



CITY OF  
MONASH

**DRAFT**

**GOVERNANCE RULES**

**INTRODUCTION**

**1. Nature of Rules**

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

**2. Contents**

These Governance Rules are divided into the following Chapters:

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

**3. Definitions**

In these Governance Rules, the following words and phrases mean:

**“Absolute Majority”** means the number of Councillors which is greater than half the total number of Councillors of Council.

**“Act”** means the Local Government Act 2020.

**“Additional Council Meeting”** means a meeting called in accordance with Rule 4(b).

**“Advisory Committee”** means any body established by Council to provide advice to it in a particular case or generally.

**“Agenda”** means the notice of a Meeting setting out the business to be transacted at the Meeting.

**“Alternative Motion”** means a motion moved in accordance with Rule 24.

**“Chairperson”** means the:

- (a) Councillor elected as Mayor under Rule 44;
- (b) person appointed as the Chairperson of a Delegated Committee; or
- (c) person taking the chair at a Meeting in accordance with these Rules in the absence of the Mayor or Chairperson of the Delegated Committee,

as the case requires.

**“Chief Executive Officer”** includes an Acting Chief Executive Officer.

**“Committee”** means a Delegated Committee and a Community Asset Committee.

**“Community Asset Committee”** means a Community Asset Committee established under section 65 of the Act.

**“Confidential Business”** means business considered by Council or a Delegated Committee in a Meeting that is closed to the public.

**“Council”** means Monash City Council.

**“Council Chamber”** means the space or room, in its entirety, in which a Council Meeting is conducted, and includes the Public Gallery.

**“Council Meeting”** means a Meeting of Council and, unless the context otherwise requires, includes a Scheduled Meeting and an Additional Council Meeting.

**“Councillor”** means a Councillor of Council.

**“Councillor Report”** means a report submitted by a Councillor in accordance with Rule 18

**“Delegate Report”** means a report prepared by an Officer in accordance with Rule 2(iv).

**“Delegated Committee”** means a Delegated Committee established under section 63 of the Act.

**“Deputy Chairperson”** means the:

- (a) Councillor elected as Deputy Mayor under Rule 47;
- (b) person appointed as the Deputy Chairperson of a Delegated Committee; or
- (c) person taking the chair at a Meeting in accordance with these Rules in the absence of the Mayor or Chairperson of the Delegated Committee,

as the case requires.

**“Disorderly Conduct”** includes any of the following conduct engaged in by a Councillor, member of a Delegated Committee or member of the Public Gallery:

- (a) failure to observe and act in accordance with any request, direction or order of the Chairperson relating to the conduct of the Meeting;
- (b) unreasonably interjecting when another person is speaking, except, in the case of a Councillor, to raise a point of order or move a Procedural Motion;

- (c) continuing to speak after the Chairperson has called for order or silence;
- (d) making comments that are malicious, abusive or offensive;
- (e) disagreeing with or commenting on the Chairperson's rulings or orders other than when Council has a motion of dissent before it or in the course of a Councillor making a Personal Explanation;
- (f) refusing to leave the Council Chamber when requested, ordered or directed to do so by the Chairperson in accordance with the Act or the Meeting Procedures; and
- (g) inciting others to engage in Disorderly Conduct.

**"Division"** means the formal count of those Councillors or members of a Delegated Committee voting for or against, or not voting in respect of, a motion and the recording of that count and the way each Councillor or member of the Delegated Committee voted in the minutes of the Meeting.

**"En Bloc"** refers to a group of items on the Agenda for a Meeting which are considered and voted on as a group.

**"Informal Councillor Meeting"** means a meeting referred to in Rule 59.

**"Meeting"** means a meeting of Council, a Delegated Committee or a Community Asset Committee, as the case requires, but excludes an Informal Councillor Meeting.

**"Municipal District"** means the municipal district of Council.

**"Notice of Motion"** means a motion of which prior notice has been given by a Councillor in accordance with Rule 16.

**"Officer"** means a member of Council staff.

**"Personal Explanation"** means an explanation made by a Councillor in accordance with Rule 19.

**"Procedural Motion"** means a motion described as such in Rule 25.

**"Public Gallery"** means the area:

- (a) set aside within the Council Chamber for members of the public; and
- (b) outside the Council Chamber from which the Council Chamber is visible.

**"Ratepayer"** means a person who is liable to pay rates to Council in the current Financial Year.

**"Recording"** means any audio, visual, audio-visual or other electronic means or method by which a recording of events can be made.

**"Report"** means a report prepared for consideration by Council or a Delegated Committee or a Community Asset Committee when proposing to make a decision at a Council Meeting or a Delegated Committee Meeting, as the case may be.

**"Resident"** means a person who resides in the Municipal District.

**"these Rules"** means these Governance Rules.

**"Scheduled Council Meeting"** means a Council Meeting held in accordance with the schedule for Council Meetings fixed by Council from time to time but excludes an Additional Council Meeting.

**"Substantive Motion"** means a motion other than a Procedural Motion.

**"Urgent Business"** means business which Council determines, in accordance with Rule 17, should be dealt with as a matter of urgency, having regard to:

- (a) whether the business can safely be left until the next Meeting; and
- (b) the advice, if any, provided by the Chief Executive Officer.

## CHAPTER 1 – GOVERNANCE FRAMEWORK

### 1. Context

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

- (b) the overarching governance principles specified in section 9(2) of the Act; and
- (c) the following documents adopted or approved by Council:
  - (i) Election Period Policy
  - (ii) Procedures for Conflicts of Interest

### 2 Decision Making

- a. 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 the decision:
  - i. fairly, by giving it consideration and making a decision which is balanced, ethical and impartial; and
  - ii. on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations.
- b. 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).
- (c) Without limiting anything in Rule 2(b):
  - (i) before making a decision that will directly affect the rights of a person, Council (including any person acting with the delegated authority of Council) must give notice of its intent to consider the matter and provide an opportunity to any person who may be affected to communicate their views and have their interests considered before the decision is made;
  - (ii) if a Report to be considered at a Council Meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;
  - (iii) if a Report to be considered at a Meeting of a Delegated Committee concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
  - (iv) if an Officer proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the Officer must, when making that decision, complete a Delegate Report that records that notice of the decision to be made and the person or persons and such person was or persons were provided with an opportunity to communicate their views and have their interests considered.

## CHAPTER 2 – MEETING PROCEDURE FOR COUNCIL MEETINGS

### 4. Purpose

The purpose of this Chapter is to:

- (a) provide for the election of the Mayor and any Deputy Mayor;
- (b) provide for the procedures governing the conduct of Council Meetings; and
- (c) set the Rules of behaviour for those participating in or present at Council Meetings.

### 5. Meetings

- (a) Scheduled Council Meetings will be held at a date, time and location determined by resolution of Council from time to time.
- (b) An Additional Council Meeting will be held where:
  - (i) written notice of the Additional Council Meeting is provided to the Chief Executive Officer by the Mayor or by a majority of Councillors; and
  - (ii) the written notice specifies the:
    - (A) date, time and location for the Additional Council Meeting;
    - (B) business to be transacted at the Additional Council Meeting; and
    - (C) reason that the business to be transacted at the Additional Council Meeting cannot be left to be considered at the next Scheduled Council Meeting.

### 6. Chairperson and Acting Chairperson

- (a) The Mayor must take the chair at all Council Meetings at which she or he is present.
- (b) If the Mayor is unable to take the chair at a Council Meeting, the Deputy Mayor, if one has been elected by Council, must take the chair.
- (c) If Council has not elected a Deputy Mayor, or if the Deputy Mayor is unable to take the chair, a Councillor must be appointed by resolution of Council as acting Chairperson.
- (d) A Councillor appointed by Council or the Mayor must take the chair at a Meeting of a Delegated Committee at which she or he is present.
- (e) If that Councillor is unable to take the chair, a Councillor must be appointed by resolution of the Delegated Committee as acting Chairperson.

### 7. Failure to obtain or maintain a quorum

- (a) If, half an hour after the time for commencement of a Council Meeting, Council has failed to obtain a quorum, the Chairperson or, if the Chairperson is not present, the Chief Executive Officer, must adjourn the Council Meeting to a time and date not more than seven (7) days after the time originally appointed.
- (b) If, during the course of a Council Meeting, it becomes apparent to the Chairperson that it will not be possible to maintain a quorum because one or more of the Councillors present is prohibited from voting because of a conflict of interest in an item on the Agenda, the Chairperson must adjourn that item of business until circumstances permit the matter to be dealt with by Council, having regard to the process prescribed by section 67 of the Act.
- (c) Subject to the Act, if, during the course of a Council Meeting, a quorum is lost, the Chairperson or, if the Chairperson is not present, the Chief Executive Officer, must adjourn the Council Meeting for a period of up to 30 minutes. If, after that time, a quorum has not

been regained, the Chairperson or, if the Chairperson is not present, the Chief Executive Officer, must adjourn the Council Meeting to a time and date not more than seven (7) days after the time originally appointed.

