



# **BOROONDARA CITY COUNCIL**

## **GOVERNANCE RULES**

**Date Resolved By Council**

24 August 2020

**Commencement Date:**

1 September 2020

**Responsible Directorate:**

Chief Executive Office

## GOVERNANCE RULES

### Introduction

#### 1. Nature of Rules

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

#### 2. Date of Commencement

These Governance Rules commence on 1 September 2020.

#### 3. Contents

These Governance Rules are divided into the following Chapters:

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

#### 4. Definitions

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

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

"agenda" means the notice of a meeting setting out the business to be transacted at the meeting and includes a *revised agenda*.

"authorised officer" means a member of *Council* staff who is authorised by *Council* to carry out specific functions in relation to *these Rules*.

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

"Chief Executive Officer" means the Chief Executive Officer of *Council* or the person acting in or performing the position *Chief Executive Officer*.

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

"Council" means Boroondara City Council.

"Council meeting" has the same meaning as in the *Act*.

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

"General Business" means business of a minor or routine nature;

"majority of the votes" means the votes cast by a majority of the Councillors or members of the *Delegated Committee* present at a meeting at the time the vote is taken.

"*Mayor*" means the Mayor of *Council*.

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

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

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

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

"*these Rules*" means these Governance Rules.

"*Repetitious motion*" means:

- a) a motion moved that is to the same effect, even if it is in a different form, as a motion (with or without amendment) that has been rejected by *Council* at the same meeting; or
- b) a motion that substantially covers the same ground as a motion or amendment already dealt with by *Council* at the same meeting.

"*Urgent Business*" means a matter that relates to or arises out of a matter which has arisen since distribution of the *agenda* and cannot safely or conveniently be deferred until the next *Council meeting* or *Delegated Committee* meeting;

"*visitor*" means any person (other than a Councillor, member of a *Delegated Committee*, or member of *Council* staff) who is in attendance at a *Council meeting* or a *Delegated Committee* meeting; and

"*written*" includes duplicated, lithographed, photocopied, printed and typed.

## Chapter 1 – Governance Framework

### 1. Context

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

- (a) the overarching governance principles specified in section 9(2) of the *Act*; and
- (b) the following documents adopted or approved by *Council*:
  - (i) Audit and Risk Committee Charter
  - (ii) Community Engagement Policy
  - (iii) Complaints Policy
  - (iv) Councillor Code of Conduct
  - (v) Councillor and a Member of a Delegated Committee Expense Policy
  - (vi) Councillor Gift Policy
  - (vii) Public Transparency Policy

### 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 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.
- (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 paragraph (b) of this sub-Rule:
  - (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 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;
  - (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 *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
  - (iv) if a member of *Council* staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of *Council* staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

## Chapter 2 – Meeting Procedure for Council Meetings

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## **Part A – Introduction**

### **1. Title**

This Chapter will be known as the "Meeting Procedure 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; and
2. 3 provide for the procedures governing the conduct of *Council meetings*.

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

- 3.1 In this Chapter, unless the context suggests otherwise the definitions of words are taken to be the same as those outlined in Item 4 ('Definitions') of *these Rules*.
- 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 office of *Mayor*.

6.2 The process for the election of the *Mayor* is as follows:

6.2.1 the *Chief Executive Officer* must invite nominations for the office of the *Mayor*; and

6.2.2 the nominations must be 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 (1) nomination, the candidate nominated must be declared to be duly elected;

6.3.2 if there is more than one (1) 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*, he or she is 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 (1) 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 (2) 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 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 (1) 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 (2) 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).
- 6.3.8 After the election of the *Mayor* is determined, the *Mayor* must take the Chair and preside over the meeting pursuant to this Local Law.

## **7. Election of Deputy Mayor and Chairs of *Delegated Committees***

Any election for:

- 7.1 any office of Deputy Mayor; or
- 7.2 *Chairperson 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 *Chairperson 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 – Meetings Procedure

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

### Division 1 – 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

10.1 *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.

10.2 The *Chief Executive Officer* shall consult with the *Chairperson* before changing the date, time and place of any meeting which has been fixed.

#### 11. Meetings Not Fixed by *Council*

11.1 The *Mayor* or at least three (3) 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*.

11.5 Subject to any resolution providing otherwise, the order of business of any meeting must be the order in which such business stands in the *agenda* for the 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 (whether personally, email or otherwise) or made available electronically to every Councillor for all *Council meetings* at least 48 hours before the meeting.

12.2 Subject to any resolution of *Council*, the *Chief Executive Officer* will determine the method of delivery to be used under sub-Rule 12.1.

12.3 Notwithstanding sub-Rule 12.1, a notice of meeting or *agenda* need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in *writing* to continue to give notice of any meeting during the period of his or her absence.

12.4 Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this:

- 12.4.1 for *meetings* which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in a newspaper generally circulating in the *municipal district* either at various times throughout the year, or prior to each such *Council meeting*; and
- 12.4.2 for any *meeting* by giving notice on its website and:
  - (a) in each of its Customer Service Centres; and/or
  - (b) in at least one newspaper generally circulating in the *municipal district*.

## Division 2 – Quorums

### 13. Inability To Obtain A Quorum

- 13.1 After 30 minutes from the scheduled starting time of any *Council meeting* a quorum cannot be obtained, those Councillors present, or if there are no Councillors present, the *Chief Executive Officer*, or, in the absence of the *Chief Executive Officer*, an *authorised officer*, may adjourn the meeting for a period not exceeding fourteen (14) days from the date of the adjournment;
- 13.2 A *Council meeting* to which sub-Rule 13.1 applies is not adjourned, the meeting shall be deemed to have lapsed; and
- 13.3 If a *Council meeting* lapses according to sub-Rule 13.2, the business of the meeting shall be considered for inclusion on the *agenda* of a future *Council meeting* in accordance with Rule 18.

### 14. Inability To Maintain A Quorum

If:

- 14.1 A quorum is lost during any *Council meeting*, and a quorum cannot be regained within 10 minutes, the meeting:
  - 14.1.1 may be adjourned by those Councillors present, or in the absence of any Councillors, the *Chief Executive Officer*, or, in the absence of the *Chief Executive Officer*, an *authorised officer*, for a specified period not exceeding fourteen (14) days; or
  - 14.1.2 shall, in the event of no adjournment under sub-Rule 14.1.1, be deemed to have lapsed;
- 14.2 A quorum is lost during any adjournment of a *Council meeting* and a quorum cannot be obtained within the time specified in the adjournment motion, or if no time was specified, within 30 minutes of the quorum being lost, the meeting:
  - 14.2.1 may be adjourned by those Councillors present, or in the absence of any Councillors, the *Chief Executive Officer*, or, in the absence of the *Chief Executive Officer*, an *authorised officer*, for a specified period not exceeding fourteen (14) days; or
  - 14.2.2 shall, in the event of no adjournment under sub-Rule 14.2.1, be deemed to have lapsed; and
- 14.3 If a *Council meeting* lapses according to sub-Rule 14.1.2 or 14.2.2:

- 14.3.1 any motion or amendment which has been moved but not resolved in accordance with Division 4, shall be deemed to have been adjourned indefinitely in accordance with Rule 43;
  - 14.3.2 any other unresolved matters shall be considered for inclusion on the *agenda* of a future *Council meeting* in accordance with Rule 18; and
  - 14.3.3 the business transacted to that point in the meeting where a quorum was lost, shall remain validly transacted.
- 14.4 A quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by the majority of Councillors, *Council* must consider whether the decision can be made by dealing with the matter in an alternative manner as provided for by section 67 of the *Act*.
- 14.5 Subject to complying with any requirements under any other Act, if a *Council* is unable to use an alternative manner, *Council* must decide to establish a delegated committee to make the decision in regard to the matter consisting of:
- (a) all the Councillors who have not disclosed a conflict of interest in regard to the matter; and
  - (b) any other person or persons that the *Council* considers suitable.

## 15. Adjourned Meetings

The *Chief Executive Officer* must make reasonable attempts to give notice to all Councillors and members of the public, of any *Council meeting* adjourned under Rule 13 or 14.

## 16. Time limits for Meetings

- 16.1 A *Council meeting* must not continue after 11.00 pm unless a majority of Councillors present vote in favour of it continuing pursuant to Rule 43.
- 16.2 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of Rule 15 applies.

## 17. Cancellation or Postponement of a Meeting

- 17.1 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*; or
- 17.2 The *Chief Executive Officer*, after consulting the *Mayor* or *Chairperson* of a *Delegated Committee*, may cancel a meeting if there is no business to be transacted.
- 17.3 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 17.1.

## **Division 3 – Business of Meetings**

### **18. Agenda and the Order Of Business**

The order of business is to be determined by the *Chief Executive Officer* so as to facilitate and maintain open, efficient and effective processes of government. In setting the order of business the *Chief Executive Officer* should have regard to:

- 18.1 the expected duration of the meeting;
- 18.2 potential implications for subsequent meetings or events
- 18.3 the sensitivity of any particular item;
- 18.4 the anticipated community interest in any particular item;
- 18.5 where practicable, feedback from the *Mayor* or *Committee Chairperson*;
- 18.6 the urgency of any particular item; and
- 18.7 any other relevant factor which may impact on the processes and good governance of the *Council*.

