

Governance Rules and Incorporated Election Period Policy

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Purpose

This document incorporates the Governance Rules and Election Period Policy of Moonee Valley City Council.

The Governance Rules have been developed in accordance with section 60 of the *Local Government Act 2020* (“the Act”). Their purpose is two-fold: to ensure that Council considers and makes decisions on any matter fairly and on the merits, and to ensure that Council’s decision-making processes provide that any person whose rights will be directly affected by a decision of the Council will be entitled to communicate their views and have their interests considered.

These Governance Rules and Election Period Policy commence on 1 September 2020.

Scope

The Governance Rules apply to all Councillors and establish proper rules and procedures for the making of decisions, the conduct of meetings and the declaration of conflict of interest as set out in the Act.

This document addresses Council’s statutory requirements by providing guidance at an operational level to ensure compliance and enhance the transparency and accountability of Councillors and Council officers in regard to governance matters, meeting procedure and during the election period.

The Election Period Policy specifically applies to all Councillors and Council staff for the duration of the 2020 Council election period commencing at 12 noon on Tuesday 22 September 2020 and concluding at 6pm on Saturday 24 October 2020.

Policy statement

Council is committed to governing on behalf of the Moonee Valley community in a way which is transparent, consultative, innovative and outcomes-driven, as outlined by the overarching governance principles set out at section 9(2) of the Act.

Policy principles

- Council decisions are to be made and actions taken in accordance with the relevant law;
- priority is to be given to achieving the best outcomes for the municipal community, including future generations;

- the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- the municipal community is to be engaged in strategic planning and strategic decision making;
- innovation and continuous improvement is to be pursued;
- collaboration with other Councils and Governments and statutory bodies is to be sought;
- the ongoing financial viability of the Council is to be ensured;
- regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
- the transparency of Council decisions, actions and information is to be ensured.

Chapter 1 – Governance Framework

1. Context

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

the overarching governance principles specified in section 9(2) of the Act; and the following documents adopted or approved by *Council*:

- [Councillor Code of Conduct](#)
- [Chief Executive Officer \(CEO\) Councillor and Staff Interaction Protocol](#)
- Chief Executive Officer Employment and Remuneration Policy (to be developed)
- Community Engagement Policy (in development)
- Complaints Policy (currently an operational document known as the [Complaint Management Policy](#))
- [Councillor Expenses Policy](#)
- Councillor Gift Policy (currently an operational document known as the [Gifts Benefits and Hospitality Policy](#))
- [Public Transparency Policy](#).

2. Decision Making

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:

- (i) fairly, by giving 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

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).

Without limiting anything in paragraph (b) of this sub-Rule:

- (iii) before making a decision that will directly affect the rights of a person, Council (including any person acting with the delegated authority of Council) must identify the person or persons whose rights will be directly affected, give notice of the decision which Council must make and ensure that such person or persons have an

opportunity to communicate their views and have their interests considered before the decision is made;

- (iv) 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;
- (v) if a report to be considered at a Delegated Committee meeting concerns subject-matter which will directly affect the rights of a person or persons, the report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
- (vi) if a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

Chapter 2 – Meeting Procedure for Council Meetings

Part A – Introduction

1. Title

This Chapter will be known as the "Meeting Procedure Local Law".

2. Purpose of this Chapter

The purpose of this Chapter is to:

- 2.1 provide for the election of the Mayor and any Deputy Mayor;
- 2.2 provide for the appointment of any Acting Mayor;
- 2.3 provide for the procedures governing the conduct of Council meetings; and
- 2.4 facilitate community engagement by providing opportunities at meetings for community members to express their views.

3. Definitions and Notes

3.1 In this Chapter:

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

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

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

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

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

"*public notice*" means by publication on *Council's* public website and/or in any publication generally circulating in the *municipal district*

"*reasonable notice*" means at least seven days' public notice, unless urgent or extraordinary circumstances apply

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

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

Part B – Election of Mayor

Introduction

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

4. Election of the *Mayor*

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

5. Method of Voting

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

6. Determining the election of the *Mayor*

- 6.1 The Chief Executive Officer must open the meeting at which the Mayor is to be elected, and invite nominations for the position of Temporary Chair:
- 6.1.1 if there is only one nomination, the candidate nominated is deemed to be elected;
 - 6.1.2 if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates by show of hands and the candidate receiving a majority of the votes must be declared to have been duly elected.
- 6.2 The Temporary Chair must invite nominations for the office of Mayor. Any nominations for the office of Mayor must be:
- 6.2.1 in a form prescribed by the Chief Executive Officer; and
 - 6.2.2 seconded by another Councillor.
- 6.3 Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor:
- 6.3.1 if there is only one nomination, the candidate nominated must be declared to be duly elected;
 - 6.3.2 if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;

- 6.3.3 in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
- 6.3.4 in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
- 6.3.5 if one of the remaining candidates receives an absolute majority of the votes, they are duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;
- 6.3.6 in the event of two or more candidates having an equality of votes and one of them having to be declared:
- (a) a defeated candidate; and
 - (b) duly elected,
- the Temporary Chair shall not have a second or casting vote, and the declaration will be determined by lot.
- 6.3.7 if a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:
- (a) 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; and
 - (c) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, 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 unless there is only one

candidate remaining, in which case that candidate will be declared to have been duly elected).

7. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for:

7.1 any office of Deputy Mayor; or

7.2 Chair of a Delegated Committee

will be regulated by Rules 4-6 (inclusive) of this Chapter, as if the reference to the:

7.3 Chief Executive Officer is a reference to the Mayor; and

7.4 Mayor is a reference to the Deputy Mayor or the Chair of the Delegated Committee (as the case may be).

8. Appointment of Acting Mayor

If Council has not established an office of Deputy Mayor and it becomes required to appoint an Acting Mayor, it can do so by:

8.1 resolving that a specified Councillor be so appointed; or

8.2 following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter, at its discretion.

Part C – Meeting Procedure

Introduction

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

Division 1 – Notices of Meetings and Delivery of Agendas

9. Dates and Times of Meetings Fixed by *Council*

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

10. Council May Alter Meeting Dates

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

11. Meetings Not Fixed by Council

- 11.1 The Mayor or at least three Councillors may by a written notice call a Council meeting.
- 11.2 The notice must specify the date and time of the Council meeting and the business to be transacted.
- 11.3 The Chief Executive Officer must convene the Council meeting as specified in the notice.
- 11.4 Unless all Councillors are present and unanimously agree to deal with any other matter, only the business specified in the written notice can be transacted at the Council meeting.

