



**Merri-bek**  
City Council



# Governance Rules

Adopted April 2024

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## COMMITMENT

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Good governance, integrity and accountability are central to the *Local Government Act 2020* (“the Act”), to underpin local government democracy, accountability, conduct and enable our community to hold the Council to account. Council is committed to embedding the principles of good governance throughout its decision making, corporate governance and democratic governance by establishing and adhering to the Governance Rules established.

The principles of good governance incorporate the principles outlined in the Act, including the overarching governance principles as well as the public transparency, community engagement, strategic planning, service performance and financial management principles.

Council decision making will be founded on good governance and conducted with transparency. The process by which decisions will be made is transparent and clearly articulated in these Governance Rules for the scrutiny of our community and accountability of Councillors and Council officers. Council recognises that accountability, integrity and transparency are of fundamental importance to our community and are critical for enhancing good governance.

Council seeks to apply good governance in order to:

- Engage our community in decision making;
- Achieve the best outcomes for the Merri-bek community, including future generations;
- Ensure the transparency of Council decisions, actions and information;
- Ensure the ongoing financial viability of Council;
- Increase our performance;
- Drive out inefficiencies; and
- Reassure residents that we are spending public monies wisely.

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## CHAPTER 1 - INTRODUCTION

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### 1.1 Purpose

These Governance Rules determine the way in which Council will:

- a) Make decisions:
  - in the best interest of the Merri-bek community;
  - fairly and on the merits of the question;
  - in a way that ensures any person whose rights will be directly affected by a decision will be entitled to communicate their views and have their interests considered;
- b) Elect its Mayor and Deputy Mayor;
- c) Conduct Meetings of Council and Delegated Committees;
- d) Give notice of Meetings and record and make available Meeting records (Minutes and livestreamed Meetings);
- e) Be informed in its decision making through community engagement, Advisory Committees, Councillor areas of responsibility and Council officer reports;
- f) Require the disclosure and management of conflicts of interest.

The Governance Rules also include:

- Rules for the conduct of Council and Councillors during Election Periods, through the Election Period Policy;
- An overview of alignment of the Governance Rules within Council's democratic and corporate governance; and
- Provisions for use of the Common Seal.

### 1.2 Principles

Council must, in the performance of its role, give effect to the overarching governance principles outlined in the Act. These principles are:

- a) Council decisions are to be made and actions taken in accordance with the relevant law;
- b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- c) The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- d) The municipal community is to be engaged in strategic planning and strategic decision making;
- e) Innovation and continuous improvement are to be pursued;
- f) Collaboration with other Councils and Governments and statutory bodies is to be sought;

- g) The ongoing financial viability of the Council is to be ensured;
- h) Regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
- i) The transparency of Council decisions, actions and information is to be ensured.

In giving effect to the overarching governance principles, Council must take into account the following supporting principles —

- a) the community engagement principles;
- b) the public transparency principles;
- c) the strategic planning principles;
- d) the financial management principles;
- e) the service performance principles.

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## CHAPTER 2 - CONTEXT

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### 2.1 Affected Persons Rights and Interests<sup>1</sup>

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 considerations.

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).

Before making a decision that affects a person's rights, Council (including persons acting with the delegated authority of Council) will identify whose rights may be directly affected and provide an opportunity for that person (or persons) to convey those views regarding the effect on their rights and consider those views.

This includes but is not limited to the rights outlined in the *Charter of Human Rights and Responsibilities Act 2006* and Council's Human Rights Policy.

The opportunity provided for a person whose rights have been affected to contribute their views will be documented in any relevant report put before the Council or Delegated Committee.

A Council officer making a decision under delegation that affects the rights of a person will record in writing the opportunity provided to the person to have their views considered.

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<sup>1</sup> Section 60(2) Local Government Act 2020

## 2.2 Merri-bek’s Governance Setting



## 2.3 Context

The Governance Rules are to be read in the context of and in conjunction with:

- Community Engagement Policy
- Public Transparency Policy;
- Good Governance Framework;
- Conflicts of interest Guidance as issued by Local Government Victoria; Councillor Code of Conduct;
- Employee Code of Conduct;
- Other relevant policies.

Each numbered section or sub-section is a Rule or Sub-Rule.



## 2.4 Definitions

(1) In these Governance Rules:

**Act** means the *Local Government Act 2020*;

**Absolute Majority** means the number of Councillors which is greater than half the total number of the Councillors of a Council. In the case of a Delegated Committee an Absolute Majority is the number of members which is greater than half the number members appointed to the Delegated Committee.

**Advisory committee** means a committee established by the Council, that provides advice to:

- (a) the Council; or
- (b) a Delegated Committee; or
- (c) a member of Council staff who has been delegated a power, duty or function of the Council;

that is not a Delegated Committee.

**Agenda** means a document containing the date, time and place of a Meeting and a list of business to be transacted at the Meeting.

**Agreement of Council** means indicative agreement of all Councillors present, without a vote being conducted. In the event there is any uncertainty about majority of Councillors agreeing, the matter may be put to a vote.

**Authorised Officer** has the same meaning as in the Act.

**Chairperson** means the Chairperson of a Meeting and includes an acting, temporary and substitute Chairperson.

**Council Chamber** means any room where the Council holds a Council Meeting.

**Chief Executive Officer** means the person occupying the office of Chief Executive Officer of Council, and includes a person acting in that office.

**Common Seal** means the common seal of Council.

**Council** means Merri-bek City Council.

**Councillor** means a Councillor of Council.

**Council Meeting** means a Meeting of the Council convened in accordance with these Governance Rules and includes scheduled and unscheduled meetings (unscheduled meetings known as Special meetings as per definition below) and meetings designated for Planning and Related Matters, whether held face to face (in person) attendance in a set location or via electronic means (virtual) or in a hybrid format that includes both in person and electronic attendance.

**Council staff** means a person who is appointed (other than an independent contractor under a contract for services or a volunteer) to enable the functions of the Council to be carried out.

**Delegate** means a member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation from the Chief Executive Officer.

**Delegated Committee** means a Committee established by Council to which powers, duties or functions have been delegated in accordance with section 11 of the Act.

**Deputy Mayor** means the Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor.

**Director** means a senior member of Council staff holding the position of Director or another position (however designated) which reports directly to the Chief Executive Officer.

**Disorder** means any disorderly conduct of a member of the Gallery or a Councillor and includes:

- interjecting when another person is speaking, except, in the case of a Councillor, to raise a Point of Order;
- making comments that are defamatory, malicious, abusive or offensive;
- refusing to leave the Meeting when requested, ordered or directed to do so by the Chairperson in accordance with these Governance Rules; and
- engaging in any other conduct which prevents the orderly conduct of the Meeting.

**Foreshadowed Item** means a matter raised in the relevant section of the Council Meeting that a Councillor intends to submit a Notice of Motion for the next Council Meeting.

**Majority of the Votes** means a majority of Councillors present at the time of a vote voting in favour of a matter.

**Mayor** means the Mayor of Council and any person appointed by Council to be acting as Mayor, including a Deputy Mayor, if the Mayor is not available.

**Meeting** means Council Meeting as described above

**Meeting Designated for Planning and Related Matters** means a Council Meeting that is held only for the consideration of planning and related matters.

**Minister** means the Minister administering the Act.

**Minutes** means the official record of the proceedings and decisions of a Meeting.

**Motion** means a proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted.

**Notice of Motion** means a notice setting out the text of a Motion which a Councillor proposes to move at a Council Meeting.

**On Notice** means held or deferred to enable preparation of a response.

**Point of Order** means a procedural point (about how the Meeting is being conducted), not involving the substance of a matter before a Meeting.

**Procedural Motion** means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure.

**Rule or Sub-Rule** means a Rule or Sub-Rule included in these Governance Rules.

**Second vote** means a vote cast by the Chairperson when there has been an equality of votes cast for and against a matter (also known as a casting vote). A Councillor who does not vote will be taken to have voted against the question;

**Special Meeting** means an unscheduled Meeting of the Council to consider a matter that cannot be effectively dealt with in the schedule of Council Meetings and/or is convened for a particular purpose such as the Election of Mayor and Deputy Mayor.

**these Rules** means these Governance Rules.

(2) Definitions provided by the Act

The following definitions provided by the Act are applied to these Governance Rules:

**Confidential Information** means the Confidential Information established under section 3(1) of the Act, and means

- (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;
- (b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person;
- (c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values;
- (d) law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;
- (e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;
- (f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
- (g) private commercial information, being information provided by a business, commercial or financial undertaking that:
  - i) relates to trade secrets; or
  - ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;
- (h) confidential Meeting information, being the records of Meetings closed to the public under section 66(2)(a);
- (i) internal arbitration information, being information specified in section 145;
- (j) Councillor Conduct Panel confidential information, being information specified in section 169;
- (k) information prescribed by the regulations to be confidential information for the purposes of this definition;
- (l) information that was confidential information for the purposes of section 77 of the Local Government Act 1989;

**Electoral Material** means an advertisement, handbill, pamphlet or notice that contains Electoral Matter but does not include an advertisement in a newspaper that is only announcing the holding of a Meeting.

**Electoral Matter** means matter which is intended or likely to affect voting in an election but does not include any Electoral Material produced by or on behalf of the election manager for the purposes of conducting an election.

**Nomination Day** means the last day on which nominations to be a candidate at a Council election may be received in accordance with the Act and the regulations.

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## CHAPTER 3 – MEETING PROCEDURE

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The way in which Council and Delegated 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 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 the 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.

Each member of the Meeting has an obligation to participate in good decision-making through their preparation and contribution to the Meeting.

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

### **3.1 Purpose of Council Meetings**

- (1) Council holds Council Meetings and, when required, Special Meetings to conduct the business of Council.
- (2) Council is committed to transparency in decision making and, in accordance with the Act, Council and Delegated Committee Meetings are open to the public and the community are able to attend. Meetings will only be closed to members of the public if:
  - (a) the Meeting is to consider confidential information; or
  - (b) a Meeting is required to be closed for security reasons; or
  - (c) it is necessary to enable the Meeting to proceed in an orderly manner.
- (3) If a Meeting is closed to the public for the reasons outlined in Sub-Rule 2(b) or 2(c), the Meeting will continue to be livestreamed. In the event a livestream is not available, the Meeting will be adjourned.
- (4) For the avoidance of doubt, if a Meeting is open to the public and the livestream is not available, a Meeting that has not commenced will proceed as scheduled and a Meeting that has commenced will continue.

## **3.2 Meeting Roles**

### **3.2.1 Chairperson and Members**

- (1) The Chairperson, Councillors and members of Delegated Committees will ensure good decision-making by endeavouring to ensure:
  - (a) Decision making is transparent to members and observers;
  - (b) Meeting members have sufficient information to make good decisions;
  - (c) Every member is supported to contribute to decisions;
  - (d) Any person whose rights are affected has their interests considered;
  - (e) Debate and discussion is focussed on the issues at hand;
  - (f) Meetings are conducted in an orderly manner.

