides that matters relating to the conduct of Council meetings are a matter for Council to determine. No further provisions are included that relate to the receipt of submissions.
37	A submission may be disallowed if it is aimed at embarrassing a member of staff or councillor. This is too subjective.	It is noted that the rule referred to is not a proposed change, but rather the carrying over of a rule that has been in place for at least 20 years. The rule would not (and in fact did not) restrict the making of a submission that might embarrass a member of staff or councillor – it would only prohibit a submission being made solely for that purpose. The purpose of the rule is to disallow submission where the sole intent is to embarrass an individual and its retention is recommended to ensure Council meetings cannot become a forum for bullying or individual Councillors or staff. The subjective nature of the provision is acknowledged, but this has not proven to be an issue to date.
38	The ... change related to public submissions from 5 to 3 minutes is unwarranted. I believe that the on-line system has streamlined this and it is disrespectful of the community to shorten an already brief time.	The desire to retain the present five minute provision is acknowledged, but it is noted that of the M9 benchmarking partners, six do not allow oral submissions at all and the other two provide three and two minutes. A reduction to three minutes will still see the City of Yarra providing the longest opportunity to make a submission on any M9 Council.

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

39	<p>I don't think the proposed changes will help much with the fundamental problems highlighted in Directions Paper 08. One of the problems not highlighted there is that there can be a competition between opposing sides on an issue to get the largest number of submitters: this wastes time and can give a misleading impression of where the majority opinion lies as often a determined minority drowns out the majority. I would prefer that the council abolish oral submission and have written submissions posted on a website prior to the meeting, plus a greater commitment by council to meaningful public engagement. Current engagement activities, including public submissions and also "Your Say Yarra" consultations, are too open to misuse. They are often explicitly misused by councillors and officers as a gauge of public opinion which is rarely the case and this encourage spurious, competitive "engagement". The best way to decide public opinion on policies is firstly the election and secondly through panels that are representative and have ability to hear different views. Non-representative engagement can be useful to raise specific issues/problems but should not be used to assess public opinion.</p>	<p>The submitter's suggestion that oral submissions be abolished in favour of written submission is noted.</p> <p>The bulk of the submission relates to improvements to Council's community engagement, which is subject to a separate review process, which may include alternative submission processes. In the event that an alternative process is established for some or all Council decisions, the recommended changes include a new provision that an opportunity to make a submission need not be made available in relation to <i>"matters that are subject to an alternative process that provides an opportunity to make a submission or otherwise participate in Council's decision-making processes (such as, but not limited to arrangements put in place in accordance with the engagement principles in Council's Community Engagement Policy)."</i></p> <p>This provision would support the approach sought by the submitter (or a variation of that approach). This alternative approach is the subject of separate investigations being undertaken by Council officers.</p> <p>The rest of the submission is noted.</p>
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Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

40	<p>I agree that there need to be opportunities for the public to ask questions and make submissions to the Council, but I don't think this should occur at a Council meeting (unless it is required under the Local Govt Act).</p> <p>From my streaming of several Yarra Council meetings, I feel that most issues could have been followed up more effectively in other ways. Also, many "public questions" are in fact, statements for lobbying or "grandstanding" purposes and are not really contributing to public accountability.</p> <p>During my 12 years experience as Collingwood Councillor (1982-94), I quickly learnt that answers to questions are rarely simple, and no Councillor or officer should be expected to have all the relevant information ready to provide a quick and accurate answer for a question without notice.</p> <p>I endorse all the current issues/problems as outlined in the Directions Paper 7, with the additional concern that the inclusion of this unlimited session at the start of the meeting results in long Council meetings that continue far too late into the evening, which is not good for sound decision-making or the health and well-being of officers or Councillors.</p> <p>It is a costly and inefficient use of Council's senior officers' time, to require them to sit through and listen to issues outside their field. I suggest that a full review of Council communication and feedback is required.</p> <p>The existing Have Your Say about specific topics is a well-designed platform for community engagement and I find it quite easy to use. Useful background information is provided, and there is usually also an option for telephone communication or face-to-face information sessions.</p> <p>The info@yarracity.vic.gov.au (is this the Customer(?) request process?) has the potential to be a more effective communication tool for questions, complaints and suggestions, with some further improvements including a better title. Maybe this needs to be more actively promoted as the avenue for citizen initiated communication.</p> <p>I use info@yarracity.vic.gov.au quite often but I find the response rate is poor, with either no response, a very late response or a long letter that doesn't really address the question. Even if you're reporting a pothole, there should be a brief response.</p> <p>I suspect that not all officers or Councillors are skilled at writing succinct and relevant responses, and this must contribute to the delays. Perhaps there needs to be a designated Communication officer with these skills to oversee this platform.</p> <p>I also think that there should be a monthly report collating the issues raised and summarising the</p>	<p>The submitter's preference that Public Question Time be removed from Council meetings is noted.</p> <p>Public Question Time is a long standing feature of Council meetings and is a feature of most Council meetings in Victoria, including all M9 Councils.</p> <p>The submitter's observations regarding the time taken to answer questions is acknowledged, and it is expected that the package of changes recommended will improve this situation and make Public Question Time more effective.</p>
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Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

	<p>outcomes, so that Councillors and interested Yarra citizens know what the public is concerned about.</p> <p>The Leisure Centres used to do this with suggestions and complaints but in a very wordy spreadsheet displayed on the noticeboard, which presumably was not sustainable time-wise. Again, an editing problem.</p> <p>The other avenue of communication should be Ward Councillors, and residents should be encouraged to approach them about Ward matters. With 3 Councillors in each Ward, I realise this can result in triplication of effort, but I understand that single Cr wards will be introduced in the future.</p> <p>Regular Ward Council meetings, say quarterly should also be considered.</p> <p>Perhaps there are social media options too, but I'm not a user. communication.</p> <p>In summary, yes the Council needs to provide opportunities for interacting with the public but the forums must be time-efficient and effective for everyone concerned.</p> <p>I feel that the Yarra public question time in its current form is neither, and it puts me off live-streaming the Council meeting because the Agenda items start too late.</p>	
41	<p>I do not support any erosion of existing rights of the public to address Council via the appropriate channels.</p> <p>I do not support the erosion of any of the existing rights of the public to make a verbal submission at council meeting and other such meetings. For example in relation to a planning application under consideration where there has already been a written submission.</p>	<p>The submitter's opposition to the proposals is noted.</p> <p>In the example cited, there is no proposal to reduce the ability for applicants and objectors to address Council in relation to planning applications at PDC meetings. It is intended to retain the current five minute limit, and all applicants and objectors will be afforded the opportunity to register and address the meeting.</p>

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

<p>42</p>	<p>The concerns that I have are –</p> <p>As noted above, reductions in time will be more easily absorbed by some submitters than others. Somehow the process must be fair to all.</p> <ul style="list-style-type: none"> • Also as noted above, (electronic?) pre-registration in writing potentially advantages some sectors of the community over others. There must be alternative mechanisms that can be easily navigated by those other groups. [e.g. Contact by phone? Old-school voice if necessary.. Submitters texted confirmation back? Notified by SMS when their item is coming up? .. etc.] • Coalescing submissions into “representative groups of submitters” also tends to favour those savvy and connected parts of the community who can better work the system - they may have already organised a spokesperson as a contingency in any case. Moreover, requiring the chair to make that call “on the spot” is a high-pressure “Solomon’s choice” proposition that is likely to leave some submitters - perhaps legitimately - crying foul. The fact that submitters who aren’t “in the know” might have no idea that this can happen until it does on the night - will lead to acrimony. • I reiterate my comments above in relation to the “.. is aimed at embarrassing a Councillor or a member of Council staff;..” provision - given the chair can already use the broad ambit of “.. is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;..” to deal with most conceivable issues of bad submitter behaviour. 	<p>The matter raised by the submitter in relation to electronic registration has been considered by officers. While it is proposed to require pre-registration and a system will be implemented to accept these registrations online, alternative mechanisms will be available (including registration by telephone) to ensure non computer users are able to participate.</p> <p>The issue relating to the ‘grouping’ of submitters into representative groups is a provision in the existing rules, and is not proposed to change. It is a rarely used provision and only put in place when there are many like minded submitters. The issues identified by the submitter have not proved problematic to date.</p> <p>The comments about submissions “aimed at embarrassing” are acknowledged, but it is noted that the rule referred to is not a proposed change, but rather the carrying over of a rule that has been in place for at least 20 years. The rule would not (and in fact did not) restrict the presentation of a submission that might embarrass a member of staff or councillor – it would only prohibit a submission being made solely for that purpose. The purpose of the rule is to disallow questions where the sole intent is to embarrass an individual and its retention is recommended to ensure Council meetings cannot become a forum for bullying or individual Councillors or staff.</p>
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Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

<p>43</p>	<p>We do not support proposed clause 48.1.2. This clause would prevent public submissions on matters that are subject to a community engagement process. The directions paper justifies this rule as:</p> <p>“Relying of [sic] the receipt of public submissions only at the same time a decision is made introduces community contributions at the very end of the process, with no opportunities for officer comment advice or Councillor reflection in relation to those submissions. Further, the submissions reflect the views of only those people who were able to contribute in that way. The acceptance of large numbers of submissions at a council meeting can undermine the community engagement process is in a project, by implying the presence at a council meeting is the best way to be hard heard rather than engaging in the process.” By contrast, we believe that it is important that the public can make submissions on matters that are subject to a community engagement process. Consider an example: a plan has been subject to a community engagement process and the public has made submissions on it but, when the final plan is presented to Council, it does not reflect some of the submissions made. In that situation, the public would be prevented from making submissions to the Council and the Council would be denied the opportunity to hear submissions and make amendments in response to improve the plan. The public could not even ask a question about the matter at the Council meeting (see proposed clause 48.8.1) and would instead have to lobby Councillors privately before the meeting, which is not open and transparent. We appreciate that proposed clause 48.7 may mitigate some of these concerns, but also raises others. Will the public know in advance that submissions will be heard so that they have the time to prepare and travel to the meeting? Will this lead to disputation in Council over whether submissions will be heard? What criteria should Council use to make a decision on whether submissions will be heard?</p>	<p>The recommended change is to include a new provision that an opportunity to address a Council meeting need not be made available in relation to <i>“matters that are subject to an alternative process that provides an opportunity to make a submission or otherwise participate in Council’s decision-making processes (such as, but not limited to arrangements put in place in accordance with the engagement principles in Council’s Community Engagement Policy)”</i>.</p> <p>The intention is to enable greater flexibility in the acceptance of community contributions, and to provide Council with the discretion to provide an opportunity for people to be heard in a way best tailored to the project in question. In the hypothetical example given, the extent to which people would be provided a second opportunity to address the Council on a plan would depend on the materiality of the changes made following the first submission process. In essence, if new issues are introduced, it would warrant further submissions, if they are not, then the reiteration of a submitters previous position would not be accommodated.</p> <p>The referenced Sub-rule 48.7 would be used in circumstances where Council plans to hear from people who would not otherwise be able to be heard. It is intended to satisfy the requirement that Council must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered). An example might be if Council is contemplating taking an action that will affect an individual ratepayer who, in order to adequately communicate their interests, would need to disclose confidential information.</p>
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Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

Petitions and Joint Letters

#	Submission	Officer commentary
44	Please follow the recommendations of the appointed Municipal Monitor.	Council's Municipal Monitor has participated in the Governance Rules Review and provided advice on a range of topics, but has not made formal recommendations to Council. In the June 2022 report to the Minister for Local Government, the Municipal Monitor did not make observations regarding petitions and joint letters.
45	Follow the provisions of the Local Government Act 2020 incorporating the amendments as at 10 May 2022	The Local Government Act 2020 provides that matters relating to the conduct of Council meetings are a matter for Council to determine. No further provisions are included that relate to the acceptance of petitions or joint letters.
46	<p>Petitions now present unique challenges to Council, be they physical or electronic.</p> <p>COVID has presented unique challenges in relation to obtaining signatories on a petition.</p> <p>Technology has presented unique challenges, to which Yarra City Council needs to adapt.</p> <p>The legitimacy of a petition not only relates to the wording, but to the where the signatories reside i.e. it may relate to those affected by the issue rather than just the wording in a petition. For example, a physical petition may not be able to be changed in the wording on the petition, but may have many signatories who live outside the zone or the "affected" area. Therefore the question is what makes a petition legitimate or relevant.</p>	<p>The move to electronic petitions is acknowledged, but the ability for a petition organiser to change the text of an electronic petition after it has been signed (and thus potentially misrepresenting the views of signatories) is a fundamental flaw. Until such time as this could be resolved, it is recommended that electronic petitions not be permitted at Council Meetings. Instead, they would be referred by the Chief Executive Officer to relevant staff for action.</p> <p>Comments about the merits of accepting petitions signed by persons who are arguably unaffected are noted, but this is something that is taken into account by officers in dealing with the petition itself, and should not preclude or impact the acceptance of a petition in the first place.</p>
47	In principle, I support Petitions and Joint Letters rules that provide greater guidance in the form and purpose of petitions, and consider how electronic petitions might be treated while giving Council more flexibility in dealing with petitions.	The submitter's support for this change is noted.
48	We do not support proposed clauses 48.5 and 48.6. These clauses would prevent online petitions being presented at a Council meeting. Instead, they will be referred directly to the Chief Executive Officer and provided to all Councillors. We believe that it is important that all petitions are presented to a Council meeting so that they are made public and that action is seen to be taken on them. The justification for these provisions, that the text of online petitions can be altered after signatures are collected, does not justify preventing such petitions from being presented at a Council meeting.	Petitions submitted at a Council meeting are public documents and record the formal position of its signatories. With the ability of people organising an online petition to alter the wording of a petition after it having been signed, this would enable the organisers to misrepresent the views of the signatories. The proposal is to still accept these petitions and address the issues raised, but to subject them to an alternative process which does not risk the public misrepresentation of a signatory's view.

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

General Business

#	Submission	Officer commentary
49	Please follow the recommendations of the appointed Municipal Monitor.	Council's Municipal Monitor has participated in the Governance Rules Review and provided advice on a range of topics, but has not made formal recommendations to Council. In the June 2022 report to the Minister for Local Government, the Municipal Monitor did not make observations regarding general business.
50	Follow the provisions of the Local Government Act 2020 incorporating the amendments as at 10 May 2022	The Local Government Act 2020 provides that matters relating to the conduct of Council meetings are a matter for Council to determine. No further provisions are included that relate to the consideration of general business.

Delegates Reports

#	Submission	Officer commentary
51	Please follow the recommendations of the appointed Municipal Monitor.	Council's Municipal Monitor has participated in the Governance Rules Review and provided advice on a range of topics, but has not made formal recommendations to Council. In the June 2022 report to the Minister for Local Government, the Municipal Monitor did not make observations regarding delegates reports.
52	Follow the provisions of the Local Government Act 2020 incorporating the amendments as at 10 May 2022	The Local Government Act 2020 provides that matters relating to the conduct of Council meetings are a matter for Council to determine. No further provisions are included that relate to the tabling of delegates reports.
53	I do not support Delegates Reports change to bring provisions relating to Delegates Reports out of the Council Meetings Operations Policy and into the Governance Rules while not diminishing the role of delegates reports as an important connection to Council's advisory committees. All this needs to stay where it is.	This change is a purely administrative one, as it is intended to revoke the Council Meetings Operations Policy upon the revisions to the Governance Rules. The effect of the provisions relating to Delegates Reports has not altered.

Electronic Meetings

#	Submission	Officer commentary
54	Support	The submitter's support for this change is noted.

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

55	In proposed sub-rule 68.4, the cross-reference to sub-rule 69.3 appears to be incorrect (Sub-rule 69.3 applies to determinations about meetings conducted SOLELY by electronic means). The correct cross-reference in sub-rule 68.4 would seem to be to sub-rule 68.3. (There also seems to be inconsistent naming of the subservient provisions - as both "sub-rule" and "subclause")	The proposed rules are still to be subject to legal review to identify any errors in drafting, but the submitter is correct that the reference in rule 69.3 should be to rule 68.3, not 69.3. Similarly, reference to sub-rules should be consistent throughout ('sub clause' should not be used).
56	Please follow the recommendations of the appointed Municipal Monitor.	Council's Municipal Monitor has participated in the Governance Rules Review and provided advice on a range of topics, but has not made formal recommendations to Council. In the June 2022 report to the Minister for Local Government, the Municipal Monitor did not make observations regarding electronic meetings.
57	Follow the provisions of the Local Government Act 2020 incorporating the amendments as at 10 May 2022	The Local Government Act 2020 provides that matters relating to the conduct of Council meetings are a matter for Council to determine. From 1 September 2022, the Act will contain a provision which requires that Council's Governance Rules include rules for "requesting and approval of attendance at Council meetings and meetings of delegated committees by electronic means of communication". The recommended additions to the rules will satisfy this requirement.
58	I am in support of City of Yarra retaining Online Council meetings. That is for the option of electronic participation in meetings on a permanent basis. Having said that, I still believe that council should still in conjunction conduct meetings in person at the relevant Town Hall when it is deemed 'safe to do so' at all other times.	The submitter's support for this change is noted.

Councillor Forums

Note:

Council has received legal advice which states that Governance Rules are unable to impose obligations that are not among the listed matters set out at section 60(1) of the Local Government Act. On this basis, officers recommend that the proposed introduction of a new Chapter relating to Councillor Forums not be included.

As a result, an officer commentary on these submissions has not been provided.

#	Submission
59	Please follow the recommendations of the appointed Municipal Monitor.
60	We support the recommendation to introduce formal and transparent reporting regarding all councillor forums, because this would increase public trust in the performance of councillors (if councillors were known to be attending forums), and increase the information available to electors (if councillors were known to not be attending forums).
61	Follow the provisions of the Local Government Act 2020 incorporating the amendments as at 10 May 2022

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

62	Municipal matters are often complex and confidential background advice is regularly required. It is not unreasonable to expect that elected Councillors will attend and participate in Councillor forums to inform their debate and voting. Councillors should be accountable for their attendance at required briefings and forums as well as at Council meetings, and attendance records should be available to the public.
63	In principle, I support Councillor Forums provisions that explore the role of Councillor Briefings, PDC briefings and other meetings conducted under the auspices of Council and provide rules about expectations at those forums.
64	I do not support the absence of mandatory briefings before open council meetings and adequate communication as it was "unlikely that the best decisions are made in the interest of the community. Municipal Monitor Blacher stated this and if this is the case I agree with Municipal Monitor Blacher. "It is ... curious that there appears to be a reluctance by the council to mandate attendance at councillor briefings by council officers on matters to be considered at forthcoming council meetings. I suspect the community would be surprised that councillors are not required to attend council briefings," Municipal Monitor Blacher states. If this is the case as stated above, it is very concerning and needs to be addressed as it does not make for good governance. I support Municipal Monitor Blacher's recommendation that the council mandate attendance by councillors at council briefings.

General Comments

A number of submissions made general comments about Council's Governance processes. As these do not relate to the specific proposed changes to the Governance Rules, an officer commentary on these submissions has not been provided.

#	Submission
65	Council to be way more transparent to ratepayers and stop hiding their agendas behind mountains of paperwork and bureaucracy. Start listening to ratepayers and their problems with the area and deal with local issues that matter to them.
66	It should be mandatory that all incoming councillors attend the extensive training offered by the Victorian Local Government Association prior to attending their first Council meeting. This would assist to inform new councillors regarding their responsibilities to their wards. All councillors should be required to attend one professional development program from the VLGA offerings at least once each year, to be approved by the CEO and Mayor jointly. The VLGA should be asked to conduct a joint Councillors and Senior Yarra staff training session on appropriate professional interaction, including clear explication of the differing roles and responsibilities of elected councillors and employees. This should be done annually. A clear expectation of the need to meet with the residents of each ward on a regular basis should be imparted to all candidates nominating for election and a minimal expectation of at least three meetings per year. Council should appoint a Governance Officer to assist the CEO and Council to better manage the flow of business.
67	Appreciate the opportunity to read the Directions Papers and make this submission.

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

68	<p>I support fixing the issue where the Municipal Monitor Blacher's report notes a number of elected representatives struggled to distinguish their role as councillors from their party-political allegiances and would use media outlets to feed public controversy. "[There are] a number of highly articulate community groups and individuals with strong connections to mainstream media outlets and active use of social media which amplify normal differences of views between councillors," he said.</p> <p>I am in support of the new chief executive, Sue Wilkinson to get on top of existing issues.</p> <p>I am in support of the appointment of the Municipal Monitor in November 2021 with the state government's view that it would help guide good governance. Having said that, the recent extension of the monitor should not last longer than three more months as the process of appointing a Monitor lacks transparency.</p> <p>I support council's progress to date including adopting a new councillor code of conduct and social media policy, conducting a review of our governance rules, and implementing changes to improve governance practices.</p> <p>I support Municipal Monitor Blacher's recommendation that the council complete the proposed charter of mutual respect between councillors, staff and the community.</p> <p>Having said that, I support approving the budget only if acceptable; and to consider some recommendations only if acceptable that come from the review of the local government body's finances.</p> <p>I also support Municipal Monitor Blacher's recommendation that councillors comply with the recently approved code of conduct and social media policy, and that the council give further consideration to the code and policy "to proscribe personal criticisms by councillors of each other".</p>
69	<p>Written submissions in advance versus face-to-face in the council chamber</p> <p>In sections of the business world the face-to-face submission is sometimes derisively known as the "show up and throw up". While a little rude and dismissive it does serve to highlight the difficulties of the format as a way of getting complex concepts across - particularly if time is limited.</p> <p>All that said, it's important that the ability to "front" the decision-makers remains available and viable as that's the only way some voices will be heard (more on that later).</p> <p>I'm personally comfortable with providing written submissions rather than attending council face-to-face to "press the issue" (as it were), as many other Yarra residents in my circle of "Yarra residents groups" members are also.</p> <p>However, if a shift in emphasis of this nature is to be contemplated or perhaps encouraged then submitters will need to be reassured of some things:</p> <ol style="list-style-type: none"> 1. That their written submission will have equal weight with decision-makers - e.g. it won't languish unread in a large pile. The obvious advantage of physically being heard at a council meeting is that people have to listen - if only for a couple of minutes. 2. Most crucially, that the material supporting the decision being made (e.g. the officers' report) will be available in plenty of time so as to allow a written submission to be made. <p>This last point is very important - some of my worst experiences at council meetings have arisen from material being available late or not at all (e.g. arriving only on the night).</p> <p>In a couple of extreme cases the material wasn't provided to the public submitters at all - rather only to councillors, and so public submitters were only able to see the material for the first time as it was rapidly scrolled on the screen in the meeting after the public submissions had already been heard! I protested on these occasions - terming it Kafkaesque.</p> <p>Council will simply need to have an earlier "freeze" on the meeting agenda and attachments if the mechanisms outlined in the Yarra Governance Review are to function in any fair manner.</p> <p>Council will likely also need a mechanism to notify submitters - particularly those providing written submissions - of "late changes" so that submitters can apprise themselves of such changes and potentially revise or withdraw their submissions.</p> <p>Late changes should be avoided like the plague on democracy that they are - it's possible that any late changes could materially affect not just those who have elected to make a submission, but those who have not. It's impossible to sensibly notify that latter group of changes impacting their interests - but they may well have a case to make in terms of not being afforded procedural fairness.</p>