12. Notice of Meeting

- 12.1 A notice of meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be delivered or sent electronically to every Councillor for all Council meetings at least 48 hours before the meeting.
- 12.2 Reasonable notice of each Council meeting must be provided to the public. Council may do this:
 - 12.2.1 for meetings which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule on its public website and/or in any publication generally circulating in the municipal district; and
 - 12.2.2 for any meeting by giving notice on its website and:
 - (a) in each of its Customer Service Centres; and/or
 - (b) in any publication generally circulating in the municipal district.

Division 2 – Quorums

13. Inability to Obtain a Quorum

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

- 13.1 the meeting will be deemed to have lapsed;
- 13.2 the Mayor must convene another Council meeting, the agenda for which will be identical to the agenda for the lapsed meeting; and
- 13.3 the Chief Executive Officer must give all Councillors written notice of the meeting convened by the Mayor.

14. Inability to Maintain a Quorum

- 14.1 If during any Council meeting, a quorum cannot be maintained then Rule 13 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 14.2 Sub-Rule 14.1 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.

15. Adjourned Meetings

- 15.1 Council may adjourn any meeting to another date or time but cannot in the absence of disorder or a threat to the safety of any Councillor or member of Council staff adjourn a meeting in session to another place.
- 15.2 The Chief Executive Officer must give written notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 15.3 If it is impracticable for the notice given under sub-Rule 15.2 to be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

16. Cancellation or Postponement of a Meeting

- 16.1 The Chief Executive Officer may, in the case of an emergency necessitating the cancellation or postponement of a Council meeting, cancel or postpone a Council meeting.
- 16.2 The Chief Executive Officer must present to the immediately following Council meeting a written report on any exercise of the power conferred by sub-Rule 16.1.

Division 3 – Business of Meetings

17. Agenda and the Order of Business

- 17.1 The agenda for a Council meeting is to be determined by the Chief Executive Officer so as to facilitate and maintain open, efficient and effective processes of government.
- 17.2 The agenda should be kept consistent from meeting to meeting.
- 17.3 Unless otherwise determined by the Chair, the order of business of any Council meeting must be as follows:
- 17.3.1 Opening

- 17.3.2 Apologies and Leave of Absence
- 17.3.3 Confirmation of Minutes
- 17.3.4 Declarations of Conflicts of Interest
- 17.3.5 Presentations
- 17.3.6 Petitions and Joint Letters
- 17.3.7 Public Question Time
- 17.3.8 Reports from Delegated Committees
- 17.3.9 Council Reports
- 17.3.10 Notices of Motion
- 17.3.11 Urgent Business
- 17.3.12 Confidential Reports
- 17.3.13 Close

18. Reconciliation Statement

At each meeting, the Chair shall read out a [Reconciliation Statement](#).

19. Presentations

At each meeting, presentations of monetary grants, certificates of appreciation or other acknowledgements that recognise the outstanding achievements of local individuals and organisations who have made a significant contribution to Moonee Valley may be made by the Mayor or Councillors.

20. Change to Order of Business

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

21. Urgent Business

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

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

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

Division 4 – Motions and Debate

22. Councillors May Propose Notices of Motion

Councillors may ensure that an issue is listed on an agenda by lodging a Notice of Motion.

23. Notice of Motion

23.1 A notice of motion must:

- 23.1.1 have been announced at a Councillor Briefing Session by the Councillor who is proposing to move it at least seven days prior to the Council meeting at which it is proposed to be moved; and
- 23.1.2 be received by the Chief Executive Officer in its final written form by 12 noon on the Thursday prior to the meeting at which it is proposed to be moved.

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

- 23.2.1 is vague or unclear in intention
- 23.2.2 is beyond Council's power to pass
- 23.2.3 is identical or substantially similar to a Notice of Motion that has been considered by Council in the preceding six months
- 23.2.4 is defamatory or otherwise objectionable in language or nature
- 23.2.5 would result in the direct allocation of funds outside Council's adopted budget or would otherwise have a material financial impact; or
- 23.2.6 if passed would result in Council otherwise acting invalidly

but must:

- 23.2.7 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
- 23.2.8 notify in writing the Councillor who lodged it of the rejection and reasons for the rejection.

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

23.4 The Chief Executive Officer must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.

23.5 Except by leave of Council, each notice of motion before any meeting must be considered in the order in which they were entered in the notice of motion register.

23.6 If a Councillor who has given a notice of motion is absent from the meeting or fails to move the motion when called upon by the Chair, any other Councillor may move the motion.

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

24. Chair's Duty

Any motion which is determined by the Chair to be:

24.1 defamatory;

24.2 objectionable in language or nature;

24.3 outside the powers of Council; or

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

25. Introducing A Motion or an Amendment

The procedure for moving any motion or amendment is:

25.1 the mover must state the motion without speaking to it;

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

25.3 if a motion or an amendment is moved and seconded the Chair will invite the mover to address the meeting;

25.4 after the mover has addressed the meeting, the seconder may address the meeting;

25.5 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the Chair will invite debate by calling on any Councillor who wishes to speak to the

motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and

25.6 if, after the mover has addressed the meeting, the Chair has invited debate and no Councillor speaks to the motion, then the Chair must put the motion to the vote.

26. Debate from the Chair

26.1 The Chair must not debate on a motion.

26.2 Where the Chair wishes to move or second a motion, they must temporarily vacate the Chair before the motion is considered by Council. A Temporary Chair must be nominated in accordance with Rule 54.2.

27. Right of Reply

27.1 The mover of a motion has a right of reply to matters raised during debate.

27.2 After the right of reply has been taken but subject to any Councillor exercising their right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

28. Moving an Amendment

28.1 Subject to sub-Rule 28.2 a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.

28.2 A motion to confirm a previous resolution of Council cannot be amended.

28.3 An amendment must not be directly opposite to the motion.

29. Who May Propose an Amendment

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

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

30. How Many Amendments May Be Proposed

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

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

31. An Amendment Once Carried

31.1 If the amendment is carried, the motion as amended then becomes the motion before the meeting. Unless subject to further amendment and debate, it must be put to the vote by the Chair, but only after Councillors who did not speak to the original motion have exercised their right to do so.