- (d) Upon resumption of a Council Meeting adjourned under Rule 9, debate will continue from the point that it was adjourned.
- (e) If a Council Meeting is adjourned under Rule 9, the Agenda for the adjourned Council Meeting must be identical to the Agenda originally fixed for the Council Meeting.
- (f) The Chief Executive Officer must give all Councillors notice of the adjourned Council Meeting in such form as the Chief Executive Officer sees fit.

#### **8. Notice of Council Meetings to Councillors and Agenda for Council Meetings**

- (a) Notice of Council Meetings will be provided by the Chief Executive Officer to all Councillors by e-mail.
- (b) The Chief Executive Officer must distribute the Agenda for a Council Meeting to every Councillor:
  - (i) in the case of a Council Meeting called under Rule 7(a), no less than five (5) days before the Meeting; and
  - (ii) in the case of an Additional Council Meeting called under Rule 7(b), as soon as practicable after the Additional Council Meeting is called.
- (c) No Substantive Motion may be moved in respect of a matter at a Council Meeting unless:
  - (i) notice of that business has been given by inclusion in the Agenda or any Report accompanying the Agenda;
  - (ii) notice of that business has been included in a Notice of Motion submitted in accordance with Rule 19; or
  - (iii) the business has been admitted as Urgent Business in accordance with Rule 17.

#### **9. Notice of Council Meetings to the Public**

- (a) Public notice of all Council Meetings will be provided by the Chief Executive Officer in accordance with this Rule 8.
- (b) Public notice of Scheduled Council Meetings will be provided by:
  - (i) a schedule of all Scheduled Council Meetings, updated from time to time, being displayed on Council's website; and
  - (ii) the Agenda for the Scheduled Council Meeting being displayed on Council's website no less than five (5) days before the Scheduled Council Meeting.
- (c) Public notice of Additional Council Meetings will be provided by:
  - (i) notice of the date, time and place of the Additional Council Meeting being displayed on Council's website as soon as practicable after the Additional Council Meeting is called under Rule 7(b); and
  - (ii) the Agenda for the Additional Council Meeting being displayed on Council's website as far in advance of the Additional Council Meeting as possible.
- (d) Despite the provisions of Rule 8, the Chief Executive Officer may determine to provide shorter public notice of a Council Meeting where she or he considers it necessary or desirable to do so, in her or his absolute discretion.

#### **10. Time limits for Council Meetings**

- (a) Council Meetings will not continue beyond the time prescribed by this Rule 9.

- (b) If the business for a Council Meeting has not been concluded and no decision is made to extend the Council Meeting in accordance with Rules 12(d) and/or 12(e), the Council Meeting must be adjourned by the Chairperson to a specific time, date and place, but no later than seven (7) days after the date on which the Council Meeting was adjourned.
- (c) The Chief Executive Officer must give notice to each Councillor of the adjourned Council Meeting in accordance with these Rules.
- (d) Subject to Rule 12(e), a Council Meeting must not continue after 10:00pm unless Council resolves to extend the meeting.
- (e) No Council Meeting will continue past 11:00pm unless all Councillors present vote to further extend the Council Meeting.

## **11. Adjournments of Meetings**

- (a) In addition to any other method of adjournment provided in these Rules, a Council Meeting may be adjourned by resolution.
- (b) Any resolution under Rule 10(a) to adjourn a Council Meeting must:
  - (i) include the time, date and location for resumption of the Council Meeting; and
  - (ii) provide for the Council Meeting to reconvene at a date and time not more than seven (7) days from the date and time of the adjournment.
- (c) In addition to any powers provided by the Act, if the Chairperson is of the opinion that disorder in the Council Chamber (including but not limited to the Public Gallery) makes it desirable to adjourn a Council Meeting, she or he may adjourn the Council Meeting to a later time on the same day or to some later day as she or he thinks proper, but not later than seven (7) days from the date on which the Council Meeting is adjourned.
- (d) If a Council Meeting is adjourned under this Rule, the Agenda for the adjourned Council Meeting must be identical to the Agenda originally fixed for the Council Meeting.
- (e) The Chief Executive Officer must give all Councillors notice of the adjourned Council Meeting in such form as the Chief Executive Officer sees fit.

## **12. Order of business for a Council Meeting**

The order of business for a Scheduled Council Meeting will be as follows:

- (a) apologies;
- (b) confirmation of the minutes of the previous Council Meeting or Council Meetings;
- (c) reception and reading of petitions, joint letters and memorials;
- (d) public question time;
- (e) planning matters;
- (f) consideration of Officer Reports (except Planning);
- (g) Notices of Motion submitted by Councillors;
- (h) consideration of written reports of Committees;
- (i) Urgent Business;
- (j) Confidential Business;
- (k) Personal Explanations;
- (l) Councillors' Reports.

### **13. Disclosure of Conflicts of Interest**

A Councillor who has a conflict of interest in a matter on the Agenda for a Council Meeting must disclose that conflict of interest in accordance with Chapter 5 of these Rules and comply with their remaining obligations under the Act.

### **14. Minutes**

- (a) The Chief Executive Officer must cause a record to be kept of the proceedings of a Council Meeting in the form of minutes and those minutes shall include:
  - (i) the date, place, time and nature of the Council Meeting;
  - (ii) the names of the Councillors and whether they are present, an apology, on leave of absence or absent (if no apology has been received and the Councillor is not in attendance, the Councillor will be listed as absent);
  - (iii) details of any conflicts of interest disclosed by a Councillor and the time the Councillor left the Council Chamber and returned to the Council Chamber;
  - (iv) the mover and seconder of each motion or amendment;
  - (v) each motion carried or lost;
  - (vi) details of any submissions received;
  - (vii) the time of any adjournment of the Council Meeting and resumption;
  - (viii) suspension of standing orders and resumption;
  - (ix) details of failure to achieve or maintain a quorum;
  - (x) where applicable, the reason/s for excluding the public from any part of the Council Meeting in accordance with section 66(5) of the Act;
  - (xi) questions asked and answered during public question time;
  - (xii) Personal Explanations provided by Councillors;
  - (xiii) details of any point of order raised; and
  - (xiv) the time the Council Meeting concluded.
- (b) The minutes of a Council Meeting must be submitted to the next Council Meeting for confirmation, as follows:
  - (i) if the minutes have been distributed to each Councillor at least five days before the Council Meeting at which they are to be confirmed, a motion will be put to confirm the minutes; or
  - (ii) if the minutes have not been distributed to each Councillor at least five days before the Council Meeting at which they are to be confirmed, the minutes may be read and a motion will then be put to confirm the minutes.
- (c) If the minutes are confirmed, the Chairperson at the Council Meeting must sign the minutes and certify that they have been confirmed.
- (d) No discussion is permitted on the minutes except as to their accuracy as a record of proceedings.

### **15. Petitions, joint letters and memorials**

- (a) If a petition, joint letter or memorial is presented to Council, a Procedural Motion may be moved to receive the petition, joint letter or memorial and to ensure that the issues raised in it are considered at the appropriate time by:
  - (i) Council; or
  - (ii) an Officer who has been, or is, delegated the power to consider the issues.



- (b) No Substantive Motion will be moved in respect of a petition, joint letter or memorial until the next Council Meeting after the Council Meeting at which the petition, joint letter or memorial is received by Council.

**16. Public question time**

- (a) Council will provide an opportunity for members of the public to ask questions at every Scheduled Council Meeting.
- (b) Questions will be submitted and addressed in accordance with the procedure set out in this Rule and at all times in the order in which they are submitted.
- (c) The Chairperson retains discretion to accept or reject any question and, in exercising that discretion, will consider whether a question:
  - (i) relates to a matter beyond the power of Council;
  - (ii) is defamatory, malicious, abusive or objectionable in language or substance;
  - (iii) relates to the personal views or actions of an individual Councillor or Officer;
  - (iv) relates to a matter which would prejudice the Council or any person;
  - (v) repeats a question already answered at one of the immediately previous three (3) Council Meetings,;
  - (vi) is in the nature of a statement, comment or opinion; or
  - (vii) relates to any matter which would otherwise be considered by Council in a Meeting that is closed to the public under section 66(2)(a) of the Act.
- (d) All questions not dealt with due to time constraints shall be responded to by an Officer, in writing, within seven working days of the relevant Council Meeting. If a response cannot be provided in this time, an Officer will advise the questioner of the expected timeframe for a response to be provided. Where an email address is supplied, the response will be provided via email.
- (e) Subject to Rule 15(f), a Councillor or Officer responding to a question under Rule 15(d) may:
  - (i) seek that a question asked at a Council Meeting be taken on notice to be answered at the next Council Meeting; or
  - (ii) elect to submit a written answer to the person asking the question.
- (f) A Councillor or Officer may advise the Chairperson that, in his or her opinion and for specified reasons, the answer to a question should be given in a Council Meeting closed to members of the public under section 66(2)(a) of the Act. Unless Council resolves to the contrary, the answer must be deferred until the Council Meeting at which the answer is to be given is closed to members of the public.
- (g) A question is not to be read unless the:
  - (i) person who submitted it is in the Public Gallery at the time; or
  - (ii) the Chairperson, in her or his absolute discretion, permits the question to be read by a representative of the person, which representative is in the Public Gallery at the time; or
  - (iii) The Chairperson, in her or his absolute discretion, reads the question on behalf of the person.
- (h) A person wishing to ask a question at a Council Meeting must submit their question:
  - (i) in writing, in the form:
    - (A) Contained in Schedule 2 to these Rules; and
    - (B) published on Council's website; and