### **18A. Council Prayer and Acknowledgement of Country**

*Council meetings* may commence with the *Council prayer* and the *Acknowledgement of Country*. It will be at the discretion of the *Chairperson* at *Council meetings* to read the *Council prayer* and the *Acknowledgement of Country*, or to invite another councillor or a *Council officer* to read the *Council prayer* and/or the *Acknowledgement of Country*.

### **19. Change To Order Of Business**

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

- 19.1 prior to the meeting by the *Chief Executive Officer* by issuing a revised *agenda* in accordance with Rule 18; or
- 19.2 by resolution, or with the consent of *Council* at the meeting.

### **20. Urgent Business**

If the *agenda* for a *Council meeting* makes provision for *Urgent Business*, business cannot be admitted as *Urgent Business* unless:

- 20.1 *Council* resolves to admit the business; and
- 20.2 It relates to or arises out of a matter which has arisen since distribution of the *agenda*; and
- 20.3 It cannot safely or conveniently be deferred until the next *Council meeting*.

## 21. **General Business**

If the *agenda* for a *Council meeting* makes provision for *General Business*, business of a minor or routine nature only should be admitted as *General Business*. Any motion dealing with a matter that is not minor or routine must not be accepted by the *Chairperson* and will be subject to the *notice of motion* provisions. Such motions can be referred to *Urgent Business*.

## 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* in accordance with Rule 23.

### 23. **Notice Of Motion**

23.1 A *notice of motion* must be in writing signed by two Councillors and received by the *Chief Executive Officer* (whether personally, email or otherwise), by 12 noon on a business day not less than five days prior to the next *Council meeting* at which the *notice of motion* may be considered. If a *notice of motion* is received after that time, it must, unless withdrawn, be included in the *agenda* for the following *Council meeting*.

23.2 A *notice of motion* may be withdrawn by a request in writing received (whether personally, email or otherwise) prior to the publication of the *agenda* for which the *notice of motion* was intended. Otherwise, the item must be dealt with at a *Council meeting*.

23.3 The *Chief Executive Officer* must make reasonable attempts to give Councillors notice of any *notice of motion* at least 48 hours before the *Council meeting* at which the *notice of motion* is to be considered.

23.4 The *Chief Executive Officer* may reject any *notice of motion* which is:

23.4.1 defamatory;

23.4.2 objectionable in language or nature;

23.4.3 vague or unclear in intention;

23.4.4 outside the powers of *Council*; or

23.4.5 if passed would result in *Council* otherwise acting invalidly.

23.5 If a *notice of motion* is rejected under sub-Rule 23.4, the *Chief Executive Officer* must:

23.5.1 give the Councillors who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and

23.5.2 notify in *writing* the Councillors who lodged it of the rejection and reasons for the rejection.

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

- 23.7 The *Chief Executive Officer* must cause all *notices of motion* to be numbered, dated and entered in the *notice of motion* book in the order in which they were received.
- 23.8 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* book.
- 23.9 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.
- 23.10 If a *notice of motion* is not moved at the *Council meeting* in accordance with sub-Rule 23.9, the *notice of motion* shall be deemed to have lapsed for want of a mover.
- 23.11 The *Chief Executive Officer* may provide a report to *Council* detailing the implications for *Council* and the community in respect of any *notice of motion* which has been submitted for inclusion on the *agenda* paper.

## **24. Chairperson's Duty**

- 24.1 The *Chairperson* must not accept a motion or amendment which is determined by the *Chairperson* to be:
  - 24.1.1 potentially defamatory;
  - 24.1.2 objectionable in language or nature;
  - 24.1.3 vague or unclear in intention;
  - 24.1.4 outside the powers of *Council*;
  - 24.1.5 if passed would result in *Council* otherwise acting invalidly; or
  - 24.1.6 irrelevant to the item of business on the *agenda* and has not been admitted as *General Business* or *Urgent Business*, or purports to be an amendment but is not.
- 24.2 Before a *written* report is considered by *Council* and any motion moved in relation to such report, a member of *Council* staff may introduce the report by indicating in not more than 2 minutes:
  - 24.2.1 its background; or
  - 24.2.2 the reasons for any recommendation which appears.
- 24.3 Unless *Council* resolves otherwise, a member of *Council* staff need not read any *written* report to *Council* in full.

## **25. Clarifying a motion**

- 25.1 Before a *notice of motion* or other motion which has been foreshadowed is moved, a Councillor may, with the leave of the *Chairperson*, ask for clarification from the *Chairperson* or Councillor expected to move the *notice of motion* or other motion of
  - 25.1.1 the intent; or
  - 25.1.2 some other aspect



of such *notice of motion* or other motion.

- 25.2 The *Chairperson* may request the person taking the minutes of the meeting to read the motion or amendment to the meeting before the vote is taken.

## **26. Introducing A Motion or an Amendment**

The procedure for moving any motion or amendment is:

- 26.1.1 the mover must state the motion without speaking to it;
- 26.1.2 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;
- 26.1.3 if a motion or an amendment is moved and seconded the *Chairperson* must ask:
- 26.1.4 "Is the motion or amendment opposed?";
- 26.1.5 if no Councillor indicates opposition, the *Chairperson* may give the mover of the motion or amendment or any Councillor with a special interest in the matter the opportunity to speak before declaring the motion or amendment carried;
- 26.1.6 if a Councillor indicates opposition then the *Chairperson* must call on the mover to address the meeting;
- 26.1.7 after the mover has addressed the meeting, the seconder may address the meeting;
- 26.1.8 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chairperson* must call on any Councillor who wishes to speak to the motion (including at the *Chairperson's* discretion, the seconder), if the Councillor has not previously spoken; and
- 26.1.9 if no Councillor speaks to the motion, then the *Chairperson* must put the motion to the vote.

## **27. Right Of Reply**

- 27.1 The mover of a motion, including an amendment once debate has been exhausted, have a right of reply to matters raised during debate.
- 27.2 After the right of reply has been taken, 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, inserting or adding words, which 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 (1) amendment may be accepted by the *Chairperson* 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**

If the amendment is carried:

- 31.1 The motion as amended then becomes the motion before the meeting; and
- 31.2 The mover and seconder of the amendment are deemed to be the mover and seconder of the motion before the meeting; and
- 31.3 The amended motion must then be put; and
- 31.4 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 his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 32.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chairperson* being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- 32.3 A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the meeting.
- 32.4 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.
- 32.5 The *Chairperson* is not obliged to accept foreshadowed motions.

## **33. Withdrawal Of Motions**

- 33.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder with consent of the *Chairperson*, should there be no objection to the withdrawal of the motion from the majority of councillors present.
- 33.2 If the majority of Councillors object to the withdrawal of the motion, it may not be withdrawn.

**34. Separation Of Motions**

Where a motion contains more than one (1) part, a Councillor may request the *Chairperson* to put the motion to the vote in separate parts.

**35. Chairperson May Separate Motions**

The *Chairperson* 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 *Chairperson* must decide the order in which the Councillors concerned will be heard.

**37. Motions In Writing**

37.1 All motions, except procedural motions, should be in writing.

37.2 The *Chairperson* may suspend the meeting while the motion is being *written* or may request *Council* to defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.

**38. Repetitious Motions and/or Amendment**

38.1 The *Chairperson* must refuse to accept a motion which *Council* has resolved to be a *Repetitious motion*, pursuant to Rule 43.

38.2 The *Chairperson* 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 or question before the *Chairperson*, and, if not, the *Chairperson* must request the speaker to confine debate to the motion or question.

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

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

**40. Speaking Times**

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

40.1 the mover of a motion or an amendment which has been opposed: 5 minutes;

40.2 any other Councillor: 3 minutes; and

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

#### **41. Addressing the Meeting**

If the *Chairperson* so determines:

41.1 any person addressing the *Chairperson* must refer to the *Chairperson* as:

41.1.1 Madam Mayor; or

41.1.2 Mr Mayor; or

41.1.3 Mayor; or

41.1.4 Madam Chair; or

41.1.5 Mr Chair; or

41.1.6 Chair;

as the case may be;

41.2 all Councillors, other than the *Mayor*, must be addressed as

Cr .....(name).

41.3 all members of *Council* staff, must be addressed as Mr, Mrs, Ms, Dr or Prof

.....(name) as appropriate or by their official title.

#### **42. Right to Ask Questions**

42.1 A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the *Chairperson*.

42.2 The *Chairperson* has the right to limit questions and direct that debate be commenced or resumed.

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

#### **43. Procedural Motions**

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

43.2 Procedural motions require a seconder.

43.3 Procedural motions may only be moved and seconded by Councillors as specified in the Procedural Motions Table.

43.4 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the Procedural Motions Table.