31.2 The mover of the amendment will have a right of reply.

31.3 The mover of the original motion retains the right of reply to that motion.

32. Foreshadowing Motions

32.1 At any time during debate a Councillor may foreshadow a motion so as to inform Council of their intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.

32.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the Chair being resolved in a certain way, a Councillor intends to move an alternative or additional motion.

32.3 The Chief Executive Officer or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.

33. Withdrawal of Motions

33.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of Council.

33.2 If the majority of Councillors objects to the withdrawal of the motion, it must not be withdrawn.

34. Separation of Motions

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

35. Chair May Separate Motions

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

36. Priority of address

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

37. Motions in Writing

37.1 The Chair may require that a complex or detailed motion be in writing.

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

38. Repeating Motion and/or Amendment

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

39. Debate Must Be Relevant to the Motion

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

39.2 If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may direct the speaker to be seated and not speak further in respect of the motion then before the Chair.

39.3 A speaker to whom a direction has been given under sub-Rule 39.2 must comply with that direction.

40. Deferral of a Motion

40.1 Council may defer an item until later in the Meeting or until another Meeting if appropriate if further consideration or clarification is required prior to a decision being made.

40.2 The motion to defer an item is a substantive motion, and may be debated.

41. Resumption of Adjourned Debate

41.1 The business to which the debate relates must be placed on the Agenda of the meeting to which it is adjourned.

41.2 Adjourned business should have priority over any other business.

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

42. Speaking Times

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

42.1 the mover of a motion or an amendment: 5 minutes;

42.2 the seconder of a motion or an amendment: 3 minutes;

42.3 any other Councillor: 3 minutes; and

42.4 the mover of a motion exercising a right of reply: 2 minutes.

43. Addressing the Meeting

If the Chair so determines:

43.1 any person addressing the Chair must refer to the Chair as:

43.1.1 Mayor; or

43.1.2 Chair.

43.2 all Councillors, other than the Mayor, must be addressed as Cr (Name).

43.3 all members of Council staff, must be addressed by their official title.

44. Points of Clarification

44.1 A Councillor may raise a point of clarification with the Chair in order to clear up confusion, ask a question about the motion, or enquire as to the correct motion.

44.2 A point of clarification should be limited to the facts and should not seek opinions of officers beyond what is expressed in a report.

44.3 Where a Councillor is determined by the Chair to be intentionally mischievous and/or disruptive to the meeting by calling for frivolous points of clarification, the Councillor may be called to order and refused any further requests by the Chair.

45. Ordering Withdrawal of Remark

45.1 The Chair may direct a Councillor to withdraw any remark which is defamatory, indecent, abusive or offensive in language or substance, or that is disorderly or capable of being applied offensively to any other Councillor or member of Council staff, and/or make a satisfactory apology to the Meeting. A Councillor required to withdraw a remark and/or make an apology must do so immediately without qualification or explanation.

45.2 A Councillor must not fail to withdraw a remark or make an apology if twice called to do so by the Chair.

Division 5 – Procedural Motions

46. Procedural Motions

46.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the Chair.

46.2 Procedural motions require a seconder.

46.3 A procedural motion may be moved by any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion.

46.4 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following:

46.4.1 Adjournment of debate to later hour and/or date (“that this debate be adjourned to ___am/pm and/or ___date:

- (a) Debate is permitted
- (b) May be raised at any time except for during the election of a Chair, or when another Councillor is speaking; and
- (c) The effect of the motion if carried is that the motion and amendment is postponed to the stated time and/or date.

46.4.2 Adjournment of debate indefinitely (“that this matter be adjourned until further notice”):

- (a) Debate is permitted
- (b) May be raised at any time except for during the election of a Chair, when another Councillor is speaking, or when the motion would have the effect of causing Council to be in breach of a legislative requirement; and
- (c) The effect of the motion if carried is that the motion and amendment are postponed, but may be resumed at any later meeting if on the agenda.

46.4.3 Closure (“that the motion now be put”):

- (a) Debate is not permitted
- (b) May be raised at any time except for during nominations for Chair; and
- (c) The effect of the motion if carried is that the original motion is put to the vote immediately without further debate.

46.5 If any procedural motion is lost, debate continues unaffected.

Division 6 – Rescission Motions

47. Notice of Rescission

47.1 A Councillor may propose a notice of rescission provided:

- 47.1.1 it has been signed and dated by at least five Councillors;
- 47.1.2 the resolution proposed to be rescinded has not been acted on;
and
- 47.1.3 the notice of rescission is delivered to the Chief Executive Officer within 24 hours of the resolution having been made setting out –
 - (a) the resolution to be rescinded; and
 - (b) the meeting and date when the resolution was carried.

It should be remembered that a notice of rescission is a form of notice of motion.

Accordingly, all provisions in this Chapter regulating notices of motion equally apply to notices of rescission.

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

- 47.2.1 its contents have or substance has been communicated in writing to a person whose interests are materially affected by it; or
- 47.2.2 a statutory process has been commenced,
so as to vest enforceable rights in or obligations on Council or any other person.

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

- 47.3.1 has not been acted on; and
- 47.3.2 is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-Rule 47.1.3,
unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

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

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

Sub-Rule 47.3 would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.

48. If Lost

If a motion for rescission is lost, a similar motion may not be put before Council for at least two months (sixty days) from the date it was last lost, unless Council resolves that the notice of motion be re-listed at a future meeting.

49. If Not Moved

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

50. May Be Moved by Any Councillor

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

51. When Not Required

51.1 Unless sub-Rule 51.2 applies, a motion for rescission is not required where Council wishes to change policy.

51.2 The following standards apply if Council wishes to change policy:

51.2.1 if the policy has been in force in its original or amended form for less than 12 months, a notice of rescission must be presented to Council; and

51.2.2 any intention to change a Council policy, which may result in a significant impact on any person, should be communicated to those

affected and this may include publication and consultation, either formally or informally.

Division 7 – Points of Order

52. Chair to Decide

The Chair must decide all points of order by stating the provision, rule, practice or precedent which they consider applicable to the point raised without entering into any discussion or comment.

53. Chair May Adjourn to Consider

53.1 The *Chair* may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.

53.2 All other questions before the meeting are suspended until the point of order is decided.

54. Dissent from Chair's Ruling

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

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

54.2 When a motion in accordance with this Rule is moved and seconded, the *Chair* must leave the *Chair* and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present, temporary *Chair* elected by the meeting) must take their place.

