

# **BANYULE CITY COUNCIL**

**Draft Governance Rules**

# GOVERNANCE RULES

## Introduction

### 1. Nature of Rules

These are the Governance Rules of **Banyule 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:

<i>Act</i>	means the <i>Local Government Act 2020</i> .
<i>Chief Executive Officer</i>	includes an Acting Chief Executive Officer.
<i>Community Asset Committee</i>	means a Community Asset Committee established under section 65 of the Act.
<i>Council</i>	means <b>Banyule City Council</b> .
<i>Councillor</i>	means a person who is an elected member of the Council.
<i>Council meeting</i>	has the same meaning as in the Act.
<i>Delegated Committee</i>	means a Delegated Committee established under section 63 of the Act.
<i>Mayor</i>	means the Mayor of Council.
<i>these Rules</i>	means these Governance Rules.

## Chapter 1 – Governance Framework

### 1. Context

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

- (a) the overarching governance principles specified in section 9(2) of the *Act*; and
- (b) the following documents adopted or approved by *Council*:
  - Governance Local Law
  - Councillor Code of Conduct

### 2. Council Meetings

Council Meetings are held regularly to conduct the ongoing business of the Council and unscheduled Meetings may be held from time to time.

It is important that the community is made aware of the times, dates and locations of Council and Delegated Committee meetings and the matters Council will consider. The timing of this notice should give the community adequate time to make arrangements to attend the meeting or view via the livestream.

An agenda for each Council Meeting must be provided to Councillors in advance so that they can prepare adequately for the Council Meeting. The Agenda contains the order of business and the professional advice of the organisation, with a recommendation for Council to consider.

The agenda is made available to the public via Council's website and at Customer Service Centres.

### 3. Decision Making

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:
  - (a) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
  - (b) on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
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).
3. Without limiting anything in paragraph (b) of this sub-Rule:
  - (a) 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;

- (b) 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;
- (c) if a report to be considered at a *Delegated Committee* meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
- (d) 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**

### **Contents**

## Part A – Introduction

### 1. Title

This Chapter will be known as the "Meeting Procedures Code".

### 2. Purpose of this Chapter

The purpose of this Chapter is to:

- provide for the election of the Mayor and any Deputy Mayor;
- provide for the appointment of any Acting Mayor; and
- provide for the procedures governing the conduct of *Council meetings*.

### 3. Definitions and Notes

(1) The following words have the meaning indicated:

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

"*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*;

"*minute book*" means the collective record of proceedings of *Council*;

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

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

"*notice of rescission*" means a *notice of motion* to rescind a resolution made by *Council*; and

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

(2) Introductions to Parts, headings and notes are explanatory notes and do not form part of this Chapter. They are provided to assist understanding.

## Part B – Election of Mayor

### Introduction

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

The role and functions of the Mayor are provided in the Act. The holder of this significant office is the Chairperson at Council Meetings, is the leader of the Councillors, acts as the principal spokesperson for Council and carries out civic and ceremonial duties.

### 4. Election of the *Mayor*

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

### Notes LGA Section 25 - Election of Mayor

The Act has specific provisions governing the election of the Mayor and the term of office for the Mayor:

#### Section 25 - Election of Mayor

25 Election of Mayor

- (1) At a Council meeting that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council.
- (2) Subject to section 167, any Councillor is eligible for election or re-election to the office of Mayor.
- (3) The election of the Mayor must—
  - (a) be chaired by the Chief Executive Officer; and
  - (b) subject to this section, be conducted in accordance with the Governance Rules.
- (4) Subject to subsections (5) and (6), the Mayor must be elected by an absolute majority of the Councillors.
- (5) If an absolute majority of the Councillors cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date.
- (6) If only one Councillor is a candidate for Mayor, the meeting must declare that Councillor to be duly elected as Mayor.
- (7) In this section, absolute majority means the number of Councillors which is greater than half the total number of the Councillors of a Council.

#### Section 26 – When is a Mayor to be elected

- (1) A Mayor is to be elected no later than one month after the date of a general election.
- ...
- (3) Before the election of the Mayor, a Council, other than the Greater Geelong City Council, must determine by resolution whether the Mayor is to be elected for a 1 year or a 2 year term.
- (4) If the Mayor is elected for a 1 year term, the next election of the Mayor must be held 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.
- (5) If the Mayor is to be elected for a 2 year term, the next election of the Mayor must be held on a day to be determined by the Council that is as close to the end of the 2 year term as is reasonably practicable.
- (6) A Mayor is to be elected within one month after any vacancy in the office of Mayor occurs.
- (7) The election of a Mayor after the period specified in this section does not invalidate the election.
- (8) A Councillor elected to fill a vacancy in the office of Mayor caused other than by the expiration of a one year or a 2 year term serves the remaining period of the previous

### **(1) Role and Election of Deputy Mayor**

- (1) At the Council Meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.
- (2) If the Mayor is not in attendance at a Council Meeting the Deputy Mayor must take the Chair.
- (3) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.
- (4) If the *Council* has not resolved to establish the position of *Deputy Mayor*, any provisions in this these Governance Rules relating to the *Deputy Mayor* have no effect.

### **(2) Method of Voting**

- (1) At the Council Meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.
- (2) If the Mayor is not in attendance at a Council Meeting the Deputy Mayor must take the Chair.
- (3) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.
- (4) If the Council has not resolved to establish the position of Deputy Mayor, any provisions in this these Governance Rules relating to the Deputy Mayor have no effect.

### **(3) Method of Voting**

The election of the *Mayor* must be carried out by a show of hands or following a resolution made in accordance with Rule 40, an electronic method that enables those observing (in attendance and those watching a livestream broadcast) to see who a Councillor has voted for at the time the vote is taken.

### **(4) Determining the Election of Mayor / Deputy Mayor**

- (1) The Chief Executive Officer will preside during the election of the Mayor.
- (2) The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.
- (3) Where in an election for the Mayor:
  - (a) only one candidate has been nominated, that candidate must be declared elected;
  - (b) two candidates have been nominated, a vote must be taken and the candidate who receives the number of votes equal to or greater than half the Councillors of the Council must be declared elected;
  - (c) two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council, a second vote will be conducted.
  - (d) where, after a second vote, where two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6 pm the following day;



- (e) more than two candidates have been nominated and no candidate receives a the number of votes equal to or greater than half the Councillors of the Council:
  - I. the candidate with the fewest number of votes cast must be eliminated;
  - II. the names of the remaining candidates must be put to the vote again; and
  - III. the procedure in **Error! Reference source not found.** and **Error! Reference source not found.** above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined in sub-clause **Error! Reference source not found.** of this Clause.
  - IV. in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes);
- (f) The Chief Executive Officer will conduct a vote for one candidate to be defeated.
- (g) If Council resolves to have the office of *Deputy Mayor*, the provisions of sub- rules **Error! Reference source not found.** and **Error! Reference source not found.** apply to the election of the *Deputy Mayor* with all necessary modifications and adaptations.

#### **(5) Ceremonial Mayoral Speech**

- (1) Upon being elected, the Mayor may make a ceremonial speech.
- (2) The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead based on the adopted Council Plan.

## 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.

In accordance with Section 61 and 63 of the Act, the Mayor must take the Chair at all Council Meetings at which the Mayor is present. If the Mayor is absent, the Deputy Mayor (if any) must take the Chair and if both are absent, Council must elect one of the Councillors as Chairperson of the meeting.

The way in which Council and Committee Meetings are conducted makes a significant contribution to good governance. The Chairperson plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors and members of Delegated Committees and advisory committees have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed appropriately, and statutory requirements are adhered to.

The Chairperson is an independent leader of meetings and generally does not participate in debate or move or second motions.

The Act provides for the Mayor to appoint a Councillor as the Chair of a Delegated Committee and any such appointment prevails over any appointment made by Council. While there are no limitations on exercising that power, the Mayor must always act in a way that is consistent with the adopted Councillor Code of Conduct and transparency commitments of the Council.

Additionally, each member of the meeting has an obligation to participate in good decision-making.

Specific duties and discretions of the Chairperson are outlined throughout these Governance Rules

### Notices of Meetings and Delivery of Agendas

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

Subject to Rule 9, Council must from time to time fix the date, time and place of all Council meetings.

#### 7 Council May Alter Meeting Dates

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 Unscheduled Meetings

- (1) Council may by resolution call an unscheduled Meeting of the Council.
- (2) The Mayor, or three Councillors may by written notice call an unscheduled Meeting of the Council.
- (3) The CEO, following consultation with the Mayor, may call an unscheduled meeting.
- (4) A written notice to call an unscheduled Meeting must:
  - (a) Specify the business to be transacted;

- (b) be delivered to the Chief Executive Officer or Delegate in sufficient time to enable notice to be given in accordance with clause 9 below.

