



# Governance Rules

Adopted by Melbourne City Council on 25 August 2020

**Amended 13 December 2022**

# GOVERNANCE RULES

## Introduction

### 1. Nature of Rules

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

### 2. Date of Commencement

These Governance Rules commence on 1 September 2020.

### 3. Contents

These Governance Rules are divided into the following Chapters:

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

### 4. Definitions

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

‘CEO’ means the person appointed by Council to be its Chief Executive Officer or a person acting in that position.

‘Chair’ means the Chairperson of a meeting and includes a Councillor who is appointed by resolution to chair a meeting under section 61(3) of the Act and:

- (a) For the purposes of Chapter 2, Part C, means the Lord Mayor, in the absence of the Lord Mayor, the Deputy Lord Mayor, and in the absence of both, a Councillor elected by the meeting.
- (b) For the purposes of Chapter 3 and a Delegated Committee comprised solely of Councillors, means the Lord Mayor, the relevant Portfolio Chair when considering reports from management, and in the absence of the Portfolio Chair, the Deputy Chair.

‘Common Seal’ means the common seal of Council pursuant to section 14(1)(a) of the Act.

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

‘Council’ means Melbourne City Council.

‘Councillor’ means a person who is an elected member of the Council.

‘Council meeting’ means a Council meeting that complies with section 61(1) of the Act.

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

‘Deputy Lord Mayor’ means the Deputy Lord Mayor of the City of Melbourne, pursuant to the *City of Melbourne Act 2001*, and includes any member of Council acting as Deputy Lord Mayor.

'Lord Mayor' means the Lord Mayor of the City of Melbourne, pursuant to the *City of Melbourne Act 2001*, and includes any member of Council acting as Lord Mayor.

'officer responsible for Governance' means a member of Council staff responsible for governance, as identified by the CEO from time to time.

'the Act' means the *Local Government Act 2020* (as amended from time to time).

'these Rules' means these Governance Rules.

Where a word or phrase has a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning.

## Chapter 1 – Governance Framework

### 1. Context

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

- 1.1. the overarching governance principles specified in section 9(2) of the Act
- 1.2. the following documents adopted or approved by Council:
  - 1.2.1. Councillor Code of Conduct and Protocol
  - 1.2.2. Delegations Policy
  - 1.2.3. Delegation Policy for Planning Applications
  - 1.2.4. Public Transparency Policy.

### 2. Decision Making

- 2.1. 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:
  - 2.1.1. fairly, by giving consideration and making a decision which is balanced, ethical and impartial
  - 2.1.2. on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations.
- 2.2. Council must, when making any decision to which the principles of natural justice apply, adhere to those principles (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).
- 2.3. Without limiting anything in paragraph (2.2) of this sub-Rule:
  - 2.3.1. Before making a decision that will directly affect the rights of a person, Council (including any person acting with the delegated authority of Council) must identify the person or persons whose rights will be directly affected, give notice of the decision which Council must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made.
  - 2.3.2. If a report to be considered at a Council meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered.
  - 2.3.3. If a report to be considered at a Delegated Committee meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered.
  - 2.3.4. If a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

## Chapter 2 – Meeting Procedure for Council Meetings

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## **Part A – Introduction**

### **1. Title**

This Chapter will be known as the 'Meeting Procedure for Council Meetings'.

### **2. Purpose of this Chapter**

The purpose of this Chapter is to provide for the procedures governing the conduct of Council meetings.

### **3. Definitions and Notes**

In this Chapter:

'agenda' means the notice of a meeting setting out the business to be transacted at the meeting.

*attend, attending* and *in attendance* include attend, attending or in attendance by electronic means.

'matter' means a question before the Council .

'minutes' means the collective record of proceedings of a meeting of Council and must:

- (a) contain details of the proceedings and resolutions made
- (b) be clearly expressed
- (c) be self explanatory
- (d) in relation to resolutions recorded in the minutes, incorporate relevant reports or a summary of the relevant reports considered in the decision making process.

'municipal district' means the City of Melbourne.

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

'notice of rescission' means a notice of motion to rescind a resolution made by Council.

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

## **Part B – Election of Lord Mayor and Deputy Mayor**

Sections 25 to 27 of the Act do not apply to Council or the City of Melbourne.

The constitution of Council, pursuant to the *City of Melbourne Act 2001*, includes a directly elected Lord Mayor and Deputy Lord Mayor.



## **Part C – Meetings Procedure**

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

### **Division 1 – Notice of meetings and delivery of agendas and documentation**

#### **4. Dates and times of meetings fixed by Council (ordinary meetings)**

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

#### **5. Council may cancel meetings or alter meeting dates**

A Council meeting may only be rescheduled or cancelled by a resolution of Council.

#### **6. Meetings not fixed by Council (special meetings)**

- 6.1. The Council may by resolution call a special meeting of the Council. The resolution must specify the date, time and place of the special meeting and the business to be transacted.
- 6.2. The Lord Mayor or at least three Councillors may by a written notice call a special meeting of the Council.
- 6.3. The notice must specify the date, time and place of the special meeting and the business to be transacted.
- 6.4. The CEO must convene the Council meeting as specified in the notice.
- 6.5. Unless all Councillors are in attendance and unanimously agree to deal with any other matter, only the business specified in the resolution or written notice can be transacted at the special meeting.

#### **7. Notice of meeting**

- 7.1. A notice of meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be delivered or sent electronically to every Councillor for all Council meetings at least 48 hours before the meeting.
- 7.2. Notwithstanding sub-Rule 7.17.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the CEO in writing to continue to give notice of any meeting during the period of the Councillor's absence.
- 7.3. No business can be transacted at a Council meeting unless it appears on the agenda, except in instances where a majority of Councillors in attendance resolve that the matter both:
  - 7.3.1. relates to or arises out of a matter which has arisen since distribution of the Agenda
  - 7.3.2. cannot safely or conveniently be deferred until the next Council meeting.
- 7.4. Reasonable notice of each Council meeting must be provided to the public (at least seven days before the scheduled meeting). Council may do this:
  - 7.4.1. For meetings which it has fixed, by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule on its website and emailing those members of the public who have registered to be notified when meeting documents are made available or about changes to scheduled meetings or new meetings.

- 7.4.2. For any special meeting, by giving notice on its website and emailing those members of the public who have registered to be notified when meeting documents are made available or about changes to scheduled meetings or new meetings.
- 7.5. If urgent or extraordinary circumstances prevent Council from complying with sub-Rule 7.4, the Council must:
  - 7.5.1. Give such public notice as is practicable.
  - 7.5.2. Specify the urgent or extraordinary circumstances which prevented the Council from complying with sub-Rule 7.4 in the minutes of the meeting.