- (C) made available in hard copy at Council's Civic Centre; and
- (ii) in hard copy by delivering it to Council's offices or in electronic format by email or via Council's website.
- (i) Questions must be received prior to 2.00pm on the day of the Council Meeting.
- (j) No question will exceed 200 words and, if it does, only the first 200 words will be read to the Council Meeting.
- (k) Only questions from Residents and/or Ratepayers will be accepted.
- (l) The Chief Executive Officer will arrange for the distribution of all accepted questions received, to all Councillors, prior to the commencement of the Council Meeting.
- (m) When the Council Meeting moves to public question time, the Chairperson shall:
  - (i) call on each person who has submitted a question to ask their question verbally, if they wish (unless the Chairperson has rejected the question, in accordance with these Rules);
  - (ii) allow, at her or his discretion, the question to be read out by another member of the public on behalf of the person who submitted the question;
  - (iii) allow, at her or his discretion, a person asking a question to seek clarification on any point/s made in the answer provided;
  - (iv) give priority to questions relating to matters on the Agenda for the Council Meeting, in the order in which they are received;
  - (v) allow a maximum of three questions on a particular topic, grouping questions together to permit a collective response, as appropriate;
  - (vi) nominate the appropriate Councillor or Officer to answer the question or elect to answer it herself or himself;

advise the Council Meeting if questions have been submitted and rejected;
- (n) The Chairperson or the Chief Executive Officer will arrange for the distribution of any rejected questions received, after the Council Meeting.
- (o) Public question time is limited to 20 minutes, unless otherwise resolved by Council.

## **17. Notices of Motion**

- (a) A Councillor must not propose a Substantive Motion during a Council Meeting unless it:
  - (i) relates to a Report prepared by an Officer and included on the Agenda for that Council Meeting;
  - (ii) is contained in a Notice of Motion submitted in accordance with this clause and included on the Agenda for that Council Meeting; or
  - (iii) is otherwise provided for in these Rules.
- (b) A Notice of Motion must be in writing, dated and submitted by the Councillor intending to move it.
- (c) A Notice of Motion must be given to the Chief Executive Officer, or another officer nominated by the Chief Executive Officer for that purpose, in the form published to Councillors by the Chief Executive Officer from time to time.
- (d) A Councillor(s) wishing to have a Notice of Motion included on the Agenda for a Council Meeting must submit the Notice of Motion to the Chief Executive Officer, or any other officer nominated by the Chief Executive Officer, no later than midday on the day that is 14 days before the Council Meeting at which it will be considered.
- (e) A Notice of Motion that is submitted in accordance with Rule 16(b) may be amended by the Councillor(s) who submitted it at any time after the Notice of Motion is discussed at an

Informal Councillor Meeting until 9:00am on the day that is 5 days before the Council Meeting at which it will be considered.

- (f) When a Notice of Motion is submitted, the Chief Executive Officer will arrange for an Officer to prepare a short Report to be attached to it for inclusion in the Agenda providing brief advice about the content and effect of the Notice of Motion, including, but not limited to:
  - (i) whether the Notice of Motion, if passed, will have budget implications and, if so, what;
  - (ii) whether the Notice of Motion, if passed, will impact on internal resources and, if so, how;
  - (iii) how the Notice of Motion relates to the Council Plan and any relevant Council policies; and
  - (iv) how the Notice of Motion relates to work that has already been undertaken by Officers or Committees.
- (g) The Chief Executive Officer must list on the Agenda for the next Council Meeting the Notices of Motion that have been submitted in accordance with this Rule in the order that they are received.
- (h) The Chief Executive Officer may designate a Notice of Motion submitted under this Rule as confidential if she or he is of the opinion that it is:
  - (i) malicious, abusive or objectionable in language or substance;
  - (ii) may expose Council to an action in defamation; or
  - (iii) otherwise concerns matters that ought to be considered in a Council Meeting that is closed to the public in accordance with section 66(2)(a) of the Act.
- (i) Once submitted to the Chief Executive Officer, or an officer nominated by the Chief Executive Officer a Notice of Motion cannot be withdrawn unless, before noon on the day on which the relevant Agenda is to be distributed, the Councillor who lodged the Notice of Motion advises the Chief Executive Officer, or the nominated officer, in writing (including e-mail or text message) that it is to be withdrawn.
- (j) If a Councillor who has submitted a Notice of Motion is absent from the Council Meeting, or fails to move the motion when called upon by the Chairperson, any other Councillor may move the Notice of Motion or may move a motion that its consideration be deferred.
- (k) Except with consent of Council, Notices of Motion must be moved in the order in which they are received and listed on the Agenda.
- (l) If a Notice of Motion is not moved or deferred when it comes before the Council Meeting, it lapses. .
- (m) Unless Council resolves to defer a Notice of Motion for consideration at a subsequent Council Meeting, a motion that is similar to a Notice of Motion that has been lost must not be put before Council until at least three (3) Scheduled Council Meetings have been held since the Council Meeting at which it was lost, unless Council resolves to consider such a Notice of Motion sooner.

## **18. Urgent Business**

- (a) The Chairperson will reject any Substantive Motion that:
  - (i) does not relate to a Report prepared by an Officer and included on the Agenda for that Council Meeting; or
  - (ii) is not contained in a Notice of Motion submitted in accordance with Rule 16 and included on the Agenda for that Council Meeting,unless the Substantive is admitted by Council as an item of Urgent Business in accordance with this Rule.

- (b) A Councillor wishing to admit a Substantive Motion as an item of Urgent Business must, when the Council Meeting moves to 'Urgent Business' in the order of business:
  - (i) move a motion that the Substantive Motion be admitted as an item of Urgent Business; and
  - (ii) provide a brief explanation to Council of why the Substantive Motion should be so admitted.
- (c) Council must consider a motion to admit the Substantive Motion as an item of Urgent Business and, if the motion is:
  - (i) carried, the Councillor will move the Substantive Motion and it will be considered as a motion in accordance with these Rules; or
  - (ii) lost, the Council Meeting will move to the next item of business.
- (d) In moving a motion for admission of an item as Urgent Business, a Councillor must be allowed sufficient time to briefly explain why the matter should be dealt with immediately.
- (e) A Substantive Motion to be dealt with under Urgent Business must be in writing and made available to all Councillors.

## **19. Councillor Reports**

- (a) A Councillor who has been appointed to a Delegated Committee, a Community Asset Committee, Advisory Committee or a body external to Council may submit a verbal Councillor Report from time to time on the operations, findings and decisions of that Committee or body.
- (b) Any Councillor may report on their attendance at, or participation in, a civic or community event.
- (c) At the discretion of the Chairperson, other Councillors appointed to the same Delegated Committee, Community Asset Committee, Advisory Committee or body external to Council, may provide additional information at the time of the Councillor Report.
- (d) While questions may be asked on matters raised in a Councillor Report, no debate on these matters will be permitted.
- (e) A Councillor cannot, under Rule 18(a), report on any matter that has, at the Council Meeting, already been the subject of a written report from a Delegated Committee, a Community Asset Committee or an Advisory Committee.
- (f) If the Chairperson forms the view that the content of a Councillor Report involves a matter that should be the subject of a Notice of Motion in order to permit debate on the matter, the Chairperson may direct the Councillor to resume her or his seat and to raise the matter by way of Notice of Motion, under the process provided in these Rules.

## **20. Personal Explanations**

- (a) At the discretion of the Chairperson, a Councillor may, at the time allocated in the Agenda, or at another time determined by the Chairperson, make a brief Personal Explanation in respect of any statement (whether made at a Council Meeting or not) affecting the Councillor in their role as a Councillor.
- (b) A Personal Explanation must not be debated.
- (c) When a Councillor makes a Personal Explanation under this Rule:
  - (i) the Chairperson will ask the Councillor to state the statement or statements that the Councillor believes has affected her or him in her or his role as a Councillor and how she or he has been affected;
  - (ii) the Councillor will state these matters succinctly;

- (iii) a summary of the statement or statements to which the Councillor refers and how she or he has been affected will be recorded in the minutes of the Council Meeting; and
- (iv) if the Chairperson is satisfied that a Personal Explanation is warranted, the Chairperson will allow the Councillor to provide a Personal Explanation.