### **3.2.2 Mayor to take the Chair**

- (1) The Mayor must take the Chair at all Council Meetings at which the Mayor is present.
- (2) If the Mayor is not in attendance at a Council Meeting, the Deputy Mayor (if one has been elected) must take the Chair.
- (3) If the Mayor and any Deputy Mayor are not in attendance at a Council Meeting, Council must appoint one of the Councillors as a temporary Chairperson.

### **3.2.3 Delegated Committee Chairperson**

- (1) At the Meeting at which Council appoints the members of a Delegated Committee it must also appoint a Chairperson. If Council is appointing a single member as a result of a vacancy, or additional members, there is no change to the appointed Chairperson unless resolved by Council.
- (2) For the avoidance of doubt, Sub-Rule (1) does not intend to limit the powers of the Mayor provided in the Act.

### **3.2.4 The Chairperson's Duties and Discretions**

In addition to the specific duties and discretions provided in these Governance Rules, the Chairperson:

- (1) must not accept any Motion, question or statement which is:
  - (a) vague or ambiguous;
  - (b) defamatory, malicious, abusive or objectionable in language or substance;  
or
  - (c) outside the powers of Council;
- (2) must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise during the Meeting.
- (3) must call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council.
- (4) may direct that a vote be recounted to be certain of the result.

- (5) must decide on all points of order in accordance with Rule 3.10 and
- (6) May adjourn a Disorderly Meeting.
- (7) Subject to Rule 3.1 (2), the Chairperson may determine to close a Meeting to the public to maintain security and order, if the circumstances prevent seeking a Council resolution in accordance with Rule 3.13.
- (8) Where the Governance Rules do not provide a procedure for the meeting, the Chairperson may determine the procedure to be followed in consultation with the Chief Executive Officer and relevant Governance officer.

### **3.2.5 Chief Executive Officer**

- (1) The Chief Executive Officer, or delegate, may participate in the Meeting to provide support to the Chairperson and advice to the Meeting.
- (2) The Chief Executive Officer:
  - (a) Must immediately advise if a proposed resolution or action is, to their knowledge, contrary to legislation or Council Policy;
  - (b) May advise if there are administrative or operational implications arising from a proposed resolution;
  - (c) May assist to clarify the intent of any unclear Motion to facilitate implementation of a resolution;
  - (d) On request, assist with procedural issues that may arise.

### **3.2.6 Councillors and members of Delegated Committees**

Councillors and members of Delegated Committees contribute to good governance and decision making by:

- (1) Seeking views of community members and reading Agenda papers prior to the Meeting.
- (2) Demonstrating due respect and consideration to community views and the professional / expert advice provided in the Agenda papers.
- (3) Attending Meetings and participating in debate and discussion.
- (4) Demonstrating respect for the role of the Chairperson and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making.
- (5) Being courteous and orderly.

### **3.2.7 Community**

- (1) Council Meetings are decision making forums for the Council that are open to the community to attend and/or view proceedings.
- (2) Community members may only participate in Council Meetings in accordance with Rule 3.6.
- (3) Community members are encouraged to participate in Council's engagement processes.

- (4) Community members may seek to inform individual Councillors of their views by contacting them directly in advance of Meetings.

### 3.2.8 Apologies and absences

- (1) Councillors and members of Delegated Committees who are unable to attend a Meeting may submit an apology:
  - (a) In writing to the Chairperson, who will advise the Meeting; or
  - (b) By seeking another Councillor or member of the Delegated Committee to submit it at the Meeting on their behalf.
- (2) An apology submitted to a Meeting will be recorded in the Minutes.
- (3) A Councillor intending to take a leave of absence must submit it in writing to the Mayor.
- (4) The Mayor will seek to have any leave of absence request received included in the Agenda of the next Council Meeting.
- (5) A leave of absence not included in a Council Meeting Agenda may still be considered by Council if a written request has been received by the Mayor prior to the Meeting.
- (6) Council will not unreasonably withhold its approval of a leave of absence request.
- (7) A Councillor who has not submitted an apology or had a leave of absence approved who is not in attendance at a Council or Delegated Committee Meeting will be recorded as absent.<sup>2</sup>
- (8) For the benefit of clarity, should unplanned leave of absence occur (between two Council meetings), Council will receive the request at the next possible Council meeting for approval, providing Sub-Rule (5) is met.

### 3.2.9 Attendance at meetings by electronic means

- (1) Councillors and members of Delegated Committees who wish to attend a meeting via electronic means must submit a written request to the Mayor (or Chairperson), no later than 30 minutes prior to the commencement of the meeting.
- (2) The Mayor (or Chairperson), must grant any reasonable request from a Councillor or member to attend a meeting by electronic means.
- (3) At the commencement of each meeting, the Mayor (or Chairperson), will advise the meeting of any Councillors or members that have been granted approval to attend the meeting by electronic means.
- (4) It will remain the responsibility of the Councillor or member attending electronically to ensure that they have the required access and environment suitable for electronic communications. This includes ensuring that they are in a private and secure place when attending a Confidential meeting.

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<sup>2</sup> *Section 35 (1) (e) of the Act* provides a Councillor ceases to hold office if they are absent from Council Meetings for a period of 4 consecutive months without leave obtained from the Council.



- (5) A Councillor or member that has not sought approval to attend a meeting by electronic means in accordance with 3.2.9(1), and cannot attend the meeting in person, will be recorded as absent.

### **3.3 Notice of Meetings and availability of Agenda**

#### **3.3.1 Date, time and place of Council Meetings**

- (1) At or before the last Meeting each year, Council must fix the date, time and place of all Council Meetings and any Delegated Committee Meetings for the following calendar year.
- (2) Council may resolve a Delegated Committee will set its own schedule of Meetings.
- (3) When setting the dates of Council Meetings, Council may set Meetings Designated for Planning and Related Matters.
- (4) Council by resolution, or the Chief Executive Officer, may change the date, time and place of, or cancel, any Council Meeting which has been fixed, or schedule an additional Council Meeting and must provide notice of the change to the public.

#### **3.3.2 Special Meetings**

- (1) Council may by resolution call a Special Meeting. Any resolution of Council to call a Special Meeting must specify the date and time of the Special Meeting and the business to be transacted. The date and time of the Special Meeting must not be prior to 6pm on the day following the Council Meeting at which the resolution was made.
- (2) The Mayor, or at least three Councillors may by written notice to the Chief Executive Officer call a Special Meeting. A written notice to call a Special Meeting must:
  - (a) Specify the preferred date and time and 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 Sub-Rule 3.3.4.
- (3) The Chief Executive Officer, following consultation with the Mayor, may call a Special Meeting.
- (4) In the event a Special Meeting is to be called pursuant to Sub-Rule (2) and (3), the Chief Executive Officer must determine the time and date for the Special Meeting giving consideration to:
  - (a) the urgency of the business to be transacted;
  - (b) the availability of Councillors; and
  - (c) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted
- (5) The Chief Executive Officer must arrange for notice of the Meeting on Council's website, and other mediums that will maximise the opportunity for the community to be notified in accordance with Sub-Rule 3.3.4.
- (6) The Chief Executive Officer must call a Special Meeting to elect a Mayor following a Council election declaration, in accordance with the Act.

- (7) The Special Council Meeting for the election of a Mayor following an election may also consider the role of Deputy Mayor and any other matters as determined by the Chief Executive Officer.
- (8) Only the business specified in the Council resolution, or written notice, may be considered at a Special Meeting, unless by unanimous resolution determines to admit another matter.

### 3.3.3 Call of the Council

- (1) If a quorum cannot be achieved or maintained repeatedly (3 or more times) due to the absence of Councillors, the Chief Executive Officer may require all Councillors to attend a Call of the Council Meeting.
- (2) Notice of the Meeting must be given in accordance with Sub-Rule 3.3.4(2).
- (3) The Agenda for a Call of the Council Meeting must only contain matters that have been unable to be transacted because a quorum has not been achieved or maintained.
- (4) If a Councillor does not attend within 30 minutes after the time fixed for a call of the Council Meeting, or remain at the Meeting for the business to be conducted, the Chief Executive Officer must, following the Meeting, seek a reason in writing from the Councillor(s) not in attendance.
- (5) If, after considering the reason provided by the Councillor for the absence in accordance with Sub-Rule (4), the Chief Executive Officer, in consultation with the Mayor, or Deputy Mayor if the reason has been provided by the Mayor, does not consider the Councillor has provided a reasonable excuse for not attending, the Chief Executive Officer must recommend to the Council to make an application for an internal arbitration process in accordance with section 143 of the Act<sup>3</sup>.

### 3.3.4 Notice of Meetings

- (1) A schedule of Council Meetings must be prepared and published on Council's website and in ways that ensures it is available to a broad section of the community 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.
- (2) A notice of a Meeting, that is not a Special 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 six days before the Meeting. A period of less than six days may be justified if exceptional circumstances exist. If exceptional circumstances exist as to why a notice of the meeting cannot be given

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<sup>3</sup> **Section 143 of the Act provides:** Application for an internal arbitration process

(1) An arbiter may hear an application that alleges misconduct by a Councillor.

(2) An application for an internal arbitration process to make a finding of misconduct against a Councillor may be made by—

(a) the Council following a resolution of the Council; or

(b) a Councillor or a group of Councillors.

in accordance with this rule, the exceptional circumstances must be set out/explained in the agenda.

- (3) An Agenda for a Council Meeting held in accordance with the schedule of Council Meetings prepared in accordance with Sub-Rule (1) will be made available on Council's website at least 6 days prior to the Meeting, or at the same time that the agenda is made available to Councillors, whichever comes sooner.
- (4) An Agenda for a Special 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.
- (5) An Agenda for a Special Meeting will be made available on Council's website no less than 24 hours before the Council Meeting.
- (6) The extraordinary circumstances that mean Council is unable to give the notice described in this Rule must be recorded in the Minutes of the relevant Special Meeting.
- (7) Notice of a Special Meeting must be published on Council's website and in ways that will be available to a broad section of the community as soon as practicable after the time and date of the Meeting has been determined.
- (8) If a Special Meeting is called to consider a matter that directly affects the rights of any person(s), every endeavour must be made to notify that person(s).

### **3.4 Quorum**

- (1) Meetings must commence within 30 minutes of the scheduled starting time. A Councillor or member attending a meeting by electronic means of communication with the approval of the Mayor (or Chairperson), is deemed present for the purposes of a quorum.
- (2) If, after 30 minutes from the scheduled starting time of any Meeting, a quorum cannot be obtained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Delegate, may reschedule the Meeting for a period not exceeding seven days from the original date of the meeting.
- (3) If, during any Meeting or any adjournment of the Meeting, a quorum cannot be maintained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Delegate, may reschedule the Meeting to a date not exceeding seven days from the original date of the meeting.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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.