## **8. Availability of Council meeting documentation**

- 8.1. Council meeting documentation, other than documentation described in Rules 8.2 and 8.3:
  - 8.1.1. will be circulated internally to Councillors and executives six days prior to a scheduled meeting
  - 8.1.2. will be available to members of the public electronically, via Council's website, and in hard copy (on request), from 2pm five days prior to a scheduled meeting.
- 8.2. Reports to Council meetings which fit the description in Rule 8.3:
  - 8.2.1. will be circulated internally to Councillors and executives 13 days prior to a scheduled meeting
  - 8.2.2. will be available to members of the public electronically, via Council's website, and in hard copy (on request), from 2pm 12 days prior to a scheduled meeting
  - 8.2.3. if they follow a dedicated public consultation process, will be circulated electronically to any person who made a formal submission as part of that public consultation process, by 2pm 11 days prior to a scheduled meeting.
- 8.3. The Reports to Council meetings subject to Rule 8.2 are those which fall under the Reports section of the agenda (Rule 15.6) and which:
  - 8.3.1. Recommend initiating, or referring to a panel or advisory committee, or adopting, a planning scheme amendment, unless that planning scheme amendment is site-specific, or is exempt (or is proposed to be exempt) from the public notice provisions of the Planning and Environment Act 1987
  - 8.3.2. Recommend endorsing a draft for public consultation, or endorsing a final version of, a Structure Plan, strategy, plan, or policy, other than the Annual Budget and Annual Plan
  - 8.3.3. Are nominated by the Chief Executive Officer on the basis that they are suited to a longer notice period, but are not otherwise captured by this Rule.
- 8.4. Where it has not been possible to comply with the timelines set out in 8.1 or 8.2, the Chief Executive Officer or delegate will provide the meeting with reasons for the late distribution.
- 8.5. Council may, on occasion, be unable to comply with Rules 8.1 and 8.2 where the meeting is a special meeting.

## **Division 2 – Quorums, adjourning meetings, time limits and meetings to be open to the public**

### **9. Inability to obtain a quorum**

If after 45 minutes from the scheduled commencement time of any Council meeting, a quorum cannot be obtained:

- 9.1. The meeting shall be deemed to have lapsed.
- 9.2. The Chair must convene another Council meeting, the agenda for which will be identical to the agenda for the lapsed meeting.
- 9.3. The CEO must give all Councillors written notice of the meeting convened by the Chair.

#### **10. Inability to maintain a quorum**

- 10.1. If during any Council meeting, a quorum cannot be maintained then Rule 9 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 10.2. Sub-Rule 10.1 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.

#### **11. Adjourned Meetings**

- 11.1. Council may adjourn any meeting to another date or time, but cannot in the absence of disorder or a threat to the safety of any Councillor or member of Council staff, adjourn a meeting in session to another place.
- 11.2. The CEO 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.
- 11.3. If it is impracticable for the notice given under sub-Rule 11.2 to be in writing, the CEO must give notice to each Councillor by telephone or in person.

#### **12. Time limits for meetings**

- 12.1. A Council meeting must not continue after 11pm unless a majority of Councillors in attendance vote in favour of its continuance.
- 12.2. 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 11.2 and 11.3 apply.

#### **13. Cancellation or postponement of a meeting in an emergency**

- 13.1. The CEO may, in the case of an emergency necessitating the cancellation or postponement of a Council meeting, cancel or postpone a Council meeting.
- 13.2. The CEO must present to the immediately following Council meeting a written report on any exercise of the power conferred by sub-Rule 13.1.

#### **14. Meetings to be open to the public unless specified circumstances apply**

- 14.1. The Council must keep a meeting open to the public unless the Council considers it necessary to close the meeting to the public because one of the following circumstances apply:
  - 14.1.1. The meeting is to consider confidential information.
  - 14.1.2. Security reasons.
  - 14.1.3. It is necessary to do so to enable the meeting to proceed in an orderly manner.
- 14.2. Where the circumstance specified in sub-Rule 14.1.2 or 14.1.3 applies, the meeting may only be closed to the public if the Council has made arrangements to enable the proceedings of the meeting to be viewed by members of the public in real time via Internet or on closed circuit television.

14.3. Council may resolve that its meeting be closed to members of the public if the meeting is considering any of the following types of confidential information:

<b>Type</b>	<b>Description</b>
Council business information	Information that would prejudice Council's position in commercial negotiations if prematurely released.
Security information	Information that is likely to endanger the security of Council property or the safety of any person if released.
Land use planning information	Information that is likely to encourage speculation in land values if prematurely released.
Law enforcement information	Information which would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person if released.
Legal privileged information	Information to which legal professional privilege or client legal privilege applies.
Personal information	Information which would result in the unreasonable disclosure of information about any person or their personal affairs if released.

Private commercial information	Information provided by a business, commercial or financial undertaking that relates to trade secrets or that, if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.
Confidential meeting information	Records of Council and Delegated Committee meetings that are closed to the public under section 66(2)(a) of the Act.
Internal arbitration information	Information provided to, or produced by, an arbiter for the purpose of an internal arbitration process, other than the findings and the reasons.
Councillor Conduct Panel information	Information: <ul style="list-style-type: none"> <li>provided to, or produced by, a Principal Councillor Conduct Registrar, for the purposes of an application to form a Councillor Conduct Panel; or</li> <li>provided to, or produced by, a Councillor Conduct Panel for the purposes of conducting a hearing, other than a decision or reasons for a decision; or</li> <li>comprising any part of a statement of reasons or other document under the control of a Councillor Conduct Panel that the Councillor Conduct Panel determines contains confidential information.</li> </ul>
Confidential information under the 1989 Act	Information that was confidential information for the purposes of section 77 of the <i>Local Government Act 1989</i> .

14.4. If Council resolves to close a meeting to members of the public the ground/s (specified in the table above) and an explanation of why the specified ground/s applied must be recorded in the minutes of the meeting that are available for public inspection.

### Division 3 – Business of Meetings

#### 15. Agenda and the order of business

The agenda for and the order of business for a Council meeting is to be determined by the CEO (in consultation with the Lord Mayor) so as to facilitate and maintain open, efficient and effective processes of government.

The following items listed on an Agenda should be dealt with in the manner described:

##### 15.1. Apologies

Apologies shall be read by the Chair.

##### 15.2. Conflicts of Interest

In every case where a Councillor discloses a conflict of interest at a Council meeting, a statement recording the nature of the interest and the time the Councillor left and returned to the meeting shall be included in the minutes.

##### 15.3. Confirmation of the minutes of previous meetings

###### *Open Council meeting*

When the minutes of a Council meeting are to be confirmed, they shall be taken as read unless there is a motion to the contrary.

###### *Closed Council meeting*

The minutes of a closed Council meeting shall not be made available to members of the public and shall be confirmed in closed session of the Council.

15.4. Matters arising from the minutes of the previous meeting

Councillors may wish to provide an update or ask a question regarding the progress of a particular matter from the previous meeting.

15.5. Submissions from members of the public

*Items of correspondence*

With the exception of submissions from tenderers, or agents acting on behalf of tenderers, written submissions received no later than 10am on the day of the meeting, in relation to a matter listed on the agenda for that meeting will be:

15.5.1. Forwarded to all Councillors.

15.5.2. Formally acknowledged in the minutes of the Council meeting.

Written submissions from tenderers, or agents acting on behalf of tenderers, will be forwarded to the officer responsible for governance, who will circulate them to Councillors following the decision to award the tender.

15.6. Reports

*Reports from Committee (only applies to Council meetings)*

Matters considered by a Delegated Committee or Advisory Committee which cannot be dealt with under delegation, must proceed to Council for decision.

*Reports from management*

Management shall present their reports to the Council in the order in which they appear on the agenda, unless the meeting resolves to change the order of the agenda.

15.7. General Business

General Business may include Notices of Motion from Councillors, post travel reports by Councillors or receipt of petitions and joint letters.

General Business may also include Questions without Notice from Councillors at the discretion of the Chair.

A Notice of Motion from a Councillor may only be included on a published Agenda where the motion is seconded by another Councillor and it is received by the Office of the CEO, by no later than 10am on the Thursday before the scheduled meeting.