54.3 The Deputy Mayor or temporary *Chair* must invite the mover to state the reasons for their dissent and the *Chair* may then reply.

54.4 The Deputy Mayor or temporary *Chair* must put the motion in the following form:

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

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

54.6 If the vote is in the affirmative, the *Chair* must then resume the *Chair*, reverse or vary (as the case may be) their previous ruling and proceed.

54.7 The defeat of the *Chair's* ruling is in no way a motion of censure or non-confidence in the *Chair*, and should not be so regarded by the meeting.

55. Procedure for Point of Order

A Councillor raising a point of order must:

55.1 state the point of order; and

55.2 state any section, Rule, paragraph or provision relevant to the point of order before resuming their seat.

56. Valid Points of Order

A point of order may be raised in relation to:

56.1 a motion, which, under Rule 24, or a question which, under Rule 57, should not be accepted by the Chair;

56.2 a question of procedure; or

56.3 any act of disorder.

Rising to express a difference of opinion or to contradict a speaker is not a point of order.

Division 8 – Public Question Time

57. Question Time

57.1 There must be a public question time at every Council meeting fixed under Rule 9 to enable members of the public to submit questions to Council.

57.2 Sub-Rule 57.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the Act.

57.3 Questions submitted to Council must be:

57.3.1 in writing, stating the name and address of the person submitting the question and generally be in a form approved or permitted by Council; and

57.3.2 delivered to Council's Civic Centre, or be lodged electronically via Council's website or at the prescribed email address prior to 12 noon on the day prior to the Council meeting.

57.4 No person may submit more than two questions at any one meeting.

- 57.5 If a person has submitted two questions to a meeting, the second question may, at the discretion of the Chair, be deferred until all other persons who have asked a question have had their questions asked and answered.
- 57.6 The Chair or a member of Council staff nominated by the Chair may read to those present at the meeting a question which has been submitted in accordance with this Rule.
- 57.7 Notwithstanding sub-Rule 57.5, the Chair may refrain from reading a question or having a question read if the person who submitted the question is not present in the gallery at the time when the question is due to be read. A person who is unable to attend a meeting to ask their question should contact Council to enquire about alternative arrangements.
- 57.8 The Chair will have the discretion to paraphrase questions for the purpose of clarity or brevity.
- 57.9 A question may be disallowed by the Chair if the Chair determines that it:
- 57.9.1 relates to a matter outside the duties, functions and powers of Council;
 - 57.9.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 57.9.3 deals with a subject matter already answered;
 - 57.9.4 is aimed at embarrassing a Councillor or a member of Council staff;
 - 57.9.5 relates to personnel matters;
 - 57.9.6 relates to matters deemed to be confidential information as defined at section 3(1) of the Act.
- 57.10 All questions and answers must be as brief as possible, and no discussion may be allowed other than by Councillors for the purposes of clarification.
- 57.11 Like questions may be grouped together and a single answer provided.
- 57.12 The Chair may nominate a Councillor or the Chief Executive Officer to respond to a question.
- 57.13 A Councillor or the Chief Executive Officer may require a question to be put on notice. If a question is put on notice, a written copy of the answer will be sent to the person who asked the question.
- 57.14 A Councillor or the Chief Executive Officer may advise Council that it is their opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or Chief Executive Officer (as the case

may be) must state briefly the reason why the reply should be so given and, unless Council resolves to the contrary, the reply to such question must be so given.

Division 9 – Petitions and Joint Letters

58. Petitions and Joint Letters

58.1 Unless Council determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next Council meeting after that at which it has been presented.

58.2 Every Councillor presenting a petition or joint letter to Council must:

58.2.1 confine themselves to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of the prayer or request.

58.3 The format of a petition or joint letter presented to Council should be as follows:

58.3.1 That it be in writing, typing or printing, and contain the request of the petitioners or signatories.

58.3.2 That it be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address or email address of every petitioner or signatory must be clearly stated.

58.3.3 Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by Council.

58.3.4 Electronic petitions or joint letters must include the name and e-mail address of each petitioner. This will function as the 'signature' of a petitioner.

58.4 Council will refer petitions, joint letters, memorials and other like applications to the Chief Executive Officer for consideration.

58.5 Under the Planning and Environment Act 1987 (s57) any person who may be affected by the granting of a planning permit, has the right to make a submission (or objection). As such any Petition or Joint Letter relating to a planning application will be treated in accordance with this Act, and need not be tabled at a meeting.

Division 10 – Voting

59. How Motion Determined

To determine a motion before a meeting, the Chair must first call for those in favour of the motion and call each vote in favour by name, and then call for those opposed to the motion and call each vote in opposition by name, and must then declare the result to the meeting.

60. Entitlement to Vote

Each Councillor present at a meeting of the Council who is entitled to vote must vote. Any Councillor who is present and does not vote will be taken to have voted against the question in line with section 61(5)(e) of the Local Government Act 2020.

61. Silence

Voting must take place in silence.

62. Recount

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

63. Casting Vote

In the event of a tied vote, the Chair must exercise a casting vote.

64. By Show Of Hands

Voting on any matter is by show of hands.

65. Recording of Vote

The minutes of the meeting will record each member and whether they voted in the affirmative or in the negative.

66. No Discussion Once Declared

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

- 66.1 Seeking an alternative resolution in relation to a statutory planning matter where in the absence of a resolution, the application will be left undecided. Where this occurs:

- 66.1.1 the Chair will call for an alternative resolution to allow the statutory planning matter to proceed;

- 66.1.2 the Chair may seek to either adjourn the meeting or change the order of business in order to allow time for an alternative resolution to be prepared.

Division 11 – Minutes

67. Confirmation of Minutes

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

67.1.1 A copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;

67.1.2 the minutes must be confirmed by a motion of Council;

67.1.3 if a Councillor indicates opposition to the minutes:

- (a) they must specify the item(s) to which they object;
- (b) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
- (c) the Chair must allow debate on the objection in line with the procedure outlined at Rule 25;
- (d) the Chair must, after all objections have been dealt with, ultimately ask:

"The question is that the minutes be confirmed" or

"The question is that the minutes, as amended, be confirmed",

and they must put the question to the vote accordingly;

67.1.4 a resolution of Council must confirm the minutes and the minutes must, if practicable, be signed by the Chair of the meeting at which they have been confirmed;

67.1.5 once confirmed, the minutes must be recorded by Council and made publicly available, either on Council's public website or on request; and

67.1.6 unless otherwise resolved or required by law, minutes of a Delegated Committee requiring confirmation by Council must not be available to the public until confirmed by Council.