## **21. Confidential Business**

- (a) No business can be transacted as Confidential Business unless Council first resolves to close the Council Meeting to members of the public in accordance with the Act.
- (b) If, following the conclusion of Confidential Business, Council so resolves, the Council Meeting will again be open to members of the public.

## **22. Motions**

- (a) Motions must:
  - (i) be clear and unambiguous;
  - (ii) not be defamatory, malicious, abusive or objectionable in language or substance;
  - (iii) not be outside Council's power; and
  - (iv) in the case of an Alternative Motion, be directly relevant to the item of business in respect of which it is moved.
- (b) The Chairperson must reject any motion that does not comply with Rule 21(a).
- (c) The Chairperson may require motions to be put in writing.
- (d) Unless resolved otherwise by Council, printed motions previously circulated to Councillors need not be read out in full.
- (e) Procedural Motions must not be debated, unless otherwise provided for in the Table of Procedural Motions in Schedule 1 to these Rules.
- (f) A Procedural Motion takes precedence over any other process at a Council Meeting, other than a point of order.

## **23. Procedure for moving a motion**

- (a) Once a motion is moved, the Chairperson must call for a seconder.
- (b) If there is no seconder the motion lapses.
- (c) The mover and the seconder have a right to speak first and second respectively, but may elect to speak at a later point during debate on the motion instead.
- (d) The Chairperson will call on any other Councillor who wishes to speak on the motion to do so. Unless, as a result of a Procedural Motion, it is resolved otherwise, the motion must not be put to the vote until all Councillors wishing to speak on the motion have done so.
- (e) Subject to Rules 22(f) and 22(i), a Councillor may speak only once on the motion.
- (f) The mover of the motion has a right of reply.
- (g) If the mover of the motion has exercised the right of reply, the motion must immediately be put to the Council Meeting for a decision.
- (h) The mover of a motion must not introduce new material when exercising any right of reply.
- (i) A Councillor may, as a result of a Procedural Motion, be permitted to speak more than once on a motion.

- (j) A Councillor calling the attention of the Chairperson to a point of order or raising a procedural motion is not regarded as speaking to a motion or the amendment.
- (k) No motion, once moved and seconded, may be withdrawn without the consent of the Meeting.

#### **24. Amendments to a Motion**

- (a) Subject to Rule 23(b), any Councillor who has not moved or seconded a motion before Council may move an amendment to the motion.
- (b) A Councillor who has moved or seconded a motion before Council may move an amendment to the motion with the consent of Council.
- (c) Except with the consent of Council, a Councillor may only move one amendment per Agenda item.
- (d) An amendment to a motion before Council must relate to the specific words to be deleted, altered or inserted and cannot be a direct negative of the motion.
- (e) When a Councillor moves an amendment to a motion, the Chairperson will ask:
  - (i) the mover and seconder of the motion if they object to the proposed amendment; and
  - (ii) if there is no objection, ask the remaining Councillors whether they object to the proposed amendment.
- (f) If no Councillor objects, the motion before Council will be amended as proposed without the need to proceed with a formal amendment motion.
- (g) If one or more Councillors objects under Rule 23(e) the formal amendment process detailed in the rest of this Rule 23 will apply.
- (h) Amendments must be dealt with one at a time and in the order received by the Chairperson.
- (i) An amendment must be seconded and, if it is not seconded, the amendment will lapse and debate on the motion will resume.
- (j) An amendment must not be considered until any previous amendment has been decided upon.
- (k) No amendment, once moved and seconded, may be withdrawn without the consent of Council.
- (l) A Councillor may speak once on any amendment whether or not they have spoken to the motion.
- (m) There is no right of reply for the mover of an amendment.
- (n) Prior to an amendment being put to the vote the Chairperson may read out the amendment to assist all Councillors in understanding its effect.
- (o) Where practicable, amendments must be in writing.
- (p) Where an amendment is carried, the motion as amended then becomes the Substantive Motion to be considered.
- (q) The amended Substantive Motion must, in accordance with these Rules, continue to be debated until resolution.

#### **25. Alternative Motions**

- (a) Notwithstanding any other Rule in these Rules, the initial motion for debate on a matter that is the subject of a Report is the recommendation in that Report.
- (b) If there is:

- (i) no mover or seconder for the motion; or
  - (ii) an error in the recommendation in the Report, as advised by the Chief Executive Officer,
- any Councillor may immediately move an Alternative Motion.
- (c) A Councillor may also foreshadow her or his intention to move an Alternative Motion:
    - (i) immediately upon Council moving to the relevant item of business; and
    - (ii) at any other time during debate on the relevant item of business.
  - (d) A motion foreshadowed under Rule 24(c):
    - (i) has no procedural status or effect;
    - (ii) is intended only as a means of assisting the flow of the Council Meeting; and
    - (iii) is not to be recorded in the minutes of the Council Meeting.
  - (e) A motion foreshadowed under Rule 24(c) may then be moved if the initial motion, or any subsequent Alternative Motion is:
    - (i) not moved or seconded; or
    - (ii) moved, seconded and lost.
  - (f) An Alternative Motion must be directly relevant to the subject matter of the item of business in respect of which it is moved.
  - (g) Nothing in this Rule applies in respect of Notices of Motion.

## **26. Procedural Motions**

- (a) A Councillor wishing to move a Procedural Motion will remain seated and state, only once, to the Chairperson that they wish to move a Procedural Motion.
- (b) The Chairperson will then call on the Councillor to state the Procedural Motion, during which the Councillor will remain seated.
- (c) Procedural Motions must not be debated.
- (d) Council may resolve from time to time to treat any other motion as a Procedural Motion.
- (e) Procedural Motions must be dealt with in accordance with the table in Schedule 1 to these Rules.
- (f) A procedural motion cannot be dealt with until a procedural motion already before the Council has been resolved upon, except where it is a procedural motion to withdraw a procedural motion.

## **27. Conduct of debate**

- (a) A Councillor must address the Chairperson to move a motion, amendment or take part in debate, unless granted dispensation by the Chairperson.
- (b) Once acknowledged by the Chairperson, the Councillor has the floor and must not be interrupted unless called to order or Rules 26(e) or 26(f) apply.
- (c) If there is competition for the right to speak, the Chairperson must determine the order in which Councillors will be heard.
- (d) A Councillor must not digress from the subject of the matter being debated.
- (e) A Councillor must not be interrupted except:
  - (i) by the Chairperson;
  - (ii) upon a point of order being raised; or

- (iii) by the moving of a Procedural Motion.
- (f) If a Councillor is interrupted under Rule 26(e), that Councillor must resume their seat and remain silent until the Chairperson has ceased speaking or the point of order or Procedural Motion has been disposed of.
- (g) A Councillor who has been requested by the Chairperson to resume her or his seat must comply with that request.
- (h) Speaking times for Councillors are as follows:
  - (i) speaking to a motion or an amendment – 3 minutes;
  - (ii) mover exercising a right of reply in relation to a motion – 2 minutes;
  - (iii) Councillor making a Personal Explanation – 2 minutes.
- (i) Council may resolve to extend the time for which a Councillor may speak to a motion or an amendment, provided that any extension will not exceed two (2) minutes.

## **28. Addressing the Meeting**

- (a) When a Councillor is called by the Chairperson to address the Council Meeting, they will stand in their place to do so, if they are present in the Council Chamber and able to physically do so.
- (b) Other than in accordance with Rule 27(a), a Councillor will not stand during a Council Meeting unless standing in the course of leaving, or otherwise moving about in, the Council Chamber.
- (c) When addressing the Council Meeting:
  - (i) any person addressing the Chairperson will refer to the Chairperson as 'Mayor' or 'Chair';
  - (ii) all Councillors (other than the Mayor) will be addressed as 'Cr [name]'; and
  - (iii) all Officers will be addressed as 'Mr [name]' or 'Ms [name]' as the case may be, or by their official title,
 unless the Chairperson directs otherwise.

## **29. Participation by the Chairperson in debate**

- (a) The Chairperson may address a Council Meeting upon any issue under consideration.
- (b) If the Chairperson participates in a debate before Council, all of the provisions in these Rules concerning the conduct of the debate apply to the Chairperson.
- (c) The Chairperson may vacate the chair for the duration of any item under discussion whereupon the Deputy Chairperson or, if there is no Deputy Chairperson, a temporary Chairperson, will take the chair.

## **30. Adjournment of debate on a motion**

- (a) Debate on a motion may be adjourned by resolution following a Procedural Motion being moved.
- (b) A Procedural Motion to adjourn debate must include an appropriate date and time (including the option of a date after some specified event has occurred) at which the debate shall resume, unless the Procedural Motion is to adjourn debate indefinitely.
- (c) A Procedural Motion to adjourn debate must also include the reasons for seeking the adjournment.