15.8. Urgent Business

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

15.8.1. relates to or arises out of a matter which has arisen since distribution of the Agenda

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

15.9. Confidential Business

Confidential business may be transacted in a meeting which is closed in accordance with the Act and sub-Rule 14.3.

**16. Change to order of business**

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

## **Division 4 – Motions and Debate**

### **17. Councillors may give Notice of Motions**

Councillors may ensure that a matter is considered by an ordinary Council meeting by giving Notice of a Motion.

### **18. Notice of Motion**

18.1. A Notice of Motion must be in writing signed by two Councillors (proposed mover and seconder), and be lodged with or sent to the CEO by 10am on the Thursday before the scheduled meeting to allow sufficient time for the CEO to include the Notice of Motion in the agenda papers.

18.2. If a Councillor who has given Notice of a 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.

18.3. If a Notice of Motion is not moved and seconded at the Council meeting at which it is listed, it lapses.

### **19. Chair's duty**

Any motion which is determined by the Chair to be:

19.1. defamatory

19.2. objectionable in language or nature

19.3. vague or unclear in intention

19.4. outside the powers of Council

19.5. irrelevant to the item of business on the agenda and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the Chair.

### **20. Introducing a report**

Before an agenda item is considered by Council and any motion moved in relation to such an item, a Councillor may request a member of Council staff to provide a brief summary of the item.

### **21. Motions in meetings**

21.1. A motion must:

21.1.1. be moved and seconded

21.1.2. relate to the powers or functions of Council

21.1.3. be in writing, if requested by the Chair

21.1.4. except in the case of urgent business, be relevant to an item of business on the Agenda.

21.2. A motion must not be defamatory or objectionable in language or nature.

21.3. The procedure upon any motion is that:

21.3.1. The mover shall read the motion without speaking to it and shall briefly state its nature and intent.

21.3.2. If a motion is seconded, the Chair shall allow Councillors to speak to the motion.

21.3.3. With the exception of the mover who has a right of reply, all other Councillors may only speak once to the motion.

21.3.4. The Chair must then put the motion to the vote.

21.4. The mover or seconder of a motion cannot move an amendment to it.

21.5. A motion can only be withdrawn by the mover.

## **22. Amendments to motions**

22.1. No notice need be given of any amendment to a motion.

22.2. An amendment to a motion must:

22.2.1. be moved and seconded

22.2.2. relate to the powers or functions of Council

22.2.3. be in writing, if requested by the Chair

22.2.4. not be in opposition to the intent of the motion on the table.

22.3. The mover of an amendment has no right of reply.

22.4. An amendment can only be withdrawn by the mover.

22.5. The procedure upon any amendment to a motion is that:

22.5.1. The mover shall read the amendment and speak to it.

22.5.2. If the amendment is seconded, the Chair shall allow Councillors to speak to it.

22.5.3. The mover has no right of reply and Councillors may only speak once to it.

22.5.4. The Chair must then put the amendment to the vote.

22.6. A second or subsequent amendment cannot be moved until the immediately preceding amendment is disposed of.

22.7. If an amendment is adopted, the amended motion becomes the substantive motion and is dealt with in accordance with sub-rules 21.3.2, 21.3.3 and 21.3.4.

22.8. A Councillor cannot move more than two amendments in succession.

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

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

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

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

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

24.2. 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.



## **25. An amendment once carried**

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

## **26. Foreshadowing motions**

- 26.1. When a motion is being debated, any Councillor may give notice that they intend to move an alternative motion in the event that the substantive motion fails. This notification is deemed to be a foreshadowed motion and will only be considered if the substantive motion fails.
- 26.2. No debate is allowed on foreshadowed motions unless the substantive motion fails.
- 26.3. A foreshadowed motion does not require a seconder until such time as it is moved as a motion.
- 26.4. The CEO or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved and seconded. However, the fact that a Councillor informed the meeting of their intention to move a foreshadowed will be minuted.

## **27. Withdrawal of motions**

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

## **28. Separation of motions**

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

## **29. Chair may separate motions**

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

## **30. Priority of Address**

- 30.1. In the case of competition for the right of speak, the Chair must decide the order in which the Councillors concerned will be heard.
- 30.2. Except that the mover of motion (other than a motion amending another motion) has the right of reply and that any Councillor may take a point of order or offer a personal explanation, no Councillor may speak more than once to the same motion or amendment.

## **31. Motions in writing**

- 31.1. The Chair may require that a complex or detailed motion be in writing.
- 31.2. 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.

## **32. Repeating motion and/or amendment**

- 32.1. Before any matter is put to the vote, a Councillor may require that the motion or amendment be read out by the Chair.

## **33. Debate must be relevant to the motion**

- 33.1. 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.

- 33.2. 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 speak further in respect of the motion then before the Chair.
- 33.3. A speaker to whom a direction has been given under sub-Rule 33.2 must comply with that direction.

#### **34. Speaking times**

Unless granted an extension by the meeting:

- 34.1. A Councillor may speak to a motion or amendment for no longer than three minutes.
- 34.2. The mover of a motion, who has the right of reply, may speak for no longer than a total of five minutes.
- 34.3. A Councillor must not be interrupted except by the Chair or upon a point of order or personal explanation.
- 34.4. If a Councillor is interrupted by the Chair or upon a point of order or personal explanation, the Councillor must remain silent until the Chair has ceased speaking, the point of order has been determined or the personal explanation has been given (as appropriate).

#### **35. Right to ask questions**

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

#### **36. Resumption of adjourned debate**

If a debate is adjourned by motion, the Councillor moving the adjournment has the right to be the first speaker upon the resumption of debate unless the Councillor has already spoken to the motion or amendment.

### **Division 5 – Procedural Motions**

#### **37. Procedural motions**

- 37.1. Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the Chair.
- 37.2. Procedural motions require a seconder.
- 37.3. No debate on procedural motions is permitted.
- 37.4. Some examples of procedural motions include, but are not limited to:
- 37.4.1. 'That the item be deferred' (to another time).
  - 37.4.2. 'That the item be referred' (to another meeting other than the current type of meeting, for consideration).
  - 37.4.3. 'That the order of business be altered'.
  - 37.4.4. 'That the motion now be put to the vote'.

## **Division 6 – Rescission Motions**

### **38. Notice of Rescission**

- 38.1. No resolution at any meeting of the Council shall be revoked or altered in any subsequent meeting unless notice of the intention to propose such revocation or alteration is given to each Councillor at least 48 hours before the meeting.
- 38.2. A notice to rescind or alter a previous resolution cannot be submitted more than three months following the resolution, except after a general election in which case no more than six months.
- 38.3. A notice of motion to rescind or alter a previous resolution of Council:
- 38.3.1. Must be given to the CEO in sufficient time to enable the CEO to give at least 48 hours' notice to all Councillors prior to the meeting.
  - 38.3.2. Must be signed by four Councillors and include the resolution to be rescinded, the meeting and date at which the resolution was carried.
  - 38.3.3. Must not have been acted on.
  - 38.3.4. Shall be deemed to have been withdrawn if not moved at the next meeting at which such business may be transacted.
  - 38.3.5. If it is a second or subsequent notice to revoke or alter an earlier resolution, must not be accepted by the CEO until a period of one month has elapsed since the date of the meeting at which the first or last motion for revocation or alteration was dealt with.
- 38.4. A resolution will be deemed to have been acted on if either:
- 38.4.1. its contents have or substance has been communicated in writing to a person whose interests are materially affected by it
  - 38.4.2. a statutory process has been commenced,
- so as to vest enforceable rights in or obligations on Council or any other person.
- 38.5. The CEO or an appropriate member of Council staff must defer implementing a resolution which:
- 38.5.1. has not been acted on
  - 38.5.2. is the subject of a Notice of Rescission which has been delivered to the CEO in accordance with sub-Rule 38.3.1,
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

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

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

## **Division 7 – Points of Order**

### **40. Valid Points of Order**

A Point of Order may be raised in relation to:

- 40.1. A motion, amendment or statement made that is:
- 40.1.1. Outside Council's legal powers.