**PROCEDURAL MOTIONS TABLE**

<b>Procedural Motion</b>	<b>Form</b>	<b>Mover &amp; Seconder</b>	<b>Matter in Respect of Which Motion May be Moved</b>	<b>When Motion Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted on Motion</b>
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor	Any matter	(a) During the election of a <i>Chairperson</i> ; (b) When another Councillor is speaking	Motion and amendments postponed to the stated time and/or date	Debate continues unaffected	Yes
2. Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor	Any matter except: (a) election of a <i>Chairperson</i>	(a) During the election of a <i>Chairperson</i> ; (b) When another Councillor is speaking	Motion and any amendment postponed but may be resumed at any later meeting if on the <i>agenda</i>	Debate continues unaffected	Yes
3. The closure	That the motion be now put	A Councillor who has not spoken to the motion or any amendment of it	Any matter	During nominations for <i>Chairperson</i>	The <i>Chairperson</i> must call on the mover of the original motion or amendment in respect of which the closure motion is carried to reply to the debate on the original motion or amendment and then immediately put the original motion or amendment to the vote. No further debate on, or amendment to the original motion or amendment is permitted	Debate continues unaffected	No

<b>Procedural Motion</b>	<b>Form</b>	<b>Mover &amp; Seconder</b>	<b>Matter in Respect of Which Motion May be Moved</b>	<b>When Motion Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted on Motion</b>
4. Laying question on the table	That the question lie on the table	A Councillor who has not spoken to the motion or amendment of it	Any matter	(a) During the election of a <i>Chairperson</i>	Motion and amendments not further discussed or voted on until: (a) <i>Council</i> resolves to take the question from the table at the same meeting; (b) The matter is placed on an <i>agenda</i> and <i>Council</i> resolves to take the question from the table	Debate continues unaffected	No
5. Previous question	That the question be not now put	A Councillor who has not spoken to the motion or any amendment of it	Any matter except: (a) election of a <i>Chairperson</i> ;	(a) During the election of a <i>Chairperson</i> ; (b) When another Councillor is speaking; (c) When an amendment is before <i>Council</i>	(a) No vote or further discussion on the motion until it is placed on an <i>agenda</i> for a later meeting; (b) Proceed to next business	Motion (as amended up to that time) put immediately without further amendment or debate	Yes

<b>Procedural Motion</b>	<b>Form</b>	<b>Mover &amp; Secunder</b>	<b>Matter in Respect of Which Motion May be Moved</b>	<b>When Motion Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted on Motion</b>
6. Proceeding to next business	That the meeting proceed to the next Business Note: This Motion: (a) May not be amended (b) May not be debated; (c) Must be put to the vote as soon as Seconded	A Councillor who has not spoken to the motion or any amendment of it	Any matter except: (a) Election of a <i>Chairperson</i>	(a) During the election of a <i>Chairperson</i> ; (b) When another Councillor is speaking	If carried in respect of: (a) An amendment - <i>Council</i> considers the motion without reference to the amendment; (b) A motion - no vote or further discussion on the motion until it is placed on an <i>agenda</i> for a later meeting	Debate continues unaffected	No
7. Repetitious motion	The motion is a <i>repetitious motion</i>	A Councillor who has not spoken to the motion or any amendment of it	Any matter except: (a) Election of a <i>Chairperson</i>	(a) During the election of a <i>Chairperson</i> ; (b) When another Councillor is speaking	(a) No vote or further discussion on the motion unless it is placed on an <i>agenda</i> for a later meeting; (b) Proceed to next business	Debate continues unaffected	Yes

<b>Procedural Motion</b>	<b>Form</b>	<b>Mover &amp; Seconder</b>	<b>Matter in Respect of Which Motion May be Moved</b>	<b>When Motion Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted on Motion</b>
8. Dissent from the <i>Chairperson's ruling</i>	That the <i>Chairperson's</i> ruling be dissented from	Any Councillor 1. Once moved and seconded, the <i>Chairperson</i> must leave the Chair and a temporary <i>Chairperson</i> elected 2. The temporary <i>Chairperson</i> must invite the mover to state the reasons for his or her dissent and the <i>Chairperson</i> may then reply. 3. The motion must then be put	Any ruling made by the <i>Chairperson</i>		If carried, the <i>Chairperson</i> must resume the Chair, reverse his or her previous ruling and proceed. The motion is in no way a motion of censure or non-confidence, and should not be so regarded	If lost, the <i>Chairperson</i> resumes the Chair and the meeting proceeds	No, other than that the mover may state the reasons for his or her dissent and the <i>Chairperson</i> may then reply
9. Suspension of standing orders	That standing orders be suspended	Any Councillor	Any matter		1. The formalities of the meeting procedure are temporarily disposed of 2. No motion can be accepted by the <i>Chairperson</i> or lawfully be dealt until standing orders are resumed	The formalities of the meeting procedure remain in place	Yes



<b>Procedural Motion</b>	<b>Form</b>	<b>Mover &amp; Seconder</b>	<b>Matter in Respect of Which Motion May be Moved</b>	<b>When Motion Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted on Motion</b>
10. Resumption of standing orders	That standing orders be resumed	Any Councillor	Any matter	When standing orders have not been suspended	The formalities of the meeting procedure are reinstated	1. The formalities of the meeting procedure remain temporarily disposed of. 2. No motion can be accepted by the <i>Chairperson</i> or lawfully be dealt until standing orders are resumed	Yes
11. Close the meeting to the public	That the meeting be closed to the public in accordance with section 66 of the <i>Act</i> to Consider.... Because....	Any Councillor	Any matter included in the definition of Confidential Information prescribed in section 3 of the <i>Act</i>	When the meeting is already closed to the public	The meeting is closed to the public	The meeting remains open to the public	Yes
12. Reopen the meeting to the public	That the meeting be reopened to the Public	Any Councillor	Any matter	When the meeting is already open to the public	The meeting is opened to the public	The meeting remains closed to the public	Yes
13. Continuance of Meeting	That the meeting continue to ###pm	Any Councillor	Any matter		The time limit specified in Rule 16 is to be substituted with the time limit specified in the continuance motion	The meeting stands adjourned to a time, date and place to be then and there announced by the <i>Chairperson</i>	No

<b>Procedural Motion</b>	<b>Form</b>	<b>Mover &amp; Seconder</b>	<b>Matter in Respect of Which Motion May be Moved</b>	<b>When Motion Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted on Motion</b>
14. No recording of proceedings	That <i>Council</i> revokes consent for the recording of the Meeting	Any Councillor	A decision to record, or consent to recording of proceedings under Rule 77		Consent to record proceedings is revoked	The meeting continues unaffected	Yes
15. En bloc motions	That the following items.... be moved en bloc as per the officers' recommendation	Any Councillor	Only for matters listed in the <i>agenda</i> under the heading 'Presentation of officer reports' or 'Supplementary reports'	Items relating to planning matters or that involve statutory third party rights	Move to the next item of business	The meeting continues unaffected	Yes

## Division 6 – Rescission Motions

### 44. **Notice of Rescission**

- 44.1 A Councillor may propose a motion to rescind or to vary a previous resolution of *Council* by a *notice of rescission*.
- 44.2 A Councillor may propose a *notice of rescission* provided:
- 44.2.1 the resolution proposed to be rescinded has not been acted on; and
- 44.2.2 the *notice of rescission* is delivered to the *Chief Executive Officer* in accordance with Rule 23, or 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.
- 44.3 The *Chief Executive Officer* or an appropriate member of *Council* staff may implement a resolution at any time after the close of the meeting at which it was made. A resolution will therefore be deemed to have been acted on if:
- 44.3.1 its contents have or substance has been formally communicated to a person whose interests are materially affected by it; or
- 44.3.2 a statutory process has been commenced;
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- 44.4 The *Chief Executive Officer* or an appropriate member of *Council* staff must defer implementing a resolution which:
- 44.4.1 has not been acted on; and
- 44.4.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 44.2.2
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

### 45. **If Lost**

If a *notice of rescission* is lost, a similar motion may not be put before *Council* for at least one (1) month from the date it was last lost, unless *Council* resolves that the *notice of rescission* be re-listed at a future meeting.

### 46. **If Not Moved**

If a *notice of rescission* is not moved at the meeting at which it is listed, it lapses.

### 47. **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.

#### **48. When Not Required**

- 48.1 Unless sub-Rule 48.2 applies, a motion for rescission is not required where *Council* wishes to change policy.
- 48.2 The following standards apply if *Council* wishes to change policy:
- 48.2.1 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
- 48.2.2 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**

##### **49. Chairperson To Decide**

The *Chairperson* must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the point raised without entering into any discussion or comment.

##### **50. Chairperson May Adjourn To Consider**

- 50.1 The *Chairperson* may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.
- 50.2 All other questions before the *Council* are suspended until the point of order is decided.