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

	<p>How VCAT handles notice requirements and notifications is a good guide - on a number of occasions where a decision has proceeded at Yarra on the basis of late changes, VCAT would have needed to adjourn the matter to a later date.</p> <p>Given both bodies are making decisions that have legal weight, surely Yarra should defer such matters to a later meeting - as indeed Yarra does on some occasions.</p> <p>Late items - or late changes - often also lead to messy and confused debate and discussion in the council chamber. Certainly the C269 agenda item is 3 hours of my life that I'm never getting back again. For one agenda item that isn't - say - the Council Budget; that seems excessive.</p> <p>Disadvantaged and marginalised residents and other stakeholders must be able to be heard by Council - no matter what</p> <p>The changes proposed need to be reviewed extensively to ensure that disadvantaged and marginalised groups are not further disenfranchised.</p> <p>I've been appearing at council meetings for more than 5 years, as a tertiary-educated, white-bread, native English-speaking submitter and it still makes me nervous. I've personally witnessed the difficulties of those less experienced in dealing with official bodies, for whom English isn't necessarily a first language, and/or who may have disabilities that impede their ability to assemble their thoughts and express themselves - particularly when "against the clock".</p> <p>Add to that a greater emphasis on requiring electronic pre-registration to be heard, or access to other electronic mechanisms perhaps only provided in English and the stage is set to widen an access divide we should all be seeking to narrow.</p> <p>There must be fairness and flexibility in the design of all meeting procedures and means of being heard so that officers and the chair can foster an environment that is fair and open to the views of all.</p> <p>Taking Moreland Council as an example, Moreland has a page on the front of all their reports with text in 8 or 9 different languages explaining how a translation of the material can be obtained.</p> <p>Moreland also has a footer on their meeting agenda and related pages explaining how a submitter can access a translator in order to be heard.</p> <p>While Yarra no doubt has the same kinds of support available in theory should people need it, that's different to "burning it in" to the website and the material published thereon.</p> <p>Electronic processes and written submissions inevitably tend to favour "people like me". Elderly people can have difficulty both with electronic access and also with face-to-face council attendance (particularly with Covid still threatening - but there's also the travel factor.). Some residents only have phone or tablet devices which can be problematic in accessing electronic services provided by council.</p> <p>Strict immutable time limits in meetings - while necessary at times - mean that those with difficulties arising from differences in language or other abilities will simply not have the same opportunity to be heard. While provision could potentially be made for the chair to vary the process, wherever such discretions are available there should be guidelines around the use thereof to avoid perceptions or accusations of preferential treatment by one group or another.</p> <p>Lastly, it's an incongruous situation that sees Yarra promoting "deliberative engagement" in order to hear more from marginalised groups if the most fundamental processes of governance don't likewise foster the very same thing.</p> <p>I hope Council will cast that lens over all the Governance procedures.</p>
70	<p>It seems to me, these drafts beg a fundamental question. Is council going to have community explanation sessions, either at a council site, or community groups or on line? For example, times when community can have an explanatory session with the experts and have opportunities to ask questions? For a start, the use of yoursayyarra is a convenient and increasingly used approach by institutions to engage with the public. But how reliable is it, in achieving results of genuinely consulting all?</p> <p>At due date for comments, there were 50 responses in various forms. Council must be concerned and ask itself why so few. Optimistically, 50 is between 0.05 - 0.1 % of voting population. On such a fundamental matter as the working of council and council's integration with - that is accountability to - the community, one should expect most people to be interested. After all, we are talking about the building blocks of our democracy.</p>

Attachment 1 - Attachment 1 - Community Engagement Outcomes

Community Engagement Outcomes

<p>Based on my experience, and also discussions with others who are active in the Yarra community, there is general view, that Yarra is weak at community consultation and that council often puts that down to disinterest. But has council considered their have your says approach as part of the reason for poor response numbers? Might a multi-pronged approach be needed to attract large numbers, wider groups and age ranges and ethnic groups, by catering to the different ways people can, and prefer to, receive information?</p> <p>Recommendation: If council has not tested its messages' methods, might council do so? Rather than assuming nil return is disinterest or high satisfaction, or other reasons. Perhaps low returns are from failure to deliver the message and in a way people understand. In the interests of equity and fairness both fundamental to governance, might council's communicators approach their task by walking in the shoes of the residents?</p> <p>In theory, the proposed changes and rewrite style, might indeed improve areas that need improving. Clearly, council and management have spent considerable time in preparing the drafts. But how much do all these documents mean to many of the intended readers? Many in the community aren't very familiar with bureaucratic writing, and with council meetings and processes? For many, English is not a first language and bureaucratic speak is akin to a foreign language.</p> <p>However, when needs must, all residents should and hopefully do, take steps to get involved in things that matter to them, including contacts to council, and at council meetings. So, the question is, will the interests and views of most people, be trapped into this process and taken into account in the changes?</p> <p>Recommendation: If they have not been trapped in this part of the process, can there be a followup community information and education strategy when new arrangements have been endorsed?</p> <p>I suggest a video be prepared using KISS principles, and put on council's web site, for access by all. So that as many as possible know about it, might the videos be regularly promoted to remind people of their availability.</p> <p>Might I also suggest video stars/explainers be council staff responsible for governance and for interaction with community on 9205 5555 intake calls or front desks and with the inquirer being a resident? That is, use, old-style role plays, to deliver messages</p> <p>The video could be in several languages and if necessary include information on how residents can get access to interpreters.</p> <p>Content:</p> <p>Comprehension</p> <p>It was clear from the material sent out for comment that there had been much work put in, by those with experience and knowledge of governance.</p> <p>The review was timely given the criticisms and the presence of the Monitor, as well as government's requirement. The list of subjects was tightly defined, and the content detailed. But, would most people understand and find the language used welcoming? Most people will not even identify with the subjects nor the content, or even understand the word governance. The approach is jargon laden and has the hallmarks of prepared by and for the bureaucracy. By way of using simpler English, below is my understanding of governance.</p> <p>Common words to describe governance might be</p> <p>Governance is the overarching word to cover the fundamentals of a public institution, like a Council: That is;</p> <ul style="list-style-type: none"> • how council works for the people, who does what and who is responsible - <ul style="list-style-type: none"> o the different jobs of councillors and the staff/public servants - and o how council tells people what it does and how, and when and o how people can contact council to get services and information. And • a good, that is, effective council, has active links with the community whether through the councillors as their elected representatives, or the employees who provide the services. • A council that has a reputation of working for its community is trusted by the community. <p>Maximising expertise of community members on advisory committees</p> <p>I have taken the opportunity to make comment on one area where, from my experience, council, falls short of best practice governance. The Terms of Reference of council's community advisory committees all include providing advice to council as a responsibility. That seems basic to me and surely would to any thinking person.</p>
--

Attachment 1 - Attachment 1 - Community Engagement OutcomesCommunity Engagement Outcomes

	<p>Yet in my experience, as a past and foundation member of the Heritage Advisory Committee (HAC), the HAC is consistently, and by the structure of the committee's functioning, undervalued.</p> <p>The council misses the benefit of the considerable and free, expertise. People do not lightly volunteer, but do so because they are committed to making a difference to Yarra and believe they have expertise to contribute. Yet, for all the years the HAC has functioned, its community members have not only been devalued, but I say, disrespected by council. Why do I say this? Because of council's seemingly arbitrary process, the HAC, has not been permitted to provide timely advice to deliver best value to councillors to aid their decision making.</p> <p>Recommendation: In my view the practices of restricting HAC agendas initiated by community, and controlling and limiting what and when HAC's advice is used by council, makes no sense. When one reflects on the collective expertise given voluntarily and in the public interest, the council's failure to maximise on their advice, surely is, an area that needs addressing within this review of governance.</p>
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Attachment 2 - Attachment 2 - Draft Commitment to Respectful Community Relationships



Commitment to Respectful Community Relationships

Title	Commitment to Respectful Community Relationships
Description	A policy to outline Council's commitment to the manner in which Councillors deal with the community, and set out the community's obligations in return.
Category	Council
Type	Policy
Approval authority	Council
Responsible officer	Group Manager, Chief Executive's Office
Approval date	23 August 2022
Review cycle	Every four years
Review date	23 August 2024
Document Reference	
Human Rights compatibility	This policy has been assessed and is compatible with the Victorian Charter of Human Rights of Responsibilities

1. Context

- 1.1. The Commitment to Respectful Community Relationships:
 - (a) is based on the principles of mutual respect and cooperation;
 - (b) supports our values of providing a safe and respectful workplace; and
 - (c) outlines the rights and responsibilities of Councillors and members of the community in Council-related interactions;
- 1.2. The Commitment sets out a responsibility for:
 - (a) supporting Councillors in the service of the community;
 - (b) setting clear expectations for interactions between Councillors and the community;
 - (c) maintenance of a safe and respectful environment for both Councillors and members of the community.

2. The Commitment

- 2.1. The Commitment to Respectful Community Relationships appears below.
- 2.2. The Commitment is predicated on the need for a cooperative relationship between Councillors and their constituents, working together to support Councillors to achieve the stated role of each Councillor, which is:
 - (a) to participate in the decision making of the Council; and
 - (b) to represent the interests of the municipal community in that decision making; and
 - (c) 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.

3. Councillors

- 3.1. Information on the conduct expectations of Councillors in the performing of their duties and functions are set out in the Councillor Code of Conduct.

Attachment 2 - Attachment 2 - Draft Commitment to Respectful Community Relationships



Commitment to Respectful Community Relationships

3.2. The Councillor Code of Conduct applies to all Councillors, and is required by section 139(1) of the Local Government Act 2020. The Code sets out the Standards of Conduct with which Councillors must comply and:

- (a) endeavours to foster good working relationships between Councillors to enable Councillors to work constructively together in the best interests of the municipal community; and
- (b) seeks to lift the standard of behaviour of Councillors during Council meetings, Councillor briefings and any other meetings which Councillors participate in from time to time; and
- (c) sets out Councillor conduct, in addition to the Standards of Conduct, that is designed to build constructive and respectful relationships between Councillors and public confidence in the integrity of local government.

4. Complaints about Councillors

- 4.1. Councillors are democratically elected officials, and are ultimately held accountable to their constituents through the electoral process. As independent elected officials, Councillors are not directly accountable to the Chief Executive Officer or the Mayor, but they are required to operate in accordance with specified standards.
- 4.2. While the ultimate accountability for Councillors is at the ballot box, there are some circumstances where members of the community may lodge a complaint about a Councillor. Complaints may be made in relation to:
 - (a) a Councillor's breach of the Standards of Conduct
 - (b) gross misconduct or serious misconduct by a Councillor
 - (c) corruption or improper conduct
- 4.3. Complaints cannot ordinarily be made about the performance of a Councillor in their role.
- 4.4. Further information about the complaint avenues available and a copy of the legislated Standards of Conduct and the adopted Councillor Code of Conduct is available from <https://www.yarracity.vic.gov.au/councillor-conduct>

5. Staff

- 5.1. Dealings between community members and the administration are not the subject of this Commitment.
- 5.2. However, Council affirms its support for the Chief Executive Officer in the discharge of the obligation to provide and maintain a working environment for Council staff that is safe and free of risks to health, so far as is reasonably practicable.

6. Related Documents

- Local Government Act 2020
- Occupational Health and Safety Act 2004
- Complaint Handling Policy
- Councillor Code of Conduct
- Governance Rules (including Election Period Policy)



Commitment to Respectful Community Relationships

Our commitment

In performing the role of a Councillor, our Councillors will:

1. treat people with dignity, fairness, objectivity, courtesy and respect
2. have due regard for opinions, beliefs, rights and responsibilities
3. not engage in abusive, obscene or threatening behaviour
4. not deliberately mislead the public
5. not bring discredit upon the Council

While Councillors are democratically elected officials, and ultimately held accountable to constituents through the electoral process, there are limited circumstances when complaints may be made about a Councillor.

More information is available at www.yarracity.vic.gov.au/councillor-conduct

Our expectations

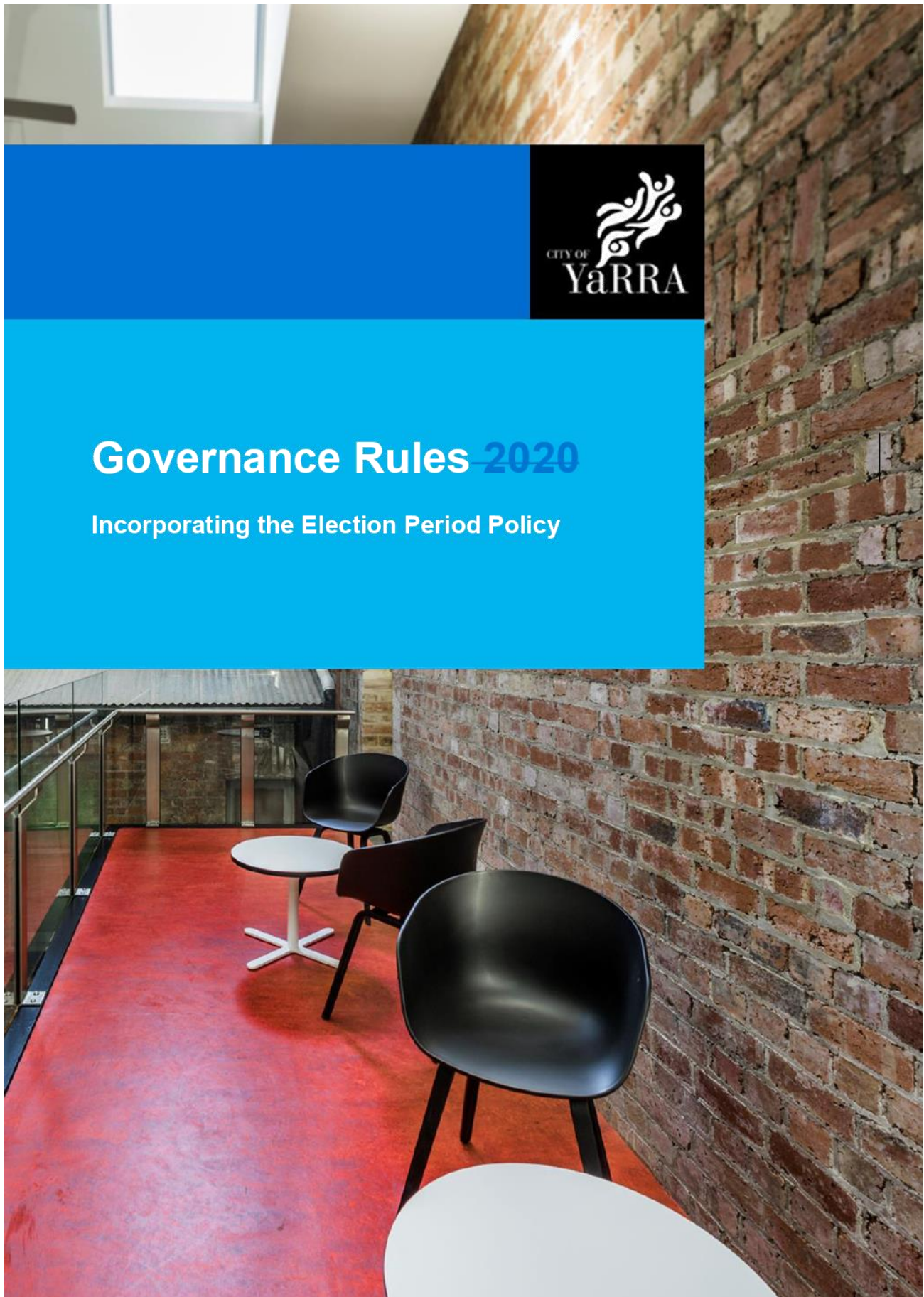
In dealing with the community, our Councillors have a right to:

1. be treated with dignity, courtesy and respect
2. a safe, healthy and productive working environment
3. honesty, respect, cooperation and reasonable assistance from the community
4. expect representations from the community to be made in ways that are respectful and lawful
5. not be subject to behaviour which raises health or safety issues
6. exercise zero tolerance for verbal abuse, offensive behaviour, threats and violence

When faced with behaviour that does not accord with these expectations, Councillors have the right to decline further engagement.

**This commitment was made by the Councillors of the City of Yarra
at the Council meeting on Tuesday 23 August 2022.**

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)



Governance Rules 2020

Incorporating the Election Period Policy

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Title	Governance Rules 2020
Description	This policy constitutes the Governance Rules required by section 60 of the Local Government Act 2020 and is to be read in addition to the requirements of that Act.
Category	Governance
Type	Policy
Approval authority	Council
Responsible officer	Senior Governance Advisor
Approval date	18 August 2020 ^{23 August 2022}
Review cycle	Every ten years
Review date	18 August 2030 ^{23 August 2032}
Document Reference	D20/137840
Human Rights compatibility	This policy has been assessed and is compatible with the Victorian Charter of Human Rights and Responsibilities

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)**Contents****CHAPTER ONE - INTRODUCTION**

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

CHAPTER TWO - COUNCIL MEETINGS

PART A – ELECTION OF MAYOR.....	10
1. Election of the Mayor	10
2. Method of Voting	10
3. Determining the election of the Mayor	10
4. When there are three or more candidates	10
5. When there are two candidates	11
6. When there is one candidate	11
7. Election of Deputy Mayor and Chairs of Delegated Committees	11
8. Appointment of Acting Mayor	12
PART B – MEETINGS PROCEDURE	13
Division 1 – Notices of Meetings and Delivery of Agendas	13
9. Ordinary Council Meetings	13
10. Extraordinary Council Meetings	13
11. Determination of meeting format	13
12. Meetings conducted in person	14
13. Meetings conducted by electronic means of communication	14
14. Notice Of Meeting	15
15. Rescheduling or Cancelling Meetings	15
Division 2 – Quorums	15
16. Inability To Obtain A Quorum	15
17. Inability To Maintain A Quorum	15
18. Adjourned Meetings	15
19. Time limits for Meetings	16
Division 3 – Business of Meetings	16
20. Agenda and the Order Of Business	16
21. Change To Order Of Business	16
22. General Business	16
23. Delegate's Reports	16
24. Urgent Business	17
25. Notices Of Motion	17

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

Division 4 – Motions and Debate	18
26. Chair's Duty	18
27. Introducing A Motion or an Amendment	18
28. Right Of Reply	19
29. Moving An Amendment	19
30. Who May Propose An Amendment	19
31. How Many Amendments May Be Proposed	19
32. An Amendment Once Carried	19
33. Foreshadowing Motions	20
34. Withdrawal Of Motions	20
35. Separation Of Motions	20
36. Chair May Separate Motions	20
37. Priority of address	20
38. Motions In Writing	20
39. Repeating Motion and/or Amendment	20
40. Debate Must Be Relevant To The Motion	20
41. Speaking Times	20
42. Mode of Addressing	20
43. Right to Ask Questions	21
Division 5 – Procedural Motions	21
44. Procedural Motions	21
Division 6 – Rescission Motions	22
45. Notice of Rescission	22
46. If Not Moved	23
47. May Not be Amended	23
48. When Not Required	23
Division 7 – Points of Order	23
49. Valid Points Of Order	23
50. Procedure For Point Of Order	24
51. Chair To Decide	24
52. Chair May Adjourn To Consider	24
Division 8 – Public Participation in Council Meetings	24
53. Question Time	24
54. Addressing Council Meetings	25
55. Petitions and Joint Letters	26
Division 9 – Voting	27
56. How Motion Determined	27
57. Silence	27
58. Recount	27
59. Casting Vote	27
60. Method of Voting	27
61. Procedure For A Division	27
62. No Discussion Once Declared	28
Division 10 – Minutes	28

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)**Yarra City Council Governance Rules 2020**

63. Confirmation of Minutes	28
64. No Debate on Confirmation Of Minutes	29
65. Deferral Of Confirmation Of Minutes.....	29
66. Form and Availability of Minutes	29
Division 11 – Behaviour	30
67. Right of Address	30
68. Chair May Remove	30
69. Chair may close a meeting.....	30
70. Chair may adjourn a meeting	30
71. Removal from Chamber	30
Division 12 – Additional Duties of Chair	30
72. The Chair's Duties And Discretions	30
Division 13 – Suspension of Standing Orders	31
73. Suspension of Standing Orders	31
Division 15 – Miscellaneous	31
74. Reasonable adjustments.....	31
75. Criticism of members of Council staff	31
76. Procedure not provided in this Chapter	32
 CHAPTER THREE – PLANNING DECISIONS COMMITTEE MEETINGS	
1. Meeting Procedure Generally	33
2. Addressing the Planning Decisions Committee	33
 CHAPTER FOUR - DELEGATED COMMITTEE MEETINGS	
1. Meeting Procedure Generally	35
2. Meeting Procedure Can Be Varied	35
3. Planning Decisions Committee	35
 CHAPTER FIVE - DISCLOSURE OF CONFLICTS OF INTEREST	
1. Disclosure of a Conflict of Interest at a Council Meeting or meeting of a Delegated Committee	36
2. Disclosure at a Meeting Conducted Under the Auspices of Council	37
3. Disclosure by Members of Council Staff Preparing Reports for Meetings.....	37
4. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power	37
5. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function.....	38
6. Retention of Written Notices	38
 CHAPTER SIX – CONFIDENTIAL INFORMATION	
1. Confidential Information	39
 CHAPTER SEVEN – ELECTION PERIOD POLICY	
PART A – PRELIMINARY	40

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

| Yarra City Council Governance Rules 2020

1.	Policy objectives	40
2.	Definitions	40
PART B – APPLICATION		41
3.	Candidates for election	41
4.	Other persons	41
5.	Application of the Staff Code of Conduct	41
PART C – POLICY		42
6.	Council resources	42
7.	Information	42
8.	Council publications	43
9.	Publicity	43
10.	Decisions	43
11.	Conduct of Council Meetings	44
12.	Events and Functions	44
13.	Assistance to Candidates	44

CHAPTER ONE - INTRODUCTION

PART A - PRELIMINARY

1. Nature of Rules

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

2. Date of Commencement

- 2.1 These Governance Rules commence on 1 September ~~2020~~2022.

3. Contents

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

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

4. Definitions

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

- 4.1.1 'Act' means the *Local Government Act 2020*;
- 4.1.2 'agenda' means the notice of a meeting setting out the business to be transacted at the meeting;
- 4.1.3 '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);
- 4.1.34.1.4 'Chair' means the chair of a meeting and includes a Councillor who is appointed by resolution to chair a meeting under section 61(3) of the Act;
- 4.1.44.1.5 'Chief Executive Officer' includes an Acting Chief Executive Officer;
- 4.1.6 'Community Engagement Policy' has the same meaning as in the Act;
- 4.1.54.1.7 'confidential information' has the same meaning as in the Act;
- 4.1.64.1.8 'Council meeting' has the same meaning as in the Act;
- 4.1.7 'Council Meetings Operations Policy' means the policy adopted by Council to guide the operation of certain aspects of Council and committee meetings;
- 4.1.84.1.9 'Council' means Yarra City Council;
- 4.1.94.1.10 'Delegated Committee' means a Delegated Committee established under section 63 of the Act or a Joint Delegated Committee established under section 64 of the Act;
- 4.1.10 'election day' has the same meaning as in the Act;
- 4.1.11 'election period' has the same meaning as in the Act;
- 4.1.12 'electoral material' has the same meaning as in the Act;
- 4.1.13 'electoral matter' has the same meaning as in the Act;

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

4.1.14 'Extraordinary Council Meeting' means a Council meeting called under Chapter Two, Rule 10 of these Rules;

4.1.144.1.15 'Mayor' means the Mayor of Council;

4.1.154.1.16 'meeting conducted under the auspices of Council' means a meeting of the kind described in section 131(1) of the Act ~~(whether such a meeting is known as a 'Councillor Briefing' or by some other name)~~; and includes a meeting which:

- (a) is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- (b) is attended by a majority of Councillors;
- (c) is attended by at least one member of Council staff; and
- (d) is not a Council meeting or Delegated Committee meeting;

4.1.164.1.17 'meeting rules' means the rules for the conduct of Council Meetings set out at Chapter Two of these Rules;

4.1.174.1.18 'member of a Delegated Committee' includes a Councillor;

4.1.184.1.19 'municipal district' means the municipal district of Council;

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

4.1.204.1.21 'notice of rescission' means a notice of motion to rescind a resolution made by Council; ~~and~~

4.1.22 '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);

4.1.23 'Ordinary Council Meeting' means a Council meeting called under Chapter Two, Rule 9 of these Rules;

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

4.1.214.1.25 'these Rules' means these Governance Rules; ~~and~~

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

4.2 Introductions to parts, headings and notes are explanatory notes and do not form part of *these Rules*. They are provided to assist understanding.

5. Context

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

- 5.1.1 the overarching governance principles specified in section 9(2) of the Act; and
- 5.1.2 ~~the Council Meetings Operations Policy~~ and any ~~other~~ relevant policies adopted or approved by Council.

6. Decision Making

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

- 6.1.1 fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

- 6.1.2 on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- 6.2 *Council* must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of *Council* is entitled to communicate their views and have their interests considered).

Draft

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

CHAPTER TWO - COUNCIL MEETINGS

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

PART A – ELECTION OF MAYOR

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

1. Election of the Mayor

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

2. Method of Voting

- 2.1 The election of the *Mayor* must be carried out by a show of hands or by such other means as the Chief Executive Officer lawfully permits.

3. Determining the election of the Mayor

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

- 3.2 Any nominations for the office of *Mayor* must be:

3.2.1 moved by a Councillor, and

3.2.2 accepted by the nominee, either in person at the meeting or in writing.

- 3.3 Once nominations for the office of *Mayor* have been received, the Chief Executive Officer must confirm that no further nominations can be accepted. At that point, nominees become candidates for election and their candidature cannot be withdrawn.

- 3.4 Each nominee must then be provided up to five minutes to address Council, in the order in which their nominations were received.