- (d) All other business before Council, except for questions relating to the proposed adjournment, is suspended until the Procedural Motion to adjourn debate is decided upon.
- (e) Upon resumption of debate on the motion, debate will continue from the point that it was adjourned.
- (f) Notwithstanding Rule 29(e), upon resumption of debate on the motion, the Chairperson may determine that, because of the length of the period for which the motion was adjourned, all Councillors should be permitted to debate the motion, regardless of which Councillors had previously debated it.

### **31. Points of Order**

- (a) A point of order may be taken in relation to, and the Councillor raising a point of order must state, one of the following:
  - (i) conduct or a practice which is contrary to these Rules;
  - (ii) debate or discussion that is irrelevant to the matter before Council;
  - (iii) a motion or amendment that is outside Council's powers; or
  - (iv) Disorderly Conduct.
- (b) A Councillor wishing to raise a point of order will remain seated and state, only once, to the Chairperson that they wish to raise a point of order.
- (c) The Chairperson will then call on the Councillor to describe the point of order, during which the Councillor will remain seated.
- (d) If called to order, the Councillor called to order must resume her or his seat and remain silent until the point of order is decided upon, unless otherwise directed by the Chairperson to provide an explanation.
- (e) The Chairperson may adjourn the Council Meeting to consider a point of order.
- (f) A point of order takes precedence over any other process at a Council Meeting and all other matters before Council are suspended until the point of order is determined.
- (g) The Chairperson when ruling on a point of order must state the reasons for the ruling.
- (h) The Chairperson shall be the final arbiter on all points of order unless Council resolves to dissent from the Chairperson's ruling under Rule 31.
- (i) A Councillor stating a difference of opinion will not be considered to be taking a point of order.
- (j) A point of order cannot be raised until a point of order already before the Chairperson has been ruled upon by the Chairperson.

### **32. Dissent from the Chairperson's ruling**

- (a) A Councillor may move that the Council Meeting disagrees with a ruling by the Chairperson by moving:
 

"That the Chairperson's ruling be dissented from".
- (b) The Chairperson must invite the mover to state the reason for his or her dissent and the Chairperson may then reply.
- (c) The Chairperson must put the motion in the following form:
 

"That the Chairperson's ruling be dissented from".
- (d) If the vote is in the negative, the Council Meeting proceeds.
- (e) If the vote is in the affirmative, the Chairperson must reverse or vary (as the case may be) her or his ruling and proceed.

- (f) The defeat of the Chairperson's ruling is in no way a motion of censure or no-confidence in the Chairperson, and should not be so regarded by the Council Meeting.

### **33. Questions to Councillors and Officers**

- (a) At an appropriate time during a debate, the Chairperson may allow questions from Councillors in relation to the matter before the Council Meeting for decision.
- (b) Questions should not be raised during the address of another Councillor.
- (c) At any time during their address on a matter before Council, a Councillor may ask a question of an Officer on that matter.
- (d) Should such questions become excessive, or irrelevant to the matter before Council, the Chairperson may determine that the questions not be dealt with.
- (e) All questions must be directed through the Chairperson.
- (f) Questions must be succinct, precise and relevant to the matter before Council.

### **34. Voting**

- (a) Each Councillor present at a Council Meeting who is entitled to vote:
  - (i) is entitled to one vote;
  - (ii) exercises that vote by show of hands, ie voting is not to be in secret; and
  - (iii) may exercise that vote when called upon by the Chairperson to do so.
- (b) Unless otherwise provided for by the Act, a motion is carried when a majority of the Councillors present at the Council Meeting at the time the vote is taken vote in favour of the motion.
- (c) Unless otherwise provided for by the Act, if the number of votes in favour of the motion is half the number of Councillors present at the Council Meeting at the time the vote is taken, the Chairperson has a second vote.
- (d) For the purpose of determining the result of a vote, a Councillor present at the Council Meeting who does not vote is to be taken to have voted against the motion.
- (e) There shall be no discussion on the vote once the result has been declared by the Chairperson except that a Councillor may request:
  - (i) to have their opposition to the resolution recorded in the minutes under Rule 38; or
  - (ii) a Division under Rule 36.

### **35. En Bloc Voting**

- (a) En bloc voting is not permitted where Council is deciding any matter which:
  - (i) concerns planning; or
  - (ii) may affect the legal interests of a third party.
- (b) Where an en bloc vote is proposed, a motion must be moved which clearly identifies the:
  - (i) Agenda items that will be moved en bloc; and
  - (ii) reason that those Agenda items should be moved en bloc.
- (c) Every resolution resulting from an en bloc vote will be clearly recorded in the minutes of the Council Meeting.

**36. Opposition to the resolution**

- (a) A Councillor may, once the result of a vote has been declared by the Chairperson, request that their opposition to the resolution be recorded in the minutes.
- (b) The Chief Executive Officer must record that opposition when requested.

**37. Divisions**

- (a) A Division may be requested by any Councillor on any matter immediately after the vote is taken.
- (b) If a Division is called for by a Councillor, the vote must be taken by Councillors voting in the affirmative first holding up their hands, then those voting in the negative holding up their hands and then those not voting holding up their hands.
- (c) The Chairperson must then:
  - (i) declare the result; and
  - (ii) announce which Councillors voted in the affirmative, which voted in the negative and those who did not vote.
- (d) The Chief Executive Officer must record in the minutes the names of Councillors and whether they voted for or against the motion or did not vote.

**38. Revocation and amendment of previous resolutions**

A Notice of Motion to revoke or amend a previous resolution:

- (a) must be signed by a majority of Councillors;
- (b) must be given to the Chief Executive Officer within fourteen (14) days of the Meeting at which the resolution was carried; and
- (c) is deemed withdrawn if not moved at the next Council Meeting at which such business may be transacted.

**39. Demand documents**

- (a) Any Councillor may, as of right, demand at a Council Meeting, the production of any documents of Council relevant to the matter under discussion. The Chief Executive Officer will cause those documents to be provided to all Councillors as soon as practicable after the resolution is made.
- (b) Council may resolve to adjourn debate on the matter until after the documents have been provided.

**40. Procedure generally**

The conduct of Council Meetings will be:

- (a) in accordance with these Rules; and
- (b) to the extent that any matter is not provided for in these Rules, in accordance with the procedure determined by Council from time to time.

**41. Suspension of standing orders**

- (a) To facilitate the business of a Council Meeting, Council may, by resolution, suspend standing orders.

- (b) The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of Council.
- (c) No motion can be accepted by the Chairperson or lawfully be dealt with during any suspension of standing orders, other than a motion to resume standing orders.

#### **42. Recording of Meetings**

- (a) Unless Council resolves otherwise, the proceedings of a Council Meeting will be recorded by the Chief Executive Officer (or other person authorised by the Chief Executive Officer for that purpose).
- (b) All recordings will be made on suitable recording equipment.
- (c) Subject to Rule 41(a), recordings of Council Meetings will:
  - (i) consist of the audio and visual of the Council Meetings;
  - (ii) be streamed live on Council's website; and
  - (iii) be uploaded to the archive page on Council's website.
  - (iv) Be available on the website for at least 10 years.
- (d) No recording made while a Council Meeting is closed to members of the public under section 66(2) of the Act will be streamed live on Council's website or uploaded to the archive page on Council's website.
- (e) A person must not operate recording or photographic equipment at any Meeting without first obtaining the consent of the Chairperson or Council. Such consent may at any time during the course of the Meeting be revoked by the Chairperson or by resolution of Council.

#### **43. Removal from Council Chamber – Disorderly Conduct**

- (a) If a Councillor or member of the Public Gallery is engaging in Disorderly Conduct during a Council Meeting, the Chairperson may order them to stop immediately.
- (b) If the Chairperson issues an order under Rule 42(a) to a person other than a Councillor, and that person continues to engage in Disorderly Conduct, the Chairperson may order that person to leave the Council Chamber for the remainder of the Council Meeting.
- (c) The Chairperson may, in her or his absolute discretion, issue a warning to a Councillor or member of the Public Gallery that she or he considers their conduct to be Disorderly Conduct before taking any formal steps under this Rule 45 to address it.
- (d) A person to whom an order is directed under Rules 42(a) or 42(b) must comply with that order.
- (e) Council may resolve that a Councillor who has, during a Council Meeting, engaged in Disorderly Conduct, be ordered to leave the Council Chamber for the remainder of the Council Meeting.
- (f) A Councillor moves a motion that another Councillor be ordered to leave the Council Chamber for the remainder of the Council Meeting by moving:
 

“That Cr [...] be ordered to leave the Council Chamber for the remainder of the Meeting”.
- (g) The Chairperson must invite the mover to state the reason for the motion and the Councillor the subject of the motion may then reply.
- (h) The Chairperson must then put the motion in the following form:
 

“That Cr [...] be ordered to leave the Council Chamber for the remainder of the Meeting”.