**3.4.1 Notice of adjourned Council Meeting**

- (1) The Chief Executive Officer must provide written notice, including by electronic means, to each Councillor of any Council Meeting adjourned to another date or time.
- (2) Where it is not practicable because time does not permit notice in accordance with Sub-Rule (1) to occur, then, provided every reasonable attempt is made to contact each Councillor either verbally, or by some other means, it will be sufficient.
- (3) Notice of an adjournment to another date or time must be published on Council’s website as soon as practical.

**Quorum Calculation**

**Section 61(4) of the Act** provides that a quorum at a Meeting must be at least a majority of the Councillors or members of the Delegated Committee.

Number of Councillors/Committee Members	Number required for Quorum
11	6
10	6
9	5
8	5
7	4

**3.5 Business of Meetings**

The business to be transacted at a Council Meeting is contained in the Agenda provided to Councillors and available to the public on Council’s website. The Chief Executive Officer oversees preparation of the Agenda and determines the content and order of business to facilitate open, efficient and effective processes of government. The role of the Mayor includes providing advice to the Chief Executive Officer when the Chief Executive Officer is setting the

Agenda for Council Meetings. Council can admit an item of urgent business if it has arisen after distribution of the Agenda and cannot be reasonably deferred to the next Meeting.

### **3.5.1 Business at Meetings**

- (1) The Chief Executive Officer may include any matter on the Agenda for a Council Meeting which he or she thinks should be considered at the Meeting to which the Agenda relates.
- (2) No business can be dealt with at a Council Meeting unless it is:
  - (a) Contained on the Agenda; or
  - (b) Admitted as Urgent Business in accordance with Sub-Rule 3.5.6

### **3.5.2 Order of business for Council Meetings**

The order of business must be determined by the Chief Executive Officer to facilitate and maintain open, efficient and effective processes of government. Generally, the order of business of any scheduled Council Meeting will be as follows:

- (a) Welcome;
- (b) Apologies/Leaves of Absence;
- (c) Disclosures of conflicts of interest; (Rule 5.3)
- (d) Confirmation of Minutes of previous Meetings; (Rule 3.11.3)
- (e) Acknowledgements and Other Matters (Rule 3.5.5)
- (f) Petitions; (Rule 3.6.5)
- (g) Public question time; (Rule 3.6.2)
- (h) Council reports;
- (i) Notices of Motion; (Rule 3.9.14)
- (j) Notices of rescission; (Rule 3.9.15)
- (k) Foreshadowed Items;
- (l) Urgent business; (Rule 3.5.6);
- (m) Confidential business.

### **3.5.3 Order of business for Meetings Designated for Planning and Related Matters**

The order of business of any Meeting Designated for Planning and Related Matters will be as follows:

- (a) Welcome;
- (b) Apologies;
- (c) Disclosures of conflicts of interest; (Rule 5.3)
- (d) Confirmation of Minutes of previous Meetings; (Sub-Rule 3.11.3)
- (e) Council reports;
- (f) Urgent business (Rule 3.5.6);
- (g) Confidential business.

### 3.5.4 Change to order of business

- (1) Once an Agenda has been sent to Councillors, the order of business for that Meeting may be altered with the Agreement of Council.
- (2) If the Agreement of Council is not achieved, the order of business may be altered by a resolution of Council.
- (3) The Chief Executive Officer, following consultation with the Mayor, may withdraw a report included in the Agenda, if special circumstance exist that mean Council consideration of the report would not be appropriate.

### 3.5.5 Acknowledgements and Other Matters

- (1) At each Council Meeting of Council provision of 10 minutes has been made in the Agenda for the Mayor and Councillors to:
  - a) Acknowledge and recognise achievements of local individuals and organisations; and
  - b) Raise matters considered important to Council.
- (2) For the purposes of raising matters as outline in Sub-Rules (1) (a) and (b), the nature of these matters should not be the subject of an item already listed in the Council agenda, does not require a decision of Council or cannot address matters where internal mechanisms already exist (i.e. raising matters to address customer requests).
- (3) The Chairperson will manage the time commitment across Councillors indicating their intent to speak.
- (4) Where an item is requiring a decision of Council, these matters must be raised in accordance with the provisions as outlined in Urgent Business (3.5.6), Notices of Motion (3.9.14) or Foreshadowed Items (3.9.17).

### 3.5.6 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 the submitter provides a clear justification for how:
  - (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
- (2) The Chief Executive Officer, in consultation with the Mayor, may also bring to the attention of Councillors, an item of Urgent Business, that is urgent in nature, and that cannot be addressed through an operational service request process.
- (3) In addition to the requirements in Sub-Rule (1), where Urgent Business is to be admitted to a Meeting Designated for Planning and Related Matters, the urgent business must relate to a planning matter.

- (4) 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.
- (5) The Chief Executive Officer will advise the Mayor of any matter he or she determines appropriate for Council to consider admitting as urgent business.
- (6) The consideration of Urgent Business is a two-step process as follows:
  - (a) At the point in the agenda when Urgent Business is listed, the Chairperson will seek any items of Urgent Business.
    - (i) The Councillor proposing an item of Urgent Business is to briefly describe the nature of the matter (at this point the Council is not moving a motion) and seek that the item to be accepted as urgent business.
    - (ii) The Chairperson will seek a mover and seconder to accept the item as Urgent Business.
  - (b) A motion may then be moved and seconded in accordance with Rule 3.9 – Motions and debate.

### **3.5.7 Time Limits for Meetings**

- (1) A Meeting must not continue after three hours from the time it commences unless a majority of Councillors present vote in favour of its extension in accordance with this Rule.
- (2) Extensions of a Meeting will be in block periods of 30 minutes.
- (3) After the initial 30 minute extension the Meeting must not continue unless a majority of Councillors present vote in favour of a further extension.
- (4) A Meeting may only be continued for a maximum of two 30 minute extensions.
- (5) In the absence of such extensions as provided for in Sub-Rules (1), (2) and (3), or in the event there is further business to be transacted at the completion of two extensions, the Meeting must stand adjourned to 6 pm on the following day. In that event, the provisions of Sub-Rule 3.4.1.
- (6) Notwithstanding Sub-Rule (5), the Chairperson may seek the Agreement of Council not to adjourn the Meeting to the following day, if the Chairperson reasonably believes the remaining business will take less than 10 minutes to transact.

### **3.5.8 Chairperson may temporarily adjourn a Meeting exceeding two hours**

- (1) The Chairperson may adjourn a Meeting for a 10 minute break, at an appropriate point in proceedings after two hours has elapsed.
- (2) Notwithstanding Sub-Rule (1), the Chairperson may seek the Agreement of Council not to adjourn the Meeting if the Chairperson reasonably believes the remaining business of the Meeting will take less than 30 minutes to transact.

## 3.6 Community Questions and Submissions

### 3.6.1 Questions of Council and Community Statements

- (1) Members of the public may only address a Council Meeting in accordance with the provisions of these Governance Rules.
- (2) Unless Council resolves differently, there must be a time provided for questions of Council and Community Statements at every scheduled Council Meeting not designated for Planning and Related Matters to enable members of the public to submit questions to Council.
- (3) Sub-Rule (2) does not apply during any period when a Meeting is closed to members of the public in accordance with section 66(2) of the Act.
- (4) There will be no Questions of Council and Community Statements during a local government election period.
- (5) The time provided for questions of Council and community statements will not exceed 30 minutes in duration, unless by resolution of Council, in which case, the time may be extended for one period of up to 30 minutes.
- (6) Priority will be given to questions and statements that relate to matters listed in the Agenda. If time allows, questions about items other than those listed on the Agenda will be considered.
- (7) A maximum of two questions or statements, in any combination, is allowed per person. If a person has submitted two questions or statements, the second or statement question may, at the discretion of the Chairperson:
  - (a) be deferred until all other persons who have submitted questions have asked their first question; and/or
  - (b) not be asked or permitted if the time allotted for public question time has expired.
- (8) A person submitting two questions or statements, in any combination, may identify the priority order of the questions or statements.
- (9) Prior to the hearing of Questions of Council and Community Statements, the Mayor will inform Councillors and the public of the total number of questions received for the Council meeting (including how many have been taken on notice).

### 3.6.2 Questions of Council

- (1) Persons wishing to ask a question will be encouraged to submit their question on the Questions of Council form available on Council's website by 12 noon on the day of the Council Meeting.
- (2) Questions can be submitted by:
  - (a) The online form at [www.Merri-bek.vic.gov.au](http://www.Merri-bek.vic.gov.au)
  - (b) Email to: [governance@Merri-bek.vic.gov.au](mailto:governance@Merri-bek.vic.gov.au); or
  - (c) Mail to: Locked Bag 10, Merri-bek Vic. 3058; or
  - (d) In person at the Coburg Civic Centre Customer Service Centre at 90 Bell Street Coburg, up until the beginning of an in-person council meeting.



- (e) A copy of all questions and community statements including those to be taken On Notice received before 5pm on the day of the Council Meeting, will be distributed to Councillors as soon as reasonably practicable.
- (3) Assistance will be available for any community member seeking or requiring support to write their question(s).
- (4) A maximum of three questions will be heard on any one subject. Council will then proceed to the next subject, returning to the previous subject if time allows.
- (5) Questions that are submitted in writing but not asked, will be taken On Notice.
- (6) Persons submitting questions must be present in the public gallery either personally or by representative unless the question has been submitted in accordance with a procedure developed at Rule 3.6.4.
- (7) When invited by the Chairperson, the person submitting the question:
  - (a) Must state their name and suburb;
  - (b) May ask their question, with a preamble or background **for up to 3 minutes**.
- (8) The Chairperson may elect to answer the question themselves or a Councillor may nominate themselves to answer each question. Prior to responding, the Chairperson may seek contextual information from the person submitting the question.
- (9) The Chairperson may at their discretion, refer the question to the Chief Executive Officer, who may refer it to a member of Council staff.
- (10) No discussion of a question or answer will be allowed, other than for the purposes of clarification by a Councillor.
- (11) A question or community statement may be disallowed by the Chairperson if the Chairperson determines it:
  - (a) relates to a matter outside the duties, functions or powers of Council;
  - (b) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - (c) may lead to a breach of Council's obligation to comply with its statutory obligations;
  - (d) deals with subject matter already answered; or
  - (e) deals with a matter that should be, or has been, considered as a confidential matter.
- (12) No questions directed at an individual Councillor or member of Council staff will be allowed.
- (13) The Chairperson may decide to take any question On Notice. Questions On Notice will be actioned by the relevant Director and a written response forwarded to the person and made available to Councillors. The status of On Notice items will be reported to the next practicable Council Meeting.
- (14) A question will only be dealt with as an On Notice question if the entire question has been provided in writing and contact details for a response are provided. An incomplete question or a question where not contact details are provided will not

be prioritised to be included before the time allowed for public question time and community statements has elapsed.