4. When there are three or more candidates

- 3.34.1 ~~If there are three or more candidates (or three or more remaining candidates after the completion of the process in this Rule) for the office of *Mayor*, the following provisions will govern the election of the *Mayor*:~~

~~3.3.1 if there is only one nomination, the candidate nominated must be declared to be duly elected;~~

~~3.3.24.1.1 if there is more than one nomination, the~~ The Councillors present at the meeting must vote for one of the candidates;

~~3.3.34.1.2~~ 3.3.34.1.2 In the event of a candidate receiving an *absolute majority* of the votes, that candidate is declared to have been elected;

~~4.1.3 in the event that~~ 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 candidate with the fewest number of votes ~~must be~~ is declared ~~to be a defeated candidate, and~~

~~3.3.4 The Councillors present at the meeting must then vote for one of the remaining candidates;~~

~~3.3.5 if one of the remaining candidates receives an absolute majority of the votes, they are duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until~~

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

~~one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;~~

~~3.3.64.1.4~~ in the event of two or more candidates ~~having have~~ an equality equal lowest number of votes ~~and one of them having to be declared a~~ defeated candidate, the declaration will be is determined by lot in accordance with the following provisions:-

~~3.3.7~~ if a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:

- (a) the name of each candidate ~~shall be is~~ placed in a receptacle;
- (b) the *Chief Executive Officer* ~~shall draw~~ s one name from the receptacle; ~~and~~
- (c) 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, all previous votes are declared void, and the process returns to this Rule 4 or Rule 5 (as applicable) with all remaining candidates.

5. When there are two candidates

~~5.1~~ If there are two candidates (or two remaining candidates after the completion of the process in Rule 4) for the office of Mayor, 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 candidate receives an absolute majority of votes, the votes are declared void and a further round of voting is conducted immediately; and
- ~~5.1.4~~ If, after a second round of voting, neither candidate receives an absolute majority of votes, the election is declared void and the Council must resolve to:
 - (a) conduct a further election immediately; or
 - (b) conduct a further election at a later time or date as soon as practicable but no later than seven days after the current meeting.

6. When there is one candidate

~~6.1~~ If there is only one candidate for the office of Mayor, that candidate must be declared to be duly elected;

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

4.7. Election of Deputy Mayor and Chairs of Delegated Committees

~~4.17.1~~ Any election for:

- ~~4.1.17.1.1~~ any office of Deputy Mayor; or
- ~~4.1.27.1.2~~ the Chair of a Delegated Committee

~~4.27.2~~ will be regulated by Rules 1 to 6 (inclusive) of this Chapter, as if the reference to the:

- ~~4.2.17.2.1~~ Chief Executive Officer is a reference to the Mayor; and
- ~~4.2.27.2.2~~ Mayor is a reference to the Deputy Mayor or the Chair of the Delegated Committee (as the case may be).

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

6.8. Appointment of Acting Mayor

~~5.18.1~~ If it becomes ~~required-necessary~~ to appoint an Acting Mayor, *Council* can do so by:

~~5.1.18.1.1~~ resolving that a specified Councillor be so appointed; or

~~5.1.28.1.2~~ following the procedure set out in Rules 1 to ~~6~~ (inclusive) of this Chapter,
at its discretion.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

PART B – MEETINGS PROCEDURE

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

Division 1 – Notices of Meetings and Delivery of Agendas

6.9. Dates and Times of Meetings Fixed by Council Ordinary Council Meetings

9.1 The dates and times of *Ordinary Council Meetings* will be fixed by Council from time to time.

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

9.2 The location of Ordinary Council Meetings will be fixed by the Chief Executive Officer.

7. Council May Alter Meeting Dates

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

8.10. Meetings Not Fixed by Council Extraordinary Council Meetings

10.1 The Mayor or at least three Councillors may by a written notice call, or Council may by resolution call, an Extraordinary Council meeting.

8.410.2 The Chief Executive Officer may, by a written notice within 14 days of the result of a Council election or by-election being declared, call an Extraordinary Council Meeting.

8.210.3 The written notice or resolution must specify the date and time of the Extraordinary Council meeting and the business to be transacted.

8.310.4 The Chief Executive Officer must convene the Extraordinary Council meeting as specified in the written notice or resolution.

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

11. Determination of meeting format

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.

11.1 Council meetings must be conducted in person except in circumstances where the Chief Executive Officer determines that:

11.1.1 a meeting held in person may be unable to achieve and maintain a quorum;

11.1.2 a meeting held in person presents a risk to the health and safety of Councillors, staff or the community;

11.1.3 all or part of the meeting is planned to be closed to members of the public under section 66(2) of the Act;

11.1.4 the orderly conduct of a meeting held in person may not be possible; or

11.1.5 suitable meeting facilities may not be available.

in which case, the Chief Executive Officer may determine that the meeting will be held by electronic means of communication.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

12. Meetings conducted in person

- 12.1 At a meeting conducted in person, a Councillor may lodge a request with the *Chief Executive Officer* to participate in the meeting by electronic means of communication if:
- 12.1.1 they are not lawfully permitted to physically attend due to an order or direction made under the Public Health and Wellbeing Act 2008;
 - 12.1.2 they are satisfied that they are fit to conscientiously perform the role of a Councillor; and
 - 12.1.3 the request is lodged at least two hours before the commencement of the meeting.
- 12.2 The *Chief Executive Officer* must grant permission to any Councillor who has lodged a request that satisfies the requirements of sub-Rule 12.1, and make arrangements to facilitate the participation by that Councillor in the meeting by electronic means of communication.
- 12.3 At a meeting conducted in person, a Councillor who has been granted permission to participate by electronic means of communication:
- 12.3.1 will be able to participate by electronic means of communication according to arrangements facilitated by the *Chief Executive Officer*; and
 - 12.3.2 is subject to the provisions of Rule 13 in so far as they are applicable.
- 12.4 At a meeting conducted in person, a Councillor who has not been granted permission to participate by electronic means of communication must:
- 12.4.1 be physically present in order to participate; and
 - 12.4.2 not be recorded as having been present at the meeting if they are present only by electronic means of communication.

13. Meetings conducted by electronic means of communication

- 13.1 At meetings conducted by electronic means of communication, the following modifications to the application of the Rules in this Chapter are to be made:
- 13.1.1 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;
 - 13.1.2 momentary absences (of less than one minute) will not be recorded as absences for the purposes of the meeting minutes, unless a vote or the *Chair's* request for the declaration of conflicts of interest occurs during the absence;
 - 13.1.3 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;
 - 13.1.4 in the event of the absence of a Councillor during a vote due to an apparent technical failure, a Councillor or member of 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 may resume in the Councillor's absence; and
 - 13.1.5 in the event of a Councillor being required to leave a meeting due to the declaration of a conflict of interest, the Councillor may leave the meeting by disconnecting from the online meeting platform.
- 13.2 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 a meeting which is conducted by electronic means of communication.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

9.14. Notice Of Meeting

~~9.14.1~~ A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for all *Council meetings* at least 24 hours before the meeting.

~~14.2~~ Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this by publishing details of the meeting on its website as soon as practicable after the meeting has been scheduled.

15. Rescheduling or Cancelling Meetings

~~15.1~~ *Council* may reschedule or cancel any *Council meeting* which has been fixed by it.

~~15.2~~ The *Chief Executive Officer* may reschedule or cancel any *Council meeting* by giving such notice by electronic means to Councillors as soon as is reasonably practicable, where the *Chief Executive Officer* is satisfied that the cancellation or postponement is warranted because:

~~15.2.1~~ of an emergency;

~~15.2.2~~ a quorum will not be achieved due to apologies received ahead of the *Council meeting*;

~~15.2.3~~ there is insufficient material in the agenda to justify a *Council meeting* being held;

~~15.2.4~~ holding the *Council meeting* would give rise to a risk to health and / or safety; or

~~15.2.5~~ of other circumstances having arisen which make the holding of the *Council meeting* undesirable.

~~9.215.3~~ If a meeting is rescheduled or cancelled, Rule 14 applies to the extent that is reasonably practicable.

Division 2 – Quorums**10.16. Inability To Obtain A Quorum**

~~40.116.1~~ If after 30 minutes from the scheduled starting time of any *Council meeting*, a quorum cannot be obtained:

~~40.1.116.1.1~~ the meeting will be deemed to have lapsed;

~~40.1.216.1.2~~ the *Mayor* must convene another *Council meeting*, the *agenda* for which will be identical to the *agenda* for the lapsed meeting; and

~~40.1.316.1.3~~ the *Chief Executive Officer* must give all Councillors *written* notice of the meeting convened by the *Mayor*.

14.17. Inability To Maintain A Quorum

~~44.117.1~~ If during any *Council meeting*, a quorum cannot be maintained then Rule ~~16~~43 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.

~~44.217.2~~ Sub-Rule ~~17.144.4~~ does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.

12.18. Adjourned Meetings

~~42.118.1~~ *Council* may adjourn any meeting to another date, time or place.

~~42.218.2~~ The *Chief Executive Officer* must give *written* notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.

~~42.318.3~~ If it is impracticable for the notice given under sub-Rule ~~18.245.2~~ to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

13.19. Time limits for Meetings

~~13.19.1~~ 13.19.1 A *Council meeting* must not continue after 11.00pm unless a majority of Councillors present vote in favour of it continuing.

~~13.219.2~~ 13.19.2 Each continuance can be up to a further 30 minutes, although there is no limit on the number of such continuances.

~~13.319.3~~ 13.19.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of Sub-Rules ~~18.245.2~~ 18.19.2 and ~~18.345.3~~ 18.19.3 apply.

14. Cancellation or Postponement of a Meeting

~~14.1~~ 14.1 The *Chief Executive Officer* may, in the case of an emergency necessitating the cancellation or postponement of a *Council meeting*, and after consulting the *Mayor* where practicable, cancel or postpone a *Council meeting*.

Division 3 – Business of Meetings**15.20. Agenda and the Order Of Business**

~~15.420.1~~ 15.20.1 The *agenda* for and the order of business for a *Council meeting* is to be determined by the *Chief Executive Officer* so as to facilitate and maintain open, efficient and effective processes of government.

16.21. Change To Order Of Business

~~16.421.1~~ 16.21.1 Once an *agenda* has been sent to Councillors, the order of business for that *Council meeting* may be altered with the consent of *Council*.

22. General Business

22.1 If the *agenda* for a *Council meeting* makes provision for General Business, motions may only be admitted as General Business where they:

22.1.1 call for a report to be prepared for subsequent consideration by *Council* or a *Delegated Committee*;

22.1.2 arise from a matter considered by an Advisory Committee and are presented as part of a *Delegate's Report*;

22.1.3 seek *Council* to undertake advocacy in relation a matter of established *Council* policy (such as sending a letter setting out *Council's* position on a matter); or

22.1.4 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).

22.2 General Business motions cannot be considered where they:

22.2.1 would require an expenditure or commitment of *Council* resources of greater than \$1,000;

22.2.2 establish *Council* policy; or

22.2.3 are beyond *Council's* powers to implement.

22.3 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 must be placed on hold and a further report must be brought to *Council* as soon as practicable to seek further direction.

23. Delegate's Reports

23.1 A *Delegate's Report* provides an opportunity for a Councillor to update *Council* and provide advice or other information in relation to the activities of:

23.1.1 an Advisory Committee;

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

23.1.2 an Interest Group; or

23.1.3 an external organisation

to which the Councillor has been appointed by Council as its delegate.

23.2 If the agenda for a Council meeting makes provision for Delegate's Reports, a Councillor may submit a report by:

23.2.1 tabling a written report; or

23.2.2 providing an oral report to the meeting.

23.3 The full text of any Delegate's Report tabled in writing must be included in the minutes of the meeting.

~~17.24.~~ Urgent Business

24.1 If the agenda for a Council meeting makes provision for urgent business, business can only be admitted as urgent business if:

24.1.1 it is proposed for admission by the Chief Executive Officer after the Chief Executive Officer has consulted the Mayor.

~~17.1.424.1.2~~ the Chair has been given written notice and portent of the proposed matter to be raised and has approved the admittance-admission of the item-and-only then if it:

~~17.1.224.1.3~~ it relates to or arises out of a matter which has arisen since distribution of the agenda; and

24.1.4 it cannot safely or conveniently be deferred until the next Council meeting.

~~17.224.2~~ 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 24.

Division 4—Motions and Debate

~~18.25.~~ Councillors May Propose Notices Of Motion

~~18.425.1~~ Councillors may ensure that an issue is listed on an agenda by lodging a notice of motion.

~~19.~~ Notice Of Motion

25.2 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.

By way of example. If a Council Meeting were scheduled for a Tuesday evening, the latest time a notice of motion could be submitted for consideration at that meeting would be 11.59pm on the previous Tuesday. This would provide six clear days (Wednesday, Thursday, Friday, Saturday, Sunday and Monday) before the day of the meeting.

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

25.3.1 impacts the levels of Council service; or

25.3.2 commits Council to expenditure that is not included in the adopted Council Budget.

~~19.425.4~~ The Chief Executive Officer may reject any notice of motion which:

25.4.1 is vague or unclear in intention;

~~19.1.425.4.2~~ does not satisfy the requirements of sub-Rule 25.324.2;

~~19.1.225.4.3~~ it is beyond Council's power to pass; or

~~19.1.325.4.4~~ if passed would result in Council otherwise acting invalidlyunlawfully

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

but must, if it is practicable to do so:

~~49.1.425.4.5~~ give the Councillor who lodged it an opportunity to amend it prior to rejection, if an amendment is, in the circumstances, practicable ~~if it is practicable to do so~~; and

~~49.1.525.4.6~~ notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.

~~49.225.5~~ The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.

~~49.325.6~~ The *Chief Executive Officer* must cause all *notices of motion* to be dated and numbered in the order in which they were received.

~~49.425.7~~ Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were received.

~~49.525.8~~ 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.

~~49.625.9~~ If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.

Division 4 – Motions and Debate

20.26. Chair's Duty

~~20.1.426.1~~ Any motion which is determined by the *Chair* to be:

~~20.1.426.1.1~~ defamatory;

~~20.1.226.1.2~~ objectionable in language or nature;

~~20.1.326.1.3~~ vague or unclear in intention;

~~20.1.426.1.4~~ outside the powers of *Council*; or

~~20.1.526.1.5~~ irrelevant to the item of business on the *agenda* and has not been admitted as Urgent Business, or purports to be an amendment but is not, must not be accepted by the *Chair*.

21. Introducing a Report

~~21.1~~ Before a *written report* is considered by *Council* and any motion moved in relation to such report, a member of *Council staff* may introduce the report by indicating in not more than two minutes:

~~21.1.1~~ its background; or

~~21.1.2~~ the reasons for any recommendation which appears.

~~21.2~~ Unless *Council* resolves otherwise, a member of *Council staff* need not read any *written report* to *Council* in full.

22.27. Introducing A Motion or an Amendment

~~22.1.427.1~~ The procedure for moving any motion or amendment is:

~~22.1.427.1.1~~ the mover must state the motion without speaking to it or table the wording of the motion in writing;

~~22.1.227.1.2~~ the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder; and

~~27.1.3~~ 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.

~~22.227.2~~ The procedure for debating the motion or amendment is:

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

~~22.2.1~~ 27.2.1 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;

~~22.2.2~~ 27.2.2 after the mover has addressed the meeting, the seconder may address the meeting; and

~~22.2.3~~ 27.2.3 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; and

~~22.2.4~~ 27.2.4 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.~~

23.28. Right Of Reply

28.1 The mover of a motion, ~~except an amendment or a motion that has been amended,~~ has a right of reply to matters raised during debate, ~~except:~~

28.1.1 a motion where no Councillor other than the mover and seconder have spoken to the motion;

28.1.2 a motion that has been amended; and

28.1.3 an amendment.

28.2 If a right of reply exists, the mover must first be invited to speak to the motion and then the motion must immediately be put to the vote without any further comment, discussion or debate.

~~23.28.3~~ 28.3 If no right of reply exists, the motion must immediately be put to the vote without any further comment, discussion or debate.

~~23.2~~ 28.2 After the right of reply has been taken, the motion must immediately be put to the vote without any further discussion or debate.

24.29. Moving An Amendment

~~24.29.1~~ 29.1 Subject to sub-Rule 29.2, a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.

~~24.29.2~~ 29.2 A motion to confirm a previous resolution of *Council* cannot be amended.

~~24.329.3~~ 29.3 An amendment must not be ~~inconsistent with~~ contrary to the motion.

25.30. Who May Propose An Amendment

~~25.430.1~~ 30.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.

~~25.230.2~~ 30.2 Any one Councillor cannot move more than two amendments in succession.

26.31. How Many Amendments May Be Proposed

~~26.431.1~~ 31.1 Any number of amendments may be proposed to a motion but only one amendment may be accepted by the *Chair* at any one time.

~~26.231.2~~ 31.2 No second or subsequent amendment, whether to the motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with.

27.32. An Amendment Once Carried

~~27.432.1~~ 32.1 If the amendment is carried, the motion as amended then becomes the motion before the meeting.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

28-33. Foreshadowing Motions

28-133.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of their intention to move a motion at a later stage in the meeting.

29-34. Withdrawal Of Motions

29-134.1 Before any motion is put to the vote, it may be withdrawn by the mover or seconder.

29-234.2 If a motion is withdrawn, the *Chair* may invite another Councillor to move or second the motion, as the case requires.

29-334.3 If a Councillor moves or seconds the motion, then debate resumes.

29-434.4 If no Councillor moves or seconds the motion, then it lapses.

30-35. Separation Of Motions

30-135.1 Where a motion contains more than one part, a Councillor may request the *Chair* to put the motion to the vote in separate parts.

31-36. Chair May Separate Motions

31-136.1 The *Chair* may decide to put any motion to the vote in several parts.

32-37. Priority of address

32-137.1 In the case of competition for the right of speak, the *Chair* must decide the order in which the Councillors concerned will be heard.

33-38. Motions In Writing

33-138.1 For clarity and to enable electronic display, the *Chair* may require that a complex or detailedany motion be submitted in writing.

33-238.2 *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.

34-39. Repeating Motion and/or Amendment

34-139.1 The *Chair* may request the person taking the minutes of the *Council meeting* to read the motion or amendment to the meeting before the vote is taken.

35-40. Debate Must Be Relevant To The Motion

35-140.1 Debate must always be relevant to the motion before the chair, and, if not, the *Chair* must request the speaker to confine debate to the motion.

35-240.2 If after being requested to confine debate to the motion before the chair, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker not to speak further in respect of the motion then before the chair.

36-41. Speaking Times

36-141.1 A Councillor must not speak longer than the time set out below, unless granted an extension by the *Chair*:

36-1-141.1.1 the mover of a motion or an amendment: five-three minutes;

36-1-241.1.2 any other Councillor: three minutes; and

36-1-341.1.3 the mover of a motion exercising a right of reply: two minutes.

37-42. Mode of Addressing the Meeting

37-142.1 If the *Chair* so determines:

37-1-142.1.1 any person addressing the *Chair* must refer to the *Chair* as:

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

- (a) Mayor; or
- (b) Deputy Mayor; or
- (c) Acting Mayor; or
- (d) Chair.

as the case may be;

~~37-242.2~~ all Councillors, other than the *Mayor and Deputy Mayor*, must be addressed as:

~~37-2-142.2.1~~ Cr (name); and.

~~37-342.3~~ all members of Council staff, must be addressed by name as appropriate or by their official title.

~~38-43~~ Right to Ask Questions

~~43.1~~ At any time during before the debate has commenced, ~~except after a right of reply has been exercised~~ a Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the chair.

~~38-143.2~~ The debate has commenced when a Councillor addresses the meeting under sub-Rule 27.2 in relation to a motion or an amendment (as the case may be).

~~38-243.3~~ The *Chair* has the right to limit questions and direct that debate be commenced ~~or~~ resumed.

Division 5 – Procedural Motions

~~39-44~~ Procedural Motions

~~39-144.1~~ Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.

~~39-244.2~~ Procedural motions require a seconder.

~~39-344.3~~ Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:

Procedural Motion	Adjournment of debate to later hour and/or date	Adjournment of debate indefinitely	The closure
Form	That this matter be adjourned to *am/pm and/or *date	That this matter be adjourned until further notice	That the motion be now put
Mover and Secunder	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion
When Motion Prohibited	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking; or	During nominations for a <i>Chair</i>

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

		(c)When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	
Effect if Carried	Motion and amendment is postponed to the stated time and/or date	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising the right to ask any question concerning or arising out of the motion
Effect if Lost	Debate continues unaffected	Debate continues unaffected	Debate continues unaffected
Debate Permitted on Motion	Yes	Yes	No

Division 6 – Rescission Motions

40.45. 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

~~40.145.1~~ A Councillor may propose a *notice of rescission* provided the notice of rescission:

~~40.1.1~~ the resolution proposed to be rescinded has not been acted on; and

~~45.1.1~~ the notice of rescission has been signed and, dated; and

~~45.1.2~~ is delivered to the Chief Executive Officer by 11.00am on the day after the meeting at which the resolution sought to be rescinded was made;

~~40.1.2~~ setting out-

~~(a)~~ the resolution to be rescinded; and

~~45.1.3~~ identifies the meeting and date when the resolution was carried made;

~~45.1.4~~ identifies the resolution sought to be rescinded; and

~~45.1.5~~ sets out the reasons for the notice of rescission.

~~40.245.2~~ 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.

~~40.345.3~~ A resolution will be deemed to have been acted on if:

~~40.3.145.3.1~~ its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or

~~40.3.245.3.2~~ a statutory process has been commenced

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

~~40.445.4~~ The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:

~~40.4.145.4.1~~ has not been acted on; and

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

~~40.4.2~~45.4.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 45.1.1,

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

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

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

Sub-Rule 45.4 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.

45.5 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.

~~40.5~~45.6 If, after a period of 24 hours has elapsed since the notification of Councillors under sub-Rule 45.5, less than three Councillors (including the Councillor who submitted the notice, whose support is to be presumed) have indicated to the *Chief Executive Officer* that they support it, the notice of rescission lapses and must not be placed on the agenda for the next meeting.

~~41.~~ If Lost

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

~~42.46.~~ If Not Moved

~~46.1~~ If a motion for rescission is not moved at the meeting at which it is listed, it lapses.

~~47.~~ May Not be Amended

~~47.1~~ A motion for rescission listed on an agenda may be moved by any Councillor present but may not be amended.

~~48.~~ When Not Required

~~48.1~~ A motion for rescission is not required where Council wishes to change policy.

Division 7 – Points of Order

~~43.49.~~ Valid Points Of Order

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

~~43.149.1~~ 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.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

- 49.1.1 irrelevant, meaning it does not relate to the matter under consideration or is outside the powers of Council;
- 49.1.2 improper, meaning it constitutes improper behaviour or is offensive;
- 49.1.3 misleading, meaning it is an untrue or false assertion or statement;
- 49.1.4 disorderly, being an act that disrupts or distracts from the orderly operation of the meeting; or
- 49.1.5 contrary to these Rules, meaning it is contrary to the provisions set out in this Chapter.

44.50. Procedure For Point Of Order

- 44.150.1 A Councillor raising a point of order must state that the statement or behaviour is:
 - 44.1.1 state the point of order; and
 - 44.1.2 state any section, Rule, paragraph or provision relevant to the point of order.
- 50.1.1 irrelevant;
- 50.1.2 improper;
- 50.1.3 misleading;
- 50.1.4 disorderly; or
- 50.1.5 contrary to these Rules (in which case the Councillor must identify the Rule that is being contravened).
- 50.2 A Councillor raising a point of order under this clause is not deemed to be speaking to the motion or amendment before the meeting.

45.51. Chair To Decide

- 45.151.1 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.
- 51.2 In deciding a point of order, the Chair is to have regard to their obligation under section 18(1)(e) of the Act to "promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct".
- 51.3 The Chair's ruling on a point of order is final.

46.52. Chair May Adjourn To Consider

- 46.152.1 The *Chair* may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.
- 46.252.2 All other questions before the meeting are suspended until the point of order is decided.

Division 8 – Public Question Time and Public Submissions Participation in Council Meetings

47.53. Question Time

- 53.1 Unless Council resolves to the contrary, there must be a public Question Time at every Ordinary Council Meeting fixed under Rule 9 to enable members of the public to submit ask questions to of Council.
- 53.2 Questions asked of Council must:
 - 53.2.1 be lodged in writing;
 - 53.2.2 be lodged at least 24 hours prior to the scheduled commencement of the meeting at which they are to be asked; and

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Yarra City Council Governance Rules 2020

53.2.3 include the name and contact details of the person lodging the question.

53.3 If the person lodging the question is present at the meeting:

53.3.1 the Chair must offer the person lodging the question the opportunity to ask their question.

53.3.2 the time permitted for asking a question will be three minutes; and

53.3.3 the Chair, or a person nominated by the Chair must provide a succinct response to the question.

53.4 No person may ask more than one question at any one meeting.

47.1—

47.2—There must be an opportunity for members of the public to make a submission to Council in relation to every matter presented for consideration at a Council meeting.

47.3—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.

47.453.5 If the Chair is of the opinion that the number of questions or submissions on the same subject 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.