#### **44. Attendance at Meetings**

- (a) Councillors will make every endeavour to attend all Council Meetings and Informal Councillor Meetings.
- (b) Where a Councillor is unable to attend any Council Meeting or Informal Councillor Meeting, the Councillor will provide an apology, including an explanation for their absence, in advance of the Council Meeting, either verbally or in writing, to the:
  - (i) Chairperson; or
  - (ii) Chief Executive Officer.

#### **45. Election of Mayor and Deputy Mayor**

- (a) The Chief Executive Officer must facilitate the election of the Mayor in accordance with the provisions of the Act.
- (b) The election of the Mayor must be carried out by a show of hands.
- (c) The Chief Executive Officer must open the Council Meeting at which the Mayor is to be elected, and preside until a Mayor is elected.
- (d) The procedure for the election of the Mayor is as follows:
  - (i) the Chief Executive Officer must invite nominations for the office of Mayor. If there is only one nomination, the candidate nominated is deemed to be elected;
  - (ii) if there is more than one nomination, a vote of the Councillors present at the Council Meeting will be held, in the order received;
  - (iii) in the event of a candidate receiving an Absolute Majority of the votes, that candidate is declared to have been elected;
  - (iv) in the event that no candidate receives an Absolute Majority of the votes, the candidate with the fewest number of votes is declared to be a defeated candidate. A further vote of the Councillors present at the Council Meeting will be held;
  - (v) if one of the remaining candidates receives an Absolute Majority of the votes, she or he is duly elected. If none of the remaining candidates receives an Absolute Majority of the votes, the process of declaring the candidate with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an Absolute Majority of the votes. That candidate must then be declared to have been duly elected;
  - (vi) in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate, the declaration will be determined by lot;
  - (vii) if a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:
    - (A) each candidate will draw one lot;
    - (B) 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 such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names;
    - (C) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle and the word "Defeated" shall be written on one of the pieces of paper;
    - (D) 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); and

- (viii) the process under Rule 44(d)(vii) will be repeated until there are no more than two candidates left, in which case, if there is an equality of votes, the word “Elected” will be written on one of the pieces of paper and the candidate who draws that piece of paper is declared to be elected.
- (e) If the defeated candidate in any round of voting is determined by lot, a Division cannot be called for or acted upon relating to that round of voting or the conduct of the lot.
- (f) The procedure used for the election of Mayor will be used to elect:
  - (i) a Deputy Mayor, if Council determines that the position of Deputy Mayor is required;
  - (ii) an Acting Mayor, where Council has not elected a Deputy Mayor;
  - (iii) an acting Chairperson if the Mayor and Deputy Mayor (if there is one) are unable to attend a Council Meeting; and
  - (iv) subject to the Act, Delegated Committee Chairpersons (if not already appointed by the Mayor or Council).
- (g) The Chief Executive Officer or an Officer that he or she appoints for the purpose will conduct the elections set out above.
- (h) The order and conduct of the meeting for the election of the Mayor and Deputy Mayor will be in accordance with Schedule 3 to the Governance Rules.

#### **46. Form and Availability of Meeting Records**

Records of Council Meetings and Delegated Committee Meetings will be made available on Council’s website and may be inspected at Council’s Civic Centre, unless section 66(5) of the Act applies. .

## CHAPTER 3 – MEETING PROCEDURE FOR DELEGATED COMMITTEES

### 47. Meeting Procedure Generally

If Council establishes a Delegated Committee:

- (a) all of the provisions of Chapter 2, except Rule 18, apply to Delegated Committee Meetings; and
- (b) any reference in Chapter 2 to:
  - (i) a Council Meeting is to be read as a reference to a Delegated Committee Meeting;
  - (ii) a Councillor is to be read as a reference to a member of the Delegated Committee; and
  - (iii) the Mayor is to be read as a reference to the Chairperson of the Delegated Committee.

### 48. Meeting Procedure Can Be Varied

Notwithstanding Rule 46, if Council establishes a Delegated Committee that is not composed solely of Councillors:

- (a) Council; or
- (b) the Delegated Committee, with the approval of Council,

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

## CHAPTER 4 – MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEES

### 49. Introduction

In this Chapter, “Instrument of Delegation” means an instrument of delegation made by the Chief Executive Officer under section 47(1)(b) of the Act.

### 50. Meeting Procedure

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



## CHAPTER 5 – DISCLOSURE OF CONFLICTS OF INTEREST

### 51. Introduction

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

### 52. Definition

In this Chapter “meeting conducted under the auspices of Council” means a meeting of the kind described in section 131(1) of the Act.

### 53. Disclosure of a Conflict of Interest at a Council Meeting

A Councillor who has a conflict of interest in a matter being considered at a Council Meeting at which he or she is present must disclose that conflict of interest by:

- (a) providing to the Chief Executive Officer before the Council Meeting commences a written notice:
  - (i) advising of the conflict of interest; and
  - (ii) explaining the nature of the conflict of interest,and then immediately before the matter is considered announcing to those present that he or she has a conflict of interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule; or
- (b) explaining the nature of the conflict of interest to those present at the Council Meeting immediately before the matter is considered.

### 54. Disclosure of Conflict of Interest at a Delegated Committee Meeting

A member of a Delegated Committee who has a conflict of interest in a matter being considered at a Delegated Committee Meeting at which he or she is present must disclose that conflict of interest by:

- (a) providing to the Chief Executive Officer before the Delegated Committee Meeting commences a written notice:
  - (i) advising of the conflict of interest; and
  - (ii) explaining the nature of the conflict of interest,and then immediately before the matter is considered announcing to those present that he or she has a conflict of interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule; or
- (b) explaining the nature of the conflict of interest to those present at the Delegated Committee Meeting immediately before the matter is considered.

### 55. Disclosure of a Conflict of Interest at a Community Asset Committee Meeting

A Councillor who has a conflict of interest in a matter being considered at a Community Asset Committee Meeting at which he or she is present must disclose that conflict of interest by:

- (a) providing to the Chief Executive Officer before the Community Asset Committee Meeting commences a written notice:

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

- (i) advising of the conflict of interest; and
  - (ii) explaining the nature of the conflict of interest,
- and then immediately before the matter is considered announcing to those present that he or she has a conflict of interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule; or
- (b) explaining the nature of the conflict of interest to those present at the Community Asset Committee Meeting immediately before the matter is considered.

**56. Disclosure at a Meeting Conducted Under the Auspices of Council**

A Councillor who has a conflict of interest in a matter being considered by the Community Asset Committee Meeting or an Informal Councillor Meeting at which he or she is present must disclose that conflict of interest by:

- (a) explaining the nature of the conflict of interest to those present at the meeting immediately before the matter is considered; and
- (b) providing to the Chief Executive Officer a written notice recording that the disclosure was made and accurately summarising the explanation given.

**57. Disclosure by Officers Preparing Reports for Meetings**

- (a) An Officer who, in his or her capacity as an Officer, has a conflict of interest in a matter in respect of which he or she is preparing or contributing to the preparation of a Report for the consideration of a:

- (i) Council Meeting;
- (ii) Delegated Committee Meeting;
- (iii) Community Asset Committee Meeting

must, upon becoming aware of the conflict of interest, immediately provide written notice to the Chief Executive Officer explaining why a conflict of interest exists.

- (b) The Chief Executive Officer must ensure that the Report referred to in Rule 59(a) records the fact that an Officer disclosed a conflict of interest in the subject-matter of the Report.
- (c) If the Officer referred to in Rule 56(a) is the Chief Executive Officer:
  - (i) the written notice referred to in Rule 56(a) must be given to the Mayor; and
  - (ii) the obligation imposed by Rule 56(a) must be discharged by any other Officer responsible for the preparation of the Report.

**58. Disclosure of Conflict of Interest by Officers in the Exercise of Delegated Power**

- (a) An Officer who has a conflict of interest in a matter requiring a decision to be made in respect of the matter by the Officer must, upon becoming aware of the conflict of interest, immediately provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest.
- (b) If the Officer referred to in Rule 57(a) is the Chief Executive Officer the written notice must be given to the Mayor.

**59. Disclosure by an Officer in the Exercise of a Statutory Function**

- (a) An Officer who has a conflict of interest in a matter requiring a statutory function to be performed under an Act in respect of the matter by the Officer must, upon becoming aware of the conflict of interest, immediately provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest.

- (b) If the Officer referred to in Rule 58(a) is the Chief Executive Officer the written notice must be given to the Mayor.