### **3.6.3 Community statements**

- (1) A member of the community may make a statement, for up to 3 minutes, in relation to any matter listed on the Agenda for the Council Meeting that the statement is to be made.
- (2) Community Statements must not be directed at individual Councillors or members of Council staff.
- (3) Community Statements will not receive a response.
- (4) The Chairperson may cease a community statement he or she deems defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance.
- (5) A member of the public wishing to make a community statement may indicate their intention in advance of the Meeting or by completing a form on arrival at the Meeting.

### **3.6.4 Questions and community statements from members of the public not in attendance and at Meetings conducted electronically**

- (1) Council may, by resolution, determine that the Chief Executive Officer must develop a procedure that enables the submission of questions and statements by community members who are not in attendance but are viewing the livestream to be admitted to the Meeting.
- (2) A procedure developed at Sub-Rule (1) must include the person asking the question being visible to the Meeting when asking a question.
- (3) Where a person is experiencing technical difficulties that prevents them from asking their submitted question, as lodged in accordance with Rules 3.6.2 or 3.6.3 (ie. unable to connect to an online meeting) or where connectivity issues arise that prevent the person from being able to be seen or heard when invited to address Council, the Chairperson may elect to read out their question.
- (4) A procedure developed in accordance with Sub-Rule (1) must give consideration to:
  - (a) Accessibility;
  - (b) Community members in attendance at the Meeting; and
  - (c) Relevance of the question to an item on the Agenda for the Meeting.
- (5) If a Council Meeting is being conducted electronically or online, in accordance with any Guidelines issued for the Minister for Local Government, provision will be made for questions and community statement to be made via video call, if the question or intent to make a submission is lodged in accordance with Rules 3.6.2 or 3.6.3 as is applicable.

### 3.6.5 Petitions and joint letters

- (1) Every petition submitted to Council must:
  - (a) be in legible and in permanent writing;
  - (b) state clearly on each page the matter and the action sought of Council;
  - (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;
  - (f) clearly indicate the name and contact details of the lead petitioner.
- (2) If the lead petitioner is present at the Meeting at the time a petition is presented, the Chairperson may invite the lead petitioner to address the Meeting for up to two minutes.
- (3) Where a petition has been signed by less than 10 people or does not otherwise conform to the requirements contained in rule 3.6.5 (1), it will be treated as a joint letter and forwarded directly to the appropriate member of Council staff for action as an operational item.
- (4) 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.
- (5) 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 Chief Executive Officer or relevant Director for consideration and response; or
  - (c) that the petition be referred to the Chief Executive Officer or relevant Director for a report to a future Council Meeting.
- (6) 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.
- (7) If a petition relates to:
  - (a) a 'planning matter' which is the subject of a public exhibition or notification process under the *Planning and Environment Act 1987*); or
  - (b) a matter which Council has determined will be the subject of a Hearing Committee and is the subject of a public submissions process in accordance with Council's Community Engagement Policy,the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).

- (8) An online or electronic petition may be submitted to a Council Meeting.
- (9) 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.
- (10) An online or electronic petition will not be presented to a Council Meeting if it contains signatures that are false or misleading.

### **3.6.6 Submissions to Meetings designated for Planning and related matters**

At a Meeting Designated for Planning and Related Matters:

- (1) the Chairperson may invite a Council Officer to provide an overview of a planning matter to be considered; and
- (2) an objector to, or proponent of, a Planning Permit Application or Planning Scheme Amendment included in the Agenda, may be invited by the Chairperson to address the Meeting for no more than three minutes.

### **3.6.7 Public addressing the Meeting**

- (1) 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 Chairperson whenever called on to do so.
- (1) Council may suspend standing orders in accordance with Rule 3.12, to hear from a community member or representative of an organisation, on matters of significance to the Council, only if prior arrangements have been made by written request to the Mayor or Chief Executive Officer.

### **3.6.8 Display of placards and posters**

- (1) Subject to Sub-Rules (2) and (3), a person can display any placards or posters in the Council Chamber or in any building where a Meeting is being, or is about to be, held, including outside the entrance to the building.
- (2) A placard or poster must not:
  - (a) display any offensive, indecent, insulting or objectionable item or words; or
  - (b) obstruct the entrance to the Council Chamber or a building where a Meeting is being, or is about to be, held;
  - (c) obstruct the view or physically impede any person; or
  - (d) be attached to a pole, stick or other object.
- (3) The Chairperson may order and cause the removal of any placard or poster that is deemed by the Chairperson to be objectionable, disrespectful or otherwise inappropriate.

### 3.6.9 Prohibited items

- (1) Unless worn for either medical, health, cultural or religious purposes, a person must not wear a facemask or head covering that disguises their identity.
- (2) A person may not bring in the Council Chamber or any building where a Meeting is being, or is about to be, held, including outside the entrance to the building any item that may affect the safety or security of the Meeting.
- (3) Items considered to affect the safety or security of a Meeting include:
  - (a) A bag or object larger than a small backpack;
  - (b) Devices that amplify sound;
  - (c) Any other object identified by a Councillor, Council officer or security officer.
- (4) The Chairperson may cause the removal of any object or material that is deemed by the Chairperson to be objectionable or disrespectful.

### 3.6.10 Chairperson May Remove <sup>4</sup>

- (1) Members of the public present at a Council Meeting must not interject during the Council Meeting.
- (2) If a person, other than a Councillor, interjects or gesticulating offensively during the Council Meeting, the Mayor may direct:
  - (a) the person to stop interjecting or gesticulating offensively; and
  - (b) if the person continues to interject or gesticulate offensively, the removal of the person.
- (3) In causing a person's removal under Sub-Rule (2)(b), or the removal of an object or material under Sub-Rules 3.6.8 and 3.6.9, the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of security or Victoria Police to remove the person, object or material.

### 3.6.11 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) as provided in Rule 3.5.8 when a Meeting has been in progress for longer than 2 hours.
- (2) The break referred to in Sub-Rule (1) is an adjournment.
- (3) If the Chairperson calls a Meeting to resume on another day, the provisions of 3.4.1 apply.

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<sup>4</sup> It is intended that this power to remove a member of the public, be exercisable by the Chairperson, without the need for any Council resolution. The Chairperson 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.

## **3.7 Voting**

### **3.7.1 How a matter is 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 a Second vote (casting vote).

### **3.7.2 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.

### **3.7.3 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 clearly 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 clearly 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 clearly 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.

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

- (1) 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; 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.
- (2) If a Motion is defeated, a new Motion on the same matter may be considered by Council only to avoid that matter being left in limbo.

### **3.8 Addressing the Meeting**

#### **3.8.1 Councillor allowed to speak uninterrupted**

A Councillor who has the floor must not be interrupted unless called to order, or given notice by the Chairperson his speaking time has elapsed or is about to elapse, when he or she must sit down and remain silent until the Councillor raising the Point of Order has been heard and the Point of Order dealt with.

#### **3.8.2 Addressing the Meeting**

- (1) If the Chairperson so determines, any person addressing the Chairperson must refer to the Chairperson as:
  - (a) Mayor; or
  - (b) Chairperson,
- (2) all Councillors, other than the Mayor, must be addressed as Cr.....(surname); and
- (3) all Council staff, must be addressed by their official title.
- (4) Except for the Chairperson and Chief Executive Officer, any person who addresses the Meeting must direct all remarks through the Chairperson.

### **3.9 Motions and Debate**

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.

#### **3.9.1 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 reserves their right to 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.
- (8) If the mover or seconder of a motion indicates that he or she wishes to withdraw from moving or seconding the motion, the Chairperson may seek another mover or seconder (as the case requires), but if no Councillor indicates his or her willingness to be the substitute mover or seconder, the motion lapses.

### **3.9.2 Chairperson's duty**

Any Motion which:

- (1) is defamatory; or
  - (2) is objectionable in language or nature; or
  - (3) is vague or unclear in its intention; or
  - (4) is outside the powers of Council; or
  - (5) is not relevant to an item of business on the Agenda and has not been admitted as urgent business; or
  - (6) purports to be an amendment but is not
- must not be accepted by the Chairperson.

### **3.9.3 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.

### **3.9.4 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. <sup>5</sup>
- (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.

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<sup>5</sup> 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.



- (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 have a right of reply.

### **3.9.5 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 Meeting 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.

### **3.9.6 Withdrawal of Motions**

Before any Motion is put to the vote, it may be withdrawn with the Agreement of Council.

### **3.9.7 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.

### **3.9.8 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), if once passed the Motions will only:

- (a) note actions already taken; or
- (b) will not commit Council to further action, approve any spending (including any contractual variations) or changes to policy.

### 3.9.9 Motions in writing

- (1) All Motions, except Procedural Motions, must be submitted in writing.
- (2) 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.

### 3.9.10 Debate must be relevant to the Motion

- (1) Debate must always be relevant to the Motion before the Meeting, and, if not, the Chairperson must request the speaker to confine debate to the Motion.
- (2) If, after being requested by the Chairperson to confine debate to the Motion before the Meeting, the speaker continues to debate irrelevant matters, the Chairperson may direct the speaker to be seated and not speak further in respect of the Motion before the Chairperson. The speaker must immediately comply with any such direction.

### 3.9.11 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 of the Delegated Committee, the debate would be regarded as sufficient.

### 3.9.12 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 - 3 minutes;
  - (b) the mover of a Motion when exercising his or her right of reply – 2 minutes; and
  - (c) any other speaker – 3 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.