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

53.6.1 relates to a matter to be considered by Council at the meeting at which the question is proposed to be asked;

47.5-453.6.2 relates to a matter outside the duties, functions and powers of Council;

47.5-253.6.3 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;

47.5-353.6.4 deals with a subject matter already answered;

47.5-453.6.5 is aimed at embarrassing a Councillor or a member of Council staff; or

47.5-553.6.6 includes or relates to confidential information; or

53.6.7 relates to a matter that is subject (or, in the opinion of the Chair, potentially subject) to legal proceedings.

53.7 The Chair has the discretion to allow such statements or questions of clarification as are necessary to facilitate the orderly and effective operation of Question Time.

53.8 No discussion may be allowed other than provided for at sub-Rules 53.3 and 53.7

54. Addressing Council Meetings

54.1 There must be an opportunity for members of the public to address Council in relation to every matter included on the agenda at an Ordinary Council Meeting, with the exception of matters:

54.1.1 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);

54.1.2 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);

54.1.3 being re-presented to the Council after having been deferred where the opportunity to address Council has already been provided, unless Council resolves otherwise; or

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Yarra City Council Governance Rules 2020

- 54.1.4 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.
- 54.2 Persons wishing to address Council must:
- 54.2.1 register in writing;
- 54.2.2 identify the item on the agenda about which they wish to address Council;
- 54.2.3 register at least 24 hours prior to the scheduled commencement of the meeting at which the item is to be presented;
- 54.2.4 provide their name and contact details to Council.
- 54.3 If the person registering to address Council is present at the meeting:
- 54.3.1 the Chair must offer the person registering to address Council the opportunity to make a statement in relation to the matter to be considered; and
- 54.3.2 the time permitted for each address will be three minutes or, where 10 or more people have registered to address Council in relation to that item, two minutes.
- 54.4 If the Chair is of the opinion that the number of registrations makes it desirable to limit the number of persons afforded the opportunity to address Council and invite a representative group to address Council, they may make such reasonable adjustments to the process as may be necessary.
- 54.5 An address may be disallowed by the Chair if the Chair determines that it:
- 54.5.1 relates to a matter other than the matter being considered by Council at the time the address is being made;
- 54.5.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
- 54.5.3 is aimed at embarrassing a Councillor or a member of Council staff;
- 54.5.4 includes or relates to confidential information; or
- 54.5.5 relates to a matter that is subject (or, in the opinion of the Chair, potentially subject) to legal proceedings.
- 54.6 Notwithstanding the exclusions in sub-Rule 54.155-4, Council may resolve to permit persons to address Council in relation to any matter to be considered at a Council meeting, subject to whatever process Council determines.

Division 9—Petitions and Joint Letters

48-55. Petitions and Joint Letters

- 55.1 Every petition or joint letter presented to Council must:
- 55.1.1 be in writing (other than pencil), typing or printing;
- 55.1.2 contain the request of the petitioners or signatories;
- 55.1.3 not be derogatory, defamatory, indecent, abusive or objectionable in language or substance; and
- ~~48-1-155.1.4~~ be signed by at least 12 people.
- ~~48-255.2~~ 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.
- ~~48-355.3~~ 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.

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Yarra City Council Governance Rules 2020

- ~~48.4~~55.4 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.
- 55.5 Petitions compiled using an online petition platform will not be received at a Council meeting, but, once lodged by the petition organiser, will be referred directly to the Chief Executive Officer for consideration.
- 55.6 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 lodged, the petition or joint letter will be treated as an address in relation to that agenda item.
- 55.7 Unless it is treated as an address under sub-Rule 55.6~~56-7~~, a petition may be presented to a Council meeting by a Councillor.
- ~~48.5~~ 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.
- ~~48.6~~55.8 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 of~~ Council.
- ~~48.7~~55.9 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.
- ~~48.8~~55.10 A petition tabled by a Councillor at a Council meeting may be dealt with by a motion to accept and note the petition and if a petition, joint letter, memorial or other like application relates to an operational matter, Council must refer it to the Chief Executive Officer for consideration and response.

Division 40-9 – Voting

49.56. How Motion Determined

- ~~49.1~~56.1 To determine a motion before a meeting, the Chair must call for those in favour of the motion and then declare the result to the meeting.

50.57. Silence

- ~~50.1~~57.1 Voting must take place in silence.

51.58. Recount

- ~~51.1~~58.1 The Chair may direct that a vote be recounted to satisfy themselves of the result.

52.59. Casting Vote

- ~~52.1~~59.1 In the event of a tied vote, the Chair must, unless the Act provides otherwise, exercise a casting vote.

53.60. By Show Of Hands~~Method of Voting~~

- ~~53.1~~60.1 Voting on any matter is by show of hands or such other means as the Chair lawfully permits.

54.61. Procedure For A Division

- ~~54.1~~61.1 Immediately prior to, or immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- ~~54.2~~61.2 When a division is called for, any vote already taken must be treated as set aside and the division ~~shall~~will decide the question, motion or amendment.
- ~~54.3~~61.3 When a division is called for, the Chair must:

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Yarra City Council Governance Rules 2020

~~54-3-161.3.1~~ ask each Councillor wishing to vote in the affirmative to raise a hand or otherwise signify their support;

~~54-3-261.3.2~~ state, and the *Chief Executive Officer* or any authorised-officer-member of staff authorised by the Chief Executive Officer must record, the names of those Councillors voting in the affirmative; and

~~54-3-361.3.3~~ declare the result.

~~54-461.4~~ The *Chief Executive Officer* or any member of staff authorised by the Chief Executive Officer authorised-officer must record the names of those Councillors present at the meeting during a division who, by virtue of section 61(5)(f) of *the Act*, are taken to have voted against the question.

55-62. No Discussion Once Declared

~~55-162.1~~ Once a vote on a question has been taken, no further discussion relating to the question is allowed unless the discussion involves:

~~55-262.2~~ a Councillor requesting, before the next item of business is considered, that their opposition to a resolution be recorded in the minutes or a register maintained for that purpose; or

~~55-362.3~~ foreshadowing a *notice of rescission* where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

For-By way of example, Rule 6263 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.

Equally, Rule 6263 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.

Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in Sub-rule ~~62-363-3~~, to discussion about a positive motion were a resolution has just been rescinded.

Division 14-10 – Minutes

56-63. Confirmation of Minutes

~~56-463.1~~ A copy of the minutes of the previous meeting must be delivered to each Councillor no later than 24 hours before the meeting.

~~56-263.2~~ No discussion or debate on the confirmation of minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.

~~56-363.3~~ If no Councillor indicates opposition, ~~the~~ Council may consider a motion to confirm the minutes.

~~56-463.4~~ If one Councillor indicates opposition, they must specify the amendments required to those minutes and move a motion to confirm the minutes subject to those amendments.

~~56-563.5~~ If more than one Councillor indicates opposition, the necessary amendments may be considered one at a time with such amendments incorporated by successive resolutions and then a final resolution to confirm the amended minutes.

~~56-663.6~~ Once any agreed amendments are included and any necessary clerical corrections made, the minutes must, if practicable, be signed by the Chair of the meeting at which they have been confirmed

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57-64. No Debate on Confirmation Of Minutes

~~57-164.1~~ No discussion or debate on the confirmation of minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.

58-65. Deferral Of Confirmation Of Minutes

~~58-165.1~~ Council may defer the confirmation of minutes until later in the *Council meeting* or until the next meeting if considered appropriate.

59-66. Form and Availability of Minutes

~~59-166.1~~ 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:

~~59-1-166.1.1~~ the date, place, time and nature of the meeting;

~~59-1-266.1.2~~ the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;

~~59-1-366.1.3~~ the names of the members of Council staff present;

~~59-1-466.1.4~~ any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5;

~~59-1-566.1.5~~ arrivals and departures (including temporary departures) of Councillors during the course of the meeting;

~~59-1-666.1.6~~ each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);

~~59-1-766.1.7~~ the vote cast by each Councillor upon a division and the names of all Councillors present during the division

~~59-1-866.1.8~~ the vote cast by any Councillor who has requested that their vote be recorded in the minutes;

~~59-1-966.1.9~~ questions upon notice;

~~59-1-1066.1.10~~ the failure of a quorum;

~~59-1-1166.1.11~~ any adjournment of the meeting and the reasons for that adjournment; ~~and~~

~~66.1.12~~ the time at which standing orders were suspended and resumed; ~~and~~

~~66.1.13~~ the proceedings of any vote for *Mayor, Deputy Mayor or Acting Mayor*, being:

(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.

~~59-266.2~~ The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are published on Council's website.

~~59-366.3~~ Nothing in sub-Rule ~~66-267.2~~ requires *Council* or the *Chief Executive Officer* to make public any minutes relating to a *Council meeting* or part of a *Council meeting* closed to members of the public in accordance with section 66 of the *Act*.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

Division 12-11 – Behaviour

60-67. Public Right of Addressing The Meeting

~~60-167.1~~ Members of the public do not have a right to address *Council* and may only do so with the consent of the *Chair* or by prior arrangement.

~~60-267.2~~ Any member of the public addressing *Council* must extend due courtesy and respect to *Council* and the processes under which it operates and must take direction from the *Chair* whenever called on to do so.

~~60-367.3~~ A member of the public present at a *Council meeting* must not disrupt the meeting.

61-68. Chair May Remove

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

~~61-168.1~~ The *Chair* may order ~~and cause~~ the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule ~~67-268-2~~.

62-69. Chair may close a meeting

~~62-169.1~~ If the *Chair* considers it necessary to close the meeting to the public for security reasons or considers it is necessary to do so to enable the meeting to proceed in an orderly manner and ~~the Council or the Delegated Committee~~ has made arrangements to enable the proceedings of the meeting to be viewed by members of the public as the meeting is being held, they may close the meeting to the public and may order and cause the removal of any person, other than a Councillor.

63-70. Chair may adjourn a meeting

~~63-170.1~~ If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, they may adjourn the meeting to a later time on the same day or to some later day as they think proper. In that event, the provisions of Sub-rules ~~18-245-2~~ and ~~18-345-3~~ apply.

64-71. Removal from Chamber

~~64-171.1~~ The *Chair*, ~~or Council in the case of a suspension~~, may ask the *Chief Executive Officer* or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the gallery under Rule ~~7368.1~~.

Division 13-12 – Additional Duties of Chair

65-72. The Chair's Duties And Discretions

~~65-172.1~~ In addition to the duties and discretions provided in this Chapter, the *Chair*:

~~65-1-172.1.1~~ must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community; and

~~65-1-272.1.2~~ must call to order any person who is disruptive or unruly during any meeting.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Division 14~~13~~ – Suspension of Standing Orders~~66-73.~~ Suspension of Standing Orders

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

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

~~66-473.1~~ To expedite the business of a meeting, *Council* may suspend standing orders.

~~66-273.2~~ The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*. An appropriate motion would be:

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

~~66-373.3~~ No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.

~~66-473.4~~ Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:

"That standing orders be resumed."

Division 15 – Miscellaneous

74. Reasonable adjustments

74.1 To the extent practicable, the *Chair* must make reasonable adjustments to these Rules to accommodate the participation in meeting proceedings by persons with special needs on an equitable basis. Such adjustments may include, but be limited to:

74.1.1 increasing the time available to address the meeting to enable the use of a translator or other assistance; and

74.1.2 facilitating a question or address to *Council* in an alternative format by a person who cannot be present at the meeting due to a disability

74.2 To the extent practicable, the *Chief Executive Officer* must ensure that support is available to persons wishing to attend *Council* meetings who would, without this support, find it difficult to access the meeting on an equitable basis. Such support may include, but not be limited to:

74.2.1 operation of a hearing loop in the meeting venue;

74.2.2 provision of translation services;

74.2.3 provision of a sign language interpreter;

74.2.4 accommodation for access to meeting facilities by persons with a wheelchair or other mobility equipment ; and

74.2.5 provision of disability accessible toilet facilities.

~~67-75.~~ Criticism of members of Council staff

~~67-475.1~~ The *Chief Executive Officer* may make a brief statement at a *Council meeting* in respect of any statement by a Councillor made at the *Council meeting* criticising them or any member of Council staff.

~~67-275.2~~ A statement under sub-Rule 75.1 must be made by the *Chief Executive Officer*, through the *Chair*, as soon as it practicable after the Councillor who made the statement has completed speaking.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

68-76. Procedure not provided in this Chapter

68-476.1 In all cases not specifically provided for by this Chapter, resort must be had to the Standing Orders and Rules of Practice of the Upper House of the Victorian Parliament (so far as the same are capable of being applied to *Council* proceedings).

Draft

CHAPTER THREE – PLANNING DECISIONS COMMITTEE MEETINGS

1. Meeting Procedure Generally

- 1.1 All of the provisions of Chapter Two apply to meetings of the *Planning Decisions Committee*, with the exception of:
 - 1.1.1 Rule 22 (General Business);
 - 1.1.2 Rule 23 (Delegate's Reports);
 - 1.1.3 Rule 24 (Urgent Business);
 - 1.1.4 Rule 25 (Notices of Motion);
 - 1.1.5 Rule 53 (Question Time);
 - 1.1.6 Rule 54 (Addressing Council); and
 - 1.1.7 Rule 55 (Petitions and Joint Letters).
- 1.2 At meetings of the Planning Decisions Committee, any reference in Chapter Two to:
 - 1.2.1 a *Council meeting* is to be read as a reference to the *Planning Decisions Committee meeting*;
 - 1.2.2 a Councillor is to be read as a reference to a member of the *Planning Decisions Committee*; and
 - 1.2.3 the *Mayor* is to be read as a reference to the *Chair of the Planning Decisions Committee*.

2. Addressing the Planning Decisions Committee

- 2.1 There must be an opportunity for parties to address 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 the opportunity to address the Committee has already been provided, unless the *Planning Decisions Committee* resolves otherwise; and
 - 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 address the *Planning Decisions Committee* 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 address the *Planning Decisions Committee*;
 - 2.2.4 register at least 24 hours prior to the scheduled commencement of the meeting at which the item is to be presented; and
 - 2.2.5 provide their name and contact details to *Council*.
- 2.3 If the *applicant* registering to address the *Planning Decisions Committee* is present at the meeting:
 - 2.3.1 the *Chair* must offer the *applicant* the opportunity to address the *Planning Decisions Committee* in relation to the matter to be considered; and
 - 2.3.2 the time permitted for the address will be five minutes.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

- 2.4 If the *objector* registering to address the *Planning Decisions Committee* is present in the gallery:
- 2.4.1 the *Chair* must offer the *objector* the opportunity to address the *Planning Decisions Committee* in relation to the matter to be considered; and
- 2.4.2 the time permitted for each address will be five minutes.
- 2.5 If the *Chair* is of the opinion that the number of registrations makes it desirable to limit the number of persons afforded the opportunity to address the *Planning Decisions Committee* and invite a representative group to address the *Planning Decisions Committee*, they may make such reasonable adjustments to the process as may be necessary.
- 2.6 An address 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 the *Planning Decisions Committee* at the time the address 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;
- 2.6.4 includes or relates to *confidential information*; or
- 2.6.5 relates to a matter that is subject (or, in the opinion of the *Chair*, potentially subject) to legal proceedings.

CHAPTER ~~THREE~~ FOUR - DELEGATED COMMITTEE MEETINGS

1. Meeting Procedure Generally

1.1 If Council establishes a *Delegated Committee*, it may determine which ~~all~~ of the provisions of Chapter Two apply to meetings of the *Delegated Committee*.

4.11.2 In the absence of a resolution under sub-Rule 1.1, all of the provisions of Chapter Two apply to meetings of the *Delegated Committee*.

4.21.3 If Council establishes a *Delegated Committee*, any reference in Chapter Two to:

4.2.11.3.1 a *Council meeting* is to be read as a reference to a *Delegated Committee* meeting;

4.2.21.3.2 a Councillor is to be read as a reference to a member of the *Delegated Committee*;
and

4.2.31.3.3 the *Mayor* is to be read as a reference to the Chair of the *Delegated Committee*.

2. Meeting Procedure Can Be Varied

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

2.1.1 *Council* may; or

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

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

3. Planning Decisions Committee

2.23.1 Nothing in this Chapter applies to the *Planning Decisions Committee*.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

CHAPTER ~~FOUR~~ FIVE - DISCLOSURE OF CONFLICTS OF INTEREST

1. ~~Introduction~~

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

1. Disclosure of a Conflict of Interest at a Council Meeting or meeting of a Delegated Committee

~~1.1 A Councillor who has a conflict of interest in a matter being considered at a Council meeting at which they are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Council meeting before the matter is considered; or~~

1.1 A Councillor or member of a Delegated Committee who has a conflict of interest in a matter being considered at a Council meeting or meeting of a Delegated Committee at which they intend to be present must, before the matter is considered at the meeting:

1.1.1 disclose that conflict of interest by providing to the Chief Executive Officer before the Council meeting commences a written notice in a form provided by or on behalf of the Chief Executive Officer:

- (a) advising of the conflict of interest; and
- (b) explaining the nature of the conflict of interest; and
- (c) detailing, if the nature of the conflict of interest involves a Councillor's relationship with or a gift from another person, the:
- (d) name of the other person;
- (e) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- (f) nature of that other person's interest in the matter;

1.1.2 and then before the matter is considered at the meeting announcing announce to those present that they have a conflict of interest and that a written notice has been given to the Chief Executive Officer under this Rule; and

~~1.1.2~~

1.1.3 The Councillor must, in either event, leave the Council meeting or meeting of a Delegated Committee before the matter is considered at the meeting and not return to the meeting until after the matter has been disposed of.

2. ~~Disclosure of Conflict of Interest at a Delegated Committee Meeting~~

~~2.1 A member of a Delegated Committee who has a conflict of interest in a matter being considered at a Delegated Committee meeting at which they are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Delegated Committee meeting before the matter is considered; or~~

2.1.1 A member of a Delegated Committee who has a conflict of interest in a matter being considered at a Delegated Committee meeting at which they intend to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Delegated Committee meeting commences a written notice:

- (a) advising of the conflict of interest;
- (b) explaining the nature of the conflict of interest; and
- (c) detailing, if the nature of the conflict of interest involves a member of a Delegated Committee's relationship with or a gift from another person the:
- (d) name of the other person;

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Yarra City Council Governance Rules 2020

- (e) ~~nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and~~
- (f) ~~nature of that other person's interest in the matter;~~
- 2.1.2 ~~and then before the matter is considered at the meeting announcing to those present that they has a conflict of interest and that a written notice has been given to the Chief Executive Officer under this Sub-rule.~~
- 2.1.3 ~~The member of a Delegated Committee must, in either event, leave the Delegated Committee meeting before the matter is considered at the meeting and not return to the meeting until after the matter has been disposed of.~~
- 3.2. Disclosure at a Meeting Conducted Under the Auspices of Council**
- 3.12.1 A Councillor who has a conflict of interest in a matter being considered by a *meeting held conducted* under the auspices of Council at which they are present must:
- 3.1.12.1.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting before the matter is considered;
- 3.1.22.1.2 absent themselves from any discussion of the matter; and
- 3.1.32.1.3 as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a *written* notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.
- 4.3. Disclosure by Members of Council Staff Preparing Reports for Meetings**
- 4.13.1 A member of Council staff who, in their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a report for the consideration of a:
- 4.1.13.1.1 *Council meeting*;
- 4.1.23.1.2 *Delegated Committee meeting*;
- must, immediately upon becoming aware of the conflict of interest, provide a *written* notice to the *Chief Executive Officer* disclosing the conflict of interest and explaining the nature of the conflict of interest.
- 4.23.2 The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 7.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.
- 4.33.3 If the member of Council staff referred to in sub-Rule 3.15.4 is the *Chief Executive Officer*:
- 4.3.13.3.1 the *written* notice referred to in sub-Rule 3.15.4 must be given to the *Mayor*; and
- 4.3.23.3.2 the obligation imposed by sub-Rule 5.13.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.
- 5.4. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power**
- 5.14.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a *written* notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.
- 5.24.2 If the member of Council staff referred to in sub-Rule 4.16.4 is the *Chief Executive Officer* the *written* notice must be given to the *Mayor*.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

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

~~6.15.1~~ A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a *written* notice to the *Chief Executive Officer* explaining the nature of the conflict of interest.

~~6.25.2~~ If the member of Council staff referred to in sub-Rule ~~5.17.4~~ is the *Chief Executive Officer* the *written* notice must be given to the *Mayor*.

7.6. Retention of Written Notices

~~7.16.1~~ The *Chief Executive Officer* must retain all *written* notices received under this Chapter for a period of three years.

CHAPTER FIVE SIX – CONFIDENTIAL INFORMATION

This Chapter

1. Confidential Information

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

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

CHAPTER ~~SIX~~ SEVEN – ELECTION PERIOD POLICY

PART A – PRELIMINARY

This Part

1. Policy objectives

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

2. Definitions

- 2.1 For the avoidance of doubt, the *election period* in respect of:
 - ~~2.1.1 the 2020 Council Election commences at 12 noon on Tuesday 22 September and concludes at 6.00pm on Saturday 24 October 2020.~~
 - 2.1.22.1.1 the 2024 Council Election commences at 12 noon on Tuesday 24 September and concludes at 6.00pm on Saturday 26 October 2024; and
 - ~~2.1.32.1.2~~ the 2028 Council Election commences at 12 noon on Tuesday 26 September and concludes at 6.00pm on Saturday 28 October 2028.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

PART B – APPLICATION

3. Candidates for election

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

4. Other persons

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

5. Application of the Staff Code of Conduct

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

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

PART C – POLICY

6. Council resources

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

7. Information

- 7.1 ~~The Council~~ recognises that all ~~election~~ candidates have certain rights to information from the *Council* administration. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from members of Council staff that might be perceived to support an election campaign.
- 7.2 Information and briefing material prepared by staff or the Victorian Electoral Commission during the *election period* will relate only to factual matters or to existing Council services. Such information will not relate to policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

- 7.3 Public consultation of a limited kind, normally associated with the routine administration of planning, building, traffic, parking or other matters, will continue through the *election period*. However significant community or ward-wide consultation on major strategy or policy issues will not occur, or, if already commenced, will be suspended during the *election period*.

8. Council publications

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

9. Publicity

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

10. Decisions

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

Attachment 3 - Attachment 3 - Draft Governance Rules (with markups shown)

Yarra City Council Governance Rules 2020

10.1.5 *Council* must not make any decision during the *election period* for a general election or a by-election that would enable the use of *Council's* resources in a way that is intended to influence, or is likely to influence, voting at the election.

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

11. Conduct of Council Meetings

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

11.1.1 ~~Public-q~~Question ~~time-Time~~ will be suspended.

11.1.2 ~~Submissions made by m~~Members of the public wishing to address Council in relation to a matter listed on the *agenda* ~~shall must be submit~~provide the text of their ~~addressed to Council~~ in writing at least 24 hours before the commencement of the meeting~~and in advance~~. Persons registering to address Council will be invited to address Council. Those submissions shall be presented at the Council meeting provided the submitter is present and provided their address the submission is limited in scope to a matter before Council and does not contain electoral matter and they do not stray from the previously provided wording.

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

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

11.2 No Officer Report ~~shall will~~ be presented to Council during the *election period* unless it contains an express statement by the *Chief Executive Officer* that a decision on that matter would not be contrary to this Policy.