##### **51. Dissent From Chairperson's Ruling**

- 51.1 A Councillor may move a motion of dissent from the *Chairperson's* ruling on a point of order.
- 51.2 When a motion in accordance with this Rule is moved and seconded, the *Chairperson* must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present, a temporary *Chairperson* elected by the meeting) must take his or her place.
- 51.3 The Deputy Mayor or temporary *Chairperson* must invite the mover to state the reasons for his or her dissent and the *Chairperson* may then reply.
- 51.4 The Deputy Mayor or temporary *Chairperson* must put the motion in the following form:  
"That the *Chairperson's* ruling be dissented from."
- 51.5 If the vote is in the negative, the *Chairperson* resumes the Chair and the meeting proceeds.
- 51.6 If the vote is in the affirmative, the *Chairperson* must then resume the Chair, reverse or vary (as the case may be) his or her previous ruling and proceed.
- 51.7 The defeat of the *Chairperson'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.

## **52. Procedure For Point Of Order**

A Councillor raising a point of order must:

- 52.1 state the point of order; and
- 52.2 state any section, Rule, paragraph or provision relevant to the point of order.

## **53. Valid Points Of Order**

- 53.1 A point of order may be raised in relation to:
  - 53.1.1 a motion, which, under Rule 24.1, or a question which, under Rule 54, should not be accepted by the *Chairperson*;
  - 53.1.2 a question of procedure;
  - 53.1.3 a Councillor who is or appears to be out of order; or
  - 53.1.4 any act of disorder.
- 53.2 A point of order may not be raised to express a mere difference of opinion or to contradict a speaker

## **Division 8 – Public Question Time**

### **54. Submission of Questions**

- 54.1 Unless *Council* resolves to the contrary, there shall be a public question time at every *Council meeting* to allow members of the public to submit questions to *Council*.
- 54.2 No person may submit:
  - 54.2.1 more than two (2) questions at any one (1) *Council meeting*.
  - 54.2.2 more than eleven (11) questions in any one calendar year.
- 54.3 As to the form of questions:
  - 54.3.1 subject to Rule 54.3.4, questions must be in writing and in English:
  - 54.3.2 questions must be 75 words or less and not include a preamble, other additional material, or multiple parts;
  - 54.3.3 questions should be submitted on the designated Public Question Time Form which is available:
    - 54.3.3.1 during normal office hours at the Camberwell Offices at 8 Inglesby Road Camberwell; or
    - 54.3.3.2 on *Council's* website
  - 54.3.4 considering the general rights of citizens to take part in the conduct of *Council* affairs, if providing a question in writing and or in English unreasonably prevents or hinders participation in public question time, assistance with submitting questions is available from *Council*, via interpreter service if required.

- 54.4 As to the deadline for questions:
- 54.4.1 questions should be received by *Council* by 12:00 noon on the day of the *Council meeting* to receive a verbal response at the meeting;
  - 54.4.2 questions not received by 12:00 noon on the day of the meeting will receive a verbal response if possible, but will otherwise be taken on notice for a *written* response to be provided.
  - 54.4.3 questions must be submitted:
    - 54.4.3.1 by mail to *Council's* advertised postal address; or
    - 54.4.3.2 by email to *Council's* advertised email address; or
    - 54.4.3.3 in person during normal office hours at the Camberwell Offices at 8 Inglesby Road, Camberwell.
    - 54.4.3.4 after normal office hours on the day of the meeting if submitted in person prior to the commencement of the *Council meeting* in the receptacle designated for such purpose at 8 Inglesby Road, Camberwell.

**55. Questions may be disallowed**

- 55.1 Considering the general rights of citizens to take part in the conduct of *Council* affairs, a question may be disallowed by the *Chairperson*, if in the opinion of the *Chairperson* it:
- 55.1.1 is not submitted in accordance with this Division;
  - 55.1.2 relates to a matter outside the duties, functions and powers of *Council*;
  - 55.1.3 may reasonably be considered to be defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - 55.1.4 deals with a subject matter already answered at the *Council meeting*;
  - 55.1.5 is aimed at embarrassing a Councillor or a member of *Council* staff;
  - 55.1.6 relates to personnel matters;
  - 55.1.7 relates to the personal hardship of any resident or ratepayer;
  - 55.1.8 relates to industrial matters;
  - 55.1.9 relates to contractual matters;
  - 55.1.10 relates to proposed developments;
  - 55.1.11 relates to legal advice;
  - 55.1.12 relates to matters affecting the security of *Council* property; or
  - 55.1.13 relates to any other matter which *Council* considers would prejudice *Council* or any person.

55.1.14 would require, on the advice of the *Chief Executive Officer*, an unreasonable diversion of *Council* resources to prepare a response for public question time.

55.2 If a question is not disallowed under sub-Rule 55.1, the *Chairperson* may otherwise disallow a question if:

55.2.1 it does not relate to a matter or matters on the *agenda* for the current *Council meeting*; and/or

55.2.2 before submitting a question for public question time the person asking the same has not previously:

55.2.2.1 put the question in writing to a Councillor or a member of *Council* staff; and

55.2.2.2 received a *written* response to the question from a Councillor or member of *Council* staff

55.3 If a question is not disallowed under sub-Rules 55.1 or 55.2:

55.3.1 the *Chairperson* may still disallow a question if, subject to sub-Rule 55.3.3, the person asking the same is not in the gallery at the time it is due to be read;

55.3.2 the *Chairperson* may still disallow a question if, subject to sub-Rule 55.3.3, the person asking the question refuses to read the question when called upon by the *Chairperson* to do so;

55.3.3 considering the general rights of citizens to take part in the conduct of *Council* affairs, if a person submitting a question is unable to attend the meeting, or read a question, because of a personal characteristic or attribute protected by law, such as (but not limited to) having a disability, their age or status as a carer, the *Chairperson* may, subject to Rule 55.3.4 permit a representative to attend or read a question on their behalf;

55.3.4 the *Chairperson* shall not exercise his or her discretion to permit a representative in accordance with sub-Rule 55.3.3 on the ground of inconvenience alone.

55.4 Questions disallowed by the *Chairperson* shall be made available to any Councillor on request.

55.5 Questions may be disallowed by the *Chairperson* prior to the commencement of a *Council meeting*

## **56. Procedures for Question Time**

56.1 Notwithstanding sub-Rules 55.3.1 or 55.3.2, the *Chairperson* or member of *Council* staff nominated by the *Chairperson* may read a question to those present except that:

56.1.1 the *Chairperson* may advise *Council* that it is his or her opinion that the question should be read in a meeting closed to members of the public. The Councillor or member of *Council* staff must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the question must be so read;

- 56.1.2 the *Chairperson* may nominate a Councillor or member of *Council* staff to respond to a question except that:
  - 56.1.2.1 a Councillor or member of *Council* staff may advise *Council* that it is his or her opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or member of *Council* staff 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;
  - 56.1.2.2 before responding, a Councillor or member of *Council* staff may direct questions of clarification to the person submitting the question. All questions and answers must be as brief as possible, and no discussion may be allowed other than for the purposes of clarification;
  - 56.1.2.3 a Councillor or member of *Council* staff nominated to respond to a question, may require that the question be put on notice until the next meeting, at which time the question must be answered, or elect to submit a *written* answer to the person asking the question; and
  - 56.1.2.4 a Councillor may direct questions of clarification to the Councillor or member of *Council* staff nominated to respond to a question. All questions and answers must be as brief as possible, and no discussion or debate may be allowed other than for the purposes of clarification.

## Division 9 – Petitions and Joint Letters

### 57. Petitions and Joint Letters

- 57.1 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.
- 57.2 It is incumbent on every Councillor presenting a petition or joint letter to acquaint himself or herself with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to *Council* and that the contents do not violate a Local Law.
- 57.3 Every Councillor presenting a petition or joint letter to *Council* must:
  - 57.3.1 write or otherwise record his or her name at the beginning of the petition or joint letter; and
  - 57.3.2 confine himself or herself 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.
- 57.4 Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 20 people.
- 57.5 Every petition or joint letter must 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 of every petitioner or signatory must be clearly stated.



- 57.6 If a petition, joint letter, memorial or other like application relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.
- 57.7 In relation to e-petitions, the same provisions in sub-Rules 57.1 to 57.6 apply, except in relation for the requirement of a petitioner's signature.

## **Division 10 – Deputations**

### **58. Deputation to be referred to Mayor**

A deputation wishing to be heard by *Council* may make a *written* request to the *Chief Executive Officer* who must refer the request to the *Mayor*.

### **59. Consideration of Request**

59.1 The *Mayor* may:

- 59.1.1 ask the *Chief Executive Officer* to include the deputation on the *agenda* for a future *Council meeting*; or
- 59.1.2 ask the *Chief Executive Officer* to include the request for a deputation on the *agenda* for a future *Council meeting*; or
- 59.1.3 in consultation with the *Chief Executive Officer*, decline the request.

### **60. Notification of Hearing**

If the *Mayor* asks for a deputation to be heard, the *Chief Executive Officer* must notify all Councillors of that request, and also notify a member of the deputation of the date, time, and place of which the deputation will be heard.

### **61. Summary of Submissions**

A deputation may lodge with the *Chief Executive Officer*, a *written* submission detailing the subject matter of the deputation prior to the deputation addressing *Council*.

### **62. Limitations upon Speakers**

*Council* will not hear more than two (2) speakers on behalf of any deputation, and the *Chairperson* may set time limits on the length and address of each speaker.