40.1.2. Defamatory.

40.1.3. Irrelevant, irreverent or obscene.

40.2. Anything contrary to these Rules.

40.3. A question of procedure.

Expressing a difference of opinion or contradicting a speaker is not a Point of Order.
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#### **41. Procedure for Point of Order**

41.1. A Point of Order can be called against any Councillor (including the Chair).

41.2. A Councillor raising a point of order must:

41.2.1. State the Point of Order.

41.2.2. State any section, Rule, paragraph or provision relevant to the Point of Order.

41.3. If called to order, a Councillor must remain silent until the Point of Order is decided unless the Councillor is requested by the Chair to provide an explanation.

#### **42. Chair may adjourn to consider**

42.1. The Chair may adjourn the meeting to consider a Point of Order but otherwise must rule on it as soon as it is raised.

42.2. All other questions before the meeting are suspended until the Point of Order is decided.

#### **43. Chair to decide**

43.1. The Chair must when ruling on a Point of Order give reasons for the ruling.

43.2. The Chair is the arbiter on all points of order, unless Council resolves to dissent from the Chairperson's ruling under Rule 44.

43.3. The Chairperson's ruling shall be final.

#### **44. Dissent from Chair's Ruling**

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

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

44.2. When a motion in accordance with this Rule is moved and seconded, the Chair must vacate the Chair and the Deputy Lord Mayor (or, if there is no Deputy Lord Mayor or the Deputy Lord Mayor is not present, temporary Chair elected by the meeting) must take his or her place.

44.3. The Councillor who raises the point of order cannot assume the role of temporary chair.

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

44.5. The Deputy Lord Mayor or temporary Chair must put the motion in the following form:

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

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

- 44.7. If the vote is in the affirmative, the Chair must then resume the Chair, reverse or vary (as the case may be) his or her previous ruling and proceed.
- 44.8. The defeat of the Chair's ruling is in no way a motion of censure or non-confidence in the Chair, and should not be so regarded by the meeting.

## **Division 8 – Petitions and Joint Letters**

### **45. Petitions and Joint Letters**

- 45.1. A petition is a document signed by a group of people requesting the Council take some action in relation to a particular issue, containing the name and address of at least one person.
- 45.2. A joint letter is an item of correspondence signed by more than one person and should contain the name and address of the persons identified.
- 45.3. Petitions or joint letters can be tabled by a Councillor at a fixed (ordinary) Council meeting. A Councillor must move a motion that the petition or joint letter be received.
- 45.4. It is incumbent on every Councillor presenting a petition or joint letter to acquaint themselves with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to Council.
- 45.5. Following a meeting at which a petition or joint letter is received, the CEO will determine whether a report will be prepared for consideration at a future Council or Delegated Committee meeting or whether a briefing paper will be prepared for Councillors.

## **Division 9 – Voting**

### **46. How Motion Determined**

- 46.1. To determine a matter before a meeting, the Chair must first call for those in favour of the motion and then those opposed to the motion, and must then declare the result to the meeting.
- 46.2. Each Councillor at a Council meeting who is entitled to vote, is entitled to one vote.
- 46.3. Where the vote is not unanimous, the Chair must state the names of those Councillors voting in the affirmative, those Councillors voting in the negative and those Councillors abstaining (negative vote).

### **47. Recount**

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

### **48. Casting Vote**

If there is an equal division on any vote upon any matter, the Chair at such meeting shall, in addition to their vote as a Councillor, have a second or casting vote.

### **49. By Show Of Hands**

Voting on any matter is by show of hands.

### **50. Recording of opposition to Motion**

Any Councillor may ask that their reasons for opposition to a motion adopted by the meeting be recorded in the minutes.

## **Division 10 – Minutes**

### **51. Confirmation of minutes**

At every Council meeting the minutes of the preceding meeting(s) must be dealt with as follows:

- 51.1. A copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting.
- 51.2. 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.
- 51.3. Following the moving and seconding of the minutes, if no Councillor indicates opposition, the question is put to the vote.
- 51.4. A resolution of Council must confirm the minutes and the minutes must, if practicable, be signed by the Chair of the meeting at which they have been confirmed.

### **52. Form and availability of minutes**

- 52.1. The CEO (or other person authorised by the CEO to attend the meeting and to take the minutes of such meeting) must keep minutes of each Council meeting, and those minutes shall record:
  - 52.1.1. The date, place, time and nature of the meeting.
  - 52.1.2. The names of the Councillors in attendance and the names of any Councillors who apologised in advance for their non-attendance (if no apology has been received and the Councillor is not in attendance, the Councillor will not be listed).
  - 52.1.3. Details of any disclosure of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5, and the time the Councillor left the room and returned to the room.
  - 52.1.4. Arrivals and departures (including temporary departures) of Councillors during the course of the meeting.
  - 52.1.5. The mover and seconder of each motion or amendment.
  - 52.1.6. Each motion and amendment moved (including motions and amendments that lapse for the want of a seconder).
  - 52.1.7. Each motion carried or lost.
  - 52.1.8. The vote cast by each Councillor.
  - 52.1.9. In relation to resolutions recorded in the minutes, relevant reports or a summary of the relevant reports considered in the decision making process.
  - 52.1.10. Details of any written or verbal submissions received or made (name of submitter and agenda item to which their submission relates).
  - 52.1.11. A summary of any public questions and summary of the responses provided by the Council or administration
  - 52.1.12. Questions upon notice.
  - 52.1.13. Details of failure to achieve or maintain a quorum.
  - 52.1.14. The time of any adjournment of the meeting, including the reason for that adjournment, and resumption.
  - 52.1.15. The time at which standing orders were suspended and resumed.

- 52.1.16. Where applicable, the grounds and an explanation of why they apply, for moving into closed session.
- 52.1.17. The time the meeting moved into closed session or concluded.
- 52.1.18. The CEO must ensure that the minutes of any open Council meeting are both:
- 52.1.18.1. published on Council's website
  - 52.1.18.2. available for inspection at Council's office during normal business hours.
- 52.1.19. Nothing in sub-Rule 52.1.18 requires Council or the CEO 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**

### **53. Public addressing the meeting**

- 53.1. 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.
- 53.2. 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.
- 53.3. A member of the public present (either virtually or physically) at a Council meeting must not disrupt the meeting.

### **54. Chair May Remove**

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 53.2.

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

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

If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, the Chair may adjourn the meeting to a later time on the same day or to some later day as the Chair thinks proper. In that event, the provisions of sub-Rules 11.2 and 11.3 apply.

### **56. Removal from Meeting**

The Chair may ask the CEO or a member of the Victoria Police to remove from the meeting any person who acts in breach of this Chapter and whom the Chair has ordered to be removed from the gallery under Rule 54.