### 3.9.13 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 these Governance Rules, a Procedural Motion must be dealt with in accordance with the table at Sub-Rule (8).
- (5) A Procedural Motion may not be moved or seconded by the Chairperson.
- (6) Unless otherwise provided, a Procedural Motion must not be amended.
- (7) Procedural Motions table:

Motion	Form	Mover/Seconded	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
<b>Deferral of a matter (to a future Meeting)</b>	'That the debate on this matter be deferred until (insert Meeting/date) to allow (purpose of deferral) ...'	Any Councillor who has not moved or seconded the original Motion or otherwise spoken to the original Motion	(a) During the election of the Mayor/Deputy Mayor; (b) During the election of a Chairperson; or (c) When another Councillor is speaking	Consideration/debate on the Motion and/or amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future Meeting, where a fresh Motion may be put and debated	Debate continues unaffected	Yes
<b>Closure (of debate)</b>	'That the Motion now be put'	Any Councillor who has not moved or seconded the original Motion or spoken for/against the original Motion	During nominations for a Chairperson	Motion or amendment is put to the vote immediately without further debate, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the Motion	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
<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 Agenda	No

Motion	Form	Mover/Seconder	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
<b>Suspension of Standing Orders</b>	'That Standing Orders be suspended to ...' (reason must be provided)	Any Councillor		The Rules of the Meeting are temporarily suspended for the specific reason given in the Motion No debate or decision on any matter, other than a decision to resume Standing Orders, is permitted	The Meeting continues unaffected	No
<b>Resumption of Standing Orders</b>	'That Standing Orders be resumed'	Any Councillor	When Standing Orders have not been suspended	The temporary suspension of the Rules of the Meeting is removed	The Meeting cannot continue	No
<b>Adjourn the Meeting</b>	'That the Meeting be adjourned for xx minutes/until xx date [and insert reason]	Any Councillor	When Standing Orders have not been suspended	The Meeting is ceased to reconvene at the specified time/date.	The Meeting continues (if the Governance Rules allow)	Yes
<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 Local Government Act 2020 the Meeting be closed to members of the public for the consideration of item xx which is confidential as it relates to [insert reason]	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

### 3.9.14 Notices 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 no later than 12

- noon 10 business days before the Meeting at which it is intended to be considered to ensure its inclusion in the Agenda.
- (3) The Chief Executive Officer must inform Councillors 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 Notices of Motion under these Governance 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 proposes any action that:
    - (a) impacts the levels of Council service;
    - (b) commits Council to expenditure greater than \$5,000 that is not included in the adopted Council Budget;
    - (c) proposes to establish, amend or extend Council policy;
    - (d) proposes to impact the rights of any person who has not had the opportunity to contribute their views;
    - (e) commits Council to any contractual arrangement; or
    - (f) concerns any litigation in respect of which Council is a party.
  - (6) The Chief Executive Officer must reject any Notice of Motion which:
    - (a) is too vague;
    - (b) is defamatory;
    - (c) may be prejudicial to any person or Council;
    - (d) is objectionable in language or nature; or
    - (e) is outside the powers of Council.
  - (7) The Chief Executive Officer may reject a proposed Notice of Motion that relates to a matter that can be addressed through the operational service request process.
  - (8) If rejecting a Notice of Motion, the Chief Executive Officer must inform the Councillor who lodged it of that rejection and the reasons for the rejection no later than nine business days before the Meeting at which it is intended to be considered. The Councillor may submit a revised Motion within 24 hours.
  - (9) The Chief Executive Officer may designate a Notice of Motion to be confidential in accordance with relevant grounds as contained in the Act, in which case, the Notice of Motion will be considered in the part of the relevant Council Meeting that is closed to members of the public.
  - (10) 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.
  - (11) 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.

- (12) The Chief Executive Officer must cause all Notices of Motion to be sequentially numbered, dated and entered in a register.
- (13) Unless Council resolves otherwise, each Notice of Motion must be considered in the order in which they were received.
- (14) The Motion moved must not be substantially different to the Motion published in the Agenda, however may be amended by resolution of the Council.
- (15) 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.
- (16) If a Notice of Motion is not moved at the Council Meeting at which it is listed, it lapses.

### **3.9.15 Notices of Rescission**

- (1) A notice of rescission is a form of Notice of Motion. Accordingly, all provisions in these Rules regulating Notices of Motion equally apply to notices of rescission.
- (2) Motions to rescind or alter a previous resolution of Council can be made by:
  - (a) notice of rescission delivered by a Councillor in accordance with Sub-Rule (3); or
  - (b) recommendation contained in an officer's report included in the Agenda.
- (3) A Councillor may propose a Motion to rescind or alter a previous resolution of Council provided:
  - (a) the previous resolution has not been acted on; and
  - (b) a notice is delivered to the Chief Executive Officer or Delegate setting out:
  - (c) the relevant previous resolution to be rescinded or altered; and
  - (d) the Meeting and date when the relevant previous resolution was carried.
- (4) A notice of rescission must be in writing, signed (including by electronic means) and dated by at least two Councillors and be delivered to the Chief Executive Officer or a Delegate by 12 noon at least 10 business days prior to the next Council Meeting and must contain written rationale for the proposed rescission.
- (5) The Chief Executive Officer, or a member of Council staff with responsibility for the subject matter of a resolution, may implement a resolution of Council at any time after the close of the Meeting at which it was made. A resolution of Council will be deemed to have been acted on if:
  - (a) its contents or substance has been formally communicated to a person whose interests are materially affected by it, including by publishing the proposed Minutes of a Council Meeting on Council's website; or
  - (b) a statutory process has been commenced so as to vest enforceable rights or obligations on Council or any other person.
- (6) Notwithstanding Sub-Rule (5)(a) where a Notice of Rescission has been received prior to the publication of the proposed minutes (and a notation has been recorded as per Rule 3.11.1 (p)), the resolution will not be deemed to have been acted upon.

- (7) Notwithstanding Sub-Rule (4), the Chief Executive Officer or member of Council staff must defer implementing a resolution which:
  - (a) has not been acted on; and
  - (b) is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with Sub-Rule (2), unless deferring implementation of the resolution would have the effect of depriving the resolution of usefulness, giving rise to non-compliance with a legal obligation or placing the Council at legal, financial or other risk.
- (8) If a Motion for rescission is lost, a similar Motion may not be put before Council for at least one month from the date it was last lost, unless Council resolves that the notice of rescission be re-listed at a future Meeting.
- (9) If a Motion for rescission is not moved at the Meeting for which it is listed, it lapses.
- (10) A notice of rescission listed on an Agenda may be moved by any Councillor present but if not being moved by the Councillor who submitted it, must be moved in the form it was listed and must not be amended.

#### **3.9.16 Change of Council Policy**

- (1) Council reviews its policies to ensure they are current and continue to reflect community expectations and the position held by Council.
- (2) It is good practice for Council to review significant policies at least once in each Council term (every 4 years) and such reviews may lead to change in policy position.
- (3) Subject to Sub-Rule (4), if Council wishes to change a Council policy, a formal notice of rescission is not required.
- (4) If a policy has been in force in its original or amended form for less than 12 months, any intention to change the policy which may result in a substantial change to the policy's application or operation for members of the public should be communicated to those affected, and their comment sought, prior to the policy being changed.

#### **3.9.17 Foreshadowed Items**

- (1) At the time designated in the Council Meeting Agenda, a Councillor may foreshadow a Notice of Motion to be submitted for consideration at the next Council Meeting by indicating, when called on to do so by the Chair, the subject matter of the foreshadowed Notice of Motion.
- (2) The subject matter, as indicated by the Councillor, of a Foreshadowed Item will be recorded in the Minutes.
- (3) No discussion or debate is allowed on a Foreshadowed Item.
- (4) A Foreshadowed Item will have no further formal status at that Council Meeting.
- (5) Foreshadowed Items are intended to be used to indicate to Council and the community matters of importance that will be raised at the next Council Meeting.
- (6) If a Councillor does not submit a Notice of Motion in accordance with Rule 3.9.14 for the next Council Meeting, no further action on a Foreshadowed Item will occur.

## **3.10 Points of Order**

### **3.10.1 Raising a Point of Order**

- (1) A Councillor raising a Point of Order must state:
  - (a) the Point of Order; and
  - (b) any chapter, Rule, paragraph or provision relevant to the Point of Order.
- (2) The Chairperson 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 Chairperson 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.

### **3.10.2 Dissent in Chairperson's ruling**

- (1) A Motion of dissent in the Chairperson's ruling must, if seconded, be given priority to all other items of business and a substitute Chairperson must be elected to preside while the Motion is being considered.
- (2) The substitute Chairperson must put questions relative to the ruling to the Chairperson first, and then to the mover of the Motion.
- (3) The substitute Chairperson must conduct a debate on the Chairperson's ruling, and the matter must be decided by a majority vote.
- (4) The Chairperson must then resume the Chair for the remainder of the Meeting.

### **3.10.3 Valid points of order**

- (1) A Point of Order may be raised in relation to:
  - (a) a Motion which under Rule 3.9.2 should not be accepted by the Chairperson;
  - (b) a question of procedure;
  - (c) a Councillor who is, or appears to be, out of order;
  - (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.

### **3.10.4 Contradiction or opinion**

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



### 3.10.5 Disorderly Conduct

- (1) The conduct of Councillors at Council Meetings is governed by the Act, these Rules and the Councillor Code of Conduct.
- (2) 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, 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.<sup>6</sup>
- (3) Where Council suspends a Councillor under Sub-Rule (2)(a), or the Mayor directs a Councillor to leave the Meeting under Sub-Rule (2)(b) the Councillor will take no active part in the portion of the Meeting from which he or she has been suspended.
- (4) If a Councillor has been suspended from a Meeting or directed to leave in accordance with Sub-Rule (3) the Chairperson may ask the Chief Executive Officer, an Authorised Officer a member of Victoria Police to remove the Councillor.

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<sup>6</sup> 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.

## 3.11 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.

### 3.11.1 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;
  - (j) for the purposes of Sub-Rules (h) and (i) an abstention will be recorded along with a note that the vote was counted against the question in accordance with section 61(5)(e) of the Act.
  - (k) details of any failure to achieve or maintain a quorum;
  - (l) a summary of any question asked and the response provided as part of public question time
  - (m) the items about which community statements have been made and the number of community statements;
  - (n) details of any petitions made to Council;
  - (o) the time and reason for any adjournment of the Meeting or suspension of standing orders;
  - (p) where a rescission motion has been received, a notation will be recorded in the proposed minutes advising that the resolution is subject to a Notice of Rescission to be considered by Council;
  - (q) 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 and at the request of any Councillor; and

- (r) the time the Council Meeting was opened and closed, including any part of the Council Meeting that was closed to members of the public.

### 3.11.2 Electronic Minutes

Once confirmed, the Minutes may be stored electronically in perpetuity as the record of Council business.

### 3.11.3 Confirmation of Minutes

- (1) The Minutes as recorded by the Chief Executive Officer, or Delegate, will be made available as the proposed Minutes soon as possible, but at a minimum to:
  - (a) Councillors, within 7 business days;
  - (b) members of the public, by publishing them on Council's website, within 9 business days of the Council Meeting they relate to.
- (2) At every Council Meeting the Minutes of the preceding Council Meeting(s) must be dealt with as follows:
  - (a) a Motion will be moved to confirm the Minutes in the following terms: 'That the Minutes of the .....Meeting held on .....20.....be confirmed.';
  - (b) if a Councillor indicates opposition to the Minutes, the Councillor must specify the particular item or items in the Minutes and, after asking any questions to clarify the matter, can only move a Motion to rectify the alleged error(s) in the Minutes by adding the following words to the Motion in Sub-Rule (2) (a) '...subject to the following alteration(s).....'.
- (3) 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;
- (4) 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; and
- (5) the Minutes must be entered in the minute book and each item in the minute book must be entered consecutively.

### 3.11.4 Webcasting and Recording of Proceedings

- (1) The Chief Executive Officer (or Delegate) may, for the purposes of minute taking, cause all or part of the proceedings of a Meeting to be recorded on suitable audio or video recording equipment.
- (2) The Chief Executive Officer will cause a livestream of the proceedings of a Meeting to be conducted and the recording of that livestream to be made available to the public.
- (3) A Meeting that has been closed to members of the public for consideration of confidential matters will not be livestreamed.
- (4) A Meeting that has been closed to members of the public for security reasons or because it is necessary to do so to enable the Meeting to proceed in an orderly manner, must continue to be livestreamed.