## **9 Notice Of Meeting**

### **Council Meetings**

- (1) A notice of a Meeting, that is not an unscheduled Meeting, incorporating or accompanied by an Agenda of the business to be dealt with, must be sent electronically to every Councillor for all Council Meetings, at least 5 business days before the Meeting. A period of less than 5 business days may be justified if exceptional circumstances exist.
- (2) An *Agenda* for each *Council Meeting*, that is not an unscheduled Meeting, will be made available on *Council's* website no less than 36 hours before the *Council Meeting*.
- (3) A schedule of *Council Meetings* must be prepared and published that ensures it is available to a broad section of the community, including on *Council's* website at least once each year and with such greater frequency as the *Chief Executive Officer* determines. The schedule of Council meetings must also be available from Council's Customer Service Centres.

### **Unscheduled meetings**

- (4) Notice of an unscheduled meeting must be published on Council's website as soon as practicable after the time and date of the meeting has been determined.
- (5) An Agenda for an unscheduled Meeting must be made available electronically to every Councillor at least 48 hours before the meeting. A period of less than 48 hours may be justified if exceptional circumstances exist.
- (6) An Agenda for an unscheduled Council Meeting will be made available on Council's website no less than 24 hours before the Council meeting.

## **10 Adjourned Meetings**

- (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.
- (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.
- (3) If it is impracticable for the notice given under clause 10(2) to be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

## **11 Time limits for Meetings**

- (1) A *Council meeting* must not continue after two and half hours unless a majority of Councillors present vote in favour of it continuing.
- (2) A meeting cannot be continued for more than 30 minutes (or a further 30 minutes, if a majority of Councillors has already voted to continue it for 30 minutes).
- (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 (2) apply.

## **12 Cancellation or Postponement of a Meeting**

- (1) In the case of an emergency, the Chief Executive Officer or Delegate or, in the absence of both, a Senior Officer, may postpone a Council Meeting, provided every reasonable attempt is made to notify every Councillor of the postponement.
- (2) The Chief Executive Officer, Delegate or Senior Officer must submit a full written report of the circumstances requiring his or her action in respect of the emergency postponement at the next Ordinary Meeting.

## Quorums

### 1 Inability To Obtain A Quorum

If a quorum is not present within 30 minutes of the time appointed for the commencement of a Council Meeting:

- (1) the *Mayor* must convene another *Council meeting*, the *agenda* for which will be identical to the *agenda* for the lapsed meeting; and
- (2) the *Chief Executive Officer* must give all Councillors *written* notice of the meeting convened by the *Mayor*.

### 2 Inability To Maintain A Quorum

- (1) If a quorum ceases to be present at any time during a Council Meeting then no business can be legally transacted until a quorum is again formed. The meeting may be adjourned.
- (2) The Chairperson may defer an item of business in respect of which there is, or is likely to be, a disclosure of a conflict of interest by one or more Councillors that will cause a quorum to be lost, and direct the Chief Executive Officer to include that item of business on an Agenda for a future Council Meeting.
- (3) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, Council will:
  - (a) Determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
  - (b) Determine to make decisions on separate parts of the matter at a meeting where quorum can be maintained, before making a decision on the whole matter at a meeting for which quorum can be maintained.
- (4) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, and the matter cannot be separated into component parts or prior decisions made, Council will delegate the decision to be made:
  - (a) By the Chief Executive Officer; or
  - (b) By a Delegated Committee, established for the purpose of determining the matter, comprised of all the Councillors who have not disclosed a conflict of interest and any other person(s) the Council considers suitable.
- (5) A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council Meeting.

<i>Quorum Calculation</i>	
<i>Number of Councillors/ Committee Members</i>	<i>Number required for Quorum</i>
9	5
8	5
7	4

## **Business of Meetings**

### **3 Agenda and the Order Of Business**

- (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.
- (2) Once an agenda has been sent to Councillors, the order of business for that Council meeting may be altered with the consent of Council.
- (3) The Chief Executive Officer, may prepare a written supplementary report on any item of business that has arisen since the preparation of the Agenda. Councillors must receive a copy of any supplementary report at least 24 hours before the time fixed for holding the Meeting.

### **4 Urgent Business**

- (1) If the Agenda for a Meeting makes provision for urgent business, business cannot be admitted as Urgent Business other than by resolution of Council and only then if:
  - (a) It relates to or arises out of a matter which has arisen since distribution of the Agenda; and
  - (b) deferring the item until the next Meeting will mean a decision on the item will not have any effect on the matter; or
  - (c) involves a matter of urgent community concern; or
  - (d) cannot be safely or conveniently deferred until the next ordinary meeting.
  - (e) the item involves a matter of urgency as determined by the Chief Executive Officer; and
  - (f) it cannot be addressed through an operational service request process.
  - (g) Provided the matter does not:
    - substantially affect the levels of Council service;
    - commit Council to significant expenditure not included in the adopted budget;
    - establish or amend Council Policy; or
    - commit Council to any contractual arrangement.
- (2) A Councillor proposing a matter be admitted as urgent business must lodge it in writing to the Chief Executive Officer no later than 3 pm on the day of the Meeting.
- (3) The Chief Executive Officer will advise the Mayor of any matter he or she determines appropriate for Council to consider admitting as urgent business.
- (4) Prior to the consideration of the urgent business item, Council must first determine to accept the urgent business item and will require a mover and seconder and put the motion to the vote of the Council. The mover shall explain why the item has been classified as urgent business without speaking to it and then move it without speaking to it.

## Motions and Debate

### 5 Notice Of Motion

- (1) A Councillor can submit to the Chief Executive Officer a Notice of Motion for inclusion in the Agenda for a Meeting.
- (2) A notice of motion must be in writing signed by the Councillor (including by electronic means) and be lodged with the Chief Executive Officer at least fourteen (14) clear days before the Council Meeting at which it is intended to be considered to ensure its inclusion in the Agenda.
- (3) The Chief Executive Officer must then inform the Councillor about the legal and cost implications of any proposed notice of motion. The Chief Executive Officer may suggest revised wording to the draft notice of motion to facilitate compliance with the requirements for Notice of Motions under these Rules.
- (4) A Notice of Motion must relate to the objectives, role and functions of Council as outlined in the Act.
- (5) A Notice of Motion must call for a Council report if the Notice of Motion:
  - (a) affects the levels of Council service;
  - (b) if it is inconsistent with the strategic objectives of the Council as outlined in the Council Plan
  - (c) commits Council to expenditure not included in the adopted Council Budget;
  - (d) establishes, amends or extends Council policy;
  - (e) proposes to impact the rights of any person who has not had the opportunity to contribute their views;
  - (f) commits Council to any contractual arrangement; or
  - (g) concerns any litigation in respect of which Council is a party.
- (6) The Chief Executive Officer must reject any notice of motion which:
  - (1) is too vague;
  - (2) is identical or substantially similar to a notice of motion or other motion that has been considered by Council in the preceding six (6) months;
  - (3) is defamatory;
  - (4) may be prejudicial to any person or Council;
  - (5) is objectionable in language or nature;
  - (6) is outside the powers of Council; or
  - (7) is submitted during Election Period.
- (8) The Chief Executive Officer may reject any notice of motion:
  - (1) relates to a matter that can be addressed through the operational service request process; or
  - (2) relates to a matter that has been previously resolved by Council or is acted upon.
- (7) If rejecting a notice of motion, the Chief Executive Officer must:
  - (a) give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
  - (b) if the notice of motion cannot be amended to the satisfaction of the Chief Executive Officer, notify, in writing, the Councillor who lodged it of the rejection and the reasons for the rejection.

- (8) The Chief Executive Officer may designate a notice of motion to be confidential in accordance with the relevant grounds as contained in the Act, in which case the notice of motion will be considered in a session of a Council Meeting that is closed to members of the public.
- (9) The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda and outline the policy, financial and resourcing implications if the Notice of Motion is passed.
- (10) The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the Notice of Motion being published in the Agenda for the relevant Council Meeting.
- (11) The Motion moved must not be substantially different to the motion published in the Agenda, however, may be amended by resolution of the Council.
- (12) If a Councillor who has lodged a Notice of Motion is absent from the Meeting or fails to move the Motion when called upon by the Chairperson to do so, any other Councillor may move the Motion.
- (13) The Chair, having lodged a notice of motion in accordance with clause 5(2), must vacate the Chair of the Council Meeting to move the notice of motion and:
  - the Deputy Mayor will assume the Chair; or
  - if the Deputy Mayor is not in attendance or there is no Deputy Mayor, Council must appoint a temporary Chair for the consideration of that item.
- (14) Unless Council resolves to re-list at a future meeting a Notice of Motion which has been lost, a similar motion must not be put before Council for at least three months from the date it was last lost.