### **57. Ordering withdrawal of remark**

- 57.1. The Chair may require a Councillor to withdraw any remark which is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature.
- 57.2. A Councillor required to withdraw a remark must do so immediately without qualification or explanation.

## **Division 12 – Additional Duties of Chair**

### **58. The Chair’s duties and discretions**

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

58.1.1. 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.

58.1.2. Must call to order any person who is disruptive or unruly during any meeting.

58.2. The Chair may address the meeting upon any matter under discussion.

## **Division 13 – Suspension of Governance Rules**

### **59. Suspension of Governance Rules**

59.1. Council may suspend the Governance Rules.

*The suspension of the Governance Rules 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 or clarified.*

59.2. The suspension of the Governance Rules should not be used purely to dispense with the processes and protocol of the government of Council. An appropriate motion would be:

‘That the Governance Rules be suspended to enable discussion on.....’

59.3. Any provision in Chapter 2 of these Governance Rules (except for those legislated), may be suspended for any part of the meeting.

59.4. No motion can be accepted by the Chair or lawfully be dealt with during any suspension of the Governance Rules, except a motion to resume the Governance Rules.

59.5. Once the discussion has taken place and before any motions can be put, the resumption of the Governance Rules will be necessary. An appropriate motion would be:

‘That the Governance Rules be resumed.’

## **Division 14 –Physical and Remote Attendance**

### **60. Mode of Attendance**

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

60.1.1. wholly in person;

60.1.2. wholly by electronic means; or

60.1.3. partially in person and partially by electronic means.

60.2. The indication in the notice of meeting must be consistent with any Resolution of *Council* that has expressed a preference for, or otherwise specified, when *Council meetings* are to be conducted:

60.2.1. wholly in person;

60.2.2. wholly by electronic means; or

60.2.3. partially in person and partially by electronic means.



- 60.3. If a *Council meeting* is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.
- 60.4. Any request made under sub-Rule 60.3 must;
- 60.4.1. be given to the Chief Executive Officer at the earliest opportunity prior to the commencement of the relevant Council meeting, to enable officers to arrange for participation by electronic means; and
  - 60.4.2. provide explanation for why the Councillor is unable or does not wish to attend the Council meeting in person.
- 60.5. The *Chief Executive Officer* must ensure that any request received in accordance with sub-Rule **Error! Reference source not found.** and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant *Council meeting*.
- 60.6. *Council* may approve and must not unreasonably refuse any request.
- 60.7. A Councillor who is attending a *Council meeting* by electronic means is responsible for ensuring that they are able to access such equipment and are present in such an environment that facilitates participation in the *Council meeting*.
- 60.8. Without detracting from anything said in sub-Rule 60.7, a Councillor who is attending a meeting by electronic means must be able to:
- 60.8.1. hear the proceedings;
  - 60.8.2. see all Councillors who are also attending the *Council meeting*, at least while a Councillor is speaking;
  - 60.8.3. be seen by all Councillors, members of Council staff and members of the public who are physically present at the *Council meeting*; and
  - 60.8.4. be heard when they speak.
- 60.9. If the conditions of sub-Rule 60.8 cannot be met by one or more Councillors attending a *Council meeting*, whether because of technical difficulties or otherwise:
- 60.9.1. the *Council meeting* will nonetheless proceed as long as a quorum is present; and
  - 60.9.2. the relevant Councillor (or Councillors) will be treated as being absent from the *Council meeting* or that part of the *Council meeting*
- unless the *Council meeting* has been adjourned in accordance with *these Rules*.
- 60.10. Nothing in this Rule 60 prevents a Councillor from joining (or re-joining) a *Council meeting* at the time that they achieve compliance with sub-Rule 60.8 even if the *Council meeting* has already commenced or has continued in their absence.

## 61. Meetings Conducted Remotely

If a Council meeting is conducted wholly or partially by electronic means, the Chair may, with the consent of the meeting, modify the application of any of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of the meeting.

## **Division 15 –Miscellaneous**

### **62. Recording Proceedings**

- 62.1. The proceedings of open Council meetings will be recorded and the audio file uploaded to the City of Melbourne's website the day following the meeting.
- 62.2. The proceedings of open Council meetings may be streamed live on the City of Melbourne's website so that interested parties can watch the proceedings in real time. A recording of the live stream will be uploaded to the City of Melbourne's website the day following the meeting.
- 62.3. The Council is authorised to resolve that audio and live stream recordings of meetings be edited by the deletion of comments from the public which the Council considers to be objectionable, offensive, defamatory or inappropriate.

### **63. Personal Explanation**

A Councillor may, at a time convenient to the Council, make a brief personal explanation.

63.1. A personal explanation is used to:

- 63.1.1. Correct statements a Councillor has made in debate.
- 63.1.2. Apologise to the meeting for inappropriate comments or actions.
- 63.1.3. Explain when the media have misquoted the Councillor.
- 63.1.4. Explain how another Councillor misrepresented the Councillor.
- 63.1.5. Explain how any public comment made personally affects the Councillor.

63.2. A personal explanation:

- 63.2.1. Is required to be in writing on a template as approved from time to time by the CEO.
- 63.2.2. Must contain a clear explanation of what affect the statement made had on the Councillor giving the personal explanation.
- 63.2.3. Is not to be used to make argument or comment or to raise new issues.
- 63.2.4. Must be provided in written form to all Councillors and the CEO at the meeting where the personal explanation is to be made and read out word for word.
- 63.2.5. Is to be no longer than three minutes in duration.
- 63.2.6. Will be appended to the minutes of the meeting at which the personal explanation is made without the need for further commentary in the minutes.

### **64. Criticism of members of Council staff**

- 64.1. A member of Council staff is entitled to briefly address a meeting of Council in respect of any statement made affecting him or her as a member of Council staff or any member of Council staff under their control when such statement is made at a Council meeting, or in the media.
- 64.2. A statement under sub-Rule 63.1 must be made at such time and during such meeting at which the member of council staff desires to bring it forward and as the Chair thinks appropriate.

## Chapter 3 – Meeting Procedure for Delegated Committees

### 1. Appointing Chairs of Delegated Committees

The Act provides the Lord Mayor with the specific power to appoint a Councillor to be Chair of a Delegated Committee.

The Council may also resolve to appoint a Councillor to be Chair of a Delegated Committee.

### 2. Meeting Procedure Generally

If Council establishes a Delegated Committee:

- 2.1. All of the provisions of Chapter 2 apply to meetings of the Delegated Committee unless expressly provided otherwise in this Chapter 3.
- 2.2. Any reference in Chapter 2 to:
  - 2.2.1. A Council meeting is to be read as a reference to a Delegated Committee meeting.
  - 2.2.2. A Councillor is to be read as a reference to a member of the Delegated Committee.
  - 2.2.3. The Lord Mayor is to be read as a reference to the Chair of the Delegated Committee.

### 3. Meeting Procedure Can Be Varied

Notwithstanding Rule 2, if Council establishes a Delegated Committee that is not composed solely of Councillors, either:

- 3.1. Council may
- 3.2. the Delegated Committee may, with the approval of Council,

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

### 4. Public Questions

- 4.1. There will be a public question time at Delegated Committee meetings fixed under Rule 6 and comprising all Councillors to enable members of the public to ask questions.
- 4.2. Sub-Rule 4.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the Act, or for special meetings.
- 4.3. A 15 minute period shall be provided for questions at both the beginning and end of the meeting.
- 4.4. Questions must not be greater than 90 seconds in duration.
- 4.5. During public question time, members of the public may either:
  - 4.5.1. Raise their hand and ask their question from the public gallery.
  - 4.5.2. Register by no later than 10am on the day of the scheduled meeting to join the meeting virtually or by phone to ask their question.
  - 4.5.3. Submit a question online by no later than 10am on the day of the scheduled meeting, to be read out at the meeting. The written question is to be limited to no more than 225 words.