12. Events and Functions

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

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

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

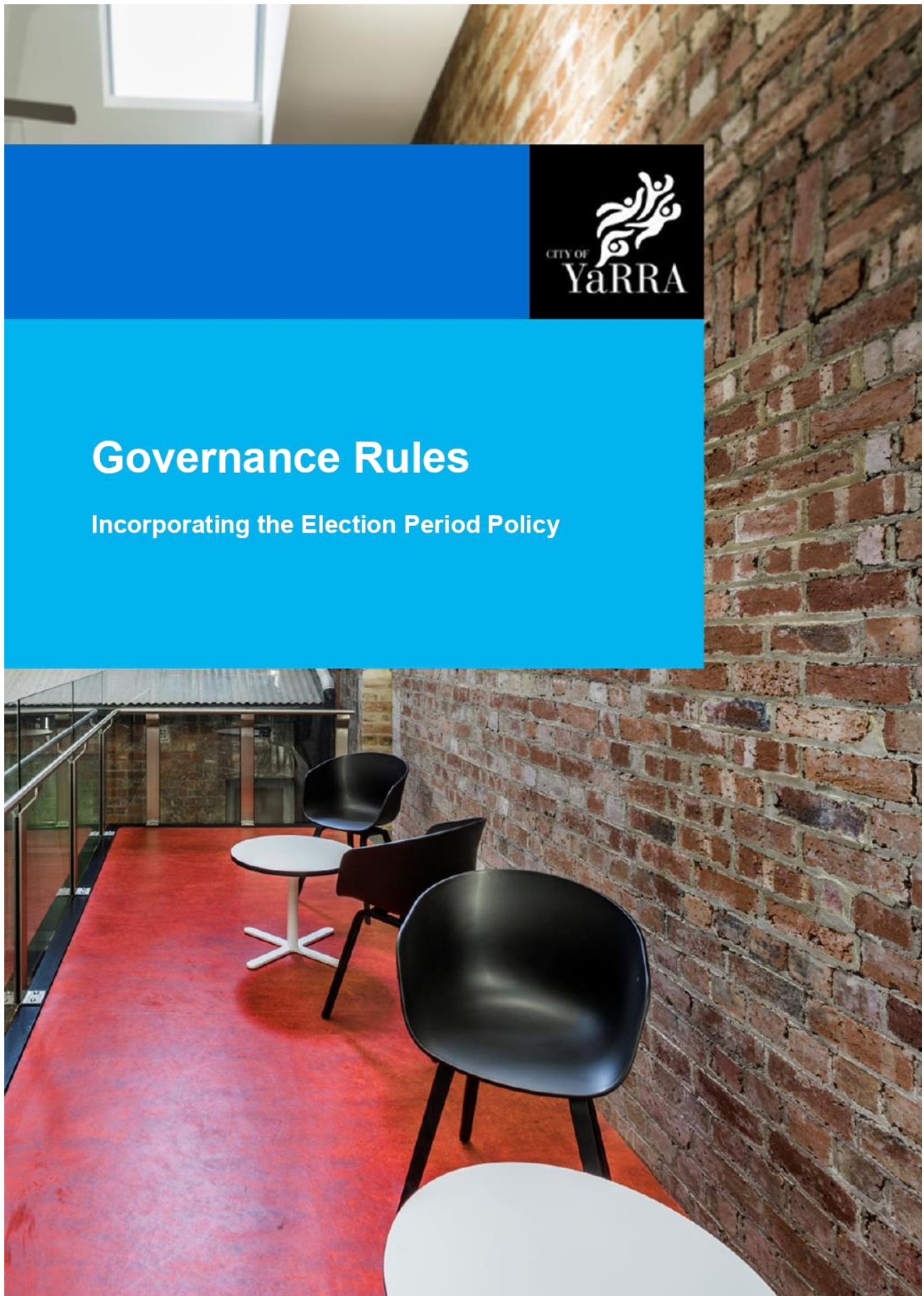
12.4 Councillors are able to attend events or functions conducted by external bodies during the election period, however when attending as a representative of *Council*, Councillors must be mindful that they do not use that opportunity to promote their election campaign.

13. Assistance to Candidates

13.1 ~~The~~ *Council* affirms that all candidates for the Yarra City Council election will be treated equally.

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

Attachment 4 - Attachment 4 - Draft Governance Rules



Attachment 4 - Attachment 4 - Draft Governance Rules

Title	Governance Rules
Description	This policy constitutes the Governance Rules required by section 60 of the Local Government Act 2020 and is to be read in addition to the requirements of that Act.
Category	Governance
Type	Policy
Approval authority	Council
Responsible officer	Senior Governance Advisor
Approval date	23 August 2022
Review cycle	Every ten years
Review date	23 August 2032
Document Reference	D20/137840
Human Rights compatibility	This policy has been assessed and is compatible with the Victorian Charter of Human Rights and Responsibilities

Attachment 4 - Attachment 4 - Draft Governance Rules**Yarra City Council Governance Rules****Contents****CHAPTER ONE - INTRODUCTION**

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

CHAPTER TWO - COUNCIL MEETINGS

PART A – ELECTION OF MAYOR.....	9
1. Election of the Mayor	9
2. Method of Voting	9
3. Determining the election of the Mayor	9
4. When there are three or more candidates	9
5. When there are two candidates	10
6. When there is one candidate	10
7. Election of Deputy Mayor and Chairs of Delegated Committees	10
8. Appointment of Acting Mayor	10
PART B – MEETINGS PROCEDURE	11
Division 1 – Notices of Meetings and Delivery of Agendas	11
9. Ordinary Council Meetings	11
10. Extraordinary Council Meetings	11
11. Determination of meeting format	11
12. Meetings conducted in person	11
13. Meetings conducted by electronic means of communication	12
14. Notice Of Meeting	12
15. Rescheduling or Cancelling Meetings	13
Division 2 – Quorums	13
16. Inability To Obtain A Quorum	13
17. Inability To Maintain A Quorum	13
18. Adjourned Meetings	13
19. Time limits for Meetings	13
Division 3 – Business of Meetings	14
20. Agenda and the Order Of Business	14
21. Change To Order Of Business	14
22. General Business	14
23. Delegate's Reports	14
24. Urgent Business	15
25. Notices Of Motion	15

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

Division 4 – Motions and Debate	16
26. Chair's Duty	16
27. Introducing A Motion or an Amendment	16
28. Right Of Reply	16
29. Moving An Amendment	16
30. Who May Propose An Amendment	17
31. How Many Amendments May Be Proposed	17
32. An Amendment Once Carried	17
33. Foreshadowing Motions	17
34. Withdrawal Of Motions	17
35. Separation Of Motions	17
36. Chair May Separate Motions	17
37. Priority of address	17
38. Motions In Writing	17
39. Repeating Motion and/or Amendment	17
40. Debate Must Be Relevant To The Motion	17
41. Speaking Times	18
42. Mode of Addressing	18
43. Right to Ask Questions	18
Division 5 – Procedural Motions	18
44. Procedural Motions	18
Division 6 – Rescission Motions	19
45. Notice of Rescission	19
46. If Not Moved	20
47. May Not be Amended	20
48. When Not Required	20
Division 7 – Points of Order	20
49. Valid Points Of Order	20
50. Procedure For Point Of Order	21
51. Chair To Decide	21
52. Chair May Adjourn To Consider	21
Division 8 – Public Participation in Council Meetings	21
53. Question Time	21
54. Addressing Council Meetings	22
55. Petitions and Joint Letters	23
Division 9 – Voting	24
56. How Motion Determined	24
57. Silence	24
58. Recount	24
59. Casting Vote	24
60. Method of Voting	24
61. Procedure For A Division	24
62. No Discussion Once Declared	24
Division 10 – Minutes	25

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

63. Confirmation of Minutes	25
64. No Debate on Confirmation Of Minutes	25
65. Deferral Of Confirmation Of Minutes	25
66. Form and Availability of Minutes	25
Division 11 – Behaviour	26
67. Right of Address	26
68. Chair May Remove	26
69. Chair may close a meeting	26
70. Chair may adjourn a meeting	27
71. Removal from Chamber	27
Division 12 – Additional Duties of Chair	27
72. The Chair's Duties And Discretions	27
Division 13 – Suspension of Standing Orders	27
73. Suspension of Standing Orders	27
Division 15 – Miscellaneous	27
74. Reasonable adjustments	27
75. Criticism of members of Council staff	28
76. Procedure not provided in this Chapter	28
 CHAPTER THREE – PLANNING DECISIONS COMMITTEE MEETINGS	
1. Meeting Procedure Generally	29
2. Addressing the Planning Decisions Committee	29
 CHAPTER FOUR - DELEGATED COMMITTEE MEETINGS	
1. Meeting Procedure Generally	31
2. Meeting Procedure Can Be Varied	31
3. Planning Decisions Committee	31
 CHAPTER FIVE - DISCLOSURE OF CONFLICTS OF INTEREST	
1. Disclosure of a Conflict of Interest at a Council Meeting or meeting of a Delegated Committee	32
2. Disclosure at a Meeting Conducted Under the Auspices of Council	32
3. Disclosure by Members of Council Staff Preparing Reports for Meetings	32
4. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power	32
5. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function	33
6. Retention of Written Notices	33
 CHAPTER SIX – CONFIDENTIAL INFORMATION	
1. Confidential Information	34
 CHAPTER SEVEN – ELECTION PERIOD POLICY	
PART A – PRELIMINARY	35

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

1.	Policy objectives	35
2.	Definitions.....	35
PART B – APPLICATION		36
3.	Candidates for election	36
4.	Other persons.....	36
5.	Application of the Staff Code of Conduct.....	36
PART C – POLICY		37
6.	Council resources	37
7.	Information	37
8.	Council publications	38
9.	Publicity	38
10.	Decisions.....	38
11.	Conduct of Council Meetings	39
12.	Events and Functions.....	39
13.	Assistance to Candidates.....	39

CHAPTER ONE - INTRODUCTION

PART A - PRELIMINARY

1. Nature of Rules

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

2. Date of Commencement

- 2.1 These Governance Rules commence on 1 September 2022.

3. Contents

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

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

4. Definitions

- 4.1 In these Governance Rules, unless the context suggests otherwise the following words and phrases mean:
- 4.1.1 'Act' means the *Local Government Act 2020*;
 - 4.1.2 'agenda' means the notice of a meeting setting out the business to be transacted at the meeting;
 - 4.1.3 '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);
 - 4.1.4 'Chair' means the chair of a meeting and includes a Councillor who is appointed by resolution to chair a meeting under section 61(3) of the Act;
 - 4.1.5 'Chief Executive Officer' includes an Acting Chief Executive Officer;
 - 4.1.6 'Community Engagement Policy' has the same meaning as in the Act;
 - 4.1.7 'confidential information' has the same meaning as in the Act;
 - 4.1.8 'Council meeting' has the same meaning as in the Act;
 - 4.1.9 'Council' means Yarra City Council;
 - 4.1.10 'Delegated Committee' means a Delegated Committee established under section 63 of the Act or a Joint Delegated Committee established under section 64 of the Act;
 - 4.1.11 'election period' has the same meaning as in the Act;
 - 4.1.12 'electoral material' has the same meaning as in the Act;
 - 4.1.13 'electoral matter' has the same meaning as in the Act;
 - 4.1.14 'Extraordinary Council Meeting' means a Council meeting called under Chapter Two, Rule 10 of these Rules;
 - 4.1.15 'Mayor' means the Mayor of Council;

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

- 4.1.16 *'meeting conducted under the auspices of Council'* means a meeting of the kind described in section 131(1) of the Act and includes a meeting which:
- (a) is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
 - (b) is attended by a majority of Councillors;
 - (c) is attended by at least one member of *Council* staff; and
 - (d) is not a *Council* meeting or *Delegated Committee* meeting;
- 4.1.17 *'meeting rules'* means the rules for the conduct of Council Meetings set out at Chapter Two of *these Rules*;
- 4.1.18 *'member of a Delegated Committee'* includes a Councillor;
- 4.1.19 *'municipal district'* means the municipal district of *Council*;
- 4.1.20 *'notice of motion'* means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;
- 4.1.21 *'notice of rescission'* means a *notice of motion* to rescind a resolution made by *Council*;
- 4.1.22 *'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);
- 4.1.23 *'Ordinary Council Meeting'* means a *Council meeting* called under Chapter Two, Rule 9 of *these Rules*;
- 4.1.24 *'Planning Decisions Committee'* means the *Delegated Committee* by that name established by Council for the purpose of considering planning permits and related matters;
- 4.1.25 *'these Rules'* means these Governance Rules; and
- 4.1.26 *'written'* includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form, and *writing* has a corresponding meaning.
- 4.2 Introductions to parts, headings and notes are explanatory notes and do not form part of *these Rules*. They are provided to assist understanding.
- 5. Context**
- 5.1 *These Rules* should be read in the context of and in conjunction with:
- 5.1.1 the overarching governance principles specified in section 9(2) of the Act; and
 - 5.1.2 any relevant policies adopted or approved by *Council*;
- 6. Decision Making**
- 6.1 In any matter in which a decision must be made by *Council* (including persons acting with the delegated authority of *Council*), *Council* must consider the matter and make a decision:
- 6.1.1 fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
 - 6.1.2 on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- 6.2 *Council* must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of *Council* is entitled to communicate their views and have their interests considered).

CHAPTER TWO - COUNCIL MEETINGS

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

PART A – ELECTION OF MAYOR

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

1. Election of the Mayor

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

2. Method of Voting

- 2.1 The election of the *Mayor* must be carried out by a show of hands or by such other means as the *Chief Executive Officer* lawfully permits.

3. Determining the election of the Mayor

- 3.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- 3.2 Any nominations for the office of *Mayor* must be:
 - 3.2.1 moved by a Councillor; and
 - 3.2.2 accepted by the nominee, either in person at the meeting or in writing.
- 3.3 Once nominations for the office of *Mayor* have been received, the *Chief Executive Officer* must confirm that no further nominations can be accepted. At that point, nominees become candidates for election and their candidature cannot be withdrawn.
- 3.4 Each nominee must then be provided up to five minutes to address *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) for the office of *Mayor*, 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, the candidate with the fewest number of votes is declared defeated; and
 - 4.1.4 If two or more candidates have an equal lowest number of votes the defeated candidate is determined by lot in accordance with the following provisions:
 - (a) the name of each candidate is placed in a receptacle;
 - (b) the *Chief Executive Officer* draws one name from the receptacle; and
 - (c) the candidate whose name is drawn is declared defeated.
- 4.2 Following the declaration of a candidate as a defeated candidate, all previous votes are declared void, and the process returns to this Rule 4 or Rule 5 (as applicable) with all remaining candidates.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

5. When there are two candidates

- 5.1 If there are two candidates (or two remaining candidates after the completion of the process in Rule 4) for the office of *Mayor*, 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 candidate receives an absolute majority of votes, the votes are declared void and a further round of voting is conducted immediately; and
 - 5.1.4 If, after a second round of voting, neither candidate receives an absolute majority of votes, the election is declared void and the *Council* must resolve to:
 - (a) conduct a further election immediately; or
 - (b) conduct a further election at a later time or date as soon as practicable but no later than seven days after the current meeting.

6. When there is one candidate

- 6.1 If there is only one candidate for the office of *Mayor*, that candidate must be declared to be duly elected;

7. Election of Deputy Mayor and Chairs of Delegated Committees

- 7.1 Any election for:
 - 7.1.1 any office of Deputy Mayor; or
 - 7.1.2 the Chair of a *Delegated Committee*
- 7.2 will be regulated by Rules 1 to 6 (inclusive) of this Chapter, as if the reference to the:
 - 7.2.1 *Chief Executive Officer* is a reference to the *Mayor*; and
 - 7.2.2 *Mayor* is a reference to the Deputy Mayor or the *Chair* of the *Delegated Committee* (as the case may be).

8. Appointment of Acting Mayor

- 8.1 If it becomes necessary to appoint an Acting Mayor, *Council* can do so by:
 - 8.1.1 resolving that a specified Councillor be so appointed; or
 - 8.1.2 following the procedure set out in Rules 1 to 6 (inclusive) of this Chapter,
 at its discretion.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

PART B – MEETINGS PROCEDURE

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

Division 1 – Notices of Meetings and Delivery of Agendas

9. Ordinary Council Meetings

- 9.1 The dates and times of *Ordinary Council Meetings* will be fixed by *Council* from time to time.
- 9.2 The location of Ordinary Council Meetings will be fixed by the Chief Executive Officer.

10. Extraordinary Council Meetings

- 10.1 The *Mayor* or at least three Councillors may by a *written* notice call, or *Council* may by resolution call, an *Extraordinary Council meeting*.
- 10.2 The *Chief Executive Officer* may, by a *written* notice within 14 days of the result of a *Council* election or by-election being declared, call an *Extraordinary Council Meeting*.
- 10.3 The *written* notice or resolution must specify the date and time of the *Extraordinary Council meeting* and the business to be transacted.
- 10.4 The Chief Executive Officer must convene the *Extraordinary Council meeting* as specified in the *written* notice or resolution.
- 10.5 Unless all Councillors are present and unanimously agree to deal with any other matter, only the business specified in the *written* notice or resolution can be transacted at the *Extraordinary Council meeting*.

11. Determination of meeting format

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.

- 11.1 Council meetings must be conducted in person except in circumstances where the *Chief Executive Officer* determines that:
 - 11.1.1 a meeting held in person may be unable to achieve and maintain a quorum;
 - 11.1.2 a meeting held in person presents a risk to the health and safety of Councillors, staff or the community;
 - 11.1.3 all or part of the meeting is planned to be closed to members of the public under section 66(2) of the Act;
 - 11.1.4 the orderly conduct of a meeting held in person may not be possible; or
 - 11.1.5 suitable meeting facilities may not be available.
 in which case, the *Chief Executive Officer* may determine that the meeting will be held by electronic means of communication.

12. Meetings conducted in person

- 12.1 At a meeting conducted in person, a Councillor may lodge a request with the *Chief Executive Officer* to participate in the meeting by electronic means of communication if:
 - 12.1.1 they are not lawfully permitted to physically attend due to an order or direction made under the Public Health and Wellbeing Act 2008;

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

- 12.1.2 they are satisfied that they are fit to conscientiously perform the role of a Councillor; and
- 12.1.3 the request is lodged at least two hours before the commencement of the meeting.
- 12.2 The *Chief Executive Officer* must grant permission to any Councillor who has lodged a request that satisfies the requirements of sub-Rule 12.1, and make arrangements to facilitate the participation by that Councillor in the meeting by electronic means of communication.
- 12.3 At a meeting conducted in person, a Councillor who has been granted permission to participate by electronic means of communication:
 - 12.3.1 will be able to participate by electronic means of communication according to arrangements facilitated by the *Chief Executive Officer*; and
 - 12.3.2 is subject to the provisions of Rule 13 in so far as they are applicable.
- 12.4 At a meeting conducted in person, a Councillor who has not been granted permission to participate by electronic means of communication must:
 - 12.4.1 be physically present in order to participate; and
 - 12.4.2 not be recorded as having been present at the meeting if they are present only by electronic means of communication.

13. Meetings conducted by electronic means of communication

- 13.1 At meetings conducted by electronic means of communication, the following modifications to the application of the Rules in this Chapter are to be made:
 - 13.1.1 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;
 - 13.1.2 momentary absences (of less than one minute) will not be recorded as absences for the purposes of the meeting minutes, unless a vote or the *Chair's* request for the declaration of conflicts of interest occurs during the absence;
 - 13.1.3 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;
 - 13.1.4 in the event of the absence of a Councillor during a vote due to an apparent technical failure, a Councillor or member of 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 may resume in the Councillor's absence; and
 - 13.1.5 in the event of a Councillor being required to leave a meeting due to the declaration of a conflict of interest, the Councillor may leave the meeting by disconnecting from the online meeting platform.
- 13.2 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 a meeting which is conducted by electronic means of communication.

14. Notice Of Meeting

- 14.1 A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for all *Council meetings* at least 24 hours before the meeting.
- 14.2 Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this by publishing details of the meeting on its website as soon as practicable after the meeting has been scheduled.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

15. Rescheduling or Cancelling Meetings

- 15.1 *Council* may reschedule or cancel any *Council meeting* which has been fixed by it.
- 15.2 The *Chief Executive Officer* may reschedule or cancel any *Council meeting* by giving such notice by electronic means to Councillors as soon as is reasonably practicable, where the *Chief Executive Officer* is satisfied that the cancellation or postponement is warranted because:
 - 15.2.1 of an emergency;
 - 15.2.2 a quorum will not be achieved due to apologies received ahead of the *Council meeting*;
 - 15.2.3 there is insufficient material in the agenda to justify a *Council meeting* being held;
 - 15.2.4 holding the *Council meeting* would give rise to a risk to health and / or safety; or
 - 15.2.5 of other circumstances having arisen which make the holding of the *Council meeting* undesirable.
- 15.3 If a meeting is rescheduled or cancelled, Rule 14 applies to the extent that is reasonably practicable.

Division 2 – Quorums**16. Inability To Obtain A Quorum**

- 16.1 If after 30 minutes from the scheduled starting time of any *Council meeting*, a quorum cannot be obtained:
 - 16.1.1 the meeting will be deemed to have lapsed;
 - 16.1.2 the *Mayor* must convene another *Council meeting*, the *agenda* for which will be identical to the *agenda* for the lapsed meeting; and
 - 16.1.3 the *Chief Executive Officer* must give all Councillors *written* notice of the meeting convened by the *Mayor*.

17. Inability To Maintain A Quorum

- 17.1 If during any *Council meeting*, a quorum cannot be maintained then Rule 16 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 17.2 Sub-Rule 17.1 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.

18. Adjourned Meetings

- 18.1 *Council* may adjourn any meeting to another date, time or place.
- 18.2 The *Chief Executive Officer* must give *written* notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 18.3 If it is impracticable for the notice given under sub-Rule 18.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.

19. Time limits for Meetings

- 19.1 A *Council meeting* must not continue after 11.00pm unless a majority of Councillors present vote in favour of it continuing.
- 19.2 Each continuance can be up to a further 30 minutes, although there is no limit on the number of such continuances.
- 19.3 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of Sub-Rules 18.2 and 18.3 apply.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

Division 3 – Business of Meetings

20. Agenda and the Order Of Business

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

21. Change To Order Of Business

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

22. General Business

- 22.1 If the *agenda* for a *Council meeting* makes provision for General Business, motions may only be admitted as General Business where they:
- 22.1.1 call for a report to be prepared for subsequent consideration by *Council* or a *Delegated Committee*;
 - 22.1.2 arise from a matter considered by an Advisory Committee and are presented as part of a Delegate's Report;
 - 22.1.3 seek *Council* to undertake advocacy in relation a matter of established *Council* policy (such as sending a letter setting out *Council's* position on a matter); or
 - 22.1.4 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).
- 22.2 General Business motions cannot be considered where they:
- 22.2.1 would require an expenditure or commitment of *Council* resources of greater than \$1,000;
 - 22.2.2 establish *Council* policy; or
 - 22.2.3 are beyond *Council's* powers to implement.
- 22.3 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 must be placed on hold and a further report must be brought to *Council* as soon as practicable to seek further direction.

23. Delegate's Reports

- 23.1 A Delegate's Report provides an opportunity for a Councillor to update *Council* and provide advice or other information in relation to the activities of:
- 23.1.1 an Advisory Committee;
 - 23.1.2 an Interest Group; or
 - 23.1.3 an external organisation
- to which the Councillor has been appointed by *Council* as its delegate.
- 23.2 If the *agenda* for a *Council meeting* makes provision for Delegate's Reports, a Councillor may submit a report by:
- 23.2.1 tabling a *written* report; or
 - 23.2.2 providing an oral report to the meeting.
- 23.3 The full text of any Delegate's Report tabled in *writing* must be included in the minutes of the meeting.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

24. Urgent Business

- 24.1 If the *agenda* for a *Council meeting* makes provision for urgent business, business can only be admitted as urgent business if:
 - 24.1.1 it is proposed for admission by the *Chief Executive Officer* after the *Chief Executive Officer* has consulted the *Mayor*;
 - 24.1.2 the *Chair* has been given written notice and portent of the proposed matter to be raised and has approved the admission of the item;
 - 24.1.3 it relates to or arises out of a matter which has arisen since distribution of the *agenda*; and
 - 24.1.4 it cannot safely or conveniently be deferred until the next *Council meeting*.
- 24.2 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 24.

25. Notices Of Motion

- 25.1 Councillors may ensure that an issue is listed on an *agenda* by lodging a *notice of motion*.
- 25.2 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.

By way of example. If a Council Meeting were scheduled for a Tuesday evening, the latest time a notice of motion could be submitted for consideration at that meeting would be 11.59pm on the previous Tuesday. This would provide six clear days (Wednesday, Thursday, Friday, Saturday, Sunday and Monday) before the day of the meeting.

- 25.3 A *notice of motion* must call for a *Council* report if the notice of motion proposes any action that:
 - 25.3.1 impacts the levels of *Council* service; or
 - 25.3.2 commits *Council* to expenditure that is not included in the adopted *Council* Budget.
- 25.4 The *Chief Executive Officer* may reject any notice of motion which:
 - 25.4.1 is vague or unclear in intention;
 - 25.4.2 does not satisfy the requirements of sub-Rule 25.3;
 - 25.4.3 is beyond *Council's* power to pass; or
 - 25.4.4 if passed would result in *Council* otherwise acting unlawfully
 but must, if it is practicable to do so:
 - 25.4.5 give the Councillor who lodged it an opportunity to amend it prior to rejection, if an amendment is, in the circumstances, practicable; and
 - 25.4.6 notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.
- 25.5 The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.
- 25.6 The *Chief Executive Officer* must cause all *notices of motion* to be dated and numbered in the order in which they were received.
- 25.7 Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were received.
- 25.8 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.
- 25.9 If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

Division 4 – Motions and Debate

26. Chair's Duty

- 26.1 Any motion which is determined by the *Chair* to be:
- 26.1.1 defamatory;
 - 26.1.2 objectionable in language or nature;
 - 26.1.3 vague or unclear in intention;
 - 26.1.4 outside the powers of *Council*; or
 - 26.1.5 irrelevant to the item of business on the *agenda* and has not been admitted as Urgent Business, or purports to be an amendment but is not,
- must not be accepted by the *Chair*.