## 6 Chair's Duty

The *Chair* must not accept any *Motion* which:

- (1) is defamatory;
- (2) is objectionable in language or nature;
- (3) is vague or unclear in intention;
- (4) is outside the powers of *Council*; or
- (5) is not irrelevant to the item of business on the *agenda* and has not been admitted as urgent,
- (6) purports to be an amendment but is not

## 7 Introducing a Report

- (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 2 minutes:
  - (a) its background; or
  - (b) the reasons for any recommendation which appears.
- (2) Unless *Council* resolves otherwise, a member of Council staff need not read any written report to *Council* in full.

## 8 Introducing A Motion or an Amendment

### Introduction

This Section describes the procedure for introducing a motion or amendment, the rules of debate, foreshadowing a motion or amendment and the duty of the Chairperson in relation to accepting motions and amendments. It also describes the process for a Councillor lodging a notice of motion for consideration and/or indicating they will raise a matter at the next Council Meeting (foreshadowing items).

A Councillor may move any motion related to an item included in the agenda. In the interest of transparency and informed decision making, motions or amendments should not introduce new matters to a debate that have not been the subject of the report or background of the motion being considered by Council. Motions are required to be submitted in writing so they can be displayed to the meeting.

As a resolution must be able to be acted upon, a motion must clearly state what is intended and what its effect will be if it becomes the decision. This provides clarity for the implementation of Council decisions.

This Section also describes the circumstances and procedures under which a Council decision can be rescinded or altered. It also prescribes a procedure under which a Council policy can be altered or varied.

## 9 Moving a motion

The procedure for moving any *Motion* is:

- (1) the mover must outline the *Motion* without speaking in support of it;
- (2) the *Motion* must be seconded by a Councillor other than the mover;
- (3) if a *Motion* is not seconded, the *Motion* lapses for want of a seconder;
- (4) if there is a seconder, then the Chairperson must call on the mover to speak to the *Motion*;
- (5) after the mover has spoken to the *Motion*, the seconder may also speak to the *Motion*;
- (6) after the seconder has spoken to the *Motion* (or after the mover has spoken to the *Motion* if the seconder does not speak to the *Motion*), the Chairperson must call on any Councillor who wishes to speak against the *Motion*, then on any Councillor who wishes to speak for the *Motion*, after waiting until all Councillors wishing to speak to the *Motion* have spoken; and
- (7) if no Councillor wishes to speak against the *Motion*, then the Chairperson may put the *Motion* or call on any other Member to speak.

*A resolution must be capable of standing alone, that is, a person reading the decision of Council in the minutes will be able to understand what Council is seeking to achieve without reference to other sources. This usually means it should include specifics about the action to be taken, the timing of the action to be taken, the details of any other organisation.*

## 10 Right Of Reply

- (1) The mover of a *Motion*, which has not been amended, may, once debate has been exhausted, exercise a right of reply to matters raised during debate.
- (2) No new matters may be raised in the right of reply.
- (3) If no Councillor has spoken against a *Motion*, there will be no right of reply.
- (4) After the right of reply has been exercised, the *Motion* must immediately be put to the vote without any further discussion or debate.

## 11 Moving An Amendment

- (1) A *Motion*, which has been moved and seconded, may be amended by leaving out, inserting or adding words, which must be relevant to the subject of the *Motion*.
- (2) An amendment may be proposed or seconded by any Councillor, except the mover and seconder of the original *Motion*.
- (3) If a Councillor proposes an amendment and the original mover and seconder of the *Motion* both indicate their agreement with the amendment, the amended *Motion* becomes the substantive *Motion* without debate or vote.
- (4) If a Councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:
  - (a) the amendment must be moved and seconded;

- (b) a Councillor may speak on any amendment once, whether or not he or she has spoken to the Motion, but debate must be confined to the terms of the amendment;
- (c) any number of amendments may be proposed to a Motion, but only one amendment may be accepted by the Chairperson at any one time. 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 and voted on;
- (d) if the amendment is carried, the Motion as amended then becomes the Motion before the Meeting (known as the 'substantive Motion'); and
- (e) the mover of an amendment does not have right of reply.

*If a proposed amendment is ruled to be the negative of, or substantially contrary to, the motion, it should be treated as an alternative motion to be considered only in the event that the motion before the Chair is lost – see Foreshadowing Motions.*

## **12 Foreshadowing Motions**

- (1) At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- (2) A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chair* being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- (3) A Motion foreshadowed has no procedural standing and is merely a means to assist the flow of the Meeting
- (4) The Minutes of the Meeting will not include foreshadowed Motions unless the foreshadowed Motion is subsequently formally moved as a Motion
- (5) The *Chair* is not obliged to accept foreshadowed motions.

## **13 Withdrawal Of Motions**

- (1) Before any motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of *Council*.
- (2) If the majority of Councillors objects to the withdrawal of the motion, it may not be withdrawn.

## **14 Separation Of Motions**

- (1) Where a Motion contains more than one part, a Councillor may request the Chairperson to put the Motion to the vote in separate parts.
- (2) The Chairperson may decide to put any Motion to the vote in separate parts.

## **15 Motions moved in a block**

The *Chairperson* may allow like *Motions* to be moved, or request *Councillors* to move like items, in a block (*en bloc*), only if the *Motions* note actions already taken and will not commit *Council* to further action, spending or changes to policy.

## **16 Motions In Writing**

- (1) All *Motions*, except procedural *Motions*, must be submitted in writing.
- (2) Where motions are raised and considered during the meeting without having been put in writing in advance of the meeting, the *Chairperson* must seek the advice of the *Chief Executive Officer* regarding any legal, cost or other implications of the proposed motions.
- (3) The *Chairperson* may adjourn a Meeting while a *Motion* is being written or may request *Council* to defer the matter until the *Motion* has been written, allowing the Meeting to proceed uninterrupted.

## **17 Repeating Motion and/or Amendment**

- (1) Before any matter is put to the vote, a *Councillor* may require that the question, motion or amendment be read again.
- (2) The *Chairperson* without being so requested may direct the *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer*) to read the question, motion or amendment to the meeting before the vote is taken.

## **18 Debate Must Be Relevant To The Motion**

- (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.
- (2) If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may direct the speaker to be seated and not speak further in respect of the motion then before the Chair.
- (3) A speaker to whom a direction has been given must comply with that direction.

## **19 Adequate and sufficient debate**

- (1) Adequate debate is required where a matter is contentious in nature. In such a case, every *Councillor* should be given an opportunity to participate in the debate.
- (2) A *Motion* has been sufficiently debated if opposing views (where they exist) have been sufficiently put, not so much the number of those who have spoken but whether all minority opposing views have been put.
- (3) Once the views put are representative of the views of all *Councillors* or *Members* the debate would be regarded as sufficient.

(4)

## 20 Speaking Times

- (1) Unless a Motion for an extension of speaking time has been carried, the maximum speaking times are:
  - (a) the mover of a Motion or amendment - five minutes;
  - (b) the mover of a Motion when exercising his or her right of reply - two minutes; and
  - (c) any other speaker - three minutes.
- (2) A Motion for an extension of speaking time must be proposed before the initial speaking time, for that speaker, expires.
- (3) A Motion for an extension of speaking time must not be accepted by the Chairperson if another Councillor has commenced speaking.
- (4) Only one extension of speaking time is permitted for each speaker.
- (5) Any extension of speaking time must not be more than two minutes.

## 21 Right to Ask Questions

- (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.
- (2) The Chair has the right to limit questions and direct that debate be commenced or resumed.

## Procedural Motions

### 22 Procedural Motions

- (1) Unless otherwise prohibited, and subject to sub- rule (3), a procedural Motion may be moved at any time and must be dealt with immediately by the Chairperson.
- (2) Procedural Motions require a seconder.
- (3) The Chairperson may reject a procedural Motion if he or she believes the Motion on which it is proposed has not been adequately or sufficiently debated.
- (4) Regardless of any other provision in this Local Law, a procedural Motion must be dealt with in accordance with the table at sub-rule **Error! Reference source not found.**
- (5) A Procedural Motion may not be moved or seconded by the Chairperson.
- (6) Unless otherwise provided, debate on a procedural Motion is not permitted and the mover does not have a right of reply.
- (7) Unless otherwise provided, a procedural Motion must not be amended.
- (8) Procedural Motions table:

**PROCEDURAL MOTIONS TABLE**

<b>Procedural Motion</b>	<b>Form</b>	<b>Mover &amp; Seconder</b>	<b>When Motion Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted</b>
<b>Adjournment of debate to later hour and/or date</b>	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
<b>Adjournment of debate indefinitely</b>	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the <i>Council</i> has been made for that meeting in accordance with section 85 of the <i>Act</i> , or (d) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected	Yes
<b>The closure (debate)</b>	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for <i>Chair</i>	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion Motion not further discussed or voted on until Council resolves to take the question from the table at the same meeting	Debate continues unaffected	No
<b>Laying a motion on the table (pausing debate)</b>	'That the motion be laid on the table'	A Councillor who has not spoken for/against the motion	During the election of the Mayor/Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same meeting	Debate continues unaffected	No