- 4.6. Submissions/registrations in accordance with sub-Rules 4.5.2 and 4.5.3 must be in writing, include the name, email address, and contact phone number of the person submitting the question.
- 4.7. If a person has submitted two or more questions to a meeting, the subsequent questions:
  - 4.7.1. May, at the discretion of the Chair, be deferred until all other persons who have requested to ask a question, have asked their question (or had it read out) and answered.
  - 4.7.2. May not be asked/read out if the time allotted for public question time has expired. In this instance, a response will be provided to the person in writing.
- 4.8. If a question is allowed, the Chair will, where practical, refer the question to the relevant portfolio holder. In responding to any question, a Councillor may call on a senior officer to answer the question, or elect to answer the question them self or may take the question on notice to seek additional information on the issue.
- 4.9. The Chair of the meeting may disallow any question on the ground that it is repetitive of a question already asked, objectionable, irrelevant, raises an issue that is the type of information deemed confidential, is asked to embarrass a Councillor or member of the administration.
- 4.10. All requests to ask a question, and written questions will be circulated to all Councillors by noon on the day of the scheduled meeting.
- 4.11. All questions and answers must be as brief as possible, and no discussion may be allowed other than by Councillors for the purposes of clarification.
- 4.12. Like questions may be grouped together and a single answer provided.
- 4.13. The Chair may nominate a Councillor, the CEO or a senior officer to respond to a question.
- 4.14. A Councillor or the CEO may require a question to be taken on notice. If a question is taken on notice, a written copy of the answer will be sent to the person who asked the question.
- 4.15. A Councillor or the CEO may advise Council that it is their opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or the CEO (as the case may be) must state briefly the reason why the reply should be so given and, unless Council resolves to the contrary, the reply to such question must be so given.

## **5. Requests to address a Delegated Committee**

- 5.1. A person may request to be heard at a Delegated Committee meeting, comprising all Councillors, in relation to a matter listed on the Agenda.
- 5.2. A person wishing to be heard at a Delegated Committee meeting must submit a written request online or to the officer responsible for Governance by no later than 10am on the day of the scheduled meeting. The request should include the name, email address and contact phone number of the person requesting to be heard and identify the item/s on the agenda to which the person wishes to speak.
- 5.3. Any person wishing to be heard at a Delegated Committee meeting shall be granted a maximum period of three minutes to speak.

## Chapter 4 – Meeting Procedure for Community Asset Committees

### 1. Introduction

In this Chapter, 'Instrument of Delegation' means an instrument of delegation made by the CEO under section 47(1)(b) of the *Act*.

### 2. Meeting procedure

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

## Chapter 5 – Disclosure of Conflicts of Interest

### 1. Introduction

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

### 2. Definition

In this Chapter:

- 2.1. A 'meeting conducted under the auspices of Council' means a meeting of the kind described in section 131(1) of the Act, and is a scheduled or planned meeting for the purpose of discussing the business of Council or briefing Councillors, which is attended by at least one member of Council Staff and the majority of Councillors, and is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting.
- 2.2. A member of a Delegated Committee includes a Councillor.

### 3. Disclosure of a conflict of interest at a Council meeting

A Councillor who has a conflict of interest in a matter being considered at a Council meeting at which the Councillor is in attendance must:

- 3.1. Disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the Council meeting immediately before the matter is considered.
- 3.2. Leave the Council meeting immediately after giving the explanation and not return to the meeting until after the matter has been disposed of.
- 3.3. Complete and sign a Conflict of Interest form and submit to the CEO or their delegate.

### 4. Disclosure of conflict of interest at a Delegated Committee meeting

A member of a Delegated Committee who has a conflict of interest in a matter being considered at a Delegated Committee meeting at which the Councillor is in attendance must:

- 4.1. Disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the Delegated Committee meeting immediately before the matter is considered.
- 4.2. Leave the Delegated Committee meeting immediately after giving the explanation and not return to the meeting until after the matter has been disposed of.
- 4.3. Complete and sign a Conflict of Interest form and submit to the CEO or their delegate.

### 5. Disclosure of a conflict of interest at a Community Asset Committee meeting

A Councillor who has a conflict of interest in a matter being considered at a Community Asset Committee meeting at which the Councillor is in attendance must:

- 5.1. Disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the Community Asset Committee meeting immediately before the matter is considered.
- 5.2. Leave the Committee Asset Committee meeting immediately after giving the explanation and not return to the meeting until after the matter has been disposed of.
- 5.3. Complete and sign a Conflict of Interest form and submit to the CEO or their delegate.

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<sup>1</sup> At the time of making these Rules the date on which Division 1A of Part 4 of the *Local Government Act 1989* is expected to be repealed is 24 October 2020.

## **6. Disclosure at a meeting conducted under the auspices of Council**

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

- 6.1. Disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting immediately before the matter is considered.
- 6.2. Absent themselves from any discussion on the matter.
- 6.3. As soon as practicable after the meeting concludes provide to the CEO a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.

## **7. Disclosure by members of Council staff preparing reports for meetings**

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

- 7.1.1. Council meeting
- 7.1.2. Delegated Committee meeting
- 7.1.3. Community Asset Committee meeting

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

7.2. The CEO 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.

7.3. If the member of Council staff referred to in sub-Rule 7.1 is the CEO:

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

## **8. Disclosure of conflict of interest by members of Council staff in the exercise of delegated power**

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

8.2. If the member of Council staff referred to in sub-Rule 8.1 is the CEO the written notice must be given to the Lord Mayor.

## **9. Disclosure by a member of Council staff in the exercise of a statutory function**

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

9.2. If the member of Council staff referred to in sub-Rule 9.1 is the CEO the written notice must be given to the Lord Mayor.

## **10. Retention of written notices**

The CEO must retain all written notices received under this Chapter for a period of three years.

### **Chapter 6 – Miscellaneous**

## **1. Confidential Information**

- 1.1. If, after the repeal of section 77(2)(c) of the *Local Government Act 1989*, the CEO is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, the CEO 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 CEO 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.

## **2. Common Seal**

- 2.1. The Common Seal of Council may only be used with the authority of Council.
- 2.2. The CEO must keep the Common Seal in safe custody.
- 2.3. Every document to which the Common Seal is affixed must be signed by the Lord Mayor and the CEO.
- 2.4. No person may use the Common Seal or any device resembling the Common Seal without the authority of Council.



# Election Period Policy (Caretaker Policy)

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\* All references to Councillors should be read as including the Lord Mayor and Deputy Lord Mayor.

\* All references to the CEO should read as including the CEO's nominee/delegate.

## 1. Purpose

The Election Period Policy (Caretaker Policy) has been developed in order to ensure that the general elections and any by-elections for the Melbourne City Council and subsequent elections are conducted in a manner that is ethical, fair and equitable and are publicly perceived as such.

An important part of City of Melbourne integrity is that all employees need to remain impartial at all times.

During the lead up to (not just the election period) employees need to maintain impartiality by avoiding making any comment or expressing an opinion, in any context which is public or may become public, in relation to candidates, potential candidates or policy debates in the lead up to an election.