### **63. Questions but no discussion permitted**

Councillors and members of *Council* staff may question the deputation on matters raised by it for purposes of clarification but no discussion will be allowed.

### **64. Matter to be Determined upon a subsequent meeting**

No motion must be allowed on any deputation until the next *Council meeting* after the deputation has been heard unless *Council*, by resolution, decides otherwise.

## **DIVISION 11 – Public Submissions Under the Community Engagement Policy**

### **65. Public Submissions Under the Community Engagement Policy**

Where a person is given a right to make a submission under the Community Engagement Policy and requests to appear in person (or to be represented by a person specified in the submission) at a *Council meeting* to be heard in support of the submission, the time limit for such hearing shall be 3 minutes, except that the *Chairperson* may allow the hearing to exceed 3 minutes.

## **Division 12 – Voting**

### **66. How Motion Determined**

66.1 To determine a motion before a meeting, the *Chairperson* must:

66.1.1 first call for those in favour of the motion; and

66.1.2 then call for those opposed to the motion; and

66.1.3 if required, identify a Councillor who has abstained from voting, and must then declare the result to the meeting.

### **67. Silence**

Voting must take place in silence unless otherwise determined by the *Chairperson*.

### **68. Recount**

The *Chairperson* may direct that a vote be recounted to satisfy himself or herself of the result.

### **69. Casting Vote**

In the event that the number of votes in favour of a motion is half the number of Councillors present at the meeting at the time the vote is taken, the *Chairperson* must exercise the casting vote.

### **70. By Show Of Hands**

70.1 Unless the *Act* requires, or *Council* resolves otherwise, voting on any matter is by show of hands.

70.2 Notwithstanding sub-Rule 70.1, voting at a meeting that is open to members of the public must not be in secret.

### **71. Procedure For A Division**

71.1 Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.

71.2 When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.

- 71.3 When a division is called for, the *Chairperson* must:
- 71.3.1 first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one (1) of his or her hands. The *Chairperson* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the affirmative; and
  - 71.3.2 then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one (1) of his or her hands. The *Chairperson* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the negative.
  - 71.3.3 if required, then ask each Councillor wishing to abstain from voting to raise a hand and, upon such request being made, each Councillor wishing to abstain from voting must raise one (1) of his or her hands. The *Chairperson* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors abstaining from voting.

## **72. 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:

- 72.1 a Councillor requesting, before the next item of business is considered, that his or her opposition to a resolution be recorded in the minutes or a register maintained for that purpose; or
- 72.2 foreshadowing a *notice of rescission* where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

## **Division 11 – Minutes**

### **73. Confirmation of Minutes**

Where the *agenda* for a *Council meeting* includes provision for the adoption and confirmation of the minutes of the preceding meeting(s), those minutes must be dealt with as follows:

- 73.1 a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting. This shall not apply in respect of Councillor who has been granted leave of absence pursuant to the *Act* and who has not requested the *Chief Executive Officer*, in writing, to continue to give notice of meetings to be held during the period of leave of absence;
- 73.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed and no discussion or debate on the confirmation of minutes may be permitted;
- 73.3 if a Councillor indicates opposition to the minutes:
  - 73.3.1 he or she must specify the item(s) to which he or she objects;
  - 73.3.2 the objected item(s) must be considered separately and in the order in which they appear in the minutes;
  - 73.3.3 the Councillor objecting must move a motion clearly setting out the alternative wording to amend the minutes accordingly without speaking to the motion; and

- 73.3.4 the motion must then be open to debate and at the conclusion of debate, the *Chairperson* must put the motion to the vote;
- 73.3.5 a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chairperson* of the meeting at which they have been confirmed;
- 73.3.6 the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively; and
- 73.3.7 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*.

**74. 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.

**75. 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.

**76. Form and Availability of Minutes**

- 76.1 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:
  - 76.1.1 the date, place, time and nature of the meeting;
  - 76.1.2 the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
  - 76.1.3 the names of the members of *Council* staff present;
  - 76.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5 and whether the conflict of interest was said by the Councillor to be a general conflict of interest or a material conflict of interest;
  - 76.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
  - 76.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
  - 76.1.7 the vote cast by each Councillor upon a division;
  - 76.1.8 the vote cast by any Councillor who has requested that his or her vote be recorded in the minutes;
  - 76.1.9 the failure of a quorum;
  - 76.1.10 any adjournment of the meeting and the reasons for that adjournment; and
  - 76.1.11 the time at which standing orders were suspended and resumed.

- 76.2 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are:
- 76.2.1 published on *Council's* website; and
  - 76.2.2 available for inspection at *Council's* office during normal business hours.
- 76.3 Nothing in sub-Rule 76.2 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 – Recording of Proceedings**

### **77. Recording of proceedings**

- 77.1 Subject to any resolution of *Council*, the *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer*) may record the proceedings of a *Council meeting*.
- 77.2 Subject sub-Rule 77.1, a person must not operate photographic, audio or video recording equipment or any other recording device at any *Council meeting* without first obtaining the consent of the *Chairperson*. Such consent may at any time during the course of such meeting be revoked by the *Chairperson* or resolution of *Council*.

## **Division 13 – Behaviour**

### **78. Public Addressing The Meeting**

- 78.1 Members of the public do not have a right to address *Council* and may only do so with the consent of the *Chairperson* or by prior arrangement.
- 78.2 Any member of the public addressing *Council* must extend due courtesy and respect to *Council* and the processes under which it operates and must take direction from the *Chairperson* whenever called on to do so.
- 78.3 A member of the public present at a *Council meeting* must not disrupt the meeting.

### **79. Chairperson May Remove**

The *Chairperson* may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 78.2.

### **80. Chairperson may adjourn disorderly meeting**

If the *Chairperson* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper.

## **81. Suspensions**

- 81.1 *Council* may suspend from a meeting any Councillor whose actions have disrupted the business of *Council*, and have impeded its orderly conduct.
- 81.2 The duration of any suspension under this Rule shall be at *Council's* discretion but shall not exceed the balance of the meeting.

## **82. Removal from Chamber**

- 82.1 The *Chairperson* may order the removal of any Councillor who has been suspended by *Council* in accordance with Rule 81;
- 82.2 The *Chairperson* may order the removal of:
- 82.2.1 any person, excluding a Councillor who disrupts any meeting or fails to comply with a direction;
  - 82.2.2 any person, excluding a Councillor who the *Chairperson* reasonably believes has acted in breach of this Local Law; or
  - 82.2.3 any person who the *Chairperson* reasonably believes has acted in breach of the *Summary Offences Act 1966*;
- 82.3 The *Chairperson* may issue a warning to any person before exercising the powers in sub-Rules 82.2 and 82.4.
- 82.4 The *Chairperson* may ask any member of *Council* staff, security guard or member of the Victoria Police to cause the removal of any person who is the subject of an order under sub-Rules 82.1 or 82.2.

## **Division 14 – Additional Duties of *Chairperson***

### **83. The *Chairperson's* Duties And Discretions**

- 83.1 In addition to the duties and discretions provided in this Chapter, the *Chairperson*:
- 83.1.1 must not accept any motion, question or statement which:
    - 83.1.1.1 may reasonable be considered to be defamatory, derogatory, indecent, abusive offensive, irrelevant, trivial or objectionable in language or substance;
    - 83.1.1.2 relates to a matter outside the duties, functions and powers of *Council*;
    - 83.1.1.3 is aimed at embarrassing a Councillor, a member of Council staff or member of the community;
    - 83.1.1.4 must call to order any person who is disruptive or unruly during any meeting.

## **Division 15 – Suspension of Standing Orders**

### **84. Suspension of Standing Orders**

- 84.1 The *Chairperson* or any Councillor may indicate a desire to suspend standing orders to expedite the business of a meeting. In which case:
- 84.1.1 the *Chairperson* may suspend standing orders with the support of the meeting; or
  - 84.1.2 standing orders may be suspended by procedural motion.
- 84.2 the suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal meeting procedure.
- 84.3 the suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*.

## **Division 15 – Miscellaneous**

### **85. Meetings Conducted Remotely**

If:

- 85.1 by law a meeting may be conducted electronically; and
- 85.2 *Council* decides that a meeting is to be conducted electronically,

the *Chairperson* 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.

### **86. Procedure not provided in this Chapter**

In all cases not specifically provided for by this Chapter, resort must be had to the Standing Orders and Rules of Practice of the Upper House of the Victorian Parliament (so far as the same are capable of being applied to *Council* proceedings).

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

- 87.1 The *Chief Executive Officer* may make a brief statement at a *Council meeting* in respect of any statement by a Councillor made at the *Council meeting* criticising him or her or any member of *Council* staff.
- 87.2 A statement under sub-Rule 87.1 must be made by the *Chief Executive Officer*, through the *Chairperson*, as soon as it practicable after the Councillor who made the statement has resumed his or her seat.