27. Introducing A Motion or an Amendment

- 27.1 The procedure for moving any motion or amendment is:
- 27.1.1 the mover must state the motion without speaking to it or table the wording of the motion in *writing*;
 - 27.1.2 the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder; and
 - 27.1.3 if a motion or an amendment is moved and seconded and no Councillor other than the mover or seconder indicates a desire to speak to it, the *Chair* may put the motion to the vote without discussion.
- 27.2 The procedure for debating the motion or amendment is:
- 27.2.1 if a Councillor other than the mover or seconder of a motion indicates a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
 - 27.2.2 after the mover has addressed the meeting, the seconder may address the meeting; and
 - 27.2.3 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.

28. Right Of Reply

- 28.1 The mover of a motion has a right of reply to matters raised during debate, except:
- 28.1.1 a motion where no Councillor other than the mover and seconder have spoken to the motion;
 - 28.1.2 a motion that has been amended; and
 - 28.1.3 an amendment.
- 28.2 If a right of reply exists, the mover must first be invited to speak to the motion and then the motion must immediately be put to the vote without any further comment, discussion or debate.
- 28.3 If no right of reply exists, the motion must immediately be put to the vote without any further comment, discussion or debate.

29. Moving An Amendment

- 29.1 Subject to sub-Rule 29.2, a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- 29.2 A motion to confirm a previous resolution of *Council* cannot be amended.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

29.3 An amendment must not be contrary to the motion.

30. Who May Propose An Amendment

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

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

31. How Many Amendments May Be Proposed

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

31.2 No second or subsequent amendment, whether to the motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with.

32. An Amendment Once Carried

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

33. Foreshadowing Motions

33.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of their intention to move a motion at a later stage in the meeting.

34. Withdrawal Of Motions

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

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

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

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

35. Separation Of Motions

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

36. Chair May Separate Motions

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

37. Priority of address

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

38. Motions In Writing

38.1 For clarity and to enable electronic display, the *Chair* may require that any motion be submitted in *writing*.

38.2 *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.

39. Repeating Motion and/or Amendment

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

40. Debate Must Be Relevant To The Motion

40.1 Debate must always be relevant to the motion before the chair, and, if not, the *Chair* must request the speaker to confine debate to the motion.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

- 40.2 If after being requested to confine debate to the motion before the chair, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker not to speak further in respect of the motion then before the chair.

41. Speaking Times

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

- 41.1.1 the mover of a motion or an amendment: three minutes;
 41.1.2 any other Councillor: three minutes; and
 41.1.3 the mover of a motion exercising a right of reply: two minutes.

42. Mode of Addressing

- 42.1 If the *Chair* so determines:

- 42.1.1 any person addressing the *Chair* must refer to the *Chair* as:

- (a) Mayor; or
 (b) Deputy Mayor; or
 (c) Acting Mayor; or
 (d) Chair,

as the case may be;

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

- 42.2.1 Cr (name); and

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

43. Right to Ask Questions

- 43.1 At any time before the debate has commenced, a Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the chair.
- 43.2 The debate has commenced when a Councillor addresses the meeting under sub-Rule 27.2 in relation to a motion or an amendment (as the case may be).
- 43.3 The *Chair* has the right to limit questions and direct that debate be commenced.

Division 5 – Procedural Motions

44. Procedural Motions

- 44.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.
- 44.2 Procedural motions require a seconder.
- 44.3 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:

Procedural Motion	Adjournment of debate to later hour and/or date	Adjournment of debate indefinitely	The closure
Form	That this matter be adjourned to *am/pm and/or *date	That this matter be adjourned until further notice	That the motion be now put

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

Mover and Seconded	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion
When Motion Prohibited	(a) During the election of a <i>Chair</i> , (b) When another Councillor is speaking	(a) During the election of a <i>Chair</i> , (b) When another Councillor is speaking; or (c) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	During nominations for a <i>Chair</i>
Effect if Carried	Motion and amendment is postponed to the stated time and/or date	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising the right to ask any question concerning or arising out of the motion
Effect if Lost	Debate continues unaffected	Debate continues unaffected	Debate continues unaffected
Debate Permitted on Motion	Yes	Yes	No

Division 6 – Rescission Motions

45. 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

45.1 A Councillor may propose a *notice of rescission* provided the *notice of rescission*:

- 45.1.1 has been signed and dated;
- 45.1.2 is delivered to the *Chief Executive Officer* by 11.00am on the day after the meeting at which the resolution sought to be rescinded was made;
- 45.1.3 identifies the meeting and date when the resolution was made;
- 45.1.4 identifies the resolution sought to be rescinded; and
- 45.1.5 sets out the reasons for the *notice of rescission*.

45.2 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;

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

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

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

45.3.2 a statutory process has been commenced

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

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

45.4.1 has not been acted on; and

45.4.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 45.1.1,

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

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

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

Sub-Rule 45.4 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.

45.5 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.

45.6 If, after a period of 24 hours has elapsed since the notification of Councillors under sub-Rule 45.5, less than three Councillors (including the Councillor who submitted the notice, whose support is to be presumed) have indicated to the *Chief Executive Officer* that they support it, the notice of rescission lapses and must not be placed on the agenda for the next meeting.

46. If Not Moved

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

47. May Not be Amended

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

48. When Not Required

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

Division 7 – Points of Order

49. Valid Points Of Order

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

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

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

- 49.1.1 irrelevant, meaning it does not relate to the matter under consideration or is outside the powers of Council;
- 49.1.2 improper, meaning it constitutes improper behaviour or is offensive;
- 49.1.3 misleading, meaning it is an untrue or false assertion or statement;
- 49.1.4 disorderly, being an act that disrupts or distracts from the orderly operation of the meeting; or
- 49.1.5 contrary to *these Rules*, meaning it is contrary to the provisions set out in this Chapter.

50. Procedure For Point Of Order

- 50.1 A Councillor raising a point of order must state that the statement or behaviour is:
 - 50.1.1 irrelevant;
 - 50.1.2 improper;
 - 50.1.3 misleading;
 - 50.1.4 disorderly; or
 - 50.1.5 contrary to *these Rules* (in which case the Councillor must identify the Rule that is being contravened).
- 50.2 A Councillor raising a point of order under this clause is not deemed to be speaking to the motion or amendment before the meeting.

51. Chair To Decide

- 51.1 The *Chair* must decide all points of order without entering into any discussion or comment.
- 51.2 In deciding a point of order, the *Chair* is to have regard to their obligation under section 18(1)(e) of the *Act* to “promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct”.
- 51.3 The *Chair’s* ruling on a point of order is final.

52. Chair May Adjourn To Consider

- 52.1 The *Chair* may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.
- 52.2 All other questions before the meeting are suspended until the point of order is decided.

Division 8 – Public Participation in Council Meetings

53. Question Time

- 53.1 Unless *Council* resolves to the contrary, there must be a Question Time at every *Ordinary Council Meeting* to enable members of the public to ask questions of *Council*.
- 53.2 Questions asked of *Council* must:
 - 53.2.1 be lodged in *writing*;
 - 53.2.2 be lodged at least 24 hours prior to the scheduled commencement of the meeting at which they are to be asked; and
 - 53.2.3 include the name and contact details of the person lodging the question.
- 53.3 If the person lodging the question is present at the meeting:
 - 53.3.1 the *Chair* must offer the person lodging the question the opportunity to ask their question.
 - 53.3.2 the time permitted for asking a question will be three minutes; and

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

- 53.3.3 the *Chair*, or a person nominated by the *Chair* must provide a succinct response to the question.
- 53.4 No person may ask more than one question at any one meeting.
- 53.5 If the *Chair* is of the opinion that the number of questions on the same subject makes it desirable to group like questions together for a combined response, they may make such reasonable adjustments to the process as may be necessary.
- 53.6 A question may be disallowed by the *Chair* if the *Chair* determines that it:
 - 53.6.1 relates to a matter to be considered by *Council* at the meeting at which the question is proposed to be asked;
 - 53.6.2 relates to a matter outside the duties, functions and powers of *Council*;
 - 53.6.3 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 53.6.4 deals with a subject matter already answered;
 - 53.6.5 is aimed at embarrassing a Councillor or a member of *Council* staff;
 - 53.6.6 includes or relates to *confidential information*; or
 - 53.6.7 relates to a matter that is subject (or, in the opinion of the *Chair*, potentially subject) to legal proceedings.
- 53.7 The *Chair* has the discretion to allow such statements or questions of clarification as are necessary to facilitate the orderly and effective operation of Question Time.
- 53.8 No discussion may be allowed other than provided for at sub-Rules 53.3 and 53.7
- 54. Addressing Council Meetings**
 - 54.1 There must be an opportunity for members of the public to address *Council* in relation to every matter included on the agenda at an *Ordinary Council Meeting*, with the exception of matters:
 - 54.1.1 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);
 - 54.1.2 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*);
 - 54.1.3 being re-presented to the *Council* after having been deferred where the opportunity to address *Council* has already been provided, unless *Council* resolves otherwise; or
 - 54.1.4 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.
 - 54.2 Persons wishing to address *Council* must:
 - 54.2.1 register in *writing*;
 - 54.2.2 identify the item on the *agenda* about which they wish to address *Council*;
 - 54.2.3 register at least 24 hours prior to the scheduled commencement of the meeting at which the item is to be presented;
 - 54.2.4 provide their name and contact details to *Council*.
 - 54.3 If the person registering to address *Council* is present at the meeting:
 - 54.3.1 the *Chair* must offer the person registering to address *Council* the opportunity to make a statement in relation to the matter to be considered; and
 - 54.3.2 the time permitted for each address will be three minutes or, where 10 or more people have registered to address *Council* in relation to that item, two minutes.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

- 54.4 If the *Chair* is of the opinion that the number of registrations makes it desirable to limit the number of persons afforded the opportunity to address *Council* and invite a representative group to address *Council*, they may make such reasonable adjustments to the process as may be necessary.
- 54.5 An address may be disallowed by the *Chair* if the *Chair* determines that it:
 - 54.5.1 relates to a matter other than the matter being considered by *Council* at the time the address is being made;
 - 54.5.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 54.5.3 is aimed at embarrassing a Councillor or a member of *Council* staff;
 - 54.5.4 includes or relates to *confidential information*; or
 - 54.5.5 relates to a matter that is subject (or, in the opinion of the *Chair*, potentially subject) to legal proceedings.
- 54.6 Notwithstanding the exclusions in sub-Rule 54.1, *Council* may resolve to permit persons to address *Council* in relation to any matter to be considered at a *Council* meeting, subject to whatever process *Council* determines.

55. Petitions and Joint Letters

- 55.1 Every petition or joint letter presented to *Council* must:
 - 55.1.1 be in *writing* (other than pencil), typing or printing;
 - 55.1.2 contain the request of the petitioners or signatories;
 - 55.1.3 not be derogatory, defamatory, indecent, abusive or objectionable in language or substance; and
 - 55.1.4 be signed by at least 12 people.
- 55.2 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.
- 55.3 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*.
- 55.4 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.
- 55.5 Petitions compiled using an online petition platform will not be received at a *Council meeting*, but, once lodged by the petition organiser, will be referred directly to the *Chief Executive Officer* for consideration.
- 55.6 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 lodged, the petition or joint letter will be treated as an address in relation to that *agenda* item.
- 55.7 Unless it is treated as an address under sub-Rule 55.6, a petition may be presented to a *Council* meeting by a Councillor.
- 55.8 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 of *Council*.
- 55.9 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.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

55.10 A petition tabled by a Councillor at a *Council meeting* may be dealt with by a motion to accept and note the petition and refer it to the *Chief Executive Officer* for consideration and response.

Division 9 – Voting

56. How Motion Determined

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

57. Silence

57.1 Voting must take place in silence.

58. Recount

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

59. Casting Vote

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

60. Method of Voting

60.1 Voting on any matter is by show of hands or such other means as the *Chair* lawfully permits.

61. Procedure For A Division

61.1 Immediately prior to, or immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.

61.2 When a division is called for, any vote already taken must be treated as set aside and the division will decide the question, motion or amendment.

61.3 When a division is called for, the *Chair* must:

- 61.3.1 ask each Councillor wishing to vote in the affirmative to raise a hand or otherwise signify their support;
- 61.3.2 state, and the *Chief Executive Officer* or any member of staff authorised by the *Chief Executive Officer* must record, the names of those Councillors voting in the affirmative; and
- 61.3.3 declare the result.

61.4 The *Chief Executive Officer* or any member of staff authorised by the *Chief Executive Officer* must record the names of those Councillors present at the meeting during a division who, by virtue of section 61(5)(f) of the *Act*, are taken to have voted against the question.

62. No Discussion Once Declared

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

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

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

By way of example, Rule 62 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.

Equally, Rule 62 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.

Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in Sub-rule 62.3, to discussion about a positive motion were a resolution has just been rescinded.

Division 10 – Minutes

63. Confirmation of Minutes

- 63.1 A copy of the minutes of the previous meeting must be delivered to each Councillor no later than 24 hours before the meeting.
- 63.2 No discussion or debate on the confirmation of minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.
- 63.3 If no Councillor indicates opposition, Council may consider a motion to confirm the minutes.
- 63.4 If one Councillor indicates opposition, they must specify the amendments required to those minutes and move a motion to confirm the minutes subject to those amendments.
- 63.5 If more than one Councillor indicates opposition, the necessary amendments may be considered one at a time with such amendments incorporated by successive resolutions and then a final resolution to confirm the amended minutes.
- 63.6 Once any agreed amendments are included and any necessary clerical corrections made, the minutes must, if practicable, be signed by the Chair of the meeting at which they have been confirmed

64. No Debate on Confirmation Of Minutes

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

65. Deferral Of Confirmation Of Minutes

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

66. Form and Availability of Minutes

- 66.1 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:
 - 66.1.1 the date, place, time and nature of the meeting;
 - 66.1.2 the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
 - 66.1.3 the names of the members of Council staff present;
 - 66.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5;
 - 66.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
 - 66.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

- 66.1.7 the vote cast by each Councillor upon a division and the names of all Councillors present during the division
- 66.1.8 the vote cast by any Councillor who has requested that their vote be recorded in the minutes;
- 66.1.9 questions upon notice;
- 66.1.10 the failure of a quorum;
- 66.1.11 any adjournment of the meeting and the reasons for that adjournment;
- 66.1.12 the time at which standing orders were suspended and resumed; and
- 66.1.13 the proceedings of any vote for *Mayor*, *Deputy Mayor* or Acting Mayor, being:
 - (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.
- 66.2 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are published on Council's website.
- 66.3 Nothing in sub-Rule 66.2 requires *Council* or the *Chief Executive Officer* to make public any minutes relating to a *Council meeting* or part of a *Council meeting* closed to members of the public in accordance with section 66 of the *Act*.

Division 11 – Behaviour

67. Right of Address

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

68. Chair May Remove

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

- 68.1 The *Chair* may order the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 67.2.

69. Chair may close a meeting

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

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

70. Chair may adjourn a meeting

- 70.1 If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, they may adjourn the meeting to a later time on the same day or to some later day as they think proper. In that event, the provisions of Sub-rules 18.2 and 18.3 apply.

71. Removal from Chamber

- 71.1 The *Chair* may ask the *Chief Executive Officer* or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the gallery under Rule 68.1.

Division 12 – Additional Duties of Chair**72. The Chair's Duties And Discretions**

- 72.1 In addition to the duties and discretions provided in this Chapter, the *Chair*:
- 72.1.1 must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff or member of the community; and
 - 72.1.2 must call to order any person who is disruptive or unruly during any meeting.

Division 13 – Suspension of Standing Orders**73. Suspension of Standing Orders**

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

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

- 73.1 To expedite the business of a meeting, *Council* may suspend standing orders.
- 73.2 The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*. An appropriate motion would be:
- "That standing order be suspended to enable discussion on....."
- 73.3 No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.
- 73.4 Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:
- "That standing orders be resumed."

Division 15 – Miscellaneous**74. Reasonable adjustments**

- 74.1 To the extent practicable, the *Chair* must make reasonable adjustments to *these Rules* to accommodate the participation in meeting proceedings by persons with special needs on an equitable basis. Such adjustments may include, but be limited to:
- 74.1.1 increasing the time available to address the meeting to enable the use of a translator or other assistance; and
 - 74.1.2 facilitating a question or address to *Council* in an alternative format by a person who cannot be present at the meeting due to a disability

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

- 74.2 To the extent practicable, the *Chief Executive Officer* must ensure that support is available to persons wishing to attend *Council* meetings who would, without this support, find it difficult to access the meeting on an equitable basis. Such support may include, but not be limited to:
- 74.2.1 operation of a hearing loop in the meeting venue;
 - 74.2.2 provision of translation services;
 - 74.2.3 provision of a sign language interpreter;
 - 74.2.4 accommodation for access to meeting facilities by persons with a wheelchair or other mobility equipment ; and
 - 74.2.5 provision of disability accessible toilet facilities.

75. Criticism of members of Council staff

- 75.1 The *Chief Executive Officer* may make a brief statement at a *Council meeting* in respect of any statement by a Councillor made at the *Council meeting* criticising them or any member of Council staff.
- 75.2 A statement under sub-Rule 75.1 must be made by the *Chief Executive Officer*, through the *Chair*, as soon as it practicable after the Councillor who made the statement has completed speaking.

76. Procedure not provided in this Chapter

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

CHAPTER THREE – PLANNING DECISIONS COMMITTEE MEETINGS

1. Meeting Procedure Generally

- 1.1 All of the provisions of Chapter Two apply to meetings of the *Planning Decisions Committee*, with the exception of:
 - 1.1.1 Rule 22 (General Business);
 - 1.1.2 Rule 23 (Delegate's Reports);
 - 1.1.3 Rule 24 (Urgent Business);
 - 1.1.4 Rule 25 (Notices of Motion);
 - 1.1.5 Rule 53 (Question Time);
 - 1.1.6 Rule 54 (Addressing Council); and
 - 1.1.7 Rule 55 (Petitions and Joint Letters).
- 1.2 At meetings of the Planning Decisions Committee, any reference in Chapter Two to:
 - 1.2.1 a *Council meeting* is to be read as a reference to the *Planning Decisions Committee* meeting;
 - 1.2.2 a Councillor is to be read as a reference to a member of the *Planning Decisions Committee*; and
 - 1.2.3 the *Mayor* is to be read as a reference to the *Chair* of the *Planning Decisions Committee*.

2. Addressing the Planning Decisions Committee

- 2.1 There must be an opportunity for parties to address 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 the opportunity to address the Committee has already been provided, unless the *Planning Decisions Committee* resolves otherwise; and
 - 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 address the *Planning Decisions Committee* 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 address the *Planning Decisions Committee*;
 - 2.2.4 register at least 24 hours prior to the scheduled commencement of the meeting at which the item is to be presented; and
 - 2.2.5 provide their name and contact details to *Council*.
- 2.3 If the *applicant* registering to address the *Planning Decisions Committee* is present at the meeting:
 - 2.3.1 the *Chair* must offer the *applicant* the opportunity to address the *Planning Decisions Committee* in relation to the matter to be considered; and
 - 2.3.2 the time permitted for the address will be five minutes.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

- 2.4 If the *objector* registering to address the *Planning Decisions Committee* is present in the gallery:
 - 2.4.1 the *Chair* must offer the *objector* the opportunity to address the *Planning Decisions Committee* in relation to the matter to be considered; and
 - 2.4.2 the time permitted for each address will be five minutes.
- 2.5 If the *Chair* is of the opinion that the number of registrations makes it desirable to limit the number of persons afforded the opportunity to address the *Planning Decisions Committee* and invite a representative group to address the *Planning Decisions Committee*, they may make such reasonable adjustments to the process as may be necessary.
- 2.6 An address 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 the *Planning Decisions Committee* at the time the address 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;
 - 2.6.4 includes or relates to *confidential information*; or
 - 2.6.5 relates to a matter that is subject (or, in the opinion of the *Chair*, potentially subject) to legal proceedings.

CHAPTER FOUR - DELEGATED COMMITTEE MEETINGS

1. Meeting Procedure Generally

- 1.1 If Council establishes a *Delegated Committee*, it may determine which of the provisions of Chapter Two apply to meetings of the *Delegated Committee*.
- 1.2 In the absence of a resolution under sub-Rule 1.1, all of the provisions of Chapter Two apply to meetings of the *Delegated Committee*.
- 1.3 If Council establishes a *Delegated Committee*, any reference in Chapter Two to:
 - 1.3.1 a *Council meeting* is to be read as a reference to a *Delegated Committee* meeting;
 - 1.3.2 a Councillor is to be read as a reference to a member of the *Delegated Committee*; and
 - 1.3.3 the *Mayor* is to be read as a reference to the Chair of the *Delegated Committee*.

2. Meeting Procedure Can Be Varied

- 2.1 Notwithstanding Rule 1, if *Council* establishes a *Delegated Committee*:
 - 2.1.1 *Council* may; or
 - 2.1.2 the *Delegated Committee* may, with the approval of *Council* resolve which of the provisions of Chapter Two are to apply to a meeting of the *Delegated Committee*, in which case the provision or those provisions will apply until *Council* resolves, or the *Delegated Committee* with the approval of *Council* resolves, otherwise.

3. Planning Decisions Committee

- 3.1 Nothing in this Chapter applies to the *Planning Decisions Committee*.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

CHAPTER FIVE - DISCLOSURE OF CONFLICTS OF INTEREST

1. Disclosure of a Conflict of Interest at a Council Meeting or meeting of a Delegated Committee

- 1.1 A Councillor or member of a *Delegated Committee* who has a conflict of interest in a matter being considered at a *Council meeting* or meeting of a *Delegated Committee* at which they are present must, before the matter is considered at the meeting:
- 1.1.1 disclose that conflict of interest by providing to the *Chief Executive Officer* a *written* notice in a form provided by or on behalf of the *Chief Executive Officer*:
 - (a) advising of the conflict of interest; and
 - (b) explaining the nature of the conflict of interest;
 - 1.1.2 announce to those present that they have a conflict of interest and that a *written* notice has been given to the *Chief Executive Officer* under this Rule; and
 - 1.1.3 leave the *Council meeting* or meeting of a *Delegated Committee* and not return to the meeting until after the matter has been disposed of.

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

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

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

- 3.1 A member of Council staff who, in their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a report for the consideration of a:
- 3.1.1 *Council meeting*;
 - 3.1.2 *Delegated Committee* meeting;
- must, immediately upon becoming aware of the conflict of interest, provide a *written* notice to the *Chief Executive Officer* disclosing the conflict of interest and explaining the nature of the conflict of interest.
- 3.2 The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 7.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.
- 3.3 If the member of Council staff referred to in sub-Rule 3.1 is the *Chief Executive Officer*:
- 3.3.1 the *written* notice referred to in sub-Rule 3.1 must be given to the *Mayor*; and
 - 3.3.2 the obligation imposed by sub-Rule 3.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

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

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

- 4.2 If the member of Council staff referred to in sub-Rule 4.1 is the *Chief Executive Officer* the *written* notice must be given to the *Mayor*.

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

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

- 5.2 If the member of Council staff referred to in sub-Rule 5.1 is the *Chief Executive Officer* the *written* notice must be given to the *Mayor*.

6. Retention of Written Notices

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

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

CHAPTER SIX – CONFIDENTIAL INFORMATION

This Chapter

1. Confidential Information

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

CHAPTER SEVEN – ELECTION PERIOD POLICY

PART A – PRELIMINARY

This Part

1. Policy objectives

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

2. Definitions

- 2.1 For the avoidance of doubt, the *election period* in respect of:
 - 2.1.1 the 2024 Council Election commences at 12 noon on Tuesday 24 September and concludes at 6.00pm on Saturday 26 October 2024; and
 - 2.1.2 the 2028 Council Election commences at 12 noon on Tuesday 26 September and concludes at 6.00pm on Saturday 28 October 2028.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

PART B – APPLICATION

3. Candidates for election

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

4. Other persons

- 4.1 All Councillors, members of Council committees and members of *Council* staff are bound by this Policy in so far as it relates to the provision of support for candidates for election.

5. Application of the Staff Code of Conduct

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

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

PART C – POLICY

6. Council resources

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

7. Information

- 7.1 *Council* recognises that all candidates have certain rights to information from the *Council* administration. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from members of *Council* staff that might be perceived to support an election campaign.
- 7.2 Information and briefing material prepared by staff or the Victorian Electoral Commission during the *election period* will relate only to factual matters or to existing Council services. Such information will not relate to policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

- 7.3 Public consultation of a limited kind, normally associated with the routine administration of planning, building, traffic, parking or other matters, will continue through the *election period*. However significant community or ward-wide consultation on major strategy or policy issues will not occur, or, if already commenced, will be suspended during the *election period*.