- (5) A Meeting that has been closed to members of the public for security reasons or because it is necessary to do so to enable the Meeting to proceed in an orderly manner must be adjourned if the livestream is not possible.
- (6) A person in the gallery must not operate film, photographic, tape-recording or other equipment to reproduce sound and/or images at any Meeting without first obtaining the consent of the Chairperson.
- (7) The consent of the Chairperson given under Sub-Rule (3) may be revoked at any time during the course of a Meeting by the Chairperson stating that consent has been revoked and ordering that the recording cease, at which time the recording must cease.

### **3.12 Suspension of Standing Orders**

Standing Orders are the *Rules* made to govern the procedure at *Council Meetings* as contained in these Governance Rules. The Standing Orders cover a range of matters including the order of business, *Rules of debate*, *Procedural Motions* and election procedures. Standing Orders can be suspended to facilitate the business of a Meeting but should not be used purely to dispense with the processes and protocol of the government of Council.

- (1) To temporarily remove the constraints of formal Meeting procedure and allow full discussion or clarification of an issue, Council may, by resolution, suspend standing orders in accordance with the Procedural Motion table at Rule 3.9.13.
- (2) Suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of Council.
- (3) No Motion can be accepted by the Chairperson or lawfully be dealt with during any suspension of standing orders, except a Motion to resume standing orders.
- (4) No Motion to suspend standing orders can be accepted by the Chairperson during a second extension of time for a Meeting.

### **3.13 Circumstances in which Council will close a Meeting to members of the public**

- (1) The Act provides the basis for matters to be considered as confidential. Council will only close a Meeting to the public for consideration of confidential matters in accordance with the Act and its Public Transparency Policy.
- (2) The Chief Executive Officer may determine to advertise that a Meeting will be closed to members of the public if:
  - (a) There is reason to believe the safety or security of Councillors, Council staff or members of the public will be at risk if the Meeting is open to the public; or
  - (b) All matters to be considered at the Meeting are confidential in nature.
- (3) Council may resolve to close a Meeting to members of the public if:
  - (a) There is reason to believe the safety or security of Councillors, Council staff or members of the public is at risk; or
  - (b) A Meeting, has become, or is at risk of becoming so Disorderly that the business of Council cannot be conducted; or
  - (c) The matter to be considered relates to confidential matters.

- (4) Having closed the Meeting in accordance with Sub-Rule (2), Council may resolve that its decision or any report considered, or any part of its decision or any report considered, may be released to the public, to provide clarity that a Councillor or Council staff member who discusses those elements resolved to be released is not releasing confidential information.

### **3.13.1 Designated 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.

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## CHAPTER 4 – ELECTION OF THE MAYOR

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### 4.1. Overview

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

The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor, except that the election of the Mayor must be held in accordance with any provisions contained in the Act<sup>7</sup>.

- (1) A Mayor is to be elected no later than one month after the date of a general election.
- (2) At the Meeting to elect the Mayor, Council must first resolve if the term of the Mayor is to be 1 or 2 years.
- (3) 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.
- (4) 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.
- (5) A Mayor is to be elected within one month after any vacancy in the office of Mayor occurs.
- (6) The election of a Mayor after the period specified in this section does not invalidate the election.
- (7) 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 Mayor's term.

### 4.2. Election of Mayor<sup>8</sup>

- (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.

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<sup>7</sup> In accordance and as outlined in Section 26 of the Act

<sup>8</sup> In accordance and as outlined in Section 25 of the Act

- (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 (i.e. 6).

### 4.3. Role and Election of Deputy Mayor

In accordance with section 21 of the Act, the role of the Deputy Mayor must perform the role of the Mayor and may exercise any of the powers of the Mayor if the mayor is unable to attend a Council meeting or part thereof; incapable to perform his or her duties or the office of the Mayor is vacant.

- (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) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.
- (3) 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.

### 4.4. Nominating

- (1) Each nomination requires a mover and seconder.
- (2) A nominated Councillor must advise the Chair whether they accept or decline the nomination as a candidate for the role of Mayor/Deputy Mayor.

### 4.5. Method of Voting

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

#### 4.6. 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 an Absolute Majority of votes must be declared elected;
  - (c) two candidates have been nominated and no candidate receives an Absolute Majority of votes, a Second vote will be conducted.
  - (d) where, after a Second vote, where two candidates have been nominated and no candidate receives an Absolute Majority of votes 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 an Absolute Majority:
    - (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 (i) and (ii) 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 (b) to (d).
  - (f) in the event of more than two 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); the Chief Executive Officer will conduct a vote for one candidate to be defeated;
  - (g) In the event the vote for a candidate to be defeated results in an equality of votes the defeated candidate will be determined by lot.
  - (h) if a lot is conducted, the Chief Executive Officer will conduct the lot and the following provisions will apply:
    - (i) each candidate will draw one lot;
    - (ii) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more Councillor surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names;
    - (iii) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle;
    - (iv) the word 'Defeated' shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word 'Defeated' written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates).



- (4) If Council resolves to have the office of Deputy Mayor, the provisions of Sub-Rules (2) and (3) apply to the election of the Deputy Mayor with all necessary modifications and adaptations.

#### **4.7. 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.

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## CHAPTER 5 COUNCIL COMMITTEES & JOINT COUNCIL MEETINGS

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Various types of Committees can play a key role in connecting community views and experts with the decision-making processes of Council. Committees provide advice to Council and to Council officers exercising delegation to make decisions or implement policy.

Committees, usually comprise community members and Councillors, and may include representatives of community organisations. These committees are essential forums to provide input to the development of Council policy and decision making in their areas of focus.

The appointment of Councillors to specific areas of responsibility also provides a framework for relationships between Councillors and the administration of Council to underpin informed decision making.

Council also has Councillor representatives on external committees and organisations to ensure Council's voice is heard in key priority areas. These committees and organisations also inform Council, via its representatives, in regard to sector and/or expert views.

Council will seek the views of community members whose rights or obligations may be affected before making a decision. Community engagement on each issue will be undertaken in accordance with the Community Engagement principles of the Act and Council's Community Engagement Policy.

In certain circumstances Council will establish a formal opportunity for members of the community to address a committee established to hear from the community in regard to a specific issue.

### **5.1 Delegated Committees**

Council may establish Delegated 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 Delegated Committees, their Meeting procedures need to be formal.

- (1) If Council establishes a Delegated Committee, these Rules will apply to the Delegated Committee Meetings with any necessary modifications.
- (2) 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.
- (3) If Council establishes a Delegated Committee, Council may resolve that a provision of these Governance Rules do not apply to that Committee.

## 5.2 Advisory Committees

- (1) Advisory Committees established by Council will be consulted for input on related policy, strategy or major operational proposals.
- (2) Each Advisory Committee will be established in accordance with a framework and terms of reference determined by the Chief Executive Officer that at a minimum will prescribe:
  - (a) Membership terms that provide for renewal of membership and continuity of contribution, with provision for initial appointments to support rotation of memberships.
  - (b) Inclusive and transparent recruitment processes for community member membership and participation.
  - (c) Requirements for disclosures of conflicts of interest.
  - (d) A description of the roles of members including attendance and participation requirements, role of the committee, Councillor chair, reporting requirements, confidentiality.
- (3) Subject to the Local Government Act 2020, the Council may appoint any number or combination of its members and staff officers to be an Advisory Committee to consider and make a recommendation to the Council upon any matter, but no recommendation of any Advisory Committee shall have any force or effect until approved by the Council.

## 5.3 Hearing Committees

- (1) Council will establish Hearing Committees to provide an opportunity to hear from community members in formal setting on key issues.
- (2) A Hearing Committee will be comprised only of Councillors.
- (3) A quorum for a Hearing Committee will be half of the Councillors appointed to the Hearing Committee.
- (4) Where issue is affects a large proportion of the Merri-bek community all Councillors will be appointed to the Hearing Committee.
- (5) Priority will be given to addresses from those members of the community who have registered an interest in addressing a Hearing Committee.
- (6) Community members will be provided with reasonable notice of the date and time that they will be invited to address a Hearing Committee.
- (7) Council may resolve that a Hearing Committee Meeting will be held electronically and make provisions for community members address the committee by a video conferencing tool.
- (8) Council may resolve a Hearing Committee Meeting will be livestreamed.

- (9) A summary of proceedings of all Hearing Committee Meetings held will be reported to Council.

#### **5.4 Community Asset Committees<sup>9</sup>**

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 will apply to any Community Asset Committee established by Council.
- (2) Council may resolve, in establishing a Community Asset Committee, that the Meeting procedure chapter of these Governance Rules does not 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.
- (5) A Community Asset Committee must adhere to any policy, guideline or protocol introduced by Council, which relates to the operational or governance requirements of the Committee.
- (6) A Community Asset Committee must provide Council with an Annual Report each year, in a format determined by the Chief Executive Officer.

#### **5.5 Joint Council Meetings**

Regional collaboration provides benefits to the Merri-bek community 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.
- (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.

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<sup>9</sup> *Section 47 of the Act provides:*

1) The Chief Executive Officer may by instrument of delegation delegate any power, duty or function of the Council that has been delegated to the Chief Executive Officer by the Council to—

- (a) a member of Council staff; or
- (b) the members of a Community Asset Committee.

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This means Council may not delegate directly to a Community Asset Committee.

- (3) Where the participating Councils agree Merri-bek will chair a Joint Council Meeting, the Mayor will be nominated to Chair the Joint Council Meeting.
- (4) A joint meeting must comply with any requirements prescribed by the regulations.

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## CHAPTER 6 – CONFLICTS OF INTEREST

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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.

Further guidance is available from the Managing Conflicts of Interest guideline.

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

- (1) Councillors, members of Delegated Committees and Council staff and contractors are required to:
  - (a) Avoid - all situations which may give rise to conflicts of interest;
  - (b) Identify - any conflicts of interest; and
  - (c) Disclose – or declare all conflicts of interest.

### 6.2 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.

### 6.3 Procedure at a Council or Delegated Committee Meeting

- (1) At the time designated in the Agenda, a Councillor with a conflict of interest in an item on that Agenda must indicate they have a conflict of interest by clearly stating:
  - (a) The item for which they have a conflict of interest; and
  - (b) Whether their conflict of interest is general or material; and
  - (c) The circumstances that give rise to the conflict of interest.
- (2) Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor or Member of a Delegated Committee must indicate to the Meeting the existence of the conflict of interest and leave the Meeting.
- (3) A Councillor who is not present at the designated time in the Agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the manner that required for the declarations of conflicts of interest at Sub-Rule (1) prior to leaving the Meeting.

- (4) A Councillor or Member of a Delegated Committee who discloses a conflict of interest and leaves a Council Meeting must not communicate with any participants in the Meeting while the decision is being made.