### **88. Public Submissions/Presentations**

- 88.1 At all *Delegated Committee* meetings, members of the public may be given an opportunity to make submissions/presentations to the *Delegated Committee* on an *agenda* item relevant to the meeting. The following provisions will apply to such submissions/presentations:
- 88.1.1 Each submitter may only speak once to each *agenda* item, except at the discretion of the *Chairperson*.

- 88.1.2 Submitters must fill out the form designated by the *Chief Executive Officer*.
- 88.1.3 Information on the form must include:
  - 88.1.3.1 the name and address of the person requesting to discuss the *agenda* item; or in the case of a person representing a business, their name and ordinary business address;
  - 88.1.3.2 the relevant report number and/or report title;
  - 88.1.3.3 an indication of whether the submitter wishes to address the *Delegated Committee* meeting, have their submission/presentation read out by a member of *Council* staff or distributed to Councillors at the meeting; and
  - 88.1.3.4 an indication of whether the person supports the recommendation contained in the report.
- 88.1.4 The form must be lodged in the receptacle designated for such purpose prior to the time specified for the *Delegated Committee* meeting to commence.
- 88.1.5 The *Chairperson* may:
  - 89.1.5.1 Accept forms lodged after the commencement of the *Delegated Committee* meeting.
  - 89.1.5.2 Seek clarification from a submitter regarding information provided on their form, at any time before, during or after the submitter has made their submission.
- 88.2 Submitters wishing to speak at a *Delegated Committee* meeting are only permitted to speak to their submission/presentation for the period prescribed by the *Chairperson* of that meeting.
- 88.3 In determining the period submitters will be permitted to speak, the *Chairperson* will have regard to the number of submissions/presentations and the number of speakers wishing to be heard.
- 88.4 Submitters not wishing to speak at a *Delegated Committee* meeting can request that their submission/presentation be read out at the meeting by a member of *Council* staff.
- 88.5 The *Chairperson* may refuse a request under sub-Rule 88.4 if the *written* submission/presentation exceeds 200 words.
- 88.6 Considering the general rights of citizens to take part in the conduct of *Council* affairs, a submission/presentation at a *Delegated Committee* meeting may be disallowed by the *Chairperson* at any stage of the submission/presentation if:
  - 88.6.1 it does not relate to an *agenda* item as published for that particular *Delegated Committee* meeting;
  - 88.6.2 it deals with a particular aspect of the subject matter already addressed by a previous speaker;
  - 88.6.3 it relates to a matter outside the duties, functions and powers of *Council*;
  - 88.6.4 it may reasonably be considered to be defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;



- 88.6.5 it is aimed at embarrassing a Councillor, a member of the *Delegated Committee* or a member of *Council* staff;
  - 88.6.6 it relates to personnel matters or the personal hardship of any resident or ratepayer; or
  - 88.6.7 it relates to any other matter the *Chairperson* considers would prejudice *Council* or any person.
  - 88.6.8 the submitter has not lodged a form in accordance with Rule 88;
- 88.7 The *Chairperson* and/or councillors may seek clarification from any submitter on matters raised by the submitter.
- 88.8 In addition to any limits set out in this Division, the *Chairperson* of a *Delegated Committee* may set additional limits on the number of speakers to address a *Delegated Committee* meeting on any *agenda* item and the *Chairperson* may:
- 88.8.1 determine not to hear submitters or have all submissions/presentations read out by a member of *Council* staff;
  - 88.8.2 determine to hear submitters and in doing so limit the number of submitters to address a *Delegated Committee* meeting on any *agenda* item by inviting a set number of submitters who are opposed to the Officer Recommendation (Against) and a set number of submitters who are in favour of the Officer Recommendation (For) to each speak for the period prescribed by the *Chairperson* of that meeting;
  - 88.8.3 nominate one (1) spokesperson for the 'For' and one (1) spokesperson for the 'Against' who are each given an opportunity to speak for the period prescribed by the *Chairperson* of that meeting; and
  - 88.8.4 if necessary, adjourn the meeting to enable the parties to nominate speakers.
  - 88.8.5 if the submitters For and Against are unable to reach a consensus regarding a spokesperson for the purposes of sub-Rule 88.8.3 or who shall be nominated to speak for the purposes of sub-Rule 88.8.2, the names of the submitters may be drawn by ballot.

## 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:
  - 1.2.1 a *Council meeting* is to be read as a reference to a *Delegated Committee meeting*;
  - 1.2.2 a Councillor is to be read as a reference to a member of the *Delegated Committee*; and
  - 1.2.3 the *Mayor* is to be read as a reference to the *Chairperson* 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.

### 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 and Discussion’ 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 he or she:

3.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting* immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; 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:

3.2.1 advising of the conflict of interest;

3.2.2 explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and

3.2.3 detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:

(a) name of the other person;

(b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and

(c) nature of that other person’s interest in the matter

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

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

### 4. Disclosure of Conflict of Interest at a *Delegated Committee Meeting*

A member of a *Delegated Committee* who has a conflict of interest in a matter being considered at a *Delegated Committee* meeting at which he or she:

- 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 and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 4.2 intends to be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Delegated Committee* meeting commences a *written* notice:
- 4.2.1 advising of the conflict of interest;
- 4.2.2 explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and
- 4.2.3 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:
- (a) name of the other person;
- (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- 4.2.4 nature of that other person's interest in the matter,
- and then immediately before the matter is considered at the meeting announcing to those present that he or she has a conflict of interest and that a *written* notice has been given to the *Chief Executive Officer* under this sub-Rule.

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

## **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 he or she:

- 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 and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 5.2 intends to be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a *written* notice:
- 5.2.1 advising of the conflict of interest;
- 5.2.2 explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and
- 5.2.3 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:
- (a) name of the other person;
- (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and

5.2.4 nature of that other person's interest in the matter

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

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

## **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 he or she is 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 and indicating whether it is a general conflict of interest or a material conflict of interest;
- 6.2 absent himself or herself 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.

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

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

- 7.1.1 *Council meeting*;
- 7.1.2 *Delegated Committee meeting*;
- 7.1.3 *Community Asset Committee meeting*

must, immediately upon becoming aware of the conflict of interest, provide a *written* notice to the *Chief Executive Officer* disclosing the conflict of interest and explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material 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*:

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

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

8.1 A member of *Council* staff who has a conflict of interest in a matter requiring a decision to be made by the member of *Council* staff as delegate must, immediately upon becoming

aware of the conflict of interest, provide a *written* notice to the *Chief Executive Officer* explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material 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 and indicating whether it is a general conflict of interest or a material 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**

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 a majority of councillors;
- 1.3 is attended by at least one member of *Council* staff; 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:

- (a) tabled at the next convenient *Council meeting*; and
- (b) 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* (or an *authorised officer*) is of the opinion that information relating to a meeting is confidential information within the meaning of the *Act*, he or she may designate the information as confidential and advise Councillors and/or members of *Council* staff in writing accordingly.

Information which has been designated by the *Chief Executive Officer* (or an *authorised 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

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## 1. Introduction

The *Local Government Act 2020* ('the Act') requires Council to include an adopt an Election Period Policy (Policy) in its Governance Rules.

This Policy provides a framework for decisions prohibited by Council during the election period in accordance with the Act, and the procedures to be applied by Council during the election period for.

The 'election period' as defined by the Act for the 2020 local government elections will commence on 22 September 2020 and end at 6pm on election day, 24 October 2020.

This policy replaces the Election Period Policy adopted by Council on 25 November 2019.

## 2. Purpose

This policy has been developed in accordance with the Act and to ensure the Boroondara City Council elections on Saturday 24 October 2020 (and subsequent elections) are conducted in a manner that is ethical; fair and equitable; and are publicly perceived as such.

The policy contains:

- (a) procedures intended to assist the Council in making appropriate decisions and using resources appropriately during the election period before an election;
- (b) guidelines on public consultation and the scheduling of Council events; and
- (c) procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.