68. No Debate on Confirmation of Minutes

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

69. Deferral of Confirmation of Minutes

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

70. Form and Availability of Minutes

70.1 The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and to take the minutes of such meeting) must keep minutes of each Council meeting, and those minutes must record:

- 70.1.1 the date, place, time and nature of the meeting;
- 70.1.2 the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
- 70.1.3 the names of the members of Council staff present;
- 70.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5;
- 70.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
- 70.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder) and motions and amendments withdrawn by resolution or with the consent of both the mover and seconder of the motion or amendment;
- 70.1.7 whether motions or amendments lapsed or were withdrawn, carried or lost;
- 70.1.8 the vote cast by each Councillor and/or Committee member, either for or against and the declaration of the result on the motion or amendment. If the vote is unanimous, the minutes will record it as such;
- 70.1.9 pre-submitted questions from the gallery and responses to those questions;
- 70.1.10 the failure of a quorum;
- 70.1.11 any adjournment of the meeting and the reasons for that adjournment;

- 70.1.12 any closure of the meeting to members of the public in accordance with the provisions of Section 66(2) of the Act including the reason for the closure;
- 70.1.13 a summary of all committee reports presented to Council;
- 70.1.14 the time at which standing orders were suspended and resumed; and
- 70.1.15 any other matter which the Chief Executive Officer (or other person authorised by the Chief Executive Officer) thinks should be recorded to clarify the intention of the meeting or the reading of the minutes.

70.2 The Chief Executive Officer must ensure that the minutes of any Council meeting are:

- 70.2.1 published on Council's website; and
- 70.2.2 available for inspection at Council's office during normal business hours.

70.3 Nothing in sub-Rule 70.2 requires Council or the Chief Executive Officer to make public any minutes relating to a Council meeting or part of a Council meeting closed to members of the public in accordance with section 66 of the Act.

Division 12 – Behaviour

71. Gallery to be Silent

71.1 Visitors must not interject or take part in any debate or in any other way interrupt the business of the meeting.

71.2 Members of the gallery must be silent at all times.

72. Chair May Remove

The Chair may order and cause the removal of any person who disrupts any meeting or fails to comply with a direction given under sub-Rule 71.2.

The Mayor may direct a Councillor to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business pursuant to section 19(b) of the Act.

The Chair may request that any banners or placards that contain offensive and/or defamatory comments be removed from the Chamber.

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

73. Chair May Adjourn Disorderly Meeting

If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, they may adjourn the meeting to a later time on the same day or to some later day as they think proper. In that event, the provisions of sub-Rules 15.2 and 15.3 apply.

74. Removal from Chamber

The Chair, or Council in the case of a suspension, may ask the Chief Executive Officer or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the Chair has ordered to be removed from the gallery under Rule 76.

75. No Alcohol to Be Served

Meetings are to be conducted in an alcohol-free environment (being that alcohol will not be served to Councillors or officers prior to, or during, meetings).

Division 13 – Additional Duties of Chair

76. The Chair's Duties and Discretions

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

76.1 must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community; and

76.2 must call to order any person who is disruptive or unruly during any meeting.

Division 14 – Suspension of Standing Orders

77. Suspension of Standing Orders

77.1 To expedite the business of a meeting, *Council* may suspend standing orders.

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

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

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

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

77.3 No motion can be accepted by the Chair or lawfully be dealt with during any suspension of standing orders.

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

"That standing orders be resumed."

Division 15 – Miscellaneous

78. Meetings Conducted Remotely

If:

78.1 by law a meeting may be conducted electronically; and

78.2 Council decides that a meeting is to be conducted electronically,

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

79. Livestreaming and Recording of Proceedings

The Chief Executive Officer (or their delegate or nominee) may, for the purposes of minute taking, record on suitable audio recording equipment all proceedings of a meeting. With the exception of any meetings or parts of meetings that have been closed to the public, all Council meetings will be livestreamed on the

internet. A recording of a meeting that is live-streamed will also be made available to the public to be viewed on demand via the Council website. Other public meetings, such as Public Forums, may also be livestreamed.

79.1 To comply with its obligations under the Privacy Data & Protection Act 2014 (VIC), the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 (VIC), the Racial Discrimination Act 1975 (Cth), the Racial and Religious Tolerance Act 2001 (VIC) and the Defamation Act 2005 (VIC), as well as Australian Copyright Law, Council maintains the right to cease transmission of live-streaming at any time in order to prevent the broadcasting of material that it deems to be:

79.1.1 Defamatory;

79.1.2 Disclosing personal, health or sensitive information about individuals;

79.1.3 Offensive on the basis of race, colour, national or ethnic origin;

79.1.4 Vilification or inciting hatred on religious or racial grounds;

79.1.5 Related to sex, drugs, violence or revolting or abhorrent phenomena, which is likely to cause offence to a reasonable person; and/or an

79.1.6 infringement of copyright.

79.2 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 Chair. In deciding whether or not to give such consent, the Chair must ask whether any person present at the meeting objects.

79.3 The consent of the Chair given under Rule 79.2 may be revoked at any time during the course of the meeting by the Chair stating that consent has been revoked and ordering that the recording cease, at which time the recording must cease.

80. Procedure Not Provided in This Chapter

In all cases not specifically provided for by this Chapter, the matter may be determined by Council resolution.

Chapter 3 – Meeting Procedure for Delegated Committees

1. Meeting Procedure Generally

If Council establishes a Delegated Committee:

- 1.1 all of the provisions of Chapter 2 apply to meetings of the Delegated Committee; and
- 1.2 any reference in Chapter 2 to:
 - a Council meeting is to be read as a reference to a Delegated Committee meeting;
 - a Councillor is to be read as a reference to a member of the Delegated Committee; and
 - the Mayor is to be read as a reference to the Chair of the Delegated Committee.

2. Meeting Procedure Can Be Varied

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

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

Chapter 4 – Meeting Procedure for Community Asset Committees

1. 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.

2. Meeting Procedure

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

Chapter 5 – Disclosure of Conflicts of Interest

1. Introduction

The following Rules in this Chapter apply only upon Division 1A of Part 4 of the *Local Government Act 1989* being repealed.¹ Until Division 1A of Part 4 of the *Local Government Act 1989* is repealed, Council should continue to disclose conflicts of interest in line with the provisions of that Act.