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted
<b>Take a motion from the table (resume debate on a matter)</b>	'That the motion in relation to xx be taken from the table'	Any Councillor	When no motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
<b>Alter the order of business</b>	'That the item listed at xx on the agenda be considered before/after the item listed as xy'	Any Councillor	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the <i>Agenda</i>	No
<b>Consideration of confidential matter(s) (Close the meeting to members of the public)</b>	That, in accordance with section 66(2)(a) of the <i>Local Government Act 2020</i> the meeting be closed to members of the public for the consideration of item xx <i>is confidential as it relates to [insert reason]</i>	Any Councillor	During the election of the Mayor/Deputy Mayor	The meeting is closed to members of the public	The meeting Continues to be open to the public	Yes
<b>Reopen the meeting</b>	'That the meeting be reopened to members of the public'	Any Councillor		The Meeting is reopened to the public	The meeting remains closed to the public	No

## Rescission Motions

### 23 Notice of Rescission

- (1) A Councillor may propose a motion to amend or rescind a previous resolution of Council provided:
  - a) the resolution has not been acted upon; and
  - b) the Notice of Motion is in writing and signed by the Councillor (Primary Councillor) and two other Councillors; and
  - c) the Notice of Motion is delivered to the Chief Executive Officer no later than 48 hours following the meeting of the Council at which the motion proposed to be rescinded or altered was adopted.
- (2) A resolution will be deemed to have been acted upon if:
  - a) its contents have or substance has been formally communicated to a person whose interests are materially affected by it;
  - b) a statutory process has been commenced so as to vest enforceable rights in or obligations on Council or any other person.
- (3) A Notice of Motion to rescind or alter previous resolution of Council:
  - a) is to be listed by the Chief Executive Officer for consideration at the next ordinary meeting of Council, unless a special meeting of Council is called to consider the notice of motion prior to the next ordinary meeting of Council;
  - b) may be moved by any Councillor present at the meeting if the Primary Councillor is not present at the meeting;
  - c) shall be deemed to have been withdrawn if not moved at the meeting for which it is listed.
- (4) The Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:
  - (1) has not been acted on; and
  - (2) is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 23(1)(c),  
  
unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

### 24 If Lost

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.

### 25 If Not Moved

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



## 26 May Be Moved By Any Councillor

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

## 27 When Not Required

- (1) Unless sub-Rule (2) applies, a motion for rescission is not required where Council wishes to change policy.
- (2) The following standards apply if Council wishes to change policy:
  - (a) if the policy has been in force in its original or amended form for less than 12 months, a *notice of rescission* must be presented to *Council*; and
  - (b) any intention to change a *Council* policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.

## 37 Points of Order

A point of order is taken when a Councillor draws the attention of the Chairperson to an alleged irregularity in the proceedings. Valid points of order, the process for raising and ruling on a point of order, and the procedure if there is dissent on the Chair's ruling are described in this section.

- (1) A Councillor raising a Point of Order must state:
  - (a) the Point of Order; and
  - (b) any section, Clause, paragraph or provision relevant to the Point of Order.
- (2) The *Chair* must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the Point of Order raised, without entering into any discussion or comment.
- (3) The Chair may adjourn the Meeting to consider a Point of Order; otherwise he or she must rule on it as soon as it is raised.
- (4) All other matters before Council are suspended until the Point of Order is decided.

### 37.1 Dissent From Chair's ruling

- (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".
- (2) When a motion in accordance with this Rule is moved and seconded, the *Chair* must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present, temporary *Chair* elected by the meeting) must take his or her place.
- (3) The Deputy Mayor or temporary *Chair* must invite the mover to state the reasons for his or her dissent and the *Chair* may then reply.

- (4) The Deputy Mayor or temporary *Chair* must put the motion in the following form:  
"That the *Chair's* ruling be dissented from."
- (5) If the vote is in the negative, the *Chair* resumes the Chair and the meeting proceeds.
- (6) 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.
- (7) The defeat of the *Chair's* ruling is in no way a motion of censure or non-confidence in the *Chair*, and should not be so regarded by the meeting.
- (8) The Chairperson must then resume the Chair for the remainder of the Meeting.

### **37.2 Valid points of order**

- (1) A Point of Order may be raised in relation to:
  - (a) a Motion which has not be accepted by the Chairperson;
  - (b) a question of procedure;
  - (c) a Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
  - (d) debate that is irrelevant to the matter under consideration;
  - (e) a matter that is outside the powers of Council; or
  - (f) any act of Disorder.

### **37.3 Contradiction or opinion**

- (1) Rising to express a mere difference of opinion or to contradict a speaker is not a Point of Order.

## Petitions and Joint Letters

### 38 Petitions and Joint Letters

- (1) Every petition submitted to Council must:
  - (a) be in legible and in permanent writing;
  - (b) is clear and on each page the matter and action sought from council is stated
  - (c) not be derogatory, defamatory or objectionable in language or nature;
  - (d) not relate to matters outside the powers of Council; and
  - (e) include the names, addresses and original signatures of at least 10 people
- (2) Where a petition has been signed by less than 10 people, it will be treated as a joint letter and forwarded directly to the appropriate member of Council staff for action as an operational item.
- (3) Any Councillor presenting a petition is responsible for ensuring that:
  - (a) he or she is familiar with the contents and purpose of the petition; and
  - (b) the petition is not derogatory, defamatory or objectionable in language or nature.
- (4) Unless sub-clauses (5) or (6) apply, the only Motions that may be considered by Council on any petition are:
  - (a) that the petition be received; and
  - (b) that the petition be referred to the relevant department for consideration and response; or
  - (c) that the petition be referred to the relevant department for a report to a future Council Meeting.
- (5) If a petition relates to an item listed on the Agenda for the Meeting at which it is submitted, the petition may be dealt with in conjunction with the item.
- (6) If a petition relates to a 'statutory matter' which is the subject of a public submissions process in accordance with the relevant legislation the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).
- (7) The Chief Executive Officer may determine that an electronic or online petition will be submitted to a Council Meeting. An online or electronic petition may be submitted to a Council meeting.
- (8) The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council meeting.
- (9) An online or electronic petition will not be presented to a Council meeting if it contains signatures that are false or misleading.

## Voting

### Introduction

At the conclusion of debate on a matter before the meeting, the Chairperson must put the question, motion or amendment to the vote. Each Councillor is entitled to one vote and voting must be able to be seen by those participating in the meeting and those observing the meeting. The vote is determined by a majority of the Councillors present at the meeting at the time the vote is taken voting in favour of the motion.

If a vote is tied, the Chairperson generally has a casting vote.

Sometimes a Councillor may want his or her vote is recorded – this is provided for in this section, along with the procedure when a Councillor calls for a division on a vote which is when how each Councillor voted is recorded.

Provision is made for the introduction of an electronic voting system as long as Council has resolved to implement the system and all participants in the meeting and those observing a meeting are able to see which way Councillor has voted on a matter at the time the vote is taken.

### 39 How Motion Determined

- (1) To determine a Motion at a Meeting, the Chairperson 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.
- (2) In the event of a tied vote, the Chairperson must, unless the Act provides otherwise, exercise the casting vote.

### 40 Voting must be seen

- (1) Voting may be by any method resolved by Council that enables those in attendance and those watching a livestream broadcast to clearly see which way a Council has voted at the time a vote is taken.
- (2) In the absence of a Council resolving an alternative method, voting on any matter is by show of hands.

### 41 When a division is permitted

- (1) A division may be requested by any Councillor on any vote.
- (2) The request must be made to the Chairperson either immediately prior to, or immediately after, the vote has been taken, and may not be made after the Meeting has moved to the next item of business.
- (3) When a division is called for the Chairperson must:
  - (a) first ask each Councillor wishing to vote in favour of the Motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes;
  - (b) then ask each Councillor wishing to vote against the Motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes;

- (c) next, ask each Councillor abstaining from voting to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes; and
- (d) finally, declare the result of the division.
- (4) Where a division is requested after the original vote has been taken, the *Motion* is decided on the division and the fact that there may be a difference between the result obtained when the original vote was taken and the result obtained on the division must be disregarded.

#### **42 No discussion once a vote has been declared**

- (5) Once a vote on a Motion has been declared carried or lost by the Chairperson, no further discussion relating to the Motion is allowed, unless the discussion:
  - (a) involves a Councillor requesting that his or her opposition to a resolution be recorded in the Minutes or calling for a division in accordance with Rule 41(3); or
  - (b) is a Councillor foreshadowing a notice of rescission where a resolution has just been made, or a positive Motion where a resolution has just been rescinded.