## 3. Definitions

TERM	DEFINITION	SOURCE
Advertising sign	<p>Means any placard, board, poster, banner, sign, card, structure or other similar device, whether portable or affixed or attached to any land, building, vehicle, trailer, person or other thing, used for the purpose of soliciting goods or services or displaying information but excludes any placard, board, poster, banner, sign, card or similar device attached to or on any vehicle or trailer:</p> <ol style="list-style-type: none"><li>(a) and used for the purpose of promoting a registered political party or a person's candidature or prospective candidature at an election; or</li><li>(b) if the use of the vehicle or trailer is ancillary to another use connected with activities being carried out on land (such as the use of a vehicle or trailer in connection with building or commercial activities being carried out on land).</li></ol>	Amenity Local Law

TERM	DEFINITION	SOURCE
Candidate	<p>Means a person:</p> <ol style="list-style-type: none"> <li>1. Who has nominated as a candidate for an election under section 256 of the Act.</li> <li>2. Who has: <ul style="list-style-type: none"> <li>• publicly expressed an intention to run as a candidate in the election; and or</li> <li>• a person who has formally nominated as a candidate in the election with the Election Manager.</li> </ul> </li> </ol> <p>A candidate is a “known candidate” when a person has actual knowledge of the candidate’s identity and that they meet the above definition.</p>	<p>Act s.3</p> <p>Policy</p>
Chief Executive Officer (CEO)	<p>Means:</p> <ol style="list-style-type: none"> <li>(a) The person appointed by a Council to be its Chief Executive Officer under section 44 of the Act or any person acting in that position; and/or</li> <li>(b) The Chief Executive Officer’s delegate</li> <li>(c) Such other person that the Chief Executive Officer selects for the purpose of giving effect to this Policy.</li> </ol>	<p>Act s.3</p> <p>Policy</p> <p>Policy</p>
Council	<p>Means the Boroondara City Council, whether constituted before or after the commencement of this Policy.</p>	<p>Policy</p>
Council-controlled land	<p>Means any land which Council, owns, occupies, manages, has leased or licensed to another person or is otherwise under Council’s control and management, other than a road.</p>	<p>Amenity Local Law</p>
Councillor-Candidate	<p>Means a current Councillor who has nominated, or is considering nominating for election in the 24 October 2020 Council elections.</p>	<p>Policy</p>
Electioneering	<p>Means any action, statement and or publication that contains material directly related to, or likely to influence, a Councillor’s reelection or a candidate’s election.</p>	<p>Policy</p>
Election Manager	<p>Means:</p> <ol style="list-style-type: none"> <li>(a) The Victorian Electoral Commission; or</li> <li>(b) The person appointed in writing by the Victorian Electoral Commission.</li> </ol>	<p>Act s.3</p>

TERM	DEFINITION	SOURCE
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.	Act s.3
Electoral matter	<p>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.</p> <p>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 -</p> <ul style="list-style-type: none"> <li>(a) the election; or</li> <li>(b) a candidate in the election; or</li> <li>(c) an issue submitted to, or otherwise before, the voters in connection with the election.</li> </ul> <p>Electoral matter includes material which:</p> <ul style="list-style-type: none"> <li>• Publicises the strengths or weaknesses of a candidate</li> <li>• Advocates the policies of the Council or of a candidate</li> <li>• Responds to claims made by a candidate</li> <li>• Publicises the achievements of the elected Council.</li> </ul>	Policy
Election Period	<p>Means the period that:</p> <ul style="list-style-type: none"> <li>• starts at the time that nominations close on nomination day; and</li> <li>• ends at 6 p.m. on election day;</li> </ul> <p>[That is, 22 September 2020 through to 6pm on 24 October 2020].</p>	Act s.3



TERM	DEFINITION	SOURCE
Road	Road includes: <ul style="list-style-type: none"> <li>a) a street; and</li> <li>b) a right of way; and</li> <li>c) a public highway; and</li> <li>d) any land reserved or proclaimed as a street or road under the Crown Land (Reserves) Act 1978 or the Land Act 1958; and</li> <li>e) a public road under the Road Management Act 2004; and</li> <li>f) a passage; and</li> <li>g) a cul de sac; and</li> <li>h) a by-pass; and</li> <li>i) a bridge or ford; and</li> <li>j) a footpath, bicycle path or nature strip; and</li> <li>k) any culvert or kerbing or other land; and</li> <li>l) works forming part of the Road</li> </ul>	Policy
Staff, Council staff or Staff member	Means any employee of Council whether permanent or temporary or casual, and includes contractors, and volunteers carrying out work for or on behalf of Boroondara City Council.	Policy

#### 4. Accountability

##### 4.1. Council

**Council** will function in accordance with this Election Period Policy during the **election period**.

##### 4.2. Chief Executive Officer

In addition to the **Chief Executive Officer's** statutory responsibilities, the **Chief Executive Officer** will:

- Ensure as far as possible, that all councillors and officers are informed of the application of this policy 30 days prior to the commencement of the **election period**.
- Ensure as far as possible, that matters of **Council** business requiring **prohibited decisions** are scheduled for **Council** to consider prior to the commencement of the **election period**, or deferred where appropriate for determination by the incoming **Council**.
- Not include in the order of business for any **Council** meeting scheduled during the **election period**, any matters requiring **prohibited decisions** or matters that could be considered **prohibited decisions**.

The **Chief Executive Officer** may issue guidelines to **staff** on the role and responsibilities of **staff** in the implementation of this policy.

The **Chief Executive Officer** may also issue guidelines to councillors to inform them about changes to services, processes and procedures that may impact them in their role during the **election period**.

## 5. Decisions by Council

### 5.1 Decisions - Council and Delegated Committee Meetings

During the **election period** reports to **Council** and Delegated Committee meetings will be carefully vetted to avoid listing matters on the agenda which could foreseeably influence voters' intentions at the forthcoming election; or encourage **Councillor- candidates** to use the matter as part of their election platform.

Councillors commit to refrain from moving motions on, or raising matters at **Council** or Delegated Committee meetings that could potentially influence voting at the election.

### 5.2 Decisions - Delegates

The ordinary, day-to-day business of local government must continue throughout the election period. That business will be conducted by **Council**, its delegates and **staff** in a responsible and transparent manner, in accordance with statutory requirements.

Most **Council** decisions are not made at meetings of the **Council**. Significant decision-making power is formally delegated to **staff** and the decision of a delegate is 'deemed' to be a decision by **Council**. Because a delegate's decision is the same as a **Council** decision, the same constraints that apply to decisions made in **Council** and Delegated Committee meetings apply when delegates make decisions. Delegates should therefore give careful consideration to the exercise of their powers during the **election period**.

Should a delegate be required to make a decision(s) under delegation in the ordinary course of **Council** business during the **election period**, the delegate must satisfy themselves beforehand that the decision is not a **prohibited decision**.

The following matters may also be considered a **prohibited decision** during the **election period**:

- Allocation of community grants;
- Direct funding to community organisations;
- Major planning scheme amendments; or
- Changes to strategic objectives and strategies in the **Council Plan**.

### 5.3 Invalid Decisions

In accordance with section 69(4) of the Act, if the following decision are made during the **election period**, the decisions are invalid:

- relating to the appointment or remuneration of the **Chief Executive Officer**, but not the appointment or remuneration of an Acting **Chief Executive Officer**; and
- committing the **Council** to expenditure exceeding 1% of the **Council's** income from general rates, municipal charges and service rates and charges in the preceding financial year.

### 5.4. Compensation

In accordance with section 69(5) of the Act, any person who suffers any loss or damage as a result of acting in good faith on a **Council** decision that is an invalid decision, is entitled to compensation from the **Council** for that loss or damage.



## 6. Public Consultation

Consultation is an integral part of **Council's** policy development process and operations.

Surveys, blogs, invitations to put forward submissions, and other community engagement activities should be avoided during the **election period**.

**Council** will not continue or commence **public consultation** on **prohibited decisions**, contentious or politically sensitive matters after the commencement of the **election period**.

However, some **public consultation** activities may be necessary during the **election period** to facilitate the day-to-day business of **Council**.

**Public consultation** associated with activities and decisions which are the subject of statutory processes, for example:

- Applications under the *Planning and Environment Act 1987*

can be expected to continue through the **election period** to ensure **Council** does not breach its statutory obligations.

**Public consultation** not associated with activities and decisions which are the subject of statutory processes shall only proceed if prior approval is given by the **Chief Executive Officer**.

Where community engagement has occurred prior to the **election period** but the report has not yet proceeded to a **Council** or Delegated Committee meeting, results of the consultation will also not be provided to a **Council** or Delegated Committee meeting until the **election period** has concluded.

Any **public consultation** that does proceed during the **election period** will be vetted for **electoral matter** and express or implicit links to the election.

### 6.1 Postponing consultation

In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the **election period**, **Council** reserves the right where possible and practicable, to postpone **public consultation** and any associated decisions where the matter is considered likely to affect voting in the election.

## 7. Council Publications

### 7.1 Prohibition on Publishing Material during the Election Period

**Council** must not publish **electoral material** that contains **electoral matter**. The words "advertisement, handbill, pamphlet or notice" are to be interpreted broadly and will include, amongst other things:

- Brochures, pamphlets, handbills, flyers, magazines and books
- Newsletters and other circulars (hardcopy and/or electronic)
- New website material and social media posts
- Mass mail outs or letters to a large number of people
- Media releases
- Material to publicise a function or event
- Notices or posters placed on **Council** controlled property, including walls, noticeboards, and electronic noticeboards and screens

This does not apply to the publishing of any document published before the commencement of the **election period** or **publication** of any document required to be published in accordance with, or under, any Act or regulation.

## 7.2 Council Publications Including Councillor Information

References to councillors who are standing for re-election in **Council publications** printed, **published** or distributed during the **election period** could be considered **electoral matter** and will be carefully vetted during the certification process.

## 7.3 Existing Publications

Existing **publications** will be reviewed at the start of the **election period**. **Publications** or material which is prominently displayed and might be regarded as likely to influence how people vote may be temporarily removed from display. Any material so removed may still be provided to members of the community upon request.

In the context of **Council's** website, prominently displayed means content visible on the City of Boroondara's website: [www.boroondara.vic.gov.au](http://www.boroondara.vic.gov.au) and all pages contained within.