2. Definition

In this Chapter:

- 2.1 “meeting conducted under the auspices of Council” means a meeting of the kind described in section 131(1) of the Act, and includes a meeting referred to in Rule 1 of Chapter 6 (whether such a meeting is known as a ‘Councillor Briefing’ or by some other name); and
- 2.2 a member of a Delegated Committee includes a Councillor.

3. Disclosure of a Conflict of Interest at a Council Meeting

A Councillor who has a conflict of interest in a matter being considered at a Council meeting at which they:

- 3.1 are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Council meeting immediately before the matter is considered; or
- 3.2 intends to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Council meeting commences a written notice:
 - advising of the conflict of interest;
 - explaining the nature of the conflict of interest; and
 - detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:
 - name of the other person;
 - nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - nature of that other person’s interest in the matter,
 - and then immediately before the matter is considered at the meeting announcing to those present that they have a conflict of interest and

¹ 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.

that a written notice has been given to the Chief Executive Officer under this sub-Rule.

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

All disclosures of a conflict of interest at a Council meeting will be recorded in the minutes.

4. Disclosure of a 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 they:

- 4.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Delegated Committee meeting immediately before the matter is considered; or
- 4.2 intends to present must disclose that conflict of interest by providing to the Chief Executive Officer before the Delegated Committee meeting commences a written notice:
 - advising of the conflict of interest;
 - explaining the nature of the conflict of interest; and
 - detailing, if the nature of the conflict of interest involves a member of a Delegated Committee's relationship with or a gift from another person the:
 - name of the other person;
 - nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - nature of that other person's interest in the matter,
 - and then immediately before the matter is considered at the meeting announcing to those present that they have a conflict of interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule.

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

All disclosures of a conflict of interest at a Delegated Committee meeting will be recorded in the minutes.

5. Disclosure of a Conflict of Interest at a Community Asset Committee Meeting

A Councillor who has a conflict of interest in a matter being considered at a Community Asset Committee meeting at which they:

- 5.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Community Asset Committee meeting immediately before the matter is considered; or
- 5.2 intends to present must disclose that conflict of interest by providing to the Chief Executive Officer before the Community Asset Committee meeting commences a written notice:
 - advising of the conflict of interest;
 - explaining the nature of the conflict of interest; and
 - detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
 - name of the other person;
 - nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - nature of that other person's interest in the matter,
 - and then immediately before the matter is considered at the meeting announcing to those present that they have a conflict of interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule.
 - The Councillor must, in either event, leave the Committee Asset Committee meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the matter has been disposed of.

All disclosures of a conflict of interest at a Community Asset Committee meeting will be recorded in the minutes.

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

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

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

All disclosures of a conflict of interest at meetings organised, hosted or supported by Council will be recorded in a meeting record and provided to the Governance team for recording in the register of Conflicts of Interest.

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

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

- Council meeting;
- Delegated Committee meeting;
- Community Asset Committee meeting

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

7.2 The Chief Executive Officer must ensure that the Report referred to in sub-Rule 7.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

7.3 If the member of Council staff referred to in sub-Rule 7.1 is the Chief Executive Officer:

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

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

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

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

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

9.1 A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff

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

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

10. Retention of Written Notices

Council will maintain a Conflict of Interest Register which will be made available on Council's website.

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

Chapter 6 – Miscellaneous

1. Informal Meetings of Councillors

If there is a meeting of Councillors that:

- 1.1 is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- 1.2 is attended by at least one member of Council staff; and
- 1.3 is attended by a majority of Councillors (being half plus one); and
- 1.4 is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting are:
 - tabled at the next convenient Council meeting; and
 - recorded in the minutes of that Council meeting.

2. Confidential Information

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

Chapter 7 – Election Period Policy

Purpose

The Election Period Policy has been developed to ensure that the general election for Moonee Valley City Council on Saturday 24 October 2020 and subsequent elections are conducted in a manner that is in accordance with Section 69 of the *Local Government Act 2020* (“the Act”) in relation to the Council election period.

The Policy ensures that the ordinary business of Council continues throughout the election period in a responsible and transparent manner, in accordance with these statutory requirements and established caretaker provisions.

Scope

The Election Period Policy specifically applies to all Councillors and Council staff for the duration of the 2020 Council election period commencing at 12 noon on Tuesday 22 September 2020 and concluding at 6pm on Saturday 24 October 2020.

Policy statement

Council is committed to governing on behalf of the Moonee Valley community in a way which is transparent, consultative, innovative and outcomes-driven, as outlined by the overarching governance principles set out at section 9(2) of the *Act*.

Council is committed to ensuring a fair, democratic and transparent Council election, that is publicly perceived as such, while minimising disruption to its normal business of serving the Moonee Valley community.

Policy principles

Section 69 of the Act prescribes the minimum legislative requirements to be included in the Election Period Policy to enhance the transparency and accountability of the actions of Council, Councillors and officers during the election period.

For the duration of the Council election period, the following will apply:

- No major policy decisions will be made;
- No decisions that would affect the municipality or unreasonably bind the incoming Council will be made;
- Public resources, including Council staff, will not be used for election campaigning, or in a way that may improperly influence the result of an election;

- No electoral matter will be published or distributed by Council, unless it is strictly information about the election process;
- Elected members will not receive or be perceived to receive any advantages or disadvantages over other candidates due to their position on Council.

1 Council decision making

Matters of Council business requiring major policy decisions or other inappropriate decisions will be scheduled to enable a Council decision prior to the start of the election period or deferred, where appropriate, for consideration by the incoming Council.

1.1 Making Decisions

Section 69(2) of the *Act* requires that this Policy prohibit Council, a Delegated Committee or a person acting under a delegation given by the Council from making decisions during the election period for a general election relating to any of the following —

- the appointment or remuneration of a Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer;
- committing 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;
- any decision which Council considers could reasonably be deferred until the next Council is in place;
- any decision which Council considers should not be made during an election period.

Section 69(3) of the *Act* requires that this Policy prohibit Council, a Delegated Committee or a person acting under a delegation given by the Council from making decisions 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.

1.2 Inappropriate decisions

Council commits to the application of the following requirements to decision making during the election period, to ensure that inappropriate decisions are prevented:

- Council will refrain from making any irrevocable decision during the election period that could potentially influence voter intentions at the forthcoming election, or could encourage candidates to use the item as part of their electioneering.