*Section 59 of the Act provides:*

- (5) A question before a Council meeting is to be determined as follows—
  - (a) each Councillor present at a Council meeting who is entitled to vote is entitled to one vote;
  - (b) voting at a meeting must not be in secret, but if the meeting is closed to the public, a Councillor is not required to divulge their vote to the public;
  - (c) the question is determined in the affirmative by a majority of the Councillors present at a meeting at the time the vote is taken voting in favour of the question;
  - (d) subject to subsection (6), if the number of votes in favour of the question is half the number of Councillors present at the meeting at the time the vote is taken, the chairperson has a second vote;
  - (e) for the purpose of determining the result of a vote, a Councillor present at the meeting who does not vote is to be taken to have voted against the question.

*The Chairperson does not have a casting vote in the election of Mayor or Deputy Mayor as these positions must be elected by an absolute Majority of Councillors.*

## Minutes

The Minutes of a meeting must contain details of the proceedings and resolutions made, be clearly expressed, be self-explanatory and incorporate relevant reports or a summary of the relevant reports considered in the decision-making process. The Minutes of a Council Meeting must be submitted to the next appropriate Council Meeting for confirmation.

### 43 Keeping of Minutes

- (1) The Chief Executive Officer or Delegate is responsible for the keeping of Minutes on behalf of Council. Those Minutes must record:
  - (a) the date, place, time and nature of the Council Meeting;
  - (b) the names of Councillors and whether they are present, an apology, on leave of absence, etc.;
  - (c) the titles of the members of Council staff present who are not part of the gallery;
  - (d) the disclosure of a conflict of interest made by a Councillor in accordance with the Act;
  - (e) the arrivals and departures of Councillors, during the course of the Meeting (including any temporary departures or arrivals);
  - (f) every Motion and amendment moved (including procedural Motions),
  - (g) the outcome of every Motion moved;
  - (h) where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
  - (i) when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any Motion, noting that under s61(5) that a Councillor present at the meeting who does not vote is taken to have voted against the question;
  - (j) procedural motions;
  - (k) details of any failure to achieve or maintain a quorum;
  - (l) the time and reason for any adjournment of the Meeting or suspension of standing orders;
  - (m) the time the Council Meeting was opened and closed, including any part of the Council Meeting that was closed to members of the public;
  - (n) any other matter, which the Chief Executive Officer or Delegate thinks should be recorded to clarify the intention of the Meeting or assist in the reading of the Minutes.

### 44 Confirmation Of Minutes

- (1) The Minutes as recorded by the Chief Executive Officer, or Delegate, will be made available as the proposed Minutes to:
  - (a) Councillors, within 3 business days;
  - (b) members of the public, by publishing them on Council's website, within 4 business days
  - (c) of the Council Meeting they relate to.
- (2) No debate or discussion is permitted on the confirmation of Minutes except as to their accuracy as a record of the proceedings of the Council Meeting to which they relate;
- (3) Once the Minutes are confirmed in their original or amended form, the Minutes must, if practicable, be signed by the Chairperson of the Meeting at which they have been confirmed.
- (4) the Minutes must be held in accordance with the Public Records of Victoria standards.

#### **45 Objection to Confirmation of Minutes**

- (1) If a Councillor is dissatisfied with the accuracy of the minutes, then he or she must:
  - (a) state the item or items with which he or she is dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (2) If there is no seconder to the motion to the item or items, Council shall be deemed to have confirmed the item or items.

#### **46 Deferral Of Confirmation Of Minutes**

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

#### **Public Participation**

- (1) At an ordinary meeting of Council, time may be allocated in accordance with Council policy to enable any person to address Council on a matter included on the Agenda.
- (2) Sub-clause (1) does not apply during any period when Council has resolved to close the meeting in respect of a matter under section 66 of the Act.
- (3) Comments should be confined to the matter under consideration and directed to the Chairperson.
- (4) Council may decide to defer discussion to a later date and the views of the person addressing Council should be sought concerning that other date.

#### **47 Public Addressing The Meeting**

- (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.
- (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.
- (3) A member of the public present at a *Council meeting* must not disrupt the meeting.
- (4) Silence must be preserved in the gallery at all times.

#### **48 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 47(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 his or her authority in chairing the meeting.*

## Disorderly Conduct

The conduct of Councillors and Members at meetings is governed by the *Act*, these Rules and the Councillor Code of Conduct.

### 49 Chairperson may adjourn disorderly Meeting

- (1) The Chairperson may call a break in a Meeting for either a short time, or to resume another day if:
  - (a) the behaviour at the Council table or in the gallery is significantly disrupting the Meeting; or
  - (b) when a Meeting has been in progress for longer than 2 hours.
- (2) The break referred to in sub-clause (1) is an adjournment.
- (3) Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the Meeting, and prevents the conduct of Council business:
  - (a) Council may, by resolution, suspend that Councillor from a portion of the Meeting or from the balance of the Meeting where the Chairperson has warned the Councillor to cease that behaviour; or
  - (b) The Mayor, under section 19 of the Act, at a Council meeting, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the meeting for a period of time or the balance of the Meeting.
- (4) If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of sub-Rule 8 apply.

The Act (section 19(1)(b) provides the power to the Mayor to direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

### 50 Removal from Chamber

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 51.

## Additional Duties of *Chair*

### 51 The *Chair's* Duties And Discretions

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

- (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
- (2) must call to order any person who is disruptive or unruly during any meeting.



## Suspension of Standing Orders

### 52 Suspension of Standing Orders

- (1) To expedite the business of a meeting, *Council* may suspend standing orders.

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

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

- (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....."

- (3) No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.
- (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."

## Miscellaneous

### 53 Meetings Conducted Remotely

If:

- (1) by law a meeting may be conducted electronically; and
- (2) *Council* decides that a meeting is to be conducted electronically,

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

### 54 Procedure not provided in this Chapter

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).

### 55 Criticism of members of Council staff

- (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 him or her or any member of Council staff.
- (2) A statement under sub-Rule 55(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 resumed his or her seat.

### **Chapter 3 – Meeting Procedure for Delegated Committees**

Council may establish Delegated Committees and Advisory Committees as part of its governance framework. Delegated Committees can comprise Councillors, members of Council staff and others and must be chaired by a Councillor. As Council may delegate specific powers, duties and functions to Committees, their meeting procedures need to be formal.

If Council establishes a Delegated Committee, these Rules will apply to the Delegated Committee Meetings with any necessary modifications.

- (1) For the purpose of sub- rule (1):
  - (a) a Council meeting is to be read as a reference to a Delegated Committee Meeting;
  - (b) a Councillor is to be read as a reference to a Member of the Delegated Committee; and
  - (c) a reference to the Mayor is to be read as a reference to the Chairperson of the Delegated Committee.
- (2) If Council establishes a Delegated Committee, Council may resolve that a provision of this governance rules do not apply to that Committee.

## **Chapter 4 – Meeting Procedure for Community Asset Committees**

The Act provides for Council to establish a Community Asset Committee for the management of a community asset such as a hall. Council may appoint members of the community to the committee and delegate to it powers, duties or functions. The powers delegated to a community asset committee must be limited in the amount and purpose of any financial delegation.

- (1) The Governance Rules may apply to any Community Asset Committee established by Council.
- (2) Council may resolve, in establishing a Community Asset Committee which chapters of the Governance Rules apply.
- (3) A Community Asset Committee must report the minutes of all Committee Meetings to the next practicable Council meeting.
- (4) A Community Asset Committee must act in accordance with its adopted Charter, Instrument of Delegation and any Terms of Reference adopted by Council.

## Chapter 5 – Disclosure of Conflicts of Interest

### 1. Introduction

The *Act* defines general and material conflicts of interest and provides exemptions for remoteness and interests in common with a substantial proportion of ratepayers along with other specific circumstances.

The *Act* also provides Council must include in its Governance Rules procedures for disclosures of Conflicts of interest, including at meetings conducted under the auspices of Council that are not Council meetings. Meetings conducted under the auspices of Council include those meetings arranged or hosted by Council.

These Rules provide the procedures for disclosures of conflicts of interest.

### 2 Obligations with regard to conflict of interest:

(1) Councillors, members of Delegated Committees and Council staff are required to:

- Avoid - all situations which may give rise to conflicts of interest;
- Identify - any conflicts of interest; and
- Disclose – or declare all conflicts of interest;

### 3 Councillors and Members of Delegated Committees

- (1) May not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- (2) When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.
- (3) All disclosures of conflicts of interest will be recorded in the minutes of a Council or Delegated Committee Meeting.
- (4) Council will maintain a Conflict of Interest Register which will be made available on Council's website.