This is particularly the case where employees are identified as a City of Melbourne employee or representing City of Melbourne in the public arena. Social media use of this kind also requires extreme caution and judgement.

Employees also need to avoid working on any task that could be seen to relate to the candidates for the election or to any role that current Councillors may play in the election, particularly when representing the City of Melbourne.

## 2. What is this policy designed to achieve?

This policy applies during an 'election period' (refer below for definition) to cover:

- decisions that are made by Council, a delegated committee or a person acting under delegation by the Council
- any material that is published by the Council or on Council's behalf
- protocols for Council and Committee meetings
- public consultations
- attendance and participation in functions and events
- the use of Council resources
- access to Council information
- media and media services.

## 3. Election period

During an election period, local government goes into 'caretaker' mode, avoiding actions and decisions which could be seen to be influencing voters or which will have a significant impact on the incoming Council.

The Local *Government Act 2020* (Act) provides that the election period commences at the time that nominations close of nomination day for that election and ends at 6pm on Election Day.

## 4. Why is a policy required?

The Act requires councils to have an Election Period Policy to explain to their communities how they will conduct their business immediately prior to an election. This is to ensure council elections are not

compromised by inappropriate electioneering by existing councillors and to safeguard the authority of the incoming council. The policy also provides guidance at an operational level to ensure compliance with legislative requirements, demonstrates the Council's commitment to probity in its elections and ensures transparency and accountability of the Council, Councillors and staff during the election period.

## 5. Operation of policy

This Policy applies during the election period, which:

- **commences** at the time that nominations close on nomination day for that election; and
- **concludes** at 6pm on Election Day.

## 6. Decisions during the election period

Council, a delegated committee of Council or a person acting under delegation given by the Council must not make 'major policy decisions' or 'inappropriate decisions' during the election period for a general election.

### 6.1. Prohibited decisions

Provisions under section 69 of the Act prohibit Council from making certain decisions during the election period for a general election. A **prohibited decision** is one that:

(a) Relates to the appointment or remuneration of a CEO but not to the appointment or remuneration of an Acting CEO.
(b) 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 (\$3 million).
(c) The Council considers could be reasonably deferred until the next Council is in place.
(d) The Council considers should not be made during an election period (Inappropriate decisions)
(e) 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 (this also applies to by-elections)

Any Council decision made in contravention of 6.1(a) and (b) above, is invalid.

Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of section 69(4) of the Act, is entitled to compensation from the Council for that loss or damage.



**6.1.1. Scheduling consideration of prohibited decisions**

The CEO will ensure that prohibited decisions are either:

- considered by Council **prior** to the election period; or
- scheduled for determination by the **incoming** Council.

**6.2. Inappropriate decisions**

*Inappropriate decisions* are defined as meaning:

<b>Inappropriate decisions</b>
Decisions that would affect voting in an election.
Decisions that may unreasonably bind an incoming council and could reasonably be made after the election.

**6.2.1. Inappropriate decisions that will be avoided**

The following inappropriate decisions (whether made by Council, a Delegated Committee or a staff member with delegated authority) will be avoided completely during the election period:

- allocation of community grants or other direct funding to community organisations
- allocation of discretionary funding
- major planning scheme amendments
- sale or discontinuance of roads etc
- changes to strategic objectives and strategies in the Council Plan.

**6.3. Considerations for officers with delegated authority**

Before making any decisions under delegated authority during the election period, officers should consider the following:

- whether the decision is 'significant'
- the urgency of the issue (that is, can it wait until after the election?)
- the possibility of financial repercussions if it is deferred
- whether the decision is likely to be controversial
- the best interests of Council.

Officers requiring assistance in determining whether a decision is likely to be inappropriate should seek advice from the Director Governance in the first instance.

## 7. Council and Committee meetings

The following protocols will apply for Council and Committee meetings during the election period.

### 7.1. Audio and video recordings of Council and Committee meetings

While Council and Committee agenda papers and minutes are considered to be part of normal Council business (and do not require approval by the CEO), audio and visual recordings of these meetings are not. As such, audio and visual recordings of meetings which take place during the election period will not be made available on Council's website until after the election period has ended.

### 7.2. Public question time

Council will suspend public question time at all Future Melbourne Committee meetings during the election period. Members of the public will still be able to make written submissions and/or address the Committee meeting in relation to items listed on the agenda.

### 7.3. Election period statement in reports

All reports to Council and Committee will be assessed by the CEO, in accordance with the Act and this policy, and if approved, will include an election period policy statement.

### 7.4. Notices of motion by Councillors

All Notices of Motion by Councillors will be assessed by the CEO, in accordance with the Act and this policy, and if admitted on the agenda, will include an election period policy statement.

## 8. Council publications during the election period

### 8.1. Prohibition on publishing materials during the election period

During the election period Council will not publish material containing electoral matter that may influence, or be seen to influence, people's voting decisions.

Council will not:

- print, publish or distribute, or
- cause, permit or authorise other to print, publish or distribute on behalf of the Council, any advertisement, handbill, pamphlet or notice that contains 'electoral matter' during the election period.

**Electoral matter** is defined in the Act as '*matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the election manager for the purposes of conducting an election.*'

Publication should be read broadly to include electronic information and web based productions.



A publication is taken to contain electoral matter if it contains an express or implicit reference to, or comment on:

- the election
- a candidate in the election
- an issue submitted to, or otherwise before, the voters in connection with the election.

Some examples include publishing material which:

- sets out the strengths or weaknesses of a candidate
- advocates the policies of the Council or a candidate
- responds to claims made by a candidate
- sets out the achievements of the elected Council or Councillor

The controls do not cover electoral material produced by, or on behalf of, the election manager for the purposes of conducting an election or advertisements/posts which simply announce the holding of a meeting or the election process itself.

## **8.2. Approval of Council publications by the CEO**

Relevant Council publications must be approved by the CEO, before they may be printed, published or distributed during the election period, whether by Council or anyone acting for Council.

The approval process is to apply to any documents produced for the purpose of communicating with people in the community. This may mean some material requires approval before the commencement of the election period in order for it to be issued/disseminated during the election period (eg Melbourne magazine).

The CEO's approval must be in writing.

All material will be submitted to the Governance branch (within a time frame to be determined) for vetting.

Staff will be notified by return email once CEO approval has been provided (all effort will be made to ensure certification is provided in line with specified deadlines).

All approved material will bear the following affixation and be signed and dated by the CEO:

'Approved by the CEO or the CEO's delegate.'

All documentation in relation to the approval process will be retained on Council records.

Material that may be affected includes, but is not limited to:

- new material on Council websites
- social media publications
- Council newsletters, brochures, flyers and magazines
- material available in libraries and Council offices
- media releases
- public speeches
- brochures on service/facilities
- advertisements (including job advertisements)



- Council newspapers
- mail outs to multiple addresses
- material publicising a function or event.

### 8.3. Considerations for CEO in granting publication approval

In considering whether to grant approval for the publication of material during the election period, the CEO:

- **Will not permit** any materials to be published which include reference to the following:
  - a candidate in the election
  - a current Councillor
  - an issue before the voters in connection with the election.
- **May approve** publication of material which only contains information about:
  - the election process itself
  - Council information that does not include any reference to a current Councillor or candidate.

### 8.4. Publication of Council and Committee agenda papers and minutes

Council and Committee agenda papers and minutes are considered to be part of normal Council business and do not require approval by the CEO.