#### **6.4 Procedure at Advisory Committee Meetings and other Meetings organised, hosted or supported by Merri-bek**

- (1) A Councillor or member of an Advisory Committee 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 or member of an Advisory Committee 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 or member of an Advisory Committee 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 or member of an Advisory Committee 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 of conflicts of interest will be presented to Council for noting and inclusion on the public record.

#### **6.5 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 5.6 and the Employee Code of Conduct.

#### **6.6 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, including any Council Report(s), and in the case of verbal advice, is documented by the decision maker.

### **6.7 Contractors and Consultants**

- (1) All Contractors and consultants engaged by Council to provide advice to the decision making process will be required to disclose conflicts of interest.
- (2) A Contractor or consultant who discloses a conflict of interest will not be engaged to provide advice on that matter unless;
  - (a) The conflict is so remote or insignificant it could not be considered to influence the advice being provided; or
  - (b) There are no other contractors or consultants reasonably available and qualified to provide the technical advice required; and
  - (c) The conflict of interest is documented, including any Council Report(s), in all advice provided by that contractor or consultant.



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## CHAPTER 7 - DELEGATIONS

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Council can make decisions (act) in two ways – by resolution at a Council Meeting or by delegation (others acting on its behalf). The Local Government Act 2020 provides for Council to delegate to the Chief Executive Officer.

Delegation of Council powers to the Chief Executive Officer and other members of Council staff is a long-established practice to enable day to day operational decisions to be made efficiently. Delegation of Council powers is primarily enabled and regulated by the Local Government Act 2020, however powers, duties and functions may be delegated from a range of Acts, Regulations and local laws.

Additionally, the Act and other legislation confers some powers duties and functions directly to the Chief Executive Officer. These may also be delegated by the Chief Executive Officer to various positions in the organisation's structure.

Delegations are to a position in the organisational structure rather than to a person.

- (1) A Delegate must exercise the duties and perform the duties and functions set out in the Instrument of delegation and in accordance with any guidelines or policies of Council.
- (2) A Delegate making a decision that will affect any person's rights, will identify whose rights may be affected and provide an opportunity for that person (or persons) to convey their views regarding the effect on their rights, and consider those views.
- (3) Delegates must keep appropriate records of decisions and actions taken under delegation.
- (4) The Chief Executive Officer may designate certain decisions made under delegation as matters to be reported to Council.
- (5) Council's public register of delegations will be available on its website and for inspection, on request, at Council's offices.

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## CHAPTER 8 – COMMON SEAL

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The purpose of this Section is to provide for the security and proper use of the Common Seal. The Common Seal is the corporate signature of Council and exists in the form of a stamp. It evidences Council's corporate will and authenticates decisions taken and acts performed by Council.

As many of the powers, duties and functions of a Council are delegated to the Chief Executive Officer and other members of Council staff, the Common Seal of Council is only used on legal documents such as local laws, contracts, agreements, transfers of land and other documents where required by legislation or where outside the Chief Executive Officer's delegation.

### 8.1 Custodian of Common Seal

- (1) A person must not use the Common Seal without authority from Council.
- (2) The Chief Executive Officer must always ensure the security of the Common Seal.

### 8.2 Arrangements for the Signing and Sealing of a Document

- (1) A written request and a copy of the Council resolution approving the use of the Council seal must be submitted to the Manager Governance and Strategy for signing and sealing.
- (2) If Sub-Rule (1) is not met, the documents must not be signed and sealed.
- (3) A contract or agreement must only be submitted for signing and sealing, once the document has been fully executed by the other party/parties (unless the other party to the contract or agreement is either the State Government of Victoria, the Federal Government or another Local Government entity).

### 8.3 Affixing the Common Seal

- (1) The affixing of the Common Seal to any document must be attested to by the signatures of both:
  - (a) a Councillor; and
  - (b) the Chief Executive Officer,acting on behalf of Council.
- (2) The seal of a Council must not be affixed to any document without the Council's approval granted either generally or specifically by resolution that the seal be so affixed.

The following is an example of the required approval:

That Council affix the Common Seal to the [description of document].

Or

The [document], shall come into force immediately upon the common seal of the Council is affixed to the [document].

- (3) The affixing of the Seal to a document must be witnessed by signatures of a Councillor and the Chief Executive, except in the instance where the Seal is to be appended to the contract of employment for the Chief Executive. In this instance, a second Councillor will sign alongside the Mayor.

#### **8.4 Sealing Register**

The Manager Governance and Strategy will ensure that a register of all uses of the Common Seal is kept by Council. The register will contain a description of the document, the date the Seal was affixed and the date Council resolved to affix the Seal.

### **9.1 Records of Meetings held under the auspices of Council**

- (1) A record of the matters discussed at all Hearing of submission Meetings, Advisory Committee Meetings and Councillor Briefings organised or hosted by Council will be kept.
- (2) Records kept in accordance with Sub-Rule one will include:
  - a) The attendees at the Meeting, including organisations represented by external presenters;
  - b) The title of matters discussed
  - c) Any conflicts of interest disclosed and whether the person with the conflict of interest left the Meeting.
- (3) Where Minutes are kept of a Meeting and made available to the community, an additional record is not required to be kept.

### **9.2 Councillor attendance records**

- (1) Council will maintain a register of Councillor attendance at Council Meetings, Delegated Committee Meetings and Meetings arranged to brief Councillors.
- (2) The register of Attendance kept in accordance with Sub-Rule (1) will be published on Council's website quarterly

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## CHAPTER 10 – ELECTION PERIODS

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The Election Period Policy governs the conduct of Council, Councillors and members of Council staff during an election period to ensure appropriate decision-making in the lead up to a Council election.

The Election Period prohibits the use of Council resources for any election campaign and puts in place a procedure to ensure Council does not print, publish or distribute any material that may influence the outcome of the election.

Additionally, the Election Period Policy addresses Councillors and staff standing as candidates in Council, State or Federal elections.

### **Election Periods Generally**

- (1) Council will have in place an election period policy that:
  - (a) Governs decision making during a local government election period, including what may be considered at a Council Meeting;
  - (b) Prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
  - (c) Sets out the conditions for any community engagement required to be undertaken during an election period, including consultations, Civic events, and activities of Advisory Committees established by Council;
  - (d) Sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns;
  - (e) Defines roles and responsibilities in relation to who is the spokesperson for Council during an election period;
  - (f) Sets out the requirements for a Councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.
- (2) At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its election period policy.
- (3) The Election Period Policy forms part of these Governance Rules.
- (4) The operation of Council Advisory Committees shall be suspended upon the commencement of the election period ahead of a general Council election.
- (5) Any outstanding Delegate's Reports may still be reported to a **Council** Meeting during this period.
- (6) Council Committees shall resume Meeting following the election and the appointment by the incoming Council of Councillors to each committee.

## **Election Period Policy**

### **1. Introduction**

The Act requires Council to include an Election Period Policy (Policy) in its Governance Rules.

### **2. Context**

Under Section 69 of the Act, an election period policy must prohibit any Council 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.

An Election Period Policy must also prohibit any Council decision during the election period for a general election or by-election that would enable the use of Council resources in a way that is intended to influence, or is likely to influence voting at the election.

Section 123 of the Act (Misuse of Position) prescribes serious penalties for any Councillor who inappropriately makes use of their position or information obtained in their role, to gain an advantage, or disadvantage another.

### **3. Monitoring, Evaluation and Review**

The requirements of this policy will be monitored throughout each election period to ensure compliance.

### **4. Associated documents**

Local Government Act 2020

Councillor Code of Conduct

Environmental Protection Act 1970 (EPA Act)

### **5. Policy Objectives**

To support and ensure the conduct of good governance for Council and the organisation during election periods through the transparency and accountability of Councillors, Council officers, and candidates during an election period.

The policy complies with the Act, which requires Councils to have an election period policy that sets out requirements relating to conduct, decision making, transparency and equity, and use of Council resources during an election period.

## 6. Policy Details

### 6.1 Election Period

During the 'Election Period' for a Municipal General Election the Council will be deemed to be in 'Caretaker Mode'. The election 'caretaker' period extends for 32 days - from the time nominations close on Nomination Day, until 6pm on election day.

During an election period, Councillors:

- a) Will continue to fulfil their duties (unless they are granted a leave of absence);
- b) Will continue to engage, and communicate with, the community in their Councillor role;
- c) Must comply with the Act and Councillor Code of Conduct, and
- d) Must not use their position to influence Council officers, or access Council resources or information, in support of any election campaign or candidacy.

Section 69 of the Act prohibits any Council 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;
- b) Commits the Council to expenditure exceeding 1% 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.

If the Council considers that there are extraordinary circumstances where the municipality or the local community would be significantly disadvantaged by the Council not making a particular decision, the Chief Executive Officer may make an application to the Minister for a compliance exemption in accordance with section 177 of the Act.

During an election period, it shall be the ultimate responsibility of the Chief Executive Officer, having consulted with the Mayor, to determine if a matter is to be presented to Council for decision.

### 6.2 Guidance on Decisions

Council will avoid making decisions that would affect voting at an election or decisions that may unreasonably bind an incoming Council and could be deferred until after the election.

Examples of inappropriate decisions include:

- a) Allocating community grants or other direct funding to community organisations;
- b) Major planning scheme amendments;
- c) Changes to strategic objectives and strategies identified in the Council Plan;
- d) Adopting policy;
- e) Setting advocacy positions.

The only items to be considered at a Council or Delegated Committee Meeting held during the election period, will be the Annual Report, and administrative items to complete the Council's term of office, for example, routine governance items (including records of Meeting held under the auspices of Council reporting). Public Question Time and Community Statements will be suspended during the election period.

At a Council Meeting designated to consider Planning and Related Matters, only permit applications that may otherwise be subject of an application to VCAT on the grounds Council has failed to determine within the prescribed time will be considered.

### **6.3 Officers with Delegated Authority**

During the election period, Council officers must defer making a decision under a delegation from Council or sub-delegation from the Chief Executive Officer, that could be reasonably deferred until the next Council is in place.

### **6.4 Caretaker Statement**

During the election period, the Chief Executive Officer will ensure that a Caretaker Statement is included in every report submitted to the Council or to a Delegated Committee of Council for a decision.

The Caretaker Statement will specify one or more of the following:

- a) The recommended decision is not, a decision prohibited by the Act and is a decision that falls within the guidance of the Election Period Policy.
- b) The recommended decision is outside the guidance of the Election Period Policy, but the following negative consequences of a failure to make a decision on this matter outweigh the consequences of binding an incoming Council. [Insert description of negative consequences of failure to make decision].
- c) The recommended decision is a decision prohibited in the Act during an election period, but compliance exemption was sought from the Minister in accordance with section 177 of the Act and was granted by on [insert date].

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

Councillors will refrain from moving Motions or raising matters at a Meeting that could potentially influence voting at the election.

There will be no Notices of Motion accepted during the Caretaker Period.

### **6.5 Council resources must not be used**

Council resources must not be used by any Councillor or candidate in any way that supports an election campaign or in a way that is intended or likely to influence voting in any election.