### 4 Procedure of a Conflict of Interest at a Council Meeting

A Councillor who has a conflict of interest being considered at a Council Meeting at which he or she:

- (1) is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting* immediately before the matter is considered; or
- (2) intends to be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council 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 Councillor's relationship with or a gift from another person, the:
    - i. name of the other person;
    - ii. nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
    - iii. nature of that other person's interest in the matter,

and then immediately before the matter is considered at the meeting announcing to those present that he or she has a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

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

## **5 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 he or she:

- (1) is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Delegated Committee* meeting immediately before the matter is considered; or
- (2) intends to 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:
    - I. name of the other person;
    - II. nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
  - (d) nature of that other person's interest in the matter,

and then immediately before the matter is considered at the meeting announcing to those present that he or she has a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

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

## **6 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 he or she:

- (1) is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Community Asset Committee meeting immediately before the matter is considered; or
- (2) intends to present must disclose that conflict of interest by providing to the Chief Executive Officer before the Community Asset 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 Councillor's relationship with or a gift from another person the:
  - I. name of the other person;
  - II. nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- (d) nature of that other person's interest in the matter,  
  
and then immediately before the matter is considered at the meeting announcing to those present that he or she has a conflict of interest and that a written notice has been given to the *Chief Executive Officer* under this sub-Rule.

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

## **7 Procedure at other meetings organised, hosted or supported by Council**

- (1) A Councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.
- (2) At the time indicated on the Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.
- (3) If there is no Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest as soon the matter arises.
- (4) At the time for discussion of that item, the Councillor will leave the discussion and not communicate with any members of the meeting for the duration of the discussion.
- (5) The existence of a conflict of interest will be recorded in the minutes of the meeting.
- (6) If there are no minutes kept of the meeting, the conflict of interest will be recorded in a meeting record and provided to the Governance team for recording in the register of Conflicts of Interest.
- (7) The meeting minutes or record will also record the duration of the discussion and whether the Councillor left the meeting.
- (8) Meeting records and reports will be presented to Council for noting and inclusion on the public record.

## **8 Council staff**

- (1) Must act in accordance with the Employee Code of Conduct.
- (2) Must not exercise a delegation or make a decision on any matter where they have a conflict of interest.
- (3) May be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at Rule 9 and the Employee Code of Conduct.

## **9 Procedure for disclosures of conflicts of interest by Council Staff**

- (1) Council staff must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.
- (2) All conflicts of interest disclosed by Council staff will be provided to the Governance team for recording in the register of Conflicts of Interest.
- (3) A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:
  - (a) The number and qualifications of other people providing advice regarding the same matter is equal or greater; or
  - (b) The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
  - (c) The staff member's Director determines that the conflict of interest has not influenced the advice provided; and
  - (d) The existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.

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

- (1) A member of Council staff who, in his or her 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:
  - (a) Council meeting;
  - (b) Delegated Committee meeting;
  - (c) Community Asset Committee meeting

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

- (2) The Chief Executive Officer must ensure that the Report referred to in sub-Rule 10(1) records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.
- (3) If the member of Council staff referred to in sub-Rule 10(1) is the Chief Executive Officer:
  - (a) the written notice referred to in sub-Rule 10(1) must be given to the *Mayor*; and
  - (b) the obligation imposed by sub-Rule 10(2) may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

- (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.
- (2) If the member of Council staff referred to in sub-Rule 11(1) is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

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

- (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.
- (2) If the member of Council staff referred to in sub-Rule 12(1) is the *Chief Executive Officer* the written notice must be given to the *Mayor*.



## Chapter 6 – Miscellaneous

### 1. Informal Meetings of Councillors

If there is a meeting of Councillors that:

- (1) is scheduled or planned for the purpose of discussing the business of *Council* or briefing Councillors;
- (2) is attended by at least one member of Council staff; and
- (3) is not a *Council meeting*, *Delegated Committee* meeting or *Community Asset Committee* meeting

the *Chief Executive Officer* must ensure that a summary of the matters discussed at the meeting are:

- (a) tabled at the next convenient *Council meeting*; and
- (b) recorded in the minutes of that *Council meeting*.

### 2. Confidential Information

- (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*, he or she may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- (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.

### 3. Joint council meetings

Regional collaboration provides benefits through collective procurement, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it's possible for the participating Councils to make their own decisions and determinations, in some circumstances, it may be beneficial to hold Joint Council Meetings as are provided for in the Act.

- (1) Council may resolve to participate in a Joint Council meeting to consider:
  - (a) Matters subject to discussion of the [insert existing alliance]
  - (b) Collaborative projects
  - (c) Collaborative procurement
  - (d) Emergency Response
- (2) If Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer (or delegate) will agree on governance rules with the participating Councils.
- (3) Where [your council] is the lead Council on a matter to be brought for consideration at a Joint Council meeting, the Mayor will be nominated to Chair the Joint Council meeting
- (4) At a majority of Councillors will be appointed to represent Council at a Joint Council meeting.

- (5) Consistent information will be provided to Councillors prior to any Joint Meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.
- (6) A joint briefing arranged in accordance with sub-rule (5) may be held electronically.

#### Section 62 Joint meetings of Councils

- (1) Two or more Councils may determine to hold a joint meeting.
- (2) A joint meeting is a Council meeting of each Council for the purposes of this Act and the provisions of this Act, except section 61(3), (4) and (5)(d), apply accordingly.
- (3) A joint meeting is to be constituted by the Councillors of the Councils holding the joint meeting consisting of—
  - (a) the total number of Councillors determined by the Councils holding the joint meeting; and
  - (b) at least 3 Councillors from each of the Councils holding the joint meeting.
- (4) A quorum at a joint meeting is constituted by the number of Councillors that is equal to at least a majority of the Councillors from each of the Councils holding the joint meeting.
- (5) Subject to subsections (2) and (6), the procedures for conducting a joint meeting are to be determined by the Councils holding the joint meeting.
- (6) A joint meeting must comply with any requirements prescribed by the regulations



## **Election Period Policy**

# I. Election Period Policy

## Council Plan Reference

The Election Period Policy links to the following Objective contained within the Council Plan 2017-2021.

'Performance' is about managing our resources wisely, providing organisational support services, strategic planning and risk management, in particular key direction 5.4:

*'Provide good governance and be accountable.'*

## Application period

Date policy/strategy approved: 7 October 2019

Date policy/strategy amended: to be updated when adopted in August

Date policy/strategy due for review: 1 July 2023.

## Legislative Context

[An Election Period Policy must be included in a Council's Governance Rules as per section 69\(1\) of the Local Government Act 2020 and should prohibit certain decisions during an election period.](#)

Section 76D of the [Local Government Act 1989](#), imposes serious penalties on a Councillor who misuses his or her position for private benefit, identified improper use of public resources as a misuse of position.

## Victorian Charter of Human Rights and Responsibilities Act

In developing this procedure, the subject matter has been considered to determine if it raises any human rights issues. In particular, whether the scope of any human right established under the Victorian Charter of Human Rights and Responsibilities Act 2006 is in any way limited, restricted or interfered with by the contents of this policy.

A Human rights assessment has been undertaken and it is considered that the Election Period Policy is consistent with, and in some instances advances rights outlined in the Charter.

The human rights most relevant to this policy are:

- Your right to recognition and equality before the law (section 8)
- Right to privacy and reputation (section 13)
- Your right to taking part in public life (section 18)

## Other Relevant Documentation

- 06176 Councillor Code of Conduct
- 09580 Cr Resource and Expense Entitlements Policy 2012
- 15753 Staff Code of Conduct
- 16674 & 16675 Councillor and Staff Interaction Protocol

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## ▪ Definitions and key terms used this Policy

Election Period	<p>The statutory caretaker requirements apply during the “election period”. <u>Local Government Act 2020</u> defines the election period to be the 32 day period that starts on the last day of nominations and ends at 6 p.m. on the Election Day. For the 2020 Council elections, this means that the mandatory election period will be:</p> <p>From midnight on 22 September 2020 until 6 p.m. on 24 October 2020.</p>
<u>Prohibited Decisions</u>	<p><u>Section 69(2) of the Local Government Act 2020 (2020 Act) outlines the types of decisions that an Election Period Policy must prohibit during an election period. These are decisions that:</u></p> <ul style="list-style-type: none"> <li>• <u>relates to the appointment or remuneration of the Chief Executive Officer</u></li> <li>• <u>commits the Council to expenditure exceeding one per cent of the Council's income</u></li> <li>• <u>could be reasonably deferred until after the election</u></li> </ul> <p><u>Section 69(3) prohibits any Council decision that would enable the use of Council resources that is intended to or would likely influence voting at the election.</u></p> <p>Note that this prohibition also applies to delegated decisions by committees or Council Staff</p>
Significant decisions	<p>Significant decisions that may irrevocably commit the incoming Council to substantial expenditure or to other significant actions; and decisions that may have an irrevocable and/or significant impact on the municipality or a significant section of the community</p>
Council resources	<p><u>Section 304(1) of the 2020 Act prohibits the use of Council resources in a way that is intended to or is likely to affect the result of an election.</u></p> <p><u>Council resources</u> includes Council funded/purchased items including:</p> <ul style="list-style-type: none"> <li>• Councillor and Corporate letterhead</li> <li>• Staff</li> <li>• Assets (Including Council vehicles)</li> <li>• Photos</li> <li>• Hospitality</li> <li>• Services</li> <li>• Property</li> <li>• Equipment</li> <li>• Stationery</li> </ul>
<u>Electoral material</u>	<p><u>Under section 304(2) a Councillor or member of Council staff must not use Council resources to print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of the Council</u></p> <p><u>Electoral material</u> is any matter that is “intended or likely to affect voting in an election” (excluding material produced by the returning officer for the purpose of conducting the election).</p> <ul style="list-style-type: none"> <li>• Publicises the strengths or weaknesses of a candidate</li> <li>• Advocates the policies of the Council or of a candidate</li> </ul>