### 8.5. Council Annual Report

Due to the publication date of the Annual Report generally occurring during the election period, it is affected by the legislative restrictions on publications and therefore information about Councillors will be restricted to what is required by the *Local Government (Planning and Reporting) Regulations 2014*, a photograph of the Councillor, and membership of special committees and other bodies to which they have been appointed by the Council.

The Annual Report will not contain a Foreword from the Lord Mayor.

### 8.6. Council websites

During the election period Council's websites will not contain material which contravenes this policy. Any references to the election will only relate to the election process.

Councillor profiles will be removed and information about Councillors will be restricted to:

- names
- photographs
- contact details
- titles
- membership of special committees and other bodies to which they have been appointed by the Council.



## 8.7. General Council publications

Information about Councillors will be restricted in City of Melbourne publications (such as Melbourne magazine), consistent with paragraph 8.6 above.

## 8.8. Social Media

Social media includes, but is not limited to:

- Facebook
- Twitter
- YouTube
- Flickr
- LinkedIn
- Pinterest.

In accordance with paragraph 8.2, any publications on social media sites under the auspices of Council during the election period require approval by the CEO, prior to publication. This may mean messages and/or responses to questions may not be posted as quickly as normal.

Protocols have been developed for managing Council's corporate social media and online channels.

While Public Affairs and Media branch will monitor the mainstream platforms, any staff member who manages a social media or online channel as part of their role with the City of Melbourne is required to apply the same protocols.

## 9. Public consultations

### 9.1. Prohibition

It is prohibited under this policy for public consultation to be undertaken during the election period (either new consultation or existing) on an issue which is contentious, unless prior approval is given by the CEO.

For the purposes of this section, public consultation means a process which involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

The requirements of this section do not apply to public consultation required under the *Planning and Environment Act 1987*, or matters subject to section 223 of the Act.

### 9.2. Approval for public consultations

Due to the prohibition in section 9.1, it is prudent for the Council not to commission or approve any public consultation if such consultation is likely to run into the election period, unless prior approval is given by the CEO.

Where public consultation is approved to occur during the election period the results of that consultation will not be reported to Council until after the election period, except where approved by the CEO.



## **10. Attendance at functions and events during the election period**

In this part, reference to events and functions means gatherings of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the Council and its community and may take the form of conferences, workshops, forums, launches, promotional activities, social occasions such as dinners, receptions and balls.

### **10.1. Public events staged by external bodies**

Councillors may continue to attend events and functions during the election period.

### **10.2. Council events and functions**

Council organised events and functions held during the election period will be reduced to only those essential to the operation of the Council.

### **10.3. Speeches and keynote addresses**

Councillors who are candidates in the election must not give speeches or keynote addresses at Council organised or sponsored events and functions during the election period.

Councillors may make short welcome speeches at Council organised or sponsored events and functions during the election period, subject to prior approval and certification from the CEO.

### **10.4. Publication of promotional material**

In preparing any material concerning a Council organised or sponsored function or event which will be published or distributed during the election period, such preparation must be consistent with the controls under section 8 of this policy.

## **11. Council resources**

The Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in that regard. Council staff must avoid assisting Councillors in ways that could create a perception that they are being used for electoral purposes. 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 CEO.

### **11.1. Correspondence**

General correspondence (including email) addressed to Councillors will be answered as usual. However, Councillors will only respond to the necessary minimum correspondence during the election period and correspondence in respect to significant, sensitive or controversial matters should be responded to by the CEO. Replies will be prepared so as to protect Council staff from perceptions of political bias.

## **11.2. Use of Council equipment and services by Councillors**

Councillors may continue to use any Council equipment and services provided to them to facilitate their performance of normal Council duties in line with the *Councillor Expenses and Resources Guidelines*. When using Council supplied equipment and services during the election period, Councillors should avoid incurring costs to Council which are, or may be perceived to be, for election related purposes.

## **11.3. Expenses incurred by Councillors**

Reimbursement of expenses and costs incurred by Councillors during the election period must only relate to the conduct of normal Council duties and not electoral purposes.

Councillors will be required to make a declaration that any expenses incurred accord with this policy, when:

- making a claim for out-of-pocket expenses
- making requests for Council payment for services
- reviewing and certifying expense accounts for Council supplied services.

## **11.4. Council branding and stationery**

No Council logos, letterheads, or other City of Melbourne branding will be used for, or linked in any way, to a candidate's election campaign.

## **11.5. Support to the Lord Mayor, Deputy Lord Mayor and Councillors**

No staff, including support staff for the Lord Mayor, Deputy Lord Mayor and Councillors must be asked to undertake any tasks connected directly or indirectly with an election campaign.

## **11.6. Forums**

No community or portfolio themed forums will be held by Councillors during the election period.

## **11.7. Councillor photographs**

Councillors are not permitted to use photos or images taken by, or provided by Council, for the purposes of their election campaign (including photographs appearing on Council websites).

## **12. Access to Council information**

Councillors will continue to be provided with information to enable them to perform their current role and function as a Councillor. Where practicable and not prohibited by legislation, information made available to one or more candidates will be made available to all and posted on Council's website.

Any requests for information that are deemed to be for election purposes are to be referred to the Director Governance for determination and dissemination to all candidates, if appropriate.



## **13. Media and media services**

Council's media services are intended to promote Council activity or initiatives and must not be used in any way that might favour a candidate.

### **13.1. Media advice**

Any requests for media advice or assistance from Councillors during the election period will be channelled through the CEO. No media advice or assistance will be provided in relation to election issues or in regard to publicity that involves specific Councillors.

### **13.2. Media releases/spokespersons**

Media releases will not refer to specific Councillors. Where it is necessary to identify a spokesperson in relation to an issue, the CEO will determine the appropriate person.

### **13.3. Publicity campaigns**

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 activity, it must be approved by the CEO. In any event, Council publicity during the election period will be restricted to communicating normal Council activities and initiatives and will not involve specific Councillors.

### **13.4. Councillors**

Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of an election campaign.

### **13.5. Council employees**

During the election period no Council employee may make any public statement that relates to an election issue unless statements have been approved by the CEO.

## **14. Misuse of position**

Section 123 of the Act prohibits current or former Councillors or members of delegated committees from using their position to gain access to information or resources that would otherwise not be available.

The Act specifies the following circumstances as a misuse of position:

- making improper use of information acquired as a result of the position he or she held or holds
- disclosing information that is confidential information within the meaning of section 3(1) of the Act
- directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff



- exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform
- using public funds or resources in a manner that is improper or unauthorised
- participating in a decision on a matter in which the person has a conflict of interest.

## **15. Equity in assistance to candidates**

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

### **15.1. Candidate assistance and advice**

Any assistance and advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.

### **15.2. Election process enquiries**

All election process related enquiries from candidates, whether sitting Councillors or not, will be directed to the election manager or, where the matter is outside the responsibilities of the election manager, to the Director Governance.

## **16. Suspension of matters during election period**

In accordance with the Act, any applications made, or proceedings before a Councillor Conduct Panel or the Victorian Civil and Administrative Tribunal regarding the serious or gross misconduct of a person who is a Councillor, must be suspended during the election period.

## **17. Breach of policy**

Any breach of this policy relating to staff conduct is to be referred to the CEO.

Alleged breaches relating to all other matters are to be referred to the Local Government Investigations and Compliance Inspectorate at email address [inspectorate@lgi.vic.gov.au](mailto:inspectorate@lgi.vic.gov.au) or phone 1800 469 359.