8. Council publications

- 8.1 *Council* must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any electoral material during the *election period*.
- 8.2 *Council* will suspend the publication and distribution of *Yarra News* or any similar publication during the election period.
- 8.3 During the election period, *Council* will restrict Councillor details on the *Council* website to Councillor names, the ward they represent and their contact details.
- 8.4 For the avoidance of doubt, this Policy does not prevent candidates from publishing their own campaign material from their own funds outside *Council*, and not bearing any reference or inference that such material is from *Council*, or supported or endorsed by *Council* and nor bearing any *Council* identification (such as logos or similar). Candidates must ensure that such publications comply with the requirements of the *Act*.

9. Publicity

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

10. Decisions

- 10.1 *Council* must not make any decision during the election period for a general election that:
- 10.1.1 relates to the appointment or remuneration of the *Chief Executive Officer* but not to the appointment or remuneration of an Acting Chief Executive Officer;
 - 10.1.2 commits *Council* to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
 - 10.1.3 *Council* considers could be reasonably deferred until the next Council is in place; or
 - 10.1.4 *Council* considers should not be made during an election period.
 - 10.1.5 *Council* must not make any decision during the *election period* for a general election or a by-election that would enable the use of *Council's* resources in a way that is intended to influence, or is likely to influence, voting at the election.

Attachment 4 - Attachment 4 - Draft Governance Rules

Yarra City Council Governance Rules

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

11. Conduct of Council Meetings

- 11.1 The following modifications will be made to the conduct of *Council meetings* during the election period:
- 11.1.1 Question Time will be suspended.
 - 11.1.2 Members of the public wishing to address Council in relation to a matter listed on the *agenda* must provide the text of their address to *Council* in writing at least 24 hours before the commencement of the meeting. Persons registering to address Council will be invited to address Council provided their address does not contain *electoral matter* and they do not stray from the previously provided wording.
 - 11.1.3 Councillors will limit their discussion during debate to the topic under consideration and will avoid raising *electoral matter* where possible.
 - 11.1.4 Councillors will not raise items of general business or questions without notice that contain or relate to *electoral matter*.
- 11.2 No Officer Report will be presented to Council during the *election period* unless it contains an express statement by the *Chief Executive Officer* that a decision on that matter would not be contrary to this Policy.

12. Events and Functions

- 12.1 *Council* will suspend its program of Ward Meetings during the *election period*.
- 12.2 Councillors are able to continue to attend meetings, events and functions during the election period which are relevant to *Council* and the community.
- 12.3 *Council's* annual program of events will continue during the election period however speeches will be limited to a short welcome, and should not contain any express or implied reference to the election. Any publicity will be mindful of the controls on electoral material outlined in this Policy.
- 12.4 Councillors are able to attend events or functions conducted by external bodies during the election period, however when attending as a representative of *Council*, Councillors must be mindful that they do not use that opportunity to promote their election campaign.

13. Assistance to Candidates

- 13.1 *Council* affirms that all candidates for the Yarra City Council election will be treated equally.
- 13.2 All election related inquiries from candidates will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the *Chief Executive Officer*.

Attachment 5 - Attachment 5 - Governance Rules Explanatory Memorandum

Explanatory Memorandum

Governance Rules Review 2022



The proposed amendments to the City of Yarra Governance Rules set out in this Explanatory Memorandum seek to give effect to the outcomes of the Governance Rules Review 2022.

The material additions and edits to clauses are described below. In addition, there are a number of administrative edits resulting from a legal review of the previous rules which seek to clarify without altering their meaning.

Introduction

Title	removes the reference to 2020 to reflect the update to the Governance Rules and the potential for future updates.
Approval date	to be updated to the date of adoption of the updated rules.
Review date	to be updated to the date ten years from the date of adoption of the updated rules.

Chapter One - Introduction

PART A – PRELIMINARY

Rule 2.1	updates the commencement date of the rules to 1 September 2022.
Rule 4.1.3	adds a definition of ‘applicant’ for the purposes of Chapter Three, Rule 2.
Rule 4.1.6	adds a definition of ‘Community Engagement Policy’ for the purposes of Chapter Two, Rule 54.1.2.
Note	The former Rule 4.1.7 has been deleted as the ‘Council Meetings Operations Policy is proposed to be revoked.
Note	The former Rule 4.1.10 has been deleted as the words ‘election day’ do not appear elsewhere in the Governance Rules.
Rule 4.1.14	adds a definition of ‘Extraordinary Council Meeting’ for the purposes of Chapter Two, Rule 10.
Rule 4.1.22	adds a definition of ‘objector’ for the purposes of Chapter Three, Rule 2.
Rule 4.1.23	adds a definition of ‘Ordinary Council Meeting’ for the purposes of Chapter Two, Rule 9.

Attachment 5 - Attachment 5 - Governance Rules Explanatory Memorandum

- Rule 4.1.24** adds a definition of 'Planning Decisions Committee' for the purposes of Chapter Three.
- Rule 5.1.2** removes reference to the Council Meetings Operations Policy, which is to be revoked upon the adoption of the updates to the Rules.

Chapter Two – Council Meetings

PART A – ELECTION OF MAYOR

- Rule 2.1** provides that the Chief Executive Officer may provide an alternate mechanism for voting.
- Rule 3.3** explains that nominations for the office of Mayor are final, and cannot be added to or withdrawn once the CEO declares the process complete.
- Rule 3.4** provides candidates for Mayor the opportunity to address the meeting before the vote is taken.
- Rule 4.1** sets out the process for conducting an election where three or more candidates have nominated, including provisions for eliminating candidates by lot if necessary.
- Rule 4.2** explains the process once a candidate is eliminated.
- Rule 5.1** sets out the process for conducting an election where two candidates have nominated (or remain), including provisions if there is a tied vote and neither candidate has received the necessary absolute majority.
- Rule 6.1** sets out the process for conducting an election where only one candidate has nominated (or remains).

PART B – MEETINGS PROCEDURE

- Rule 9.1** provides that Council shall fix the date and time of Ordinary Council Meetings
- Rule 9.2** provides that the CEO shall fix the location of Ordinary Council Meetings
- Rule 10.1** provides that the Mayor or any three Councillors may call an Extraordinary Council Meeting by written notice, or the Council may call an Extraordinary Meeting by resolution.
- Rule 10.2** provides that the CEO may call an Extraordinary Council Meeting by written notice within 14 days of an election.
- Rule 10.3** provides that the notice or resolution calling an Extraordinary Council Meeting must specify the business to be transacted.
- Rule 10.4** provides that once called, the CEO must convene an Extraordinary Council Meeting.
- Rule 10.5** provides that only the matters included in the notice or resolution calling an Extraordinary Council Meeting, unless all Councillors are present and agree to consider another matter.
- Rule 11** provides a note expressing Council's preference that meetings be held in person.

Attachment 5 - Attachment 5 - Governance Rules Explanatory Memorandum

- Rule 11.1** provides that meetings shall be held in person unless the CEO determines otherwise, authorises the CEO to make this determination and provides grounds on which the decision can be made.
- Rule 12.1** provides a mechanism for a Councillor to request to participate by electronic means in a meeting that is otherwise being held in person and the grounds on which such a request may be made.
- Rule 12.2** provides that the CEO must permit a Councillor to join electronically if a valid request has been made and must facilitate arrangements for that participation.
- Rule 12.3** sets out the provisions that apply to a Councillor who has been granted permission to join electronically.
- Rule 12.4** sets out the provisions that apply to a Councillor who has not been granted permission to join electronically.
- Rule 13.1** sets out the amendments to the meeting rules that will be made for meetings held electronically.
- Rule 13.2** provides that the Chair may further amend the meeting rules for meetings held electronically with the consent of the meeting.
- Rule 15.1** provides that the Council may reschedule or cancel a meeting which it has scheduled.
- Rule 15.2** provides that the CEO may reschedule or cancel a meeting and sets out grounds on which this decision can be made.
- Rule 15.3** provides that if a meeting is cancelled or postponed, reasonable public notice must be provided to Councillors and the community.
- Rule 22.1** identifies those matters which can be presented as items of General Business.
- Rule 22.2** identifies those matters which are inadmissible as items of General Business.
- Rule 22.3** explains the process where the CEO determines that acting on an item of General Business is not in Council's interests.
- Rule 23.1** provides that the purpose of a Delegate's Report is to update the Council on the activities of a group to which a Councillor has been appointed as Council's delegate.
- Rule 23.2** provides that a Delegate's Report may be introduced at a Council Meeting by a Councillor either in writing or orally.
- Rule 23.3** requires that any written Delegate's Report is to be included in the meeting minutes
- Rule 24.1.1** provides that Urgent Business may be admitted to a Council Meeting by the CEO.
- Rule 24.2** provides that a Councillor may submit an item to the CEO and request that it be introduced as an item of urgent business.
- Example** provides an example to clarify the meaning of 'six clear days'.
- Rule 25.3** provides that any Notice of Motion which seeks to do something which will impact service levels or commit unbudgeted expenditure must call for an officer report.
- Rule 25.4.2** provides that any Notice of Motion which seeks to do something which will impact service levels or commit unbudgeted expenditure without calling for an officer report cannot be admitted.

Attachment 5 - Attachment 5 - Governance Rules Explanatory Memorandum

- Rule 27.1.1** provides that motions may be stated orally or tabled in writing.
- Rule 27.1.3** provides that motions may be put to the meeting without debate if no Councillor (other than the mover or seconder) indicates a desire to speak to it.
- Rule 27.2** provides the process for speaking to motions, which provides every Councillor the opportunity to address the meeting.
- Rule 28.1** provides that the mover has a right of reply, except for motions where no Councillor other than the mover or seconder has spoken, motions that have been amended or amendments.
- Rule 28.2** provides that if a right of reply exists, the mover is offered that right and then the motion is immediately put to a vote.
- Rule 28.3** provides that if no right of reply exists, the motion is immediately put to a vote.
- Rule 29.3** provides that amendments cannot be accepted where they are contrary to the motion.
- Rule 38.1** provides that the Mayor may request that any motion be tabled in writing to ensure the motion is clearly understood and can be displayed on screen.
- Rule 41.1.1** provides that the mover of a motion or amendment can address the meeting for three minutes (in addition to the time taken to move the motion itself and any right of reply).
- Rule 43.1** provides that Councillors have a right to ask a question provided the debate has not commenced.
- Rule 43.2** provides that debate commences at the moment a Councillor addresses the meeting in relation to that motion or amendment (this would usually be the mover).
- Rule 43.3** provides that the Chair may direct that debate on an item be commenced.
- Rule 45.1** provides a mechanism for the submission of a Notice of Rescission.
- Rule 45.2** provides that the CEO must reject a Notice of Rescission if it has been acted on.
- Rule 45.5** provides that the CEO must seek support of other Councillors before admitting a Notice of Rescission.
- Rule 45.6** provides that a Notice of Rescission lapses if it does not have the support of three Councillors (including the submitter).
- Rule 47.1** provides that a Notice of Rescission may not be amended
- Rule 48.1** clarifies that a Notice of Rescission is not required to change Council policy.
- Rule 49.1** provides a list of matters about which a point of order may be raised.
- Rule 50.1** sets out a procedure for raising a Point of Order.
- Rule 50.2** provides that a Councillor raising a Point of Order is not deemed to be speaking to a motion.
- Rule 51.1** provides that the Chair is empowered to decide all Points or Order.
- Rule 51.2** provides that the Chair must consider their obligation under the Local Government Act in deciding a Point of Order.

Attachment 5 - Attachment 5 - Governance Rules Explanatory Memorandum

- Rule 51.3** provides that a Chair's ruling on a Point of Order is final.
- Rule 53.1** provides that there must be Question Time at every Ordinary Council Meeting.
- Rule 53.2** sets out the process for taking up the opportunity to ask a question during Question Time.
- Rule 53.3** sets out how a person may ask a question during Question Time.
- Rule 53.4** provides that a person may only ask one question.
- Rule 53.5** provides the Chair with the ability to adjust the meeting rules in the event of a large number of registrations.
- Rule 53.6.1** provides that a question may be disallowed if it relates to a matter to be considered at the meeting.
- Rule 53.6.6** provides that a question may be disallowed if it includes or relates to confidential information.
- Rule 53.6.7** provides that a question may be disallowed if it relates to a matter subject to legal proceedings.
- Rule 53.7** provides that the Chair may allow further statements or questions or clarification if they are necessary.
- Rule 53.8** provides that no discussion is allowed other than the question, the answer and any further statements or questions or clarification that have been allowed by the Chair.
- Rule 54.1** provides that there must be an opportunity to address Council at Ordinary Council Meetings, with some exceptions.
- Rule 54.1.1** provides that the opportunity to address Council does not have to be provided for matters which are subject to another process under law.
- Rule 54.1.2** provides that the opportunity to address Council does not have to be provided for matters which are subject to another process under Council's Community Engagement Policy.
- Rule 54.1.3** provides that the opportunity to address Council does not have to be provided for matters which are being presented to Council after having previously been deferred and where submissions were heard the first time (except where Council resolves to hear further submissions).
- Rule 54.1.4** provides that the opportunity to address Council does not have to be provided for matters which are confidential.
- Rule 54.2** sets out the process for taking up the opportunity to address Council.
- Rule 54.3** sets out how a person may address the Committee.
- Rule 54.4** provides the Chair with the ability to adjust the meeting rules in the event of a large number of registrations.
- Rule 54.5** provides those circumstances where an address may be disallowed.
- Rule 54.6** provides that Council may make arrangements to hear submissions in whatever way it likes despite any rule to the contrary.

Attachment 5 - Attachment 5 - Governance Rules Explanatory Memorandum

- Rule 55.1.3** provides that petitions may not contain language that is derogatory, defamatory, indecent, abusive or objectionable.
- Rule 55.5** provides that petitions compiled using an online petitions platform shall be referred directly to the CEO.
- Rule 55.6** sets out that petitions relating to items on the agenda can be treated as an address to Council.
- Rule 55.8** provides that Councillors may present petitions to Council.
- Rule 55.10** provides that a petition considered at a meeting may be referred by Council to the CEO.
- Rule 60.1** provides that the Chair may provide an alternate mechanism for voting
- Rule 66.1.13** provides the details that must be recorded in the minutes relating to the election of a Mayor or Deputy Mayor.
- Rule 74.1** sets out the obligation of the Chair to make reasonable adjustments to the meeting rules to enable equitable participation by a person with special needs.
- Rule 74.2** sets out the obligation of the CEO to provide support to persons with special needs in order to enable equitable participation.

Chapter Three – Planning Decisions Committee Meetings

- Rule 1.1** sets out which of the Council Meeting rules are not applicable to meetings of the Planning Decisions Committee.
- Rule 1.2** explains how the Council Meeting rules are to be interpreted when applied to meetings of the Planning Decisions Committee.
- Rule 2.1** provides the mechanisms for parties to planning matters to address the Committee before decisions are made.
- Rule 2.2** sets out who may address the Committee and the process for taking up that opportunity.
- Rule 2.3** sets out how the applicant may address the Committee.
- Rule 2.4** sets out how an objector may address the Committee.
- Rule 2.5** provides the Chair with the ability to adjust the meeting rules in the event of a large number of registrations.
- Rule 2.6** provides those circumstances where an address may be disallowed.

Chapter Four – Delegated Committee Meetings

- Rule 1.1** provides that in establishing a Delegated Committee, Council may determine which of the Council Meetings Rule apply.
- Rule 1.2** provides that if Council does not determine which which of the Council Meeting rules apply to a Delegated Committee, then they all apply.

Attachment 5 - Attachment 5 - Governance Rules Explanatory Memorandum

- Rule 1.3** explains how the Council Meeting rules are to be interpreted when applied to meetings of a Delegated Committee.
- Rule 2.1** provides the ability to vary the meeting rules in respect of meetings of a Delegated Committee.
- Rule 3** makes clear that notwithstanding the fact the Planning Decisions Committee is a Delegated Committee, the provisions of Chapter Four do not apply to it.

Chapter Five – Disclosure of Conflicts of Interest

- Rule 1.1** provides that a Councillor or member of a Delegated Committee with a conflict of interest at a Council or Delegated Committee meeting must, before the matter giving rise to the conflict is discussed:
- disclose the details of the interest to the CEO in writing (a form will be provided for this purpose)
 - announce the existence of the conflict of interest at the meeting
 - leave the meeting

Chapter Six – Confidential Information

- Note** Part of Rule 1.1 has been removed because section 77(2)(c) of the Local Government Act 1989 has been repealed.

Chapter Seven – Election Period Policy

- Note** The former Rule 2.1.1 has been removed because the 2020 Election Period is in the past.
- Rule 11.1.2** Provides that during the Election period, persons may only address Council by reading a pre-submitted statement to the meeting (provided it does not contain electoral matter).

Attachment 6 - Attachment 6 - Draft Councillor Candidature Policy



Councillor Candidature Policy

Title	Council Candidature Policy
Description	A policy to outline expectations where a Councillor stands for a seat in a state or federal election or other similar election.
Category	Council
Type	Policy
Approval authority	Council
Responsible officer	Senior Governance Advisor
Approval date	
Review cycle	Every four years
Review date	
Document Reference	
Human Rights compatibility	This policy has been assessed and is compatible with the Victorian Charter of Human Rights of Responsibilities

1. Purpose and application

- 1.1. To outline Council's expectations where a Councillor expresses an intention to run as a candidate, gains pre-selection, or otherwise nominates as a candidate for a seat in a state or federal election or other similar election.
- 1.2. Compliance with this policy avoids the appearance that a Councillor is taking advantage of their position as a Councillor as a platform for their election campaign and ensure Council itself it not seen to be supporting or endorsing a candidate for election.

2. Application

- 2.1. This policy applies whenever a Councillor expresses an intention to run as a candidate, gains pre-selection, or otherwise nominates as a candidate for election to the Australian Federal Parliament or Victorian Parliament.
- 2.2. This policy (with modifications as are applicable) also applies when a Councillor expresses an intention to stand in another like election, such as another government, community organisation, club, board or other organisation (except where the Councillor is standing in their capacity as a Yarra City Councillor).
- 2.3. For the avoidance of doubt, this policy does not apply to a Councillor seeking to be pre-selected or similarly chosen as a candidate for election, until such time as they are successful in that process.
- 2.4. This policy does not apply in circumstances where a Councillor is seeking re-election to Yarra City Council (the City of Yarra Governance Rules apply in those circumstances).
- 2.5. These guidelines apply to all Councillors and operate in conjunction with Council's Councillor Code of Conduct.

Attachment 6 - Attachment 6 - Draft Councillor Candidature Policy**Councillor Candidature Policy****3. Definitions**

- 3.1. 'Prospective Candidate' refers to a Councillor who becomes an endorsed candidate of a registered political party, or publicly expresses an intention to run as an independent candidate for a State or Federal Election.
- 3.2. 'Nominated Candidate' refers to a Councillor who nominates as a candidate for a State or Federal Election through the relevant electoral commission.
- 3.3. A distinction is drawn between Prospective and Nominated Candidates as candidates for State and Federal Elections only become Nominated Candidates a few weeks prior to the relevant election date.

4. Notification of candidacy

- 4.1. Councillors will, as soon as practicable after becoming a Prospective Candidate, inform Council by delivering written notice to Council's Chief Executive Officer.
- 4.2. The Chief Executive Officer, upon receipt of such written notice, will advise all Councillors.
- 4.3. Prospective Candidates will declare their intended candidacy at the next Ordinary Meeting of Council following their notification to the Chief Executive Officer.

5. Leave of absence

- 5.1. Nominated Candidates should apply for a leave of absence for a period that commences no later than the date of their nomination as a candidate with the relevant electoral commission and concludes no earlier than the close of voting for the election.
- 5.2. Applications for leave of absence will be sought in accordance with the processes ordinarily adopted by Council. Such applications will not be unreasonably refused.
- 5.3. During the approved period of leave, Nominated Councillors should not attend meetings of Council or Council committees, or otherwise act as a Councillor.
- 5.4. All Council equipment and materials must be returned to Council for the approved period of leave.

6. Conduct of Council business

- 6.1. When undertaking activities in their role as a Councillor, all Councillors will take care to ensure that:
 - items of business introduced onto the agenda of a Council or Council committee meeting
 - notices of motion
 - communications with people and organisations, both within and external to Council
 relate to the objectives, role, functions and powers of Council and are not designed to further any Councillor's platform as a candidate in, or position with respect to, the relevant election.
- 6.2. Councillors should take particular care when:
 - considering planning matters before Council in its role as a responsible authority under the Planning and Environment Act 1987
 - undertaking a consultation or advocacy role on behalf of members of the community, community groups or other interest groups

Attachment 6 - Attachment 6 - Draft Councillor Candidature Policy



Councillor Candidature Policy

- attending Council events
 - representing Council in communications with Federal or State Government entities.
- 6.3. At no point should Prospective or Nominated Candidates use, or appear to use, their position as a Councillor to further their platform as an election candidate.

7. Council resources

- 7.1. Councillors have access to a wide range of Council resources for use in their role as Councillors, including, but not limited to:
- offices and meeting rooms
 - support staff
 - hospitality services
 - stationery
 - equipment and facilities (such as mobile telephones, computer equipment and cab charge cards).
- 7.2. Prospective and Nominated Candidates should ensure that Council resources are not used to further their platform as a candidate in, or in any manner connected with, the relevant election.

8. Council information and enquiries

- 8.1. Councillors have access to a wide range of information that is necessary for the purposes of fulfilling their role and functions as a Councillor.
- 8.2. Prospective and Nominated Candidates should ensure that information received from Council is used only for the purposes for which it is provided and is not used in a manner that furthers their platform as a candidate in, or in any manner connected with, the relevant election (except to the extent that such information is already in the public domain).
- 8.3. All enquiries or requests for information from Prospective and Nominated Candidates should be directed through the CEO's Office.

9. Media engagement

- 9.1. Councillors may engage with the media in accordance with Council's Media Policy.
- 9.2. Prospective and Nominated Candidates should ensure that any comments they make in their capacity as a candidate could not reasonably be interpreted as a comment made by them in their capacity as a Councillor.

10. Related Documents

- Local Government Act 2020
- City of Yarra Governance Rules (including Election Period Policy)
- Councillor Code of Conduct

Attachment 7 - Attachment 7 - Draft Governance Rules Human Rights Assessment**CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES ASSESSMENT****GOVERNANCE RULES****PART A – INTRODUCTION**


The Victorian Charter of Human Rights and Responsibilities Act 2006 provides that it is unlawful for a public authority (including a local Council) to act in a way that is incompatible with a human right or, in making a decision, to fail to give proper consideration to a relevant human right.

Essentially, the Charter of Human Rights requires that Council's decisions not be incompatible with human rights and best practice requires that this be demonstrated through a thorough and detailed review of compatibility.

PART B – DECLARATION

I have conducted an assessment of the document(s) listed below for compatibility with the Charter of Human Rights and Responsibilities as set out in the Victorian Charter of Human Rights and Responsibilities Act 2006.

The assessment of the compatibility with the Charter of Human Rights and Responsibilities that follows examines each protected human right in turn, and makes an assessment as to whether it is engaged by the document(s) that are the subject of this review.

Documents under review	Governance Rules (proposed amendments August 2022)
Reviewing Officer	Rhys Thomas, Senior Governance Advisor
Signature	
Date of review	11 August 2022

Attachment 7 - Attachment 7 - Draft Governance Rules Human Rights Assessment

PART C – ASSESSMENT

Right to recognition and equality before the law

This right includes three different but related rights.

The first right is the right to recognition as a person before the law. This is an absolute right which, under international law, cannot be limited under any circumstances. The essence of this right is equality of legal capacity, for example the capacity to enter into contracts or access Government services.

The second right is the right to enjoy other human rights without 'discrimination'. Everyone has the same rights and deserves the same level of respect. This means that laws, policies and programs should not be discriminatory and also that public authorities should not apply or enforce laws, policies and programs in a discriminatory way.

The third right is the entitlement to equal protection of the law without discrimination. This right refers to the enforcement and administration of the law.

These rules set out various opportunities for Councillors and members of the public to participate in Council meetings, and to be recognised in the decision-making process. These rules have been constructed in a manner that ensures that are not directly or indirectly discriminatory based on a person's protected characteristics.

The rules require that Council must consider each matter and make its decisions fairly and on its merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations. Further, the rules require that where applicable, Council adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered).

Provisions have been included to enable reasonable adjustments to the meeting rules to facilitate participation in Councils meeting proceedings by persons with special needs on an equitable basis.

It is Council's assessment that the document(s) under review does not engage this human right.

Right to life

The right to life is primarily concerned with preventing the arbitrary deprivation of life.

The right to life imposes both positive and negative duties on public authorities – negative duties to refrain from taking someone's life, and positive duties to take reasonable steps to protect people from a real and immediate risk to life.

It is Council's assessment that the document(s) under review does not engage this human right.

Right to protection from torture and cruel, inhuman or degrading treatment

Torture generally refers to the deliberate infliction of very severe pain or suffering. This can include acts that cause both physical pain and mental suffering. It is also often interpreted to require the act or authorisation of a public official for purposes such as interrogation, threat, punishment or some other purpose. Cruel, inhuman or degrading treatment or punishment, is a broader concept than torture. This generally refers to treatment that is less severe or does not meet the technical requirements of the torture definition, but that still involve abuse or humiliation.