- Council will refrain from making any irrevocable decision that significantly affects the municipality during the election period;
- Council will seek approval from the Chief Executive Officer prior to making any other significant decision during the election period that may bind the incoming Council.

Given this, the Chief Executive Officer will consider the following factors in deciding whether to give approval for such decisions:

- Whether the decision is “significant”
- The urgency of the issue (can it wait until after the election?)
- The possibility of financial or legislative compliance repercussions if it’s deferred
- Whether the decision is likely to be controversial
- The best interests of the Council

1.3 Other decisions

Other decisions that are not permitted during the election period include the:

- Acquisition of land
- Adoption or amendment of the Moonee Valley Planning Scheme
- Adoption or amendment of policies, protocols, strategies, master plans or frameworks
- Adoption or amendment of the Council Plan
- Adoption of a revised budget
- Adoption or amendment of a Local Law
- Adoption of a Councillor Delegate Report
- Allocation of grants or awards to individuals or organisations
- Appointing representatives to Council committees
- Disposal of land or assets
- Endorsing submissions to government or public bodies
- Employment matters pertaining to the Chief Executive Officer
- Entering into a contract or entrepreneurial agreement exceeding the prescribed amount
- Entering into agreements (excluding an Enterprise Agreement), deeds or leases
- Granting of a planning permit deemed to be major project as prescribed in Council’s endorsed Statutory Planning Protocols

- Naming or re-naming of roads, reserves or features
- Reviewing of programs or service provision (except in a State of Emergency)
- Any other decision that the Chief Executive Officer considers may affect voting at the election or is a decision that can be made outside of the election period.

Decisions made prior to the election period by Council or by a Council officer under delegation can be implemented during the election period.

2 Council resources

Council resources, including offices, vehicles, staff, hospitality services, property, equipment such as tablets and phones and stationery must be used exclusively for normal Council business during the election period and must not be used in connection with any election campaign.

2.1 Role of officers

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

2.2 Use of Council equipment and facilities

Council-issued resources, including offices, support staff, hospitality services, mobile phones and numbers, computers, iPads and stationery will be used exclusively for normal Council business during the election period subject to existing policies, protocols and terms of use and will not be used in connection with any election campaign.

Councillors standing for re-election must not use Council-issued equipment including mobile phones and numbers, laptops, tablets, computers or printers as a resource to assist with election campaigns. Council issued email addresses are not to be used in election campaigns.

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

Council facilities cannot be booked for electoral campaigning purposes by Councillors, candidates or supporters or other persons during the election period.

The distribution or display of election material in or on Council facilities, libraries or community noticeboards and Council owned and managed land is prohibited.

Datasets including mailing lists held by Council are subject to the requirements of the *Privacy and Data Protection Act 2014* and are not available to members of the public, candidates or to Councillors.

General correspondence addressed to Councillors will be answered as usual. However, Councillors will only sign the necessary minimum correspondence

during the election period and correspondence relating to significant, sensitive or controversial matters will be referred to the Chief Executive Officer.

No Council logo, letterhead or other Moonee Valley branding is to be used for, or linked in any way to, a candidate's election campaign.

2.3 Councillor reimbursements

Reimbursement 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. In cases of claims that cover a combination of Council and electoral business, the Chief Executive Officer or their delegate may approve a partial reimbursement to cover normal Council activities.

3 Community engagement and Council events

Limits will be placed on public consultation and the scheduling of Council events during the election period.

3.1 Community engagement

Community engagement is a process that involves an invitation to individuals, groups, organisations or the public in general to comment on an issue, proposed action or proposed policy and includes discussion of that matter with the public.

Some topics of community engagement and consultation have the potential to be an election issue, therefore no community consultation will take place during the election period.

Council Portfolio Advisory Committees may discuss potential election issues and consequently will not meet during the election period.

Forums and groups which have been established by Council and not captured as a formal Advisory Committee will not meet during the election period.

Public consultation associated with activities and decisions that are the subject of a legislative process can be expected to continue through the election period to ensure Council does not breach its statutory obligations. This includes and not limited to:

- Consultations involving Council officers and interested persons regarding applications under the *Planning and Environment Act 1987*.
- Consultation required under Section 223 of the *Local Government Act 1989*
- Consultation which takes place in line with the Community Engagement Policy adopted under the *Local Government Act 2020*.

The discussion of electoral matters at these meetings is strictly prohibited.

Where public consultation commences prior to the election period, the results of that consultation will not be reported until after the election period.

3.2 Council events

During the election period, Councillors may continue to attend functions and events. Only those events essential to the operations of Council will be scheduled by Council officers.

For these necessary events that require formalities, a brief speech will be delivered by the Chief Executive Officer or a General or Group Manager. Any reference to a Councillor achievement or anything that could be interpreted as campaign material is not permitted.

No election material or active campaigning is to be conducted at Council sponsored events or displayed in/on any Council building.

Where a Councillor has received an invitation to an external event and has determined to accept that invitation, the Councillor must make a clear separation between attendance in their role as a Councillor, or attendance in their role as a candidate.

A Councillor may not attend an event in their capacity as both Councillor and candidate. If a Councillor gives a speech or public comment at an external event or function, they must make it clear that they are speaking as a candidate.

4 Council publications

4.1 Prohibition on publishing material

Section 304(2) of the *Act* states that a Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

There will be restrictions placed on the number of Council documents published during the election period.

Only publications that the Chief Executive Officer deems to be essential to the day-to-day operations of Council during the election period will be published.

4.2 Prohibited material

Electoral material as defined in the *Act* means any 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. It should not be taken to include:

- Any material produced by or on behalf of the Election Manager for the purposes of conducting an election; or

- An advertisement in a newspaper announcing the holding of a meeting.

A publication should be taken to fall under the definition of electoral material if it contains an express or implicit reference to, or comment on:

- The election; or
- A candidate in the election; or
- An issue submitted to, or otherwise before, the voters in connection with the election.

Electoral material is taken to include material which:

- Publicises the strengths or weaknesses of a candidate;
- Advocates the policies of the Council or of a candidate;
- Responds to claims made by a candidate;
- Publicises the achievements of the elected Council.

4.3 Council publications containing Councillor information

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

4.4 Council website and social media

Council website and social media content regarding Councillors must be limited to names, titles, Council-issued phone number and email address, memberships of delegated committees and other bodies to which Councillors have been appointed by Council. There will be no Councillor mobile phone numbers on the website during the election period. An alternate phone number will be provided as well as a link to the Victorian Electoral Commission website.