During the **election period** Councillor profile pages will be limited to names, contact details, date elected and councillor assignments. There will be no biographies or policy statements.

## 7.4 Annual Report

**Council** is required by the Act to produce its Annual Report. The 2020-21 Annual Report will be **published** during the **election period**. The Annual Report will not contain any material that could be regarded as overt **electioneering** or that inappropriately promotes individual councillors.

Any **publication** of an extract or summary of the Annual Report should not contain information that could be considered **electoral matter**.

## 7.5 Council and Delegated Committee Meetings

**Council** is required by the Governance Rules to:

- Give public notice of **Council** meetings and Delegated Committee meetings; and
- Produce and make available agendas and minutes of **Council** meetings and Delegated Committee meetings.

## 7.6 Social Media

At the start of the **election period** a message will be posted on **Council's** social media channels and website stating these channels will have no new content added until after the **election period** unless it relates to existing **Council** services.

Any new **publication** on social media sites including Facebook, Twitter, Instagram, blogs and wiki pages created by **Council** during the **election period** should not contain information that could be considered **electoral matter**.

As public comments posted on **Council's** social media sites could be considered **electoral matter**, **staff** responsible for administering social media sites will, where possible, disable public commenting. Where public commenting cannot be disabled, **staff** will monitor their respective sites during the **election period** and where possible, remove information that could be considered **electoral matter** as soon as reasonably practicable after it is posted.

## 8. Council Events

Where practicable, civic and ceremonial **Council** events should not be scheduled during the **election period**. Civic and ceremonial events do not include routine events and programs conducted as part of **Council's** day-to-day activities (e.g. immunisation sessions, gallery exhibitions, library programs).

Any civic or ceremonial **Council** event held during the **election period** should meet one or more of the following criteria:

- It is a planned event endorsed by the current Council Plan;
- It is routinely held at the same time of year;
- It is a commemorative or anniversary event held on or near the anniversary date;
- It demonstrates a clear community benefit, or serves an educational or welfare purpose; or
- It contributes to cultural development, social awareness or sense of community identity.

Councillors may attend events as required by their **Council** duties, but are not permitted to use these appearances for **electioneering**.

## 9. Council Resources

### 9.1 Application of Resources

**Council** resources, including offices, **staff**, hospitality, services (including phone, internet and email), property, equipment and stationary must be used exclusively for normal **Council** business during the **election period** and must not be used in connection with any election campaign or issue.

**Councillor-candidates** must not use **Council** resources in connection with any activities associated with their election campaigns, regardless of any entitlement to "reasonable personal use" of **Council** equipment under any other policy, protocol or terms of use.

**Councillor-candidates** should also be mindful to manage any perceived conflicts even where a direct expense isn't incurred, this may include for example:

- Where campaign-related emails are received in a **Council** email account, send any responses from a private email and encourage the correspondent to use that account in future.
- Where campaign-related calls are received on a **Council** device, provide and encourage the caller to use a non-council number for future calls.

### 9.2 Role of Governance staff

The Secretary to the Mayor and Councillors, and other Governance **staff**, will not be asked to undertake any tasks connected directly or indirectly with the election campaign of a councillor standing for re-election.

### 9.3 Use of Council Equipment by Councillors

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

### 9.4 Councillors' Entitlement to Reimbursement

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

### 9.5 Council Branding

No **Council** logos, letterheads, **Council** taken photos or other Boroondara City Council branding may be used for, or linked in any way to, a **candidate's** election campaign.

### 9.6 Cessation of Ward Meetings

Ward meetings and ward-specific **publications** will not be arranged by **Council** during the **election period**.

### 9.7 Councillor Correspondence

While the routine business of **Council** must continue, it is important that the administration is not perceived as providing **Councillor-candidates** any undue advantage whilst campaigning.

During the **election period**, any responses prepared by the administration in response to correspondence addressed to a **Councillor-candidate**, will therefore be signed by the **Chief Executive Officer** or relevant Director or Manager as appropriate. Such responses will acknowledge the administration is responding due to limitations imposed upon councillors during the **election period**.

### 9.8 Officers' Discretion

The **Council** will ensure that due propriety is observed in the use of all **Council** resources, and **Council staff** are required to exercise appropriate discretion in that regard.

Where the use of **Council** resources appears to relate to the election campaign of a councillor standing for re-election, the matter must be referred to the **Chief Executive Officer**.

## 10. Media Services

### 10.1 Restriction on Services

During the **election period**, **Council** resources must not be used in any way that might promote a councillor as an election **candidate**.

New **Council** publicity during the **election period** will be restricted to communicating normal **Council** activities and initiatives and subject to approval by the **Chief Executive Officer**.

### 10.2 Media Releases/Spokespersons

Media releases during the **election period** will minimise references to specific councillors and will not identify any councillor in a manner that could promote a councillor as an election **candidate**. Where it is necessary to identify a spokesperson, the **Chief Executive Officer** or his delegate will be consulted.

### 10.3 Councillors

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

### 10.4 Council Employees

During the **election period** no **Council** employee may make any public statement that relates to an election issue unless prior approval from the **Chief Executive Officer** has been obtained.

## 11. Information

### 11.1 Candidates' Access to Information

**Council** recognises that all election **candidates** have certain rights to information relevant to their election campaigns from the **Council** administration subject to legislative constraints such as:

- Sections 123 of the Act which prohibit **Councillor-candidates** from misusing or inappropriately making use of their position; and
- the *Privacy and Data Protection Act 2014*.

Councillors will continue to receive information that is necessary to fulfil their existing elected roles. Beyond that, only information that is readily available to any member of the community will be provided to any **candidate**.

### 11.2 Information Request Register

An Information Request Register will be maintained by the Manager Governance during the **election period**. This Register will be a public document and record requests by persons who identify themselves as **candidates** when seeking information relating to **electoral matters** or when making other general enquiries. The register will also record the responses provided.

Any **candidate** may, upon request, obtain information about the recorded requests made by another **candidate** as recorded in the Information Request Register and a copy of information given in response to the request.

The Manager Governance may, at his or her discretion, automatically circulate to all **candidates**, the response to any request recorded in the Information Request Register.

## 12. Assistance to Candidates

All election related enquiries from **candidates**, whether sitting councillors or not, will be directed to the **Election Manager** or, where the matter is outside the responsibilities of the **Election Manager**, to the **Chief Executive Officer**.

### 12.1. Candidate Information

**Council** will provide **candidates** with a Councillor Candidate Information Kit to assist them in running and nominating for **Council**.

The Councillor Candidate Information Kit may include:

- Information about this policy;
- Information about nominating as a **candidate**;
- Information about other sources of information, including from the Victorian Electoral Commission and the **Election Manager**; or
- Information about election campaign donation returns.

### 12.2. Council staff

Upon becoming a **candidate** in a Boroondara City Council election, the **Council staff** member must:

- Inform the **Chief Executive Officer**;

- Take leave from their duties at least for the duration of the **election period** in accordance with sections 34 and 256 the Act;
- Return any **Council** equipment (including, but not limited to, motor vehicles, telephones and computers), documents or information that is not available to the public at least for the duration of the **election period**; and
- If elected, immediately resign from their employed position at **Council**, in accordance with sections 34 and 256 Act.

### 12.3. Member of Council Delegated or Advisory Committees

Upon becoming a **candidate**, any person who is a member of one of **Council's** Delegated committees or Advisory committees is expected to:

- Comply with this policy;
- Inform the **Chief Executive Officer**;
- Take leave from the Delegated committee or Advisory committee
- Return any **Council** equipment, documents or information which is not available to the public for the duration of their candidacy and/or the **election period**; and
- If elected, immediately resign from the Delegated committee or Advisory committee

### 13. Advertising Signage on Council-controlled Land

**Candidates** and their supporters are not permitted to affix, attach or place **advertising signs** on **Council-controlled land** or a **Council road** during election campaigns including during the **election period**.

### 14. Breaches

Sections 123 of the Act prohibits Councillors from misusing or inappropriately making use of their position. A breach of section 123 attracts serious penalties, including possible imprisonment. Allegations of breaches of the Act are independently received and investigated by the Local Government Inspectorate.

Section 304 of the Act prohibits Councillors or a member of **Council staff** from using resources in a way that is intended to or likely to affect the result of an election.

In addition, section 304 of the Act also prohibits Councillors or a member of **Council staff** from using **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.

### 15. Councillor Code of Conduct

Allegations of breaches of this Policy will be dealt with under the Dispute Resolution Procedures of the Councillor Code of Conduct. The **Chief Executive Officer** will take the place of the Mayor in managing complaints received under the Election Period Policy.

Complaints must be directed to the **Chief Executive Officer** in writing, providing details of the alleged contravention, when it occurred and who it involved.

The **Chief Executive Officer** will assess the information and follow the provisions of the Dispute Resolution Procedures of the Councillor Code of Conduct including, where necessary, the appointment of an external arbiter.

**16. Review**

**Council** will review and, if required, amend the policy not later than 12 months before the commencement of the next general **election period**.