It is Council's assessment that the document(s) under review does not engage this human right.

Attachment 7 - Attachment 7 - Draft Governance Rules Human Rights Assessment

Right to freedom from forced work

Under international law, the protection from slavery is an absolute right and may not be limited in any circumstances. Contemporary forms of slavery and servitude include child soldiers, debt bondage, forced labour and forced marriage. Slavery is when someone exercises ownership rights over another person, as if the person were a piece of property. Someone in servitude may be directed where to live and may be unable to leave. Forced labour is when someone is compelled to do work.

The Charter makes clear that forced labour does not include work a person might be required to do by a court as part of a community service order, work required because of an emergency or work that forms part of normal civil obligations.

It is Council's assessment that the document(s) under review does not engage this human right.

Right to freedom of movement

This right means that people have the right to move freely within Victoria, to enter and leave Victoria, and have the freedom to choose where to live. In Victoria today, this right is relevant in circumstances involving people's access to public spaces, laws relating to trespass, and court orders (such as restricted bail orders) and powers to direct people's movements in times of emergency.

The right to move freely within Victoria means that a person cannot be arbitrarily forced to remain in, or move to or from, a particular location. The right includes freedom from physical and procedural impediments, such as the requirement for prior authorisation before entering a public park or participating in a public demonstration in a public place.

The right may be engaged where a public authority actively curtails a person's freedom of movement.

It is Council's assessment that the document(s) under review does not engage this human right.

Right to privacy and reputation

The right to privacy and reputation protects people in Victoria from unlawful or arbitrary interference with their privacy and not to have their reputation unlawfully attacked. The term 'arbitrary interference' in the right to privacy can extend to lawful interference. Arbitrary interference in someone's private or family life is interference that may be lawful, but is unreasonable, unnecessary and the degree of interference is not proportionate to the need.

These rules require that members of the public identify themselves when asking questions or addressing the Council. Further, participation in a meeting requires a person to physically attend the meeting and consent to appearing in the meeting livestream and having their name appear in the minutes of the meeting.

Rules are in place to ensure that statements in meetings that contain personal information about an individual are not permitted, but the nature of meetings means that such statements may be made by members of the public about third parties. While care is taken to remove this material from meeting recordings, the meeting webcast is delivered live, so such statements may be published.

It is Council's assessment that the document(s) under review imposes a reasonable limit on this human right.

Right to freedom of thought, conscience, religion and belief

This right is divided into a freedom of personal autonomy (a freedom to think and believe whatever you choose) and a freedom of manifestation (to demonstrate your thoughts or beliefs publicly). The first kind of freedom has been held to be absolute at international

Attachment 7 - Attachment 7 - Draft Governance Rules Human Rights Assessment

law and cannot be limited in any circumstances. However, it is accepted that the freedom to manifest your beliefs externally may be limited – especially where it has the potential to have a negative impact on others.

The meeting rules contain provision enabling members of the public to be removed from meetings if they are being disruptive or unruly, or otherwise creating a risk to public safety. This may include demonstration activities or the display of signs and banners in meetings. These rules are not intended to restrict the manifestation of beliefs but, in the event that such manifestation is disruptive or creates a risk to health and safety, they may have this effect.

It is Council's assessment that the document(s) under review imposes a reasonable limit on this human right.

Right to freedom of expression

The right to freedom of expression protects the right of people to hold an opinion and to seek, receive and impart information and ideas. The right to freedom of expression comes with responsibilities. The Government can lawfully restrict this right if the restriction is necessary to protect the rights of others or to protect public order, public health, public morality or national security.

The meeting rules contain provision enabling members of the public to be removed from meetings if they are being disruptive or unruly, or otherwise creating a risk to public safety. This may include demonstration activities or the display of signs and banners in meetings. These rules are not intended to restrict the expression of opinions but, in the event that such expression is disruptive or creates a risk to health and safety, they may have this effect.

It is Council's assessment that the document(s) under review imposes a reasonable limit on this human right.

Right to peaceful assembly and freedom of association

The right to peaceful assembly is the right of individuals to gather for a common purpose or to pursue common goals, such as protesting or meeting. The right to peaceful assembly includes gatherings in both public or in private, but does not include 'assemblies' of just one person. The right to freedom of association is the right to associate with others for the purpose of protecting common interests. These interests may be economic, professional, political, cultural or recreational.

The meeting rules contain provision enabling members of the public to be removed from meetings if they are being disruptive or unruly, or otherwise creating a risk to public safety. This may include demonstration activities or the display of signs and banners in meetings. These rules are not intended to restrict the gathering of members of the public at meetings but, in the event that such a gathering is disruptive or creates a risk to health and safety, they may have this effect.

It is Council's assessment that the document(s) under review imposes a reasonable limit on this human right.

Right to protection of families and children

Families are the fundamental group unit of society and are entitled to be protected by society and the State. Every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

It is Council's assessment that the document(s) under review does not engage this human right.

Attachment 7 - Attachment 7 - Draft Governance Rules Human Rights Assessment

Right to take part in public life

Every person in Victoria has the right to participate in the conduct of public affairs, but only 'eligible' persons have the right to vote and be elected at elections, and to access the public service and public office.

The meeting rules make a distinction between the roles of elected Councillors and other persons at the meeting, and afford only the elected Councillor with certain rights, including voting on motions, addressing the meeting during debate, introducing items of business and raising points of order. These limitations are reflective of the role of elected Councillors as set out in the Local Government Act 2020 and are necessary to ensure the orderly and lawful operation of Council meetings.

It is Council's assessment that the document(s) under review imposes a reasonable limit on this human right.

Right to protection of cultural rights

The right to culture provides for people to practise and maintain shared traditions and activities. It allows for those belonging to minority groups to enjoy their own culture, to profess and practise their own religion and to use their own language (in private and in public), as well as to participate effectively in cultural life. The second part of this section focuses on the rights of Aboriginal persons regarding their cultural institutions, ancestral lands, natural resources and traditional knowledge.

It is Council's assessment that the document(s) under review does not engage this human right.

Property rights

This right provides that a person must not be deprived of his or her property other than in accordance with law. The term 'property' is not defined in the Charter but it includes both real and personal property and any right or interest regarded as property under Victorian law. Property could also apply to non-traditional and less formal rights in relation to property, such as a licence to enter or occupy land and the right to enjoy uninterrupted possession of land. Under this right, the government must refrain from depriving people of their property otherwise than in accordance with the law.

It is Council's assessment that the document(s) under review does not engage this human right.

Right to liberty and security of person

The right to liberty means that persons must not be subject to arrest and detention, except as provided for by law. Their arrest and the detention must also not be arbitrary. This right applies to all forms of detention where people are deprived of their liberty, not just criminal justice processes. This can be relevant any time a person is not free to leave a place by his or her own choice.

It is Council's assessment that the document(s) under review does not engage this human right.

Right to humane treatment when deprived of liberty

This right requires all public authorities to treat persons in detention with humanity and dignity. It also requires the segregation of persons accused of offences from persons who have already been convicted of offences. The purpose of the right to humane treatment when deprived of liberty is to recognise the particular vulnerability of persons in detention and to ensure that they are treated with consideration of their rights and dignity as human beings.

Attachment 7 - Attachment 7 - Draft Governance Rules Human Rights Assessment

It is Council's assessment that the document(s) under review does not engage this human right.

Rights of children in the criminal process

This right requires that an accused child who is detained or a child that is detained without charge must be segregated from all detained adults, they must be brought to trial as quickly as possible; and, if convicted of an offence, must be treated in a way that is appropriate for their age.

It is Council's assessment that the document(s) under review does not engage this human right.

Right to a fair hearing

The right to a fair hearing is not confined to criminal cases. Whether a person is a defendant in a criminal case or a party to civil proceedings, they have the right to a fair hearing before a competent, independent and impartial court or tribunal established by law.

The rules require that Council must consider each matter and make its decisions fairly and on its merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations. Further, the rules require that where applicable, Council adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered).

It is Council's assessment that the document(s) under review does not engage this human right.

Rights in criminal proceedings

This right sets out a range of procedural protections which apply to persons once they have been charged with a criminal offence, including the right to be presumed innocent until proven guilty, to be informed of the charges against them and be prosecuted without undue delay.

It is Council's assessment that the document(s) under review does not engage this human right.

Right not to be tried or punished more than once

This right provides that a person must not be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law. This right is restricted to the application of criminal penalties.

It is Council's assessment that the document(s) under review does not engage this human right.

Right to protection from retrospective criminal laws

The protection from retrospective criminal laws is a fundamental principle of our legal system and means that a person should be in a position to know in advance whether their conduct would be criminal or not.

It is Council's assessment that the document(s) under review does not engage this human right.

8.2 2022 Ceremonial Council Meeting Date

Reference	D22/198079
Author	Rhys Thomas - Senior Governance Advisor
Authoriser	Group Manager Chief Executive's Office

Purpose

1. To set the date of the 2022 Ceremonial Council Meeting.

Critical analysis

History and background

2. Each year, Council schedules a ceremonial Council meeting to:
 - (a) establish the governance arrangements for the next Mayoral term (determining whether or not to have a Deputy Mayor; and whether to have a one-year or two-year term for the Mayor and, if applicable, the Deputy Mayor);
 - (b) elect a Mayor and, if applicable, a Deputy Mayor;
 - (c) appoint Councillors to a range of advisory committees and external bodies; and
 - (d) establish the Council meeting schedule for the following calendar year.
3. In 2021, the election of the Mayor took place on Thursday 25 November, when Council elected Cr Sophie Wade as Mayor for a term of one year.

Discussion

4. The Local Government Act 2020 requires that the election of a Mayor following the conclusion of a one-year term take place *“on a day to be determined by the Council that is as close to the end of the 1 year term as is reasonably practicable.”* The Deputy Mayoral election takes place on the same date.
5. Council’s practice is to schedule the Mayoral election for the Monday nearest to the conclusion of the Mayor’s term.
6. With the one-year term concluding on Friday 25 November 2022, it is recommended that Council schedule the Ceremonial council meeting for 7.00pm on Monday 28 November 2022.
7. Given the proximity of the Mayoral election to the 2022 Victorian state election, consideration has been given to whether the Mayoral election could be delayed to enable the completion of a countback, in the event that the state election triggers a vacancy on Council. The Victorian Electoral Commission advise that any such countback could not be conducted until at least mid-January, meaning a decision to postpone the Mayoral election for a period of almost two months could not satisfy the obligation of being as close to Friday 25 November as is reasonably practicable.

Options

8. Council can determine to schedule the meeting for a different date by alternate resolution, provided the chosen date satisfies the requirement of being as close to Friday 25 November as is reasonably practicable.

Community and stakeholder engagement

9. No community engagement has been undertaken in the development of this report.

Policy analysis

Alignment to Council Plan

10. The public scheduling of Council meeting dates underpins the Council Plan commitment to “*enable greater transparency and access to the conduct of Council Meetings*” and allows members of the public to watch the meeting in person or via Council’s meeting livestream.

Climate emergency and sustainability implications

11. No climate emergency or sustainability implications are presented in this report.

Community and social implications

12. No community or social implications are presented in this report.

Economic development implications

13. No economic development implications are presented in this report.

Human rights and gender equity implications

14. No human rights or gender equity implications are presented in this report.

Operational analysis

Financial and resource impacts

15. Council’s budget contains a necessary provision for the conduct of the Council meeting program.

Legal Implications

16. Chapter 2, Clause 6 of the City of Yarra Governance Rules 2020 provides that “*Council must from time to time fix the date, time and place of all Council meetings*”.
17. Following this decision, the rules require that “*reasonable notice of each Council meeting must be provided to the public. Council may do this by publishing details of the meeting on its website as soon as practicable after the meeting has been scheduled.*” It is proposed that such notice be provide via Council’s social media channels and on Council’s website.

Conclusion

18. It is recommended that Council schedule the 2022 Ceremonial Meeting for 7.00pm on Monday 28 November 2022.

RECOMMENDATION

1. That Council schedule a Council meeting for 7.00pm on Monday 28 November 2022 for the purpose of:
 - (a) establishing the governance arrangements for the next Mayoral term;
 - (b) electing a Mayor and, if applicable, a Deputy Mayor for the agreed term;
 - (c) appointing Councillors to advisory committees and external organisations; and
 - (d) establishing the Council meeting schedule for 2023.

Attachments

There are no attachments for this report.

8.3 Membership of Yarra Heritage Advisory Committee 2022-2026

Reference	D22/181975
Author	Richa Swarup - Senior Advisor City Heritage
Authoriser	Group Manager Chief Executive's Office

Purpose

1. To seek Council's endorsement of membership of Yarra Heritage Advisory Committee 2022-2026.

Critical analysis

History and background

2. On 19 December 2017, Council adopted the revised terms of reference of the Heritage Advisory Committee (**Attachment One**).
3. The objectives and functions of the Heritage Advisory Committee are included in the terms of reference.
4. On 3 July 2018, Council appointed members to the Heritage Advisory Committee for the 2018-2022 term. The term concluded on 30 June 2022.
5. A public expression of interest for the 2022-2026 term of the Heritage Advisory Committee was advertised from 9 May 2022 to 27 May 2022.
6. The expression of interest process was promoted in the following ways:
 - (a) on Council's website and social media accounts;
 - (b) emails to Council networks;
 - (c) direct emails to members of the previous Yarra Heritage Advisory Committee; and
 - (d) direct email to The National Trust Australia for their nomination.
7. Council sought applications from the community members with:
 - (a) a demonstrated interest or expertise in heritage;
 - (b) representatives of local community/heritage groups;
 - (c) specific knowledge or skills such as in conservation architecture, landscape architecture, aboriginal heritage, history and cultural planning;
 - (d) an understanding of community needs, concerns and issues relating to heritage in the City of Yarra;
 - (e) an ability and commitment to consider and value a wide cross section of community views;
 - (f) ideas on how the promotion of heritage services could be undertaken;
 - (g) an understanding of the role that Local Government has in heritage matters; and
 - (h) relevant skills and experience working collaboratively in a group at a strategic level.
8. Information was also sought about the residential address, age and gender to meet the requirements of the terms of reference.

Discussion

9. The committee terms of reference require that the committee will comprise:

- (a) three Councillors (one from each ward), appointed on an annual basis, to take it in turns to chair the meetings and also present the Delegate Report to Council;
 - (b) twelve community representatives from across the City of Yarra will be drawn from:
 - (i) local heritage and community groups;
 - (ii) at least one third of the twelve members to have specific expertise from a range of sectors including but not limited to conservation architecture, landscape architecture, aboriginal heritage, history and cultural planning; and
 - (iii) a representative from the National Trust; and
 - (c) a membership which includes a representation mix of gender and at least two members who are no more than 30 years of age at the time of nomination, to encourage a balance reflecting Yarra's community.
10. The public expression of interest process recently conducted for the 12 community members' positions on the committee resulted in 26 responses.
11. In addition, a nomination has been received from the National Trust of Australia (Victoria).
12. Officers, together with the Councillor members of the committee have shortlisted 12 members (five new members and seven existing members) from 27 applications, based on their skills, knowledge, experience and ability to represent and assist Council to engage with Yarra's diverse community and to have a diversity in age and gender.
13. A summary of the applicant's details, together with the selection panel recommendation can be found at confidential **Attachment Two**.

Options

14. The following can be considered by the Council
- (a) support the 12 recommended Committee Members to sit on the Heritage Advisory Committee 2022-2026;
 - (b) amend the membership in the proposed shortlist; and
 - (c) support retaining other applications to fulfill any future vacancy during 2022-2026.

Community and stakeholder engagement

15. The promotion of the expression of interest process for the Yarra Heritage Advisory Committee is detailed in paragraphs 5 to 8 of this report.
16. The Communications Unit provided advice and support on the public expression of interest process.

Policy analysis

Alignment to Community Vision and Council Plan

17. Formation of the Heritage Advisory Committee aligns with Council Plan (2021-25) objective on "Places and Nature"; specifically, to facilitate the Strategy 4 "Protect, promote and maintain our unique heritage and ensure development is sustainable".

Climate emergency and sustainability implications

18. Role of the Heritage Advisory Committee includes providing advice to Council on heritage matters on Yarra's natural, built and cultural heritage which would have positive impact to the environmental sustainability.

Community and social implications

19. Heritage is one of the key aspects valued by the Yarra community. The new Heritage Advisory Committee would provide advice on all aspects including social and cultural heritage aspects.

20. Selected Heritage Advisory Committee members would bring the community views and issues related to heritage to the Council.
21. Heritage Advisory Committee members with long standing involvement in, or who hold a position in a local heritage / community group, would be formal representatives of that local heritage /community group.

Economic development implications

22. There are no adverse economic implications to the Council associated with this report.

Human rights and gender equality implications

23. There are no known human rights implications associated with this report.

Operational analysis

Financial and resource impacts

24. There are no major financial implications in the selection and management of the Heritage Advisory Committee.
25. Council's Principal Adviser City Heritage would provide the operational support to the Heritage Advisory Committee which would be overseen by the Group Manager CEO Office.

Legal Implications

26. There are no adverse legal implications associated with this report.

Conclusion

27. A strong diversity of interests, skills and experience is apparent in the 12 shortlisted members for the Heritage Advisory Committee 2022-2026, which also includes two members of the age 30 years or less and a nominee from the National Trust of Australia (Victoria).
28. It is considered that the proposed shortlist fulfills the membership criteria based on the Heritage Advisory Committee terms of reference and represents an excellent diversity of membership that would provide a capacity to ensure a strong and active committee across a variety of heritage and community interests.
29. Retaining details of the other applicants would facilitate in filling any future vacancies during the term 2022-2026 and save time and effort for re-advertising and selection.

RECOMMENDATION

1. That Council, having considered the applications received for community representative positions, appoint the following applicants to the City of Yarra Heritage Advisory Committee:
 - (a) _____
 - (b) _____
 - (c) _____
 - (d) _____
 - (e) _____
 - (f) _____
 - (g) _____
 - (h) _____
 - (i) _____
 - (j) _____
 - (k) _____
 - (l) _____
2. That Council endorse the retention of the list of the other applicants for future membership in the event of a vacancy during 2022-2026.
3. That Council authorise officers to thank all persons who nominated their interest for the Heritage Advisory Committee.

Attachments

- 1 [↓](#) Attachment 1 - Heritage Advisory Committee Terms of Reference, 19 December 2017
- 2 Attachment 2 - Heritage Advisory Committee (2022- 2026) Applicants' Overview and Recommendations - *Confidential*

Attachment 1 - Attachment 1 - Heritage Advisory Committee Terms of Reference, 19 December 2017

CITY OF YARRA HERITAGE ADVISORY COMMITTEE - TERMS OF REFERENCE

Version 19/12/2017

1. Purpose

To provide advice to Council on heritage matters including Yarra's natural, built and cultural heritage.

2. Role and Responsibilities

- (a) To provide advice and recommendations to Council on:
 - (i) the monitoring and implementation of the *Yarra Heritage Strategy*;
 - (ii) the ongoing review of Yarra's heritage policies, plans and strategies;
 - (iii) any further work required to document and protect Yarra's natural, built and cultural heritage;
 - (iv) issues affecting heritage across the municipality (e. g. trends in development, sustainability or neglect of heritage places);
 - (v) policy and strategic objectives concerning City of Yarra's responsibilities for the World Heritage Environs Area within Yarra's boundary;
 - (vi) the effective promotion of Yarra's heritage including raising public awareness of heritage matters and services; and
 - (vii) nominations of state, national and world heritage significance.

3. Membership: and attendance

3.1 Appointments to the committee shall be made by Council and will include:

- (a) three Councillors (one from each ward), appointed on an annual basis, to take it in turns to Chair the HAC meetings and also present the Delegate Report to Council.
- (b) twelve community representatives from across the City of Yarra whom shall be drawn from:
 - (i) local heritage and community groups;
 - (ii) at least one third of the twelve members to have specific expertise from a range of sectors including but not limited to conservation architecture, landscape architecture, aboriginal heritage, history and cultural planning; and
 - (iii) a representative from the National Trust.
- (c) a membership which includes a representation mix of gender and at least two members who are no more than 30 years of age at the time of nomination, to encourage a balance reflecting Yarra's community;

Attachment 1 - Attachment 1 - Heritage Advisory Committee Terms of Reference, 19 December 2017

3.2 Representation:

- (a) A requirement that committee members with long standing involvement in, or who hold a position in a local heritage / community groups, are a formal representative of that local heritage /community group at the HAC;
- (b) That Community representatives shall be formally appointed by the Council for a period of four years and will be selected via a public notification process which calls for nominations at least three months before the committee term expires; and
- (c) Should a vacancy occur, Council may appoint a replacement for the balance of the term.

3.3 Staff attendance at meetings

- (a) Staff in attendance at meetings will include the Senior Heritage Advisor, the Group Manager Chief Executive's Office (or representative), and the officer servicing the Committee,
- (b) Other officers will be available to attend meetings of the HAC as required by the agenda or for particular purposes as requested by the Chair or Senior Heritage Advisor.

4. Selection process and criteria for community members

- (a) The Council will seek applicants for membership of the HAC through public notices at least three months prior to the end of the current term.
- (b) Subject always to the requirements clause 3.1(b), as far as practical, the membership will reflect diversity in gender, cultural background and locality representation.
- (c) Applicants will be requested to submit a short statement of capabilities addressing the following criteria:
 - (i) A demonstrated interest or expertise in heritage.
 - (ii) That they have the approval of their respective local heritage /community group to be their representative;
 - (iii) An understanding of community needs, concerns and issues relating to heritage in the City of Yarra.
 - (iv) An understanding of the role that Local Government has in heritage matters.
 - (v) Ideas on how the promotion of heritage services could be undertaken.
 - (vi) An ability and commitment to consider and value a wide cross section of community views.
 - (vii) A commitment to participate in meetings on a bimonthly basis, or at other times as determined necessary by the HAC.
- (d) Applicants will be shortlisted by a panel of relevant staff involved in heritage, and Councillors on HAC. Shortlisted applicants may be interviewed by the panel prior to a formal report and recommendations being made to Council for approval.
- (e) Existing members may nominate to renew their membership on the HAC.

5. Member responsibilities

- (a) Members must declare any personal interest, connection or association with any matter brought before the HAC.

Attachment 1 - Attachment 1 - Heritage Advisory Committee Terms of Reference, 19 December 2017

- (b) Members must not make improper use of information acquired as a consequence of membership of the HAC.
- (c) If matters of a confidential nature are discussed by the HAC, Members must respect that confidentiality.
- (d) A member of the HAC may resign at any time. Notice of resignation is to be provided in writing to Council and the Group Manager Chief Executive's Office.
- (e) Membership of the HAC may be terminated for any of the following reasons:
 - (i) failure to attend two consecutive meetings without prior notice; and
 - (ii) conduct unbecoming to a member, for example, a breach of confidentiality.
- (f) If Council intends to make a decision to terminate a membership of the HAC it will give the member written notice setting out the intended decision and the grounds on which it is based. The member will have the opportunity to address the Council prior to it making a decision.

6. Meeting procedure

- (a) Meetings of the committee are to be undertaken on a bimonthly basis or at other times as determined necessary by the HAC.
- (b) HAC meetings are to be chaired by the appointed Councillor on a rostered basis or if unavailable, one of the other two Councillors. If all Councillors are absent, a member agreed to by the Committee will act as Chair.
- (c) The Chair of the meeting has a casting vote (this applies to Councillors only).
- (d) The quorum for any meeting of the HAC shall be seven members.

7. Reporting and circulation

- (a) The HAC Chair will present a Delegate Report to Council after every HAC meeting on issues and advice that arise from that HAC meeting with a copy provided subsequently to all HAC members by the officer servicing the HAC.
- (b) A staff member from Council's Governance Branch (or other available officer) will be responsible for attending meetings, distributing agendas and minutes, being the central contact point for the committee and for providing any background information as required.
- (c) The Agenda and all new background information to be circulated at least a week prior to the meeting.
- (d) An annual progress report will be prepared to update Council on progress of the HAC, highlighting achievements, activities and major heritage issues affecting the municipality. This will be prepared including input and advice by the HAC and reported to Council within 2 months of the anniversary of the Committee.

8. Terms of the committee

- (a) The HAC ceases to exist after four years from the date of its appointment by Council, unless extended by Council resolution.

Attachment 1 - Attachment 1 - Heritage Advisory Committee Terms of Reference, 19 December 2017

- (b) The terms of reference for the HAC must be reviewed during each HAC term and before consideration of appointment of any new HAC. Any changes proposed, will require approval by Council.
- (c) The HAC has no delegated authority to make determination, to act or to incur expenditure on behalf of Council.