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|  | <ul style="list-style-type: none"><li>• Responds to claims made by a candidate</li><li>• Publicises the achievements of the elected Council</li><li>• Publicises matters that have already been the subject of public debate</li><li>• <u>About matters that are known to be contentious in the community and likely to be the subject of election debate</u></li><li>• <u>Referring to Councillors or candidates by name or by implicit reference.</u></li></ul> |
|--|---|

This include Council publications that are produced for the purpose of communicating with people in the community, including:

- Council newsletters
- Advertisements and notices
- Media releases
- Leaflets and brochures
- Mailouts to multiple addressees
- The publication of such material on the internet.

## 2. Policy Scope

This policy applies to all Councillors, officers and contractors of Banyule City Council.

## 3. Policy Purpose

The Election Period Policy has been developed in order to ensure that general elections for Banyule City Council are conducted in a responsible, fair, equitable and transparent manner, and in accordance with statutory requirements and established “caretaker”.

The Policy covers the following:

- Decision making
- Misuse of resources
- Public consultation & events
- Equitable access to council information
- Council prohibition on publications or distributing material likely to influence voting

## 4. Policy

### 4.1 Decision Making

To ensure that Council does not make inappropriate decisions (as defined by Section [69\(2\)](#) and [\(3\)](#) of the [2020](#) Act) during the election period, the following will apply:

**Council will not schedule or conduct a Council Meeting in the election period.  
A person acting under delegation must not make a major policy decision.**

If exceptional circumstances arise, a Special Council meeting may be called for urgent items only that cannot be held over until the end of the election period. Council cannot make any *inappropriate decisions* that would affect voting in an election or decisions that can be reasonably made after the election and include *Major* and *Significant decisions*.

A Special Council meeting (called in accordance with the [Banyule Meeting Procedures Code](#)) may only be called in the following circumstances:

- the matter is urgent
- the decision is significant and cannot be reasonably deferred without major negative repercussions
- is required for operational purposes
- pursuant to a statutory requirement
- a decision cannot wait until after the election

As Council will not be holding an ordinary Council Meeting during the election period, the following headings under “[Prohibited](#) Decisions and Significant Decisions” only apply to reports for a Special Council Meeting.

The CEO will be responsible for determining if a matter is significant or urgent.



#### 4.1.1 Prohibited Decisions

During the election period, Section [69\(2\) and \(3\)](#) of the [2020 Act](#) prohibits Council making any decision during the election period for a general election that:

- (a) 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
- (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; or
- (c) the Council considers could be reasonably deferred until the next Council is in place; or
- (d) the Council considers should not be made during an election period.

#### 4.1.2 Significant Decisions

In addition to the decisions specified in section [69](#) of the [2020 Act](#), a Council is prohibited in making decisions during the election period that are of a significant nature and which would unnecessarily bind an incoming council. These include:

- adopting any new Policy, Strategy or Local Law
- major planning scheme amendment
- allocating community grants or other direct funding to community organisations
- changes to strategic objectives and strategies in the council plan.

Note that this prohibition also applies to delegated decisions by committees or Council Staff.

#### 4.1.3 Caretaker Statement - Special Council Meeting Reports

During the election period, the Chief Executive Officer (CEO) will ensure that an "Election Period Statement" is included in every report submitted to a Special Council meeting (if required) for a decision.

The "Election Period statement" will specify one of the following:

Not a <a href="#">prohibited</a> or significant decision	The recommendation will include "it is not a " <a href="#">Prohibited Decision</a> ", as defined in section <a href="#">69(2) and (3)</a> of the Local Government Act <a href="#">2020</a> , or a "Significant Decision" within the meaning of <a href="#">Council's Election Period Policy</a> ."
Not a <a href="#">prohibited</a> but a significant decision	The recommendation will include "is not a " <a href="#">Prohibited Decision</a> " within the context of Local Government Act <a href="#">2020</a> . The recommended decision is a "Significant Decision" within the meaning of <a href="#">Council's Election Period Policy</a> , but an exception should be made for the following reasons [insert reasons for making an exemption]".
Seek an exemption from the Minister	The recommendation will include "That Council seek an exemption from the Minister because the matter requires a <a href="#">Prohibited Decision</a> " within the meaning of section <a href="#">69(2) and (3)</a> of the Local Government Act <a href="#">2020</a> ".

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During the election period, the Council will not make a decision on any matter or report that does not include one of these election period statements.

## 4.2 Council Resources

**Council resources must be used exclusively for normal Council business during the election period and must not be used in connection with any election campaign or related activity.**

### 4.2.1 Misuse of Position

Council resources are not to be used for campaigning by sitting councillors to increase advantage over other candidates or to influence voters.

Councillors cannot use their current (or former) position as a councillor to gain access to information or resources that would otherwise not be available. Councillors that are not candidates cannot use information or resources to assist another candidate.

Section 76D of the [1989 Act](#), imposes serious penalties on a Councillor who misuses his or her position for private benefit.

#### Notes

##### Section 76D Misuse of Position

- (1) A person who is, or has been, a Councillor or member of a special committee must not misuse his or her position—
- (a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
  - (b) to cause, or attempt to cause, detriment to the Council or another person.

##### Penalty: 600 penalty units or imprisonment for 5 years or both

- (2) For the purposes of this section, circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a special committee include—
- (a) making improper use of information acquired as a result of the position he or she held or holds; or
  - (b) disclosing information that is confidential information within the meaning of section 77(2); or
  - (c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E; or
  - (d) exercising or performing, or purporting to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform; or
  - (e) using public funds or resources in a manner that is improper or unauthorised; or
  - (f) failing to disclose a conflict of interest as required under this Division.

#### 4.2.2 Mayor and Councillor Support

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

#### 4.2.3 Use of Council Equipment by Councillors

Councillors must not use Council issued equipment (including mobile phones, tablets, laptops, computers and/or printers) as a resource to assist with election campaigns. Councillors can return equipment if they choose, during the election period.

Councillors may continue to use any Council equipment provided to them to facilitate their performance of normal Council duties, subject to existing protocols and terms of use.

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

#### 4.2.4 Councillors' Entitlement to Reimbursement

Reimbursements of Councillors' out-of-pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that support or are connected with a candidate's election campaign or personal use.

#### 4.2.5 Travel and Accommodation

During the election period Councillors shall not participate in any interstate or overseas travel in their capacity as a Councillor. In circumstances where it is imperative that the Mayor (or nominee) represent Council on a delegation or forum, Council may, by resolution, approve such attendance. If consideration by Council is impractical, the Chief Executive Office may determine the issue.

#### 4.2.6 Council Branding

No Council events, logos, letterheads, business cards, postage, uniforms or other Council identifying items, or other material such as photographs sourced or created by Council or other Banyule branding should be used for, or linked in any way to, a candidate's election campaign.

Councillor candidates are to be mindful of reproducing Council information on personal websites and social media as they are subject to copyright.

Councillor candidates should not create the perception that Council in any way endorses their views or supports their election campaign presented on personal websites or social media by misrepresenting Council branding during campaigning and the Election Period. Council remains at all times impartial and unbiased.

#### **4.2.7 Data-bases and mailing lists**

The databases and mailing lists held by the organisation remain the property of the Council and are subject to the requirements of the Privacy & Data Protection Act 2014, and are therefore not available to members of the public, candidates or to councillors.

#### **4.2.8 Further Advice**

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.

## 4.3 Public Consultation & Events

**Public consultations and events must be avoided during the election period.**

### 4.3.1 Public Consultations

Council will not commence public consultation during the election period.

Where public consultation activities are necessary during the election period to facilitate the day to day business of Council and ensure matters continue to be proactively managed, any such public consultations will avoid express or implicit links to the election. Such consultation must be assessed on whether it is a contentious or politically sensitive matter.

In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the election period, Council reserves the right to postpone a matter if the issue is likely to affect voting.