Council's website and social media channels must be reviewed prior to the start of the election period, with any material (including Councillor profiles and photos) that may be perceived as electoral material removed.

Councillors and staff must not post and / or respond to any political comments on Council's website or social media channels.

Any political material posted on Council's social media channels or website as comments during the Election Period will be removed by officers.

Council agendas and minutes may continue to be published on Council's website, as restrictions do not apply to these items.

4.5 Annual Report

Under the Local Government Act 1989 and until new provisions come into effect under the Local Government Act 2020 on 24 October 2020, Council's Annual Report is required to be prepared and submitted to the Minister by the end of September.

Council is permitted to publish the Annual Report during the election period, however information referring to specific Councillors should be limited to names, titles, contact details, membership of delegated committees and other bodies to which they have been appointed.

A Mayor's Message is also allowed as long as it is restricted to general Council business and not specific achievements of Councillors.

4.6 Other publications

The normal schedule production and distribution of Valley View will continue during election period, however content will be closely monitored and certified by the Chief Executive Officer to ensure no electoral matter is contained within the publication.

There will be no commentary from Councillors in Valley View during the election period. This includes 'ward duty' which usually reports on activity in each ward from each Councillor. Councillor photographs are also not permitted during this time.

Brochures directly promoting Councillors or containing electoral matter are not permitted.

4.7 Photos

Photos taken by Councillors or their family or friends or professional photos that Councillors have directly commissioned and paid for may be used in electoral material.

Photos of Councillors taken during their term by Council staff or photographers contracted by Council are not to be used in electoral material for any candidate.

5 Media and publicity

Communications may only be published and / or distributed to support or promote essential Council activities. Council's communications resources must not be used in support of a Councillor or candidate's election campaign.

5.1 Council spokesperson

The role of Council spokesperson is to be filled by the Chief Executive Officer or another officer as delegated by the Chief Executive Officer, depending on the subject matter.

5.2 Media Releases and enquiries

All media releases, responses or statements must be issued from the Chief Executive Officer. No Councillors are to be quoted in any media responses or releases, public statements or other communications issued by Council.

No photographs of Councillors are to be published or distributed by Council. Photos of Councillors taken by Council staff or photographers contracted by Council during the Councillor's term must not be used in electoral material for any candidate.

No media advice or assistance will be provided in relation to election campaign matters or in regard to publicity that involves specific Councillors. The Mayor and Councillors are not permitted to comment officially on issues raised by the media during the election period.

5.3 Advertising

Normal scheduled advertising may be run by Council during the election period i.e. general Council stories and photographs unrelated to electoral matter.

Advertising may also be run about the election process as certified by the Chief Executive Officer/Election Manager.

6 Council and Delegated Committee Meetings

Meetings of Council, Delegated Committees, Strategic Briefings and Public Forums will not be scheduled during the election period.

To fulfil legislative obligations and if exceptional circumstances warrant, a Meeting of Council may be called outside of the dates previously fixed by Council. These meetings must not be used by Councillors as means of promotion or gaining media attention in support of an election campaign.

A Meeting of Council will be held in October 2020 to consider the Annual Report in accordance with Section 22(2) of the Local Government (Planning and Reporting) Regulations 2014.

The agenda papers and minutes of any Council or Committee meetings which may need to be scheduled during the election period as a matter of urgency do not require certification by the Chief Executive Officer unless they are printed or published for a wider distribution than normal.

7 Information provision and access

Council recognises that all election candidates have equal right to information from the Council administration that may be relevant to their election campaigns.

However, neither Councillors nor candidates will receive information or advice from officers that might be perceived to support election campaigns and there will be complete transparency in the provision of all information and advice during the election period.

It is recognised that sitting Councillors need to continue to receive information from the administration that is necessary to fulfil their elected roles. Therefore, information and briefing material prepared by officers for Councillors during the election period will relate only to:

- Factual matters and/or
- Existing Council services.

Information and briefing material prepared by officers during the election period will not relate to:

- Policy development,

- New projects or
- Matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.

All candidates will be treated equally in terms of assistance provided as part of the conduct of the Council election.

Election enquiries from candidates will be directed to the Election Manager or, where the matter is outside the responsibilities of the Election Manager, to the Executive Manager Corporate Governance who may refer the request to the Chief Executive Officer or appropriate member of the Executive Team.

The Executive Manager Corporate Governance will maintain an Information Request Register during the election period. The register will be a public document that records all requests for information (not otherwise generally available) by Councillors and candidates and the response given to those requests. If any information is made available to one candidate, it shall be made available to all other candidates via Council's website.

Council officers will be required to provide details of requests to the Executive Manager Corporate Governance for inclusion on the register.

Responsibilities

The following Council roles and groups have direct and / or supporting responsibilities associated with this document:

Role / group	Responsibility
Chief Executive Officer	The application of this document across Council Determination on any matters of interpretation or implementation
Executive Manager Corporate Governance Senior Coordinator Governance and Advocacy	All administrative functions in relation to the implementation of this document, supporting procedures and other related documents
All staff and Councillors	Full compliance with this document, supporting procedures and other related documents
Councillor Support Office	All Councillor administrative functions in relation to the implementation of this Policy such as diary management and attendance at events, Councillor correspondence etc

Definitions

A full list of definitions can be found in the [Corporate Glossary](#).

Related legislation and reference sources

- [Local Government Act 2020](#)
- [Local Government Act 1989](#)
- [Local Government \(Planning and Reporting\) Regulations 2014](#)
- [Victorian Electoral Act 2002](#)
- [Privacy Data and Protection Act 2014](#)
- [Classification \(Publications, Films and Computer Games\) \(Enforcement\) Act 1995](#)

- [Racial Discrimination Act 1975](#)
- [Racial and Religious Tolerance Act 2001](#)
- [Defamation Act 2005](#)

Related Council documents

- [Councillor Code of Conduct](#)
- [Chief Executive Officer \(CEO\) Councillor and Staff Interaction Protocol](#)
- Chief Executive Officer Employment and Remuneration Policy (to be developed)
- Community Engagement Policy (in development)
- Complaints Policy (currently an operational document known as the [Complaint Management Policy](#))
- [Councillor Expenses Policy](#)
- Councillor Gift Policy (currently an operational document known as the [Gifts Benefits and Hospitality Policy](#))
- [Public Transparency Policy](#).