## CHAPTER 6 – MISCELLANEOUS

### 60. Informal Councillor Meetings

If there is a meeting of Councillors that:

- (a) is scheduled or planned for the purpose of discussing the business of Council;
- (b) is attended by at least half the number of Councillors and one Officer; and
- (c) is not a Council Meeting, Delegated Committee Meeting or Community Asset Committee Meeting,

it will be chaired by the Mayor or in his or her absence, the Deputy Mayor and the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting is:

- (d) tabled at the next convenient Council meeting; and
- (e) recorded in the minutes of that Council meeting.

### 61. Confidential Information

- (a) If the Chief Executive Officer is of the opinion that information is confidential information within the meaning of the Act, he or she may designate the information as confidential and advise Councillors in writing accordingly.
- (b) 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 in writing accordingly will be presumed to be confidential information, unless the Council resolves that the information is no longer confidential.

### 62. Review of these Rules

- (a) These Rules will be reviewed by Council:
  - (i) within 12 months of a general election; and
  - (ii) at such other times as Council, in its absolute discretion, determines.
- (b) A delay in reviewing, or failure to review, these Rules in accordance with this Rule will not affect the validity of these Rules.

## CHAPTER 7 – ELECTION PERIOD POLICY

**SCHEDULE 1**

<b>Procedural Motion</b>	<b>Form</b>	<b>When Procedural Motion is Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	When another Councillor is speaking During election of the Mayor or Deputy Mayor	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected
2. The motion lay on the table	This this motion lay on the table	When another Councillor is speaking During election of the Mayor or Deputy Mayor	Motion is postponed until retrieved by subsequent resolution of Council	Debate continues unaffected
3. The closure	That the motion now be put	During election of the Mayor or Deputy Mayor	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion	Debate continues unaffected
4. Alter the order of business	That the item listed as xx on the agenda be considered before/after the item listed as item xx	N/A	Alters the order of business for the Meeting	Items are considered in the order as listed in the agenda
5. Suspension of standing orders	That standing orders be suspended to [reason must be provided]	N/A	The Rules of the Meeting are temporarily suspended for the specific reason given in the motion.	Meeting continues unaffected
6. Resumption of standing orders	That standing orders be resumed	When standing orders have not been suspended	The temporary suspension of the Rules of the Meeting is removed.	The Meeting cannot continue

Procedural Motion	Form	When Procedural Motion is Prohibited	Effect if Carried	Effect if Lost
7. Consideration of Confidential Business	That, in accordance with section 66(2)(...) of the <i>Local Government Act 2020</i> the Meeting be closed to members of the public for the consideration of item xx which has been designated confidential on the grounds that it contains/relates to [insert grounds from s 66(2)]	During election of the Mayor or Deputy Mayor	The Meeting is closed to members of the public	Meeting continues to be open to the public
8. Move item to open Meeting	That Agenda Item xx be deferred and considered when the Meeting is reopened to members of the public	N/A	The Agenda Item is deferred to be considered when the Meeting is reopened to members of the public	The Agenda Item is considered as Confidential Business
9. Reopen the Meeting	That the Meeting be reopened to members of the public	N/A	The Meeting is reopened to members of the public	Meeting remains closed to members of the public
10. Receive petition, joint letter or memorial	That the petition/joint letter/memorial titled [...] be received	N/A	The petition, joint letter or memorial is received and may be subject to further action	The petition, joint letter or memorial is refused and no further action is taken on it

<b>Procedural Motion</b>	<b>Form</b>	<b>When Procedural Motion is Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>
11. Repetitious motion or amendment not be considered	That the motion/amendment, being repetitious, not be considered	N/A	The motion/amendment is not considered by the Meeting and the Meeting proceeds as if it was never moved	The motion/amendment is considered by the Meeting
12. Extend speaking time	That the speaking time for the speaker be extended	N/A	The speaking time for the speaker is extended by the time resolved by Council	The speaking time for the speaker is not extended and the next speaker is permitted to speak
13. Speaking more than once on a motion	That a Councillor or committee member be permitted to speak more than once to the motion	N/A	That the Councillor or committee member may speak more than once to the motion	The Councillor or committee member cannot speak more than once to the motion
14. Speaker no longer be heard	That the Councillor or committee member no longer be heard	N/A	That the Councillor or committee member immediately stops speaking	The Councillor or committee member continues speaking
15. Motion no longer be put	That the motion no longer be put	N/A	That the motion is withdrawn and not voted on	The motion is voted on





SUBMITTER NO.
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**GOVERNANCE RULES**

**QUESTIONS TO COUNCIL**

**COUNCIL MEETING: \_\_\_\_ / \_\_\_\_ / \_\_\_\_**

**PLEASE SEE ATTACHED GUIDELINES FOR SUBMITTING QUESTIONS TO  
COUNCIL**

Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

Suburb: \_\_\_\_\_ Postcode: \_\_\_\_\_

*Optional:* Telephone (business hours): \_\_\_\_\_

Mobile: \_\_\_\_\_ E-mail: \_\_\_\_\_

**SUBMITTING A QUESTION**

Statements, comments or opinions are NOT permitted and will not be responded to.

Questions must be submitted, in writing, using this form, by 2.00 pm on the day of the Council Meeting.

Questions may only be asked by a resident or ratepayer of the City of Monash.

Questions may be submitted by:

Mail: "Questions For Council" PO Box 1 Glen Waverley VIC 3150.

In person: at the Customer Service Centre, Civic Centre, 293 Springvale Road Glen Waverley.

E-mail: [mail@monash.vic.gov.au](mailto:mail@monash.vic.gov.au) or [Nick.Andrianis@monash.vic.gov.au](mailto:Nick.Andrianis@monash.vic.gov.au).

Priority will be give to questions that relate to a matter listed in the Council Agenda for the requested meeting.

Does the question relate to a matter listed in the Council Agenda? YES  NO

Question	
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**Privacy Statement**

The purpose of collecting your personal details is so a written response to your question can be provided. If you do not provide this information, Council will be unable to provide you with a written response. Your telephone details are optional and may assist Council is seeking clarification from you on the information you are seeking.

Your name will appear in the Council minutes along with the details of the question. Any other personal information on this form will only be disclosed to Councillors and Council Officers specifically for communication with you regarding the subject matter of your question. This information will be retained on Council files until destroyed in accordance with the *Public Records Act 1973*.

Personal information collected on this form will be handled in accordance with the privacy principles in the *Privacy and Data Protection Act 2014* and Council's Information Privacy Policy.

**OFFICE USE ONLY**

*Present:*

*Question answered:*

## CITY OF MONASH

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### Public Question Time

**A person wishing to ask a question at a Scheduled Meeting must submit their question in writing, in the form of Schedule 2 to these Rules**

**Questions must be received prior to 2.00pm on the day of the Meeting.**

**No question will exceed 200 words and, if it does, only the first 200 words will be read to the Scheduled Meeting.**

**Only questions from Residents and/or Ratepayers will be accepted.**

**When the Scheduled Meeting moves to public question time, the Chairperson shall:**

1. call on each person who has submitted a question to ask their question verbally, if they wish (unless the Chairperson has rejected the question, in accordance with Rule 15c of these Rules);
2. allow, at her or his discretion, the question to be read out by another member of the public on behalf of the person who submitted the question;
3. allow, at her or his discretion, a person asking a question to seek clarification on any point/s made in the answer provided;
4. give priority to questions relating to matters on the agenda for the Scheduled Meeting, in the order in which they are received;
5. allow a maximum of three questions on a particular topic, grouping questions together to permit a collective response, as appropriate;
6. nominate the appropriate Councillor or Officer to answer the question or elect to answer it herself/himself;
7. advise the Scheduled Meeting if questions have been submitted and rejected; and
8. distribute rejected questions to all Councillors by the end of the next working day.

Public question time is limited to 20 minutes, unless otherwise resolved by Council.

## SCHEDULE 3

### ELECTION OF MAYOR & DEPUTY MAYOR

1. OPENING OF MEETING BY CHIEF EXECUTIVE OFFICER

2. CEO CALLS FOR NOMINATIONS FOR MAYOR
3. CEO CONDUCTS ELECTION OF MAYOR
4. DECLARATION OF ELECTION OF MAYOR BY CHIEF EXECUTIVE OFFICER
5. MAYOR ASSUMES CONTROL OF MEETING
6. MAYOR MAKES ACCEPTANCE SPEECH
7. MAYOR CALLS FOR NOMINATIONS FOR DEPUTY MAYOR
8. MAYOR CONDUCTS ELECTION OF DEPUTY MAYOR
9. DECLARATION OF ELECTION OF DEPUTY MAYOR BY THE MAYOR
10. DEPUTY MAYOR MAKES ACCEPTANCE SPEECH
11. MAYOR INVITES COUNCILLORS TO MAKE STATEMENTS ON THE ELECTION OF MAYOR AND DEPUTY MAYOR
12. MAYOR CLOSES THE MEETING



CITY OF  
**MONASH**

*GOVERNANCE RULES*

**ELECTION PERIOD POLICY**

**FOR 2020 GENERAL ELECTIONS**

Adopted by Council at its meeting held on xxxxxxxxxxxx

## DEFINITIONS

**Act** means the *Local Government Act 2020*.

**by-election** means a by-election held under section 260 of the Act.

**election** in this Policy means an election held under Part 8 of the Act.

**election day** means the day of an election determined under section 257 or section 260 of the Act.

**election period**, in relation to an election, means the period that—

- (a) starts at the time that nominations close on nomination day; and
- (b) ends at 6 p.m. on election day.