### **6.6 Candidacy**

A Councillor must not use Council resources for candidacy, or any purpose that may be perceived as being used for candidacy (individual or political party). This also applies to a Councillor standing in local, state, or federal government elections, and for any other elected positions, for example, positions on boards. Such use would constitute misuse of position by the Councillor.



### 6.6.1 State and Federal Government Elections

Councillors will ensure there is a demonstrable distinction between their obligations to Council and their personal interests as a candidate, or member of a political party, in an election period prior to a state or federal election. In accordance with the Councillor code of conduct, a Councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as a candidate in a state or federal election, is a 'Prospective Candidate' and will provide written advice to the Chief Executive Officer, as soon as practicable, who will then advise all Councillors.

Councillors will not use Council resources or participate in electioneering at Council events, Meetings or functions, in support of any candidate in a state or federal election.

Where clauses of this policy apply to a Councillor or candidate, it is intended that they be applied in the case of a state, federal or Council election.

## 6.7 Council Publications

### 6.7.1 Electoral Matter

Council will not print, publish or distribute (or cause to be printed, published or distributed) any Electoral Material (anything containing Electoral Matter) during an election period.

The following definitions are noted:

Section 3(1) '**publish**' means publish by any means including by publication on the Internet;

Section 3(4) '**Electoral Matter**' means matter, which is intended or likely to affect voting in an election but does not include any Electoral Material produced by or on behalf of the Returning Officer for the purposes of conducting an election.

Section 3(5) without limiting the generality of the definition of 'Electoral Matter', matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on -

- (a) the election; or
- (b) a candidate in the election, or
- (c) an issue submitted to, or otherwise before, the voters in connection with the election.

Council will not issue, publish or distribute any publication during an election period, other than media and social media responses/statements on a service or issue, or those that are required under an Act or regulation, or the Annual Report media release.

'Publications' include hard copy and electronic advertisements, promotional media releases, fliers, posters, newsletters/updates, booklets, surveys, invitations and group mailouts/emails.

Any publications to be issued during the election period are to be forwarded to the relevant Director for approval, and then sent to the Governance unit for vetting for Electoral Matter. Once vetted, the publication will then be submitted to the Chief Executive Officer for approval.

Council publications available in Council facilities will be reviewed before the election period to identify and temporarily remove anything that might reasonably influence the election.

The Chief Executive Officer, or Delegate, will be the primary spokesperson for Council communications during an election period.

Media and social media responses and statements will only be issued during an election period in the name of the Chief Executive Officer. These will be subject to approval by the Chief Executive Officer.

Council officers will not make any public statement that could be construed as influencing the election.

### **6.7.2 Annual Report**

It is a requirement of the Act that Council's Annual Report is presented by the Mayor at an open Meeting of Council held, in the year of a general election, on a day not later than the day before election day. Every endeavour will be made for the report to be prepared and presented prior to the commencement of the election period.

## **6.8 Council Resources**

The Council will also ensure other Council resources are not used inappropriately in ways that may influence voting in an election. This includes financial, human and material resources. Any staff member who considers that a particular use of Council resources may influence voting in the election must advise their Director or the Chief Executive Officer and obtain approval before authorising, using or allocating the resource.

In applying these principles, the Council understands that the following will be the normal practice during the election period:

- a) Council resources, including offices, support staff, hospitality services, equipment and stationery will be used exclusively for normal Council business during the Caretaker Period, and will not be used for the personal advantage of any Councillor or candidate in connection with any election. This does not apply to the provision of space for the Returning Officer.
- b) No new publications or pamphlets, including Inside Merri-bek will be published by Council during the election period.
- c) Speeches for Councillors will only be prepared by Council staff in relation to events that are part of the normal services or operations of the Council, for example for a Citizenship Ceremony, and such speeches will not be circulated or available for publication.
- d) No Council logos, letterheads, business cards, photos or other Merri-bek City Council branding will be used for, or linked in any way, to a candidate's election campaign.

- e) It is recommended that Council staff who are either following Councillors/candidates Facebook pages or who are 'friends' with them unfriend and/or unfollow the Councillor/candidate during this period.
- f) There will be no ward or Councillor Meetings held.
- g) The Executive Assistant to the Mayor and Councillors or any other Council staff member will not be asked to undertake any tasks connected directly or indirectly with electioneering.
- h) 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 could be perceived as supporting or being connected with a candidate's election campaign.
- i) Where Councillors have Council funded equipment, including laptops, tablets, printers and mobile phones, these are not to be used for election purposes or in a manner that could be perceived as supporting or being connected with a candidate's election campaign.

### **6.8.1 Council Facilities and Meeting Rooms**

Council Facilities/Halls for Hire Council facilities will be able to be hired by Federal and State political members and officers, and local candidates (including Councillors) at the normal corporate hire rate determined for the facility, in the lead up to an election, but not during an election period for any local state or federal election.

To avoid a perception that Council facilities are being used to promote any candidacy, no promotional material related to the event/hired use, apart from directional signage, is able to be displayed in the common public areas of the facility being hired. This will be advised at time of booking.

Candidates wishing to conduct electioneering activities in public space, for example, a stall at a shopping strip or park, must act in accordance with Council's local laws and procedures.

No other promotional material, including signage, posters, flyers or banners, for any political candidacy is permitted on Council land or in its facilities at any time.

It is an offense under Council's local laws to display this material on Council land, and penalties apply.

### **6.8.2 Use of the Title 'Councillor'**

Councillors may use the title Councillor in their election material, as they continue to hold office during the caretaker period.

While a Councillor can refer to themselves as Councillor in all communication issued by the Councillor (verbal or written), it must be made clear that it is the communication of a candidate and not a position of Council.

### 6.8.3 Photographs and Images

Photographs and images paid for by Council or taken by Council officers are not to be used in Electoral Material for any candidate. This includes images of Councillors, Council events, and Council owned or maintained infrastructure.

Photographs taken by Councillors, their family or friends, or professional photos they have directly commissioned and paid for, may be used in Electoral Material.

### 6.8.4 Election Signage on Council Land

In order to ensure Council resources including buildings and land will not be used to support any electioneering activity, Council prohibits any type of candidate election signage being erected or displayed on Council land, including:

- a) Council owned/managed parks, reserves, buildings (exteriors) and nature strips
- b) Road dividing strips (median strips, traffic islands, roundabouts)
- c) Trees, shrubs or plants
- d) Street signs, traffic control signs, parking signs

If election signage is displayed on Council Land:

- a) Council may request the immediate removal of the signage by the owner or candidate or may remove the signage without notification to the owner or candidate.
- b) An infringement notice and fine may be issued to the candidate, in accordance with the General Local Law.
- c) Any costs incurred by Council to remove signage, and/or any costs caused by the signage, for example, damage to trees, may be charged to the candidate.
- d) If election signage is displayed on Crown, Federal or State land in the City of Merri-bek, Council contact the relevant land manager to request the sign be removed.
- e) Victoria Police will be contacted in the event of any one attempting to obstruct Council officers removing signage.
- f) Council will report all instances of the display on Council land of candidate election signage for a local government election, to the Victorian Electoral Commission.

In accordance with the EPA Act, advertising material/documents may not be affixed to any fixed structure for example, light poles, traffic lights etc without the consent of the owner, occupier or manager of the structure.

## 6.9 Community Engagement and Council Events

Community engagement is an integral part of Council's policy development process and operations, however, there are concerns that consultation undertaken close to a general election may become an issue in itself and influence voting.

Council events in the lead up to an election can also raise concerns over the potential use of sitting Councillors using them for electioneering purposes.

If consultation must be undertaken or an event held during this time, the Council must explain to the community the special circumstances making it necessary and how the risks influencing the election will be mitigated or prevented.

Therefore, during an election period no public consultation under section 223 of the Local Government Act 1989 will be conducted during this period.

- a) Only consultation for the purpose of planning permit applications and operational issues such as canvassing residents' views on small-scale traffic treatments, installation of single trees and the like will be allowed as they are operational in nature and are unlikely to impact the conduct of the election.
- b) Civic Events will cease during this time.
- c) No election material or active campaigning is to be conducted at Council sponsored festivals.

## 6.10 Equitable Access to Council Information

The Council recognises that all election candidates have a right to information from the Council administration. However, sitting Councillors will 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, and transparency will be observed and practised in the provision of all information and advice during the Election Period.

Information and briefing material prepared by staff for Councillors during the Election Period will relate only to factual matters or to existing Council policies and services. All such requests are to be issued through the offices of the responsible Council Director who will maintain a register of requests made and advice provided. Such information will not relate to new policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.

A copy of the document/advice will then be passed to the Manager Governance and Strategy as issued during the Election Period. The document/advice will be emailed or provided in a hardcopy format to all sitting Councillors and candidates to access. Candidates will be advised of this process in writing.

An Information Request Register will be maintained by the Governance and Strategy Branch during the Election Period. This Register will be a public document that records all requests for information by Councillors and candidates, and the responses given to those requests. Only information that can be reasonably accessed will be released.

All requests for information are to be directed to the Manager Governance and Strategy.

## 6.11 Publicity

It is recognised that Council publicity is intended to promote normal services or operations of the Council. Council publicity will not be used in any way that might be construed as intended to influence the outcome of the Council election.

- a) During the Election Period, no Council employee may make any public statement that could be construed as influencing the election. This does not include statements of clarification that are approved by the Chief Executive Officer.
- b) During the Election Period, publicity campaigns, other than for the purpose of conducting the election, will be avoided. Where a publicity campaign is deemed necessary for a Council service or operation, it must be approved by the Chief Executive Officer. In any event, Council publicity during the Election Period will be restricted to promoting the normal services or operations of the Council.
- c) Any requests for media advice or assistance from Councillors during the Election Period will be channelled through the Chief Executive Officer or the Manager Community Engagement. In any event, no media advice and/or assistance or media releases will be provided in relation to election campaign matters, or in regard to publicity that involves specific Councillors.
- d) Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of matters that could be construed as relating to an election campaign.

Information published on Council's website with regard to sitting Councillors will be limited to statements of facts about their roles and responsibilities as a Councillor. For example, contact details, roles and responsibilities as assigned by Council resolution.

### 6.11.1 Council Websites and Social Media

The only new material published on Council's websites or social medial sites during an election period will be:

- a) The Agenda and Minutes for any Council or Delegated Committee Meetings;
- b) The Annual Report
- c) Key service disruption information

Service information already published on the website will be reviewed to ensure it does not include anything that might be seen as likely to influence the election.

## 6.12 Assistance to Candidates

A copy of this Policy must be given to each Councillor as soon as practicable after it is adopted, be available for inspection, on request, by the public at the Council office and be published on Council's website. The Chief Executive Officer will ensure that all Councillors, Managers and staff are informed of the requirements of this policy.

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

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. The types of assistance that are available will be documented and communicated to all candidates in advance.

All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer or the Director Business Transformation.