### 4.3.2 Council Events/functions

Where Council organised events and functions cannot be held before or after the Election Period they will be reduced to only those essential to the operation of the Council. These include annual State wide events such as Children's Week and Seniors week.

Where the public event is totally unavoidable they will require the express permission of the CEO.

### Speeches & Invitations

Councillors must not give speeches at council events.

Invitations will be issued by the Banyule City Council and not under the name of the Mayor or Councillors.

### Events

Under no circumstances may candidates use Council events to campaign.

No political or campaign signage or material is permitted to be displayed or distributed at Council events.

### 4.3.3 Non Council Events

Councillors may from time to time be invited to attend non-council events from external groups. Councillors may attend non-Council events during the election care taker period. Should Councillors make a speech at such events they should disclose they are doing so in their own private capacity and not as a member of the Council.

### **Criteria for CEO approval**

Where the CEO is required to determine if a consultation, function or event is to be conducted during the election period, the CEO should consider:

- whether the content of the event is likely to be controversial
- whether the event could have significant consequences
- whether the event could wait until after the election
- the financial implications if the event was held during the election period or deferred until after the election
- the best interests of the Council
- whether the event is an ongoing yearly event therefore considered normal practice to continue i.e. children's week

## 4.4 Access to Information

**Factual information on existing Council programs, policies and/or projects will be available to all candidates. Council recognises that all election candidates have rights to information from the Council administration. Councillor Candidates will be treated in the same way as other candidates with respect to access to Council held information.**

It is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns. There shall be complete transparency in the provision of all information and advice during the election period.

### 4.4.1 Assistance to Councillors

Councillors will be able to obtain relevant information that is needed to perform their roles as Councillors. Councillors will not be able to obtain information that can be used for electioneering purposes.

Where Councillors are seeking to obtain Council information to use as part of their election campaigns the procedures as outlined in 4.4.2 Assistance to Candidates will apply.

Information and briefing material prepared by staff for Councillors during the election period will relate to factual matters or to existing Council services to assist Councillors in conducting normal day to day activities.

Should Councillors be approached by residents requiring information during the election period, Councillors must direct the residents to contact the administration.

Should a Councillor request information during the election period, it will be provided, subject to the Councillor demonstrating that the information relates to a current issue (ie. an issue that has previously been raised with the Council) and cannot be dealt with after the election period.

All requests by Councillors must be directed to the CEO, any request deemed outside of normal business will be declared on the information register as outlined in 4.4.3.

### 4.4.2 Assistance to Candidates

During the election period all candidates for the Council election will be treated equally. All election related enquiries from candidates, whether Councillors or not, will be directed to the Returning Officer, or where the matter is outside the responsibilities of the Returning Officer, to the CEO or a designated member of Council staff.

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.

When contacting Council, candidates are to advise that they are acting as a candidate or prospective candidate.

Candidates may be approached from time to time while campaigning by residents with service requests or complaints. Candidates must not seek to act as an intermediary between the resident and Council in these matters. Council will not liaise with candidates in relation

to resolving the service issue or complaint of a third party, they will only deal directly with the affected party.

#### 4.4.3 Information Register

1. An Information Request Register will be maintained by the Governance Department commencing on the opening of nominations on Thursday 17 September 2020. This Register will be a public document published on Council's website that records all requests for information of a non-election nature **by all candidates**, and the responses given to those requests.
2. Responses to candidate's requests – as per clause 1. - will be provided by Managers, Directors or the CEO.

The request for information will have regard to the following:

- Whether the request is reasonable request ie are not voluminous
- Commercial in confidence
- Privacy legislation
- Confidential matters
- Freedom of Information legislation

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#### 4.4.4 Staff Involvement

Council staff must not campaign either directly or indirectly for any candidate in the Banyule City Council election.

Any staff member that becomes aware that a candidate for the election is a friend, relative or associate, should declare this to their Manager and the CEO in writing.



## 4.5 Council Publications & Communications

The recommended practice – in line with State and Federal Governments – is where possible to avoid all publication activity during the election period except where it is essential for the conduct of Council operations.

Council communications are a legitimate way to promote Council activities and services and should not be used in any way that might influence the outcome of a Council election. Where a publicity campaign is deemed necessary for a Council service or function, the CEO must approve it.

### 4.5.1 Prohibited Material

Under section 304(2) a Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of the Council.

This is to ensure the Council does not publish material with public funds that may influence, or be seen to influence, people's voting decisions.

The Act contains offences for breaches of section 304. A breach may be prosecuted in Court and, if a person is found guilty, he or she may be convicted and fined up to 60 penalty units.

This includes:

- A Councillor or member of Council staff who intentionally or recklessly authorises, prints, published or distributes an uncertified publication containing electoral matter

#### Notes

##### **Prohibition on Councillor or member of Council staff**

**(1) A Councillor or member of Council staff must not use Council resources in a way that—**

- (a) is intended to; or**
- (b) is likely to—**

**affect the result of an election under this Act.**

**Penalty: 60 penalty units.**

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

**Penalty: 60 penalty units.**

(4) A Councillor or member of Council staff must not intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period on behalf of, or in the name of, the Council or on behalf of, or in the name of, a Councillor using Council resources if the electoral advertisement, handbill, pamphlet or notice has not been certified by the Chief Executive Officer under this section.

**Penalty: 60 penalty units.**

### 4.5.2 Certification of all Publications during Election Period

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

~~This also applies to certification before the election period for some material to be issued in the election period.~~

~~A CEO must not certify a publication that contains electoral matter, unless that material is only about the election process. The certification by the CEO must be in writing and cannot be delegated.~~

### 4.5.3 Information, Publications, Media during election period

#### Social Media

Any publication on Council's social media sites such as Facebook, Instagram and Twitter during the election period must be certified by the CEO.

The Mayoral Facebook page will be suspended during the election period.

Staff responsible for administering individual social media sites will monitor their respective sites during the election period and use moderation features where available to ensure no electoral matter is posted and all social media activity during the election period is to conform with the following:-

- Facebook, Instagram and Twitter posts to be kept to minimum, normal day-to-day activities only.
- No launches or announcements of any new projects, policy initiatives, or programs.
- No matter is permitted that may be construed as **electoral matter** – sites should be reviewed to ensure there is none.
- No hosting or responding to political content at all is permitted.
- Any election related comments/posts by the public should be deleted as soon as possible.
- The only information regarding the election that can be posted and responded to is regarding the location of voting booths.

#### Personal Councillor Social Media Accounts

Personal Councillor and candidate social media accounts should be used in accordance with sections 4.2.1, 4.2.3 and 4.2.6 of the Election Period Policy.

Any candidate using material which is linked to Council on personal social media accounts should include a statement that they act as an individual and not a member of Council.

## **Council Publications including Councillor Information**

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

### **Annual Report**

Council is required under sections 131 and 133 of the [1989 Act](#) to produce and put on public display a copy of its Annual Report. The 2019-2020 Annual Report may be published during the election period. The Annual Report will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.

### **Website**

Material published on Council's website in advance of the election period is not subject to certification, however existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that would be considered electoral matter, were it to be published during the caretaker period. Any new pages or new material to be updated on the website during the election period will require certification.

Councillor contact information will remain available on the Councillor profile pages but will be limited to names, contact details, date elected and membership of committees. Councillor profile photographs, profiles or policy statements will be removed.

Any reference to the election on the website will be restricted to process only.

If a Councillor maintains a private website, the Councillor should place a disclaimer on the website to the effect that no Council resources are being used to communicate political material.

### **Media**

Media releases will not mention or quote any Councillor(s) during the election period. The CEO is the spokesperson for the Council during this period.

During the election period, no Council officer may make any public statement that relates to an election issue unless prior approval has been obtained by the CEO or his or her delegate.

### **The Banner and Councillor Ward newsletter**

The Banner and Councillor Ward newsletter will not be published or distributed during the election period. The CEO will determine an appropriate cut off period for distribution of any publications that contain Councillor material, such as the ward newsletters, to ensure none are in circulation during the election period.

### **Other publications and bulk mailouts**

There are to be no bulk mailouts to the community or to ratepayers.

## **Correspondence**

Responses to correspondence will be signed by the relevant Director, Manager or CEO.

## **Criteria for CEO approval**

The CEO will not grant approval for a publication that refers to:

- the election (other than about the election process);
- election candidates, including current councillors; or to
- issues which may be before the voters in an election.

The CEO may grant approval to a publication that contains information:

- about the election process; or
- about Council's services, but does not refer to a current councillor.

All publications will require vetting by the Governance department prior to CEO certification.

## **Campaign Material**

Councillors producing their own campaigning publications should not mislead or give the impression the content has been produced or endorsed by Council.

Material as detailed in 4.2.6 should not be used in personal campaign publications to be sure not to mislead the public of the intent or origin of the publication.