**election manager** means—

- (a) the VEC; or
- (b) a person appointed by the VEC.

**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.

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.

**general election** means a general election held under section 257 of the Act.

**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 any regulations made under the Act.

**this Policy** means this Election Period Policy.

**publish** means publish by any means including by publication on the Internet.

## **1. INTRODUCTION**

The Act provides that, during the election period, certain prohibitions apply to the functions and powers of Council as it enters into a 'caretaker' period, while ensuring that the normal business of government continues and Council meets its responsibilities to the community.

## **2. POLICY OBJECTIVE AND BACKGROUND**

This Policy addresses the requirements of the Act regarding the responsibilities, actions and behaviours of Council in the period leading up to a general election.

## **3. APPLICATION OF THE POLICY**

This Policy applies to Councillors and Council staff.

This Policy applies only to the actual making of decisions by Council during the election period.

This Policy does not apply to announcements of decisions by Council prior to the commencement of the election period.

However, as far as practicable, such announcements will be made prior to the commencement of the election period.

## **4. ELECTION PERIOD**

The election period for the 2020 Council general elections commences at midnight Tuesday 22 September 2020 and ceases at 6.00 pm on election day, Saturday 24 October 2020.<sup>2</sup>

## **5. PROHIBITIONS**

### **5.1. Council decisions**

Council will not, during the election period for a general election, make decisions that:

- (a) relate to the appointment or remuneration of the Chief Executive Officer, other than those relating to the appointment or remuneration of an Acting Chief Executive Officer; or
- (b) commits Council to expenditure exceeding one per cent of Council's income from general rates, municipal charges and service rates and charges in the Financial Year immediately preceding that in which the general election is to be held; or
- (c) it considers could be reasonably deferred until the next Council is in place; or
- (d) it considers should not be made during an election period.

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<sup>2</sup> Note that these dates are subject to change on commencement of the Regulations to be made under the Act and reference should be made to those Regulations once commenced.



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

Prohibitions include decisions made by a Delegated Committee or Community Asset Committee or by a Council officer under delegated authority.

## **5.2. Use of Council resources**

Council resources will not be used in a way that is intended to affect, or is likely to affect, voting in, or the result of, an election.

Without limiting the generality of the statement above, a Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute, or cause, permit or authorise to be printed, published or distributed, any electoral material during the election period on behalf of, or purporting to be on behalf of, Council, unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

Councillors must not unreasonably use any Council resource for campaign purposes during the election period or seek reimbursement from Council for costs incurred for a campaign-related purpose.

Council recognises that some incidental use of Council resources, particularly Council-issued equipment (such as a vehicle in the case of the Mayor, or a mobile phone or tablet), for purposes connected with a Councillor's campaign for re-election may occur. Council does not consider that such incidental use, where it occurs in the ordinary course of a Councillor's daily and typical use of such a resource, breaches this Policy or any applicable electoral laws. Council considers that the provision of such resources and their continued use during the election period, including their incidental use in respect of any campaign purpose, does not confer any particular, unreasonable or unfair electoral advantage on a Councillor-candidate compared to other candidates.

In reaching this position, Council notes the position expressed in its Policy For Provision of Equipment To Councillors and Reimbursement of Expenses, that it is reasonable for Councillors to use these resources for both Council and incidental non-Council related purposes and that any out of pocket costs arising from such use for non-Council purposes should not be claimed as reimbursement from Council.

Council has also considered that the use of mobile phones, computers and cars is almost universal in the wider community today and that there is no unique or special advantage conferred on a Councillor-candidate by merely continuing to have access to one or more of these resources during the election period.

Council considers that it would be impractical for a Councillor to have to operate two mobile phones or two of any of the other resources merely to avoid use of any one of those Council provided resources in connection with a campaign purpose.

Council further notes that there is no cost or other impact for Council if a Councillor uses one of these resources for non-Council purposes. Moreover, Council's Policy For Provision of Equipment To Councillors and Reimbursement of Expenses expressly contemplates this sort of arrangement in relation to mobile phone use and deals with the process for attributing the out of pocket costs of the phone calls between Council-related calls and non-Council related calls. However, during the election period, Councillors should be especially mindful not to seek reimbursement for any out of pocket costs which arise from a campaign-related purpose.

Accordingly, Council has formed the view, and this is the position adopted in this Policy that it is impractical and unnecessary for current Councillors who are seeking re-election to have to go out and purchase their own devices merely for use during the election period. In fact it is considered that it would be an unreasonable and unnecessary imposition on Councillor-candidates if they were forced to have to purchase such resources personally for the purposes of only a matter of a few weeks for use during the election period.

Council further notes that this approach is consistent with the approach adopted in the Victorian Parliament and the Australian Parliament for Members of Parliament in those places.

## **6. MEDIA**

### **6.1. General Media**

The Chief Executive Officer has final sign-off on all media releases or campaigns during the election period.

All media enquiries will continue, during the election period, to be channelled through the Executive Manager Communications.

Public comment on behalf of the organisation during the election period will be provided by the Chief Executive Officer.

Media releases will during the election period, be issued by the Executive Manager Communications, following approval by the Chief Executive Officer.

### **6.2. Use of Social Media**

Any publication on Council's social media sites during the election period must be approved by the Chief Executive Officer, either generally or in a particular case.

Council officers responsible for administering Council's social media sites will monitor these sites during the election period and use moderation features (where they are available) to ensure that no electoral matter is posted on these sites.

## **7. DISCRETIONARY EXPENDITURE FUNDS**

Council will not make any decisions relating to requests for funding from the Council's Discretionary Expenditure Fund, during the election period.

## 8. MISUSE OF POSITION

Section 76D of the *Local Government Act 1989* makes it an offence for a Councillor to misuse their position to:

- gain, or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
- cause, or attempt to cause, detriment to Council or another person.<sup>3</sup>

Penalties apply.

Councillors must take care not to use their position as a Councillor to gain any advantage for themselves, or to cause detriment to any other person, while a candidate in the election.

## 9. COUNCIL EVENTS & PUBLIC CONSULTATION

During the election period, Council will schedule only those events and public consultation processes that are required for and relate to its normal responsibilities and legislative requirements and which cannot be left until after election day.

## 10. CANDIDATES AT 2020 COUNCIL ELECTIONS

The Council will ensure that access to information that it provides to candidates at the 2020 Council elections is made equally available to all of those candidates.

Councillors will be able to continue to automatically access Council-held documents during the election period, but only as is necessary for them to perform their current role and functions.

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<sup>3</sup> Note that this offence will be replaced by section 123 of the Act, which is in nearly identical terms, on 24 October 2020.

## **11. ONLINE ACCESSIBILITY OF THE POLICY**

An electronic copy of this Policy is available on the Council's website at [www.monash.vic.gov.au](http://www.monash.vic.gov.au).

## APPENDIX 1

### Approval Procedures for Council Publications During the Election Period

The following procedures will apply for the approval of publications for the election period for the 2020 Council elections:

1. All proposed publications during the election period must be forwarded to the Chief Operating Officer, in the first instance.
2. The Chief Operating Officer, or someone authorised by the Chief Operating Officer for the purpose, will determine if there is any electoral material in the proposed publication (other than factual election process information).
3. Should the proposed publication contain such information, it will be returned to the author for correction.
4. Should the proposed publication not contain such information, it will be forwarded to the Chief Executive Officer for approval.
5. The Chief Executive Officer will determine whether it is appropriate to approve the proposed publication.
6. Notwithstanding the preceding provisions of these procedures, the Chief Executive Officer may, from time to time, approve categories of publications for the purpose. If she does so:
  - a. all publications will be provided to the Chief Operating Officer in accordance with these procedures;
  - b. the Chief Operating Officer, or someone authorised by the Chief Operating Officer for the purpose, will determine if a proposed publication contains electoral matter and:
    - i. if it does, it will be dealt with in accordance with paragraph 3 of these procedures; but
    - ii. if it does not, the Chief Operating Officer, or someone authorised by the Chief Operating Officer for the purpose, will determine if it falls within one of the categories of approved publications and:
      1. if it does, it can be published without the need for specific approval from the Chief Executive Officer; but
      2. if it does not, it will be dealt with in accordance with paragraphs 4 and 5 of these procedures.
7. The Chief Executive Officer may, in her absolute discretion, determine not to follow these procedures, on such conditions as she sees fit.